

# Vietnam's 'Decree on Religion' Clamps Down on Christianity

*On Jan. 1, Vietnam updated its rules for enforcing its highest law regarding religion. Known as the Decree on Religion 92/2012 ND-CP, or simply ND-92, the new decree is meant to clarify rules written in 2005.*

*On close inspection, ND-92 does appear to clarify one thing: Vietnam's intent to control the spread of religion, especially Christianity.*

*That's according to a veteran missionary to Vietnam and acknowledged authority on Vietnamese Protestant Christianity. He has served as an advocate for persecuted Christians in Vietnam since it was reunited under communism in 1975. World Watch Monitor asked him to take a close look at the new religion decree. Because he travels extensively throughout Vietnam, we are not publishing his name. Here are his findings.*

## **Background**

Eight years ago, the highest levels of the Communist Party and the Vietnam government signaled they were shifting away from direct ideological opposition to, and repression of, religion, especially Christianity. They took up a new, managerial approach to religion, using registration as the chief means of control. This was somehow supposed to translate into more freedom.

The evidence for this change was the adoption of three new religion "laws:" The 2004 *Ordinance on Religion and Belief*; the 2005 *Decree on Religion 22/2005/ND-CP* on how to implement the ordinance; and the Prime Minister's *Special*

*Instruction No. 1 Regarding Protestantism.* The latter was hastily created to fill a hole during the run-up to Vietnam's attempt to accede to the World Trade Organization at a time Vietnam faced harsh international criticism for its repressive religion policies and practices. It was intended to show quick progress in church registration while the larger laws were being worked out.

In the eight years since this legislation, the church-registration regime has been found seriously wanting. While eight Protestant denominations could prove they had been around since before the 1975 communist victory, more than half of Vietnam's Protestants remain unregistered. Hundreds of applications by congregations to receive supposedly straightforward permission to function have been ignored or rejected by local authorities. For the dozens of house-church denominations that began to emerge in 1988, there is no clear path toward registration, despite what the laws may say. In actual practice, registration has often been used as a tool to manipulate churches, leading many to lose interest in getting it.

The new *Decree on Religion 92/2012 ND-CP*, or ND-92, which had long been rumored, is intended to replace and clarify its often murky predecessor, ND-22, as the operational guide for the implementation of the 2004 ordinance, Vietnam's highest "law" on religion. The new decree went into effect Jan. 1.

A transparent registration regime is far short of full religious freedom. In theory, however, it could be better than the previous heavy-handed oppression and persecution sponsored from the top. Yet registration has been implemented inconsistently, leaving more than half of Protestants still unregistered and vulnerable to arbitrary harassment and oppression.

There is reason to believe this is intentional: Vietnam's

religion bureaucracy last February credited The PM's Special Instruction on Protestantism for slowing the rapid growth of Protestantism. This application of the instruction is directly opposite to its originally announced purpose.

On the matter of registration Decree ND-22 left many things unclear, creating room for officials to apply much subjective discretion. Most often they simply ignored registration requests, or capriciously denied them. In practice, many religious communities functioned without too much difficulty.

The vagueness of Decree ND 22, however, also meant it was difficult to enforce some provisions of the ordinance. After gradually granting legal status during the last eight years to eight Protestant denominations, the registration process for Protestants effectively ground to a halt. Enforcement of other provisions of the religion laws has been arbitrary. From the government's point of view, more clarity was needed if the ordinance and its operational decree were to become effective tools for managing religion. The result was ND-92.

The omens, however, were not good. During the drafting stages of ND-92, there were news reports of government consultation with religious leaders known to be sympathetic to the government. Even these leaders were said to object strongly.

### **Method of Evaluation**

The Vietnamese language Decree ND-92 reached me Nov. 9, the day after it was published. I have studied it carefully in the original language. In December I was able to ask well-placed government officials and a significant number of Protestant leaders about the new decree. A number of other religious groups, some Buddhist and Catholic organizations for example, have published their own analyses, which I have compared with my own findings.

