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**Human Rights Committee****Concluding observations on the third periodic report of Viet Nam\***

1. The Committee considered the third report of the Viet Nam (CCPR/C/VNM/3) at its 3580<sup>th</sup> and 3581<sup>st</sup> meetings (see CCPR/C/SR.3580 and 3581), held on 11 and 12 March 2019. At its 3599<sup>th</sup> and 3600<sup>th</sup> meetings, held on 25 March 2019, it adopted the present concluding observations.

**A. Introduction**

2. The Committee welcomes the submission of the third periodic report of Viet Nam, albeit over 13 years late. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is also grateful to the State party for its written replies (CCPR/C/VNM/Q/3/Add.1) to the list of issues (CCPR/C/VNM/Q/3), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

**B. Positive aspects**

3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

(a) The inclusion of a chapter on human rights and citizen's fundamental rights in the amended Constitution of 2013;

(b) The 2015 amendments to the Penal Code and the Criminal Procedure Code that, inter alia, provide for the right to access to counsel at all stages of criminal proceedings, broaden eligibility for free legal counsel and introduce recording of interrogations of accused persons by investigation authorities on official premises;

(c) The 2017 amendment to the Law on Legal Aid, which expanded the list of beneficiaries of legal aid;

(d) The 2015 amendment to the Law on Enforcement of Custody and Temporary Detention, which provides, inter alia, for the right to family visits and legal assistance, in particular during police investigations;

(e) Amendments to the Law on Vietnamese nationality, which facilitates the acquisition of Vietnamese nationality by refugee and stateless persons, in 2014;

(f) The 2011 Law on Trafficking which prohibits forced labour and sexual exploitation;

(g) The National Strategy on Gender Equality (2011-2020).

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\* Adopted by the Committee at its 125<sup>th</sup> session (4 to 20 March 2019).

4. The Committee also welcomes the State party's ratification of, or accession to, the following international instruments on 5 February 2015:
  - (a) The Convention on the Rights of Persons with Disabilities;
  - (b) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

## C. Principal matters of concern and recommendations

### Domestic implementation and dissemination of the Covenant

5. The Committee notes the State party's efforts to comply with its Covenant obligations, including through the revision of certain legislation, nevertheless, it is concerned that incompatibility remains between the domestic legal framework and the Covenant. It is concerned that Viet Nam's Constitution does not fully incorporate the rights guaranteed in the Covenant and that legislation imposes overly broad restrictions on the Covenant rights, including, on the basis of national security. The Committee regrets that the level of knowledge about the Covenant in the State party is inadequate despite awareness-raising initiatives, and that no court decisions refer to the Covenant in the application or interpretation of domestic law. The Committee regrets that the State party still has not ratified the first Optional Protocol to the Covenant (art. 2).

#### 6. The State party should:

(a) **Review its domestic legal framework to identify gaps and conflicts with the Covenant; ensure that all Covenant rights are given full legal effect in its domestic legal order; and, only where required, establish clear and specific restrictions to the exercises of the Covenant rights which are necessary and proportionate;**

(b) **Step up efforts to effectively provide specialized training on the Covenant for government officials, police and law enforcement officials, prosecutors, judges to ensure they apply and interpret it, and National Assembly members so that they adopt, domestic laws in the light of the Covenant; and provide awareness raising to the general public;**

(c) **Consider ratifying the first Optional Protocol to the Covenant, which establishes an individual complaint mechanism (CCPR/CO/75/VNM, para.6).**

### National human rights institution

7. While noting the existence of national governmental bodies with mandates relating to human rights, the Committee remains concerned at the absence of an independent body compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The Committee regrets the absence of concrete actions and timeframe for the establishment of such an institution (art. 2).

8. **Recalling its previous recommendation (CCPR/CO/75/VNM, para.11), the State party should promptly establish a national human rights institution for the promotion and protection of human rights, in line with the Paris Principles.**

### States of emergency

9. The Committee notes that the State party has not invoked a state of emergency since 2002, however, is concerned that existing legislation and regulations governing the states of emergency do not define the permissible derogations and restrictions on human rights in the event of public emergency, nor do they explicitly prohibit derogations from the non-derogable provisions of the Covenant (art. 4).

