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Seventy-fifth session

SUMMARY RECORD OF THE 2020th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 12 July 2002, at 10 a.m.

Chairperson: Mr. BHAGWATI

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Viet Nam (continued) (CCPR/C/VNM/2001/2 and Add.1;
CCPR/C/74/L/VNM)

1. At the invitation of the Chairperson, the members of the delegation of Viet Nam resumed their places at the Committee table.
2. Mr. SOLARI YRIGOYEN welcomed the inclusion of human rights in the new Constitution and the statement made by the delegation concerning the universality of human rights. Pointing out that articles 9 and 14 of the Covenant were violated in the event of arbitrary detention, he asked for information about the scope of Decree 31/CP of 14 April 1997 on administrative detention, and in particular whether the police could detain a person for a period of six months to two years because that person was suspected of posing a threat to national security. It appeared that detention under Decree 31/CP applied to cases that were not serious enough for a jail sentence, because the detention related to re-education. It was a welcome sign that the detention of dissidents, a common practice until recent years, had largely been discontinued. It would be unfortunate if that practice was now being replaced by administrative detention under decree 31/CP or article 30 of the Criminal Code.
3. Referring to article 9 of the Covenant, he asked whether a list of detainees or a list of those released had been issued. According to the Vietnamese press, up to 10,000 prisoners had been freed, but complaints from reliable sources indicated that the names of detainees had not been published and that their families had no information about where they were being held. If no list giving the names and locations of detainees had been published, he asked whether that would be done.
4. The CHAIRPERSON requested information on the mode of appointment of judges. If the appointment was carried out by a council, he would like to know how the council was composed. He asked about the criteria for the selection of judges, in particular whether a judge was required to be a member of the communist party. After appointment, did judges continue to be members of the party? He noted that, in serious cases, there were two judges and three assessors. He requested clarification whether judges and assessors had equal votes and, in particular, whether the assessors could outvote the judges. He further asked whether the assessors were trained lawyers or laypersons and, if the latter, whether they received training before being appointed. He requested an explanation of what would happen if there was a difference of opinion between the judges and the assessors. He requested clarification of the relationship between the People's Office of Supervision and Control and the judiciary. He asked about the tenure of judges and whether they could be removed by the Government, and if so on what grounds. Referring to Decree 31/CP, he asked who determined the need for a re-education

programme, how long that programme lasted, and who would determine when it had been completed. It appeared that the programme lasted three years but was subject to renewal, with the result that a person might serve longer than three years. He asked what kind of person was subject to a re-education programme.

5. He inquired about the membership of the Fatherland Front and whether the Front was an organ of the Party or a statutory body. He asked whether there was any procedure for complaints against the police for ill-treatment or torture, and whether complaints were investigated. He further asked what remedy existed if the human rights of a citizen were violated by the State, and whether there was a possibility of compensation. Drawing attention to the high rate of abortion, he asked whether abortion was used as a means of family planning. He inquired whether persons could indeed be detained without trial for up to two years by the security police on suspicion of national security violations, under Decree 31/CP. He would like to know whether the concept of national security was defined or left to the discretion of Government - in other words, whether national security was an objective or subjective concept. Finally, he drew attention to a report that Buddhist monks calling for religious freedom had been imprisoned and asked whether that report was correct.

6. Mr. NGUYEN QUY BINH (Viet Nam), responding to questions raised at the previous meeting, said that all aspects of human rights should be considered, including the balance between collective and individual rights. The question how that balance should be achieved arose independently of considerations relating to the political system involved. The human rights obligations under the Covenant were universal, but they existed alongside the collective right to self-determination and the right to determine a country's process of development. Each country faced specific conditions, and in Viet Nam, as in many other countries, there was a great need for capacity-building.

7. The relationship between individual and collective rights could be seen as two sides of the same coin or likened to the image of a tree in a forest. Ideally, a country's policy should aim to enhance the cohesiveness of those two aspects. During the war years, Viet Nam could not have survived without promoting the observance of collective obligations. Indeed, individual rights depended on the fulfilment of collective obligations. With the advent of peace, people's priorities had changed, but there was still a need to set rights and duties in the framework of collective cohesion. Each country must take responsibility for its citizens, and his Government considered that the balance between collective and individual rights could be achieved through social cohesion.

