

## VIET NAM

### CERD A/39/18 (1984)

353. The initial report of Viet Nam (CERD/C/101/Add.5) was considered by the Committee together with the introductory statement of the representative of the reporting State who highlighted some points in the report and provided the Committee with some additional information, in particular, on the implementation of the political and socio-economic rights as well as on measures taken to promote better understanding, tolerance and friendship among all the nationalities which made up Viet Nam.

354. The Committee welcomed Viet Nam's initial report as the first step taken towards entering into the control system provided for by the Convention and paid tribute to the heroic struggle which the people of Viet Nam had waged for their freedom and independence. It expressed regret, however, that the report was not fully in keeping with the Committee's guidelines (CERD/C/70/Rev.1) concerning the form and contents of reports to be submitted by States parties and recommended that the Government take them into account in preparing its future periodic reports.

355. Members of the Committee asked for clarification on how the situation with regard to law had developed in Viet Nam after its reunification; whether the laws and decrees of Viet Nam had been replaced automatically by those of the Socialist Republic or whether a differentiation had been made between the laws depending on their political or technical background; whether there was any legislation regarding habeas corpus or its equivalent in the case of contravention of human rights; whether the Convention constituted internal law in the country; and which of the three Constitutions of 1946, 1959 and 1980, mentioned in the report, was at present effective.

356. Much of the discussion revolved around the Government's policy for the ethnic minorities. Referring to the statement that there were 50 ethnic minorities in Viet Nam which accounted for 12.3 per cent of the population, members asked for more details on the country's demographic composition. They also asked whether the various organs specifically responsible for the affairs of minorities, mentioned in the report, still existed or whether the Council of Nationalities had taken over the work done by all the other organs; what criteria governed the election of the deputies representing the ethnic minorities in the National Assembly, what the results of that Council's work were in regard to ethnic minorities and their current degree of development; and whether there were allocations of deputies to minorities or whether the deputies were chosen by a single party. In addition, the members requested the text of Decree No. 229/SL of 1955, which outlined the Government's policy with regard to ethnic minorities, as well as more details regarding its implementation. Further information was requested on the machinery for drawing minorities into the political process in compliance with articles 1, paragraph 4, and 2, paragraph 2, of the Convention and on how that principle was being implemented, with particular emphasis on the removal of disparities between ethnic groups and other social strata. It was asked whether the Montagnards who had fought against the forerunners of the present Government of Viet Nam in the civil war came under the protection of the State and whether Viet Nam was treating them with clemency. Furthermore, an explanation as to which group constituted the feudalists who had oppressed the minorities in the past was also requested. Questions were also asked about the level

of education and the standard of living, health and housing enjoyed by the minorities as compared with the level of income and education of the country as a whole, as well as on official languages and the languages in which education was available. Since Viet Nam was a multinational State, some members inquired whether people of foreign extraction who took Vietnamese nationality enjoyed the same rights as Vietnamese nationals, whether there was laws to enforce protection of those rights and what the legislative, administrative and judicial effects of implementation of those laws might be. Regarding foreign immigrant workers, it was asked whether there were any specific regulations to protect their rights, and what the situation was in regard to the practical implementation of any such regulations. Some members regretted that the report did not mention the flow of refugees from Viet Nam in the late 1970s and early 1980s. In this connection, information was requested about the current situation of refugees and the attitude of the Government towards the solution of that problem. One member observed that that problem was the consequence of the domestic and foreign policies carried out by the Government. Clarifications were asked for concerning the difference between nationalities and what were referred to as ethnic minorities.

357. With reference to article 4, it was stressed that the information provided in the report was insufficient to assess the Government's compliance with its obligations under that article to enact specific legislation prohibiting certain acts of racial discrimination. It was suggested that the relevant information should be included in the next report.