10. **The State party should promptly bring legislation governing states of emergency in line with article 4 of the Covenant, as interpreted in the Committee's general comment No. 29 (2001) on derogations during a State of Emergency, particularly with regard to the non-derogable provisions of the Covenant, and limit any derogations to those that are strictly required by the exigencies of the situation. If the State party avails**

itself of the right of derogation, it shall immediately inform other States parties to the Covenant, through the intermediary of the United Nations Secretary-General, of the rights it has derogated from in time of public emergency and the reasons as required by article 4 (3) of the Covenants.

#### Counter-terrorism

11. The Committee is concerned about the use of unclear terminology in the counter-terrorism legal framework, specifically the offence of “terrorism to oppose the people’s government” under article 113 of the Penal Code, which is broad and can lend itself to arbitrary and abusive implementation (arts. 2, 9 and 14).

12. **The State party should ensure that counter-terrorism legislation is in full conformity with the international standards, limited to crimes that would clearly qualify as acts of terrorism, and define such acts in a precise and narrow manner.**

#### Non-discrimination framework

13. The Committee is concerned that the current legal framework does not afford comprehensive protection against discrimination on all the grounds prohibited under the Covenant (arts. 2 and 26).

14. **The State party should consider adopting a comprehensive anti-discrimination law to ensure that its legal framework provides for full and effective protection against all forms of discrimination in all spheres, and a comprehensive list of grounds for discrimination, including race, colour, national or social origin, birth, disability, age, sexual orientation and gender identity and any other status. It should further ensure that reported acts of discrimination are effectively addressed and victims are provided with full reparation.**

#### Sexual orientation, gender identity, intersex status, and persons with HIV

15. The Committee welcomes the efforts made by the State party to improve the situation of lesbian, gay, bisexual, transgender and intersex persons, including by eliminating the prohibition on same sex-marriage and providing for legal gender recognition. It takes note of the ongoing drafting of a law regarding transgender persons. Nevertheless, it is concerned that these persons continue to face discrimination on the grounds of their sexual orientation and gender identity. It is concerned by the absence of legal recognition and protection of same-sex couples, and that infants and children under the age of 9, born with intersex variations, may undergo irreversible medical interventions for purposes of gender assignment, and that they are performed before the children concerned are able to provide free and informed consent. The Committee is concerned that people living with HIV continue to face discrimination and stigmatization (arts. 2, 3, 7, 9, 17, 24 and 26).

16. **The State party should: (a) intensify its efforts to eradicate all forms of discrimination, violence, and social stigmatization against persons based on their sexual orientation, gender identity, or HIV status; (b) provide access to effective remedies for victims of such acts; (c) establish a procedure for legal gender recognition without medical requirement that is compatible with the Covenant; (d) consider legal recognition and protection of same-sex couples; and (e) take measures to end irreversible medical treatment of intersex children, who are not yet able to provide fully informed and free consent, unless such procedures constitute an absolute medical necessity.**

#### Persons with disabilities

17. Despite efforts to advance the rights of persons with disabilities, the Committee is concerned about discrimination faced by persons with disabilities, including in accessing public services (arts. 2 and 26).

18. **The State party should intensify its efforts to protect persons with disabilities from discrimination and ensure full access to public services, including education, employment, public transportation; and raise awareness on the rights of persons with**

**disabilities, including among Government officials, health workers and the general public.**

#### **Equal rights of men and women**

19. While the Committee welcomes the efforts to overcome gender discrimination, it is concerned that some legislation still has discriminatory provisions that are incompatible with the Covenant. It is further concerned at the limited participation of women in political life, and at gender biases, stereotypes and discrimination they continue to face, especially in rural areas (arts. 2-3, 17, 25 and 26).

20. **The State party should amend its legislation, including the Labour Code, to be in conformity with the Covenant. It should strengthen measures to increase women's participation in all spheres, particularly in high-level decision making positions and political life, if necessary, through temporary special measures. It should increase efforts to eliminate gender biases and stereotypes.**

#### **Violence against women**

21. Despite measures taken to address gender-based violence, the Committee is concerned that domestic violence against women persists. It is concerned that the Penal Code, while establishing rape as a crime, does not explicitly provide for marital rape. It is also concerned over reports of frequent use of reconciliation and mediation in cases of domestic violence, which may favour men and hinder women's access to justice and effective remedies (arts. 2-3, 6-7 and 26).

