

Status of Human Rights in Vietnam for the 46th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Socialist Republic of Viet Nam (Vietnam) for the 46th session of the Universal Periodic Review (UPR).

Background

2. Vietnam is located in Southeastern Asia with a population of approximately 104.8 million people.¹ According to the census, 86.3% of the population does not identify with any religion.² Out of the remaining population, approximately 6.1% identify as Catholic, 5.8% as Buddhist, 1% as Protestant, and 0.8% as other.³ The census, however, does not accurately reflect religion in Vietnam. Most Vietnamese people are culturally Buddhist.⁴ There are two reasons why the statistics do not accurately reflect the population. One, religion in Vietnam has become a mix of multiple different religions including Buddhism, Confucianism, and Taoism.⁵ These different religions have intertwined with one another and with Vietnamese culture to be considered an indigenous religion or folk religion in Vietnam. Therefore, Vietnamese struggle with identifying with just one religion.⁶ Two, many Vietnamese people do not view Buddhism as a religion, but rather a philosophy and way of life.⁷ Though the census is not completely reflective of religion in Vietnam, one fact remains true: Christians are a minority group in this country and subject to persecution. In its 2023 World Watch List, Open Doors listed Vietnam as the 25th worst place for Christians to live.⁸ This rank stems from the fact that, in Vietnam, Christians face persecution from the Communist Party and indigenous religious groups.⁹

3. Vietnam's previous review was held on January 22, 2019.¹⁰ As a result of the review, Vietnam received 291 recommendations, 220 of which it accepted.¹¹ On the issue of religious freedom, it was recommended by Italy, and supported by Vietnam, that the government "[e]nhance efforts to guarantee freedom of religion or belief, also by further reducing administrative obstacles to peaceful religious activities and by combating violence and discrimination on religious grounds."¹² On the issue of abortion, it was recommended by Iceland, and supported by Vietnam, that the government "[a]ddress the root causes of son preference and the misuse of medical technologies for sex selection without curtailing women's access to safe abortion services."¹³

Legal Framework

Religious Freedom

4. The Constitution of Vietnam provides for the freedom of religion. Article 24 states that:

1. Every one shall enjoy freedom of belief and of religion; he can follow any religion or follow none. All religions are equal before the law.

2. The State respects and protects freedom of belief and of religion.

3. No one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the laws.¹⁴

5. Article 331 of the Criminal Code of Vietnam criminalizes the exercise of constitutional freedoms, such as freedom of religion and expression, if they “infringe upon the interests of the State.”¹⁵ Punishments range from three years community service to anywhere between six months and seven years imprisonment.¹⁶ Article 331 states:

1. Any person who abuses the freedom of speech, freedom of the press, freedom of religion, freedom of association, and other democratic freedoms to infringe upon the interests of the State, lawful rights and interests of organizations and/or citizens shall receive a warning or face a penalty of up to 03 years’ community sentence or 06 - 36 months’ imprisonment.

2. If the offence has a negative impact on social security, order, or safety, the offender shall face a penalty of 02 - 07 years’ imprisonment.¹⁷

6. Further, in 2018, the Law on Belief and Religion became effective in Vietnam.¹⁸ Article 5 of the law states the prohibited acts as:

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.¹⁹

7. Article 62 creates specialized inspectors that are tasked with “a. [i]nspecting the implementation of the policies and law on belief and religion by the People’s Committees at all levels; b. [i]nspecting cases showing signs of violation of the law on belief and religion.”²⁰

8. Additionally, Article 12 requires that “belief activities” be registered with the government.²¹

9. Vietnam is also a party to the International Covenant on Civil and Political Rights (ICCPR).²² Under Article 18 of the ICCPR:

1. 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.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.²³

Abortion

10. Article 19 of Vietnam’s Constitution states that “[e]very one has the right to live. Human life is protected by the law. No one shall be illegally deprived of his or her life.”²⁴

11. Under Article 44 of Chapter VII of the Law on the Protection of Public Health:

(1) Women shall be entitled to have an abortion if they so desire, to undergo medical examinations and treatment for gynecological diseases and to receive prenatal care and medical services during delivery at medical institutions.