8. With regard to questions concerning democracy and the Communist Party, he recalled that the Communist Party had played a leading role in securing the country's independence and was currently engaged in promoting development. The Party would not exist without popular support. The country and the people recognized the Party's good record and therefore supported it. The principle of majority rule was well entrenched worldwide. In Viet Nam, decisions were taken by a majority, while respecting the rights of individuals and minorities. The very meaning of democracy was bound up with the idea of majority decision-making on behalf of the whole, with an implicit balance between pluralism and collectivism.

9. Several comments had related to the legalistic nature of the report. The report indeed went into the legal aspects in detail because of the high priority accorded to establishing a complete legal framework as a basis for the rule of law. The country had been undergoing transition towards development over the past decade and, during that period, more than 10,000 pieces of legislation had been enacted. The establishment of a legal framework had been one of the country's greatest achievements, and attention was now turning to other goals, including capacity-building and the establishment of mechanisms for the smooth functioning of government. One particular area in which progress was needed was the production of statistical information. Improving systems for data collection and analysis, as well as gaining experience in how to present reports, would lead to the presentation of reliable information for consideration by the Committee. The experts would then no longer have to rely on erroneous information from unfriendly sources. In that context, he stressed that reports by different United Nations bodies should be consistent, even though their concerns differed. That applied, in particular, to the views expressed on the promotion of human rights and democracy.

10. With regard to minority rights and the questions raised with regard to the resettlement of minority groups, he said that the policy of Viet Nam was to respect minority groups and to protect their rights to land, customs, traditions and cultural values. The term "Montagnard" appeared only in the CIA dictionary dating from the period of the Viet Nam war, and the so-called "Montagnards" were now living in Colorado. The claims relating to the displacement of minority groups were unfounded. Furthermore, UNFPA had refuted allegations that Viet Nam was using UNFPA funding to eliminate minority groups. A review of UNFPA programmes had made it clear that UNFPA funding was being used in Viet Nam for voluntary family planning, and in 1999 Viet Nam had received a UNFPA award for family planning. Finally, he dismissed as ridiculous the claims that the aim of establishing a boarding school in a mountainous region had been to separate "Montagnard" children from their parents and that the development of a coffee plantation was designed to destroy the environment. In recent years, much effort and activity had been devoted to the harmonization of development plans, in particular to protect the right to land and to cultural tradition. That policy would continue.

11. Mr. NGUYEN CHIDUNG, responding to other questions raised at the previous meeting, recalled that concern had been expressed that the inseparability of duties and rights might lead to forced labour, in violation of the Covenant. That concern was unfounded, but might arise from a misreading of article 51 of the Constitution, which linked the right to work with a duty to society to work. The emphasis on a duty to society was in line with a long-standing tradition in Viet Nam that individual rights could be realized only through united collective action. A duty to work was not the same as forced labour. A balance between individual and collective rights and duties was needed to avoid chaos and instability.

12. The question raised with regard to article 55 of the Constitution might well have arisen from a mistranslation of "working" as "employment". The first paragraph of article 55 referred to working as a right and duty of citizens. In that context, work was considered to be an honour and an education. The second paragraph of article 55 dealt with the right to employment and reflected the responsibility of the State to plan employment in order to meet the needs of citizens.

13. The notion of democratic centralism had been discussed and one member of the Committee had suggested that democratic centralism might negate democracy. The first paragraph of article 6 of the Constitution dealt with the National Assembly and the people's councils at provincial level. Those bodies were elected by the people and accountable to them, and embodied representative democracy and direct democracy respectively. The second paragraph of article 6 dealt with democratic centralism which applied, not to citizens, but to the working procedures of the legislative bodies, including the National Assembly, the people's councils and State agencies. As an example of the application of democratic centralism, deputies in the National Assembly were free to debate the various subjects that arose but their individual views did not carry disproportionate weight; the Assembly's decisions were based on a majority vote. Thus, democratic centralism did not negate individual rights.

14. Turning to the notion of socialist legality, he said article 12 of the Constitution affirmed that socialist legality should be strengthened with a view to implementing laws. In 2002, the National Assembly had amended the 1992 Constitution and that particular article had been thoroughly discussed in that context. When citizens had given their opinion on the proposed amendments, they had suggested that the rule of law should also be referred to in that article. The new amended article therefore stated that, in Viet Nam, the State was governed by the rule of law and so socialist legality meant the strict observance of laws.

