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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**List of issues in relation to the third periodic report of Viet
Nam**

Addendum

Replies of Viet Nam to the list of issues^{*,}**

[Date received: 5 November 2018]

* The present document is being issued without formal editing.

** The annexes to the present report are on file with the Secretariat and are available for consultation.
They may also be accessed from the web page of the Human Rights Committee.

Constitutional, legal and institutional frameworks within which the Covenant is implemented (Article 2)

Responses to paragraph 1 (of List of issues in relation to the third report periodic report of Viet Nam)

1. Viet Nam is committed to observing international treaties to which Viet Nam is a party (Article 12 of the Constitution; Articles 3 and 80 of the Law on International Treaties). Domestic legislations shall not obstruct the implementation of the international treaties to which Viet Nam is party to. Provisions of the Covenant: (i) shall prevail over domestic legislations where there exists any divergence in provisions between the Covenant and the domestic legislation on the same subject matter, with the exception of the Constitution, and (ii) shall be fully reflected in domestic legislation.¹

2. As stated in paragraph 15 of the third periodic report of Viet Nam (hereinafter referred to as “the CCPR/C/VNM/3”), any restrictions on the enjoyment or implementation of human rights or the rights of Vietnamese citizens shall be provided for in the laws enacted by the National Assembly. Such restrictions may be imposed in limited circumstances, where necessary, with the reasons prescribed by Article 14(2) of the Constitution, including “national security” reason. Under the National Security Law, “national security” refers to stability and sustainable development of the socialist regime and the Socialist Republic of Viet Nam, and the inalienable independence, sovereignty, unity and territorial integrity of the country (Article 3). The national security protection shall comply with the Constitution, laws and regulations, and guarantee the state’s interests and the legitimate rights and interests of organizations and individuals (Article 5). Accordingly, any restrictions of rights undertaken for the reason of national security in accordance with the Constitution; and therefore, the Law on National Security are fully in line with the Covenant.

3. In addition to the information stated in paragraph 46 and Appendix 4 of the CCPR/C/VNM/3, Viet Nam has been implementing the Program on “Incorporation of human rights education into nation-wide educational system” in Viet Nam. In that sense, training institutions, including those under the Ministry of Public Security and the Ministry of Defence, are developing human rights training programmes and curricula, and will have such programmes delivered in 2019. Results of dissemination of the Covenant provisions made in the first half of 2018 can be found in Appendix 1.

Responses to paragraph 2

4. As mentioned in paragraphs 40-45 of the CCPR/C/VNM/3, any individuals, whose their civil and political rights are infringed, shall have the right to file complaints, denunciation or lawsuits to competent State agencies against the infringements. The new Law on Denunciation adopted by the National Assembly in June 2018 (effective as of 1 January 2019) contains new provisions that provide for a mechanism for individuals to exercise their rights to denunciation and to protect their legitimate rights and interests, as well as protect the law by their proactive means.

Complaints, denunciations, and petitions received and processed in 2017

		Received	Eligible	Processed
Administrative agencies	Complaints	57,983	24,540	26,120
	Denunciations	15,555	6,602	
People’s courts	Petitions	82,545		-
People’s procuracies	Petitions	32,530 petitions/	17,857 matters	22,231 petitions/ 12,417 matters

¹ See: paragraphs 18 and 35 of the CCPR/C/VNM/3.

Oversights and/or inspections of the implementation of legislation on complaint and denunciation in 2017

Activities	Quantity	
Oversights and/or inspections	1,645	
Agencies, organisations and/or individuals subject to inspection	2,779	
+ Violations	544	
+ Expressing disapproval of		
	Organisations	455
	Individuals	568
+ Administrative sanctions		
	Organisations	14
	Individuals	17

State compensations made in 2017 and early 6 months of 2018

Year	Cases
2017	109
Early 6 months of 2018	78

5. As mentioned in paragraph 47 of the CCPR/C/VNM/3, Viet Nam is actively studying international and foreign experience and making practical evaluation on the possibility of establishing a national human rights institution as recommended by the Human Rights Commission.

6. The Permanent National Office on Human Rights is an organization having mandates to offer the Government of Viet Nam with advices on how to protect and promote human rights; to study possibility of participation and implementation of human rights international instruments; to disseminate and raise awareness of human rights and conduct international cooperation in this regard.

Non- discrimination and gender equality (Articles 2, 3, 20 and 26)

Responses to paragraph 3

7. Viet Nam has yet planned to promulgate a law exclusively on anti-discrimination. However, as clearly indicated in paragraphs 36, 37, 49-60 of the CCPR/C/VNM/3, non-discrimination principle has been prescribed in the Constitution (including but not limited to Articles 5(2), 16, 24(1), 26(1) and 26(3)) and in various laws adopted by the Vietnamese National Assembly, such as the Criminal Procedures Code, the Civil Procedures Code, the Law on Administrative Procedures, the Labour Code, the Law on Gender Equality, the Law on HIV/AIDS Prevention, the Law on Persons with Disabilities, the Law on Investments, the Law on Enterprises, etc. This principle is applicable to both public and private spheres.

8. Viet Nam has been undertaking various measures to prevent discrimination in practice against women and other vulnerable groups, including persons with disabilities, people infected with HIV, and ethnic minorities.²

9. Viet Nam supports the elimination of violence and discrimination on the grounds of sexual orientation and gender identity. Viet Nam is also amending the existing laws and regulations towards greater openness for lesbians, gays, bisexuals and transgender persons. In particular:

² See: Appendix 2-A.

- Prohibition on same-sex marriage has been eliminated in the 2014 Law on Family and Marriage. Same-sex marriage is no longer subject to administrative fines under laws and regulations on administrative sanctions.
- Article 37 of the Civil Code stipulates that transgendering is allowed under law; transgender people shall have the rights and obligations to apply for registration of changes of civil status in accordance with the relevant law and regulations of civil status; transgender people shall enjoy their personal rights suitable to their transgendered sex in accordance with the law. Viet Nam is preparing a draft law on transgender.

Responses to paragraph 4

10. As mentioned in paragraphs 50-59 of the CCPR/C/VNM/3, the Law on Gender Equality was adopted in Viet Nam in 2006. Viet Nam has conducted a review of relevant laws and regulations, and is in the process of amending relevant law provisions, such as provisions concerning retirement ages for male and female labourers in the Labour Code. More information on other measures undertaken in this regard is seen in Appendix 2-A.

11. Programmes referred to in paragraph 52 of the CCPR/C/VNM/3 regarding gender equality in practice have proven their efficiency. The number of female deputies of the National Assembly currently accounts for 26.8%, which is higher than the rate of 19% in Asia and 21% in the world. The number of female entrepreneurs in Viet Nam is the highest in Southeast Asia; and Viet Nam ranked 19 out of 54 countries according to the Women's Entrepreneurship Index and 7 out of 54 countries having a large number of female entrepreneurs.

Responses to paragraph 5

12. As mentioned in paragraphs 190 and 191 of the CCPR/C/VNM/3, there exists in Viet Nam constitutional prohibition on any acts of discrimination, division of the ethnicities, and sabotage of peace, causing war of aggression provided for in the Penal Code. In addition, other pieces of legislation, such as the Law on Publication, the Press Law, the Law on Cyber Security³ and the Law on Beliefs and Religions, prohibit any acts of discrimination, division of the ethnicities, sabotage of the great national solidarity or offensiveness against beliefs or religions.

13. Upset by local extremist Catholic dignitaries who repeatedly made false accusation, distorted the history or socio-political events, and offended late Leader Ho Chi Minh, and frequently infringed upon the social order and security in the locality, a portion of the population in Nghe An province established the so-called "Red Flag Association" at their own discretion. Viet Nam does not encourage the establishment of such associations as the "Red Flag Association", and local governments employed measures to strengthen the management to ensure that such associations' activities neither violate laws and regulations, nor trigger discrimination, nor break the solidarity between the Catholics and non-Catholics.