22. **The State party should redouble its efforts to prevent and address all forms of gender-based violence; explicitly criminalise marital rape and sexual abuse; intensify awareness-raising measures on domestic violence and its detrimental impact on the lives of victims; address factors that contribute to victims' reluctance to report abuse; ensure that cases of violence are investigated, perpetrators are prosecuted and, if convicted, are punished, and victims are compensated; and refrain from pressuring victims to resort to alternative dispute-resolution processes.**

#### **Death penalty**

23. The Committee notes with concern that death penalty is still available for crimes, including drug-related crimes, economic and other crimes, which do not meet the threshold of the most serious crimes within the meaning of article 6 (2) of the Covenant. While the Committee notes the legal availability of commutation by the State President, the Committee is concerned at reports of a high number of death sentences and executions. It is also concerned that some of the trials that led to such sentences may have been unfair and marred by procedural irregularities, such as in the cases of Ho Duy Hai and Van Manh. The Committee is concerned by the lack of publicly available official data on the number of persons sentenced to death, executed or on death row (arts. 6 and 14).

24. **The Committee reiterates (CCPR/CO/75/VNM, para.7) that the State party should:**

(a) **Consider introducing a moratorium on the application of capital punishment, and ratifying or acceding to the second Optional Protocol to the Covenant, aiming at the abolition of the death penalty;**

(b) **In the meantime, amend the Penal Code to further reduce the number of crimes subject to death penalty, and ensure that such punishment is retained only for the most serious crimes that is, for crimes of extreme gravity involving intentional killing;**

(c) **Ensure that death penalty is not mandatory and, if imposed, is never in violation of the Covenant including of fair trial procedures; and give reasonable advance notice of the scheduled date and time of execution to the affected death row inmates and their families;**

**(d) Ensure that pardons or commutations of death penalty sentences are effectively available in all cases, and regardless to the crimes committed;**

**(e) Publish official figures regarding death sentences and executions, disaggregated by sex, age, ethnicity, religion and crime.**

#### **Right to liberty and security of persons**

25. The Committee is concerned at reports that persons, particularly human rights defenders, activists, and religious leaders, may face arbitrary arrests, detention, and incommunicado detention without charges. It is concerned of the excessive use of pre-trial detention in the absence of legal guarantees, such as appearance before a judge; access to a lawyer from the time of arrest; and the right to inform family members. The Committee is concerned that following release from custody, some persons are placed under de facto house arrest. It is concerned that under domestic legislation: (a) persons arrested or detained in cases related to national security crimes can be denied access to a lawyer during the whole investigation period; (b) persons arrested or detained on criminal charges may be remanded in custody on the authorization of a prosecutor, who may also decide on any subsequent extensions of custody, which can be indefinite in cases related to national security crimes; (c) a prosecutor, rather than a judge decides, on the lawfulness of detention of persons deprived of their liberty (arts. 2 and 9).

26. **Recalling its recommendation (CCPR/CO/75/VNM, para.8), the State party should also bring its legislation and practice on detention into line with article 9 of the Covenant, in particular by ensuring that: (a) persons arrested or detained on criminal charges are provided access to counsel from the outset of the deprivation of liberty, and are brought promptly before a judge or other officer authorized by law to exercise judicial power, ordinarily within 48 hours, in order to bring their detention under judicial control; and (b) the judicial review of the detention of anyone who is deprived of his or her liberty satisfies the requirements of article 9 (4) of the Covenant and entails a review of the factual basis for the detention. The Committee draws attention to its general comment No. 35 (2014) on liberty and security of person, particularly to paragraphs 32, 33 and 39, indicating, inter alia, that a public prosecutor cannot be considered as an officer exercising judicial power under article 9 (3) of the Covenant.**

#### **Torture and ill-treatment**

27. The Committee is concerned that the criminal legislation, particularly the Penal Code, does not explicitly criminalize torture. It is equally concerned about reports of widespread use of torture and ill-treatment, in particular during pre-trial detention, sometimes resulting in death in custody, including of members of ethnic and religious minorities. It is concerned that families face reprisals for questioning the cause of death (arts. 2, 6, 7 and 10).

