

## ANNEX IV

### CIVIL AND POLITICAL RIGHTS

#### I. Legal documents on Civil and Political Rights

1. Human rights have been explicitly affirmed in the constitutions since the founding of the nation. The first Constitution in 1946 was comprised of only 70 Articles, but citizen rights were provided for in 18 Articles and accorded with priority in Chapter II “Citizen Rights and Obligations”. The 1959 Constitution marked a step forward from the 1946 Constitution with 21 Articles stipulating rights and obligations of citizens. The 1980 Constitution of the reunified Viet Nam inherited and built on the previous two Constitutions with 29 Articles specifying citizen rights and obligations.

2. The 1992 Constitution, which inherited the provisions of the three previous Constitutions of 1946, 1959 and 1980, affirms that: “In the Socialist Republic of Viet Nam, political, civil, economic, cultural and social rights of the people are respected, find their expression in the rights of citizens and provided for by the Constitution and the law” (Article 50). The next Articles of the 1992 Constitution provide for citizens’ democratic rights and freedom, such as the right to participate in the management of the State and society (Article 53), the right to vote and to stand for elections (Article 54), the right to work (Articles 55 and 56), the right to do business (Article 57), the right to property and inheritance (Article 58), the right to education (Article 59), the right to do scientific and technological research, the right to invention, copyrights, industrial property rights (Article 60), the right to healthcare (Article 61), the right to housing (Article 62), the right to gender equality (Article 63), the right to marriage and family (Article 64), the right of the child (Article 65), the rights of the youth (Article 66), the rights of war invalids, wounded soldiers, martyrs, families credited with meritorious service to the revolution, the elderly, persons with disabilities, orphans (Article 67), the right to freedom of movement and residence (Article 68), freedom of speech, freedom of press, freedom of assembly and association, freedom of demonstration (Article 69) freedom of belief and religion (Article 70), the right to inviolability of the body (Article 71), the right to be presumed to be innocent (Article 72), the right to inviolability of residence and correspondence (Article 73), the right to make petition and complaints (Article 74).

3. The Criminal Code and the Criminal Procedures Code have been developed and improved to ensure the strictness of the law, deal with and prevent crimes while also reflecting the humanitarianism of the State’s policy. The 1999 Criminal Code specifies that the objective of penalty is not only to punish but also educate criminals to help them become useful persons for the society (Article 27); life imprisonment is not applicable to juvenile offenders (Article 34); death penalty is not applicable to juvenile offenders, pregnant women or children under 36 months of age. The 2003 Law on Criminal Procedures provides the principle that no one is considered guilty and subject to penalty until proven by a valid court verdict (Article 9); the detained and the accused have the right to defence or to retain others to give defences for him/her (Article 11). If the accused do not invite defence lawyer, the investigation agency, people’s procuracy, the court are responsible for inviting defence lawyer in the following cases: the accused may be subject to the highest penalty of capital punishment; the accused are juvenile or subject to physical or spiritual impairment.

4. In implementing the policy of leniency of the State, on 21 November 2007, the 12<sup>th</sup> National Assembly adopted the Amnesty Law No 07/2007/QH12 stipulating the time, procedures, authority and responsibility of implementing amnesty. It also lays down the conditions, rights and duties of those requested for amnesty, early release.

5. The Civil Code acknowledges and protects the legitimate rights and interests of the people in the civil domain, including the right to ownership of legitimate property (Article 64), the right to inheritance

(Article 613), the right to privacy (Article 38), the right to inviolability of residence (Article 46) the right to freedom of movement and residence (Article 48).