### **What Does ND-92 Include, and Does It Advance Freedom?**

The tone is set early. Chapter I is entitled "Freedom of religion and belief." Article 2 contains 23 words that "guarantee" freedom of religion and belief. Those are followed by 142 words of conditions and warnings about its abuse. That's a 6:1 ratio of warnings of abuse to promises of freedom.

Article 2 also promises "no one may infringe on a citizen's freedom of religion." The rest of the 24-page, 46-article decree infringes on that guarantee in even more intrusive ways than its 2005 predecessor.

And so it goes: one step forward, two steps back. ND-92 is designed to be more a tool for the management control of religion than a step toward religious freedom. The Party's and the government's deep suspicion of religion and religious people remains clearly on display. The updated decree appears to unmask the real purpose behind the 2004 ordinance: To manage, control and contain religious groups. The weight of abiding by this decree would be onerous for religious people and organizations, and this appears intentional.

Most relevant to Christian organizations are the six sections and 18 articles comprising Chapter III, entitled "Religious Organizations."

Fundamental to understanding this chapter, and the entire decree, is the word *dang ky*, commonly translated as "registration" or "register." In developed legal systems, if one meets well-known, clear and encoded written requirements, the law obligates the state to register, be it an organization or a car or a copyright.

By contrast, the *dang ky* registration in Vietnam's handling of religion, including in ND-92, functions like having to ask permission. The evidence of this is that officials, usually at the commune level, have complete discretion on whether to

grant registration. "Registration" therefore, is more accurately understood as "asking permission." Many observers have not grasped or accepted this reality, thinking that registration in this context means meeting an objective requirement, or simply informing officials.

The reality is registration or permission is often conditional on elusive criteria which are open to highly subjective interpretation. This holds for permission for various levels of religious practice, such as for religious meetings, religious activities, or organizations seeking full legal recognition. It also holds for the approval of religious leaders in their official positions or location of service, and to students who wish to enter a religious vocation.

These elusive criteria are prominently spelled out in Articles 8 and 15 of the 2004 ordinance. Article 15 states:

"Religious activities or belief will be suspended in the following instances:

1. They infringe on national security, or seriously affect public order or the environment.
2. They adversely affect the peoples' unity or the fine national cultural traditions.
3. They infringe upon the life, health, dignity, honor or property of other persons.
4. They involve other serious breaches of the law."

What comes through clearly in these criteria is the government's assumption that religious people are potentially dangerous people existing at the margins of legality and inclined toward anti-social behavior. The criteria readily provide excuses for officials to not give permission.

Consider the leader of a religious group seeking permission to conduct a meeting. Article 5 of Decree ND-92 requires the leader "to have a spirit of national unity and

reconciliation.” Anyone who teaches the fundamental Christian tenet of worshipping God alone, and not ancestors or national heroes, is someone who could be accused of being against “national unity” or “the fine national cultural traditions.”

Article 6, stipulating qualifications for registering religious activities, says the group must have “doctrines, articles of faith, rites and ceremonies that support the nation and do not contradict fine traditions and customs.” This leaves much discretion to often hostile officials and state agencies with power to grant permission.

### **A New Category – and Why Is That?**

There are other anomalies and contradictions in the decree. Article 5 adds “religious meetings” (*sinh hoat ton giao*) as a new, lowest-level practice needing permission or *dang ky*, “[i]f citizens have a need for religious meetings to worship, pray and express their faith... .” This appears to replace the 2005 PM’s Special Instruction, issued under international pressure, to purportedly grant permission promptly.

“Religious meetings” seeking registration are required to name their organization and beliefs, identify their “representatives” by name and address, specify the number of members, and guarantee that the objectives and contents of the meetings do not offend the “people’s unity,” “cultural traditions” and other virtues exalted in Articles 8 and 15 of the 2004 ordinance.

At points, ND-92 ties itself in knots. One requirement is having a “legal place for religious meetings.” By definition a “religious meeting” seeking permission to meet does not have such a place.

