

“Christianity and Human Rights in Vietnam: The Case of the Ethnic Minorities” (1975-2004)

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“Those who protest injustice are people of true merit.” – Ho Chi Minh<sup>1</sup>

### Introduction

The Socialist Republic of Vietnam (SRV) is a signatory of the Universal Declaration of Human Rights and has constitutional articles regarding freedom of religion. Since reunification of the two Vietnams in 1976, religious bodies of all kinds had seen some progress in relaxation of government controls on the practice of religion. The most recent record seems to indicate a reversal is underway. Examples of this has been the recent experience of Montagnard Christians, in the southern Central Highlands and newer ethnic minority evangelicals, such as the Hmong of northwest Vietnam.<sup>2</sup>

A variety of extra-legal measures have been regularly applied to these and other religious communities such as physical abuse and incarceration of religious leaders and faithful, destruction and appropriation of private and religious community property, and threats to loss of land and livelihood. Among reasons for this are charges by officials that they violate laws on how religion may be adopted and practiced, perceived threats against the state’s internal security, loss of cultural values, social destabilization and disloyalty to national identity. When aggrieved Christians have sought to claim their constitutional rights by appeals to Vietnam’s local, district and national officials they have typically been ignored, deflected or punished. Documentation of this is ample.

Efforts by co-religionist ethnic Vietnamese, international secular and Christian advocacy groups and NGOs, as well as United Nations, United States and other nation-state human rights agencies have sought to ameliorate known human rights abuses. Some onlookers dispute that putative state offenses are any more than the excesses of local officials.

It is clear that part of the problem is a clash of values leading to dissonance between the socio-political understanding of human rights held by the SRV and that of affected Christian minorities and their sympathizers in international, secular and religious, contexts. But it is also

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<sup>1</sup> From “Word Play” in *Ho Chi Minh on Revolution: Selected Writings, 1920-1966*, ed. Bernard B. Fall, (Signet Books, The New American Library, 1967), 137.

<sup>2</sup> Montagnard is the name given by French journalists and is commonly used in popular publications. The Vietnamese officially call them *Dan Toc Thieu So* (Ethnic minorities). “Dega” is a name taken by some Montagnards in the Central Highlands though one which most strongly reject.

true that in the view of the state religion is perceived to give loyalty to something higher than the state and thus undermines the absolute control which the Communist party demands over its citizens.

This paper will focus primarily on recent religious freedom violations of ethnic minorities in the Central Highlands of the south and their Hmong coreligionists in the north. It will also evaluate the newly promulgated ordinance on religion, Phap Lenh, which is to take effect November 15, 2004, and the controversy it is creating between the state and concerned parties, both within and without Vietnam.

### **Evangelical Christianity: A Brief History**

Evangelical Christianity was first introduced into Vietnam in 1911 by missionaries of the North American-based Christian and Missionary Alliance (CMA). Their earliest success was among the lowland Kinh (ethnic Vietnamese) but by the 1930s, the CMA missionaries and their Vietnamese coworkers saw conversions among some of the fifty-four highland minorities in the Northern mountains and the Central Highlands.<sup>3</sup> In the North, a few hundred converts were gained among the *Dao*, *Tày*, and *MŨ©ng* by the mid-1950s.<sup>4</sup> By then, missionaries in the Central Highlands had established congregations among the *Ê-Çê* near Buon Ma Thuot, among the *Gia-rai* and *Ba-na* near Pleiku, and among the *CÔ-ho* and their mountain neighbors near Dalat. No expatriate religious workers were permitted in North Vietnam after 1954 but during the 1950's and 1960's in the south many additional Christian (mostly evangelical) denominations began churches, some of which continue until now with varying degrees of state opposition.

In 1975, when Evangelicals nationwide numbered about 200,000, it is estimated that one-third of all Evangelicals were mountain minorities, primarily in the Central Highlands.<sup>5</sup> By 2000, the number of evangelicals nationwide had dramatically grown to an estimated 1.2 million. About one third of these are in two bodies formerly associated with the CMA, each recognized separately by the government.<sup>6</sup> Two other sectors of evangelicals have shown remarkable advances but are unrecognized. House churches among the Kinh have attracted tens of thousands of new followers, but because they are unrecognized are often harassed by the government. The second sector, and one that has seen the most remarkable growth has taken place in the Central Highlands and in the northern mountain provinces. Conversions among the Montagnards of the Central Highlands have doubled or tripled their 1975 levels. A mass movement has occurred among the Hmong in the northern provinces of Lao Cai, Lai Chau, Son La and Ha Giang.<sup>7</sup> Whereas in 1989 there were only a handful of Hmong Evangelicals, by 2000 an estimated 150,000-250,000 had converted out of a total population of 558,000 in those four provinces. The

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<sup>3</sup> For an early history of the Evangelical church, see Le Hoang Phu, *A Short History of the Evangelical Church of Viet Nam (1911-1965)*, Ph.D. dissertation, New York University, 1972.

