

## **Vietnam's New Ordinance on Religion: A Method of Oppressing Religion by the Means of Law**

by Father Chan Tin, Father Nguyen Huu Giai, and Father Phan Van Loi

It is widely known that on June 18, 2004, in Hanoi, the Standing Committee of the Vietnam National Assembly passed an *Ordinance Regarding Religious Beliefs and Religious Organizations*. It consists of 6 chapters and 41 articles. This Ordinance is scheduled to come into effect on November 15, 2004.

As people of faith, we have the right and responsibility to raise our voices when we see clearly that this Ordinance violates the legal rights of all religions and the rights of all religious people. We sincerely hope that the government will withdraw this Ordinance for these reasons.

### **Oppression of religion by the means of law**

In reading the Ordinance, we perceive it to be a tool of the State to oppress people of faith. Even though the Ordinance does not explicitly deny the right of freedom of religion, it binds all religious activities of all religions to be submissive to the control of the State and entirely subservient to the State. Almost all of the chapters and articles in this Ordinance aim to limit to the maximum, or to nullify completely, all the rights of religious freedom of the people, a right that is a natural and basic right, is guaranteed in the Constitution of Vietnam and is recognized in international law. Thus, to accurately reflect the actual content of this Ordinance, it should be renamed, *The Ordinance to Limit or to Nullify the Freedom of Religion*. This Ordinance has 41 chapters, which include the following:

Article 1 This first article puts in mind the general principle of the Constitution regarding religion, which is that “*all the citizens have the right to freedom of religious belief, and of having a religion, or the right to follow or not to follow a religion. The government guarantees the right of freedom of religious belief and of having a religion for its citizens. Nobody is permitted to violate this freedom.*” In this article from the Constitution, there is not a single word that limits the freedom of religion at all.

However, in the next 40 articles, with the exception of four articles which relate to the implementation of the ordinance, of the remaining 36 articles which are the main content of the Ordinance, virtually every single one has the spirit of limiting the right to freedom of religion as declared in Article 1. These 36 articles cover all essential religious activities of all religions. Therefore, these 36 articles more or less reject what is stated in Article 1. They also reject the commitment to allow religious freedom as given by the Constitution. Indeed, Article 1 says, “*The government guarantees the right of freedom of religious beliefs and of having a religion for its citizens. Nobody is permitted to violate this freedom,*” but then the Ordinance immediately follows with 36 articles which to a greater or lesser extent violate this very freedom! Article 1 grants religious freedom, then

the following articles gradually withdraw that freedom until nothing is left. Therefore, this Ordinance is an inconsistent ordinance and clearly violates the Constitution.

Therefore, with this Ordinance, except for Article 1, the State uses all the remaining articles to remove virtually all the rights of religious freedom of its citizens. It is safe to say that when the National Assembly of Vietnam prepared and then declared this Ordinance, it was violating the Constitution. It is ridiculous that the National Assembly which itself established the Constitution then turns around and itself violates that Constitution! What good is Vietnamese law anyway?

In summary, the poisonous, hidden scheme of the State - for decades now, but which has become more obvious during recent years, and will become clearer still when this Ordinance comes into effect- is to avoid arresting anybody for religious activities, because in doing so it is too obvious that the State is violating freedom of religion. Therefore, in the past, the State issued many decrees, but now the State has become more serious by issuing this Ordinance passed by the National Assembly. The policy of the State is that the National Assembly has to word this Ordinance in such a way that it would create the condition that all the essential religious activities of the people can be illegal, so that the authorities, based on this Ordinance, can arrest, convict, and imprison anyone engaged in religious activity of any kind. This is the essence, the purpose, and the content of the *Ordinance Regarding Religious Beliefs and Religious Organizations*, issued on June 18, 2004 in Hanoi.

We must realize that if there is religious activity that appears to happen as if it is free and normal, we can know for certain that such religious activity is readily controllable by the authorities; indeed, it is only a show for the world to make them think Vietnam has freedom of religion, and is intended to mislead the naïve and those who do not thoroughly understand the situation. But even such activities must usually be *registered* and secure *permission* or *approval* before they can proceed. Please note that in the 41 articles of the Ordinance, the word “*register*” is repeated 18 times, the words “*approval*,” “*recognized*,” “*allowed*,” and “*permitted*” are repeated 21 times. We also know from past experience, that the word “*register*” does not mean just to report to the authorities and then go ahead and do whatever you plan to do, but it means waiting for the authorities to grant permission before you can begin anything. Therefore, though the words “*register*” and “*getting permission*” are in reality two different verbs, in State practice they mean the same thing. In these 41 articles, there are 39 articles which have as their content requirements of “*getting permission*” or “*getting approval*.” Thus, the kind of *freedom of religion* in this Ordinance is “*freedom, but must ask permission*,” or “*freedom, but must register*.” The phrases “*but must ask permission*,” or “*but must register*” have changed the word “*freedom*” which goes before them into a meaningless and empty word.

