

The Process of Law on Religion in Vietnam since 1990 up to the Present time

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ABSTRACT: The paper reviews the Government of the Democratic Republic of Vietnam's policies on religion and belief since the Renovation. It emphasizes the significant contribution of religions in Vietnam to the block of the great national unity and addresses progress on the state policies on religion and beliefs. After a year of implementation of the Laws on Belief and Religion (1995), the religious life in Vietnam has recorded new transformations found in all aspects of religious activity. This asserts the reality that the religious policies of the State have basically responded to the need of the religious life and to legitimate rights of believers, dignitaries, priest and all religious organizations in Vietnam.

Vietnam has a history of hundreds years of struggle against foreign aggressions to preserve national independence and the unification of the country. Therefore every Vietnamese has understood the meaning of national independence, and is determined to regain and preserve national independence. Under the leadership of the Communist Party of Vietnam, the Vietnamese people has risen up to seize the power, and establish the first People's Republic in South East Asia in September 1945. From the first days in its establishment, the Vietnamese State has paid a great concern on the issues of beliefs and religions. The provisional Government of the Democratic Republic of Vietnam has proclaimed "the freedom of beliefs, the unity of non-Catholics and Catholics" and this principle has become a consistent policy running through all the periods of the Vietnamese revolution.

The policy of "freedom of beliefs, the unity of non Catholics and Catholics" has greatly contributed to the cause of uniting the whole people, to the success of the resistance-war, to regain national independence and the unification of the country. "The safeguard of freedom of beliefs and religions to reinforce the united block of the whole nation" has been two indivisible principles which can be demonstrated by its history since

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1945, in which there has not existed any national conflict rooted in the national issue, and in the religious issue. Compatriots following various religions live in peace, safety and harmony with those having not a belief in any religion in the block of the great national unity.

In these past sixty years, the Vietnamese people has lived in the the national block of unity feeling confident in the leadership of the Vietnamese Communist Party and has recorded significant victories. From 1990 up to present, with the efforts of the whole Party and the whole people in carrying out the task of renovation, of building and developing economy, society, international communities have acknowledged achievements that Vietnam has recorded, and therefore step by step recognized the status of Vietnam in the region and in the international market.

Vietnam is a country with many ethnic groups, many religions, with a population of over 80 million from 54 brother ethnic groups. There exist at present in Vietnam 6 religions with about 20 million believers, 60 thousand dignitaries, devoted followers, 22 thousand worship places with 16 religious organizations which have been recognized and are working in stability. They are the Vietnamese Catholic Church, Vietnamese Buddhist Sangha, The General Protestant Church in North Vietnam, The General Protestant Church in South Vietnam, Hoa Hao Buddhist church, 9 Sacred Cao Dai Churches and 2 Offices representing Islamism. Together with religious associations recognized above, there still exist other religious organizations and branches which have been newly formed or imported into Vietnam like a number of Protestant sections, the Buddhist Association of the Pure Land, the Section of Piety, Self righteousness and the Four Moral debts, the Baha'i faith, etc. are having conditions to carry out religious activities and their normal activities at their worship bases or at other points with about 1,5 million believers, over 5 thousand dignitaries, officers and about 500 cult bases together with many other groups.

In the renovation of the country, under the leadership of the Vietnamese Communist Party in the past years, the economy of Vietnam is more and more developed following the tendency of integration into the region and the world, the material living of the people is more and more improved. The need of spiritual culture is therefore increasing and especially the need of religions and belief activities. Belief activities like the cult of ancestors, of persons who have devoted themselves to the country are attracting the participation of a great mass of the population. Together with belief activities, religious activities of the people in general and of compatriots having their own religious beliefs are becoming more and more stable.

The Vietnamese country is going forward from an economy with many difficulties, one of these causes is the result of the wars. Together with policies to develop economy, the State of Vietnam is paying a great attention to social policies, among them is the policy on religious beliefs. The promulgation of adapted policies, responding to the needs

of developing the country with the aim of uniting compatriots with or without beliefs and religions always enjoys the State concern.

The religious policy of the Vietnamese State is to respect and ensure freedom of beliefs and religions for all citizens. This was affirmed since the first Constitution of the Democratic Republic of Vietnam and has then been supplemented, improved through the Constitutions of 1959, 1980 and 1992 of the Socialist Republic of Vietnam.

In the process of carrying out the renovation of the country, the religious policy of Vietnam continues to be affirmed and is more and more concretized, creating the legal corridor to ensure freedom of beliefs and religions for citizens, to ensure unity, concord between the community of persons having beliefs and religions, persons without belief, religion and persons having different beliefs, religions.