358. With respect to the implementation of article 5, members pointed out that the extracts from the Constitution set out in annex III of the report did not fully cover the information required under subparagraphs (d) (ii), (iii), (viii) and (ix), (e) (iii), (v) and (vi) and (f). The relevant information was requested in the next report. It was also asked whether people enjoyed the right to choose their work freely; whether there were trade unions in Viet Nam and, if so, what freedoms they enjoyed; whether the inhabitants of Viet Nam had the right to leave the country and return to it; and whether they had the right to own land and to inherit.

359. In connection with article 6, members of the Committee noted that, although in accordance with article 73 of the 1980 Constitution, citizens could submit complaints regarding unlawful acts, it was not clear whether they had judicial recourse and which bodies investigated their complaints. Complaint procedures needed to be further clarified, as did the measures taken to secure the legal equality of citizens.

360. With regard to the implementation of article 7, further information was requested in the next periodic report. It was suggested, in particular, that the Government of Viet Nam might wish to consult the guidelines concerning that article and the study prepared by a former member of the Committee.

361. In replying to some questions raised by members of the Committee, the representative of Viet Nam stated that, in accordance with article 91 of the Constitution, the functions of the Council of Nationalities were to study questions relating to nationalities and to make proposals on them to the National Assembly and the Council of State and to assist the National Assembly and Council of State in supervising the implementation of policies on nationalities.

362. With regard to the languages spoken by ethnic minorities, he said that in many parts of Viet

Nam the local ethnic minority language was the first language, Vietnamese being only the second.

363. With regard to the problem of refugees, the representative explained that in 1954, at the end of the war with France, some 800,000 persons had followed the French army to the south of Viet Nam and that that exodus had been a political operation carefully prepared by foreign secret services. In 1975, when the United States forces had left Viet Nam, only 150,000 persons had left the country. Their numbers had included officers and high-ranking officials, rich merchants and industrialists of the previous régime and persons who had no real reason to flee but who had been afraid of a blood bath as a result of United States psychological warfare. In 1978, in a political operation designed to discredit Viet Nam and to worsen its economic situation, persons had been incited to flee by a foreign country. Furthermore, the representative said that, after the war, Viet Nam had been left with a ruined economy and a perverted society, with over 3 million unemployed and large numbers of orphans, prostitutes and drug addicts, but no one had been expelled, since his country needed manpower for reconstruction. In 1979, his Government had declared its readiness to allow persons who wished to leave the country to depart, and an agreement to that end reached with the Office of the United Nations High Commissioner for Refugees. His Government considered that, except for a small minority, all Vietnamese who had left the country were compatriots, and, if they wished to return to Viet Nam, their applications would be settled on a case-by-case basis.

364. With regard to the implementation of article 5, he stated that, according to the Constitution, the Confederation of Trade Unions was a mass organization of the Vietnamese working class, a school of economic management and state administration, and that the trade unions took part in the conduct of state affairs, supervised the work of state bodies, participated in the management of factories and protected the interests of the workers.

365. With regard to the complaints procedure and remedies available to victims of discrimination, he pointed out that article 73 of the Constitution stipulated that citizens had the right to lodge a complaint or denunciation with any state authority regarding a transgression of the law by any state body. Moreover, a decree of the Council of State of 1981 indicated that citizens had the right to lodge complaints with any level of the Administration; such complaints must be examined and dealt with in due course and a reply must be given to the person concerned within one month.

366. In conclusion, the representative assured the Committee that he would forward all the questions raised and comments made to his Government, so that it could respond fully in the next periodic report.

## **CERD A/47/18 (1992)**

275. At its 948<sup>th</sup> meeting, on 10 August 1992 (see CERD/C/SR.948), the Committee considered the implementation of the Convention by Viet Nam on the basis of the previous report (CERD/C/101/Add.5) and its consideration by the Committee (see CERD/C/SR.677 and 678). The Committee observed that the State party had not submitted a report since 1983 but was pleased to note the presence of the representative of the State party at the Committee's meeting as an indication of the resumption of dialogue between the State party and the Committee.