<sup>4</sup> Some other ethnonyms for these groups are as follows: *Dao* (*Mán*, *MiŠn*, or *Diu-MiŠn*), *Tày* (*Th°*, *Phén*), *MŨ©ng* (*Mol*).

<sup>5</sup> Conversation May 3, 2001, with Vietnam researcher Reg Reimer.

<sup>6</sup> These are the Evangelical Church of Vietnam – North (ECV-N) with about 15-20 churches and the Evangelical Church of Vietnam – South (ECV-S) consisting mostly of Kinh (ethnic Vietnamese) with several hundred churches.

<sup>7</sup> For a full account of this see James F. Lewis, "The Evangelical Religious Movement Among the Hmong of Northern Vietnam and the Government's Response: 1989-2000," in *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies*, 2002 (16:2), 79-112.

total size of the ethnic minority Evangelicals is now believed to make up about two-thirds or more of all Evangelicals.<sup>8</sup>

### **Religion and the Socialist Republic of Vietnam: 1976-2004**

Beginning in 1976, when the two Vietnams were reunified, the government's stance toward religion was often one of repression, taking measures such as suspending religious services, confiscating property, and harassing or arresting religious leaders. Immediately after the fall of Saigon, controls over religion, which had been firmly in place in the North since 1954, were now applied against religion in the South. Opposition was most severe among the ethnic minorities in the Central Highlands where local authorities took an especially hard line.<sup>9</sup>

Circumstances for the six legally recognized religions improved somewhat after 1986, when the glasnost-like measures of *hôi Mũi* (Renovation), promulgated to reform the economy, were accompanied by occasional limited relaxation of some restrictions on religion. However, the effect was quite uneven, as Catholics, Buddhists, Evangelicals, and others continued to experience regular setbacks whenever the state deemed actions of believers and their organizations to be subversive. The state had absolute power to decide when an act was truly religious and when it was not.

Though some moderation has taken place since 1995, serious problems remain. Stephen Denney characterized government policy through the early 1990s as one of repression, restriction, and co-optation.<sup>10</sup> Believer participation in religious activities has increased, yet the government maintains broad legal and policy restrictions on organizations and clergy. Key to government control was its use of legislative enactments and decrees such as Resolution 297, which was promulgated in 1977 (later replaced in 1991 by Decree 69), and the 1985 Criminal Code. These decrees bring all aspects of religious life under the control and restriction of the state. Formal guarantees of religious freedom are qualified by vague stipulations such as those found in Article 5 of Decree 69, which forbids "any activity using religion to sabotage national independence, oppose the State, sabotage the policy of uniting the whole people, undermine the healthy culture of our nation or prevent the faithful from carrying out their civic duties."<sup>11</sup> The Ordinance "Phap Lenh," to become law November 15, 2004, will replace all previous decrees and reiterates the provisions of the 1992 Constitution (revised).

Article 70 of the 1992 revised Constitution states: "The citizen has the right to freedom of belief, of religion, to embrace or not to embrace any denomination ... It is forbidden to violate freedom of belief, of religion, or to take advantage of it to act against the law or the policies of the State."<sup>12</sup> Though the first part of Article 70 appears to grant religious freedom, the second

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<sup>8</sup> U. S. Department of State, 2000 *Annual Report*, 4. Nisid Hajari says ethnic minorities makeup three-fourths of the total Evangelicals; see Nisid Hajari, "God vs. the Cadres," *Time* (Asia), September 13, 1999, 21.

<sup>9</sup> United Nations Economic and Social Council: Commission on Human Rights, 1999, 16.

<sup>10</sup> Stephen R Denney, "Religion and State in the Socialist Republic of Vietnam." in Ramet, Sabrina Petra and Treadgold, Donald W., eds. *Render Unto Caesar: The Religious Sphere in World Politics*. (Washington, D.C.: The American University Press, 1995), 358.

<sup>11</sup> United Nations Economic and Social Council, Commission on Human Rights, 1999, 3.

