



Economic and Social Council

Distr.: General
12 November 2014

Original: English

Committee on Economic, Social and Cultural Rights Fifty-third session

Summary record (partial)* of the 41st meeting

Held at the Palais Wilson, Geneva, on Monday, 10 November 2014, at 10 a.m.

Chairperson: Mr. Kedzia

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* No summary record was prepared for the rest of the meeting.

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

Opening of the session

1. **The Chairperson** said that recently there had been several positive developments in the field of economic, social and cultural rights, such as the adoption and implementation of General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system and the awarding of the Nobel Peace Prize to Kailash Satyarthi and Malala Yousafzay for their struggle against the suppression of children and young people and for the right of all children to education. While there had been no new ratifications of the Covenant since the Committee's previous session, Costa Rica had become the sixteenth State party to the Optional Protocol to the Covenant. The Committee was deeply worried about recent violations of economic, social and cultural rights in relation to events such as the kidnapping of more than 200 girls from a school in Nigeria and the spread of the Ebola virus disease outbreak in West Africa. The Committee would consider reports from eight States parties at the current session. Ms. Cong Jun had resigned from the Committee for personal reasons, and the Economic and Social Council would elect her replacement on 17 November 2014.

2. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights) said that the new High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, had indicated that he would give utmost importance to treaty bodies' recommendations and decisions and to their implementation. In the course of the current year, the Committee had reduced the backlog of reports by fully utilizing the additional meeting time granted to it and had made improvements to its working methods. He hoped that the Committee would consider appointing a focal point on reprisals to participate in the drafting of a joint policy on reprisals to be adopted by all treaty bodies. He also encouraged the Committee to increase the effectiveness and predictability of its work by harmonizing its working methods with those of other treaty bodies.

3. The outcome document issued by the Open Working Group on Sustainable Development Goals in July 2014 reflected some key dimensions of human rights, including economic, social and cultural rights, the promotion of equality and an increased focus on marginalized persons. Challenges remained, however, particularly in relation to the issue of sexual and reproductive health and rights. It was encouraging that the outcome document included a target that sought to enhance capacity-building support for developing countries in order to increase the availability of reliable disaggregated data. Such data should help to counter simplistic analyses of development and help ensure that meeting development goals contributed to the promotion of equality and the fight against discrimination. He encouraged the Committee to continue to pay attention to indigenous peoples' enjoyment of their rights, bearing in mind the United Nations Declaration on the Rights of Indigenous Peoples. Lastly, he paid tribute to Mr. Marchán Romero and Mr. Tirado Mejía, who would conclude their terms at the end of 2014, and to Ms. Cong Jun, who had resigned in July 2014.

4. **The Chairperson** said that, during the current session, the Committee would take up many issues related to the implementation of General Assembly resolution 68/268, including the harmonization of the work of the treaty bodies and the establishment of a focal point on reprisals. He welcomed the importance attached to the post-2015 development agenda and to the collection of disaggregated data.

5. **Mr. Sadi**, noting that Mr. Walker was the Chief of the Civil, Political, Economic, Social and Cultural Rights Section of the Human Rights Treaties Division of the Office of the United Nations High Commissioner for Human Rights (OHCHR), asked whether the title of the Section indicated that the Office was following a more integrated approach to human rights.

6. **Mr. Abdel-Moneim** suggested that the Chairperson might wish to issue a statement on the Ebola virus disease and its impact on the implementation of articles 2 and 12 of the Covenant. He also suggested that either the Chairperson or the Committee as a whole might issue a statement on the recent violations of economic, social and cultural rights to which the Chairperson had referred.

7. **Mr. Walker** (Office of the United Nations High Commissioner for Human Rights) said that the Office had always shown great respect for the interdependence and indivisibility of all human rights. The name of his section had not changed, though it was more commonly referred to simply as Section One.

Adoption of the agenda (E/C.12/53/1)

8. *The agenda was adopted.*

The meeting was suspended at 10.30 a.m. and resumed at 10.40 a.m.

Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights

Submissions by national human rights institutions and non-governmental organizations

Viet Nam

9. **Mr. Vo Van Ai** (Vietnam Committee on Human Rights) said that, despite significant economic growth in Viet Nam, millions of people in the country still lived in poverty or just above the poverty line. Viet Nam suffered from marked inequalities, especially in terms of opportunities and enjoyment of fundamental rights. In reality, there were no truly independent civil society organizations, free press outlets, free trade unions or independent courts in Viet Nam. While numerous laws had been adopted to promote the rule of law, they were often so vague as to allow for, or even encourage, arbitrary interpretations. Moreover, many of those laws were incompatible with international law, such as those that authorized child labour or punished human rights defenders. Censorship was rampant in the fields of education, culture and scientific research. The textbook used to teach history in schools provided false information and gave children a distorted view of history. In addition, the view of human rights promoted by the Government made those rights subordinate to so-called Asian values. In order for Viet Nam to fulfil its obligations under the Covenant, it must repeal all laws that were vaguely worded or incompatible with the Covenant; stop punishing human rights defenders; allow the emergence of a true civil society; and revise its school curricula.

10. **Ms. Faulkner** (Vietnam Committee on Human Rights) said that, contrary to what was claimed in the State party's report (E/C.12/VNM/2-4), Vietnamese law contained provisions that restricted or even nullified the Covenant rights, and many newly amended laws had been made even more restrictive than before. The 2013 amendments to the Constitution and the new Law on Trade Unions were two such examples. The reason the courts had never invoked or applied the Covenant was that the judiciary invoked spurious provisions of the Penal Code on "abusing democratic freedoms" or "spreading anti-State propaganda" to justify imprisoning Vietnamese citizens. Persons who denounced corruption faced harassment and imprisonment. Discrimination on the grounds of religion, political opinion or ethnicity was endemic, and discrimination in access to health care, employment and education was perpetuated by the obligatory residence permit known as the "*ho khai*", which recorded individuals' religion and ethnicity.

11. Workers were not allowed to join trade unions of their choice, and in any case there were no independent trade unions in Viet Nam. Official corruption, abuse of power and a

lack of mechanisms to assess the market value of lands had led to virtual State land-grabbing, and recent protests had been violently suppressed by the police. Internet use was subjected to censorship and restrictions, and blogs and websites denouncing abuses of economic and social rights had been hacked, banned or forced to operate outside the country. She urged the Committee to press Viet Nam to release all detained human rights defenders, repeal all laws that restricted enjoyment of the Covenant rights and dismantle the “*ho khau*” system.

12. **Ms. Kien** (Khmers Kampuchea-Krom Federation) said that the Khmer Krom were treated as second-class citizens in their own homeland. Despite having lived in the Mekong Delta for thousands of years, they were not recognized as an indigenous people by the Government, as reflected in paragraph 27 of the State party report, effectively depriving them of the right to self-determination. Moreover, the names of lakes, rivers, villages and provinces in the Mekong Delta had been changed to Vietnamese names.

13. The Khmer Krom were the poorest people in the region and some farmers struggled to afford adequate food owing to the high costs associated with rice production. In recent years, poverty had forced Khmer Krom students to abandon their studies at an alarming rate in order to seek employment, but without education, their future was bleak.

14. Children who were enrolled in public education received only two to three hours of Khmer language lessons per week, leaving most of them unable to read or write in their mother tongue. A monk who had attempted to offer language classes in Prey Chop Temple had been defrocked, detained and tortured, and had since been granted refugee status in Thailand. There were no magazines or booklets in Khmer and young people had very limited access to public forums, especially online, making it difficult for them to express their opinions freely and independently.

15. Ox racing and dragon boat racing, two traditional sports that were integral to Khmer culture, were being exploited by the Government to boost tourism. As a result, the Khmer Krom had been asked to purchase tickets to attend their own events, a situation highlighted by the Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, following her visit to Viet Nam.

16. The Government also failed to respect the right of the Khmer Krom to freedom of religion. The Patriotic United Buddhist Association (PUBA), which had been set up to control religious affairs in the country, had provoked hostility between Khmer Krom monks and their followers by offering the former a salary, an act that was considered taboo in Theravada Buddhism.

17. While the fundamental rights of citizens were proclaimed in the Constitution of Viet Nam, the Government took advantage of loopholes in the Penal Code to arrest and imprison human rights activists. A loose interpretation of article 91, for example, had been used in sentencing four persons to between 2 and 6 years’ imprisonment for attempting to flee the country after becoming fearful for their lives. The Khmer Krom should not be punished for exercising their fundamental rights and freedoms, particularly given that Viet Nam was a member of the Human Rights Council. Consequently, she called on the Committee to urge the Government to implement the United Nations Declaration on the Rights of Indigenous Peoples, respect the right of the Khmer Krom to identify themselves as such, allow students in State schools to learn their own language and cultural history, restore the original Khmer names of villages, districts and provinces, establish a legal document recognizing indigenous peoples and raise awareness among the population of their rights and the limits of domestic law. The Government should also release the four persons sentenced under article 91 of the Penal Code immediately, cease all forms of arbitrary arrest and detention, assist Khmer Krom farmers by ensuring price stability during the rice harvest season and promoting loan forgiveness programmes, recognize the Khmer language as an official

language in Kampuchea Krom, recognize the right to travel between Cambodia and Viet Nam for cultural events and festivals, stop exploiting and interfering in traditional sports and allow the Khmer Krom to create an independent religious organization to promote their rich history, religion and culture.