15. He failed to understand the Committee's concern about the alliance between the working class and intellectuals since, in Viet Nam, 80 per cent of the population was employed in agriculture. Intellectuals were supporting the working class in the development phase of society. That alliance did not, however, mean that people from other social groups were excluded from participation in public affairs. The alliance was essential for the modernization of the country and did not negate individual rights.

16. Moving to the question regarding article 9 of the Constitution and the notion of strengthening the unity of minds, he asserted that article 9 defined the position and status of the Viet Nam National Fatherland Front. It did not signify that State policy promoted the unity of minds and hence it was not inconsistent with articles 18 and 19 of the Covenant. The subject matter of those articles was covered by articles 60 and 70 of the 1992 Constitution. The Fatherland Front was not a State body, but an organization which had been founded to resist French colonial rule. Its role was to unite all segments of society for the common good and that role had been duly recognized in the Constitution. The Front could collect the opinions of all sectors of society and debate them with the policy-making authorities. It had 33 members representing lawyers, patients, women, communists and religious organizations. Since the Communist Party was a member of the Front, the latter played a significant role in consultations regarding candidates for the National Assembly and People's Councils.

17. As to statistics on equal pay for women, he said that because most women worked, they enjoyed special treatment to enable them to cope with the difficult situation of having to fulfil the triple function of housekeeper, child carer and wage earner. The efforts made by the State and society in that respect had been described in paragraphs 55-80 of the addendum to the report (CCPR/C/VNM/2001/2/Add.1). Admittedly, the rate of abortion was high in his country, but the Government was running an education campaign to alert the population to the harmful consequences of the operation and to teach couples about better contraceptive methods. Ministry

of Public Health statistics showed that throughout the country 45 per cent of women of childbearing age had used abortion; the figures were 43.6 per cent for the northern mountainous area and 16.13 per cent for the Central Highlands. He was unable to supply the total number of cases.

18. Family violence was a new phenomenon in Viet Nam but, as it was rising, it was a source of public concern. State authorities were experiencing difficulty in bringing men to court to face charges of maltreating their families, because their wives protected them and preferred to turn to mediation resources. Nevertheless a growing number of women were being beaten, some of them so severely that they died. While there was a strong current of public opinion against family violence, no statistics had yet been produced on the number of lower-court cases involving such violence and only 1 per cent of Supreme Court trials in 2000 had involved the crime of wife-beating.

19. In reply to the question about the Communist Party and the National Assembly, he announced that 11 per cent of the members elected to the National Assembly on 19 May did not belong to the party. While that meant that some 90 per cent of deputies were Party members, that was unimportant because bills were not discussed in Party caucuses, but in interest groups. The term “independent member of Parliament” was inappropriate in Viet Nam, insofar as all deputies were independent, having to represent the views of voters and not of the Party. The rules of the National Assembly stated that a member could not be arrested without the approval of the Assembly or for the opinions he or she expressed there. That rule effectively protected the independence of members. While the Communist Party did issue guidelines to its members, on four occasions proposals put forward by Party members had been rejected and the members had not been punished. Moreover during question time, non-party and Party members alike subjected the members of the Cabinet, who belonged to the Party, to intense questioning.

20. In reply to the query whether the nomination of non-party members was subject to Party approval, he drew attention to the fact that the Party was only one factor in the National Fatherland Front and so it was not in a position to approve the nomination of other members. In the recent elections to the National Assembly there had been 125 non-party candidates compared with 87 candidates from the central leadership of the Party. Of the 125, 51 had been elected. Self-nomination had been introduced in his country in 1997 and since then the number of non-party members had gone up. He regarded that increase as a good sign.

21. The contribution made by national and international NGOs to the development of his country and the promotion of the human rights of the Vietnamese people was greatly appreciated. The implementation of human rights was monitored by a variety of NGOs representing the interests of women, young people, and disabled and retired persons and by mechanisms within the National Assembly. In his opinion, therefore, there was comprehensive, efficient supervision of such implementation. His country also maintained a dialogue with its partners and with donor countries and provided them with information on the subject. On the other hand, he did not believe that “independent” NGOs such as Amnesty International and Human Rights Watch were truly committed to the furthering of human rights; their activities were politically motivated, a view borne out by the comments of many delegations to the

Commission on Human Rights. His Government did not therefore consider that it would be useful to invite those organizations to visit the country at the moment. In contrast, bodies such as the United Nations Population Fund and the World Bank had made objective, positive assessments of the human rights situation in Viet Nam.

