



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Eightieth session

Summary record of the 2140th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 February 2012, at 10 a.m.

Chairperson: Mr. Avtonomov

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The meeting was called to order at 10.10 a.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** *(continued)*

*Tenth to fourteenth periodic reports of Viet Nam (continued) (CERD/C/VNM/10-14;
CERD/C/VNM/Q/10-14)*

1. *At the invitation of the Chairperson, the delegation of Viet Nam took places at the Committee table.*
2. **Mr. Ha Hung** (Viet Nam) said that his Government worked to uphold fundamental human rights, and was of the opinion that economic development must go hand-in-hand with principles such as social equality and the protection of identities. The majority of the Committee's comments had been positive and constructive, pointing out successes, as well as areas where further efforts were necessary to guarantee the rights of ethnic minorities.
3. **Mr. Hoa Huu Long** (Viet Nam) speaking on legal and judicial issues, and addressing a question on the lack of a definition in Vietnamese legislation of racial discrimination that was compatible with article 1 of the Convention, said that the Vietnamese Constitution prohibited stigma and discrimination, and incitement to violence or hatred. Vietnamese legislation criminalized acts motivated by hatred or incitement to violence on ethnic or religious grounds, which carried a prison sentence of up to 15 years. It therefore addressed the "act" of discrimination, rather than providing a definition. The Government would continue its examination of the issue, particularly in view of the current process of amending the Constitution.
4. With regard to the recommendation to enact a separate law on racial discrimination, the 54 ethnic minorities in Viet Nam were covered by a range of laws which addressed their rights and obligations. Existing provisions all shared a common and consistent policy approach based on the principle of equality between ethnic groups, including provisions on the preferential treatment of ethnic minorities designed to close the socio-economic gap, especially in rural or remote areas. The Government had previously received a similar request for stand-alone legislation: Vietnamese citizens abroad had called for a separate law covering their rights and obligations. The Government planned to look into those matters.
5. With regard to the further development of legal documents and instruments, Act No. 48 of 2010 provided for the further enhancement of the legal system through measures such as the reform of implementation mechanisms. Other measures had been introduced to meet the challenges of a market economy, improve governance and international integration, and generally create a better State. The Constitution reflected a commitment to human rights, and Decisions Nos. 6 and 20 contained provisions relating to human rights. Six new laws had been drafted, covering issues such as human rights, civil rights, notaries, certification and demonstrations. The Government would continue to consider ratification of the Convention on Persons with Disabilities, the Convention against Torture and the Rome Statute of the International Criminal Court. In Decision No. 49, the Government had also introduced a judicial reform plan, defining mandates and responsibilities.
6. Measures to enhance the work of institutions providing judicial support included establishing a pool of competent professionals and action to monitor the work of elected bodies.
7. With regard to international instruments, Vietnamese legislation stipulated that, in the event of discrepancies between international law and national legislation, international law prevailed, national legislation could not contradict international provisions on the same matter and, if a decision had been made to accept the binding nature of international

legislation in whole or in part, it was possible to amend or repeal conflicting national provisions.

8. **Ms. Vy Xuan Hoa** (Viet Nam), referring to action taken to foster the socio-economic development of ethnic minorities, said that a range of measures had been implemented, taking into account the recommendations of the Independent Expert on minority issues; certain socio-economic measures focused on areas with a large ethnic minority population. Action taken included national target programmes aimed at ethnic minority communities and poverty reduction measures, including investment in infrastructure, access to clean water, training and education, particularly in remote and island areas.

9. There were certain challenges relating to the implementation of programmes, such as financial restrictions, the impact of economic decline on remote and rural areas, and the impact of natural disasters in remote, mountainous areas.

10. In the area of culture, special provisions existed to promote the tangible and intangible cultural heritage of ethnic minorities, thought festivals and a grass-roots information network. Efforts were made to provide the necessary tools to enhance film production among ethnic minority communities in remote areas, including the use of technology, and an annual day of culture was held in Hanoi.

11. In the field of education, specific policies had been implemented to support children from ethnic minorities, including schemes to pay for children's schooling and materials, a network of semi-private boarding schools, and policies to encourage children from ethnic minorities to enter university. The provisions of Decree No. 82 promoted the teaching and learning of ethnic languages, and the Ministry of Education, with the support of UNICEF, had introduced a scheme to support bilingual teaching.