276. The representative of the State party expressed his Government's regret at not submitting a periodic report and by way of explanation for the delay informed the Committee that extensive revision of the 1980 Constitution of Viet Nam had recently been undertaken resulting in the adoption of the National Assembly of a new Constitution only on 15 April 1992. He also indicated that, in view of the major reforms that had taken place in Viet Nam and the need to provide information to the Committee on their effect, he hoped that the Committee would consider favourably his Government's request that the consideration of his Government's next periodic report be postponed until 1993. In addition, he requested advice from the Committee as to the elaboration of that report.

277. The representative of the State party also drew attention to certain provisions of new legislation relating to the implementation of the Convention. He referred to article 5 of the new Constitution, relating, *inter alia*, to the promotion and protection of the rights of culture, language and traditions of various Vietnamese minorities, as well as to the prohibition of acts of discrimination against them. He indicated, moreover, that the Government, through development initiatives, was promoting improvements in the standard of living, both materially and culturally, of the ethnic minorities in Viet Nam.

278. The representative of the State party also noted that pursuant to decision 72/HDBT of 13 February 1990, the Council of Ministers had been charged with responsibility for political, social and economic development matters in the mountainous regions, where many ethnic minorities were to be found.

279. The members of the Committee noted with interest the information provided by the representative of the State party, including the intention of his Government to submit a report to the Committee in 1993 and the request that his Government be provided with advice on what information should be contained in its next report to the Committee. They indicated that the next periodic report should be divided into two parts. One part should deal with the general economic, political and social context in which the Convention is implemented. The other part should be more specific in content and address such concerns as the constitutional principles affecting the implementation of the Convention in Viet Nam; the incorporation into domestic law of the provisions of the Convention and whether those provisions can be invoked in court; and the problem of refugees returning to Viet Nam, especially in view of the agreement concluded between the United Kingdom of Great Britain and Northern Ireland and Viet Nam on enforced repatriation of Vietnamese refugees in Hong Kong.

280. With respect to the implementation of article 2 of the Convention, the Committee requested that information be provided on the subject of discrimination against persons from different regions

and belonging to different groups and about the measures being taken to combat such discrimination and to improve the social and economic position of such persons.

281. In connection with articles 4 and 6 of the Convention, the Committee requested detailed information concerning the measures taken to punish acts of discrimination and the remedies available in court for victims of discrimination.

282. With respect to article 5 of the Convention, members of the Committee requested information on the effective enjoyment of the rights contained in the article. They also wished to know what action was being taken to abolish re-education camps, what problems existed in connection with obtaining residence permits and how non-registration affected the enjoyment of health, education and housing rights. Further information was also requested on abuses suffered by religious leaders and prisoners of conscience.

283. Members of the Committee also sought information on the efforts being made by the State party to make the provisions of the Convention known and more generally to teach and inform the public about non-discrimination and human rights standards. Finally, they wished to know what efforts were being made to encourage the work of non-governmental organizations involved in human rights matters.

## **CERD A/48/18 (1993)**

330. The Committee considered the combined second to fifth periodic report of Viet Nam (CERD/C/204/Add.1) at its 994<sup>th</sup> and 1005<sup>th</sup> meetings held on 6 and 16 August 1993 (CERD/C/SR.994 and 1005).

331. The report was introduced by the representative of the State party, who informed the Committee of the considerable efforts made by his country in meeting its obligations under the Convention and of the factors and difficulties it faced, as a developing country undergoing economic reconstruction, in implementing the provisions of the Convention.

332. The representative provided details of the ethnic composition of the population of Viet Nam and of the measures taken to address the situation of the various ethnic groups, drawing attention, in particular, to the plan adopted for the socio-economic development of the mountainous areas where many ethnic minorities lived. The role of international cooperation and assistance in improving the conditions of ethnic minorities was also outlined.

