

SOCIALIST REPUBLIC OF VIETNAM
Independence – Liberty – Happiness
COMMENTS ON DRAFT NO 4 – LAW OF RELIGION & BELIEF

Subject: Comments on Fourth Draft of Law on Religion & Belief

(These comments has been sent to the Vietnamese Government)

We are Vietnamese citizens and adherents of the Third Universal Redemption Religion (Cao Dai Church). Our religion was established in 1926, with the Tay Ninh Temple as its headquarters. This temple is being occupied by a Cao Dai offshoot that the Communists created in 1997. Our comments on the fourth draft of the Law of Religion & Belief (“Draft 4”) are as follows:

I/ Draft 4 is unethical, unconstitutional and inconsistent.

On Item 1 and Item 10, Article 3:

Article 3. Glossary

In this Law, the following terms are interpreted as follows:

1/ Adherents are those who adopt a religion and are recognized by that religion.

*10/ A religious organization is a group of people who follow the same system of religious doctrine, laws, and rituals, and who are organized in a fixed structure **recognized by the government.***

The Third Universal Redemption Religion – i.e., Cao Dai Church (short form) - was founded in 1926 and has been operating ever since. It became a legal personality in 1965 under the government of South Vietnam.

In 1997, the government of the Socialist Republic of Vietnam allowed a Cao Dai offshoot, the Religious Governing Council, to conduct religious operation, and helped it usurp the mantle and properties of the Third Universal Redemption Religion (TUR). Created in 1997 by the government, this offshoot has no “central, legitimate” status. Therefore it is naturally different from the TUR with its central legitimacy after its founding in 1926.

Now the TUR is not recognized by the government and therefore is **not allowed to carry out religious operations**. So, how can we be recognized as adherents when we have no church or religious organization?

Draft 4 is based on the tactic of whittling down the status of the Cao Dai adherents so that they could no longer be regarded as adherents for lack of a religious organization. The draft law deprives adherents of religions of their religious structure and foundation, thus causing them to drift aimlessly without hope. This is a very devious noose intended to strangle the TUR to death.

As a matter of fact, we had been adherents of the TUR before this government took over and started to “manage” our society. **Therefore, Draft 4 aims to deny the status of religious adherents to TUR believers.**

Freedom of religion is universal and inalienable. It is a right, not a favor, and therefore one needs not ask for it. Draft 4 will abruptly turn this right into a favor that the government may

choose to grant. Freedom of religion will be determined by the government's recognition of religious organizations. This is an unethical requirement.

Moreover, Draft 4 contradicts Item 1 of Article 14 and Article 24 of the Constitution, and it is noteworthy that Draft 4 contains provisions that conflict with its own Article 2f.

II/ Draft 4 contradicts the Theory of Evolution and the spirit of service.

Article 3. Glossary

10/ A religious organization is a group of people who follow the same system of religious doctrine, laws, and rituals, and who are organized in a fixed structure **recognized by the government.**

"Are organized in a fixed structure recognized by the government" is a viewpoint that contradicts the Theory of Evolution and the spirit of service for the following reasons:

A religion is created to serve mankind. Mankind continuously evolves, both materially and spiritually. Mankind's needs increase daily without end. Civilization has been evolving through several phases: the Stone Age, the agricultural society, the industrial society, the electrical and digital society, etc.

At the end of the 20th century, more than 2000 scholars, attorneys, and politicians attested in a meeting in the Netherlands that the 21th century is the century of spiritual life. Any newly formed civilization is the result of a developmental process. On the contrary, Draft 4 specified a **"fixed structure"** for religious organizations.

Globalization requires the ability of individuals and organizations to adapt to the new environment in order to survive and to prepare for changes in order to develop. Falling behind is synonymous with imminent death. In invoking the term **"fixed structure,"** (i.e., religious organizations' structure may not change), Draft 4 does not even allow religious organizations the right to adapt for survival, much less enable adherents to develop. Religious organizations must request and then wait for the government's approval of any proposed organizational changes. This would transform religions into lambs that must walk on the same path day after day and try to sustain themselves with whatever little grass remains within the same enclosed patch.

To summarize our input, if Draft 4 became law, it would cause great harm to society and religions. It would lock our people and country in its position as the least developed member of ASEAN. It would enslave clergies, religious orders, and religious organizations until they wither away.

III/ Draft 4 is unethical and runs counter to national traditions

Spirituality and respect for religious freedom when exercised by individuals and communities are traditional Vietnamese values. Our forebears embraced Buddhism, Taoism and Confucianism, and these religious groups did not discriminate against one another. When Catholicism was introduced into Vietnam in the 18th Century, it was largely welcomed and accepted. However, the suspicious Nguyen Dynasty banned the religion. There were many wrenching massacres of Catholics. Still, the Catholic Church survived and grew whereas the Nguyen Dynasty came to an end.

Southern Vietnam became part of our country after Northern and Central Vietnam. Yet several beliefs and religions originated in Southern Vietnam, such as the sect founded by the Buddha Master of Western Peace, known as Unique Fragrance from the Precious Mountain, Hoa Hao Buddhism, and Caodaiism, among others. These new religions made their way into communities, free from any governmental requirement for registration. Their survival and growth were governed by the law of supply and demand. Nevertheless, Draft 4's Article 43 specified:

“An individual who chooses to live a vowed life in a religious facility must register and submit a biography certified by the commune-level government with jurisdiction over the person’s original residence. This registration must be approved by the local government that has jurisdiction over the area where the individual wants to live his vowed life.

Throughout our history, none of the previous governments required official approval before someone could begin life in a religious facility. This provision shows that Draft 4 runs counter to Vietnamese cultural, ethical and religious values.

