



## Right to freedom of belief and religion in constitution of Vietnam

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### Abstract

The right to freedom of belief and religion is one of the fundamental rights of humanity that President Ho Chi Minh was soon aware of its importance in the cause of great national unity for the common sake of the Fatherland development and protection. The right to freedom of belief and religion is one of the basic human rights, which is recognized in the international law on human rights, as well as in the laws of many countries in the world. The consistent policy of the Party and State of Vietnam is to respect and ensure the people's right to freedom of belief and religion. This right is clearly expressed in the perspectives, guidelines, constitutions, laws and is guaranteed to be implemented in reality. With that consistent policy, in the past few years, ensuring the right to freedom of belief and religion in Vietnam has obtained many achievements and praised by the international community. The legal system of beliefs and religions is constantly revised, supplemented and completed. Legal documents regulating beliefs and religions not only increase in quantity, but also are more diversified in form to suit the real situation. This is a very important step to facilitate religion and belief activities.

**Keywords:** freedom, religion and belief, constitution, Vietnam

### 1. Introduction

Religious freedom is the right to conduct religious acts and pursue an individual's beliefs freely. It is considered by many to be one of the fundamental freedoms of human.

Vietnam is a multi-religious and multi-ethnic country, all religions are equal, respected and guaranteed by the law. Along with indigenous beliefs that have formed from thousands of years of history of the nation, exogenous and endogenous religions have enriched and are an indispensable part of the spiritual life of the Vietnamese people. Currently, there are 16 religions in the whole country and 42 religious organizations are recognized by the State with legal status and granted operation registration with 29,977 worshipping facilities and 55,839 dignitaries<sup>[5]</sup>. Over the past years, the Party and State consistently agreed to ensure people's freedom of religion through a series of legal documents. The consistent policy of the State of Vietnam is to respect and create favorable conditions for all people to exercise their right to freedom of belief and religion; appreciate the solidarity and harmony policy among religions; ensure equality, non-discrimination for reasons of religion and belief; protect the activities of religious organizations by the law. The law of Vietnam prohibits any infringement of freedom, beliefs, religious compulsion, apostasy or discrimination. The regulations of Vietnam are fully consistent with the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights.

To thoroughly grasp, inherit and develop the viewpoint of respecting the right to freedom of belief and religion of the People, the Party and the State have continuously improved the guidelines, mechanisms, policies and laws on religion and created the best conditions for people to practice their right to freedom of belief and religion. Immediately after the establishment of the Democratic Republic of Vietnam, on September 3, 1945, at the Government's meeting session, President Ho Chi Minh affirmed the right to freedom of

belief and religion of a part of the people with religion. He said: "I propose to the Government to declare the right to freedom of religion and unity of the people with religion and the people without religion." On June 14, 1955, the person who signed the Ordinance No. 234/SL stated: "The right to freedom of belief and freedom of worship is the right of the people. The government always respects and helps people do it. The government does not intervene in the internal religions. Religious organizations shall obey the laws of the State like all other people's organizations. The protection of religious freedom is required to punish those who are disguised as religious leaders". He used to call on religions to erase the conflict and unite with the whole people to take care of the country's independence.

Inheriting the views and ideas of President Ho Chi Minh on religion, in the revolutionary periods, our Party and State are interested in the belief and religious needs of the people. Entering the renovation period, our Party and State issued many guidelines and policies on religion and concretized the provisions of the 1992 and 2013 Constitutions on the right to freedom of belief and religion of citizens. The Central Executive Committee issued the Resolution No. 24-NQ/TW dated October 16, 1990; the Resolution No. 25-NQ/TW dated March 12, 2003. The 11th National Assembly Standing Committee issued the Ordinance on Beliefs and Religions (No. 21/2004/PL-UBTVQH 11) on religious and religious activities. The Government issued the Decree No. 22/2005/ND-CP dated March 1, 2005, guiding the implementation of a number of articles of the Ordinance on Beliefs and Religions. The Prime Minister issued the Directive No. 1940/CT-TTg dated December 31, 2008 "home, land related to religion", creating a stable and consistent legal corridor to recognize and ensure the exercise of right to freedom of belief and religion of citizens. This is essential to improve the effectiveness and efficiency of the state management of belief and religious activities, ensuring compatibility with the international law.