Violence against women (Articles 2, 3, 6, 7 and 26)

Responses to paragraph 6

14. As mentioned in paragraphs 59 and 60 of the CCPR/C/VNM/3, Viet Nam has undertaken various measures, including the adoption of Law on Prevention and Control of Domestic Violence, to combat gender-based violence. Achievements thereon are reflected in paragraphs 2-15 of the State Party's report on implementation of the recommendations by the Committee on the Elimination of Discrimination against Women (CEDAW/C/VNM/CO/7-8/Add.1).

15. In order to raise the awareness of the domestic violence prevention, since 2007 Viet Nam has carried out many plans, programs and activities of dissemination and education of

³ Law on Cyber Security will come into force on 1 January 2019.

the domestic violence prevention, as well as of behavioural changes such as organisation of awareness-raising events and publications, to name a few.⁴

Measures to support victims of domestic violence

	2017
Number of counselling clinics	9,459
Number of perpetrators of domestic violence provided with counselling	5,906
Number of victims of domestic violence provided with counselling	6,583
Number of medical clinics	12,524
Number of victims received by medical clinics	2,173
Number of social protection centres	418
Number of victims received by social protection centres	241
Number of victim support centres	5,923
Number of victims received by victim support centres	1,327
Number of community-based reliable addresses	48,697
Number of victims received by community-based reliable addresses	4,648

16. Article 141 of the Penal Code defines that raping is the act of using force, threatening to use force, or taking advantage of the victim's inability to defend himself/herself or by any other means for sexual intercourse or other sexual acts against the will of the victim. Thus, the subject of the crime is any person who has the capacity for criminal liability, not excluding the person having a marital relationship with the victim.

State of emergency and counter-terrorism measures (Articles 2, 4, 7, 9 and 14)

Responses to paragraph 7

17. With reference to paragraph 61 of the CCPR/C/VNM/3:

- In case of a state of emergency (when the country is in immediate danger of being invaded, or an armed invasion or armed riot occurred but not to the extent of declaring the state of war), measures that may be applied include martial law and curfew, and shall only be applied in accordance with the strict requirements provided for in Articles 21 and 22 of the 2018 Law on Defence.⁵
- In the event of a major disaster or dangerous epidemic, special measures may be undertaken to restrict persons and/or means of transportation to enter into dangerous areas and/or areas with epidemics (Articles 9 - 28 of Decree No. 71/2002/ND-CP).
 - Accordingly, the measures to be taken in the said emergencies are in accordance with the provisions of Article 4(1) of the Covenant, and no derogations from non-derogable provisions shall be made, pursuant to paragraph 2 of this Article. Since 2002, Viet Nam has not declared a state of emergency.

18. Viet Nam has concluded a large number of multilateral and bilateral international treaties on counter-terrorism.⁶ In line with the provisions of these international treaties, Viet

⁴ See: Appendix 2-B.

⁵ The 2018 Law on Defence will come into force on 1st January 2019.

⁶ Viet Nam proactively acceded to and implemented 13/19 international treaties on counter-terrorism of the United Nations and ASEAN Convention on Counter-Terrorism; signed a large number of agreements under multilateral and bilateral cooperation with other countries, international organizations on anti-terrorism and prevention such as INTERPOL, ASEANPOL, etc.

Nam has amended, supplemented and/or promulgated many pieces of legislation, including the Penal Code and the Law on Counter-Terrorism.

19. Under Article 3 of the Law on Counter-Terrorism, terrorism is one or several acts of organizations and/or individuals against the people's governments, coercing the people's governments, foreign and international organizations, impeding Viet Nam's external relations, or causing panic among the public.⁷

20. Persons suspected of or prosecuted for terrorism or related crimes shall be subject to the same treatment applicable to other subjects in accordance with the law, as stated in paragraphs 136, 137, 145-151 of the CCPR/C/VNM/3.

21. Under Article 14 of the Penal Code, the preparation of terrorism offenses against the people's administration and the preparation for committing terrorism are construed as acts of seeking and/or preparing tools or means, or creating conditions to commit acts of terrorism (Articles 113 and 299 of the Penal Code).

22. The Penal Code defines terrorism (Article 299) and terrorism against the people's administration (Article 113). The fundamental difference between terrorism and terrorism against the people's administration is the purpose of perpetrators, and the social relations that are infringed upon by perpetrators. The purpose of perpetrators under Article 113 is "to oppose the administration" while the purpose of perpetrators under Article 229 is to cause public panic.

Number of criminal cases on terrorism and terrorism against the people's administration during 2005 - June 2018 period

	2005-2011		2011-2017		2017 – June 2018	
	Cases	Accused	Cases	Accused	Cases	Accused
<i>Terrorism</i>	2	10	5	10	0	0
<i>Terrorism against the people's administration</i>	-	-	3	18	0	0

Right to life (Articles 6, 7, 9, 10 and 14)

Responses to paragraph 8

23. Under Article 40 of the Penal Code, capital punishment is an extraordinary penalty only applicable to persons who commit extremely serious crimes prescribed in 18 articles/provisions of the Penal Code, including: (i) crimes that infringe upon the national security; (ii) crimes that infringe upon life or health; (iii) economic crimes; (iv) drug-related

⁷ The following specific acts will be regarded as terrorist acts:

(i) infringement upon the lives, health, and corporal liberty or threatening to infringe upon the lives or intimidating mentality of others;

(ii) Appropriating, damaging, destroying or threatening to destroy assets; attacking, infringing upon, obstructing or causing disorder to, operation of computer networks, telecommunication networks, Internet and digital equipment of agencies, organizations or individuals;

(iii) Guiding the manufacture, production and use of, or manufacturing, producing, storing, transporting, trading in, weapons, explosives, radioactive materials, poison, inflammables and other instruments and means in serve of committing the acts defined at Point a and Point b, Clause 1 of this Article;

(iv) Propagating, inciting, forcing, hiring, or creating conditions for, or assisting for, the commission of the above-mentioned acts;

(v) Establishing, participating in the organization, recruitment, training and coaching of objects with the aim to commit the acts defined at Points a, b, c and d, Clause 1 of this Article;

(vi) Other acts that are considered terrorism under the anti-terrorism international treaties of which the Socialist Republic of Viet Nam is a member.

crimes; (v) crimes that infringe upon public order and/or public safety; (vi) crimes of corruption; and (vi) crimes of sabotaging peace, crimes against humanity and war crimes.⁸

24. Criteria for defining extremely serious crimes are: (i) the provisions of the Penal Code;⁹ (ii) the nature and extent of danger to the society of the acts of offence committed by the accused; and (iii) the consequences of the accused's acts of offence.

25. Persons on death row who are being temporarily detained shall be entitled to provision of meals, clothing, accommodation, medical care, receiving gifts, sending and receiving letters, books, newspapers and documents, like other detainees as mentioned in paragraph 110 of the CCPR/C/VNM/3. Persons on death row shall be guaranteed visitation, the right to appeal, the right to petition for cassation review or re-trial, the right to apply for commutation of death sentence in accordance with the provisions in Chapter VI of the Law on Temporary Detention and Custody.

26. Under the provisions of the Criminal Procedure Code, measures taken to judicially review a judgment being declared unlawful or violating the principles of fair trial, including judgments under which death penalty is declared, shall include: (i) appellate procedure;¹⁰ (ii) review of the legally enforceable judgment under the cassation procedure¹¹; (iii) review of the legally enforceable judgment under the re-trial procedure¹²; and (iv) procedure for reviewing decisions of the Justices Council of the Supreme People's Court¹³. With regard to the judicial review of a judgment under which death penalty is declared, the Criminal Procedure Code also provides for the procedure for sending the case file to the Chief Justice of the Supreme People's Court to decide whether to protest or not to protest the case in accordance with the cassation review procedure, right after the judgment becomes legally enforceable.¹⁴

27. Reducing the death penalty has been one of the key tasks under the judicial reform in Viet Nam as stated in paragraph 67 of the Report. In the drafting process of the Penal Code, provisions related to reduction of death penalty were subject to public consultations and received the very positive support from the public.

Responses to paragraph 9

28. In Viet Nam, women have the right to abortion at their own will (Article 44 of the Law on Protection of People's Health) and access to abortion services without discrimination (Article 3 of the Law on Medical Examination and Treatment). However, sex-selective abortion is strictly prohibited under Article 7 of the Ordinance on Population and Article 10 of Decree No. 104/2003 /ND-CP.

