

## **OPERATING THE RIGHT TO FREEDOM OF BELIEF AND RELIGION IN VIETNAM'S LEGISLATION**

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### **Abstract**

The paper provides an overview of the process of using the law to operate the right to freedom of belief and religion since the Democratic Republic of Vietnam was established in 1945. To achieve this goal, the author set up the three following tasks: identifying major domestic and foreign factors that influenced the formation of legal provisions on the right to freedom of belief and religion in Vietnam; clarifying the content and limitation on this right in Vietnam through the legislative stages; pointing out important legal directions in the process of operating this right in the future. The author used analysis, synthesis and comparison methods to perform this study. The materials are the international and Vietnamese legal documents and the research works of Vietnamese, Asian and Western authors. The results of this study indicate that: (1) Legal provisions on the right to freedom of belief and religion have been influenced by Vietnamese culture and three factors: the ideology of democracy, human rights of the bourgeois revolutions and the proletarian revolution; accession to the International Covenant on Civil and Political Rights in 1966; globalization context and the experiences of secular states; (2) The content of the right to freedom of belief and religion has been expressed more and more completely; and the limitation on this right has been built more and more clearly throughout prohibitions, obligations, and responsibilities; (3) The right to freedom of belief and religion should be continued to operate in a harmonious combination between "the particular" and "the common", a selective acquisition of the successful experiences of secular states in the world. This study contributes to strengthening the protection of freedom of belief and religion in the context of building the rule of law in Vietnam.

**Keywords:** Operation, Right, Belief and Religion, Content, Limitation.

### **1 INTRODUCTION**

Studies on human rights, in general, and on the right to freedom of belief and religion, in particular, have a great attraction in modern society. Important revolutions in human history, represented by the proletarian and bourgeois revolutions, have the mission identified with the liberation of man, the giving of human rights, and warranties of those rights' enforcement. In Vietnam, the issue of freedom of belief and religion was defined by law as a basic human right from the first constitution in 1946 (Constitution of Vietnam, 1946, Article 10). Since then, a new legal-historical period has been opened for the operation of the right to freedom of belief and religion. Operating this right is understood to include the following steps: (1) Recognizing the right to freedom of belief and religion on a solid legal basis; (2) bringing this right to life, connecting it to beneficiaries; in common, the law will stipulate provisions on the individuals and religious organizations' manifestations to freedom of belief and religion; (3) ensuring the existence and inviolability of the right; specifically, the law will establish two directions, firstly, the "self-defense" of the individuals and religious organizations with the mechanism of acts' complaint and denunciation, secondly, the responsibility of state management agencies in limiting conflicts and punishing violations for education or deterrence. Most

concisely, the center of the three steps above lies in determining the content and the limitation on the right to freedom of belief and religion.

The right to freedom of belief and religion is a basic human right. However, in each country, the operation of this right has its characteristics. This particularity originates in many reasons. The most obvious explanation is the relationship between state sovereignty and human rights. The history of the struggle for independence and freedom of colonial countries like Vietnam has shown that in a country, human rights customarily can only be guaranteed in the condition of independent state sovereignty. Therefore, the operations of human rights, in general, and of the right to freedom of belief and religion, in particular, belong to the state as a lawmaker. But the nature and purpose of this operation must come from individuals and organizations that enjoy the right to freedom of belief and religion. The operation is directly related to the intrinsic factors of society. Besides, the operating must assure this right's international core values, which have been struggled by humanity to gain widespread recognition. Those values are essentially the achievement of human civilization. Operating properly the right to freedom of belief and religion has turned into an important requirement to help the state stabilize social order, fulfill its mission and responsibility to society. For the case of Vietnam – by its nature, a multi-religious nation with the more than 70-year history of building “the rule of law”, the operation of the right to freedom of belief and religion needs to be focused on discussion and improvement. Based on the dialectical methodology, three methods of analysis, synthesis, and comparison were used by the author for pointing out the results of this paper.