Let’s be practical, is there in this Ordinance any public and corporate religious activity which does not require prior registration or permission? Why is there is no article in the Ordinance that specifies situations in which the authorities are required to grant permission, and if they don’t, they will be punished for violating the law. The State

grants local authorities the power to give permission or not to give permission - depending on their own will, according to their own convenience, subject to their own feelings, case by case - perhaps also dependent on a bribe. In the past, there were many situations in which it was necessary to bribe the authorities so that a seminarian could get permission to be ordained as priest. If a bribe was not forthcoming, the seminarian would never get permission to be ordained.

It is clear that the authorities use this “*giving permission*” as a gift to reward those monks or religious leaders who would kowtow to, and be subservient to, the State, even to violating their own conscience. The authorities can use this “*giving permission*” tool to punish those monks or religious leaders whom they describe as arrogant and not subservient to the State, but actually remain true to their conscience. The power to give permission in this situation is like “*the carrot and the stick*”. The State would use this approach to force all religious leaders to become docile tools in their hands. They can also use this approach to limit or nullify the activities of unsubmissive religious leaders who do not kowtow and obey them. Indeed, any Buddhist monk, any Protestant pastor, or any Catholic priest who is submissive to the authorities can readily get permission for many things. On the other hand, those who do not try to please the authorities have a very hard time getting permission for anything, regardless of how necessary and legitimate those things may be.

It is for that very reason, to maintain the policy of “*the carrot and the stick*,” by this Ordinance, the State seeks by all means to retain and strengthen the “*policy of ask and give*,” a policy which democratic governments have rejected for many decades. Even in this country, it has been strongly condemned by the media and the public.

And thus, the kind of *religious freedom* that this Ordinance would grant is a kind of *empty freedom*, a kind of freedom that has a name but is without substance. If we understand the word *freedom* as defined in dictionaries, we see this kind of freedom is not that kind of freedom at all. More accurately speaking, the kind of freedom that this Ordinance defines, is the kind of *freedom in which you must ask first then wait until it is given* to you.

**An illustration of “*freedom in which you must ask first then wait until it is given to you*”**

In order for everybody to easily understand this kind of freedom, let’s look at a simple illustration. An owner of a house commanded all his servants, saying, “*In principle I grant you the freedom to do anything at all you want to do. I only have one requirement. Whatever you want to do, you must let me know ahead of time, or get my permission first. Then if I give permission, you can do it.*” Then that owner went around and proudly boasted to other owners, “*In my household, all the servants are free to do whatever they want. I permit them to do so.*” In hearing this, the very naive might believe the owner, and respect him, for his great kindness and goodness granted to his servants.

The kind of freedom that this house owner grants to his servants, is the very same kind of *freedom in which you must ask first then wait until it is given to you* which is defined in the Ordinance just issued by the State. In comparing the new Ordinance on Religion and the illustration of the owner of the house and his servants, notice these similarities:

Article 1 of the Ordinance declares the general recognition of the right of freedom of religion - as the house owner said, *"In principle, I grant you the freedom to whatever you want to do."*

However, the following 40 articles immediately nullify what is said in Article 1. The house owner said, "I only have one requirement. Whatever you want to do, you must let me know ahead of time, or get my permission first. And then, if I give my permission, you can do it." The difference between the Ordinance and the house owner's statement is that instead of making a general statement like, all religious activities are required to have permission, the Ordinance lists in minute detail all the kinds of activities which require registration and permission. It includes virtually all legitimate religious activities.

With the contents of Article 1 of the Ordinance in mind, the spokesman of the Ministry of Foreign Affairs of Communist Vietnam would doubtless not hesitate to boast to the international community: *"Our country of Vietnam always respects freedom of religion as defined in our Constitution, and the best example of this is in the Ordinance on Religion which we have just issued."* Of course, there is nobody in the international community today who would believe such a lie, except for the most naïve. We Vietnamese, living within the country or overseas, have had too many experiences with these lies. Our experiences through the years boils down to the proverb, *"Lying like a mussel,"* a proverb that has been very popular among our people for over a half of a century. [The 'shadow' meaning of "mussel" is "communist".] Nevertheless, the Ministry of Foreign Affairs of the Vietnamese Communist government continues to lie shamelessly to the international community without so much as a blush.