333. Members of the Committee welcomed the re-establishment of the dialogue with the State party and expressed appreciation for the detailed information provided in the report and the introductory statement of the representative of Viet Nam. However, they sought clarification on various matters, including the status of the Convention within domestic law and whether the provisions of the Convention could be invoked before the courts.

334. With regard to matters of a general nature, members of the Committee sought further information on the composition of the Council of Nationalities and the Committee for Mountainous Regions and Ethnic Minorities Affairs, the election of their members and their effectiveness in practice. They also wished to know whether a preliminary review and evaluation of the implementation of the socio-economic plan for the mountainous areas had been undertaken.

335. Members of the Committee also requested clarification on reports received concerning the displacement of populations from different regions to the Mekong Delta. In addition, concern was expressed at reports of discrimination on the grounds of regionalism, religion or mixed parentage, as well as discrimination practised against persons who voluntarily repatriated to Viet Nam or had been held in detention, and at the situation of Vietnamese residing abroad. Information was also requested about the situation of persons of Chinese and Cambodian origin resident in the State party.

336. In connection with the implementation of article 4 of the Convention, concern was expressed that not all of the acts prohibited under the provisions of that article were covered by article 81 of the State party's Penal Code.

337. Concerning article 5 of the Convention, members of the Committee expressed concern at reports received of practices which undermined the equal enjoyment by all persons of the rights contained in that article. In that connection, they wished to receive statistics on the percentage of ethnic minorities of the mountainous regions employed as police, teachers, civil servants and soldiers.

338. In respect of article 6 of the Convention, members of the Committee wished to receive information in the State party's next periodic report on the number of complaints of acts of racism and racial discrimination which had resulted in court action and of any sentences applied by the courts in such cases.

339. With regard to article 7 of the Convention, members of the Committee requested further details concerning activities undertaken by the mass media to disseminate information on the principles and provisions of the Convention, and sought clarification as to the availability of the texts of international human rights instruments in different minority languages and human rights training given to law enforcement officials. The attention of the State party was drawn to the possibility of requesting technical assistance from the Centre for Human Rights on those matters.

340. Members of the Committee expressed the hope that the State party would give serious consideration to making the declaration under article 14 of the Convention and would also undertake to withdraw its reservations to the Convention.

341. In reply to questions raised by members of the Committee, the representative of the State party provided detailed explanations of his Government's response to the refugee issue, including the conditions governing the implementation of the policy on repatriation within the framework of the Plan d'action global en faveur des réfugiés and bilateral agreements. Vietnamese returning to their country under bilateral agreements were not persecuted for their illegal departure from the country but could be brought to justice for crimes, such as theft or murder, committed before their departure from Viet Nam.

342. The representative of the State party informed the Committee that the provisions of international instruments to which Viet Nam was a party could be invoked before the courts and that domestic legislation was being brought into conformity with the provisions of international instruments, as appropriate.

343. With regard to the composition, powers and practical influence of the Council of Nationalities and the Committee of Mountainous Regions and Ethnic Minorities Affairs, the representative explained that the Council could propose policies with regard to ethnic minorities to the Council of Ministers. Members of the Council of Nationalities could also attend meetings of the National Assembly and the Prime Minister's Cabinet when questions concerning ethnic minorities were being discussed. As for the work of the Committee on Mountainous Regions and Ethnic Minorities Affairs, it mainly dealt with matters relating to the development of the mountainous regions and improvements in the situation of ethnic minorities. As such, the Committee had the right to supervise and monitor the action taken by Ministers with regard to ethnic minorities and also dealt with resource and budget allocations to ethnic groups.

344. In addition, the representative informed the Committee that quotas existed for candidates of ethnic minority groups to the National Assembly and Regional People's Committees. Preferential treatment and policies were also applied to ethnic groups in order to improve their situation with regard to socio-economic development. At the regional level efforts were under way to try to reduce the differences in the levels of development between the lowland and highland areas of the country.