22. He hoped that, although there was no unique definition of what constituted terrorism and while it was plain from debates in the United Nations General Assembly and Security Council that there were differing views on the subject, the Committee would agree that recent attacks on Vietnamese embassies and the Deputy Prime Minister were acts of terrorism directed against his country.

23. Turning to the question relating to the Optional Protocol, he drew attention to the fact that State parties could decide whether and when to accede to it. The answers to the list of issues had explained the reasons why his country had not yet done so. Furthermore, having to reply to numerous communications which the Committee ultimately rejected was a burden on States parties and the procedure plainly needed to be improved.

24. Lastly, on the subject of the late submission of his country's report, he explained that the second report had almost been ready in 1996 but, as most major *doi moi* programmes covered a 10-year time span, it had been felt that it would be better to submit a report that dealt with a longer period. Technical difficulties had also been encountered. His delegation was confident that the next report would be presented much more promptly.

25. Mr. LE LUONG MINH (Viet Nam) said that 15 crimes carrying the death penalty had been abolished in the new Criminal Code. Nevertheless, his country was required to fulfil its commitments to the Association of South-East Asian Nations (ASEAN), which it had joined in 1990. In addition, many neighbouring countries, like Malaysia and Singapore, had severe penalties for drug abuse and trafficking. For that reason, a substantial number of death sentences for drug trafficking had been pronounced in recent years. Despite that fact, the number of drug-related crimes had not fallen. Various ministries had therefore proposed that the Government should abolish capital punishment for those crimes, but it was unlikely to do so.

26. In response to the question concerning the right of appeal against a death sentence, he said that the two-tier court system made it possible to lodge such an appeal with the court of second instance. Crimes carrying the death penalty were tried in provincial courts and the sentence could not be enforced immediately. The convicted person therefore had a chance to submit an appeal to the court of second instance, the People's Supreme Court. The People's Supreme Procuracy could also petition against the sentence. Even if the People's Supreme Court agreed with the sentence, it could not be carried out straightaway and the convicted person could apply to the President for mercy. The President could commute a death sentence to one of life imprisonment.

27. The crime of corruption was referred to in articles 278- 284 of the Criminal Code. Most of the people found guilty of that crime had been high-ranking State employees, who had been in a position to abuse power. In 2000, two prominent cases concerning bribery and corruption among State employees had been brought to trial in the courts of Ho Chi Minh City and in 1997 a notary public had been sentenced to death in southern Viet Nam for corruption. State

security crimes included the offence of acting against State agencies. In 1999, the National Assembly had reviewed criminal law and, after deputies had debated State security crimes at length, the majority of them had voted to maintain that group of offences.

28. The Administrative Court was a new body, which had been set up in 1996. Its establishment had been a revolutionary development for the Vietnamese people because, for the first time in their history, citizens could file suits against State officials. In 2001, the People's Supreme Court had received 564 administrative cases, most of which related to administrative decisions. Eighty per cent of those cases had resulted in a successful challenge of the decision in question and once the court had found against them, administrative agencies were required to annul the decision concerned and citizens could thereupon claim compensation. Government Decree 47 of 1999 laid down detailed provisions on compensation and the restoration of dignity and honour. In the first nine months of 2001, the Court had decided over 90 cases of compensation with a total value slightly in excess of 248 million Vietnamese dong.

29. With regard to compensation for the victims of miscarriages of justice, the Civil Code stipulated the relevant conditions and amounts. The Standing Committee of the National Assembly was currently examining the draft of a new ordinance covering compensation in such cases. In certain cases, Government Decree 47 of 1999 was applied. Recent case law contained several examples of wrongful sentence or imprisonment involving the disciplining of officials, the removal of judges or the ordering of State employees to pay compensation.

30. The procuracy was independent of the Government and the courts, being elected by and accountable to the National Assembly. Its main functions were to conduct prosecutions in the name of the State and to supervise the activities of the judiciary and law enforcement officials. Its powers extended to the investigation of alleged violations committed by the security agencies, investigative agencies and court officials. Violations of the rules and procedures governing detention were investigated by the Supreme Procuracy.