The 2013 Constitution has very important amendments to the subject of freedom of belief and religion, not only of Vietnamese "citizens" but of "people", recognizing the right to freedom of belief and religion. In particular, the XIVth National Assembly (2016) passed the Law on Belief and Religion, taking effect from January 01, 2018.

## 2. Content

According to the flow of history, Vietnam is a multi-religious nation, including both internal and external religions. People with beliefs and religions in Vietnam are assured and safe in accordance with the exact meaning of a true religion. This is clearly reflected in the fact that the system of legal documents of the Vietnamese State has many levels, the right to freedom of belief and religion is expressed in the highest level and the constitution is very clear in the original law - which is the Constitution. The Constitution, which is the document with the highest legal value, always inherits and develops so that the right to freedom of belief and religion of citizens become one of the basic human rights in each time of amendment, supplementation, and promulgation throughout each development stage of the country.

Immediately after taking over the government in 1945, the Democratic Republic of Vietnam was born, the first constitution of the young republic country confirmed: "All domestic troops are of the entire Vietnamese people, regardless of race, woman, man, rich and poor, class and religion" (in Article 1, Chapter 1); or: "Vietnamese citizens have the right to freedom of belief" (in Article 10, Chapter 2).

Citizens' right to freedom of belief is not only reflected in the highest legal documents, but our Party has also devoted special favors and special trust to people, workers, intellectuals who are people of religions - which was expressed in the cabinet members of the Democratic Republic of Vietnam Government at that time (there were many Ministers and Government Advisor who were religious followers).

### 1. 1959 Constitution

By the Constitution of 1959, the right to freedom of belief and religion continued to be reaffirmed and concretized, as stipulated in Article 26: "Citizens of the Democratic Republic of Vietnam enjoy freedom of religious belief; they may practice or not practice a religion".

In this Constitution, the right to freedom of belief was extended towards citizens being "following or not following a religion". This shows that the right to freedom of religion is not only a right to religion but also a right not to follow religion. Such a regulation represents a more comprehensive and complete view of social relations, on the one hand a more extensive, deepening of that right; on the other hand, it is a legal basis to protect the rights of non-believers, to prevent cases of people who are forced to follow a certain religion for some reasons. This also creates equality and solidarity between believers and non-believers in the great national unity bloc.

Inheriting and developing the 1946 Constitution and the Constitution of 1959, the 1980 Constitution noted in Article 68: "Citizens have the right to freedom of belief, to follow or not to follow a religion; no one can take advantage of religion to act against the laws and policies of the State".

Thereby, the freedom of belief continues to be affirmed. Here, the right to freedom of religion includes content to prevent abuse of this right to destroy the revolution while this provision clarifies the basis for identifying religious abuse activities, which are activities violating the State's laws, policies, superstitious propaganda, as well as obsolete practices aimed at personal pursuit and undermining revolutionary achievements.

### 2. 1992 Constitution

The 1992 Constitution that came into being after the Party began its renovation (the 6th Congress, 1986), in Article 70, Chapter V of the constitution: "Citizens have the right to freedom of belief and religion, to follow or not to follow a religion. All religions are equal before the law. Places of worship of beliefs and religions are protected by the law. No one is entitled to infringe on the freedom of belief or religion or take advantage of beliefs and religions to act against the State's laws and policies".

Therefore, the State continues to assert citizens' right to freedom of belief and religion, expressing the nature and important significance of religion in the social life. The right to freedom of belief has been paid attention by the State and affirmed in accordance with the development trend of the democratic and progressive society.