## 2 RESULTS

### 2.1 Major Domestic and Foreign Factors that Influenced the Formation of Legal Provisions on the Right to Freedom of Belief and Religion in Vietnam

In a most comprehensive approach, it is possible to divide the process of the development of Vietnamese law on belief and religion by periods of religious development during feudal, capitalist and socialist societies in Vietnam. Notwithstanding, within the scope of this article, the author only mentions a period of new Vietnamese state, following the August Revolution in 1945. The legal provisions on the right to freedom of belief and religion in Vietnam are a system of articles that have been uniformly and systematically prescribed in legal documents from the constitution to bylaws. These provisions have been formed on many factors, however, considering the period from 1945 to the present, the author can indicate at least the four main following factors:

#### 2.1.1 Vietnamese Culture

The history of the Vietnamese nation is the history of struggling to preserve independence and freedom. In this process, the Vietnamese people have absorbed the values of imported culture through voluntary ways (cooperation, exchange, integration) or forced ways (colonized, invaded). Culture and law have a cohesive and inseparable relationship. The formation of Vietnamese law on religious issues has had a connection with the Vietnamese cultural element.

##### - Culture of tolerance

In history, religions entered Vietnam in different ways and situations. In spite of different attitudes of the states, religions had been well received by Vietnamese people. This is explained as being linked with Vietnamese cultural tolerance: *“Vietnamese religious life is an open spirituality with an open pantheon. Its feature of tolerance enables the easy and peaceful importation of different religions”* and *“this is a difference from peoples with monotheistic spirituality in Western countries and some Eastern countries”* (Nguyen, 2006). When researching 04 Vietnam’s cultural encounters, Dr. Nguyen (Nguyen, 2012) revealed that *“religion is an important bridge for these cultural contacts”*. The result of these contacts is *“the presence of the vast majority of the world's major religions in Vietnam, along with the coexistence of endogenous religions and more than 50 new religious and belief phenomena”*. Thence, it can be concluded that *“the reason for having such a diverse but harmonious religious picture is because of tolerance in Vietnamese culture. From cultural tolerance leads to religious tolerance.”* (Nguyen, 2012). In consequence, Vietnamese law on belief and religion has been framed based on “cultural tolerance”, avoiding conflicts between state and religion and among religions. The law on the right to freedom of belief and religion has always supported the same legal status of all religions. This law has to ensure that there is no new religions’ exclusion. Just by pursuing this policy, in a multi-ethnic, multi-religious country like Vietnam, there have been no religious discrimination, religious conflict, and higher religious-ethnic war.

##### - Indigenous culture

One noticeable point in Vietnamese history is the thing that Vietnamese culture has been still deeply indigenous despite being dominated and ruled for thousands of years. More concrete evidence is that the religions into Vietnam are assimilated by indigenous culture. The Vietnamese “white paper” on religion wrote that: *“Exogenous religions entering Vietnam have adapted to the cultural and religious complexions of the Vietnamese people. As a result, they have transformed from their original form; in other words, once these exogenous religions entered Vietnam, they were assimilated by Vietnamese culture.”* (“Religion and Policies Regarding Religion in Vietnam”, 2006). Accordingly, the construction of legal provisions on the right to belief and religion in Vietnam has consistently considered the typical ethnicity of Vietnamese people. Standards and correctness of law can not rigidly follow the standards of another nation unless there is a desire for a conflict with the local culture.

#### - Patriotic culture

Patriotic culture is a valuable tradition of Vietnamese people, which has existed since the early days of defending the country. The Democratic Republic of Vietnam was born from the struggle for independence and human rights from colonial and feudal states. That state would have invariably formulated special and typical law, which has been closely linked to the spirit of patriotism. That law has oriented religions on social values and upholding patriotism. In the opposite direction, religions in Vietnam have been also associated with patriotic culture. Religions have had special slogans (Nguyen, 2012): *“Dharma, People and Socialism”, “To live the gospel in the heart of the nation”, “Good nation, good religion”, “Good life, good religion”*... which are constantly the guideline for action of dignitaries and followers in Vietnam. Government Committee for Religious Affairs of The Socialist Republic of Vietnam has concluded quite comprehensively: *“During the entire course of Vietnam’s history, especially during the two protracted and heroic Wars of Resistance Against Foreign rule and aggression in general, patriotic followers of various religions contributed in remarkable ways to Vietnam’s revolution for independence and unification of the Homeland. Since reunification, religious followers have continued the work of national development under the motto, for better secular and religious life.”* (“Religion and Policies Regarding Religion in Vietnam”, 2006). Thus, the law on freedom of belief and religion in Vietnam has contained and supported the patriotism of the believers. This is a fine tradition of the people of Vietnam, of the religions in Vietnam.