⁸ The crimes may be subject to the death penalty under the Penal Code, as follows:

- The offenses against national security (06 offenses): high treason; activities to overthrow the people's government; espionage; rebellion; terrorism to oppose the people's government; sabotaging facilities of the Socialist Republic of Viet Nam;
- The offenses that infringe upon human life, health (02 offenses): murder, rape of a person under 16.
- The economic crimes (02 offenses): Manufacturing and trading of counterfeit medicines for treatment or prevention of diseases.
- The drug offenses (03 offenses): illegal manufacturing of narcotic substances; illegal transport of narcotic substances; illegal trading of narcotic substances.
- The offenses that infringe public order and public safety (01 offenses): Terrorism.
- The corruption related crimes (02 offenses): Embezzlement; taking bribes.
- The sabotage of peace, against humanity and war crimes (03 offenses): disruption of peace, provocation of war of aggression; crimes against humanity; and war crimes

⁹ Under Article 9 of Penal Code, extremely serious crime means a crime whose danger to society is enormous and for which the maximum sentence of the bracket defined by this Code is from over 15 years' to 20 years' imprisonment, life imprisonment, or death.

¹⁰ Chapter XXII Criminal Procedure Code.

¹¹ Chapter XXV Criminal Procedure Code.

¹² Chapter XXVI Criminal Procedure Code.

¹³ Chapter XXVII Criminal Procedure Code.

¹⁴ See: Paragraph 68 of the CCPR/C/VNM/3.

29. In recent years, the abortion rate in Viet Nam has tended to fall sharply as indicated in paragraph 71 of the CCPR/C/VNM/3. The Government of Viet Nam has issued specific regulations for abortion clinics that provide family planning/obstetrical services to ensure the quality of abortion services.¹⁵

30. Article 316 of the Penal Code specifies the penalties applicable to illegal abortion. In the period from 2005 to the end of June 2018, the number of criminal cases involving illegal abortion has decreased.

Number of criminal cases on illegal abortion (2005-June 2018)

Year	2005-2011	2011-2017	2017-6/2018
Number of cases	25	7	0
Number of the accused	48	8	0

31. Viet Nam has made every effort to improve the legal framework and to implement specific measures for reproductive health care for people to: (1) reduce the mortality rate at birth, especially in remote areas, difficult areas and in ethnic minority communities; (2) foster reproductive health care and to reduce adolescent pregnancies.¹⁶

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment, treatment of persons deprived of their liberty, including prisoners of conscience (Articles 2, 6, 7, 9, 10 and 26)

32. Information of the legal framework and practice of the implementation of international obligations, the enforcement of the law against torture and other forms of cruel, inhuman or degrading treatment or punishment have been sufficiently provided in the Report on the implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/VNM/1).

Responses to paragraph 10

33. As mentioned in paragraphs 72 and 74 of the CCPR/C/VNM/3 and paragraphs 9-10, 41-43 of the CAT/C/VNM/1, prohibition of torture is recognized in the Constitution, and at the same time, any act which has torture nature is defined as a criminal offence, though Viet Nam's law neither provides for torture as a crime, nor a definition of "torture".

34. Viet Nam's law, including the Law on the Management and Use of Weapons, Explosives and Support Tools, provides for circumstances where the use of force to perform official duties is permitted.¹⁷ Therefore, "use of force outside the circumstances permitted by law" as provided for in Article 137 of the Penal Code shall be construed as cases of the use of force by persons on official duty that do not fall within the circumstances permitted by the relevant laws.

35. In cases where persons temporarily taken in custody or detainees die at the custody or detention facilities, investigating bodies and procuracies shall carry out investigation and other procedures provided for in Article 26 of the Law on Temporary Detention and Custody, including the procedures for crime scene examination and post-mortem examination to determine the cause of death, with the witness of the victims' family. Any death due to external influences shall be investigated, clarified and concluded by professional bodies under the control of the People's Procuracy, and the victims' family shall not be put under pressure to refuse to challenge the conclusion on the death.

¹⁵ Decision No. 4128/QĐ-BYT on 29 July, 2016 of the Health Minister on approving "National Handbook on Reproductive Health Care Services.

¹⁶ See: Appendix 3.

¹⁷ Law on the Management and Use of Weapons, Explosives and Support Tools provides for persons who shall be equipped with military weapons, types of military weapons to be provided for, procedures for being equipped with military weapons, principles of use of military weapons, cases in which gunfire is allowed to ensure the security and order, etc.

36. The Criminal Procedure Code and the Law on Temporary Detention and Custody clearly prohibit torture during the criminal proceedings or the period of temporary custody and detention (as mentioned in paragraph 72 of the CCPR/C/VNM/3). However, there were still several instances of forced confession in the judicial proceedings, affecting the reputation of the bodies conducting the proceedings. From 2012 to the end of 2015, 08 cases of forced confessions had been handled. (For specific information on these cases see paragraphs 59 and Annex 11 of the CAT/C/VNM/1).

Responses to paragraph 11

37. Information on the organisation of prisoners' detention, detention conditions, and the rights of prisoners under the Law on Enforcement of Criminal Judgement has been provided in paragraphs 57, 58, 152-154, 158, 179 and 180 of the CAT/C/VNM/1. Accordingly, prisoners are treated equally regardless of the premises or places where they are detained.

38. In Viet Nam, there is no such "prisoner of conscience". Any accusations saying that prisoners are subject to torture or ill-treatment committed by fellow inmates acting at the instigation and/or with the consent of police officials are ungrounded and have merely come from the organizations showing no goodwill towards Viet Nam. To demonstrate this fact, Viet Nam allowed the representatives of foreign diplomatic missions in Viet Nam and international organizations to visit some inmates at the request of these missions and organizations. All the already-made visits showed the fact that the legitimate rights and interests of prisoners are guaranteed in accordance with the law.

Responses to paragraph 12

39. Information on the quantity and actual conditions of detention facilities including temporary detention institutions, prisons and custody houses has been provided in paragraphs 178 - 180 of the CAT/C/VNM/1.

40. In recent years, overcrowding and inappropriate conditions of incarceration in detention facilities have improved significantly. Viet Nam has increased investment in facilities to serve the management and the detention, in combination with improvement of medical care and spiritual life for detainees and prisoners.¹⁸

41. Viet Nam has already reported on the regular monitoring and inspection mechanism applicable to all detention facilities in paragraphs 173 - 177 of the CAT/C/VNM/1.

Forced labour, elimination of slavery and servitude (Articles 7, 8 and 9)

Responses to paragraph 13

42. The labor regime applicable to prisoners and drug addicts at compulsory rehabilitation establishments is provided for in the Law on Enforcement of Criminal Judgments, the Law on Preventing and Combating Narcotic Drugs and the relevant pieces of legislation.¹⁹ Accordingly, work arrangement for prisoners aims at meeting the requirements of management, education and integration of prisoners into the community. The participation of trainees in drug rehabilitation centers in the work arrangement helped them be aware of the value of labor and restore work skills that had been reduced by drug addiction. Those labor regimes are not intended to produce commercial goods.

¹⁸ Since 2009, detention centers, custody houses, and prisons in Viet Nam have been newly built, renovated or upgraded. By June 2018, 21 prisons had been newly constructed in Viet Nam. In the coming time, the requirement of two square meters (2m²) for sleeping space for each inmate or person held in temporary custody, detention continues to be guaranteed under Vietnamese law.

¹⁹ The labor regime applicable to prisoners is mentioned in paragraphs 82, 116 of CCPR/C/VNM/3 and paragraph 158 of CAT/C/VNM/1. The labor regime applicable to drug addicts at compulsory rehabilitation establishments stated in Article 30, and 32 Law on Drug Prevention and Combat and Decrees No. 221/2013/ND-CP and 136/2016/ND-CP.