With the introduction of the Ordinance on Belief and Religion, passed by the Standing Committee of the National Assembly of Vietnam on June 18, 2004 and came into effect on November 15, 2004, once again the development and expansion of the principles under the Constitution are the institutionalization of Vietnamese Party and State guidelines and policies on the right to freedom of belief and religion. At the same time, the Ordinance also demonstrates the development of the national legal system in the process of legalizing the provisions of international human rights law that Vietnam has committed to. Article 1 of the Ordinance reaffirms the principle of respect for citizens' equal and free rights that "Citizens have the right to freedom of belief and religion". No one can violate such right to freedom. All religions are equal before the law. Citizens with beliefs, religions or no beliefs, religions, as well as citizens with different beliefs and religions shall respect each other". Consequently, this regulation on the one hand emphasizes the assurance of religious diversity of religious life and the right to freedom of belief and religion of all people.

### 3. 2013 Constitution

Before the requirements of comprehensive reforms; in order to meet and match development requirements in the new period, on November 28, 2013, the National Assembly passed the 2013 Constitution (effective from January 1, 2014), including 11 chapters and 120 articles. The 2013 Constitution contains many new points in terms of constitutional content and techniques; reasonable, tight and scientific layout, ensuring that the provisions of the Constitution are at the right level is the basic law, with the highest legal effect and long-term stability; and provisions covering the basic political, civil, economic, social and cultural rights of people. Accordingly, an important innovation point is to show consistent views on human rights and obligations.

The 2013 Constitution continues to assert human rights is a natural right, the State shall recognize, respect and commit to ensure and protect human rights in accordance with

international conventions in which Vietnam is a member. Meanwhile, the right to freedom of belief and religion is presented more broadly, with comprehensive and profound regimes in the direction of increasing perfection, democracy and respect, creating the best conditions for believers of religions and religious organizations operate in the most healthy and fair way.

**Article 24, Chapter II stipulates**

1. People have the right to freedom of belief and religion, to follow or not to follow a religion. All religions are equal before the law.
2. The State respects and protects the right to freedom of belief and religion.
3. No one can infringe on freedom, belief, religion or abuse of religious beliefs to violate the law”.

**Specifically, these contents are construed as follows**

**1. The right to freedom of belief and religion is a basic right of citizens**

According to the flow of history, Vietnam is a multi-religious nation, including both internal and external religions. All religions are equal before the law, and no religion operates in accordance with the law, but is prohibited. People with beliefs and religions in Vietnam are assured and safe in accordance with the exact meaning of a true religion and this becomes a constitutional principle in each stage of the country's development and becomes a basic human right, etc. Every citizen is free to choose or follow a belief or religion. After nearly thirty years of implementing the renovation policy, our country has gained many important achievements in terms of both economy and society; people's lives are increasingly improved and markedly heightened. Many policies and laws on economy and society, including policies and laws on beliefs and religions, have been developed and issued, meeting timely requirements of practical state management on religion and religious work. Our Party and State are increasingly interested in people with beliefs and religions by consistently adhering to the principles of respecting the right to freedom of belief and religion of citizens in documents, resolutions and characteristics as well as the significance of religion in social life, the right to freedom of belief is in line with the development trend of the democratic and progressive society. Besides, the policies of economic and social development of the State have also been promoted in remote, isolated and ethnic minority areas, including people of religions. The attention, assurance and facilitation of the Party and State for people with beliefs and religions in the field of economic development (by projects of hunger elimination, poverty reduction, afforestation, etc.). These are important guarantees to enable them to exercise their right to freedom of belief and religion, to help create trust, expectation and encouragement of religions accompanying the nation in the process of country construction and building of socialism. It is noted that the 2013 Constitution uses the concept of "Everyone" instead of the concept of "Citizens" in the previous Constitution. This represents a more comprehensive and accurate way of human rights for belief and religion; at the same time, affirms the principle of separation between the State and the Congregation because our State is a non-religious State, but especially respects the right to religious freedom and does not interfere with the internal affairs of religious organizations. The recognition of

the concept of "Everyone" has the right to freedom of belief and religion also affirms the solidarity and attachment of all Vietnamese people in the cause of great national unity and in the process of building and protecting the nation.