18. **Mr. Ribeiro Leão** asked whether the legislative framework governing freedom of association in Viet Nam was sufficient to confront the issues raised by previous speakers, and whether policies, laws and specialized legal documents to improve the quality of life of the population had contributed effectively towards poverty reduction.

19. **Mr. Kerdoun** said he wished to know whether legal channels were available in Viet Nam to address the many challenges faced by the country and, if so, whether the non-governmental organizations present had pursued them. He invited the civil society representatives to comment on the notion that the recognition of indigenous peoples in a unitary state such as Viet Nam could, under certain circumstances, pave the way for independence movements, and asked them to provide further evidence of violations of economic, social and cultural rights.

20. **Mr. Schrijver**, in reference to claims that there were no genuinely independent civil society organizations in Viet Nam, enquired about the status of the Vietnam Committee on Human Rights.

21. **Ms. Bras Gomes** asked Mr. Vo Van Ai to clarify what he meant by “Asian values” that were incompatible with international human rights standards. She also asked whether the State party had consulted civil society when drafting its report.

22. **Mr. Atangana** invited the civil society representatives to elaborate on the situation with regard to judicial independence in Viet Nam.

23. **Ms. Faulkner** (Vietnam Committee on Human Rights) said that independent trade unions were prohibited in Viet Nam. The only officially recognized union was under government control and tended to represent employers rather than workers, a problem exacerbated by the fact that many companies were run by the State. Workers who engaged in wildcat strikes risked legal sanctions and could be required to pay up to three months’ salary in compensation to their employers. Such strikes were becoming increasingly common because of poor working conditions and the low cost of labour, heightening the need for an independent body to protect workers’ rights.

24. Although Viet Nam had made laudable progress in tackling poverty, wealth disparity was growing and there were no mechanisms to protect the rights of victims of human rights abuses. The Vietnam Committee on Human Rights was based outside the country, but remained in daily contact with organizations in Viet Nam. In 2010, it had intended to send representatives to Thailand to present a report prepared jointly with the International Federation for Human Rights, but had been denied entry to the country following pressure from the Government of Viet Nam. Despite such setbacks, the Committee hoped to raise awareness of the Covenant through its alternative report, which had been translated into Vietnamese and would be disseminated in the country through unofficial channels.

25. **Mr. Vo Van Ai** (Vietnam Committee on Human Rights) said that the human rights situation in Vietnamese towns and cities was in stark contrast to that found in rural areas. The fundamental rights proclaimed in the Constitution were not enjoyed in practice and organizations that did not conform to the Marxist-Leninist ideology of the State were viewed as illegal. For example, although freedom of religion was ostensibly guaranteed, the Unified Buddhist Sangha of Vietnam had been banned and its patriarch, Thích Quảng Độ, confined to his pagoda. The “Asian values” that he had mentioned earlier were those espoused in school textbooks, which stated that the Universal Declaration of Human Rights

could not be accepted at face value and had to be interpreted through the lens of individual cultural morals and values.

26. **Ms. Kien** (Khmers Kampuchea-Krom Federation) said that the Khmer Krom were denied the right to freedom of association. There were notable cases in which persons who had spoken out against human rights violations had been subjected to acts of intimidation and torture, arrested and sentenced to prison. Her Federation sought to give a voice to the Khmer Krom and to protect them from the climate of fear instilled by the Government.

27. **Mr. Cooper** (International Federation for Human Rights) said that there was very little respect for the right to freedom of association in Viet Nam, and that persons who engaged in collective action often faced reprisals and were forced to seek asylum overseas. There had been a lack of consultation between the Government and civil society in drafting the State party report. Nevertheless, the Khmers Kampuchea-Krom Federation had discussed the enjoyment of economic, social and cultural rights with young people on social media and had included the information gathered in its alternative report. He emphasized that, ultimately, the Khmer Krom wanted unity with dignity.

The discussion covered in the summary record ended at 11.25 a.m.