345. The representative also provided information on the history and distribution of ethnic groups within Viet Nam and indicated that actions relating to the redistribution of populations was determined at the provincial and not the national level. With regard to the situation of persons who had been loyal to the former regime in Viet Nam and Amerasians, he pointed out that programmes were available to assist the former to emigrate, if they so wished, and that a street children project initiated by the Ministry of Labour and a non-governmental organization benefitted some children of Amerasian origin. The situation of persons of Chinese ethnic origin was being addressed through bilateral contacts at the highest political levels.

346. The representative also briefly addressed matters relating to freedom of religion, the situation of persons of Vietnamese origin currently living in Eastern Europe and the former Soviet Union, as well as his Government's policy on visa requirements for leaving the country. On the matter of religious freedom he indicated that that right was guaranteed by the Constitution and that harmony between religions was being sought, especially as the issues it involved were sensitive ones which should not be exploited to create instability in the country. Concerning the situation of persons of Vietnamese origin living in Eastern Europe and the former Soviet Union, the representative informed the Committee of his Government's willingness to address such concerns through bilateral relations. On the matter of the requirement of visas for leaving Viet Nam, the representative indicated the reasons for having retained that system.

347. Finally, the representative informed the Committee that the next periodic report of Viet Nam would contain information on questions and concerns raised during the examination of the currently being considered report.

#### Concluding observations

348. At its 1009<sup>th</sup> meeting, held on 18 August 1993, the Committee adopted the following concluding observations.

##### (a) Introduction

349. The Committee expressed its appreciation to the State party for the information contained in its report and the supplementary information provided by the State party representative. The Committee welcomed the resumption of the dialogue with the State party and noted with satisfaction that reports submitted by Viet Nam had been recently considered by several other human rights treaty bodies.

##### (b) Positive aspects

350. The Committee noted with satisfaction that the State party had undertaken to move towards a fuller establishment of the rule of law and to reform its legislation in line with its obligations under various international human rights treaties.

351. The Committee also welcomed the State party's efforts to improve the level of socio-economic development of ethnic minorities, especially of those living in the mountainous regions of the country.



(c) Factors and difficulties impeding the application of the Convention

352. The Committee noted the difficulties encountered by the State party during the current transitional period of economic and social reconstruction following years of war.

(d) Principal subjects of concern

353. With regard to the implementation of article 4 of the Convention, the Committee expressed concern that article 81 of the Penal Code did not refer to all the acts of ethnic or racial discrimination prohibited by the Convention. Furthermore, the Committee noted the insufficiency of the information provided on the practical implementation of articles 5 and 6 of the Convention, in particular regarding ethnic and religious minorities, refugees, children of mixed origin and Vietnamese abroad.

354. The Committee was also concerned that the difficulties faced by the State party during the current period of reconstruction should not adversely affect the development of further initiatives to improve the implementation of programmes designed for the benefit of the most disadvantaged sectors of society, especially ethnic minorities.

(e) Suggestions and recommendations

355. The Committee recommended that the State party should prepare, as soon as possible, the core document containing information of a general nature.

356. The Committee would appreciate receiving in the next report further information on progress achieved in respect of development plans designed to improve the situation of ethnic minorities, particularly those living in the mountainous regions. Information was also requested on: the practical implementation of the Convention, in general; measures taken with regard to the implementation of article 4 of the Convention; developments with regard to freedom of movement, freedom of opinion and freedom of religion; the number of complaints of racial discrimination received and considered by the courts, and the judgements handed down in such cases.

357. The Committee suggested that further measures should be taken to implement more fully article 7 of the Convention, and that technical assistance should be called upon for the translation of international instruments into minority languages.

358. The Committee expressed the hope that the State party would consider making the declaration under article 14 of the Convention and recommended that the State party should seriously consider withdrawing its reservations under the Convention.