From the 90s of XX century, Vietnam has carried out a deep, general renovation in all domains of the social life. Before the development of the country, the religious situation has also many changes. Many viewpoints, positions on the religious work expressed in the Decisions, Instructions of the Communist Party of Vietnam to directly lead the solution of religious problems in this period have been promulgated. The institution of the Decisions, the Instructions of the Party, the laws on religions have been built, supplemented and improved. Only within over 10 years, hundreds of documents have been promulgated with a content to regulate the religious sphere.

Not only the texts regulating the laws to regularize the religious area have increased rapidly in number, their forms are also richer and more various. If before the legal text on religion was promulgated under the form of orders, decisions, laws, in the present period many Laws, Decrees, Edicts, Circular letters have been promulgated. The content of the texts to determine the laws has been incessantly corrected, supplemented, perfected, to agree with the practical situation.

In this stage, one may mention the Decision No 69/HDBT on 21st of March 1991 of the Council of Ministers (now the Government), regarding religious activities. It is the first text to deal relatively all-round on all the spheres of religious activities. Apart from the continuation of previous legal texts (the Decree 234/SL of the Government on 14th of June 1955 on religious problems, the Decision 297/NQ of the Government on 11th of November 1977 on a few policies toward religions. This Decision still corrects and adds a number of new contents.

Through almost 10 years of implementation, before the demands of the new situation, on 19th of April, 1999, the Government promulgated the Decision No. 26/1999/ND-CP on religious activities to replace the Decision No 69/HDBT. While inheriting the legal texts before it, the Decision No. 26/CP asserted: "The State ensures the freedom of beliefs, religions and the freedom to be without belief, religion of the citizens; citizens following

a religion or without following beliefs and religions are equal before the laws on rights and duties.”

Legitimate and legal religious activities of believers are ensured by the State; religious activities for the benefit of the Fatherland and the people are encouraged. Religious activities must follow the law of the State of the Socialist Republic of Vietnam.

Any behavior which violates the freedom beliefs and religions, which makes use of religious beliefs to work against the Socialist Republic of Vietnam, to prevent believers from performing their citizen duties, to destroy the cause of the unification of the whole people, and the healthy national culture as well as superstitious activities are settled in accordance with the law.

A review on the development of the laws on religions in Vietnam in the past time shows that, the laws on religions have had noticeable developments. The laws on religion have timely institutionalized directions, policies of the Party and State toward religions. The legal contents on religions asserted a consistent policy in respecting and ensuring freedom of beliefs and religions of citizens; strictly prohibiting any behavior to make use of religion to destroy the block of great national unity, against the revolutionary cause. Especially in the renovation of the country, the laws on religions have recorded important contributions in consolidating unity, bringing into play the internal force of the whole nation in developing economy and safeguarding the socio – political stability.

To consistently carry out the policy of respect toward the freedom of beliefs and religions, the 7th Conference of 9th Session of the Central Committee of the Communist Party of Vietnam has put forth the Decision on the religious work. Basic conceptions, policies of the Party in the Decision on religious work are the results of a long process of practical summing up of the Vietnamese Revolution. These main conceptions, policies express the views on the most scientific and soundest behaviors toward the religious issues and have created premises, main elements for the building of the block of the great unity of the whole nation. They consider that:

1. Beliefs, religions are the spiritual need of a part the people they exist and will exist together with the people in the process of building socialism in Vietnam. Religious compatriots are a part of the great block of unity of the whole nation. One should consistently carry out the policy of respecting and ensuring freedom of beliefs, religions for person following or not following any religion, the right to follow the moral religious activities in accordance with the law. Religions work within the legal frame are equal before the law.
2. One should consistently carry out the policy of great national unity. One should unify compatriots following various religions: One should unify compatriots following religions and compatriots who do not follow any religions.

The State strictly prohibits discriminations towards citizens on account of their beliefs and religious reasons. At the same time it strictly prohibits the use of beliefs and religions for superstitious work, in the work against the law and the policy of the State, to instigate divisions among the people, dissensions among ethnic groups, and create disorders, violations of the national security.

Based on the Constitution of the Socialist Republic of Vietnam in 1992, which institutionalizes the viewpoints of the Party in the Decision on the work in religion, in 18th of June 2004, the Law on Beliefs and Religion was adopted by the Standing Committee of the National Assembly of the Socialist Republic of Vietnam, session XI, and it is effective from 15th of November, 2004. This important fact marks a historical landmark on the way to perfect laws and regulate the domain of religions beliefs work in Vietnam.

The Law on Beliefs and Religion with 6 chapters, 41 articles has clearly defined the rights and duties of individuals, religious organizations. It defined the responsibility of the State on ensuring the rights and duties of individuals, organizations in religious work; to respect and ensure the principle that internal principles of religious organizations are settled in conformity with the Charter. The Regulations of religions which have been recognized by the State. At the same time it affirms that the Government of Vietnam respects and carries out the International treaties that Vietnam has signed or has taken part in. The Government decision which guides the enforcement of the law has concretely determined the tendency of reforming the administrative procedures towards the responsibility of the State organs in the management of religious matters, a clear distribution of responsibilities and managements should be set up for the State control of religious activities, the responsibilities of the State organs in the control of the power echelons to create favorable conditions for the ambiguous work of religious organizations and individuals in Vietnam.