(2) The Ministry of Public Health shall have the duty to consolidate and expand the network of obstetric and neonatal health care to the grassroots level, in order to ensure medical care for women.

(3) Medical institutions and individuals may not perform abortions or remove IUDs unless permitted to do so by the Health Ministry or [competent] services.²⁵

12. The Ministry of Health stipulated in the Guidelines on Caring Reproduction Health that abortion is permitted up until the 22nd week of pregnancy.²⁶

13. As stated above, Vietnam is a party to the ICCPR and has a responsibility to uphold the rights enshrined in it, including the fundamental and inherent right to life under Article 6.²⁷ Vietnam also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, the Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

Religious Persecution

14. The government believes that religion, in particular Christianity, is a threat to the social order of the country.²⁸ In 2018, Vietnam enacted the Law on Religion or Belief, which purportedly granted legal rights to religious organizations and shortened the waiting period to obtain legal registration with the State.²⁹ However, the law also placed many restrictions, which the government continues to use to discriminate and repress religious groups.³⁰ Additionally, churches that fail to register with the government are subject to harassment, arrest, and even destruction.³¹ At the local level, authorities have even withheld identification

cards and household registration documents from Hmong and Montagnard Christians because they refuse to renounce their Christian faith.³²

15. In the more remote areas of Vietnam, in particular the central and northern regions, non-traditional Protestants and Christians who have converted from indigenous religions, face extreme pressure and even violence in their communities.³³ This is in part due to the fact that religion is closely linked with ethnicity, and leaving the indigenous religion is seen as rejecting both the culture and community.³⁴ One Vietnamese Christian pastor described what happens when someone decides to convert to Christianity:

First, when the village chief knows that he converted, he will be reported to the local authorities. Then they will come to talk to him to recant his new faith, forbid him from sharing, and threaten him. If he still continues to believe, the authorities threaten to cut his government benefits. Sometimes, his children will not be allowed to go to school. If he still does not recant his faith, the authorities compel the village chief and the community to persecute him even more. He is either beaten or kicked out from the village. And lastly, he will be disowned by his family.³⁵

16. In June 2022, a Christian Hmong family was expelled from their village in Nghe An province for refusing to renounce their faith.³⁶ The family had converted to Christianity in 2017. It wasn't until 2019 that officials demanded the family to renounce their faith.³⁷ The family even faced punitive measures such as confiscating their plow and wood they were using to construct a house. Authorities also denied a birth certificate to one of the children.³⁸ Furthermore, local officials also repeatedly visited their house to try and persuade members of the family to renounce their Christian faith.³⁹

17. On February 20, 2022, security officers in plain clothes led by the head of the local branch of the Communist Party interrupted a Catholic Mass.⁴⁰ The officers marched up to the altar and demanded that the liturgy be stopped and that everyone should disperse.⁴¹

18. In 2021, Vietnamese officials raided two churches in the Dal Lak Province of Vietnam's Central Highlands.⁴² These raids resulted in the arrest of almost two dozen ethnic minority Christians, most of whom belonged to the Montagnard ethnic group.⁴³

19. In 2021, Thuan, a Christian, was released after serving twenty-six months in prison for hosting worship services at his home.⁴⁴ Thuan had shared the gospel with people in his village and began worshipping at his home.⁴⁵ He was then approached by a policeman who asked him about how he became a Christian, who told him about Christianity, and why he converted.⁴⁶ Thuan was then told that he was not allowed to worship at his home and that he must instead go to a recognized church.⁴⁷ Thuan refused and continued to host worship services at his house.⁴⁸ He was then arrested and sentenced to twenty-six months in prison.⁴⁹

20. In 2020, Pastor A Dao was released after serving four years in prison.⁵⁰ He served as the leader of the Montagnard Evangelical Church of Christ, which is not registered with the government.⁵¹ He was sentenced in 2016 after he attended a conference on religious freedom where he spoke about the difficulties the church in Vietnam faced.⁵²