## **CERD A/56/18 (2001)**

408. The Committee considered the sixth to ninth periodic reports of Viet Nam, due on 9 July 1993, 1995, 1997 and 1999, respectively, submitted in one document (CERD/C/357/Add.2) at its 1480th and 1481st meetings (CERD/C/SR.1480 and 1481) on 8 and 9 August 2001, and at its 1490th meeting (CERD/C/SR.1490), on 15 August 2001, adopted the following concluding observations.

### **A. Introduction**

409. The Committee welcomes the report submitted by the State party, which follows some of the suggestions made to the delegation during the presentation of its previous periodic report, and the additional oral information provided by the delegation. The resumption of a frank and constructive dialogue with the State party after a period of eight years is equally welcomed.

### **B. Positive aspects**

410. The Committee welcomes the steps taken by the State party to disseminate information on its human rights obligations.

411. The Committee commends the efforts of the State party to rebuild and renew the social and economic structure of Vietnamese society through its Strategy Plan for Social Economic Stabilization and Development. The Committee considers that a growing economy should contribute to the easing of racial and ethnic tensions.

412. The Committee welcomes the ratification by the State party of eight United Nations human rights conventions as well as its acceptance of the principle of integrating these conventions into national legislation.

413. The Committee welcomes the presence of a significant number of representatives of minority groups in the State party's parliament.

### **C. Concerns and recommendations**

414. The Committee, considering that no country is free from racial discrimination, encourages the State party to give closer attention to article 1 of the Convention and to consider the situation in the country in accordance with the broad definition given therein of racial discrimination.

415. Along the lines of its previous concluding observations,<sup>12</sup> the Committee considers that article 87 of the State party's Criminal Code and article 10, paragraph 2, of the Law on the Press do not encompass the whole scope of application of article 4 of the Convention. The Committee

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<sup>12</sup> [Official Records of the General Assembly], Forty-eighth Session, Supplement No. 18 (A/48/18), paras. 348-358.

recommends that the State party adopt specific legislation in accordance with article 4 of the

Convention.

416. The Committee notes that the State party's Constitution devotes an entire chapter to the fundamental rights and obligations of citizens and that several laws have been enacted to put the Constitution into concrete terms, thereby creating a legal environment for its implementation, but would welcome the adoption of more specific anti-discrimination legislation to implement the Convention.

417. Bearing in mind the allegations of forced sterilization of mountain ethnic minority women and their rejection by the State party's delegation, the Committee would welcome information from the State party on the impact of its population-planning policies on the enjoyment of reproductive rights by persons belonging to such minorities.

418. The Committee encourages the State party to continue its efforts to ensure that members of ethnic minorities, in particular minorities in mountain regions, enjoy equal protection of their rights.

419. The Committee urges the State party to protect the rights of all refugees in Viet Nam, including the rights of Vietnamese repatriated from Cambodia.

420. The Committee is concerned about reports of discrimination in the exercise of religious freedom by minority ethnic groups. Taking note of the response of the State party delegation denying these allegations, the Committee would request additional information from the State party on the exercise of this right by members of the ethnic minorities in Viet Nam.

421. The Committee is further concerned about the alleged population transfer to territories inhabited by indigenous groups, disadvantaging them in the exercise of their social, economic and cultural rights. The Committee requests further information on the matter.

422. As was already emphasized in its previous concluding observations, the Committee notes that the State party report does not mention any case of race-related acts of discrimination that have been submitted to the State party's judicial authorities. The Committee invites the State party to provide information in this respect in its next periodic report.

423. Additional information is also requested on the application of the Convention in pursuance of the State party's policy of comprehensive development to promote the economic, social and cultural rights of all persons belonging to ethnic minorities.

424. The Committee recommends that the State party strengthen the education of the society in a spirit of respect for human rights and in particular the rights of members of ethnic minorities.

425. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

426. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be

considered.

427. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized.

428. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 9 July 2003, and that it address the points raised in the present observations.