IV/ Runs counter to the national motto “Independence – Liberty – Happiness”:

The motto of the current government is “Independence – Liberty – Happiness.” With a great number of requirements such as registration, valid registration, legal place of worship, recognized by the government, approved by responsible government agencies, legally approved religion, etc., Draft 4 has the effect of trapping people with a religious belief in a maze... making religions and religious organizations dependent on the government. This runs counter to the national motto “Independence, Liberty and Happiness.”

According to Communism, when a society under a Communist government reaches the stage of Marxist paradise on earth, the government will become obsolete. Therefore the government’s role should gradually decrease until the government disappears. However, Draft 4 goes in the opposite direction. The government would control all aspects of religion, including clergy members, people living a vowed life in religious facilities, religious organizations’ personnel conducting religious operations, and religious activities. Draft 4 would cast a huge net that entraps the spirituality and beliefs of religious organizations. Therefore, by increasing the role of the government in religions and beliefs, Draft 4 is at odds with Communist doctrine. When someone yells: “Forward!” while retreating, how could he expect to achieve the state of Marxist paradise?

The provisions in Draft 4 also run counter to Article 14, Item 2 of the Constitution which states: “Human rights and citizens’ rights may not be limited unless prescribed by a law solely in case of necessity for reasons of national defense, national security, social order and safety, social morality and community well-being”. Thus, Draft 4 restricts human rights in violation of the Constitution. Draft 4 is heavily tilted towards the “You request – We may grant” system, the root cause of the rampant corruption that has become the scourge of our country and kept Vietnam at the bottom rung of ASEAN.

The “You request – We may grant” system, if forced upon religions and beliefs, will emasculate the spirit of individuals and communities. As individuals and communities lose the capability for compassion, those who need help and comforting as a result of accidents, illness, poverty, etc. would find it increasingly difficult to get such support.

V- Draft 4 contradicts the international covenants to which Vietnam is a signatory

Vietnam is a party to nearly all of the international human rights agreements, including the International Covenant on Civil and Political Rights (ICCPR).

Article 18 of ICCPR broadly protects the right to freedom of thought, conscience, and religion or belief.

Regarding restrictions on this right, Item 3 of Article 18 specifies number of criteria for restrictions imposed by any government. Unless a restriction meets the criteria, it would be illegal.

Draft 4 sets a significantly broader scope for restrictions than ICCPR. Draft 4 can be therefore viewed as setting the stage for the government to disregard freedom of religion and belief in order to squelch protests when the government invokes this law. Draft 4 intends to prevent any nascent attempt to exercise freedom of religion and belief.

***** Recognition automatically turned into administrative recognition:

The Universal Declaration of Human Rights (UDHR) of 1948 regards mankind as a family. The Convention **recognizes** freedom of religion and belief as a basic right without any administrative prerequisite. Freedom of religion and belief therefore takes precedence over any administrative requirement.

“Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people” (2nd preamble item of UDHR).

Draft 4’s use of the words “recognize”, “approve” in conjunction with so many administrative prescriptions shows that it is incompatible with United Nations membership and being a party to international covenants on human rights and religious freedom. If the government does not honor its commitments, how can it expect citizens to accept its leadership?

VI- Draft 4 represents a step backwards compared to Ordinance 21

Article 5 of Draft 4: *International interactions of the Socialist Republic of Vietnam pertaining to religion and belief*

1. *The government of the Socialist Republic of Vietnam interacts with countries, territories, and international religious organizations on the basis of respecting the independence and sovereignty of each other, of not interfering in the internal affairs of each other, equality, mutual interest, and conformity to the laws of all parties involved and to international laws and practices.*

2. *If an international covenant to which the Socialist of Republic of Vietnam is a party has clauses that differ from this Law, the international covenant’s clauses take precedence.*

Ordinance 21, Chapter VI, Article 38: Implementation provisions

In the case that international treaties that the Socialist Republic of Vietnam is a signatory to, or is a participant in, have different stipulations than those in this ordinance, the regulations prescribed by the international treaties shall prevail.

Ordinance 21 specifies that if Vietnamese law is inconsistent with international covenants to which Vietnam is a party, the international conventions shall prevail. Draft 4 changes this provision's basis to an international relation basis, thus depriving Vietnamese citizens of their rights as stipulated in the international covenants.

VII- RECOMMENDATIONS

Article 28 of the Constitution of 2013 states that:

1/ Citizens have the right to participate in the management of the State and society, and to discuss and submit requests to government agencies on any issues about their base units, localities, and the country.

2/ The State shall create the conditions for citizens to participate in the management of the State and society; and shall publicly and transparently receive and respond to the opinions and petitions of citizens.

As Vietnamese citizens and TUR adherents, we have the right to submit our input. The new law should conform to the international covenants as follows:

1/ Withdraw Draft 4: As Draft 4 is fundamentally flawed, it cannot be salvaged. Starting from scratch with a new draft is a logical choice.

2/ Solicit assistance from Mr. Heiner Bielefeldt, Special Rapporteur on Freedom of Religion and Belief, in view of his stated willingness to assist Vietnam in this matter.

3/ Solicit participation on the drafting of the new law by ethical and reputable individuals with legal training and expertise on the formation of a democratic society.

4/ Solicit participation on the drafting of the new law by members of government-approved religious organizations.

5/ Solicit participation on the drafting of the new law by members of religious organizations that have not been allowed to conduct religious operations so that the government can understand their aspirations and include these in the new draft.

Sincerely,

Vietnam, May 02, 2015

Signed by: Executive Committee of the Cao Dai Popular Council and Cao Dai adherents

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

Contact Information:

Name: Vo Van Quang
Address: 214 Nguyen Van Kha Street, Group 9, Subdivision 03, Town of Cu Chi, Ho Chi Minh City
Phone: 01639 540 129
Email: hoabinhchungsong220513@yahoo.com