Apart from the basic principles on freedom of belief, religions inherited from clearly promulgated texts, the Law on Beliefs and Religion has fairly many contents which have been regulated, changed, supplemented compared with the Decision No 26/CP on 19th of April, 1999. Some main contents which attract the attention are as follows:

On the regulation range

The law not only regulates *religious activities*, it also regulates *belief activities*. Belief activity is a kind of non-organized activities but it attracts the participation of the great majority of the mass, it is very rich and is carried out under many forms like the cult of ancestors in the families, the cult of Hung Kings... Popular beliefs are organized everywhere in the regions all over the country. The State of Vietnam respects healthy

belief activities, raises high the humane and traditional values of the national culture, in response to the spiritual need of the broad masses of the people. At the same time it strictly interdicts all activities to make use of beliefs to propagate superstition, and to commercialize the belief work.

On the religious activities of believers

The law stipulates that persons having a belief, believers are free to express their faith, to carry out cult rituals, to pray and participate to forms of activity to the service of religious feasts, rites, to learn the religious dogmas of their beliefs. When participating to activities of beliefs and religions they should respect the regulations of the base of beliefs, religions, to respect the regulations of ceremonies, the conventions of the community and the regulations of the laws; to respect the freedom of non believers and should not hinder the execution of the citizen's right and duty. This regulation agrees with the content of the Article 18, with the International Convention on civil and political rights that Vietnam has participated to.

Foreigners when entering Vietnam may bring along religious publications and other articles to serve their religious needs. They may have a right to enjoy activities in religious establishments like Vietnamese believers; They may invite religious dignitaries who are Vietnamese to perform religious rites.

On the religious activities of dignities, believers of religions

The first content which needs to be spoken of is the regulation that those who lead a religious life at religious establishments should do on the basis of their own free will, without any impediment or force, apart from the case of persons under age who require the agreement of their parents or their guardians. This regulation clearly expresses the freedom of beliefs and religion of non believers of the citizen, the freedom of learning to become dignities, believers of religions.

Dignitaries, believers of religions may perform religious rites in the area they are in charge of, they may propagate, preach the religion at religious bases, the performance of religious rites, and predication outside religious bases must have the consent of competent state offices according to the law. Dignitaries, believers of religions as citizens are encouraged by the State to organize educational, medical, humanitarian and charitable activities in accordance with legal regulations.

Foreign, believers of religions are allowed to preach at the religious bases of Vietnam after being allowed by Religious Office of the Government. This is one of the regulations expressing the renovation in the religious policy toward religious activities of dignitaries and believers of religions.

On religious organizations and works of religious organizations

- On religion organizations, the decision No. 26/CP stipulates: "*For religious organizations which have their principles, their goals, their lines of practicing the religion, their organization structures in conformity with the law, if their activities conform to the law and are allowed to function by the Prime Minister of the Government, they are protected by the law*". With this regulation, the State has recognized 16 religious organizations as we have mentioned in the above part. The law stipulates that these organizations have not to carry out procedures to be recognized again. The problem is that there exist some religious organizations, among them some having a very great number of believers, a number of "new religions" applying to the State to be recognized as organizations, while the Decision 26CP lacks in concreteness. To overcome this shortness, the law puts forth five conditions which are necessary and sufficient to be recognized as a religious organization.

These conditions are:

- a. It is an organization of persons sharing the same belief, with its dogmas, its laws, its rites not contrary to the good morals, good customs and the interest of the nation
- b. It has its charter, its rules expressing the lines, the goals, the orientations bound to the nation and not contrary to the law.
- c. It has registered its religious activities and has stable religious activities
- d. It has a lawful office, organization and a legal delegate
- e. Its name is not the same as the appellation of religious organizations which have been recognized by the competent state organ.

Among this conditions the fact that "*it has registered to religious activities and has stable religious activities*" is an important one, because before the recognition as religious organization, this religion has to register and to have religious activities in a certain time to be examined and recognized by the State.

- For the religious organizations which belong directly to the State, in accordance with the law, these religious organizations have been established, divided, incorporated into a religious organization directly belonged to the State. The People's Committee of the province level examines, accepts the establishment, the division, integration, fusion with a religious organization at the local level. This regulation will create conditions to strengthen the organization so as to meet the demands of religious activities.

