

Side Report: OBSERVATIONS ON HUMAN RIGHTS IN Vietnam

1. We welcome Vietnam accepted 182 recommendations out of 227 from the Working Group (A/HRC/26/6, para. 143) in the second cycle of the Review, and determined to put them into practice.
2. We notice Vietnam's due diligence in implementing many of these recommendations and are deeply impressed by the significant progress Vietnam has made since the previous round of UPR and the adoption of the new Constitution in 2013 in particular.
3. We are gratified by the constant promotion of the democracy and the legal system, and especially by the significant steps taken by the Government of Vietnam in providing constitutional and legal safeguards for the citizens to exercise their political rights. These safeguards help them in realizing their interest in the political life and assume their responsibility and important role in exercising their right to participate in the national and social governance. The Vietnamese from different classes, ethnics, religions, genders, and social groups can participate in the exercise and the control of the process of the government through the political and civic institutions within the framework of laws, and by doing so, enjoy the national wealth. The participation of democracy system construction goes beyond citizens' direct involvement in their representative system and it is also complemented by their participation in the oversight of society through civil society organizations and institutions. However, we regret the lack of information in the respect of the participation of socio-political organizations.
4. We agree that, under Vietnamese laws and regulations, acts infringing upon human rights shall, depending on the seriousness, entail civil (Civil Code, (CC)), administrative (Decrees) or criminal liability (PC), and victims' right of access to justice and the right to an effective remedy are protected by the laws including the Constitution and the competent State agencies.
5. We noticed that, at present, Vietnam is studying the possibility of establishing a national human rights institution (NHRI) as recommended by the HRC.
6. We endorse the Working Group's recommendations on human rights education at

the second cycle of the Review, which refer to the public awareness of laws and regulations (143.44) and gender equality (143.81 – 83) human rights education, training and dissemination (143.58).

7. We appreciate Vietnam's sustained efforts in raising awareness among its people of laws and regulations relating to human rights.

8. It is worth noting that Vietnam has taken significant steps to improve the gender equality and has made great progress in ensuring the participation of women in the country's economic, political and social life and in the design and implementation of public policies. Vietnam has set gender equality and non-discrimination as the Constitutional principles and has elaborated them in other legal documents (such as the LC, The Law on Education (LOE), the Law on Election of Deputies to the National Assembly and People's Council (LEDNAPC) and The Law on Domestic Violence Prevention and Fighting (LDVPP)). We are delighted to see that the policies put in place to ensure gender equality in terms of rights and opportunities have indeed enhanced equality and social justice. It may nevertheless be noted that Vietnam has difficulties in ensuring gender equality. Therefore, we hoped Vietnam to provide more detailed information about these difficulties.

9. We clearly note the activities by the Government of Vietnam to strengthen human rights education, training, and dissemination as well. We highlight, in particular, the various forms of these activities, such as implementing training curricula for state legal officers and people working in human rights-related fields, hosting disseminations and talks to communities, distributing brochures, organizing days of keynote events, conducting seminars, programs, and TV reports.

10. We share the recommendations of the Working Group that the Government of Vietnam should enhance its own legal system on human rights through strengthening the human rights legal framework (143.31 – 33) and institutional framework (143.35, 39, 51, 127 – 132) at the domestic level, control the application of the death penalty (143.89, 90, 92, 94, 95, 114) and guarantee the freedom of speech (143.156, 157).

11. We are particularly delighted about the positive improvement of Vietnamese legal system and state agencies since the last Review. Take, the legal system, for example. The Vietnamese legislation that not only establishes the universally recognized basic legal guarantees for the protection of human rights but also offers substantive

guarantees for the functional practices of all rights, including civil and political rights and economic, social and cultural rights. Also noteworthy is the overall review of the existing legislation conducted by Vietnam. Legal documents and the provisions thereof not in compliance with the international human rights standards and the Constitution have been either revised or abolished.

12. We would also like to express the sympathy for Vietnam's commitment to reduce the use of death penalty and the concrete actions in this regard. We particularly support Vietnam's cautious use of the death penalty and the current amendments to the PC (2015) for its exclusion of certain crimes from the death penalty.

13. The Working Group noted with concern about the restrictions on the freedom of speech. We believe that the provisions of the Vietnamese Constitution and laws on freedom of speech are in conformity with the relevant international human rights standards.

14. We also recognize the importance of the Working Group's recommendations that the efforts to sign/ratify/accede to international human rights instruments to which Vietnam is not yet a party, should be continued (143.1, 9 – 14, 18 – 26, 28). The same holds true for the recommendations pointing to the withdrawal of the reservations to the human rights treaties, to which Vietnam is a party. (143.17, 24) and those concerning the consistency of the domestic legislation, regulations and policies with international law (143.29, 34). In addition, we note that particular attention was paid to Vietnam's compliance with its obligations under the International Covenant on Civil and Political Rights ICCPR (143.2 – 4, 171) and the protection of the rights enjoyed by women, children, persons with disabilities and other vulnerable and disadvantaged groups (143.47 – 49, 54 – 57, 68, 69, 79, 80, 84 – 88, 119 – 126, 179, 192, 205 – 214, 216, 217).

