

Vietnamese Law Does Not Require Registration of Religious Organizations and Religious Practices

The Vietnam Civil Rights Project of BPSOS has received many questions about the frequent invocation by local government officials of the Law on Belief and Religion (Law No. 02/2016/QH14)¹ when prohibiting religious activities of unaffiliated religious groups: “Have you applied for approval?” or “Have you filed a registration application and has the competent authority issued its approval?”

So, in fact, does the Law on Belief and Religion require registration before religious activities can be conducted?

First of all, it is necessary to recall the principle behind all laws, which is: for the people, everything which the law does not prohibit is allowed, whereas government officials may only do what the law allows.

Pursuant to this principle, the Law on Belief and Religion clearly specifies that belief-based activities “shall” be registered: *“Belief activities of a belief establishment shall be registered, except for lineal ancestor worship houses.”* (Paragraph 1 of Article 12). In other words, one may not conduct belief-based activities unless they have been officially approved by the appropriate authorities. Note that the Law on Belief and Religion defines belief as: *“human belief manifested through rites closely associated with traditional customs and practices to bring about spiritual peace for individuals and the community.”* (Paragraph 1 of Article 2) This definition is very much different from how belief is understood in Article 18 of the International Covenant on Civil and Political Rights.

On the contrary, there is no similar requirement for religious adherents who are unaffiliated with a religious organization to conduct religious activities. Clause 2 of Article 16 explicitly states that such adherents have the option to register or not register their religious activities:

“Believers of a religion falling outside the case prescribed in Clause 1 of this Article [note: Clause 1 governs religious organizations] may register for collective religious practice when fully meeting the conditions prescribed in Clause 1 of this Article and the following:

- a/ Having their own tenets and canon laws;*
- b/ The name of the group of believers wishing to carry out collective religious practice is not identical with that of a religious organization or an organization with a religious activity registration certificate, a political organization or a socio-political organization, or a famous personality or national hero.”*

In other words, they may register their religious activities if they so choose but are not required by law to do so. Nowhere in all the remaining articles of this law can one find a “registration required” clause with regard to religious activities. Therefore, religious activities can be conducted even without registration for as long as they are not on the list of “strictly prohibited acts” described in Clauses 4 and 5 of Article 5:

“4. Carrying out belief and religious activities to:

¹ Official English translation of the Law on Belief and Religion: <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11093>

- a/ Infringe upon national defense, security and sovereignty, social order and safety and the environment;*
 - b/ Violate social morality; infringe upon the body, health, life, health and property and hurt the honor and dignity of others;*
 - c/ Obstruct the exercise of civic rights and performance of civic obligations;*
 - d/ Divide nationalities; divide religions; divide people who follow a belief or a religion from people who do not, and people who follow different beliefs or religions.*
5. *Abusing belief and religious activities for self-seeking purposes.*”

One can affirm that the Law on Belief and Religion does not require pre-approval by government authorities for people of faith who do not belong to a religious organization to conduct religious activities, which is in contrast to the registration requirement for belief-based practice. Decree 162/2017/NĐ-CP, which provides guidance on implementation of the law, contains no clause that contradicts this affirmation.

What would the legal consequence be if a group of believers desirous to conduct religious practice chose not to register or did not succeed in registering?

There would be no consequence because, as previously mentioned, the law does not require registration and does not forbid conducting religious practice in the absence of registration. When the government does not recognize a religious group, the only consequence is a lack of official recognition and government protection as prescribed by law.

To make this easier to grasp, let us compare this issue to same-sex marriage, which is covered in Clause 2 of Article 8 of the 2014 Law on Family and Marriage: *“The government does not recognize same-sex marriage”*, while previously *“same-sex marriage is prohibited.”* The Vietnamese government has explained again and again that lack of recognition implies only lack of legal protection and does not mean prohibition. According to ICS, a civil society organization promoting LGBT rights, some 150 same-sex, bisexual and transgender couples have since become legally married.

Consequently, we may reach the following conclusions:

1- Any government official who cites the Law on Belief and Religion to authorize himself to allow or disallow someone to conduct religious activities would be misinterpreting the law, unintentionally or maliciously. Such officials should be held accountable before the law for the administrative decisions or measures that they took when citizens file complaints or lawsuits as the law prescribes.

2- Everyone has the right to have the freedom, either individually or in community with others and in public or private, to manifest his/her religion without having to register; registration is merely optional as long as he/she does not conduct any of the 5 prohibited acts which are unambiguously listed in Clauses 4 and 5 of Article 5 of the Law on Belief and Religion.