12. On the issue of social awareness, steps were being taken by central Government and at the regional and local levels to eradicate stereotypes. Decision No. 554 on the communication of legal knowledge aimed to raise awareness of legislative provisions on ethnic minorities among civil servants working in areas with large ethnic populations. Other awareness-raising measures included radio and press campaigns, and promotional efforts by well-known figures.

13. With regard to the participation of ethnic minorities in decision-making processes, information was provided at local level in order to increase people's awareness of their rights, and training and enhancement measures had been implemented. Ethnic minorities were able to voice their opinions through direct representatives, and policymaking agencies solicited the views of associations, with a view to improving policies geared to ethnic minorities, as well as receiving and monitoring complaints.

14. As to social development and the implementation of legislation in the field, monitoring and implementation activities were carried out by the Nationalities Council of the National Assembly, and national policies targeted social and economic development and equality, focusing on disadvantaged groups, including ethnic minorities.

15. With regard to land ownership, Vietnamese legislation provided for the compensation and resettlement of persons affected by hydroelectric power projects or other developments in the public interest. And there were policies in place to ensure that resettlement resulted in better conditions, as well as a range of additional measures, including job creation, funding for training and various other incentives.

16. On the issue of ethnic minority representation in Government, a number of persons from ethnic minority groups held positions in Government and other public bodies and institutions.

17. With regard to consultations with national organizations on the drafting of Viet Nam's report to the Committee on the Elimination of Racial Discrimination, meetings had been held with representatives of various embassies in Hanoi, and also UNDP and UNICEF.
18. The Government encouraged the translation of texts into ethnic minority languages and offered incentives for the publication of documents in those languages.
19. There were agencies in Viet Nam specifically dedicated to addressing minority issues. At central level, the committee for ethnic affairs implemented and monitored policies on ethnic minorities, while at provincial level, there were departments for ethnic minority issues, and similar units at the district and communal levels.
20. The Government would take note of the Committee's comments regarding data, including the breakdown of statistics on ethnic minorities in the education system, and provide information in its next report.
21. **Mr. Ha Hung** (Viet Nam) pointed out that a number of the members of the delegation came from ethnic minority backgrounds.
22. **Ms. Trinh Thi Thuy Hang** (Viet Nam) said that there were preferential measures in place to support ethnic minorities, as well as a range of policies designed to reduce poverty, especially among ethnic minorities. Educational targets had been set for vocational training, and steps had been taken to mobilize resources relating to the training and employment of members of ethnic minorities. They involved vocational training in particular and included a raft of policies designed to encourage companies to employ persons from ethnic minorities. There were also measures in place to create employment, facilitate access to foreign labour markets, and support poor districts and households to ensure sustainable poverty reduction.
23. In response to the question on the "third child policy", studies had indicated that ethnic minority populations had lower than average birth rates, which was why that figure had been used as a threshold.
24. With regard to the policies relating to five ethnic groups with small populations, those populations benefited from additional measures and programmes, including preferential credit, employment opportunities, education, health care and access to water. The State also invested in projects involving resettlement measures and infrastructure.
25. Steps were being taken to tackle human trafficking, whose impact was not limited to ethnic minority communities. They included projects to combat the trafficking of women and children through communication strategies, prevention projects, awareness-raising campaigns and assistance to victims.
26. Marriages took place on the basis of free consent and age of majority. There were many examples of intermarriage between different ethnic groups.
27. Article 28 of the Civil Code, relating to ethnic identity, stipulated that the ethnicity of a child would be established in accordance with the practices of either parent. Under article 2, the child's legal guardian could request reidentification, for example in the case of adoption, as long as consent was granted. Ethnic groups had the same right of association as other groups.
28. With regard to stereotypes and stigma, Vietnamese legislation expressly forbade stigmatization on the basis of nationality or ethnicity. The allegations made by a certain NGO in that respect had been clarified by the independent expert on ethnic minorities.
29. **Mr. Nong Van Luu** (Viet Nam), referring to the question of incorporating the definition of racial discrimination into national law, said that in his country the term