21. In 2019, a Christian family was attacked and forced out of their home because of their faith.⁵³ The family was "mocked, tied with ropes and severely beaten while being dragged over rocky ground towards the entrance of the village, forcing them to leave." One of those beaten was a six-year-old girl who was beaten so viciously that she was in a coma for a

month.⁵⁴

Abortion

22. Vietnam's law on abortion is extreme and offers practically no protections for the life of the preborn as abortion is available on demand up until the 22nd week of pregnancy. Vietnam's law on abortion is one of the most expansive in the world and has resulted in the second-highest abortion rate in the world with nearly 40% of all pregnancies ending in abortion annually.⁵⁵ Additionally, late-term abortions past the twenty-two week threshold still remain rampant due to a lack of law enforcement.⁵⁶ One of the contributing factors to these high abortion rates is the Two-Child Policy that prevented civil servants and public-sector employees from having a third child.⁵⁷ Vietnam enacted this policy in the early 1960s.⁵⁸ Eventually, the government stopped the policy in 2003, but re-implemented it in 2008.⁵⁹ In 2020, the government relaxed the enforcement of the policy by only preventing members of the Communist Party from having more than two children.⁶⁰ Additionally, the easy unrestricted access to abortion further perpetuates and enables son preference and gender-biased sex selection. There is a very noticeable demographic imbalance in Vietnam in regard to sex ratio at birth.⁶¹ This imbalance is a result of pre-natal sex selection based on son preference, which leads to abortions being performed on unwanted preborn girls.⁶² This is a most powerful and disturbing manifestation of gender inequality, and while there was discussion of criminalizing sex-selective abortion in 2022, nothing substantive has come from it.⁶³

23. Vietnam's law on abortion is also extreme among U.N. Member States. Currently, out of 193 U.N. Member States, a majority (109) of them have strict limits on abortion.⁶⁴ Even in the sixty-seven countries that have varying gestational limits for on demand abortion, fifty-two have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in between.⁶⁵ Furthermore, more specifically, Vietnam's liberal abortion laws are an outlier in the Southeast Asia region as Cambodia and Thailand only allow abortion during the first twelve weeks of pregnancy and the majority of the other countries in the region have an outright ban on abortion.⁶⁶ Hence, Vietnam's law allowing abortion up to the 22nd week is an extreme position among other U.N. Member States and Southeast Asian countries.

24. Further, Vietnam's abortion law and its Two-Child Policy for Communist Party members are also in direct contradiction with numerous international documents. Since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an obligation to "reduce the recourse to abortion"⁶⁷ and to "take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*"⁶⁸ The Two-Child Policy, however, does the exact opposite by essentially requiring women to have an abortion if they already have two children. Additionally, as stated above, Article 6 of the ICCPR likewise states that "[e]very human being has the inherent right to life. This right shall be protected by law,"⁶⁹ and Vietnam's current laws do not uphold that right. Similarly, under the U.N. Charter, Member States determined "to reaffirm faith in fundamental human rights, [and] in the dignity and worth of the person,"⁷⁰ and the UDHR required recognition of the "inherent dignity . . . and inalienable rights" of all human persons.⁷¹ However, while these values are recognized and respected by many citizens, they are not displayed through the current law.⁷² Furthermore, notably, these important and fundamental human rights instruments require protection of human life, and none of them contains a "right to an abortion," let alone a responsibility to abort a child as would be implied under Vietnam's Two-Child Policy.

25. In addition to protecting the lives of preborn babies, Vietnam also has a responsibility to protect women. It has been documented that abortion can have a devastating impact on the health of the woman as it can result in the perforation of the uterus or the laceration of the cervix among other negative physical and psychological side effects and negation of benefits.⁷³ In fact, the World Health Organization even acknowledges the complications of abortion in its 2022 “abortion care guideline.”⁷⁴ All of these reasons clearly exemplify why Vietnam must make it a priority to protect both women and preborn children from the devastating effects of abortions by restricting access to abortion.

Recommendations

26. The government must reform its laws and practices to ensure that Christians can practice their faith without fear of being arrested or harassed. No one should be arrested or beaten simply for practicing and sharing his or her faith with others. Further, the government should take measures to protect religious minorities living in rural areas from being attacked and threatened for their religious beliefs.