43. Viet Nam has been actively engaging in anti-human trafficking activities of the international community through regional and international forums.²⁰ In order to implement the international treaties on anti-human trafficking to which Viet Nam is a party, the legal framework on anti-human trafficking, including the definition of trafficking in persons, has been developed and standardised in compliance with international standards (paragraphs 83-87 of CCPR/C/VNM/3).²¹

44. The anti-trafficking in persons situation can be seen in Appendix 4.

Liberty and security of person (Articles 2, 9 and 14)

Responses to paragraph 14

45. As stated in paragraph 93 of the CCPR/C/VNM/3, no one shall be arrested without a decision of the People's Court, or a decision or approval of the People's Procuracy, except for being caught red-handed. The arrested person, even in cases related to national security, is guaranteed the statutory rights, including the right to keep his/her family or the third party informed, the right to access lawyer promptly (paragraphs 107, 148, 149 of CCPR/VNM/3, paragraph 54 of CAT/C/VNM/1).²²

46. The principle of timely adjudication within the statutory time limits prescribed in the Constitution is further specified in the Criminal Procedure Code in the way of elaborating the legal proceedings from the initiation of the criminal proceedings to the trial. In case of violation of procedural time limits, the concerned agencies, organizations or individuals may lodge complaints with competent agencies or persons for handling in accordance with the provisions of Chapter XXXIII of the Criminal Procedure Code regarding complaints and denunciations in criminal proceedings. Persons who commit acts of violating the provisions of the Criminal Procedure Code, including violations of procedural time limits, shall be considered for liability, depending on the nature and seriousness of their acts.

47. Information on the period of temporary detention is provided in paragraph 56 of the CAT/C/VNM/1 Report. In addition, the temporary detention period for persons under 18 years of age is shortened to two thirds of the temporary detention time applicable to persons over 18 years (Article 419 of the Criminal Procedure Code). In special circumstances where there are no grounds to cancel the temporary detention measure applied to extremely serious offenses of infringing upon the national security, the Procurator-General of the Supreme People's Procuracy may decide to apply temporary detention until the end of investigation under the Criminal Procedure Code (Article 173 of the Criminal Procedure Code). Such stipulations strictly ensure the protocols, procedures and competence to extend detention.

48. Viet Nam is of the opinion that any accusation that the competent authorities decide to extend temporary detention for the purpose of punishment or taking of testimony are groundless. The extension of custody or temporary detention results from complexity of the case with multiple perpetrators involved, which requires for the investigation and clarification of the case, and the extension, is made in accordance with the legally-prescribed protocols, procedures and jurisdiction.

²⁰ Viet Nam is currently one of State party of United Nations Convention against Transnational Organized Crime and Protocol to prevent, suppress and punish trafficking in persons, especially women and children thereto.

In 2012, 2014, 2016 and 2018, Viet Nam prepares for reports to Special Rapporteur on the prevention of trafficking, especially woman and children and United Nations Office on Drugs and Crime. Viet Nam proactively participates in the drafting process of Global Compact for safe, orderly and regular migration (GCM), Global Compact on Refugees (GRCs) supported by United Nations in order to stimulate safe, orderly and regular migration, prevent irregular migration and trafficking in persons. In 2017, Viet Nam acceded to ASEAN Convention Against Trafficking in Persons, Especially Women and Children.

²¹ See: paragraphs 83-87 of the CCPR/C/VNM/3

²² See: paragraphs 107, 148, 149 of the CCPR/C/VNM/3, and paragraph 54 of the CAT/C/VNM/1

49. In case of law violation when making decisions or conducting procedural acts in holding persons in urgent cases, temporary detention or custody, such persons may lodge complaints against the holding with the competent agencies or persons for handling under the provisions of Chapter XXXIII of the Criminal Procedure Code. Accordingly, courts shall have the responsibility to handle such complaints during the trial period (Article 474(3)).

50. In Viet Nam, no one is subject to arbitrary detention or deprivation of liberty. Any violations of law shall be handled in accordance with the provisions of the Vietnamese law. Persons who are serving imprisonment sentence for crimes that fall under the category of crimes infringing upon the national security are treated like other prisoners.

51. With regard to the case of Nguyen Ngoc Nhu Quynh, Viet Nam already provided sufficient information and legal basis for the arrest, prosecution, trial and guarantee of the rights of Nguyen Ngoc Nhu Quynh in its written responses to the opinions of the Working Group on Arbitrary Detention of the UN Human Rights Council.²³ Viet Nam insists on holding that the Conclusion 27/2017 of the UN Commission on the Human Rights did not reflect the actual situation but was based upon untrue, unsupported and unverified information, without taking into account the viewpoint and official information provided by Viet Nam.

52. The so called “house arrest” does not exist under Viet Nam’s law. Regarding deprivation of liberty under the administrative procedures, the Vietnamese legislation provides for measures of holding persons in custody in accordance with the administrative procedures, taking persons to compulsory detoxification establishments (administrative sanctions), and family-based management of persons (a family-based alternative to administrative sanctions). These measures shall be only applied in the following cases under the legally-prescribed protocols and procedures:

- The measure of holding persons in custody in accordance with administrative procedures shall be applied only in cases where it is necessary to prevent or immediately stop acts of disturbing public order or injuring another person, or having grounds to believe that acts of smuggling or illegal cross-border transportation of goods occur, as stipulated by law provisions on handling of administrative and customs violations.²⁴
- The measure of taking persons to compulsory detoxification establishments shall be applied to drug addicts under court decisions in accordance with the protocols and procedures prescribed in the Law on Handling of Administrative Violations and the Law on Preventing and Combating Narcotic Drugs²⁵. This measure aims to help drug addicts stay away from drugs while providing living skills and career skills to stabilize their lives and find a job.
- The family-based management of persons is one of the educating alternatives to administrative sanctions that are applied to juveniles who commit administrative violations under the conditions prescribed in the Law on Handling of Administrative Violations.²⁶

Right to a fair trial and independence of the judiciary (Article 14)

Responses to paragraph 15

53. Appointment, discharge from duty or dismissal of judges is stated in paragraphs 142 – 143 of the CCPR/C/VNM/3. Under the new provisions of the Law on Organization of the

²³ Reply to the communications No. 01/2017 dated February 24, 2017; No. 04/2017 dated June 26, 2017 and VNM No. 03/2018 dated March 13, 2018.

²⁴ Article 122 Law on Handling of Administrative Violations; Article 102 Law on Customs; and Decree No. 112/2013/ND-CP.

²⁵ Articles 95, 96, 103, 104, 110 – 114 Law on Handling of Administrative Violations.

²⁶ Article 140 Law on Handling of Administrative Violations.

People's Courts, influence by other agencies in the process of appointment, discharge from duty or removal or dismissal of judges is minimized. In particular:

- For the appointment process, the National Council for Selection and Supervision of Judges shall be set up. The Council consists of six representatives from peoples' courts and five representatives from various agencies and/or organizations. Under the modality of collective working, making decisions by majority of votes and diversity in membership, it is very difficult in the legal sense for other agencies and organizations to intervene in the process of appointment of judges. The appointment of a judge is made on the basis of his or her capacity and prestige through a competitive examination.
- Article 82 of the Law on Organization of People's Courts provides for six grounds for dismissal of a judge. The grounds mainly include violations of laws and/or professional ethics that undermine the prestige of judges. Discharge from duty or dismissal of a judge must be based on the assessment results of an independent council to ensure that the discharge or dismissal be considered thoroughly and impartially without any negative influence by any other entities.
- Article 103 of the Constitution and Article 9 of the Law on the Organization of People's Courts provide that during a trial, the Judges and People's Assessors are independent and only subject to the law. Agencies, organizations or individuals are prohibited from interfering in any form in the adjudication of Judges and People's Assessors. Any agencies, organizations or individuals who interfere in such adjudication shall, depending on the nature and seriousness of the violation, be subjected to disciplinary or administrative sanctions or criminally prosecuted in accordance with law.

54. In addition to the expanded list of persons entitled to legal aid as stated in paragraph 150 of the CCPR/C/VNM/3, the 2017 Law on Legal Aid contains many new provisions for better guaranteeing the right to legal aid.²⁷

55. Improving the court's adjudication quality is always an important goal and a priority in the Judicial Reform Strategy of Viet Nam. In order to enhance the quality of the court's adjudication, the Supreme People's Court has implemented many solutions, with a focus on those to ensure the uniform application of laws, to improve the quality of court judgments and decisions, to publicize court judgments and decisions; to renovate the arrangement of trials in line with the judicial reform. Through those measures, the system of people's courts contributed to ensuring justice, providing legal dissemination to the public and strengthening the public confidence in the system.