On the religious associations, the Decision 26/CP only stipulates that the believers may participate to religious activities, they may learn the dogmas, the moral to serve

religious rites at their cult bases. According to the laws and decrees, a religious association is defined as a form of uniting believers, it is established by the religious organizations to serve religious activities. Associations organized by religious organizations not to serve religious activity are not religious associations. Their establishment and activities must follow the regulations of the law on the foundation of associations. The law stipulated that the Religious Association may work after it has been registered with the competent state organ.

On the activities of the Orders, Monasteries and collective bodies leading a religious life. The Decision 26/CP stipulates that the activities have to ask the permission and must receive the acceptance of the competent state organ. The law has recorded basic changes, that this organization has only to register with the competent state organ (the People's Committee of the district, the People's Committee of the province or the Government Committee for Religious Affairs) then it would have the right of working legally. The orders which have been registered before the day when the law is effective need not register again.

On the nomination to different functions, dignitaries, on the appointment and election, they follow the rule in religious organizations. The Decision 26/CP stipulates that these managements should receive the acceptance of the Government Prime Minister or the President of the Province People's Committee. The law has recorded basic changes. According to these changes, they are internal affairs of religious organizations. The religious organizations have the right to perform them in following the Charter, the regulations of organizations which have been approved by the State. The State only puts forth the citizenship character of persons to receive functions, nominations to be appointed, elected so that the religious organization might have the choice, the decision. These conditions include: the State of Vietnamese citizenship, of good character, having the spirit of national unity and reconciliation and seriously implementing the law of the State. After the appointment to a post, to a dignity, after the election and nomination, the religious organization has to register these persons with the competent state organ of the State so that the State would ensure their legal religious activity. Of course, those who do not meet the criteria put forth by the State would not be recognized by the State; if they practiced religion it would be illegal.

As to the case of nominations, appointments, elections, selections of Vietnamese citizens to religious titles decided by foreign religious organizations, apart from above conditions on the citizenship quality, a previous acceptance of the Government Committee for Religious Affairs is necessary.

The transfer of the place of religious activity of dignitaries, religious believers is fairly strictly determined in the Decision 26/CP. According to this Decision, dignitaries and religious believers in their transfer should be accepted by the Presidents of the

People's Committee of the place they leave and the place they come. With this law, the transfer of the place of religious activities of dignitaries and believers of religion is defined in a relatively open way. In ordinary cases the religious organization has only to inform the People's Committee of the district level of the place they leave and to register the religious activity with the People's Committee of the district level of the place they will work. When dignitaries, believers of religion violate the law on religions and are settled on criminal affairs by the President of the People's Committee at the province level then the move should accept the permission of the People's Committee of the province where they come.

On social and charitable works of religious organizations, the Decree 26/CP is still not concrete. With this Ordinance, the State encourages and creates conditions for religious organizations to participate to the raising and teaching of children in especially difficult conditions. They may participate to the care for the wealth of the poor and the invalid, of people infected with HIV-AIDS, leprosy, mental diseases. They may help pre-school education bases and participate into other activities for humanitarian aims in accordance with the charter, regulations of religious organizations and decisions of law.

On property belonging to the establishments of beliefs and religions

The law asserts that legal properties belonging to the establishments of beliefs and religions are protected by the law, and it strictly prohibits any violation. The land belonging to these bases enjoy the right of a safe and long employment ensured by the State. Bases of beliefs, religious organizations have the right to collect money, to receive property, often for religious activities. However the collection, offer should ensure the own free will of those who offer and give; the collection should openly declare the goal of the use and inform the People' committee of the place where the offer is organized before the offer carrying out.

After a year of implementation of the Laws on Beliefs and Religions, the religious life in Vietnam has recorded new transformations found in all aspects of the religious activity. It asserts reality that the religious policy of the State of Vietnam and its implementation of the policy which respected and ensured the freedom of beliefs, religions in the past time and have mainly responded to the need of the religious life and to legitimate rights of believers, dignitaries, priest and all religious organizations. Though in the implementation process, a number of impediments have occurred both in the religious work and in the state administration on this activity, but changes in the religious initial work have

affirmed the consistent policy on the respect of the freedom of beliefs and religions of the Socialist Republic of Vietnam not only in the texts but also in the religious and social life. The broad masses of religious believers, dignitaries, priests and officials feel assured and enthusiastic, they have full confidence in the policy and the law of the State, they actively participate to movements of patriotic emulation, to build a life "*In a decent life in both secular and religious terms*", to contribute to the edification and safeguard of the Socialist Vietnam fatherland to reach the goals of a rich people, a strong country, an equal, democratic and civilized society.

In the social development process, together with continuing changes of practices, the system of policies and laws in general and the policies, laws on beliefs, religions in particular have a relative stability, despite inevitable restrictions and shortcomings. Therefore, the supplementation and perfection of the policies, laws on beliefs, religions to meet the reality of the spiritual life of religious compatriots is an objective necessity.