**2. The State is responsible for respecting and protecting the right to freedom of belief and religion.**

The law of our State on the one hand acknowledges and protects the right to freedom of belief and religion; on the other hand, prohibits acts of abusing religion to harm the interests of the society, other people's interests, or division of the solidarity between believers and non-believers or among believers to ensure that the religions operate healthily and have good gospel among the people. Clauses 2, 3 Article 24 of the 2013 Constitution clearly state: The State respects and protects the right to freedom of belief and religion. No one can infringe on freedom, belief, religion or abuse of religious beliefs to violate the law”. Accordingly, all acts of dividing believers with non-believers or dividing believers with the people's government and social organizations will be handled and depending on the nature of the violation to apply appropriate treatment forms, and the highest is criminal handling. The Vietnamese State is against all acts of infringing upon the right to freedom of belief and religion or taking advantage of belief and religion to violate the State's policies and laws, prohibiting acts of infringing upon the right to freedom of belief and religion and acts taking advantage of religious beliefs, dividing religion, dividing ethnic groups, affecting the unity among people, etc.

With the spirit of openness, the legal system of Vietnam in the field of beliefs and religions has met the requirements of ensuring citizens' freedom of belief and religion on the one hand and determined the State management requirements for religious and religious activities on the other hand. Thereby, it has fully expressed the attention of the Party and our State to the legitimate interests of citizens with beliefs and religions and demonstrated the strict attitude towards acts of law violations on religion. For instance, it is strictly forbidden to violate citizens' right to freedom of belief and religion, to force people to follow religion or to abandon religion that they believe or take advantage of the right to freedom of belief and religion to undermine peace, independence, unification of the country, etc., and implement other law violations. The recognition of the right to freedom of belief and religion in the 2013 Constitution once again affirms the consistent policy of respecting citizens' freedom of belief and religion; creates an important legal environment for religious organizations to operate; adapts to international treaties that Vietnam has signed or acceded to in the field of religion; at the same time, is an important step in building a stable and sustainable relationship between the State and religious organizations.

It can be said that the 2013 Constitution has showed the spirit of innovation, expressed the Party's and people's heart, reflected the aspirations of the majority of the people, demonstrated the spirit of democracy, innovation and promotion of the great nation unity and met the requirements of building a law-governed state and developing the socialist-oriented market economy, building and defending the Fatherland in the new period in which the regime related to the right to freedom of belief and religion has an important role and position. It can be seen that compared to the previous Constitution, the 2013

Constitution is an important step, a succession and development in our country's "innovation and deep integration" period with the world. Accordingly, the 2013 Constitution shows the attitude and the democratic policy of our State for the freedom of religion and belief, considering it as a need and an indispensable right of the people to be respected, protect and create conditions for them to best exercise that right.

At the same time, it uses the concept of "people" rather than "citizens" like the previous Constitution. The nature of the problem has changed fundamentally, which shows exactly human rights for belief and religious issues. The concept of "citizen" is to show the relationship between the people and the State, with the political institution. Our state is a secular State, meaning that the State is not religious, affirming the right to freedom of religion and the principle of separation between the State and the Congregation, and not interfering in the internal affairs of religions. Therefore, the recognition of "everyone" will be wider than "citizens" because in fact not everyone has citizenship. For example, a prisoner, despite having lost his citizenship but still has the right to freedom to worship and practice his religion, etc. The recognition of "everyone" has the right to freedom of belief and religion has a great meaning in the cause of great national unity and in the process of the Fatherland construction and defense.

It can be said that the 2013 Constitution has showed the spirit of innovation, expressed the Party's and people's heart, reflected the aspirations of the majority of the people, demonstrated the spirit of democracy, innovation and promotion of the great nation unity and met the requirements of building a law-governed state and developing the socialist-oriented market economy, building and defending the Fatherland in the new period in which the regime related to the right to freedom of belief and religion has an important role and position. The perspective is persistent, respects everyone's right to freedom of belief and non-belief, goes hand in hand with strengthening the unity of the entire people, ensures the interests of the nation and the Fatherland, and does not affect the religious sentiment - a sensitive and complex form of social consciousness. To do that, it is necessary to have a legal corridor as an instrument for the people to exercise their right to freedom of belief and religion.