56. Viet Nam also undertook various legislative, administrative and other measures to increase the quantity and improve the quality and level of participation in legal aid by lawyers' groups and legal advisory organizations. Some of the examples include:

- The Law on Lawyers (revised in 2012) states that providing legal aid is a mandatory duty of lawyers to enhance the social responsibility of lawyers, helping to ensure the

²⁷ The new provisions of the Law on Legal Aid of 2017 to better ensure the right to legal aid include:
(i) confirmation of provision of legal aid is a duty of the State, and such legal aid is provided free of charge to the persons eligible to legal aid and costs of the legal aid provision is incurred by the state budget, contributions of foreign and local organizations and individuals and other legal sources of budget;
(ii) provision for the duty of agencies and organizations (the agencies whose functions relate to the legal aid in the judicial procedure, relevant state agencies and social and professional organizations of lawyers ...) to enhance the responsibility and cooperation in providing legal aid;
(iii) Providing for the minimum conditions for organizations involving in the provision of legal aid (lawyer practicing and legal advisory organizations) to reduce formalistic or ineffective participation in legal aid provision; providing for management of the quality of legal aid cases by using e-file of each case in order to enhance the effectiveness of legal aid activities management;
(iv) Providing clearly for the forms of legal aid provision which include the participation in judicial procedure, provision of legal advice and out-of-proceeding representation; and
(v) Amending the provisions on the procedures and steps of providing legal aid to be more friendly convenient for the persons eligible to legal aid.

right of poor people and other vulnerable groups to access lawyers. The simplification of procedure for registration of defense counsels is mentioned in paragraph 149 of the CCPR/C/VNM/3.

- Competent state agencies provide support to the Viet Nam Bar Federation in carrying out activities to enhance the capacity of lawyers, such as international cooperation, programs for improving the internal regulations and rules of the Federation, compiling Lawyers Manuals, and organizing training workshops on laws and regulations, and skills to provide legal advices in connection with the implementation of Covenant.

Number of lawyers and legal advisers and legal advisory centers involving in the provision of legal aid

Unit: Persons

Law practicing organizations	3,700
Lawyers in the whole country ²⁸	12,569
+ Apprentices	5,000
Legal advisory centers	180
Legal advisers	600

Professional and legal aid activities of lawyers during 2015 – 2017 period

Unit: Cases

Legal aid provision under the Law on Lawyers	110,592
Participation in criminal cases	43,738
+ Appointed by competent agencies	18,749
+ Invited by clients	24,989
Participation in civil cases	36,280
Provision of legal advices in economic, business and commercial areas	41,560
Participation in administrative cases	2,687
Participation in labor cases	1,828

57. The guarantee of the accused person's right to defence or receive legal aid is specified in the Criminal Procedure Code and the Law on Legal Aid, and is stated in paragraphs 149 – 151 of the CCPR/C/VNM/3. The extended list of persons eligible for legal aid and the statutory registration of defense counsels give more opportunities for the accused person to have access to legal aid services in the criminal proceedings.

58. From 1 January 2016 to 30 June 2018, the province-level state legal aid centers provided legal aid in 201,067 cases with 202,381 visits, of which there were 36,763 cases of participation in legal proceedings and there was neither complaint about the quality of the services provided nor claim for compensation reported.

Responses to paragraph 16

59. Viet Nam always makes efforts to ensure better the rights of defense counsels and lawyers in the criminal procedure, such as the rights of defense counsels being further expanded,²⁹ and mechanism for guaranteeing the right to defense.³⁰ In addition, the 2015

²⁸ Figures up to June 2018.

²⁹ Article 73 of the Criminal Procedure Code added rights of defense counsels, including: (i) is informed in advance by the criminal proceedings conducting agencies of the time when and the place where testimonies of charged persons are taken and the time and place of conducting other procedural activities according to the Criminal Procedure Code; (ii) Evidence collection; examination and assessment the evidence and presentation of opinions about the evidence, documents and objects concerned and the right of defense counsels to request the judicial procedure conducting persons to

Criminal Procedure Code also guarantees the adversarial litigation principle in trial. Accordingly, the defense counsel has equal right in providing and assessing evidences and make request for clarifying the objective truth of the case. The court is bound to create favorable conditions for the defense counsel to exercise fully his/her rights and to make arguments equally and democratically before the court. During a criminal trial, all persons, including the judge and the lawyer, must comply with the court room rules stipulated in the Criminal Procedure Code. In case a person who violates those rules, the presiding judge shall, in accordance with the provisions of law, decide to compel the violator to leave the court room. Therefore, a lawyer who violates the court room rules shall be dealt with in accordance with the law.

60. As a principle set forth in the Constitution, a defense counsel as a citizen has equal obligation like other citizens in reporting crimes and protecting public interests and the rights and legitimate interests of agencies, organizations and individuals. Subject to this principle, Article 19(3) of the Penal Code is established to bind the lawyers to public interests and the rights and legitimate interests of agencies, organizations and individuals; not to compel lawyers to infringe upon confidentiality between lawyers and their clients. This was discussed thoroughly by the National Assembly and publicly consulted through the Government's website and the website of the concerned agency. The consultation and discussion results showed that a majority of the comments received did not agree with defense counsels' exemption from all of their duties. As compared with the draft code that was publicly consulted, Article 19(3) of the present Penal Code narrows the scope of responsibility of defense counsels for failure to report crime.³¹

61. The Constitution and the Criminal Procedure Code provide that courts shall adjudicate cases timely within the time limit stipulated by laws, impartially and publicly. The duration of a criminal trial, depending on the complexity and circumstances of the case, is strictly observed under the provisions in Part 4 "Adjudication of Criminal Cases" of the Criminal Procedure Code. The practice showed that cases that may result in strong penalties are usually tried for days in order to ensure that evidences are examined and assessed fully and impartially.

62. Defense counsels are allowed to take part in the criminal proceedings at the time of initiation of the criminal proceedings against the accused. Whereas investigation on cases of crimes of infringing upon the national security must be kept confidentially, only the chief procurators of the competent procuracy offices shall have the power to allow defense counsels to participate in the criminal proceedings as of the completion of the investigation (Article 74 of the Criminal Procedure Code).

Freedom of religion and belief (Articles 2, 18, 26 and 27)

Responses to paragraph 17

63. The 2016 Law on Belief and Religion was drafted and passed in compliance with the procedures prescribed by law. The draft Law was publicly consulted, with the engagement of various agencies, organizations and individuals, including religious

examine and assets; and (iii) Request the judicial procedure conducting agencies for collecting evidence, conducting additional expertise or re-expertise or re-evaluate the property/assess.

³⁰ The Criminal Procedure Code has been added the provisions on the responsibility of the legal proceeding conducting agencies to inform in advance the defense counsels of the time when and the place where the procedural activities in which the defense counsels have the right to participate in will be conducted (Article 79); concrete provisions on the procedure for meeting with the criminally charged persons who have been arrested and persons who are under temporary detention (Article 80); procedure for handing over evidence (Article 81); procedure for reading, taking notes and copying documents in the case file (Article 82).

³¹ According to Article 19(3) of the Penal Code, a defender shall not bear the criminal responsibility for failure to report a crime if he or she has knowledge of the crime that was committed or participated in by the person he or she defends while performing the defender's duties, except for failure to report crimes against national security or other extremely serious crimes specified in Article 389 of this Code.

specialists, clergy members, adherents and international organizations. In this Law, religion is understood as “the human being’s faith whose existence is accompanied by a system of notions and activities encompassing the objects of worship, tenets, religious laws, rites and organizations”.

64. Under the Law on Belief and Religion, the recognition of a religious organization shall be made through two steps: (i) this organization is issued a registration certificate for religious activities; (ii) this organization, if satisfying all the legal requirements, applies for recognizing it as a religious organization. The procedures for recognition are prescribed in Articles 19 and 22 of the Law on Belief and Religion.³²

65. The Law on Belief and Religion does provide for refusal of issuing a registration certificate of religious activities and refusal of recognizing a religious organization, and the reasons for such refusal must be clearly stated. Accordingly, in the whole country, individuals or religious organizations have the right to file complaints under the Law on Complaint and other relevant laws, if there exist reasons to deem that a state competent agency failed to comply with the law, thereby encroaching on their rights and legitimate interests.