<sup>12</sup> These restrictions are reiterated in Article 5, Decree No. 26, signed into effect by the Prime Minister in 1999.

restricts that freedom because, according to policy, freedom of worship effectively extends only to those who are followers of one of the six government-sanctioned religions. Citizens who, for conscience or other reason, choose to follow unapproved religions or unrecognized bodies of the official religions fall outside the guarantees of religious freedom.<sup>13</sup>

### **Religion and the State: The Montagnards of the Central Highlands – Phase One**

Since reunification in 1976, Montagnard evangelicals in the Central Highlands have suffered severe and unrelenting religious repression.<sup>14</sup> Virtually all the 398 church buildings used by ethnic minorities in the Central Highlands were closed. Their properties were appropriated, activities were suspended and leaders were “re-educated” in detention camps.<sup>15</sup> Repeatedly since 1975 they have been the target of brutal, extra-judicial measures, in part because most of the older generation had been converted by American missionaries.<sup>16</sup>

The growth rate of new converts since 1976 has been staggering. For example, among the Ê-Çê of Dak-Lak the numbers increased from 15,000 in 1975 to 150,000 by 2000.<sup>17</sup> Increases occurred among the Mnong, *Gia-rai*, *Ba-na* and Stieng tribes. Oskar Salemink quotes Oskar Weggel as saying evangelical ranks in Tay Nguyen doubled between 1975 and 1987 constituting a “success story of religious conversion.”<sup>18</sup> The sizeable and rapid growth of Evangelicals who are willing to act in unison to express their dissatisfaction with government treatment of their co-religionists partially accounts for the massive, swift and brutal measures taken against them in 2001.

In February 2001 thousands of ethnic minorities in three provinces demonstrated against oppressive policies of the state.<sup>19</sup> Government accounts indicate that on February 2, about 1000 demonstrators marched before provincial offices in Dak-Lak’s capital Pleiku protesting the arrest and jailing of two Gia-Rai men Ralan Bon and Ralan Djan on January 29.<sup>20</sup> The charges were “violating the law” and “inciting division among the national-unity bloc.”<sup>21</sup> Petitions were presented demanding resolution of conflicts over Kinh encroachment on tribal lands. Demonstrations elsewhere continued on February 3-6 in the nearby provincial capitals Buon Ma

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<sup>13</sup> Some Buddhist “denominations” are outlawed, such as the United Buddhist Church of Vietnam. See: United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Annual Report on International Religious Freedom: Vietnam*. (Washington, D.C., 2000), 3.

<sup>14</sup> The largest concentration of Vietnam’s Evangelical Christians today is in the four Central Highlands provinces where the disturbances occurred. It is estimated that more than half of the nation’s 1.2 million Evangelicals reside there.

<sup>15</sup> Freedom House, “*Directions*,” Document 2, “Program 184A - Development of Policy on Protestantism in Some Provinces and Cities,” 2-3.

<sup>16</sup> For an account of Evangelical missionary work in the Central Highlands read Homer S. Dowdy, *The Bamboo Cross*. (Harrisburg, PA: Christian Publications, 1964).

<sup>17</sup> Director Vo Tan Tai of the Dac-Lac Provincial Religion Department indicates there are 260,000 followers of the various religions in the province making up 29 percent of the total population. Further that Evangelicals increased ten-fold to 117,000 in the past twenty years. Source: Mike Bengé’s 27 February, 2002 email “Dega Protestantism”

<sup>18</sup> Salemink, “King,” pp. 521-522.

<sup>19</sup> The uprisings initially took place in Pleiku (Gia-Lai), Buon Ma Thuot (Dak-Lak) and later spread to Kon-Tum (Kon Tum) and is estimated to have involved as many as 30,000 people.

<sup>20</sup> Reports say the demonstrators in the provincial capitals in the first few days numbered close to 20,000. See *South China Morning Post*, Saturday, February 10, 2001

<sup>21</sup> Press release of the Embassy of the Social Republic of Vietnam in the United States. February, 8, 2001.

Thuot and Kon-Tum and surrounding villages. In the ensuing melee, property was destroyed and arrests made. It was the beginning of a year-long deployment of army and security forces to deal with widespread unrest. Members of military security police took up positions in virtually every hamlet across the affected provinces. All foreign personnel were evacuated, tourism stopped.

Initial response by state-run media was to cast the event as the result of legitimate grievances over land rights exacerbated by local mismanagement and general economic under-development.<sup>22</sup> This soon changed when official media reinterpreted it as the result of agitation by an anti-communist exile group in the U.S. which instigated secessionism among the Montagnards. Further, state-run media blamed evil elements which “abused religion” and threatened national unity. They identified “Dega Religion” as an illegal movement aimed to stir locals to seek an independent ethnic state.<sup>23</sup>

Information received by outside observers and human rights advocates tell a somewhat different story. While land grabbing of ancestral lands is indeed a smoldering issue, religious persecution by government cadres and officials in all three of the provinces had become intolerable. Mistreatment of the Evangelical population is at the heart of the unrest. Except for a few Montagnard churches in large cities, almost all Evangelicals, been angered by breakup of their services and the continuous injustices of extra-judicial mistreatment.