28. **The State party should take vigorous measures to eradicate torture and ill-treatment and more specifically, inter alia, to:**

**(a) Amend the Penal Code and other legislation to explicitly criminalize acts of torture, with a definition of torture in conformity with article 7 of the Covenant and other international standards, preferably by codifying it as an independent crime that is not subject to a statute of limitations and that stipulates sanctions commensurate with the gravity of the crime;**

**(b) Ensure that all allegations of torture and ill-treatment and deaths in custody are promptly and thoroughly investigated by an independent and impartial body, that perpetrators are prosecuted and, if convicted, are punished with sanctions consistent with the gravity of the crime, and that victims and, where appropriate, their families are provided with full reparation, including rehabilitation and adequate compensation.**

#### **Conditions of detention**

29. The Committee is concerned at consistent reports of poor conditions of detention, including overcrowding, use of prolonged solitary confinement, shackling, abuses by other prisoners at the instigation of prison officials, and non-separation of healthy prisoners from

those with contagious diseases, intentional exposure of prisoners to HIV infection, denial of medical care; and punitive transfer of prisoners. It is concerned at reports of discriminatory treatment between regular prisoners and prisoners of conscience pursuant to Circular 37 of the Ministry of Public Security (2011), which provides for separate detention that, in practice, amounts to solitary confinement that can be extended indefinitely. It regrets the absence of a national mechanism to independently and regularly monitor and inspect detention centres and prisons, and the lack of information on the total prison population compared with the prison capacity, disaggregated by facility (CCPR/CO/75/VNM, para.12) (arts.7, 9-10).

30. **The State party should:**

(a) **Improve conditions of detention in accordance with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Eliminate overcrowding in places of detention, including by using non-custodial alternative measures to detention in conformity with the Covenant and other relevant international standards, such as the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(c) **Refrain from imposing solitary confinement, except in the most exceptional circumstances, for strictly limited periods, where it is objectively justifiable and proportionate; and avoid using punitive transfers to separate prisoners from their families;**

(d) **Hold prison staff and prisoners acting under their instructions accountable for acts of ill-treatment and torture;**

(e) **Guarantee that persons deprived of their liberty receive adequate medical care, and healthy prisoners are separated from those with severe contagious diseases;**

(f) **Establish an independent and effective mechanism mandated to regularly monitor conditions of places of deprivation of liberty;**

(g) **Consider acceding to the Optional Protocol to the Convention against Torture.**

#### **Compulsory drug rehabilitation centres**

31. The Committee is concerned about the situation of drug users confined to drug rehabilitation centres, who are allegedly subjected to compulsory detoxification treatment, and forced labour. It is concerned at the reportedly inadequate medical and onerous work conditions; and the large number of persons confined in such centres (arts. 8, 9, 10 and 24).

32. **The State party should: (a) pursue a comprehensive review of relevant laws, policies, and practices vis-à-vis drug-dependent individuals, particularly those deprived of their liberty in compulsory drug rehabilitation centres with a view to bringing them into full compliance with the Covenant, including by ending the use of forced labour in such rehabilitation centres; (b) ensure that all persons detained in connection with drug addiction problems are treated with humanity and with respect for the inherent dignity of the human person; and (c) introduce an effective mechanism with formal authority to decide on complaints.**

#### **Independence of the judiciary and fair trial**

33. The Committee is concerned regarding the political influence on the Procuracy and the judiciary, which undermines their independence, and with the lack of confidence of the public in the justice system. It also remains concerned at the judges' lack of security of tenure.

34. **The Committee reiterates its recommendation (CCPR/CO/75/VNM, para.9) that the State party should take immediate steps to protect the independence and impartiality of the judiciary and the Procuracy; guarantee that they are free to operate without interference; and ensure transparent and impartial processes for appointments to the judiciary and the Procuracy.**

35. The Committee is concerned about allegations of violations of fair trial guarantees, especially of human rights defenders, political activists, and individuals accused of crimes related to national security. These include the denial of the right to legal assistance, access to a lawyer of their choice, a trial within a reasonable time; as well as insufficient time and facilities to prepare their defence, and the lack of lawyer-client confidentiality pursuant to article 19 of the Penal Code. It is concerned at reports that lawyers representing the persons above face retaliation, disbarment, harassment, threats, arbitrary arrest and detention, and physical attacks, which undermines the right to fair trial. The Committee is particularly concerned of the case of lawyer Nguyen Van Dai (arts. 2, 9, 14 and 22).