66. The Law on Belief and Religion and its guiding documents contain many new provisions, according to which registration or acceptance is changed to notice (out of 44/96 administrative procedures are procedures of making notices). The remaining procedures are registration procedures or procedures for application with the state competent agencies to help the agencies be informed of the content, programs, scale, and membership of a religious organization that in turn could better facilitate religious activities.

67. The State of Viet Nam always attaches great importance to the policy of consolidation and harmonization among religions and makes efforts to ensure the equality and non-discrimination for religious reasons. The Vietnamese legislation strictly prohibits any act of abusing belief and religion to incite hatred, conflict, divisions in the society or to harm the national security and stability of the country, or the peaceful lives of people.

68. The Constitution and pieces of legislation of Viet Nam contain provisions on mandatory military service in line with Article 18 of the Covenant. In Viet Nam, no one has refused to serve in the army for the reason of his or her conscience, belief or religion.

Responses to paragraph 18

69. The information about forced abandonment of a belief, being subject to surveillance, intimidated, harrassed, detained, tortured or restricted of the right to education... as mentioned in paragraph 18 of LOIs is completely untrue. The State of Viet Nam respects and ensures the right to freedom of belief and religion of all people, including ethnic minorities. The civil and political rights as well as the economic, social and cultural rights of the ethnic minorities in the Central Highland of Viet Nam are fully guaranteed.

70. Those groups of religious followers, which have not been accredited organizationally or have not yet been issued registration certificates of religious activities, were supported in carrying out their religious activities collectively at suitable legitimate places. For example, nearly 400 Protestantism affiliates and more than 1,000 meeting points in Tay Nguyen (Central Highland) and Binh Phuoc province were registered with the local governments. Meanwhile, in the north mountainous area, 693 groups of Protestants were registered and 8 Protestantism affiliates were recognized.

³² An organization with certified registration of religious activities shall be recognized as a religious organization on the following conditions: (i) It has operated stably and continuously for at least 05 years since the certification of its registration of religious activities; (ii) It has a charter pursuant to Article 23 of this Law; (iii) The representative(s) or head of the organization holds Vietnamese citizenship, resides permanently in Vietnam, possess full capacity for civil acts, is not bound by any remedial administrative measures concerning folk belief or religion, is not associated with any conviction records or is not accused of any crimes pursuant to the legislation on criminal procedure; (iv) Its organizational structure adheres to its charter; (v) It has assets independent from other organizations and individuals, and it assumes liabilities with its own assets and (vi) It engages in legal relations independently.

71. In Viet Nam, a person is arrested and detained not for the reason of his/her belief or religion but for his/her violation of law or act of causing division within religions, or harming the interests of religion followers and of the religion in general. The arrest, detention and trial of such law violator are conducted in accordance with the provisions of law in order to secure the social order and discipline and the rule of law.

72. Large areas of land are allocated to many religious organizations for religious purposes. The policy of land use rights tax exemption has been implemented by the State of Viet Nam for years. From 2003 to date, in order to meet the need for religious activities of people, more than 20,000 worship facilities were repaired, upgraded or newly built, of which approximately 3,000 facilities were newly built. In addition, in order to enhance living standards of people as well as to implement the socio-economic development policy for the national and public interest, land withdrawal was made for the purpose of constructing facilities and urban areas. Land withdrawal was conducted in accordance with the provisions of the land laws and regulations. However, certain religious organizations and individuals did not comply with the policy of removing religious facilities for the interest of economic and social development in the locality. Instead, they committed acts in attempt to incite petitions and demonstration, adversely affecting the life and business of people.

Freedom of expression and right to privacy (Article 17 and 19)

Responses to paragraph 19

73. The State of Viet Nam adopts a consistent policy of protecting and promoting, to the fullest extent, people's right to freedom of expression, right to freedom of the press and right to access to information. The State of Viet Nam does not obstruct freedom of expression as mentioned in paragraph 19 of the LOIs.

74. The application of Articles 109, 116, 117 and 331 of the Penal Code is in accordance with Articles 18(3), 19(3), 20, 21 and 22(2) of the ICCPR. In addition to compliance with the abovementioned articles of the ICCPR, Article 331 of the Penal Code also elaborates further Article 17(2) of the ICCPR.

75. The fact that people of all social stratas and classes have freely provided comments and inputs to normative documents (this has been fully reflected to the National Assembly - the highest legislative body in the country during discussion and consideration of such drafts as the draft Constitution, draft Penal Code or the draft Civil Code) is clear proof of the guarantee of the right to freedom of expression and speech in Viet Nam. For many draft legislations and policies, their drafting duration have been extended by the National Assembly in order to solicit more opinions and comments due to diverging views from the public. Diverse comments and inputs that are democratically and transparently raised with the aim of nation building and national development are never subjected to "political retaliation" as stated in the LOIs.

76. As stated in paragraph 36 of the CCPR/C/VNM/3, in Viet Nam, all are equal before the law and all have the duty to abide by the law. Criminal prosecutions are conducted in accordance with the provisions of the Penal Code, which provides that "a person is subjected to criminal liability only if such offense is stipulated in the Penal Code", and in compliance with the principle that "all offenses committed must be detected and dealt with in a timely, expeditious and transparent manner in accordance with the law".

77. In Viet Nam, individuals are not arrested or detained on the grounds of their ethnicity, belief, religion, social status or position, but on the grounds that they have violated the law or abused the rights to freedom of expression, the press, belief or religion, assembly or association, or other democratic freedoms to incite violence, hatred, to cause social disruption, or sabotage national security, social safety or public order which constitutes a criminal offense under the Penal Code. Investigation, detention and trial of such offenses are conducted in accordance with the provisions of law.

78. Investigation, detention and trial proceedings are conducted in accordance with the procedures stipulated by Vietnamese laws and in compliance with widely recognized

international standards as well as in conformity with adjudication practices in many countries. This ensures full enjoyment of the rights and freedoms of each citizen in a safe, orderly and fair society. Trials are publicly conducted with the attendance of and reporting by the press.

Responses to paragraph 20

79. With rapid development of information and telecommunication technologies, and in the context of increasing impact of web contents on Vietnamese users, the State of Viet Nam has, among others, a policy to “create a healthy cyber environment that does not harm national security, social order and safety, and the rights and legitimate interests of agencies, organizations and individuals”.

80. In the context of increasing cyber attacks on a greater scale, with increased frequency, severity, and the threat level directly endangering national security and public order and safety, the development of the Internet should go hand in hand with the development of appropriate management needs. Therefore, the Laws on Cyber Information Safety and on Cyber Security were promulgated to ensure safety of information in cyberspace, helping to guarantee the privacy of individuals. These two laws have clearly stipulated prohibited acts in cyberspace.³³

81. Telecommunication, internet, and value-added services providers in cyber space must only cease and desist from providing services to organizations, individuals that have published content which infringes on the rights and legitimate interests of the State, agencies, organizations or individuals as specified in the Law³⁴. Therefore, this measure is in line with Article 19 of the Covenant.

82. The application of technical measures to prevent and combat cyber crimes is not a priority in Viet Nam's policies and laws. Viet Nam is now promoting information dissemination to the public in order to help people be aware of the advantages and disadvantages of the Internet to take necessary safeguard measures. The Vietnamese Government is now cooperating with the concerned parties in developing a Code of Conduct for Social Networks.

83. The data localization clause requires foreign enterprises engaged in telecommunication, internet-service provision to store certain data within the territory of Vietnam (Article 26 of the Law on Cyber Security). This is aimed at dealing with acts committed in cyberspace that infringes on national security, social order and safety, as required by modern-day demand. This is similar to the requirement for Vietnamese internet, telecom service-providers, and does not have a negative impact on the normal operations of enterprises.³⁵

84. Concerning paragraph 189 of the CCPR/C/VNM/3, despite enormous efforts made to develop the Internet in the country³⁶, as a developing country, Viet Nam has difficulties investing in Internet infrastructures. Just in 2018, there were at least 10 instances where the transoceanic fiber optic cableline connecting Viet Nam with countries in the region and the world had to undergo repairs, affecting access speeds to websites and blogs in overseas servers.