“nationality” covered two aspects: that of the nation of Viet Nam and that of the ethnic group within the nation. The criteria for identification of an ethnic group in Viet Nam were: a common language, a common culture and self-identification. It was not possible to know to which race a person belonged in Viet Nam, only to which ethnic group they belonged. Of the 54 ethnic groups in the country, 10 lived in mountain areas, spread over 1,385 communes. While there was no racial discrimination in Viet Nam, there was a socio-economic gap between the majority and minority populations owing to differences in size, culture and level of education. The Government’s policy was to bridge that gap by implementing preferential measures for ethnic minorities, in accordance with article 4 of the Convention. Vietnamese legislation affirmed ethnic equality; prohibited discrimination against, and hatred or stigmatization of, any nationality; and provided support to ethnic minorities, in accordance with the definition of racial discrimination contained in the Convention.

30. In Viet Nam, the term “indigenous peoples” had negative connotations for that had been the term used to distinguish Vietnamese citizens from their foreign rulers during the colonial era. Since no consensus existed as to which ethnic groups were indigenous, the concepts of “majority” and “minority” groups were used instead. The State party would continue to give consideration to the Committee’s suggestion regarding the incorporation of the definition of racial discrimination into national law.

31. It was true that some NGOs — particularly those located abroad — believed that there was discrimination in Viet Nam against ethnic minorities, including on grounds of their religion. However, there was no such discrimination, in law or in practice. He gave examples of how Theravada Buddhists and Protestants were encouraged to practise their religion freely. Legislation on religious activities was sometimes misunderstood, including by public officials, and efforts were being made to give public officials training on that subject.

32. Ethnic minorities sometimes violated the law, as had recently been the case with the mass gathering of members of the Hmong community in Dien Bien Province; the ringleaders had persuaded people to leave their homes and had sealed the area off from public officials and others. Because of the crush of people gathered in the open air, many had collapsed. The ringleaders had incited separatism and ethnic hatred, and the resulting public disorder had obliged the authorities to intervene, not by using armed force but by sending in civil forces, including health-care workers, to persuade people to return to their villages and receive medical treatment. Some of the ringleaders had refused to allow people to leave and had been arrested.

33. Reports of repression during protests had been distorted; action had only been taken when protests were unlawful or were not peaceful. Similarly, reports that Ma Van Bay had been arrested for translating the Bible into the Hmong language had been inaccurate; in reality, he had been captured after fleeing jail, where he had been serving a sentence for fraud and misappropriation of property. With regard to other complaints that 300 Cham people had lost their life and property, he said that the complainants were found to have given fake names or had psychological problems.

34. Members of ethnic groups who committed offences often did so because of poor education or lack of understanding of the law. Education was considered to be the most important way to address those situations; leniency was shown to those who expressed remorse and most were allowed to return to their home communities. They were not discriminated against and benefited from the policies for ethnic minorities. Those who served prison sentences were not usually sent away from their home region.

35. **Mr. Ha Hung** (Viet Nam), noting that models of national human rights commissions varied greatly throughout the world, said that his Government was

considering the establishment of such a commission, in accordance with the specific conditions of Viet Nam. The Government had cooperated successfully with the Special Procedures of the United Nations Human Rights Council, as had been demonstrated most recently by four visits, between July 2010 and November 2011, of United Nations independent experts in the areas of minority issues, human rights and extreme poverty, and foreign debt and human rights, and the Special Rapporteur on the right to health. Viet Nam continued to meet its commitments under the UPR.

36. Viet Nam had a small number of immigrants, who were usually either contract workers or students. Foreigners who married Vietnamese citizens and settled in Viet Nam tended to be from the United States, Europe, Japan and East and South-East Asia. Many South Koreans lived in Viet Nam, and enjoyed full rights and freedoms, with no stigmatization or discrimination. Millions of foreign tourists travelled to Viet Nam, with the Government's encouragement; there was no discrimination against them, either in law or in practice.

37. **Ms. Dah** encouraged the State party to consider replacing the concept of "minorities" by that of "indigenous peoples". In view of the massive immigration that had taken place throughout history, it was sometimes difficult to know which peoples were indigenous and which were not. The solution recommended by the Committee was generally that of self-identification.

