

## **Vietnam Conference of Catholic Bishops**

72/12 Tran Quoc Toan. Ward 8, District 3, Ho Chi Minh City

### **Observations and Input Related to The Fourth Draft of the Law on Religion and Belief**

Respectfully submitted to:

- Mr. Nguyen Sinh Hung, Chair, National Assembly of the Socialist Republic of Vietnam
- Mr. Pham Dung, Leader of the Religious Affairs Committee

Responding to your request for input on the draft law on religion and belief (from here on abbreviated as “Draft 4”), we, the Standing Committee of the Vietnam Conference of Catholic Bishops, would like to offer the following observations and input on behalf of the Conference:

#### **I. General Observations**

Draft 4 does not express clearly the intent of the law, namely to ensure respect for human rights and equal treatment of organizations and individuals through: (a) providing them with equal opportunities to contribute to the nation’s development, and (b) bringing harmony and peace to our society and people.

A prerequisite to being able to bring harmony and peace to our people is for the government to help them fulfill their duties as human beings – behaving ethically, raising children to become decent human beings and citizens, and doing one’s share in making the nation strong and righteous – through enabling conditions that suit God’s will, the people’s traditions, and their humanitarian and spiritual inclinations.

Draft 4 contains many provisions intended solely to benefit the government (e.g., Article 9 and other articles specifying required registrations) while neglecting the people’s interests and skirting the legal personality status of religious organizations.

Draft 4’s major deficiency is failing to recognize religious organizations because it does not state that religious organizations have legal personalities pursuant to Articles 84-85 of the 2005 Civil Code.

Overall, Draft 4 is detrimental to the freedom of religion and belief as it raises concerns rather than brings peace of mind to the people.

#### **II. Specifics**

Draft 4 contains a large number of inappropriate articles, provisions, and details, rendering it totally incapable of expressing the government’s intent to respect the freedom of religion and belief. We will only discuss the most troubling articles, provisions, and details here.

1. Article 2: Item 4 gives no definition to “within the law and regulations”.

2. Article 6: Item 5 b is too overarching and vague. For example, there could be disagreement between a religious organization and the government on what constitutes ethical behavior, e.g., in the realms of abortion, marriage, homosexuality, etc. Therefore banning such diversity of views is not acceptable.

3. Article 15 of Draft 4 lists religious organizations’ operations after successful registration. The listed operations fail to reflect those rights that are essential to the “survival” of religious organizations. Item 1 of Article 15 mentions only “Repair, improve or upgrade

religious facilities (of religious organizations)” without addressing the organizations’ ownership of, and right to use the facilities.

4. Article 18 of the UN Charter and Article 24 of the Constitution of the Socialist Republic of Vietnam (amended in 2013) specify: *“Everyone has the right to freedom of religion or belief”*. Therefore detained and imprisoned individuals should have their religious needs met in accordance with the UN Declaration and the SRV’s Constitution.

5. Articles 9 and 44 of Draft 4 are not valid because they have no logical basis and contradict Item 2 of Article 2.

6. Article 32: Conferences and congresses of religious organizations need not be subjected to the approval of responsible government units because the government must not interfere with the internal affairs of religious organizations.

7. Article 38: This represents a step backward relative to Article 23 of the “Ordinance on Belief and Religion”, Article 19 of Decree No. 22, and Article 23 of Decree No. 92.

8. Article 49: Requirements are excessive and overly burdensome. When clergy members, other employees, monks, nuns, and believers participate in religious operations or attend religious training in other countries, they would be engaged in purely religious activities. There is no need for government approval. The government should not interfere with religious organizations’ internal affairs.

9. Article 50 is rather vague: What is an “international religious organization”? What does “collaborate with international religious organizations” mean? This kind of vagueness will hamper religious activities and operations.

10. Item 1 of Article 51: “...religious organizations, and affiliates may conduct fundraising activities, accept donations made on a voluntary basis ...”. The article does not mention or restricts the operations of religious organizations such as managing and using assets or bank accounts, buying, selling or transferring religious facilities as the need arises, etc.

11. Article 52: The government must not place any restriction on religious organizations’ charitable and humanitarian activities.

12. Article 54: What does “legal assets” mean when the government has not recognized religious organizations’ legal personalities?

13. Article 66: regulates the resolution of complaints and litigation, but mentions only complaints and litigation against administrative decisions under the law on grievances and complaints. It fails to state that religious organizations have the right to sue at various levels of courts to protect their legitimate rights, e.g., to prevent the seizure of their land and religious facilities.

14. Sections X and XI violate the freedom of religion and belief and facilitate the government’s imposition of its power on religious organizations through creating opportunities for the executive branch to abuse its authority. Therefore these two sections contradict Article 2 of Draft 4 and the 1992 Constitution as amended in 2013.

### **III. Recommendations**

Draft 4 does not conform to the UN Universal Declaration of Human Rights (Article 18) and the SRV's Constitution as amended in 2013 (Article 24). We found that Draft 4 represents a step backward relative to the Ordinance on belief and religion of 2004. Draft 4 would create many burdensome procedures and many restrictive mechanisms that will hamper religious operations and activities.

**Consequently, we recommend the following:**

- Disapprove Draft 4 of the Law on religion and belief.
- Prepare another draft that complies with the current trend in freedoms and democracy, and reflects the nature of a progressive society.
- The new draft must be consulted with religious organizations. Particularly, it must recognize the legal personalities of religious organizations and be protected by the law.

*Ho Chi Minh City, May 4, 2015*

For the Standing Committee of the Vietnam Conference of Catholic Bishops

Signed by the General Secretary

+ Cosma Hoàng Văn Đạt SJ