6. The Law on Elections of National Assembly Deputies (1997, revised in 2001) stipulates that : “citizens of the Socialist Republic of Viet Nam, regardless of their nationality, sex, social strata, belief, religion, education, occupation, term of residence, who are 18 years of age shall enjoy the right to vote and those who are 21 years of age shall enjoy the right to stand for elections for the National Assembly Deputy in conformity with the provisions of the law, except those who are mentally disable or derived of these rights by the law or the People’s Court.” (Article 2)

7. The Press Law (1989) acknowledges and ensures freedom of press and freedom of speech. As stipulated by the law, “the State creates favourable conditions for citizens to exercise their right to freedom of press and freedom of speech and for the press to play its role. The press and journalists operate in accordance with the law and are protected by the State. No institution or individual shall restrict or hinder their activities. The press shall not be subject to censorship prior to publication or broadcast.” (Article 2). This Law also prescribes that citizens have the right to be informed and express their opinions via the press on domestic and world affairs; have rights to contact, send news, articles, photographs and other works to the press without being subject to censorship by any organization or individual; have the right to express views on the formation and implementation of policies and laws; have the rights to air views and criticisms, make proposals, complaints or petitions in the press (Article 4). The Publication Law also provides that citizens have the rights to publish their works to the public without censorship. (Article 5).

8. The Law on Legal Assistance (2006) stipulates that the poor, people with meritorious service to the revolution, the solitude elderly, persons with disabilities, and children without support, ethnic minority people living in areas in economic and social hardship are provided free legal assistance; have their legitimate rights and interests defended. The Law also provides articles on raising legal awareness and sense of respect for and abidance by law for this group of people, contributing to the dissemination and education of law; protection of justice, maintenance of social equality, prevention and reduction of disputes and law violations. (Article 6)

The right to complaints and petitions of the people is stipulated in the Law on Complaints and Petitions (amended and supplemented in 2004, 2005), Decree No 136/2006/ND-CP dated 14 November 2006 guiding the implementation of some Articles of the Law on Complaints and Petitions and Decree No 53/2005/ND-CP dated 19 April 2005 of the Government. These documents provide for measures to deal with acts of menacing, repressing, revenging those who lodge complaints and petitions. It is stipulated in the Law that: “in case of necessity, agencies, institutions or individuals receiving complaints and petitions must inform without delay the competent agency in order to [...] apply necessary measures to ensure safety for the complaining persons when they so request” (Article 66). On the other hand, “people committing acts of menacing, revenging, insulting those who make complaints and petitions or people who are responsible for settling complaints and petitions shall be dealt with by discipline, administrative fines or criminal prosecution depending on the nature, seriousness and scope of violation (Article 100). In addition, Decree No 51/2002/ND-CP dated 26 April 2002 of the Government on the implementation of the Press Law prescribes that within 15 days upon the receipt of views, criticism, complaints, petitions of citizens transmitted by or published in newspapers, head of the state agency or social organisations concerned must inform the press agency with regard to how the case is being settled.

9. The Ordinance on belief and religion adopted by the Standing committee of the National Assembly on 18 June 2004 affirms that: “citizens have the rights to follow or not follow any belief, religion. The State secures citizens’ right to freedom of belief. Any infringement upon this right is forbidden. All religions are equal before the law. Citizens of belief, religion or those without belief, religion or those of different beliefs, religions must respect each other”. Decree 22/2005/ND-CP dated 1 March 2005 guiding the implementation of some Articles of the Ordinance on belief and religion and Directive no 01/2005/CT-

TTG dated 4 February 2005 of the Prime Minister on some tasks related to Protestantism continue to specify provisions of the Ordinance with a view to facilitating religious activities of religious organisations and individuals.

10. Decree 33/2003/ND-CP dated 20 July 2003 clearly stipulates the right to establish associations and the related procedures. Article 22 specifies the rights of associations, including outreaching for the association's objectives, representing its members in internal and external affairs related to the functions and mandates of the association; protecting legitimate rights and interests of members; organising and coordinating activities of members in the common interest of the association; reconciling disputes within the association; disseminating and providing knowledge for members; providing necessary information for members in accordance with the law; counseling and debating on issues within the scope of activities of the association at the request of organisations and individuals, providing inputs for legal documents related to the activities of the association in accordance with the law, making recommendations to competent agencies of the state with regard to the development and area of operation of the association; working with organisation, agencies concerned to implement the tasks of the association; raising funds from members' fees and from doing business in accordance with provisions of the law to cover the expenses; is allowed to receive legitimate funds from domestic and foreign organizations and individuals in accordance with the law. Associations operating nationwide or on interprovincial basis can join regional and international associations.