38. **Mr. Diaconu** said it was understandable that the authorities had been obliged to intervene in cases of human rights violations, such as those described by the delegation, during the mass gathering of members of the Hmong community. However, it was important to prevent such acts in the future; the best way to do that was to develop better relations with, and understanding of, the ethnic minority groups themselves. Greater efforts were required to educate minority groups, and the majority population, about harmonious coexistence.

39. **Mr. Vázquez** said that while negative stereotyping of ethnic minorities was prohibited by law, that was not enough to eliminate the practice. Greater efforts should be made to combat it, and in that regard he would be interested to hear of any relevant information provided to the Independent Expert on minority issues. If he had understood correctly, the purpose of article 87 of the amended Criminal Code was to protect minorities. However, as currently worded, the provision could be used against those minorities, for example to justify arrests during peaceful demonstrations; indeed, the Committee had received reports that it had been used that way. He suggested that the wording should be amended so as to make the purpose of protecting minorities clear.

40. **Mr. de Gouttes** said discrepancies between the delegation's replies and the information received from NGOs suggested that there was considerable misunderstanding between both parties, which it was important to eliminate. He, too, encouraged the Government to consider replacing the concept of "minorities" by that of "indigenous peoples". He wished to know with which NGOs the State party had the greatest level of dialogue and cooperation. Lastly, was the Government still considering the establishment of a national human rights commission in line with the Paris Principles? It would be useful if the next periodic report could include information in that regard.

41. **Mr. Ewomsan**, describing the many different facets of racial discrimination covered by the definition given in article 1 of the Convention, said that it was essential to incorporate the definition into the State party's legislation. Racial discrimination was a much broader issue than discrimination against ethnic groups.

42. **Mr. Thornberry**, referring to the delegation's point that enhanced support for minorities might breach the non-discrimination principle, emphasized that the principle was not inflexible. He drew attention in that connection to paragraph 8 of the Committee's

general recommendation No. 32, which stated that differential treatment would constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, were not applied pursuant to a legitimate aim, and were not proportional to the achievement of that aim. According to the recommendation, the term “non-discrimination” did not signify the necessity of uniform treatment when there were significant differences between the situation of one person or group and another or, in other words, if there was an objective and reasonable justification for differential treatment. He also pointed out that the notion of special measures was contained in article 1 (4), and article 2 (2) of the Convention.

43. A number of States parties had refused to incorporate the term “racial discrimination” in their legislation, arguing that it might be interpreted as support for the notion of separate races. The Committee had pointed out that the Convention was designed to combat racists who espoused such views. As ethnic origin and national origin were probably the two most commonly cited grounds for discrimination, the omission of such key elements from legislation would leave gaps in its coverage. That was why the Committee recommended that the Convention definition should be fully incorporated in domestic law.

44. There were various definitions of indigenous peoples in human rights texts, for example in article 1 of the ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169). While the United Nations Declaration on the Rights of Indigenous Peoples did not contain a definition, the text as a whole provided a clear overview of the categories of peoples who came within its scope. The concept should not be restricted to peoples who were the first to settle in a given territory. That criterion worked well in some national or geographical contexts but less well in others. Indigenous peoples could also be understood in terms of their way of life, relationship with the land and other criteria. The key concept was self-identification, as reflected in the Committee’s general recommendation No. 8 and ILO Convention No. 169.

45. An important difference between a group described as an ethnic minority and one described as an indigenous people was that the latter were accorded a wider spectrum of rights, which were of great importance for their protection and for the expression of their identity.

46. **Mr. Ha Hung** (Viet Nam) said that the Vietnamese authorities would continue to examine the issue of race, ethnicity and indigenous status. As indigenous people had been deemed of lower rank during the lengthy period of colonization, the term “indigenous” had dropped out of use when Viet Nam had been liberated and become independent. However, the situation had evolved in the meantime and further research would be undertaken, not only by State officials but also by scientists, with a view to developing an official approach and achieving consensus in the community.