31. Under the Code of Criminal Procedure, trials in camera were permitted only in cases involving State secrets or in which traditional social virtues had to be maintained, e.g. those involving rape or ethical violations. The jury decided whether a trial should be held in camera or in public. The council for the appointment of Supreme Court judges comprised one representative of the Supreme Court judiciary and one each from the Ministry of Justice, the National Fatherland Front and the National Lawyers' Association. The Council made recommendations based on a list of applicants supplied by the Supreme Court judges, and the appointment was made by the President of the Republic. The Council was also empowered to recommend the removal of Supreme Court judges, the actual decision being taken by either the President of the Republic or the competent appointing authority. All judges in Viet Nam were granted tenure for five years although the National Assembly was currently discussing a longer term. Judges could be removed at any time for ethical or legal violations, either through disciplinary measures or by a court of law. The Selection Council had the power to request the President of the Republic to reconsider such a decision. Cases existed in which Supreme Court judges had been removed from office on either legal or ethical grounds. The minimum criteria for the appointment of judges in Viet Nam were: Vietnamese citizenship, a record of excellent moral conduct, full legal training, mental fitness and a period spent in legal practice (four years for a district judge, six years for a provincial judge and eight years for a Supreme Court judge).

There was no requirement that a judge at any level must be a member of the Communist Party, although judges were under no obligation to renounce membership which predated their appointment.

32. Turning to the role of the people's assessor, he said that normally two of them worked alongside a judge, although in major trials there were sometimes two judges and three people's assessors. The latter were not required to have legal training before appointment, but had to undertake it once in office. When it came to court decisions, the opinion of people's assessors carried the same weight as that of judges.

33. On the question whether the interpretative power of the National Assembly Standing Committee might conflict with that of the courts, he said that the Standing Committee's power to intervene dated back to the Constitution of 1959, when the young Republic's legislation had amounted to no more than a set of guidelines. Although, in principle, that situation had not been altered by the current Constitution, the Standing Committee had not issued a single interpretative resolution since 1992. According to the current Constitution, the courts had no interpretative power. By contrast with the civil law countries, the Supreme Court in Viet Nam issued guidance for the judiciary in the form of resolutions and interpretative documents.

34. With regard to the selection criteria for defence lawyers, the relevant ordinance of 2001 stipulated that they must have a law degree, five years' judicial or legal experience, a postgraduate legal diploma and no criminal record.

35. Viet Nam had 46 prisons, of which 19 were in the north, 10 in the south and the remainder in between. They currently contained 70,000 prisoners. Contrary to the information given in document CCPR/C/VNM/2001/2/Add.1, the country no longer had any re-education centres; that description was due to a translation error. Rehabilitation programmes were carried out in two types of institution: training schools for minors, which provided them with food and education, and medical rehabilitation centres, which provided medical checks, treatment, and job training for drug users and prostitutes. Finally, fettering was used as a disciplinary measure in prisons for a maximum of seven days, but never with women, older persons or minors.

36. The CHAIRPERSON invited members of the Committee to put additional questions relating to written issues 1-20.

37. Ms. CHANET observed that several of the delegation's responses to the Committee's questions had reflected the assumption that certain elements of Viet Nam's domestic law could be applied in ways which restricted or altered basic elements of the Covenant, in order to be in keeping with the political system. One of the most serious problems in that regard was posed by articles 4 and 9 of the Constitution and article 5 of the Electoral Code, which directly contradicted the stipulation in article 25 of the Covenant regarding the right of every citizen to vote freely for the representative of his choice.

38. Furthermore, with specific reference to article 6 (2), of the Covenant, she asked for clarification regarding crimes that no longer carried the death penalty and regarding article 71 of the Criminal Code, which failed to stipulate a time frame for ensuring that a detainee's

entitlement to interview and trial within a reasonable time was met, as required by article 9 of the Covenant. Finally, although the delegation had asserted that Viet Nam no longer had re-education centres, article 30 of the Code of Criminal Procedure stated that it was possible to extend the detention period of a person who had just completed a prison sentence. She would like to know more about the nature of such extensions, and also about the re-education for national security reasons referred to in article 2 of that Code.

39. Mr. KRETZMER asked the delegation to supply full lists of all persons currently in prison, either convicted or awaiting trial, and broken down by prison and type of offence. He would like to know the exact procedure used in examining complaints of torture or cruel, inhuman or degrading treatment of detainees. In particular, which authority examined such complaints?