### **Is it really necessary to limit freedom of religion?**

It is possible that government authorities may have concerns that some people may abuse religion, or abuse religious activities to violate the law, or not be submissive to government policies, or cause some public disorder, or even hurt someone else, and so the idea that they must limit that freedom to a some degree, makes some sense. But if the government fears that the people may abuse religion to violate the law, they already have the means to handle it. They can send the police to investigate such persons, and if they find anyone who intentionally violates the law, that person may be brought to court as in any other crime. But it is quite unreasonable to limit all religious activities because of such unfounded fears, and to require all religious activities to be registered and secure prior permission for everything. In cases where religious leaders do ask for permission there is, of course, no guarantee that the authorities will grant permission. Thus religious activities that respond to the innate spiritual needs of the people, but which cannot get permission, and proceed without permission anyway, automatically become a violation of the law, even though nothing has been done to violate the law at all.

There have been many situations in which believers came together for the purpose of prayer, or to listening to preaching, when the police came to disperse the people and to arrest the leaders as if they were indeed violating the law! What did these religious believers do wrong to make the State so fearful that the State has to limit virtually all such religious activities?

It is now common knowledge that for several decades many Communist Party members have abused their membership in the Party to violate the law in taking public funds and properties to be their own, in abusing their positions for personal gain, and using their positions to do personal business, oppressing anyone who dares report them. These are very serious and rampant occurrences. The people are groaning under this injustice, and many intellectuals and upstanding Party members have raised their voices regarding these infractions, but the State pays them no heed. If the State does put on a show of concern, it is only a show to try to take the heat out of the criticism. There is no sincere effort to improve the situation at all. If the State is so fearful that people may abuse religion to violate the law that it feels obliged to issue a religious ordinance, then it would only be right if the State would issue 10 or 100 ordinances to stop members from abusing their membership in the Communist Party and breaking laws. But there is no such ordinance at all!

Moreover, social evils such as bribery, drugs, prostitution, the selling of women and children to foreigners are happening all over the nation. These terrible social ills make our nation looked very bad and hinder the development of our country. Why is it in these areas, where the government should be paying a great deal of attention, they don't seem to give a care? Instead in the area of religious beliefs, the government is so vigilant it feels it must issue a detailed Ordinance – this is senseless. Is it because the government considers religion to be more dangerous and more evil than corruption, drugs, prostitution, and the selling of women and children? In reality, in many other nations of the world, religion has done countless good things for people. Why do government authorities not issue any ordinances to control the most serious social problems?

Other nations do not have special Ordinances on Religion, and virtually no one abuses religion to violate the law. Does our government really believe that religious believers in our country are worse than believers in other nations? Our police and security forces are widely known for their effectiveness and for their ability to keep a constant close watch on the activities of the people. So why is it necessary to take such additional, extraordinary, and extreme measures to guard against religion?

If the government fears that religious organizations might oppose the government, doesn't it make more sense for the government to allow them to be free to exercise their faith? Instead the government's restriction of religious freedom is increasing every day. To see the progression one only has to compare the first decree concerning religious activities, Decree # 234S/L, issued on June 14, 1955 by Chairman Ho Chi Minh, with Ordinance on Religion recently issued. Anyone can see clearly that the oppression of religion, especially in regard to legal aspects, has escalated very significantly. This will

make people who have no inclination to oppose the government, to begin doing so, so that they may have a little freedom. If believers will not struggle in this way, their religious organizations will be suffocated and will find themselves in a condition of being half-alive and half-dead. Religious leaders such as Buddhist Venerables Thich Huyen Quang and Thich Quang Do, Catholic Father Nguyen Van Ly, and Protestant Reverend Nguyen Hong Quang, have raised their voices of concern because the State does indeed oppress religion and restrict the people's right to religious freedom to the point of being intolerable. If our country truly had religious freedom, it would not be necessary for these respected leaders to raise their voices of concern. In truth, the State must recognize this reality and immediately cease all forms of religious oppression. Lenin himself, one of the founders of Communism, said, "*Where there is injustice and oppression, there will be struggle.*" Could it really be that by means of arresting, slandering, and imprisoning those who struggle for freedom, the State wants to escalate strong-armed oppression on the one hand, and shut the mouth of everybody on the other hand, until no one dares to speak up anymore? It's the same as stamping on someone's foot and forbidding them to cry out in pain!