27. Further, we urge Vietnam to reform its laws on abortion to protect both women and preborn children. Clearly, Vietnam’s laws are failing to do this as evidenced by its extremely high abortion rate. Additionally, Vietnam should eliminate its Two-Child Policy for Communist Party members as this only serves not only to encourage but to essentially require individuals to have abortions. Such a “requirement” is in contravention to almost every human rights instrument as it would amount to forced abortion.⁷⁵

¹ *Vietnam*, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/vietnam/> (May 16, 2023).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Vietnamese Culture*, CULTURAL ATLAS, <https://culturalatlas.sbs.com.au/vietnamese-culture/vietnamese-culture-religion> (last visited July 28, 2023).

⁶ *Id.*

⁷ *Id.*

⁸ *World Watch List 2023—Vietnam*, OPEN DOORS US, <https://www.opendoorsus.org/en-US/persecution/countries/> (last visited June 21, 2023).

⁹ *Vietnam*, OPEN DOORS US, <https://www.opendoorsus.org/en-US/persecution/countries/vietnam/> (last visited June 21, 2023).

¹⁰ *Universal Periodic Review—Viet Nam*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/vn-index> (last visited June 9, 2023).

¹¹ *Viet Nam Infographic 32nd*, OHCHR, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session32/VN/Infographic_VietNam.pdf (last visited June 9, 2023).

¹² OHCHR, UPR of Viet Nam (3rd Cycle-30th Session): Thematic List of Recommendations, <https://www.ohchr.org/en/hr-bodies/upr/vn-index> (last visited June 9, 2023).

¹³ *Id.*

¹⁴ CONSTITUTION OF THE SOCIALIST REPUBLIC OF VIET NAM 1992 (rev. 2013), art. 24, https://www.constituteproject.org/constitution/Socialist_Republic_of_Vietnam_2013.pdf?lang=en.

¹⁵ CRIMINAL CODE, 2015 art. 331 (Viet.), <https://www.wipo.int/edocs/lexdocs/laws/en/vn/vn086en.pdf>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Law on Belief and Religion, <https://vbpl.vn/TW/Pages/vbpgen-toanvan.aspx?ItemID=11093>.

¹⁹ *Id.* art 5.

²⁰ *Id.* art 64.

²¹ *Id.* art. 12.

²² *Ratifications Status for Viet Nam*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Treaty.aspx?CountryID=192&Lang=en (last visited

June 21, 2023).

²³ International Covenant on Civil and Political Rights art. 18, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

²⁴ *Id.*

²⁴ CONSTITUTION OF THE SOCIALIST REPUBLIC OF VIET NAM 1992 (rev. 2013), art. 18, *supra* note 14.

²⁵ Law on the Protection of Public Health, Chapter VII, art. 44, <https://reproductiverights.org/maps/provision/vietnams-abortion-provisions/>.

²⁶ *In Vietnam is it Illegal to Abort Pregnancy*, LAW NET (June 14, 2022), <https://lawnet.vn/ngan-hang-phap-luat/en/tu-van-phap-luat/van-hoa--xa-hoi/in-vietnam-is-it-illegal-to-abort-pregnancy-366943>.

²⁷ ICCPR art. 6, *supra* note 23.

²⁸ *Scholarly Analysis: Christians Responses to Persecution in Vietnam*, NOTRE DAME, <https://ucs.nd.edu/learn/vietnam/> (last visited July 25, 2023).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Vietnamese Pastor Released Four Years After Arrest*, UCA NEWS (Oct. 5, 2020), <https://www.ucanews.com/news/vietnamese-pastor-released-four-years-after-arrest/89764>.

³² *Scholarly Analysis: Christians Responses to Persecution in Vietnam*, *supra* note 28.

³³ *Vietnam*, OPEN DOORS UK, <https://www.opendoorsuk.org/persecution/world-watch-list/vietnam/> (last visited July 25, 2023).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Vietnam: Full Country Dossier*, OPEN DOORS (Jan. 2023), <https://www.opendoors.org/persecution/reports/Full-Country-Dossier-Vietnam-2023.pdf>.