In April 2002 Human Rights Watch published a thoroughly documented 200 page report based upon research conducted from February 2001 to February 2002. More than one hundred highlanders were interviewed, all of whom were witnesses to the disturbance and the state’s handling of it. The front cover of their publication is a photo of police and soldiers breaking up an all night prayer meeting in Plei Lao village in Gia Lai province on March 10, 2001. Three chapters recount in detail a church burning, killings by police, forced participation in the animistic ritual drinking of goat’s blood, arrests, beatings and torture.<sup>24</sup>

Long before the crisis of 2001, religious freedom advocates received repeated and credible reports of acts of religious oppression. One example is the translation of a December 1998 complaint sent by *Ba-na* Christians to eighteen offices, including that of the Prime Minister in Hanoi, and several in Gai-Lai province. Signed by eleven Evangelical believers from De A Lao Hamlet, Lo Pang village, Mang Yang district in Gai-Lai, the complaint detailed how officers of the Peoples Committee and Fatherland Front destroyed their property, seized fields, stole rice and cattle, and forced them to do labor for the government. In the petition they cited published promises of Party General Secretary Le Kha Phieu concerning religious freedom. This did nothing to effect redress. In fact, all signatories were subsequently arrested by the police, taken to prison and beaten severely.<sup>25</sup> While abuses reported elsewhere may be the work of rogue officials, incontrovertible evidence shows most of these incidents are government-directed from highest echelons of the state and provincial apparatus.

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<sup>22</sup> Acknowledged in letter of Vietnam’s Press attaché, Embassy of Vietnam, in letter to the *Washington Times*, January 23, 2002 .

<sup>23</sup> Kay Reibald’s letter to the Editor in the February 17, 2002 *Washington Times*.

<sup>24</sup> *Repression of Montagnards: Conflict over Land and Religion in Vietnam’s Central Highlands* (Human Rights Watch 2002).

<sup>25</sup> Copies of all documents are in the author’s files.

## **Religion and the State: The Montagnards of the Central Highlands – Phase Two**

A second wave of disruptive demonstrations by an estimated 10,000 – 30,000 Montagnards occurred in the Central Highlands from April 9 to 18, 2004. Unlike the demonstrations of 2001, this was well organized and occurred in at least thirty separate locations in the provinces of Gia Lai, Dak Lak and Dak Nong and their capitals Pleiku and Buon Ma Thuot. Though the demonstrations were peaceful in intent, security and military police, apparently alerted in advance, brought strong countermeasures to quickly and brutally quash it while at the same time disguising their presence by wearing civilian clothes. Several thousand demonstrators suffered severe injuries and an unknown number were killed.

The concerns of the demonstrators were largely the same as those expressed in the February 2001 demonstrations: land theft, denial of social services and economic aid, and intensifying religious persecution. Grievances of the Montagnards are well established and indisputable. It is clear that residual issues from the 2001 uprising had deepened. What is unclear is the role the Montagnard Foundation Inc. (MFI), a USA-based advocate for fair treatment of highlanders led by one formerly their own, Kok K'sor who resides in the USA. Official Vietnamese sources accuse the MFI of instigating and organizing support for a separatist and independent state.<sup>26</sup> The MFI counters that while supporting the grievances of the Montagnards, they actually counseled against a coordinated and widespread demonstration.

The government has found it convenient to blame Montagnard evangelical Christians as a whole for what may well be the illegal acts of some who embrace the name “Dega” Christians. The MFI supports these Dega who mix their religious commitment with separatist aspirations. Many observers say, however, that no more than five percent of the local Montagnard Christians are supportive of the Dega religio-political agenda. The government appears to be using the Dega faction as an excuse to label all evangelicals as subversives and bring every possible measure to bear on their elimination.

Since April 2004, the government has continued to withhold permission for most churches in the Central Highlands to hold public meetings. To date, only 16 of the more than 750 churches that once functioned in the region are now considered “legal” in the provinces of Dak Lak and Gai Lai.<sup>27</sup> Of these sixteen, four are open primarily to Kinh or ethnic Vietnamese who live in the capital cities of the Highlands. What is astonishing is that well over 500,000 evangelical Christian Montagnards are treated as engaging illegally in religion.

## **Religion and the State: The Hmong of the Northern Mountains**

In 1991 the Communist daily paper, *Nhân Dân*, acknowledged a religious movement was underway and called for a variety of steps at national and local levels to deal with it. This was the first time the world had heard of the mass conversions to evangelical Christianity among the Hmong. Several countermeasures were suggested such as *Hmông*-language radio and television programs, which in fact were launched in 1994. At the local level the article proposed recruiting

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<sup>26</sup> MFI phoned journalists in Hanoi in advance of the demonstrations opening them up to charges that they fomented the action.