#### 2.1.2 The Ideology of Democracy, Human Rights of the Bourgeois Revolutions and the Proletarian Revolution

President Ho Chi Minh laid the foundations of the law on human rights in Vietnam. He studied the proletarian and bourgeois revolutions in the world and advocated the National Democratic Revolution for Vietnam. After this revolution, the Vietnamese people will build the rule of law with the target of “independence - freedom - happiness”. The state guarantees democracy and the human rights of Vietnamese people. In fact, freedom of belief and religion was also recognized by the Vietnamese National Assembly right in the first constitution in 1946 (Constitution of Vietnam, 1946, Article 10). Previously, in the Declaration of Independence in 1945, Ho Chi Minh absorbed the values of the bourgeois revolutions by quoting the Declaration of Independence of the United States of America made in 1776 and the Declaration of the French Revolution made in 1791 on the Rights of Man and the Citizen (“Ho Chi Minh - Selected Works Vol. 3”, 1962). Most importantly, Ho Chi Minh was based on the ideological ground of the proletariat revolution. President Ho Chi Minh reaffirmed the position of communists toward religions: *“In other socialist countries, people have full freedom of religion. It is the same in Vietnam”* (“Religion and Policies Regarding Religion in Vietnam”, 2006). In actually, democracy and human rights have been deeply maintained in Vietnam's policies on freedom of belief and religion from 1945 to the present. It can be noticed that the ideological values and achievements of the bourgeois and proletarian revolutions are the foundations for forming the law of the Vietnamese state since 1945, of course, including the law on the right to freedom of belief and religion.

#### 2.1.3 Accession to the International Covenant on Civil and Political Rights in 1966

The most popular and important legal document of civil and political rights is the International Covenant on Civil and Political Rights in 1966. This document has been concretized and implemented by member countries. In the context of international integration for national development, the accession to the 1966 Covenant is both a right and a responsibility of an independent, sovereign and responsible state to the international community. In 1984, Vietnam joined this Covenant. From this accession, the Covenant has contributed to shaping and directing Vietnamese legal documents on freedom of belief and religion. The issue of “approximating to the provisions of international law on freedom of belief and religion” has become a criterion to assess the progress of domestic legal documents. At the same time, it is a civilized and righteous trend, which has been contributed by researchers to contribute to domestic law formulation.

Significant changes in Vietnamese law from the date of accession to the Covenant have displayed the great influence of the Covenant. Of course, the governing factor also comprehends documents associated with the Covenant such as CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), The UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief is a United Nations resolution, passed on 25 November 1981...

#### 2.1.4 Globalization Context and the Experiences of Secular States

The influence of globalization is an inevitable consequence of the “flat world” as well as Vietnam's integration with the world. Globalization paves the way for religion to develop in very diverse directions. The changes of religions and beliefs in Vietnam connected to globalization have been pointed out by many scientists, such as changes in appearance and religious structure; the transformation of religious beliefs and its consequences; changes in the way of evangelism and religious life (Nguyen, 2019). As a certain logic, because of the change of the regulated object, the law on freedom of belief and religion must be adjusted to suit the requirements of the new situation.

Within the framework of bilateral, multilateral, international and regional relations of Vietnam, the matter of learning from the successes and mistakes of nations in dealing with religion both in the present and the past has grown into an essential content. In particular, the process of developing the law on the right to freedom of belief and religion in Vietnam, lawmakers often pay attention to learning from the experience of progressive countries, of hundred-year secular states in Europe and Asian countries containing certain similarities in religious diversity. The influence of this factor is reflected in many aspects, including academic and state management practices.

## 2.2 The Content and Limitation on the Right to Freedom of Belief and Religion in Vietnam through the Legislative Stages

The central affair of the operating the right to freedom of belief and religion is the determination of the content and limitation on this right. This is the premise for both the state and individuals, religious organizations to behave together appropriately. This determination demands to be scrutinized in the process of building, supplement and improving the law on the right to freedom of belief and religion. A review of the constitutional stages of Vietnam from 1945 to present demonstrates that the content and limitation on the right to freedom of belief and religion in Vietnam contain positive movements.