47. **Mr. Nong Van Luu** (Viet Nam) said that article 87 of the Criminal Code was not directed against ethnic minorities or against the right to freedom of opinion and expression. However, Viet Nam was a multi-ethnic and multicultural country and it was important to ensure that different ethnic groups and communities could live in harmony with each other. There was a difference between peaceful expression of one’s views and incitement to hatred and violence or promotion of conflict between ethnic groups. During the 2009 UPR, Viet Nam had undertaken to promote a dialogue between international experts and domestic legal experts concerning a review of the Criminal Code with a view to limiting conflicting interpretations of a number of sensitive provisions. Viet Nam had also undertaken to align the Criminal Code and the Code of Criminal Procedure with the provisions of the international treaties that it had ratified.

48. **Mr. Vu Anh Quang** (Viet Nam) said that the comment by the Independent Expert on minority issues in her report on the use of stereotypes to stigmatize ethnic minorities had been based on information from an NGO. The information in that connection provided by the Vietnamese Government had been reflected in the report.

49. **Mr. Pham Hai Anh** (Viet Nam) said that his Government was considering the establishment in the near future of a national human rights commission that would correspond to the conditions prevailing in the country. The Principles relating to the Status of National Institutions (Paris Principles) had been adopted by the General Assembly as a reference document. However, national and regional characteristics must also be taken into account. The Association of Southeast Asian Nations (ASEAN) had established an Intergovernmental Commission on Human Rights. Viet Nam had chaired the second meeting of the Commission in 2010. The United Nations High Commissioner for Human Rights had urged other regions to follow the example of ASEAN.

50. **Mr. Vu Anh Quang** (Viet Nam) said that action was clearly necessary to improve the education and living standards of ethnic minorities so that they would not feel the need to search for better conditions elsewhere.

51. All public officials, especially those working for local authorities, should be trained to understand people's concerns and to address their problems. Contacts with ethnic minorities should be developed and prestigious community members should be encouraged, for example, to serve as village chiefs. It was also important to forge unity between ethnic groups living in the same locality so that they no longer felt the need to move to a separate area.

52. Steps should be taken to prevent people from abusing religious faith. Some elements invoked religious arguments in support of the use of force. The authorities had invited religious leaders to explain to the people that certain activities were incompatible with their religious beliefs. Only a small number of people were involved in wrongdoing. Members of local communities had requested the authorities to deal with such undesirable elements.

53. **Mr. Amir** asked whether there were Muslim communities in Viet Nam and, if so, whether they lived in specific areas and whether they were organized in terms of their religious community or by ethnicity. He also wished to know whether they could freely practise their religion in accordance with the principle of religious tolerance guaranteed by the Constitution.

54. **Mr. Ewomsan** said that one of the motivations for racial discrimination was descent. Another was the notion of caste, which was invoked to legitimize a social hierarchy. He asked whether there was any such social stratification in Viet Nam and whether action had been taken against the phenomenon.

55. **Mr. de Gouttes** referred to the special difficulties experienced by women and children belonging to ethnic groups in remote mountainous areas where poverty levels were high. Extreme poverty had led to the abuse of adopted children from those areas and in some cases to the creation of illegal trafficking networks. He was aware that Viet Nam had taken action against irregular adoptions, also through the conclusion of international agreements. He would welcome any information the delegation could provide about such action.

56. **Mr. Saidou** asked whether the State party planned to make a declaration under article 14 of the Convention recognizing the competence of the Committee to receive and consider communications from individuals or groups.

57. **Mr. Lindgren Alves** asked for clarification of the comments by some members of the Committee concerning groups that were recognized in Viet Nam as minorities but not as indigenous peoples. He wondered whether indigenous peoples in Asia were defined for

the most part as peoples with different customs and traditions who had been in a particular country before the majority had arrived.

58. **The Chairperson** said that it might be advisable for the Committee to hold an internal discussion of the matter, for instance in the light of ILO Convention No. 169, which referred to indigenous and tribal peoples.

59. **Mr. Amir** said that the Vietnamese report sent a strong message to the Committee. The State party's basic objective was to consolidate its national unity and sovereignty and to use them to support the entire population of Viet Nam, regardless of its ethnic origin. All the indigenous communities, with their cultures and lifestyles, must be involved in the project of building a form of national unity that needed to be protected and strengthened.