<sup>27</sup> These sixteen church buildings constitute only 2% of the number open in pre-unified Vietnam.

*Hmông* cadres who had demonstrated their commitment to state policies and programs in order to root out “bad elements or enemies among their relatives.” *Nhân Dân* warned that unless steps were taken immediately to conform the *Hmông* to state lines and Party policies the situation might get more serious.<sup>28</sup>

As a matter of fact, formal action was already underway to suppress the *Hmông* movement. The Politburo itself issued directive NQ24 on October 16, 1990, followed up by directive #69 HDBT on March 21, 1991 to deal with *Hmông* Evangelicals. The latter directive called for immediate action to quash “any activity using religion to sabotage national independence, oppose the State, sabotage the policy of uniting the whole people, undermining the healthy culture of our nation or prevent the faithful from carrying out their civic duties.”<sup>29</sup>

Almost from the beginning of the movement, which was stimulated by the Gospel radio broadcasts of U.S. based Far East Broadcasting Company, *Hmông* claim that officials began to apply pressure against them. Cassette tapes and letters to FEBC containing incriminating documents, recount beatings, fines, forced labor, interdiction of farming and harvesting, imprisonment, threats of death, forced emigrations, and confiscation of property (cows, chickens, rice, radios, and cassette recorders).<sup>30</sup>

Written complaints presented to various government offices go into great detail about abuses by local officials, some of who were members of the “Peoples Committee” (*Nhĩ Ban Nhân Dân*) while others were local police officers. They list the names of those who were abused, dates and locations, and the names of the village and hamlet officers, mostly *Hmông*, who perpetrated these abuses. It is clear that *Hmông* Christians believe these actions were known and approved by the Vietnamese officials. *Hmông* letters and tapes to FEBC seem to indicate abuses reached new heights in 1992. Mr. P.C. reported the following:

They (government) came and took my brother-in-law and myself and put us in a dungeon (literally, “dark house”) for about 31 days. Then they released us for about two months to work, but then put us back for another month and a day. We were in the dungeon for a total of three months and then were released. They persecuted us severely while we were in prison.<sup>31</sup>

In some cases *Hmông* took their grievances beyond local and provincial offices to Hanoi itself. In February 1993 a *Hmông* delegation presented their plea to an officer of the Ministry of Interior. He acknowledged their complaint in a “Record of Evidence,” a copy of which was retained by the delegation.<sup>32</sup> Some of the *Hmông* in the delegation were also plaintiffs in a separate complaint on file in Hanoi. In this complaint they expressed confusion about the government’s policy of religious freedom since it was their understanding that their religious beliefs were not against the state. Apparently article 70 of the 1992 Constitution concerning freedom of religion was on their mind when they wrote the following statement.

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<sup>28</sup> Nguyen Xuan Yem, 1991, 2.

<sup>29</sup> Quoted in United Nations Economic and Social Council: Commission On Human Rights, 1999,16.

<sup>30</sup> FEBC, Document 1, Audiotape from Mr. P.C., 1992; FEBC letters V-0495-2-P, V-0595-1-P, V-0496-2-P.

<sup>31</sup> FEBC, Document 1, Audiotape from Mr. P. C. to FEBC (1992).

<sup>32</sup> FEBC, Document 2, Record of evidence of a Hmong Delegation (1993).

We are followers of Jesus. We do not steal. We do nothing against the government or state. We are supposed to have religious freedom. Why are we prohibited to be converted? Why did the authorities of Lai Chau province allow the district police to persecute and beat us, some to the point of death?<sup>33</sup>

As it turns out, other desperate *Hmông* sought relief through international intervention. They were able to get a copy of their complaint into the hands of a group of Canadians who were visiting relatives in Hanoi in early 1993. Upon return to Canada and in an attempt to help the *Hmông*, a delegation of interested and concerned Canadians presented their complaint, through a Member of Parliament, to the Vietnamese Ambassador in Ottawa in May 1993. The Ambassador expressed willingness to communicate with his government about the problem. In a few weeks, letters from *Hmông* to the West told how their situation had deteriorated with increased persecution in July and August 1993. So intense was it that in an attempt to avoid detection, letters written by *Hmông* to FEBC for several months contained no return addresses. In these letters they told of their plight and requested that no more Bibles, hymnbooks, literature, or packages of any kind be sent to them. It is clear that this attempt to pressure the Vietnamese government resulted in stiffening opposition rather than alleviation. *Hmông* have learned by painful experience that religious freedom is limited to beliefs and practices that the state approves and that support socialism and the goals of national unity. Religious freedom Article 70 of the 1992 Constitution warns the citizens "...not to take advantage of belief or religion to act contrary to state laws and policies."<sup>34</sup>