85. To ensure the implementation of measures to protect cyber security, a Cyber Security Task Force has been established and operates in accordance with current laws and regulations.

³³ Article 8 of the Law on Cyber security and Article 7 of the Law on Cyber Information Safety.

³⁴ These information include: information containing propaganda against the State of Vietnam or information that may incite riots, disrupt social order and safety; humiliate, slander; infringes upon economic management order at the request of competent State agencies.

³⁵ Before the enactment of the Law on Cyber security (as of end of January 2018), Google has rented 1,781 servers, and Facebook 441 servers from Vietnamese enterprises to store data in Vietnam.

³⁶ According to a market research report by Akamai Technologies, Inc., Internet speed in Vietnam ranks 58th in the world and 9th in the Asia-Pacific region.

86. To ensure the exercise of citizens' right to information access, the State, organizations and individuals must deploy holistic measures, ranging from ensuring human resources to improving and updating databases, IT infrastructures, documentation and archival processes, and information processing between content creators and content providers. The specific measures are prescribed in Article 33 of the Law on Access to Information.

87. The Press Law affirms that private, educational institutions, scientific and technological organizations with foreign investments are allowed to issue scientific magazines. In addition, a press agency may associate in press activities with another press agency, legal entity, or individual with business registration relevant to the associated field in accordance with the law (Article 37 of the Press Law).

88. Regarding paragraph 187 of the CCPR/C/VNM/3 and paragraph 19 of the previous concluding observations, the press is not censored prior to printing, transmission or broadcast. The State does not censor works before their publication (Article 13 of the Press Law, Article 5 of the Law on Publication). The Law on Publication stipulates that before the publication of a work or document, or re-edition, the publishing house must register with the state management agencies in charge of publication activities and must be granted approval by the agencies (Article 22). Registration of publications is necessary for state management agencies to record the quantity and types of publications that have been published and to ensure that the contents of the publications do not violate public rights and interests, common values, or violate Vietnamese laws and regulations; and at the same time to protect intellectual property rights related to those publications.

Human rights defenders (Articles 6, 7, 9, 12, 14 and 19)

Responses to paragraphs 21 and 22

89. In Viet Nam, there are no “plainclothes police officers” who beat “human rights defenders”, “activists”, bloggers and journalists. Officers ensuring security and public order are always in uniform. Any act of harassment, forcible intimidation or violations of the legal freedoms of citizens are prohibited and handled in accordance with the law.³⁷

90. Viet Nam have actively communicated information related to human rights through mass media to enhance people’s awareness of human rights and the rights of citizens; Capacity-building workshops have been organized to enhance professional expertise and knowledge for law enforcement officers; acts that abuse power or position to undermine the right to freedom of citizens are prohibited.

91. The right to freedom of movement and residence within the country and the right to go abroad and return of citizens are recognized in the Constitution. Vietnamese law does not prohibit “human rights activists” or “human rights defenders” from leaving Viet Nam. Decree No. 36/2007/ND-CP further specifies circumstances where the exit is not permitted and the authority to decide this matter. The draft Immigration Law has been entered into the National Assembly Legislative Program for 2019 in order to better ensure the right to freedom of movement.

92. As mentioned in paragraph 52, “house arrest” does not exist in Viet Nam. A person who has finished serving their sentence may be compelled to reside, work and live at a locality under the supervision and mentoring of the local administration and people if that person is subject to probation as per the court's decision in accordance with the Penal Code.³⁸

³⁷ The 2015 Penal Code contains a chapter (Chapter XV) dealing with violations against human, civic rights and freedom, which include 11 crimes such as: Violation of the right of association, assembly of citizens (Article 163), violation of the freedom of speech, freedom of the press, the right of access to information, and the right to protest of citizens (Article 167)...

³⁸ Article 43 of the Penal Code provides that mandatory supervision means forcing a person sentenced to imprisonment to reside, work, and live within a defined area under the supervision of the local authority and people. This is an additional condition and is decided by the court.

Responses to paragraph 23

93. In Viet Nam, the professional activities of lawyers are always guaranteed by the Law on Lawyers, the Criminal Procedure Code and other relevant legal provisions to help individuals and organizations protect their rights and legitimate interests.³⁹ There are no instances where lawyers are arrested or intimidated for conducting legal professional activities as mentioned in the allegations. The Vietnam Bar Federation and local bar associations have the duty to represent lawyers; lawyers have the right to make complaints and denunciations, and those complaints and denunciations are dealt with in accordance with the provisions of the Law on Lawyers and legislation related to complaints and denunciations.

94. In legal practice, in addition to their obligations as citizens, lawyers are also bound by their professional duties as stipulated by law and the Code of Professional Ethics and Conduct of Lawyers which are in line with the realities of their career and international norm. A lawyer who have committed violations will be dealt with in accordance with the law. Disciplinary actions against lawyers who have violated the law, the Code of Professional Ethics and Conduct of Lawyers or the Charter of the Vietnam Bar Federation are taken in accordance with strict and transparent procedures by the bar association of which the lawyer is a member. In all instances, the lawyer has the right to file a complaint with the Vietnam Bar Federation to review the disciplinary action against them. If the lawyer is subjected to “temporary suspension of membership from the bar association from 6 months to 24 months” and/or “removal of his or her name from the list of lawyers of the bar association”, the lawyer also has the right to lodge a complaint against these disciplinary measures with the Minister of Justice.

Freedom of association and peaceful assembly (Articles 7, 9, 21 and 22)**Responses to paragraph 24**

95. The exercise of human rights, including the right to freedom of association and peaceful assembly is based on the law and respects for the rights and interests of the public.

96. Regarding Decree No. 12/2012/ND-CP on Registration and Management of Activities of Foreign Non-governmental Organizations in Viet Nam, the Government of Viet Nam is now considering improvements to the relevant legal provisions to conform with the 2013 Constitution and to meet the current need for management of foreign non-governmental organizations in Viet Nam in the new context.

97. Associations in Viet Nam are playing an increasingly prominent role as policy advocacy organizations in sectors and areas of interest. Developing associations, especially community-based associations in hardship areas has become a priority, focus approach for many development organizations in order to strengthen capacity and promote the implementation of rights for the poor. As of end of 2017, in Viet Nam there were 67,627 associations, 513 of which have operations nationwide. In addition, thousands of non-governmental organizations have registered operations in different fields, such as charity, poverty reduction, culture, art, community development, protection and care for children.

Responses to paragraph 25

98. Any gathering of a large number of people in a public place must be registered in advance with the competent People's Committee in accordance with Decree No. 38/2005/ND-CP. This requirement aims to maintain public order, contributing to ensuring the democratic rights and freedom of citizens and guaranteeing the normal life of people and the rights and legitimate interests of citizens.

³⁹ From 2015-2017, the bar associations and the Vietnam Lawyers Federation has compiled and transmitted over 100 recommendations, opinions of lawyers to the competent state agencies. The majority of those recommendations and opinions are related to the right to practice legally and other rights of lawyers, including matters pertaining to the implementation of the Criminal Procedure Code. All those recommendations and opinions were received by the state competent agencies for consideration.

99. Recently, individuals outside the enterprises, in the name of the trade unions, have exploited major issues faced by enterprises to incite employees to collectively go on strike, destroy machinery, causing losses to the enterprises and negatively affecting the political security, social order and safety and the right to work of employees. These individuals have violated Vietnamese laws and were dealt with in accordance with the law. These acts were committed for political reasons, and did not stem from matters arising out of the labor relations.

100. To comply with international treaties of which Viet Nam is a member, including those related to international labor standards, particularly new-generation free trade agreements, matters relating to organizations that represent employees in enterprises are being studied by Viet Nam in the process of amending the Labor Code, expected to be adopted by the National Assembly in October of 2019.