On November 18, 2016, the Law on Belief and Religion was passed by the XIV National Assembly, the 2nd session and took effect from January 1, 2018. This is the highest legal document that directly regulates the belief and religion fields.

The enactment of the Law has the purpose and meaning as: (1) institutionalizing the views of the Party and the 2013 Constitution to ensure people's right to freedom of belief and religion; (2) overcoming the inadequacies and shortcomings of current belief and religious law. Continuing to improve the legal system of beliefs and religions to ensure more freedom of belief and religion; (3) renovating the state management mechanism in order to create a clear, transparent, create a legal mechanism to respect and protect and ensure people's freedom of belief and religion; limiting the State's administrative intervention in the internal affairs of religious organizations; and meeting state management requirements, administrative reforms in this area; (4) strengthening the national unity mass; creating conditions for freedom of belief, religion and democratic, civilized

values of humanity and socialism to be promoted; maintaining the belief of people with beliefs and religions on the Party's and State's policies and laws; (5) contributing to the implementation of the Party and State's foreign policy and fighting against the abuse of beliefs and religions against the Party and the State. It demonstrates national responsibility for the implementation of the international law.

The law on religion and religion has 09 chapters, 08 sections and 68 articles, regulating the following contents:

Chapter 1: General provisions

Chapter 2: Right to freedom of belief and religion

Chapter 3: Religious activities

Chapter 4: Registering of concentrated religious activities and registering of religious activities

Chapter 5: Religious organizations

Chapter 6: Religious activities; publishing, education, health, social protection, charity and humanitarian activities of religious organizations

Chapter 7: Assets of religious establishments and religious organizations

Chapter 8: State management and handling of law violations in the field of belief and religion

Chapter 9: Execution provision Basic new points of the Law on Belief and Religion:

*Firstly*, expanding the scope of subjects with the right to freedom of belief and religion from "citizens" to "people", expressing the true nature of the right to freedom of belief and religion as human rights in the spirit of the 2013 Constitution.

*Secondly*, adding 01 (one) chapter on the right to freedom of belief and religion to better reflect the scope of regulation of the Law, as well as the most basic expression of State policy in respecting and protecting the right to freedom of belief and religion of the people.

*Thirdly*, registering a concentrated religious activity, if the registering of religious activities was previously considered a starting point to start forming a religious organization, the law now only considers concentrated religious activities to satisfy the people's religious needs; concentrated religious activities shall not be considered as a starting point to be granted a certificate of registration of religious activities and organization recognition.

*Fourthly*, some contents fall under the authority of the Prime Minister such as the recognition of religious organizations; establishment, division, separation, merger and consolidation of affiliated religious organizations operating in many provinces and centrally-run cities; established a school to train religious activists; receive notice of dissolution of the training school for religious activists who have been changed according to the direction of assigning to the central state management agency on belief and religion the responsibility to receive dossiers and respond to religious organizations. This change will make the implementation of administrative procedures faster and more convenient for religious activities.

*Fifthly*, removing some of the words used in the 2004 belief and religious ordinance, such as grassroots religious organizations, congregations and congregations. Supplementing the words of affiliated religious organizations and seeing grassroots religious organizations, congregations and organizations are affiliated religious organizations and adjusted as affiliated religious

organizations. In addition to expanding the scope of adjustment of affiliated religious organizations, there are also departments, branches and institutes from the central to the base of religious organizations.

*Sixthly*, the issue of legal status of religious organizations. This is a new and important content of the Law to clearly define the legal status of religious organizations and ensure the rights and obligations of religious organizations when participating in legal relations. This regulation is consistent with the trend of state management of the rule of law, the international law, as well as the practice of the activities of religious organizations.

*Seventhly*, separating the content of promotion, appointment, election, election of dignitaries and positions into two contents: conferred or appointed as dignitaries; and appointed or elected officials.