This new requirement apparently means every local congregation must obtain permission to meet before the congregation’s

umbrella denomination can apply for higher-level registrations. This is yet another twist in the old tangle of already fully legally recognized denominations going back to register their individual ethnic minority churches. Before ND-92 came along, the government sometimes would order a denomination to do this. Under the new decree, it appears to be a standard requirement. All the while, many Hmong congregations already one or two decades old and affiliated with Evangelical Church Vietnam North, which has had legal registration since 1958, have been waiting years for registration. This provision of the decree only raises the question: what does full legal recognition mean, anyway?

### **Unreasonable Times Frames – 20 Years and Counting, but From When?**

One level up from “religious meetings” is the category of “religious activities” (*hoat dong ton giao*). Registration at this level requires the demonstration of 20 years or more of “stable” religious meetings, meaning a spotless criminal and administrative record in the eyes of commune-level peoples’ committee. Prior to ND-92, however, the law contained no provision for registration of religious meetings. The prerequisite to registration for religious activities, then, was 20 years of meeting illegally, yet somehow without criminal or legal blemish.

The new decree may have eliminated that particular Catch-22, but it also may have introduced a new obstacle. Consider: The earliest commune-level permissions for religious meetings could first be granted in January 2013. The logical conclusion, then, is that no registrations for “religious activity” could be obtained for another 20 years.

With the period between registration for religious activity and full, legal registration now extended to three years, the first of such registrations could not take place until 2036. And if commune authorities accuse a group of legal or

administrative infractions, or of having leaders lacking “the spirit of national solidarity,” the process is further prolonged.

A better, though still dispiriting, possibility is that authorities could decide to start the 20-year, good-behavior period if and when an organization had at least some of its congregations registered under the 2005 PM’s Special Instruction. In this case, the earliest next full legal registrations would be possible in 2028.

There is mounting evidence that the strategy of the government, in sticking with and even extending these unreasonably long time periods, is to pressure unregistered groups to join already registered ones – supposedly to more easily manage the religion file. There is growing government pressure for individual congregations to leave their current organization and join registered groups. And some of these groups, believed to be a bit too friendly with the government, are themselves recruiting otherwise affiliated congregations promising them benefits.

### **Cumbersome and Complicated Obligations**

Registered congregations and denominations are required each October to present all their intended activities for the coming year. Changes in activities are not allowed after permission is granted. This is impossible because religious organizations by nature must deal with members’ unpredictable rites of passage – baptisms, weddings, funerals. There are complicated provisions for varying or adding unforeseen activities, but they are cumbersome and require unreasonable advance notice.

### **Promises of Efficiency and Clearer Lines of Authority**

Government officials are quick to point out that the new decree is more advantageous for religious groups than the old because it shortens the time in which officials must respond

to requests and applications, and even requires them to state in writing the reasons in case of denial. Five final articles of the new decree do more clearly describe government lines of authority than the old decree. These "improvements" as described by some government officials, could, if implemented, mean more efficiency in management and control of religion but it is hard to see how, at the same time, they could produce any steps toward greater freedom.

It is possible that already fully registered organizations may benefit from clearer guidelines and timelines in asking permission for training schools and other infrastructure. If authorities abide by timelines required, religious organization will not be left hanging interminably as they often have in under the 2005 decree. It is a big "if."

### **Leaders and Clergy on a Short Rope**

Articles 14 through 26 of ND-92 include highly detailed and intrusive qualifications and provisions for clergy training, ordination, stripping of credentials, placement, change of placement, travel and so on. All of these matters are universally considered internal ones for religious organizations.

International travel by clergy and believers for religious reasons now requires permission from the central Government Committee of Religious Affairs in Hanoi, and full details of the meetings to be attended must be provided to the government. The government requires 25 working days to decide and reply. A Vietnamese religious person granted permission to travel abroad must report any change in status granted to them by the overseas organization, and must disclose the content of courses studied.

These requirements are new. If enforced, they will largely frustrate the regular international travel of the hundreds of

Vietnamese Protestants who have in recent years been going abroad for religious meetings and conferences and training. This, one suspects, is the intention.