### 2.2.1 From 1945 to 1991

This was not only the time to implement the 1946 Constitution, the 1959 Constitution, and the 1980 Constitution but also the period before, during, and after the Vietnam wars. Hence, the provisions on freedom of belief and religion were extremely important to serve the common goal of the revolution and contribute to strengthening the great unity bloc of the entire nation.

*Firstly, the content of the right.*

In terms of the constitution, the Constitution in 1946 recognized that Vietnamese citizens have the right to “*freedom of belief*” (Article 10). The 1959 Constitution affirmed that “*citizens of the Democratic Republic of Vietnam have the right to freedom of belief and to follow or not to follow a religion*” (Article 26). The 1980 constitution continued to recognize “*citizens have the right to freedom of belief and to follow or not to follow any religion. No one is allowed to take advantage of religion in order to act against the laws and policies of the State*” (Article 68). Thus, the right to freedom of belief and religion has been mentioned more and more fully throughout the constitutional periods. This is understandable because since 1984 Vietnam has just joined and started the process of codifying the 1966 International Covenant.

*Secondly, the limitation on the right.*

Throughout this stage, the limitation on the freedom of belief and religion also appeared and existed specifically in the two documents: Presidential Decree No. 234 dated on 14 June 1955 on religious issues, Decision No. 297 on 11 November 1977 of the Government Council on policies on religion.

In Decree No. 234 on 14 June 1955, restrictions on freedom of belief and religion appear in the regulations on *the mechanism of “registration - permission”* for activities such as evangelizing and preaching; publishing and printing; economic, cultural and social activities of religions... (Chapter 2, Chapter 3), *the mechanism of obligations* - “religious organizations must abide by the laws of the Democratic Republic of Vietnam, like all other people's organizations” and “members of religious orders and followers are equally entitled to each right of a citizen and must fulfill each duty of a citizen” (Article 13, Article 14), *the mechanism of prohibition -*

“the law will punish anyone who: takes advantage of religion in order to undermine peace, unity, independence, and democracy; advocates war or destruction of national unity; prevents believers from fulfilling their duties as citizens; encroaches upon the freedom of belief and the freedom of thought of other people; carries out illegal activities” (Article 7).

Decision No. 297 in 1977 was born at the time of the country's liberation, reunification and the beginning of the period of the regional and international integrations. In particular, Decision No. 297 in 1977 recorded 5 principles on the religious policy of Vietnam, which maintained and improved on previous mechanisms: “The Government ensures the citizens’ right to freedom of belief and the right to freedom not to follow any belief. Members of religious orders and religious followers are all entitled to every citizen’s rights and must fulfill each duty of a citizen. Religious organizations and every citizen, whether a religious follower or not, are equal before the law. Religious groups must abide by the Constitution, laws, guidelines, policies, and regulations of the State in every area of their activities. Anyone taking advantage of religion to undermine the independence of the Homeland, to oppose the system of socialism, to undermine the great national unity of all the people, to prevent followers from fulfilling their duties as citizens, or to oppose the policies and laws of the State will be punished according to the law.” (Decision No. 297 on Policies of Religions, 1977).

### 2.2.2 From 1992 to 2013

This is the period of implementation of the Constitution in 1992. In this stage, the operation of the right to freedom of belief and religion rested on Decision No. 26 on 19 April 1999 on religious activities and Ordinance on belief and religion in 2004.

*Firstly, the content of the right.*

By this time, the phrase “freedom of belief and religion” was used officially and uniformly. The 1992 Constitution stipulated that citizens “have the right to freedom of belief and religion, follow or not follow any religion” and “all religions are equal before the law” (Article 70). The 2004 Ordinance on belief and religion was a major development in asserting the right to freedom of belief and religion. In general, the provisions of the 2004 Ordinance made a clearer mechanism’s state management. Thereby, they helped ensure the transparency of the operation. According to the 2004 Ordinance on belief and religion, “citizens have the right to freedom of belief and religion, to follow or not to follow a religion. The State guarantees the right to freedom of belief and religion of its citizens. Nobody is allowed to infringe upon that right. All religions are equal before the law. Citizens who follow a belief or religion, or who do not follow any belief or religion, as well as citizens who follow different beliefs or religions, shall have to respect each other”. (Article 1)