If the recently proclaimed Ordinance on Religion becomes effective, many essential religious activities will automatically become violations of the law because they were not registered, because permission was not sought, or not granted by authorities. For example, take prayer meetings in the homes of believers, sharing one's faith in places not approved as official religious venues by the State, posting religious web pages, printing and distributing religious literature, and even cultural, social, educational, and charitable programs, and so on. All such legitimate religious activities are freely carried out by people of faith everywhere in the world, without the need of registration and getting permission, and are never seen as violating of the law. But when religious believers in Vietnam do these things without asking for or without receiving prior permission, they are seen as lawbreakers and may be arrested and imprisoned. So how can it be said there is freedom of religion in Vietnam? Could it be true that during our heroic struggles for freedom over the last century, struggles in which we lost millions of lives and our whole nation suffered immensely, that we only achieved a kind of freedom which is a fraction of the freedom enjoyed by other nations? Have we paid too much for what we have?

### **Why do we continually need to have State recognition?**

One of the many weird things about this Ordinance on Religion is that only those religions, or religious leaders and those of religious vocation who have been approved by the State, are able to perform religious activities or share their faith. Does that mean that a religion which is not recognized by the State will no longer be a religion? Does that mean that a Buddhist monk, a Catholic priest, or a Protestant pastor who is not recognized by the State will no longer be a religious leader in their own religion, and will be unable to perform religious duties such as preaching and teaching? Then what good would it be to be a Buddhist monk, a Catholic priest, or a Protestant pastor if one could not do these duties?

We are human beings, but if the State does not recognize that we are human beings, does that mean we are no longer human beings? Do we cease to have the natural needs of

human beings? And do we still have the right to live properly as human beings? And suppose, we become sick and the State does not recognize that we are sick, does that mean we are no longer sick and have no need for medicine or treatment? And can the State, based its refusal to acknowledge our sickness, forbid us from taking medicine and getting treatment to cure our sickness? Of course this is ridiculous, crazy!

And how about asking a member of the Communist Party, if a religious body does not recognize you as a member of the Communist Party, will that mean you are no longer a member of the Communist Party? Does that mean you no longer have any responsibility to the Party?

We believe that even a first grade student would know that if you are a true, hard core Communist Party member, even though the whole world did not recognize you as a Communist Party member, you would still be a Communist Party member. The fact that a person who is not a Communist Party member does not recognize you, doesn't mean you are no longer a Communist Party member nor release you from the responsibilities you have with the Party. Then why did those who wrote this Ordinance on Religious say that if the State does not recognize a particular Buddhist monk, or Protestant pastor, or Catholic priest, then that person is no longer a Buddhist monk, or a Protestant pastor, or a Catholic priest, and how can the State forbid them performing their religious duties as a monk, a pastor, or a priest? How is it that no one in the whole National Assembly of Vietnam seems to be able to understand such straightforward logic?

The major religions such as Buddhism, Christianity, and Islam, etc., have existed in the world and functioned for thousand of years. For centuries the world has recognized these religions while the Communist Party has been in existence for less than a hundred years. But now the Vietnamese Communist State claims the right to decide which religion is recognized and which religion is not recognized, which religion is permitted to operate and which religion is not permitted to operate. What arrogance and stupidity!

Or is this requirement of State recognition of clergy an intentional means to outright forbid those religions, or Buddhist monks, or Protestant pastors, or Catholic priests who will not submit themselves to serve the Party and the State? Because simply by not recognizing a certain religion, it becomes automatically illegal for that religion to function; and by not recognizing a certain monk, pastor, or priest, those leaders are immediately deprived of their religious rights and they immediately become persons who violate the law and can be arrested and imprisoned any time. In free countries, the State does not make as an issue of recognizing and approving religion, or concern itself about who is a monk, or a pastor, or a priest. Such recognitions are the internal affair of the respective religions, not the business of the State. Similarly whether a person is a Communist Party member or not a Party member is the internal business of the Party; it is not the business of those who are outside the Party. Does the State have nothing else to do but to interfere in the business of others? Is there anybody in any of the religions who wastes their precious time trying to figure out if this person or that person is a member of the Communist Party?