15. We are delighted to see that Vietnam ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and Convention on the Rights of Persons with Disabilities (CRPD) in 2015. To date, Vietnam has ratified/acceded to 7/9 UN core human rights treaties and several Optional Protocols (OPs) thereto. We also notice that Vietnam is currently conducting research on the possibility of its accession to the Convention against Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrants Workers and

Their Family.

16. We strongly feel that human rights treaties to which Vietnam is a party have a high priority within its domestic legal system. In Vietnam, if a domestic legislation and an international treaty, to which Vietnam is a contracting party, provide for different rules, the treaty shall prevail, except for the Constitution.

17. In our opinion, there is no obvious conflict between Art.69 of the Vietnamese Constitution and its implementation and the ICCPR, and we are very pleased with the great efforts made by Vietnam in protecting and promoting civil and political rights of the Vietnamese people.

18. In Vietnam, the guarantee of equality and prohibition of discrimination are constitutional principles, and favorable conditions for women, children and other vulnerable groups to fully enjoy their human rights have been created by laws, regulations and supplemented by policies and programs formulated and developed by this country. We greatly appreciate Vietnam's efforts to promote gender equality (see this report, para. 10) and anti-violence against women, and we would particularly like to acknowledge the achievement in these regards.

19. We appreciate Vietnamese Constitution and the laws containing the provisions concerning the rights of children. We notice that Vietnam has approved some national action programs to build a safe and friendly living environment to better fulfill the rights of children, to gradually reduce the gap in living conditions between groups of children; and to improve the quality of life and create equal development opportunities for all children. We recommend Vietnam conduct a mid-term and final evaluation of the achievements and experience of these programs in a timely and comprehensive manner.

20. For the international cooperation in the field of human rights, Vietnam was expected to continue and deepen the cooperation with international human rights monitoring mechanisms, including treaty bodies, the Human Rights Council (HRC) and the High Commissioner for Human Rights, Special Rapporteurs (143.66, 67, 70, 74 – 78). It was hoped that Vietnam would further the engagement with regional human rights bodies (143.123) and other countries (143.225, 227).

21. We are of the view that Vietnam's active figure can be frequently found within

many important UN human rights mechanisms, including the Human Rights Council for the 2014-2016 period, and the Economic and Social Council for the 2016-2018 term. Unfortunately, Vietnam seems to have failed to provide on its engagement with regional human rights bodies.

22. We are very pleased with the great efforts made by Vietnam in hunger elimination and poverty reduction, and we expect the country to strengthen international exchanges and cooperation in these regards. We hope Vietnam can share as many useful experiences as possible with other countries, and provide support to countries requesting assistance.

23. We are pleased to see the enormous efforts made by Vietnam in social, cultural and economic rights. It is undeniable that the quality of life enjoyed by the people of Vietnam has risen significantly over the past half-century. In referring to these rights, the previous conclusions and recommendations emphasized the following areas: effective protection for the family (143.138), labor-related rights (143.180, 181, 215), public service system, which is composed of social insurance/security, housing, income equalities, education and training, healthcare, legal assistance (143.182 – 191, 193 – 204) and *etc.* (143.218, 220 – 224).

24. We found that the key of effective protection for the family in Vietnam rests firstly on the protection of the rights in the marital relationship, and they are protected by the Constitution and the laws adopted by the National Assembly.

25. We take note of the clarification that the achievements in the construction and improvement of the public service system in Vietnam in recent years. We note with appreciation the Vietnamese endeavor of social equality through legislation and policies with the creation of favorable conditions for women and other vulnerable groups to fully enjoy their human rights.

26. As a matter of fact, the Vietnamese Constitution has established the right to equality before the law. Vietnam has promulgated the laws, such as the CC, the CiPC, the CrPC and the Law on Administrative Procedure and the LOPC, for the implementation of this constitutional right, (Arts. 3 and 16).

27. We notice that Vietnam has brought significant improvement to the domestic criminal justice system according to the PC and the CrPC in line with the Constitution,

with the aim of protecting the human rights of individuals involved in the criminal proceedings.

28. We appreciate the constitutional and legal protection of the religion-related rights in Vietnam. Appreciation also gives to the Vietnamese Constitution and the law for stipulating the equal treatment of all religions in this country. Moreover, we highly praise the practices of the Vietnamese authorities that encourage and facilitate religions to contribute to the national building.

29. We also welcome the legal protection of the right to freedom of speech, freedom of the press and the right to freedom of information provided by the Constitution, the laws promulgated by the National Assembly and the Decrees issued by the Government. It is important to notice that such kind of protection also extends to the right to assembly, right to association, and right to demonstration. We noticed that in order to detail and elaborate the relevant provisions of the Constitution, Vietnam is preparing the legislation on these themes.