36. **The State party should ensure:**

(a) **The right to a fair trial without undue delay, in accordance with article 14 of the Covenant and the Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial;**

(b) **That detainees have unhindered, prompt and adequate access to the lawyer of their choice or free legal aid from the outset of the detention, and that all communication between counsel and the accused remains confidential, and that the presumption of innocence is strictly observed;**

(c) **That lawyers are able to advise and represent persons charged with criminal offences in accordance with generally recognised professional ethics, without restrictions, influence, pressure or undue interference from any quarter in line with the UN Basic Principles on the Role of Lawyers; and ensure investigation and prosecution of threats and attacks on lawyers and provide them with effective remedies.**

#### **Juvenile justice**

37. While welcoming the efforts to strengthen the juvenile justice system, the Committee is concerned that the Family and Juvenile Courts exist in only two provinces. It is further concerned at the definition of the age of child, as a person under 16 years, which creates protection gaps for children aged 16-17 years, especially those facing deprivation of liberty. The Committee, is concerned that, despite the adoption of alternative measures to deprivation of child's liberty, detention of children in conflict with the law reportedly remains common (arts. 9, 14, and 24)

38. **The State party should consider legislative amendments to define the age of a child as a person up to 18 years, in line with international standard; pursue strengthening the juvenile justice system by setting up additional specialised courts and provide them with adequate resources, including designating specialized trained judges; ensure that detention and incarceration are only used as the last resort and for the shortest period of time, and that detained children are separated from adult detainees.**

#### **Human Trafficking**

39. The Committee is concerned that victim support facilities and social protection centres for vulnerable groups, including victims of trafficking, may be under-resourced and that shelters exclusively for male and child victims are absent. It is concerned about human trafficking victims' limited access to social services, particularly in the absence of household registration, and that stigmatisation and retribution in local communities may discourage victims from seeking such services (arts. 2, 3, 8 and 24).

40. **The State party should intensify efforts to prevent, suppress and punish trafficking in persons; provide victims with effective protection, assistance and remedies; ensure access to social services and the availability of a sufficient number of adequately funded shelters for victims, including for men and children; continue its raising-awareness efforts to eradicate stigmatization against victims of trafficking.**

#### **The right to leave and enter one's country**

41. The Committee is concerned that the Penal Code criminalizes "fleeing abroad or defecting with a view to opposing the people's administration" (art.121). It is concerned at reports of persons belonging to ethnic minorities and indigenous peoples being prevented

from leaving the State party's territory to seek asylum. It is concerned that, in collaboration with neighbouring countries, those who flee can be subjected to forcible return and criminal proceedings, including under the provision above. The Committee is concerned about other arbitrary restrictions, particularly against human rights defenders, such as international travel bans; confiscating or refusing to issue passports; or forcing them into exile (art.2, 9, and 12).

**42. The State party should refrain from forcing citizens into exile and respect their right to be protected against any action impeding their access to or stay in its territory in accordance with article 12 (4) and general comment No. 27 (1999) on freedom of movement. The State party should guarantee full respect for the freedom to leave one's country, including by repealing article 91 of the Penal Code; refrain from arbitrarily imposing travel bans; ensure that any travel ban is justified under article 12 (3) of the Covenant; and lift bans incompatible with that article.**

#### **Freedom of religion**

43. The Committee is concerned that 2016 Law on Belief and Religion unduly restricts the freedom of religion and belief, such as through the mandatory registration and recognition process for religious organizations, restrictions on religious activities based on vague and broadly interpreted law provisions related to national security and social unity. It is further concerned that members of religious communities and their leaders, predominantly unregistered or unrecognized religious groups, ethnic minorities or indigenous peoples face various forms of surveillance, harassment, intimidation, property seizure or destruction, and forced to renounce their faith, pressure to join a competing sect, and physical assaults, which sometimes leads to death. It is disturbed by reports that non-State actors, such as the "Red Flag Associations" attack Catholic communities, and are involved in propaganda activities that promote and incite religious discrimination, violence and hate speech. (arts. 2, 18, 19, 20, 26).