*Secondly, the limitation on the right.*

The Government's Decision No. 26 in 1999 on religious activities promulgated the limitation on the freedom to manifest belief and religion is: “*The following are forbidden and will be punished according to the law: Every action that violates the right to freedom of belief and religion; that takes advantage of belief or religion to oppose the State of the Socialist Republic of Vietnam; that hinders believers in their duties as citizens; that undermines the cause of national unity of all the people; that weakens the nation’s wholesome culture; as well as any activities that are superstitious.*” (Article 5).

The 2004 Ordinance recorded manifestations on the freedom of belief and religion: (1) No discrimination by reasons of belief or religion, nor infringement upon the right to freedom of belief and religion of citizens, shall be permitted; (2) No one shall be permitted to abuse the right to freedom of belief and religion to undermine the peace, independence and unity of the country, to instigate violence or to carry out war propaganda, or propaganda against State laws or policies; to sow division among the people and religions; to disturb public order, to encroach upon the life, health, human dignity, honor or property of others, or to obstruct the exercise by the people of their civil rights or obligations; to carry out superstitious activities; to commit other breaches of the law. (Article 8). The 2004 Ordinance also restricted belief and religious activities and would be “suspended” if it falls into one of the following cases: such an activity encroaches upon national security, or seriously affects public order or the environment; such an activity adversely affects the unity of the people or the fine cultural traditions of the nation; such an activity encroaches upon the life, health, human dignity, honor, or property of others; other serious violations of laws (Article 15). The 2004 Ordinance retained the form of “registration” for the following affairs: religious activities; operation and recognition of religious organizations; and international relations of religious organizations.

### 2.2.3 From 2013 to the Present

Presently, operating the right to freedom of belief and religion placed on the 2013 Constitution and the 2016 Law on belief and religion.

*Firstly, the content of the right.*

The 2013 Constitution had a separate provision that specifies the right to freedom of belief and religion. "1. Everyone shall enjoy the freedom of belief and religion; they can follow any religion or follow none. All religions are equal before the law. 2. The State respects and protects freedom of belief and religion. 3. No one has the right to infringe on the freedom of belief and religion or to take advantage of belief and religion to violate the laws." (Article 24).

More specifically, the 2016 Law on Belief and Religion devoted a chapter to regulate "the right to freedom of belief and religion" and presented many progressive points in expanding the freedom of belief and religion to particular subjects: "Everyone has the right to freedom of belief and religion, to follow or not to follow a religion. Everyone has the right to manifest their belief or religion; to practice belief or religious rites; to participate in festivals; to study and practice religious tenets and canon laws. Everyone has the right to lead a religious life at a religious establishment, to study at a religious training institution or attend a refresher course of a religious organization. Minors, before leading a religious life at a religious establishment or studying at a religious training institution, shall obtain the consent of their parents or guardians. Dignitaries, religious officers, and clergy persons have the right to perform religious rites, preach and propagate their religions at religious establishments or other lawful places. Persons held in custody or temporary detention in accordance with the law on custody and temporary detention; persons who are serving imprisonment sentences; persons who are serving the measure of consignment to a reformatory, compulsory education institution or compulsory detoxification establishment have the right to use religious books and to manifest their beliefs or religions" (Article 6). These provisions displayed that "the right to freedom of belief and religion is itself, not granted by any agency, organization or individual" and "this is everyone's right and this right is not restricted by nationality, gender, age".

The 2016 Law progressively developed rules of complaint and denunciation: "Representatives or management boards of belief establishments, religious organizations, dependent religious organizations, dignitaries, religious officers, clergy persons, believers and other organizations and individuals with related interests or obligations may file complaints, initiate administrative cases or civil lawsuits before court, and request the settlement of civil matters by the court to protect their rights and interests in accordance with relevant laws. Individuals have the right to denounce acts of violation of the law on belief and religion" (Article 63).