Government pressure caused some *Hmông* to lapse from practicing Christianity while others resorted to compromise. One letter from 1995 states that

This month our local government persecuted all the Christians hard again. It happened because they accused us of having contact with the outside world and having three pastors visit us. The government fined us, jailed us, and made us work very hard without food and water. All these events will not stop our faith. Unfortunately, government officials forced us to disclaim Christ on videotape and promise to stop worshipping him. Some of us no longer worship Christ while others still strongly believe in him. We have done nothing wrong. So, we lied to the government about trying not to worship Christ again but when we got home, we got our Bibles and still encouraged others to believe in Him. We know it is wrong to lie but it is the only way to protect our fellow believers.<sup>35</sup>

On June 6, 1997, eleven *Hmông* families in Bac Me district of Ha Giang province presented a written petition asking permission to follow the Evangelical religion. The Chairman of the Provisional Peoples Committee responded on June 27 by denying permission. The grounds for the denial were that since the *Hmông* "traditionally did not follow any religion" they did not have permission to choose one since "such religions are not the custom of our *Hmông* people." He bolstered his decision by saying that these unlawful religions "disturb our peaceful society" and are "contrary to the wholesome and beautiful traditions of our *Hmông* people."<sup>36</sup>

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<sup>33</sup> FEBC, Document 2.

<sup>34</sup> Quoted in United Nations Economic and Social Council: Commission On Human Rights, 1999,3.

<sup>35</sup> FEBC letter V-0595-1-P.

<sup>36</sup> Religious Liberty Commission - World Evangelical Fellowship, *On the Cruel Edges of the World*, "Ha Giang Province letter to Hmong Christians denying their request for permission to become Christians," Exhibit 2 (1999).

As a follow up to his letter the Ha Giang District Peoples committee drafted an affidavit that required *Hmông* to abandon their Evangelical religion and join in the fight to eradicate it. Hamlet by hamlet, officials gathered *Hmông* Christians and forced them to sit through educational sessions to study the correct meaning of religious liberty and learn to recognize “bad people” who promote Evangelical religion. The statement of promise reads:

I promise to implement the following: 1) neither my family nor I will take part in any Christian [*Tin Lành*] practices or study of the Christian [*Tin Lành*] religion, and we will return to the traditional practices of our H’mong people. 2) I accept that I have the responsibility to tell family, friends and neighbors in our hamlet and village not to listen to nor follow the Christian [*Tin Lành*] religion, and not to go elsewhere to do it. 3) I accept that I have the responsibility of informing the authorities of our local government the names of people who continue to follow the religion, and the names of any people who come from elsewhere to teach the religion. 4) If I should in any way not abide by these promises, I please request that I be held accountable to the laws and legal authorities.<sup>37</sup>

In neighboring Lai Chau province, which has the third largest *Hmông* population in the North, a 1997 directive entitled *HŪŞng DẮn* [Guidance] was issued to local cadres by officers. Its purpose was to implement more thoroughly an earlier directive of 1990. The subject is as follows: “Concerning the measures needed to enforce dealings with religion in the new situation”. In the text it refers to the need to “solve the problem, push back and advance the eradication of [the new] religion in order to consolidate the political cause to develop the social and economic life of the country.”<sup>38</sup>

The severity of these and other measures applied against the *Hmông* testifies to the seriousness with which the Vietnamese government has taken the spread of the Evangelical movement, as well as its determination to bring the movement under control. However, the repressive measures seem not to have achieved the effect desired, as seen in an article titled “Opposing Illegal Religion,” which appeared in the January 15, 1999, issue of *Pháp Luật* [Law], the official organ of the Ministry of Justice. The article complained that while there had been some propaganda successes in turning *Hmông* from the *Vang Chú* religion, “it’s easier said than done,” since the Justice Department “encounters many difficulties.”<sup>39</sup> Le Quang Trieu, Yen Minh district party chief in Ha Giang province, admitted in 1999 that after a full year of propaganda, only 37 out of the 1,112 Evangelicals in his district could be reconverted.<sup>40</sup>

### **Religious Freedom and the Legal Ordinance “Phap Lenh Tin Nguon Ton Giao”<sup>41</sup>**

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<sup>37</sup> Religious Liberty Commission, *On the Cruel Edges*, “Ha Giang Province affidavit not to propagate religion illegally,” Exhibit 1 (1999).

<sup>38</sup> Lai Chau Province Directive 03/HD-DV, *HŪŞng DẮn* [Guidance], January 14 (1997). Translation by author. Copy in author’s files.

<sup>39</sup> Thanh LŪŌng-ñỦc Hằnh, 1999, 7.

<sup>40</sup> Hajari, 1991, 21.