The recognition or non-recognition of a religion has, in some cases, had interesting side effects. Some religious organizations, precisely because they have been recognized and granted permission to operate by the State, have become the objects of suspicion and rejection by the people, and are scorned as *State-owned religion* - not a genuine religion, but only a vehicle of the State to control the people's faith. There are some monks, pastors, and priests who because they have been recognized and promoted by the State are called by the people *rattlesnake monks* or *State-owned pastors or priests*. People see them as servants of the regime, and as those who are sent by the government to infiltrate into religious leadership so that they can destroy the internal leadership of the religious organization. Of course, these are not real monks, or pastors, or priests in the true meanings. Religious believers can sense these plants and hence hold them in suspicion. In some cases believers despise them openly. On the other side, those religious leaders who were not recognized by the government and are forbidden to perform their religious duties are loved and respected by the people in a special way. The people consider the hardships these religious leaders suffer to be sure marks of authenticity of their religious leadership.

### **Why are the Communists free to propagate their doctrine and why are religious believers not?**

One of the absurd and illogical things about the Ordinance on Religion is that one has to ask permission for all religious activities, and there is no guarantee that permission will be granted. Meanwhile the Communists enjoy complete freedom to propagate their doctrine. Not only is it not necessary for them to get permission to propagate their doctrine, but they also have the power to compel students, even theological students, to study their doctrine! Does this demonstrate the equality of every citizen before the law? Does it make sense that while Communists, who make up only a small percentage (2%) of the population enjoy such a privilege, while the religions which have a much higher percentage (for instance, Buddhists 30%, Roman Catholics 8%, Cao Dai 4%, Hoa Hao 3%, etc.) cannot have this freedom? Such unfairness and imbalance clearly indicate that the present State of Vietnam is a State *of* the Communist Party and *for* the Communist Party, it is *not of* the people and *for* the people.

### **The Ordinance on Religion will be a means to escalate religious oppression**

In the past, all decrees regarding religious activities were only resolutions of the Communist Party, decrees of the Prime Minister, or of the Central Committee on Religious Affairs, but now the rules and regulations regarding the religion are promulgated by the National Assembly, and the result is called the "*Ordinance Regarding Religious Belief and Religious Organizations*." Before the promulgation of the Ordinance on Religion, that is before the official law given by the National Assembly, when decrees given by lesser organs of the government prevailed, already under those circumstances, a great many religious activities were viewed as illegal. The police often went to harass and to break up religious gatherings, forcing people to disperse. And now with an Ordinance on Religion on the books, how much more will harassment and oppression escalate when the Ordinance actually comes into effect?

Before there was an official Ordinance on Religion, meaning there was no religious activity which could be officially considered by the National Assembly as illegal or violating the law, there were countless prayer meetings of Protestant Christians in many locations which were harassed and dispersed, and the leaders of these gatherings were arrested and imprisoned. Before there was an Ordinance on Religion, in Son La, Lai Chau, and the Central Highlands and many other places, the police confiscated Bibles, Catechism booklets and various Christian literature of Catholic Christians, and forbade them to pray. How much more oppression will there be when the Ordinance on Religion comes into effect? From the past to the present, religions suffered oppression at the hands of State to the point of being unbearable, how much more oppression will religions suffer now that the State has manipulated even the National Assembly, the highest law-making body in the land, to issue an Ordinance to restrict the right of religious freedom in such an official and serious manner?

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Therefore, we wholeheartedly agree with Cardinal Pham Minh Man when he publicly said, *"It would be best if this Ordinance were not issued"*. We sincerely desire that the State withdraw this Ordinance. If put into effect by the government, this Ordinance will instigate an ever-stronger struggle for religious freedom in the country. The State will have to spend huge amounts of time and energy to arrest and imprison who knows how many more innocent people. Moreover, this Ordinance shows that the National Assembly, and the people who wrote the Ordinance and promulgated can't tell right from wrong, and have never really contended for the welfare of the people. They are only compliant tools in the hands of the Party; they blindly obey the Party and mindlessly support the Party to oppress the people; they cannot discern common sense from nonsense, nor what is good for the country and what is bad for the people!

We respectfully ask people of good will around the world, especially members of religious organizations, both within our country and overseas, to raise up strong voices to demand that the State of Communist Vietnam truly respect the right of freedom of religion, an innate need of human beings and a legitimate right of the people. The State of Vietnam has solemnly acknowledged this right and committed to honor it at the United Nations. This is our sincere cry for help.

Made in Vietnam on August 15, 2004

Signed: Father Chan Tin

Father Nguyen Huu Giai

Father Phan Van Loi

84-year-old Father Chan Tin is a well-known, long-time religious freedom activist. He spent some years in "village arrest" in the 1990's after a controversial Easter sermon entitled "Repentance for the Nation". Fathers Giai and Loi of the Hue Diocese, are colleagues and strong supporters of the Vietnam's best-known religious prisoner-of-conscience, Father Nguyen Van Ly.