### **Religious Activity Confined to Four Walls of a Church**

There is a strong, explicit theme in the decree trying to confine and limit “religious activity” to take place within the four walls of a church building. Most Protestants in Vietnam do not have church buildings.

Article 31 prescribes the times and conditions under which a religious congregation can ask for permission to conduct a religious activity outside a legal church establishment. If the activity involves anyone outside the membership, the authorities require 15 working days to consider a reply. Try to imagine attempting to organize the funeral of a prominent person which many from afar would like to attend, and which required more room than the local church building.

### **Foreigners and Religion**

Twenty-five working days are required for the religious-affairs committee to consider a detailed request for foreign religious leaders to visit Vietnam to participate in a religious event. Same holds true for foreign students who want to study in Vietnam. Foreigners living in Vietnam may request permission to meet for religious worship only within in a church building, a reversal of the current practice in which some foreign congregations meet in homes, hotels or other buildings.

### **What Others Say**

#### **Catholic**

Trinh Viet Phuong has published an analysis of the new decree on the government-despised Dan Lam Bao (Citizen Journalist) website, often used by people with damaging inside information on Vietnam’s leaders, as well as sometimes by the Vietnam Catholic Committee for Justice and Peace. It states (translation mine): “This (new decree) is a very regressive

document compared to the 2005 Decree, which itself had many shortcomings because it brazenly, unjustly and illogically inserts itself into internal religious affairs and seriously infringes on the basic human rights of our citizens. Most certainly it will cause much upheaval in society, and predictably will cause immeasurable social complications.”

Further, “It is a backward step in the implementation of religious freedom and must be widely denounced both in Vietnam and abroad”.

### **Buddhist**

On Nov. 29, the International Buddhist Information Bureau published an article that notes a sharply increased role for the Ministry of Interior in overseeing religious activities, and that the Government Committee of Religious Affairs is now headed by Lt. Gen. Pham Dung, a high-ranking official of the Ministry of Public Security. The new decree retains the most restrictive provisions of the earlier Decree ND-22, the article says, “but it also adds new obligations and vaguely worded provisions that give authorities greater leeway to sanction and restrict religious activities.” The new decree is a backward step, the article concludes.

### **Protestant**

The website of the Vietnam Human Rights Committee published an article Dec. 19 by Protestant lawyer and activist Nguyen Van Dai, who is under restricted release following a prison sentence. Dai notes several significant internal contradictions in Decree ND-92. One is the new and severe limitation of religious practice during the 20-year probation period following the first registration of a congregation by its commune level peoples’ committees. He observes that only “religious worship meetings” (sinh hoat ton giao) are allowed, not “religious activities” or “operations” such as organizing religious events, conducting missionary work, internal organizational development, electing leaders, holding classes,

repairing or renovating facilities, or conducting charitable activities.

Dai pessimistically concludes that “[t]he goal of Decree 92/2012 ND-CP is to completely abolish the organizational structure and religious operations of the Protestant denominations that were formed some 20 years ago and have not been registered according to Decree 22/2005 ND-CP.” This is a reference to the large house-church movement in Vietnam that began in 1988.

### **Government Sources**

Party and state media sources reported in January that the head of the government religious-affairs committee not only introduced Decree ND-92, but also proposed amendments to the Ordinance on Religion and Belief. It will be interesting to see what these are, given the direction of the new implementation decree.

Prominent in each of the official press accounts on the publication of ND-92 was the identical line: “Participants emphasized the corrupt use of religious and ethnic issues by hostile forces to sabotage the Vietnamese State.” This refers to Vietnam’s ongoing concern about the rapid growth of Protestant Christianity among ethnic minorities in Vietnam’s Central Highlands and Northwest Mountainous Region. Though the government now rarely uses “eliminate” language, it is very open in its intention to “contain” Christianity. As recently as Christmas 2012, officials in some ethnic areas brutally attempted to force recantations.