<sup>41</sup> “Ordinance on Religious Beliefs and the Religions”

The legal framework for religious freedom includes both Constitution and government decrees assuring freedom of belief and non-belief. “Phap Lenh”(Ordinance Regarding Religious Beliefs and Religious Organizations) the newest official promulgation does nothing to advance religious rights. Consisting of six chapters and 41 articles, it was approved by the Vietnamese National Assembly and is to become effective November 15, 2004.<sup>42</sup> It will succeed “Decree on Religion #26,” in force since 1999, which amended the 1992 Constitution’s religious provisions.

The logic of the ordinance may be described as consisting of three parts. The first is found in article one which restates the constitutional guarantee: “Citizens have the right to freedom of belief and religion and freedom of non-belief and non-religion. The State ensures freedom of belief and religion. Nobody is permitted to violate these freedoms.”

The second part, and the majority of the articles, delimit these freedoms. Articles eight and 15 will serve to illustrate this point. The third part, consisting of the final four articles, refers to administrative issues about the date and time of implementation.

#### **Article One.**

The initial statement grants to all Vietnamese “freedom of belief and religion, and freedom of non-belief and non-religion.”<sup>43</sup> It calls for those with religion and without religion to respect each other and to avoid violation of religious freedom. This is nothing new since it essentially affirms the statements in the 1992 Constitution and echoes pledges the state has long ago given in international conventions and covenants. 84 year old Fr. Chan Tin, well known and long time religious freedom activist, rightly notes that in article one “...there is not a single word that limits the freedom of religion at all.”<sup>44</sup> It should be pointed out, however, that while “belief” and the choice of one’s religion is protected, there is nothing said about protection for the practice of religion. This is not an oversight. It is precisely this that articles 2-37 speak to. The practices of the religion are delimited in the main body of the ordinance.

#### **Article 8**

Articles 2-37 deals not with activities that are permitted, but with those that are forbidden. While these are not religion-specific, they do outline activities the state controls, restricts and forbids. Article 8 provides an extensive list of punishable activities:

The abuse of the right to freedom of belief and religions to undermine peace, independence and national unity; incite violence of to wage war; disseminate information against prevailing State’s law and policies; sow division among the people, ethnic groups, and religions; cause public disorder; do harm to other people’s lives, health, dignity, honor, and property; hinder people from exercising their rights and public obligations; spread superstitious practices and commit acts to breach the law, are not allowed.

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<sup>42</sup> The National Assembly’s Resolution is No. 21/2004PL-UBTVQH11.

<sup>43</sup> Website source: <http://www.freedomhouse.org/religion/country/vietnam/Ordinance>

<sup>44</sup> From “Vietnam’s New Ordinance on Religion: A Method of Oppressing Religion by Means of Law,” co-authored with Fr. Nguyen Huu Giai and Fr. Phan Van Loi. Statement released to international advocates on August 15, 2004. Author’s copy.

Concerning this, Fr. Chan Tin and others have the following concerns. These provisos are too vague to offer meaningful distinctions between those acts which believers regard as intrinsic to their faith, and those the state arbitrarily deems illegal. It also opens the door to local officials to suppress religious actors for personal gain or purposes. It makes the practice of religion subject to the state's view of what is permissible. And the recent history of the state's application of the law, as seen in this paper, clearly demonstrates that it is used in egregious and unjustifiable ways.

This is not to say that there is no need for the state to protect society from actions that "cause public harm" or threaten "other people's lives, health, dignity, honor and property..." Many states, such as India, restrict and even prohibit certain religious practices since they are deemed harmful to public order and morality. But the experience of Catholic Fr. Tin, many Buddhists and the evangelical ethnic minorities, deeply resent general provisions to restrict, arrest and punish what they believe are legitimate expressions of their faith. The restrictions are used merely to effect the absolute authority of the Communist party.

The Phap Lenh Ordinance is suffused with a vocabulary of restrictive terms. These include the following words, "register" is used 18 times; the words "approval", "recognized", "allowed", "permitted" altogether are used 21 times.<sup>45</sup> The freedom the document provides, is the freedom of the state to restrict and control not of religionists to believe and practice.. Its prejudice against the free exercise of religion is abundantly clear. It is so comprehensively restrictive that "there is no article in the Ordinance which does not require" either registration or permission.<sup>46</sup>

Officials state that Phap Lenh ensures the lawful operation of the religions "without affecting religious tenets."<sup>47</sup> But beliefs are as controlled as practices. For example, Hmong evangelicals use the words "Vang Chu" to refer to the Biblical God. But belief in Vang Chu has officially been designated as a "heresy" in a state radio commentary on August 10, 2004.<sup>48</sup> Evangelicals of the Central Highlands believe that participating in certain rituals associated with their previous pagan practices is forbidden. But according to the state, forbidding the ritual is illegal since, in the view of the state, this is to "denounce" a traditional cultural activity with "extremist thought." What evangelicals believe concerning the ritual is declared by the state to be a valued part of the rich cultural heritage of the minorities.<sup>49</sup> Hmong and evangelicals of the Central Highlands are charged with holding beliefs that "no genuine religions would encourage." The question here has to do with what constitutes legitimate religious belief. This matter is unlikely to be settled until concerned parties have access to courts. Such a development seems, at this point, a long way off.