40. Mr. SOLARI YRIGOYEN asked whether information as to the whereabouts of detainees in prisons and rehabilitation centres was made available to their next of kin.

41. Mr. HENKIN said he would like to know more about the uses of administrative detention in relation to the Covenant. Secondly, he was concerned at the number of references the delegation had made to a public interest which transcended the provisions of the Covenant. Since the notion that individual human rights were in the public interest underpinned the Covenant and the human rights movement in general, any attempt to introduce opposition between individual and collective rights distorted that principle. Also, in response to question 30 of the list of issues, the delegation had referred to “misuse of religion” in the context of violations of the public interest. What did that phrase mean? Finally, in describing the reasons for its unwillingness to admit visits by international NGOs such as Human Rights Watch and Amnesty International, the Viet Nam Government had claimed that such organizations did not further individual human rights, and that their visits were unnecessary, since Viet Nam had already gained the approval of the World Bank and IMF. He wished to emphasize strongly that intergovernmental funding organizations were not specifically concerned with the monitoring of individual human rights violations. That was the task of organizations such as those he had mentioned, which were universally respected and had been admitted by the majority of countries approached by them.

42. The CHAIRPERSON said the Committee had received information from NGOs alleging that, by decree, offenders against national security could be sentenced to reform through labour at re-education facilities for three-year terms, renewable indefinitely until the person was deemed to have reformed. Was that true?

43. Mr. NGUYEN QUY BINH (Viet Nam), in response to question 21 on measures taken to combat violence against women, including domestic violence, said that educational programmes had been instituted to raise public awareness of the problem, to bring about gender equality and to improve communal reconciliation activities. Steps had been taken to ensure the timely investigation and prosecution of incidents involving violence and to promote the educational role of the family and community in that connection.

44. Replying to question 22 about forced labour, he said that, as had been confirmed by reports of the diplomatic corps after visits to prisons in Viet Nam, there was no forced labour in Vietnamese prisons. Conditions of work and vocational training for prisoners were set out in the penitentiary regulations embodied in Government Decree No. 60 of 1993. It was made clear in those regulations that labour was a form of re-education and could constitute a source of income for detainees who had served their prison terms. The purpose of vocational training was to help prisoners understand the value of work and to acquire a trade that would facilitate their reintegration into society. Work was allotted in accordance with the gender, health and age of the prisoner concerned, as required by the Labour Code. Penitentiary regimes in general came under the supervision of the National Assembly's Legal Committee and the people's committees at the various levels. A number of government agencies also conducted supervisory activities in that regard.

45. On forced labour of children, he noted that Vietnamese laws strictly prohibited any form of child labour. Viet Nam was a party to the International Convention on the Rights of the Child and to such ILO instruments as Convention No. 182 on the elimination of the worst forms of child labour and Convention No. 138 on minimum working age. Under the Labour Code which had entered into force in 1995, a worker must be at least 15 years of age, be fit to work and have entered into a labour contract. Chapter 11 of the Code contained specific regulations on juvenile workers. Employers were required to keep clear records specifying the full name, date of birth, work assigned and results of periodic health checks of each juvenile worker. Article 121 of the Code provided that an employer could only employ juvenile workers on work that was suited to their health, with a view to safeguarding their physical and mental development. It was forbidden to employ juvenile workers in heavy and dangerous work or work requiring contact with poisonous substances. Article 228 of the Criminal Code laid down penalties for persons who violated the laws on child labour.

46. In response to question 23 on trafficking in women and children, he said that in recent years such trafficking had become a serious issue. Viet Nam had enacted a series of preventive and punitive measures against crimes of that kind, including revising the Criminal Code to provide heavier penalties, tightening border controls, improving programmes for legal education, providing rehabilitation and reintegration services for victims, and strengthening international cooperation. The penalty for the crime of trafficking in children was increased in the revised Criminal Code of 1999 from a maximum term of 20 years imprisonment to imprisonment for life, with additional penalties for the crime of trafficking in children for purposes of prostitution. The Government had issued many regulations in the same vein. A recently promulgated Decree of the Prime Minister, replacing the earlier Decree on marriage and the adoption of children, contained various measures to prevent trafficking in women and children in the form of bogus marriage with, and adoption by, foreigners. Those measures included authorizing the provincial people's committees to refuse applications for marriage or adoption by foreigners. A bilateral agreement between Viet Nam and the country concerned was required for the adoption of a Vietnamese child by a foreigner. In addition to ratifying the Convention on the Rights of the Child, Viet Nam had acceded to its Optional Protocol on the sale of children, child prostitution and child pornography. Figures of cases discovered and prosecuted between 1991 and the first three months of 2002 showed a downward trend in such crimes.