**44. The State party should bring its legislation into conformity with article 18 of the Covenant, and refrain from any action that may restrict the freedom of belief and religion beyond restrictions permitted under that article, and take into account the recommendations of the Special Rapporteur on freedom of religion or belief (A/HRC/28/66/Add.2). It should take measures to prevent, and swiftly and effectively respond to all acts of undue interference with the freedom of religion, and any incidents of hate speech, incitement to discrimination, violence or alleged hate crime, and ensure those responsible are brought to justice.**

#### **Freedom of expression**

45. The Committee regrets the severe restrictions on freedom of opinion and expression in the State party, including through laws and practices that appear not to comply with the principles of legal certainty, necessity and proportionality, such as:

(a) The vague and broadly formulated offences in arts. 109, 116, 117, and 331 of the Penal Code; and their use to curtail freedom of opinion and expression; and the definition of certain crimes related to national security to encompass legitimate activities, such as exercising the right to freedom of expression;

(b) State control over the media, including restrictions aimed at ensuring strict adherence to and promotion of government policy including through the 2016 Law on the Press that prohibits any criticism of the government;

(c) The 2018 Law on Cyber Security and other regulations curtailing the freedom of expression in cyberspace by prohibiting the provision and use of Internet services to spread information opposing or criticizing the State, and the establishment of Cyber Force 47 to control the Internet;

(d) Arbitrary arrest, detention, unfair trials and criminal convictions, including of human right defenders, journalists, bloggers, and lawyers, for expressing criticism of State authorities or policies, including online, such as the case of the environmental human rights defender and blogger Nguyen Ngoc Nhu Quynh (arts. 9, 14, 19 and 21).



46. **The State party should, as a matter of urgency, take all necessary steps, including revising legislation, to end violations of the right to freedom of expression offline and online, and ensure that restrictions do not go beyond the strictly defined limitations set forth in article 19 of the Covenant, taking into account Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should promote pluralistic media that can operate free from undue State interference.**

#### **Right of peaceful assembly**

47. The Committee remains concerned (CCPR/CO/75/VNM, para.21) about the excessive restrictions imposed on the freedom of peaceful assembly and public meetings, including on human rights. It is concerned at allegations of disproportionate use of force and arbitrary arrests by law enforcement officials to disrupt demonstrations, including those related to labour rights, land dispossession, and the Formosa steel plant ecological disaster (art. 21).

48. **The State party should effectively guarantee and protect the freedom of peaceful assembly, and avoid restrictions that are incompatible with article 21 of the Covenant; ensure that all instances of excessive use of force are promptly, impartially and effectively investigated and that those responsible are brought to justice; and take measures to effectively prevent and eliminate all forms of excessive use of force by law enforcement officers, including by providing training on the use of force and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.**

#### **Freedom of association**

49. While noting plans to adopt a Law on Association, the Committee remains concerned (CCPR/CO/75/VNM, para.20) about undue restrictions on the establishment, management and operation of public associations, including the right to form independent trade unions. The Committee is particularly concerned of restrictive regulations on foreign funding, which can be used to tighten control over associations and limit their ability to receive such funds. (arts. 2, 6, 19, 22 and 26).

50. **The State party should give full effect to the constitutional guarantee of freedom of association, and expedite the adoption of the Law on Association and ensure that its provisions, relevant regulations and practices are in conformity with article 22 of the Covenant. It should: (a) respect individuals' right to form or join a union or an association of their choice including in the field of human rights; (b) ensure that regulations governing foreign funding for associations do not lead to undue control or interference on their ability to operate effectively.**

#### **Human Rights Defenders**

51. The Committee is concerned at reports of increased security crackdowns on human rights defenders and civil society actors, who face threats, intimidation, and physical attacks to discourage them from carrying out their legitimate activities. It is equally concerned at cases of reprisals against human rights defenders, including for engaging with the United Nations. Such practices, combined with concerns laid out in paras. 45 and 47, prevent the development of a civic space where individuals can meaningfully exercise and promote human rights in a safe environment (arts. 2, 9, 19, 21-22).