³⁷ Truong Son, *Protestant Family of 13 Expelled from Their Village*, RFA (June 6, 2022), <https://www.rfa.org/english/news/vietnam/family-of-13-expelled-from-village-for-following-protestantism-06212022013455.html>.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Asia/Vietnam – State Officials Interrupt Mass Celebrated by the Archbishop of Hanoi*, AGENZIA FIDES (Feb. 22, 2022), http://www.fides.org/en/news/71689-ASIA_VIETNAM_State_officials_interrupt_Mass_celebrated_by_the_Archbishop_of_Hanoi.

⁴¹ *Id.*

⁴² *US Officials Condemn Vietnamese Raid on Christian Churches*, INTERNATIONAL CHRISTIAN CONCERN (Aug. 5, 2021), <https://www.persecution.org/2021/08/05/us-officials-condemn-vietnamese-raid-christian-churches/>.

⁴³ *Id.*

⁴⁴ Katey Hearth, *Christians in Vietnam Count High Cost for Faith*, MISSION NETWORK NEWS (Nov. 26, 2021), <https://www.mnnonline.org/news/christians-in-vietnam-count-high-cost-for-faith/>.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Vietnamese Pastor Released Four Years After Arrest*, *supra* note 31.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Vietnamese Family “Brutally Attacked” for Converting to Christianity*, PREMIER CHRISTIAN NEWS (Aug. 29, 2019), <https://premierchristian.news/en/news/article/vietnamese-family-brutally-attacked-for-converting-to-christianity>.

⁵⁴ *Id.*

⁵⁵ Le Dong Hai Nguyen, *What The Roe Reversal Means for Abortion Rights in Vietnam*, THE DIPLOMAT (July 13, 2022), <https://thediplomat.com/2022/07/what-the-roe-reversal-means-for-abortion-rights-in-vietnam/>.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Vietnam Two-Child Policy*, VIETNAM ONLINE, <https://www.vietnamonline.com/az/vietnam-two-child-policy.html> (last visited Aug. 2, 2023).

⁵⁹ *Id.*

⁶⁰ Le Dong Hai Nguyen, *supra* note 55.

⁶¹ *No More Missing Girls and Women: Address the Scourge of Son Preference and Gender-Biased Sex Selection*, UNITED NATIONS, (July 17, 2020), <https://vietnam.un.org/en/89427-no-more-missing-girls-and-women-address-scourge-son-preference-and-gender-biased-sex>.

⁶² *Id.*

⁶³ Le Dong Hai Nguyen, *supra* note 55.

⁶⁴ *The World's Abortion Laws*, CTR. FOR REPROD. RTS. (Sep. 27, 2022), https://reproductiverights.org/wp-content/uploads/2022/09/WALM_20220927_V1.pdf.

⁶⁵ *Id.*

⁶⁶ Le Dong Hai Nguyen, *supra* note 55.

⁶⁷ International Conference on Population and Development, *Report of the International Conference on Population and Development*, ¶ 8.25, U.N. Doc. A/CONF/F.171/13/Rev.1, https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd_en.pdf.

⁶⁸ *Id.* ¶ 7.24 (emphasis added).

⁶⁹ ICCPR art. 6, *supra* note 23 (emphasis added).

⁷⁰ U.N. Charter pmbl.

⁷¹ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmbl., art. 3 (Dec. 10, 1948).

⁷² Le Dong Hai Nguyen, *supra* note 55.

⁷³ *Women's Right to Know: Abortion & Pregnancy Risks*, LA. DEP'T OF HEALTH, <https://ldh.la.gov/page/915> (last visited Apr. 14, 2023).

⁷⁴ *Abortion Care Guideline*, WORLD HEALTH ORG. & HUM. REPROD. PROGRAMME 79 (Mar. 8, 2022), <https://www.who.int/publications/i/item/9789240039483>.

⁷⁵ *See e.g.*, International Conference on Population and Development, *supra* note 67.