47. In response to question 24 regarding possible restrictions on the right to freedom of movement and the system of registration and residence permits in place in Viet Nam, he said that freedom of movement was recognized as one of the fundamental rights of Vietnamese citizens and its enforcement was guaranteed by the State and Government. Restrictions on that right applied only to certain specific cases defined in the Criminal Code and the Code of Criminal Procedure. In addition, the Government issued regulations restricting movement in border areas in order to prevent the migration of persons charged with an offence or serving a sentence. Those restrictions were in keeping with the regulations commonly applied by other countries. There was no restriction whatever on the freedom of movement of any particular ethnic group or community. The restrictions imposed on persons found violating the law, some of whom came from the Central Highlands, were in keeping with the general regulations and the principle of equality before the law. The system of residence permits and registration had been initiated in wartime in order to maintain supplies for the city population. Now that Viet Nam was transforming itself into a market economy, the main purpose of the system had changed into one of helping to regulate the flow of people into the big cities.

48. In reply to question 25 on refugees from Viet Nam, he said that Viet Nam had collaborated very effectively with the international community to resolve the refugee problem that had emerged as a result of warfare and economic problems in the late 1970s and early 1980s. Viet Nam upheld the basic principle of international humanitarian law regarding voluntary repatriation and followed a humanitarian policy of leniency, helping the reintegration of those who chose to return into Vietnamese society. Together with UNHCR and the countries concerned, Viet Nam had carried out programmes for returnees, creating favourable conditions for their immediate resettlement. The successful execution of the 1989 comprehensive programme of action, comprising the repatriation and resettlement of almost 100,000 Vietnamese boat people from camps in Hong Kong and some south-east Asian countries, demonstrated Viet Nam's goodwill and capacity to resolve the issue. The policy with regard to certain so-called Montagnards who had been encouraged to flee to Cambodia was to ensure that they were safely repatriated with due respect for their dignity. The Tripartite Agreement between Viet Nam, Cambodia and UNHCR, signed on 21 January 2002, represented a constructive effort by the parties to resolve the issue, with a view to consolidating mutual cooperation, good neighbourliness and regional stability. The returnees had been welcomed without any punishment or discrimination and provided with material assistance and health care to help in their resettlement.

49. In connection with question 26, the report that religious leaders had been denied exit visas to attend conferences abroad was inaccurate. The exit visa requirement for Vietnamese citizens had been abolished on 11 November 1997. Between 1993 and 2001, more than 2,000 religious dignitaries, practitioners and followers had travelled abroad, and the number was increasing each year. Any refusals had had nothing to do with religion but had been due to the fact the persons concerned were on probation or subject to criminal investigation.

50. The reports referred to in question 27 that the Government opened or censored the mail of certain categories of persons were completely inaccurate. Under Vietnamese law, the rights to privacy, and the secrecy of mail and personal communications were inviolable. In some cases, however, for security reasons, where packages or letters were suspected of containing explosives, toxic substances or narcotic drugs, law enforcement agencies were authorized to take

preventive measures, which included opening, confiscating and, where necessary, destroying such materials. Since the events of 11 September in the United States, measures to control postal packages and correspondence had been strengthened with a view to preventing terrorism. Such measures must be authorized by the investigating agencies, and were subject to approval by the Supreme Procuracy.

51. The criteria for the recognition of religious organizations referred to in question 28 were set out in Decree 26 of April 1999. In order to be recognized, any religious organization must register and meet the conditions of possessing a large number of voluntary followers, being led by trained clergymen and having appropriate premises in which to hold services. Recognition was decided by the Prime Minister. Churches which were recognized were protected by law, but organizations which did not meet those conditions were not recognized and not allowed to operate. The statement that only six religions had been officially recognized confused religion and religious organizations. There were more than 30 well-organized religious organizations belonging to different religions, which were operating normally in Viet Nam. With regard to possible abuses of freedom of religion, he said that articles 81 and 205 of the Criminal Code recognized the principle that the realization of one individual's rights and freedoms must not infringe on the rights and freedoms of others. According to statistics provided by the Supreme Court, no one had been charged or prosecuted under the provisions referred to in question 29 in 1998 and 1999. In 2000, only one case had been processed under article 81 and none had been brought to trial. In 2001, there had been two cases, six individuals had been brought to trial and no one had been convicted.