*Secondly, the limitation on the right.*

The 2013 Constitution stipulated "*human rights and citizens' rights shall only be restricted when prescribed by law in imperative circumstances for the reasons of national defense, national security, social order and security, social morality and community well-being*" (Article 14) and "*the practice of human rights and citizens' rights cannot infringe national interests and legal and legitimate rights and interests of others*" (Article 15). In order to contribute to enlightening this limitation, the Law on Belief and Religion in 2016 imposed prohibited acts: "1. *Discriminating and stigmatizing people for beliefs or religions.* 2. *Forcing others to follow or not to follow, bribing others into following or not following, or hindering others in following or not following a belief or religion.* 3. *Profaning a belief or religion.* 4. *Carrying out belief and religious activities to a/ Infringe upon national defense, security and sovereignty, social order and safety and the environment; b/ Violate social morality; infringe upon the body, health, life, health, and property and hurt the honor and dignity of others; c/ Obstruct the exercise of civil rights and performance of civil obligations; d/ Divide nationalities; divide religions; divide people who follow a belief or a religion from people who do not, and people who follow different beliefs or religions.* 5. *Abusing belief and religious activities for self-seeking purposes.*" (Article 5).

The 2016 Law also formulated the requirements for activities in "belief", which have not been specifically provided before, which made the limitation on this right clearer. The law stipulates principles of organization of belief activities: "(1) Belief activities and festivals must preserve and promote the fine traditional cultural values of the nation; (2) Belief activities and festivals shall be organized in a secure, orderly, safe and economical manner and must protect the environment" (Article 10). The 2016 Law noted such issues as "representatives, management boards of belief establishments", "registration of belief activities", "organization of regular belief festivals", "organization of first-time belief festivals, restored belief festivals or regular belief festivals with changes", "management and use of revenues from organization of belief festivals". The 2016 Law specified the legal status of religious organizations in order to determine the legal status of religious organizations, guaranteeing the rights and obligations of religious organizations. This limitation on the right was reflected in state regulations on recognition of religious organizations; establishment, division, splitting, merger and consolidation of dependent religious organizations; ordainment,

appointment, election, transfer, dismissal, and relief of duty of religious dignitaries, religious officers, and clergy persons; religious training institutions, religious refresher courses; religious activities; publishing, education, health care, social protection, charity and humanitarian activities of religious organizations; religious activities involving foreign elements; publishing, education, health care, social protection, charity, and humanitarian activities; property of belief or religious establishments. The 2016 Law also clarified responsibilities and powers of organizations and agencies in state management of belief and religion; in carrying out belief and religious affairs, gathering religious and non-religious compatriots in the great unity bloc of the entire nation.

## **2.3 Some Legal Directions in the Process of Operating the Right to Freedom of Belief and Religion**

In the context of the paper, the author has not been able to analyze in detail the activities that the state and religious individuals, organizations have carried out to operate this right in practice. The author has just stopped at the centralized manifestation of this operation - the definition of content and the restriction on the right to belief and religion. Nonetheless, in this perspective, the author also offers some following legal directions:

### ***2.3.1 The Right to Freedom of Belief and Religion Should Be Continued to Operate in a Harmonious Combination between “the Particular” and “the Common”***

This direction was embodied in the 1966 International Covenant, in which the restriction on the right to freedom of belief and religion was explained as “not to affect the exercise of freedoms of others” (article 18). The matter of the freedom of a right - “the particular”, when placed in society or in relation to the wider freedom of all human rights - “the common”, leads to two cases:

*Firstly*, the right to freedom of belief and religion can link up with one or more relative rights. The group of these rights will require the law to be careful in restricting one of them. The evidence for this case is the relationship between the right to freedom of belief and religion and the rights to freedom of association and freedom of expression. In that situation, the issue of refusing the registration of the establishment of a religious organization or the publication of religious cultural products (which are restricted by the right to freedom of belief and religion) will need to explain fully and properly unless there is a violation of freedom of association and freedom of expression.