11. Decree No 29 dated 11 May 1998 on the Regulation on Exercising Democracy at the communal, ward and hamlet levels and Decree No 71 dated 8 September 1998 on the Regulation on Exercising Democracy in offices create favourable conditions for the people to participate actively in the formulation of policies and monitoring of the State, thus raising the role of the people and enhancing their participation in the management of the state and society.

## **II. The implementation of civil and political rights**

### **The right to vote**

12. The most recent elections of the National Assembly (12<sup>th</sup> Legislature, 20 May 2007) were successfully held throughout the country with a very high turnout. 59 Provinces and cities had the turnout of over 99% (out of which Ha Giang, Vinh Long, Quang Nam and Phu Tho reached 99.99%). 493 people were elected to the National Assembly.

### **The right to freedom of association**

13. The number of new associations established were on the rise. At present, there are over 380 associations operating nationwide, at interprovincial level and thousands of associations operating within provincial or central-level cities. All communes have established associations. The role of associations are reflected in the followings:

- Implementing the right to monitor and debate draft legal documents, especially those directly related to the rights and obligations of the people, such as the Civil Code, Labour Code, documents on civic status, land-use right, etc. In highly specialised areas, the debating role of associations demonstrates their active, down-to-earth and objective natures (e.g. Protection of copyrights, industrial property, consumers etc.)

- Contributing to bringing into play the resources, dynamism, and initiatives of the people of all strata in socio-economic development, poverty reduction and the building of a law-governed state etc.

- Taking the lead or participate, in some cases, in drafting laws and ordinances submitted to the National Assembly (for example, the Fatherland Front submitted the Law on Fatherland Front; the Central Committee of the Youth Union submitted the Youth Law, the Lawyers' Association took the lead in drafting the Ordinance on Commercial Arbitration and is now drafting the Law on Commercial Arbitration).

## **The Right to Freedom of religion**

14. The training and education of religious dignitaries and priests have been maintained and expanded. Throughout the country, there are around 17,000 seminarians and Buddhist monks and nuns are enrolled in religious training courses. The Viet Nam Buddhist Sangha has 4 Buddhist Academies, of which the scale and training quality are being raised. A Buddhist Academy is being built in Soc Son district, Ha Noi; a Southern Khmer Buddhist Academy will be built in Can Tho city. A new establishment of Buddhist Academy will be built in Ho Chi Minh City. The Evangelical Church of Viet Nam has 7 grand seminaries. The Saint Joseph seminary in Ho Chi Minh City will open a second establishment in Xuan Loc district, Dong Nai province. The Divinity school of the General Confederation of the Protestant Church of Viet Nam (Southern part of Viet Nam) has completed 3 courses. On 30 August 2006, a new establishment began to be built in Ho Chi Minh City.

15. On ordination, promotion, appointment and transfer of dignitaries: Religious organisations have undertaken many activities to consolidate their organisation with ordination, promotion, appointment and transfer of dignitaries to take care of the religious work in accordance with their Charters and Regulations and the law. In the past 4 years, 9,226 religious dignitaries have been ordained, promoted, appointed or elected. The total number of dignitaries and priests throughout the country reached 62,446.

16. On publication: In 2008 alone, 620 publications were licensed with around 1.2 million copies. The total number of books published by religious organisations were 1,777 with 4.5 millions printed copies, including 500,000 of testament and 500,000 VCDs, CDs, MP3. Especially, 30,000 testaments in ethnic minority language (Ba na, Gia rai, Khmer etc.) were printed to facilitate religious activities of the ethnic minority people. Religious organisations are allowed to publish newspapers for the religious activities, such as Much Vu, Thong Cong bulletins of the Protestantism, Hiep Thong magazine, Christianity and the nation newspaper of the Christianity.