52. **The State party should ensure human rights defenders and other civil society actors are protected against threats, intimidation and physical attacks and investigate, prosecute and convict perpetrators of such acts. It should allow them the necessary latitude to carry out their activities, including engaging with the United Nations, without fear of restrictions or reprisal.**

#### **Participation in public affairs**

53. The Committee remains concerned (CCPR/CO/75/VNM, para.20) that the establishment of political parties, other than the Communist Party of Vietnam, is not permitted and that the principles and procedures governing elections do not ensure the right of citizens to take part in the conduct of public affairs, to vote and to be elected as provided by article 25 of the Covenant. It is concerned at: (a) the requirement that independent

candidates go through multiple rounds of negotiations with the Fatherland Front, which is led by the Communist Party of Vietnam, in order to be listed as a candidate; (b) irregularities in previous elections, inter alia, due to proxy voting; (c) the absence of an independent electoral monitoring body; and (d) the blanket denial of the right to vote of prisoners serving their sentences (arts.2, 10, and 25).

**54. The State party should adopt an electoral system that guarantees equal enjoyment of the rights of all citizens, in compliance with the Covenant, including article 25 by, inter alia, ensuring fully transparent and genuine elections and a pluralistic political order; refraining from using criminal law provisions to effectively exclude opposition candidates from electoral processes; and revise legislation denying convicted prisoners the right to vote.**

#### **Rights of persons belonging to minorities**

55. The Committee is concerned that the State party does not recognise the indigenous peoples in Viet Nam. While noting that policies related to ethnic minorities have been adopted, the Committee is concerned at the remaining gaps in efforts to promote and protect the rights of persons belonging to ethnic or religious minorities and indigenous peoples. It is concerned that these communities suffer from discrimination, including in the field of education, employment, and other public services. It remains concerned that these communities are not sufficiently consulted in decision-making processes with respect to issues affecting their rights, such as the seizure and allocation of land, including traditional and ancestral lands, for development projects, or offered appropriate remedies. It is concerned that such development projects have a negative impact on the communities' culture, lifestyle, use of land and resources, and livelihoods resulting in the exacerbation of socioeconomic inequalities (arts. 2, 26 and 27).

**56. The State party should:**

(a) **Adopt laws and measures to fully promote and protect the rights of persons belonging to minorities and indigenous peoples, including the right to enjoy their own culture, to profess and practise their own religion, and to use their own language;**

(b) **Implement plans for economic growth in areas populated by persons belonging to minorities and indigenous peoples' without negatively affecting them, and take all steps necessary to ensure meaningful consultations with these communities for development projects which have an impact on their livelihood, lifestyle and culture, and carry out consultations with indigenous peoples with a view to obtaining their free, prior and informed consent;**

(c) **Ensure that communities participate in any processes concerning their relocation, and that such relocation is carried out in accordance with relevant international standards, such as the principle of non-discrimination, the rights to be informed and consulted, to an effective remedy and to the provision of adequate relocation sites that take due account of their traditional lifestyle and, where applicable, their right to ancestral lands; and, when relocation is not possible, provide adequate compensation;**

(d) **Take measures to ensure effective access to public services without discrimination for persons belonging to ethnic or religious minorities and indigenous peoples, including in relation to the issuance of the household registration card (“*Hộ khẩu*”).**

#### **D. Dissemination and follow-up**

57. **The State party should widely disseminate the Covenant, its third report, the written replies to the Committee's list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country and the general public. The State party should**

**ensure that the third report and the present concluding observations are translated into the official language of the State party.**

58. In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 29 March 2021, information on the implementation of the recommendations made by the Committee in paragraphs 24 (Death penalty), 46 (Freedom of expression) and 52 (Human rights defenders) above.

59. The Committee requests the State party to submit its next periodic report by 29 March 2023 and to include in that report specific, up-to-date information on the implementation of the recommendations made in the present concluding observations and of the Covenant as a whole. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. **The Committee encourages all States to follow the simplified procedure when submitting their reports. Should the State party wish to follow the simplified reporting procedure for its next report, it is requested to inform the Committee accordingly, within one year after receipt of these concluding observations. The State party's replies to the list of issues prepared by the Committee under the simplified reporting procedure will constitute the next periodic report to be submitted under article 40 of the Covenant.**

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