*Eighthly*, about religious training institutions, supplement and refresh regulations related to religious training facilities, including conditions for establishment, authority to approve the content related to the activities of religious training institutions.

*Ninthly*, supplementing the content of perfection or contemplating taste for foreigners legally residing in Vietnam.

*Tenthly*, registering religious activities, announcing the list of religious activities to be changed in the direction of registering only, announcing the first time with competent state agencies, the contents that are not included in the registration document or notice shall be registered or supplemented.

*Eleventhly*, supplementing in the direction of creating conditions for foreigners to legally reside in Vietnam to attend religious institutions, study at religious training institutions, religious training classes of religious organizations; be promoted by religious organizations in Vietnam, etc.; concentrated in their own religious activities at religious establishments or at other lawful places in Vietnam; invited Vietnamese or foreign dignitaries to train.

*Twelfthly*, some activities only require informing to competent state agencies, such as periodic festival announcements; inform about revenue, purpose of using revenue from the organization of religious festivals; inform about training institution activities; inform the person who is bestowed or appointed as dignitaries; inform about the transfer of dignitaries, dignitaries, monks; inform about demotion, dismissal of dignitaries and officials; inform about the annual conference, etc. This is also a regulation in line with the current trend to limit the intervention of competent state agencies on internal affairs of religious institutions and organizations.

*Thirteenthly*, delineating the responsibilities of state agencies for belief and religion.

The Law specifies the responsibilities and competence of the government, ministries, branches, people's committees, agencies of state management of beliefs and religions at all levels in belief and religious activities; the Fatherland Front and unions in gathering compatriots with beliefs, religions and compatriots who do not have beliefs and religions in the national unity bloc, contributing to the construction and defense of the nation. Besides, the Law also has provisions on the obligations of organizations and individuals in exercising the right to freedom of belief and religion.

*Fourteenthly*, for the first time in the history of the law on belief and religion in our country, it is stipulated that

"Persons temporarily kept in custody and persons in temporary detention shall comply with the provisions of law on temporary custody and detention; people who are serving imprisonment penalties; people who are taking measures to send to reformatory schools, compulsory educational institutions, compulsory detoxication establishments have the right to use scriptures and express beliefs and religions.

Thus, the right to freedom of belief and religion is ensured by the State to protect even the offenders who are serving penalties according to the court's effective judgments. This is the most complete expression of the right to freedom of belief and religion, first of all human rights, which is natural and inherent, shall be ensured even when people are deprived of citizenship.

### 3. Conclusion

In summary, the right to freedom of belief and religion is one of the basic rights of people. President Ho Chi Minh soon realized the importance of this issue in the cause of the great national unity. To thoroughly grasp, inherit and develop the perspective of respecting the right to freedom of belief and religion of the People, the Party and the State have continuously improved the guidelines, mechanisms, policies and laws on religion and created the best conditions for people to practice their right to freedom of belief and religion.

Therefore, it can be affirmed that the policies and laws have shown the special and profound attention of the Party and State of Vietnam to the right to freedom of belief and religion, the beliefs of believers, dignitaries of religions, making the people, followers and religious dignitaries feel excited to actively and positively carry out both the "religious work and life"; encourage religions to actively participate in patriotic emulation movements, production and socio-economic development, to fight against religious exploitation activities and contribute to ensuring political security and order social safety. Religions have the conditions to develop, to be free to worship at home or in a place of worship; international relations of religions are expanded and religious activities are publicized in accordance with the law.

The constitution - the document with the highest legal validity through five times of amendment and supplementation all mentioned the issue of the right to freedom of belief and religion in the direction of increasing perfection, democracy, respect and creating the best conditions for dignitaries, monks, followers of religions and legal religious organizations to develop in the most healthy and fair way. The good implementation of the right of freedom of belief and religion of the people has great significance in implementing the great cause of national unity because the common goal is to develop and protect the country. The belief and religious life in Vietnam has developed in parallel with the development of the nation. In such rich development, the role of the Party and the State of Vietnam in order to create an open environment and conditions for all people to freely practice their beliefs and religions is very important.

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