## **Article 16**

Article 16 limits whatever vacuous guarantees there are, only to the state's (short) list of approved religions. This perpetuates the suppression of religion, as seen in the experience of the Hmong in the last 15 years and the Montagnards of the Central Highlands in the last 25 years.

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<sup>45</sup> Tin, Vietnam's New Ordinance.

<sup>46</sup> Ibid.

<sup>47</sup> Commenting on "Phap Lenh," Dr. Nguyen Than Xuan, deputy head of the Government Religion Committee made this claim in *Quan Doi Nhan Dan* (People's Army Daily), September 28, 2004. VNA news agency web site, Hanoi, English.

<sup>48</sup> Voice of Vietnam Radio text web site, Hanoi, in Vietnamese. Reported by BBC Monitoring.

<sup>49</sup> This is especially ironic since for decades the party has tried to eliminate as "superstitious" many traditional animistic rites they now seek to preserve as culturally valuable.

How many of Vietnam's evangelical population are considered legal by the state? It has been said that of those who regard themselves as Christians in contemporary Vietnam, only 20% have any official standing and can, therefore, claim protection under the law. The remainder are totally and entirely at the mercy of the officials. This makes a mockery of the state's claim to provide religious freedom.

What of the future? The state's propaganda apparatus claims progress in religious freedom by pointing out that recently it has recognized the legal status of nine Caodaism sects, the Hoa Hao Buddhist Council and the Vietnam Protestant Church in the South (ECV-S). But the overall picture is dark and getting darker. The international community is alarmed at Vietnam's most recent behavior. On July 19, 2004 the U.S. House of Representatives passed the "Vietnam Human Rights Act of 2004", on a vote of 328 to 45, to block any increases in non-humanitarian aid until there is "significant progress" made in human rights. On September 15, 2004 the United States State Department named Vietnam a "Country of Concern" for severe violations of religious freedom. This could lead to limited economic sanctions as one option.

While many are convinced Vietnam must be forced by the international community to recognize abuses and take concrete steps to address them, others are not so sure. Robert Seiple, past Ambassador-at-large of the US State Department International Religious Freedom Office, says: "There's nothing to be gained by embarrassing the Vietnamese publicly, or by forcing them to shut down their human-rights dialogue with us because they've been embarrassed."<sup>50</sup> Andrew Wells-Dang, regional representative for the Fund for Reconciliation and Development recently spoke to the Hanoi gathering of the American Chamber of Commerce. He endorsed the view of Carol Lee Hamrin of the Institute for Global Engagement who indicates that the solution to perceived religious freedom issues is to combine "religious freedom with rule of law..."<sup>51</sup>

This is seen by many as precisely the problem. The rule of law is applied against religion in specific and well-known instances. Brad Adams, executive director of Human Rights Watch's Asia division recently slammed Vietnam for intensifying its opposition to the Mennonite church which on September 24 had its church in the Central Highlands city of Kontum bulldozed and its pastor jailed. Referring to like unrecognized groups, he says: "Thousands of Vietnamese citizens are being persecuted simply because they want to worship outside government restrictions."<sup>52</sup>

Contrary to the claim on September 17, 2004 of a Vietnamese Foreign Ministry spokesman that Vietnam's laws do not allow violation of religious rights, there is not a single known case where Vietnamese courts at any level have heard or decided in favor of a litigant who has charged that their religious rights have been violated.<sup>53</sup> Hundreds of documents detailing state persecution of religion cry out for Vietnam to cease restrictive policies and offer genuine freedom of religion, which history has shown contributes so much to a humane and civil society.

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<sup>50</sup> James M. Sellers, *Christianity Today*, April 2004 (48: 4), 95.

<sup>51</sup> Email copy of Mr. Wells-Dang's presentation, October 14, 2004.

<sup>52</sup> Agence France Presse, October 22, 2004.

<sup>53</sup> The search is still underway for this history. But research so far, consulting with Vietnam specialists such as Shawn McHale (George Washington University), Steven Denney (Berkeley), Peter Hansen (Melbourne) and Sara Colm (Human Rights Watch) have yielded nothing.