101. Since the marine environmental incident at Formosa Steel Plant, Viet Nam has made enormous efforts to remedy the consequences, provide the local people with necessary supports and compensate individuals affected by the incident. Remedying the consequences of this incident requires the active participation and cooperation of the Government, enterprises, the community and individual citizens. However, a number of individuals have exploited the complexity of the matter to incite people to attack on-duty officers. In some cases, the officers were injured; assets of the State, organizations and citizens were damaged; offices of state agencies were ransacked. During the incident in April 2017, individuals who took part in the disturbance even obstructed medical assistance activities. To date, thanks to the efforts of the parties concerned, the life of people in the affected area has become stable.

Right to participate in public life and combating corruption (Article 25)

Responses to paragraph 26

102. Each country's choice of political system depends on specific historical circumstances and conditions of that country. The present political system in Viet Nam was chosen by the Vietnamese people based on their history of struggles against imperialism and colonialism for national liberation and construction. The role of leading the State and society is an honorable mandate entrusted in the Communist Party of Viet Nam by the Vietnamese people. This mandate is confirmed in the 2013 Constitution. The Communist Party of Viet Nam is closely linked to the people, serves the people, submits to the people's supervision, and is accountable to the people in its decisions. The choice of the political system by the Vietnamese people is fully in conformity with Article 1(1) of the ICCPR "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

103. Elections in Viet Nam are always conducted based on the principles of universal and equal suffrage through direct, secret ballot in accordance with the law.⁴⁰

104. The Law on Election of Deputies to the National Assembly and the People's Councils of 2015 clearly prescribes the procedures for conducting elections and nomination conditions for individuals. This Law does not require that a candidate must be a member of the Communist Party of Viet Nam or must be approved by the Communist Party of Viet Nam.

105. Article 30 of the 2015 Law on Election of Deputies to the National Assembly and the People's Councils provides for the circumstance where a citizen is not allowed to have his or her name registered on the list of voters if he or she is serving an imprisonment sentence and unentitled to a suspended sentence. Article 37 of this Law also provides that a person who is serving an imprisonment sentence cannot run for a seat in the National Assembly or the People's Council.

106. Article 117 of the Constitution states: "The National Election Council is an organ created by the National Assembly, responsible for organization of election of the National

⁴⁰ See: paragraph 227 of the CCPR/C/VNM/3.

Assembly. It shall direct and orientate the work of election of the People's Councils at all levels. The specific organization, duties and rights of the National Election Council and the number of its members shall be stipulated by law". The Law on Election of Deputies to the National Assembly and the People's Councils elaborates the organizational structure, operational principles, duties and powers of the National Election Council (Articles 12-16), including the duty and power to deal with complaints and denunciations in elections of deputies to the National Assembly and to monitor the conduct of elections of deputies to the People's Councils.

107. Depending on the content of each complaint or denunciation relating to an election, the Law on Election of Deputies to the National Assembly and the People's Councils specifies the agencies with jurisdiction to deal with complaints and denunciations, which include the National Election Council, Election Committees, Election Sub-committees and Election Teams.

108. Measures to prevent and combat corruption are stipulated by, inter alia, the Anti-Corruption Law, the Law on Cadres and Public Servants, the Law on Complaints and the Law on Denunciations. Under Article 3 of the Anti-corruption Law, passive bribery is an act of corruption.

109. In Viet Nam, anti-corruption efforts spare no entity and is not aimed at any specific person. A person who committed an act of corruption shall, depending on the nature and seriousness of the act, be subjected to disciplinary actions or criminally prosecuted irrespective of his or her title or position.⁴¹

110. In 2011, Viet Nam completed the first review cycle on the UN Convention against Corruption with respect to criminalization and law enforcement (Chapter III) and international cooperation (Chapter IV). The experts have made their assessment that Viet Nam has basically complied with the provisions of the Convention. Viet Nam is now preparing for the second review cycle of the Convention pertaining to preventive measures (Chapter II) and asset recovery (Chapter V).⁴²

Rights of minorities (Articles 2 and 27)

Responses to paragraph 27

111. In Viet Nam, ethnic minorities are met with many hardships in terms of socioeconomic conditions. However, all ethnic minorities are equal, live in harmony and mutually respect and assists each other for joint development. Stereotyping of discrimination, religious persecutions, suppression of cultural traditions, arbitrary detention, or expropriation of land without prior consultation as mentioned in paragraph 27 of the LOIs are completely inaccurate.

112. According to the World Bank, the material and spiritual life of ethnic minorities have improved considerably. The decrease in percentage of poor households in ethnic and mountainous areas is 4.3%/year, a sharp greater rate in comparison to the national average poverty reduction rate.

113. The preservation and promotion of traditional cultural values of ethnic minorities have continued to be propelled forward through cultural activities, festivals, research, and dissemination and teaching of cultural heritages, etc. Many cultural characteristics of ethnic minorities have been preserved, further developed, and are considered for inclusion in the

⁴¹ Article 4 of the Anti-corruption Law provides that any person who committed a corrupt act shall be dealt with according to the law, irrespective of his or her position; and Article 69 of the same Law stipulates that a person who committed a corrupt act shall, depending on the nature and seriousness of the act, be subjected to disciplinary action or criminally prosecuted; if convicted and the judgment of the court became effective, he or she shall be forced to leave his or her job; for a deputy of the National Assembly or the People's Council, his or her deputy status shall be revoked automatically (Article 69).

⁴² Detailed information is available at <https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=VNM>.

list of national intangible cultural heritages (such as the traditional pottery products of Cham people, the art of Khen of Mong people, and the ordination celebration of Nung people), or recommended for inclusion in UNESCO's list of World intangible cultural heritages, such as "Xoe Thai art", "Then practice of Tay, Nung and Thai people in Viet Nam".

114. In order to promote national socioeconomic development and ensure energy security, Viet Nam has constructed irrigation projects and hydroelectric power plants. As part of the construction and to ensure safety for people living in flooded areas of the reservoir, local population resettlement have been carried out. To minimize the negative impacts of and restore stability to the life of the local people whose land has been requisitioned for the construction of hydroelectric dams and irrigation infrastructure, recompensation, supports and resettlement efforts have been holistically carried out in accordance with legal provisions related to the issue of land, such as the Land Law and regulations guiding the implementation of the law, Decision No. 64/2014/QĐ-TTg on special policies for human resettlement for construction of irrigation and hydroelectric projects ...

115. Concerning paragraph 233 of the CCPR/C/VNM/3, in developing land use planning, competent agencies have the duty to solicit comments from the people on the plans (Article 43 of the Land Law). Vietnamese laws and regulations provide in detail land requisition procedures for socioeconomic development purposes for national, public interest, including consultations with the affected persons about the compensation scheme, support and resettlement plans; organizing dialogues in cases where there is disagreement related to compensation, support and resettlement plans. These provisions are designed to ensure the rights and interests of persons whose land are subject to reclamation and to further enhance direct involvement of the local people as well as the responsibility to hold dialogue and accountability of competent authorities whenever people have not reached consensus on land reclamation, compensation and resettlement support.

116. The use of the term "Montagnard/Degar people" (người Thượng in Vietnamese) to refer to ethnic minorities in Tay Nguyen (the highlands) is not suitable as this term was used by colonialists during their rule in Viet Nam. Information about repressions against ethnic minorities in Tay Nguyen for reasons of ethnicity, religious beliefs are inaccurate.

117. As mentioned in paragraph 239 of the CCPR/C/VNM/3, at the State level, the Ethnic Council is elected by the National Assembly. A Committee for Ethnic Minority Affairs is a cabinet-level agency under the aegis of the Government. The Ethnic Council is an organs with oversight powers under the 2015 Law on Oversight by the National Assembly and the People's Councils.

118. Many organizations, such as the Center for Research of Human Rights in Ethnic Minorities and Mountainous Areas or the Center for Research and Development of Ethnic Minorities, Mountainous Areas and Red River Basins, have been established to support the development of ethnic minorities and mountainous areas as well as to ensure the civil and political rights of ethnic minorities in Viet Nam.

119. With a view to further enhancing the effectiveness of ethnic-minorities-related policies, and creating favorable conditions for ethnic minorities' comprehensive and sustainable development, the government of Viet Nam is developing a Law on Support for Development in Ethnic Minority and Mountainous Areas.