*Secondly*, the right to freedom of belief and religion when placed in a society should be restricted in order to avoid the conflict between the “freedoms” of many people exercising this right or to assure the common safety of society. In that case, the factor “freedom” gradually shifted to the factor of “equality”. This is mentioned by many Western scholars. According to Norton (Norton, 2016) “A few words need to be said here about the role (or not) of equality (also known as “equal treatment”) in justifying religious freedom protection”. Ferrari concluded that “the shift from religious liberty to religious equality is a component of the broader shift from substantive to functional rights”, questioned “what is likely to be gained or lost in this process, and how effective can it be in protecting the core of religious freedom?” and answered “there is no general answer because the effect and outcome of this shift depends on the context in which it takes place. The following sections show that in Europe its effects have been different according to the different fields of law and national legal systems” (Ferrari, 2016). However, the stability in religious social life in Vietnam has been opening up opportunities for continuing the principle of “equality” that Norton said, “Equality is a “complex”, “essentially pluralistic”, and “diverse” principle” (Norton, 2016).

### ***2.3.2 The Right to Freedom of Belief and Religion Should Be Continued to Operate in a Selective Acquisition of the Successful Experiences of Secular States in the World***

Operating the right to freedom of belief and religion is not imposed only by lawmakers. It is more convincing to be related to satisfying the belief and religious demands based on Vietnamese culture and tradition. However, in an era of globalization, learning from the experiences of advanced nations is an important motivation for each nation. In Vietnam, to ensure this right in practice better, some following issues can be mentioned:

*The first*, citizens have the right to “follow or not follow any religion”, but how will the state treat “religion” if it is a new religious phenomenon and even if conflicts between old religions and new religious phenomena occur? Experience from Singapore displayed that “No religious group is banned in Singapore, as long as they are properly registered as societies under the Societies Act (which applies to all gatherings of persons, whatever their cause or objective) or as companies under the Companies Act (again applicable to all

organizations, commercial or not-for-profit) and “The only legitimate position the State can take is to promote tolerance”, “Where laws and constitutions permit freedom of choice in religious matters, the State must make it clear that support of the status quo does not mean the State will take sides in disputes that arise or are ongoing between religions and religious leaders” (Toh, 2006).

*The second*, the affair of “change religion” has been also posing a lot of difficult problems in Vietnamese society. Typically, the conversion from traditional polytheism, traditional religion to Catholicism and Protestantism in the Northern Uplands and in the Central Highlands (Nguyen, 2019). In this regard, Taylor concluded that “*One of the greatest challenges in the drafting of provisions relating to freedom of religion in the Universal Declaration, the ICCPR and the 1981 Declaration was the express right to change religion*” (Taylor, 2005). Taylor pointed out the concerns of the world because there were “*arguments concerning coercion to change religion, in particular, proselytism, which was associated with Crusade history, the propagandist motives of missionaries, sectarianism, imperialist religious zeal and attempts at foreign domination*”. Therefore, when operating the right to freedom of belief and religion, it is necessary to clarify “*a distinction between the right to propagate one’s beliefs (which should be protected) and coercion to change the religion or beliefs of another (which may be restricted)*”. Taylor also mentioned the negative behavior of countries: “*Negative attitudes towards proselytism in some countries result merely from an attitude of social mistrust of proselytism as an irritating and slightly intrusive practice incurring as much inconvenience as interruptions from unsolicited selling or political canvassing. In other countries, restrictions on proselytism are designed to protect particular religions or denominations in order to preserve national identity. In many countries protection of doctrine is essential to the integrity of entire legal systems based on religious law, while in others State ideology is fundamentally atheistic*”. Of course, in the case of Vietnam, when exercising the right to change religion, it is significant to always respect the diversity of belief and religion in society and to ensure equality among religious people and non-religious people.

### 3 CONCLUSION

Referring to the operation of the right to freedom of belief and religion in Vietnam, some conclusions can be illustrated:

This right was recognized and protected by Vietnamese law. During the legal period from 1945 to now, the Vietnamese state has operated this right based on Vietnamese culture, the will of an independent, free and happy country as in the 1945 Declaration of Independence written by President Ho Chi Minh. Besides, factors as international law, the globalization context and the experiences of advanced countries have increasingly influenced Vietnam's law on belief and religion.

The operation of this right has achieved considerable success. The acknowledgment and restriction on this right have constantly being added, renewed and perfected.

Operating this right is not an easy task and, if not careful, can result in a breach. Therefore, the Vietnamese state should focus on learning from countries' experiences in dealing with complicated cases, cultivate harmonious combination between “the particular” and “the common”; and make appropriate decisions in protecting the right.

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