52. In response to question 30, he said that article 70 of the Constitution, which guaranteed freedom of belief and religion, at the same time forbade the misuse of belief and religion in order to contravene the law and State policies. As was normal in international practice, no organization or individual was able to operate freely outside the law. Replying to question 31, he said that there were six major religions in Viet Nam with more than 20 million believers. All religions in Viet Nam had been encouraged by the State to participate in educational, charitable and humanitarian activities. International exchanges and training abroad for religious organizations and individuals were encouraged and the number of members of the various religions was growing strongly. There were approximately 40,000 places of worship nationwide, several thousands having been renovated or built since 1999. The rapid development of Buddhism in 2000 was an example of that trend. Many representatives of international religious organizations had visited Viet Nam in recent years.

53. In reply to question 32, he said that military service was obligatory for male citizens reaching the age of 18. Exemption was possible for reasons of health or on other reasonable grounds but the exercise of the right to freedom of belief and religion could not impede the fulfilment of citizens' obligations. Military service did not apply to priests carrying out professional religious functions. Conscientious objection on grounds of belief did not arise in Viet Nam.

54. Turning to questions 33-35 on freedom of opinion and expression, he said that legal provisions had been enacted to protect the rights to freedom of opinion and expression of the media and the public. The law on the press stipulated that no organization or individual should be allowed to restrict or hinder press or journalistic activities. Article 2 of Decree 51 of

April 2002 laid down the responsibility of press organizations to receive and publish citizens' opinions. The same Decree specified certain types of content that could not be published in the media. It included material containing views opposing the State, harming the people's solidarity, inciting violence or infringing the privacy of citizens, or material taken from classified documents. As noted in paragraphs 104 and 105 of the report, works were not subject to State censorship prior to publication except in certain cases. Thus, the media were not subject to censorship prior to publication or broadcast. They could be held responsible for any violation only during and after that process. Thus, the State's responsibility to censor had been changed into the responsibility of reporters and editors to check their material and determine whether or not to publicize it. Of 600 journals and magazines in Viet Nam, only about 100 belonged to the State; the rest were owned by civil organizations and NGOs. Religious organizations in Viet Nam had their own press.

55. Since the promulgation of the new press law in 1999, only one application to found a newspaper had been rejected. Development plans for the national and local press had been drawn up in conjunction with the overall socio-economic development plan to meet the demands of public opinion. Where applications to exercise media activities, such as radio or television stations or web sites, were rejected, the reasons for rejection must be clearly stated. Web sites could not be established by individuals but only through a number of domestic Internet service providers. The selection by the Government of a restricted number of publishing houses to publish religious texts had been prompted by the reluctance of such houses to engage in that non-profit activity. To ensure the right to publication and to meet the demand of religious associations, the Ministry of Culture and Information had been authorized to select a number of publishing houses to publish religious works. Not every publishing house had the necessary specialized knowledge.

56. In response to questions 36 and 37 about the dissemination of information relating to the Covenant, he said that programmes for the education and training of members of the judiciary, law enforcement officials and other public officials in the rights of individuals, as recognized in national legislation and international instruments such as the Covenant, were held in educational institutions at the tertiary level as part of the regular curriculum. Law enforcement officers and government officials were required to attend such courses and received a diploma or certificate after training. Viet Nam had had the Covenant translated into Vietnamese for publication immediately upon acceding to it. The relevant Vietnamese agencies were working to incorporate its content into domestic legislation and to make the document available for public use. In 1998, the Social Sciences Research Institute had published the full text in both English and Vietnamese of 15 international human rights instruments, including the Covenant. Plans were afoot to disseminate the national report on the implementation of the Covenant and the relevant Vietnamese agencies were preparing to implement a Swiss-funded project for the translation and publication of 35 international human rights instruments.

The meeting rose at 1.05 p.m.