60. **Mr. Calí Tzay** said that the question of who arrived first in a country was not important. The key question was how ethnic minorities or indigenous peoples identified themselves, and Viet Nam should respect their decisions in that regard.

61. He asked whether it could be inferred from the laws ensuring the rights of ethnic minorities in Viet Nam that such minorities were disadvantaged and discriminated against. If the answer was in the affirmative, how did the State party intend to protect ethnic minorities against discrimination?

62. **Mr. Nong Van Luu** (Viet Nam) said there was a small Muslim community in the country living mainly in an area inhabited by Cham people. Muslims were free to practise their religion; they sent their children to study in Islamic countries and organized annual pilgrimages to Mecca. There were three Islamic organizations in the country responsible for conducting Muslim affairs. The majority of the Cham people had retained their own language, religion and culture. There had been friction between some groups, but it was not ethnically based.

63. **Mr. Pham Hai Anh** (Viet Nam) said the Government was considering whether to make a declaration under article 14 of the Convention.

64. **Mr. Nguyen Thanh Binh** (Viet Nam) said the Government had implemented an action plan to combat trafficking in women and children, including for purposes of adoption. The plan focused on raising awareness of the issue among ethnic minority women and improving their employment opportunities and living standards. The national and regional police forces worked together to prevent trafficking and to dismantle the gangs involved.

65. **Mr. Vu Anh Quang** (Viet Nam) said that his delegation had co-sponsored Human Rights Council resolutions on preventing and combating trafficking in persons, including women and children. Tougher penalties had been introduced for the offence and no amnesties had been granted to individuals convicted of trafficking.

66. Indigenous peoples had not been recognized as such because there was a lack of consensus in Viet Nam on how to differentiate between indigenous peoples and ethnic groups. The issue was a complex one that required further research. It was complicated by the fact that different ethnic groups were often intermixed, making it difficult to distinguish one group from another.

67. **Mr. Ewomsan** said the concept of indigenous peoples was primarily one of self-identification and the closely-related issue of lifestyle. Modern society had embraced the idea of progress and development, but some peoples, for example nomadic groups, had retained traditional lifestyles based on such values as kinship and closeness to nature. Support should be given to those population groups to ensure their quality of life.

68. He asked whether any form of social stratification, such as caste, existed in Viet Nam and, if so, what measures had been taken to combat it.

69. **Mr. Nong Van Luu** (Viet Nam) said his Government could not compel population groups to use the term indigenous peoples against their will. As to the balance between modernity and tradition, laws and Government policies sought to encourage ethnic minorities to maintain positive cultural traditions and to abandon backward practices detrimental to their health and dignity. Policies were aimed at developing socially and economically deprived regions to enable ethnic minorities to enjoy human rights on an equal footing with the rest of the population. There was no caste system in Viet Nam.

70. **Mr. Huang Yong'an** (Country Rapporteur) said he wished to make it clear that the Committee members did not see themselves as court judges examining the State party's human rights record. Their role was to discuss human rights issues with the State party within the framework of the Convention. The protection and promotion of human rights depended mainly on the State party's efforts. The foundations of those efforts in developing countries were political stability, economic and social development, a sound legal system and effective policies. That did not mean, however, that cooperation with the international community in the field of human rights should be rejected.

71. In countries like Viet Nam and China, the ultimate goal of reform policies was to promote economic and social development in order to gradually raise living standards. During that process, some negative consequences would inevitably emerge, affecting in particular vulnerable groups such as women, children and ethnic minorities. The Government should pay more attention to such groups and take special measures to help them overcome the difficulties they faced in order to ensure that they could enjoy the fruits of those measures.

72. **Mr. Nong Van Luu** (Viet Nam) said that his Government had made great progress in promoting the rights of ethnic minorities in such areas as political participation, representation in State bodies and access to health care, education and social benefits. However, it faced many challenges as Viet Nam was a developing country. Its limited resources were an obstacle to implementing social policies, in particular for ethnic minorities living in remote areas. Nevertheless, the Government was stepping up its efforts to reduce regional disparities and to implement ethnic minority rights. He reiterated his Government's commitment to effectively implement its obligations under the Convention.

The meeting rose at 1 p.m.