17. On the building of worshipping places: worshipping places were continuously renovated or built anew. In the past 3 years until the end of 2008, there were 3,277 worshipping places renovated or built anew. Ho Chi Minh city Municipality allotted land for the Evangelical Church to build the religious affairs center and allotted 7,500 m<sup>2</sup> for the Southern Protestant Church to build the Divine Academy; Dac Lac province allotted over 11,000 m<sup>2</sup> of land to the Evangelical Church of Buon Ma Thuat; Da Nang province allotted over 9000 m<sup>2</sup> of land for the Evangelical Church of Da Nang; Quang Tri province allotted 15ha of additional land for La Van parish; Lam Dong province allotted 10ha of land for building a religious affairs center.

18. On external activities of religions: Religious agencies and religions in Viet Nam have broad international relations. In the past 3 years, there have been 643 outbound dignitaries and 20 inbound religious delegations. Religious representatives of Viet Nam joined various religious forums, such as Asia-Europe religious dialogue, Asia-Pacific religious dialogue, Conference on religious and law in Southeast Asia. Many delegations of religious dignitaries of other countries have visited Viet Nam, such as those of the Vatican, Venerable Thich Nhat Hanh and the Plum Village delegation, the World Buddhist Mendicant Church, America's Christian and Mission Alliance etc.

## **The Right to Freedom of Expression and Freedom of Press**

20. As defined by the Press Law, press agencies are not only political and professional agencies, they also provide forums for the people. All citizens have the right, through the mass media, to express their expectations and opinions on political, economic, social and cultural issues. The citizens send their articles to newspapers on different aspects of their life. The "Readers' opinions" column of many newspapers has shown diverse opinions of the people from all walks of life. These constitute a vivid manifestation of the right to freedom of the press of each citizen.

21. With a view to improving the quality of press reporting, the State has established colleges to train professional reporters at undergraduate and postgraduate levels. Hundreds of students graduate from these schools each year. Press and Media colleges in Viet Nam have engaged in cooperation with many foreign institutions, especially from the US, France, Germany and Sweden to share work experiences and conduct mid-career training for hundreds of Viet Nameese journalists and reporters. With an aim to enhancing professional knowledge and protect the interests of journalists, Viet Nam Journalists' Association came into being and has drawn the participation of more than 13,000 journalists.

22. The Viet Nameese people now have better access to modern information technology particularly Internet. It is Viet Nam's policy to encourage and create necessary conditions for the people to access and widely make use of the information available on Internet, which is well reflected in Decree 55/2001/NĐ-CP dated 23/8/2001 by the Government on the Management, Provision and Use of Internet Services. During the last 10 years, electronic newspapers have made a great stride with more than 80 e-newspapers coming into being. So far, there have been 6 internet service and connectivity providers and 20 internet service providers. Internet charge has been reduced. The number of subscribers increases rapidly and the number of individuals accessing Internet has reached 20 million, accounting for 23.5% of the population, which is higher than the average level of 18% in Asia.

### **Ensuring the rights of prisoners**

23. All prisoners in Viet Nameese prisons are those who violated the laws, were prosecuted, investigated and tried in accordance with the provisions of the laws and are executing court verdicts. The prisoners are protected by law with their fundamental rights secured such as the rights to corporal freedom, right to life, right to work and right to health care. They are not subjected to torture, humiliation and degrading of dignity. They are entitled to entertainments and cultural activities. Prisons in Viet Nam have been renovated to gradually enhance the living conditions of prisoners. In many prisons, classes are held to eradicate illiteracy and universalize primary education. Vocational training and work placement centres are established to facilitate the integration of prisoners after they finish the sentences. Prisoners' right to medical examination and treatment is also ensured with a network of on-site clinics. Diseased prisoners, who need treatment at off-site medical centres will be granted a temporary postponement of sentences. Ministry of Public Security issued a Democracy Regulation in Prisons to protect the legitimate rights and interests of the prisoners.