



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture Sixty-fifth session

Summary record of the 1685th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 14 November 2018, at 10 a.m.

Chair: Mr. Modvig

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* No summary record was issued for the 1684th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Viet Nam (CAT/C/VNM/1)

1. *At the invitation of the Chair, the delegation of Viet Nam took places at the Committee table.*
2. **Mr. Le Quy Vuong** (Viet Nam) said that his country's initial report had been drafted with the participation of Vietnamese citizens from all walks of life and the support of experts from the United Nations and other countries.
3. Chapter II of the 2013 Constitution enshrined the fundamental rights and duties of citizens, including the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and provisions related to the prevention of torture had been incorporated in a number of laws amended or promulgated in 2015, including the Criminal Code and the Code of Criminal Procedure, and in international bilateral agreements regulating the extradition and transfer of sentenced persons.
4. While the 2015 Criminal Code did not define torture or establish it as a separate offence, acts of torture were covered by article 127, on causing death in the performance of official duties, article 137, on causing injury or harm to the health of others in the performance of official duties, article 140, on abuse, article 373, on the use of corporal punishment, and article 374, on testimony extracted under duress, which was automatically considered null and void. The minimum term for such acts was 6 months' imprisonment and the maximum, life imprisonment.
5. The 2015 Code of Criminal Procedure contained provisions on the use of audio and video recording during interrogations and on various rights of the defence. It also prohibited torture, corporal punishment, the extraction of testimony under duress and any other treatment that violated the rights to life or health, as did the Law on the Organization of Criminal Investigation Agencies. Special provisions were in place to protect detainees from such treatment.
6. Detainees were separated on the basis of sex, age, nationality and the gravity of the offence committed, among other criteria. Those who were vulnerable, such as pregnant women, minors and women with children under 3 years of age, were entitled to appropriate food, accommodation, work and health care. Foreign convicts had the right to receive visits from consular officials, and a number of foreign delegations had been permitted to visit prisons for the purposes of exchanging experiences and managerial capacity-building.
7. Independent agencies and mechanisms had been set up to monitor detention facilities, the effectiveness of different prison regimes and the behaviour of officials responsible for collecting testimonies and dealing with prisoners. The Supreme People's Procuracy supervised judicial activities at all stages of criminal proceedings and the execution of sentences. Breaches of the law or of professional or moral standards by civil servants and members of the judiciary were punishable by disciplinary or even criminal sanctions, depending on the seriousness of the offence.
8. Pursuant to the 2013 Constitution, the 2015 Code of Criminal Procedure and several other laws, all persons had the right to submit complaints of violations of their rights. The agencies, organizations and individuals competent to receive and handle such complaints were required to do so. Victims of violations, unlawful arrest or detention, or miscarriages of justice were entitled to comprehensive redress. Reprisals against complainants, and abuse of the right to complain, were strictly forbidden. Poverty-reduction and literacy programmes were carried out to help victims to return to society, and reception centres, support groups and hotlines had been established to provide support to various categories of victims.
9. Viet Nam attached great importance to awareness-raising on human rights and the need to combat torture. Government ministries had organized many conferences, workshops, training activities and guidance sessions in that connection for employees,

particularly those involved in criminal proceedings, the enforcement of sentences and the provision of health care to detainees.

10. In a little over 70 years as an independent State, Viet Nam had built a framework conducive to the protection of human rights, with a stable political system and sensible economic and social development policies. There were, however, a number of challenges still to be overcome in order to ensure the effective implementation of the Convention. Domestic human rights legislation required amendment, the resources needed to meet the Sustainable Development Goals and to narrow regional disparities remained limited, the training of some civil servants was insufficient and public awareness of laws was low in some parts of the country.

11. Several recently prosecuted cases of torture, forced confession and inhumane treatment were mentioned in the report. The outcome of the cases reflected a desire to use the law to punish persons guilty of torture and deter and prevent others from committing it.

12. Since the submission of the report, the National Assembly had adopted the 2017 (Amended) Law on Legal Aid, the 2017 (Amended) Law on State Compensation Liability and the 2018 Law on Denunciations. Two government decrees, 2 interministerial circulars, 10 circulars of the Ministry of Public Security and one regulation of the Supreme People's Procuracy had been issued to provide guidance on the implementation of the Law on Temporary Detention and Custody. Decrees and circulars had also been published to highlight the prohibition of torture, corporal punishment and the extraction of testimony under duress during investigations. The Supreme Court had drawn up a code of ethics and conduct for judges and a number of regulations to prevent violations by civil servants and protect the lawful rights and interests of persons involved in court procedures.

13. The Government had launched a project to raise awareness of the Convention and domestic laws prohibiting torture among State officials and the general public. It had also, through its ministries, undertaken initiatives to raise awareness of human rights in general, including among homeless persons, detainees and persons recently released from prison.

14. The use of audio and video recordings during criminal proceedings was being piloted by the Ministry of Public Security in 45 facilities. Steps had been taken to improve the training of investigators, prison officials and members of the judiciary and to promote professional ethics and moral standards in the performance of their duties. All violations of the law were punished appropriately. Most recently, on 13 September 2018, five former police officers had been brought before the People's Court of Ninh Thuan province to face charges of inhumane treatment, the maximum punishment for which was 7 years' imprisonment.

15. In proposed international bilateral agreements with other countries, including Kazakhstan and Mongolia, the Vietnamese authorities had introduced a clause enabling them to refuse requests for legal assistance in criminal matters or for the extradition or transfer of sentenced persons in cases where there were substantial grounds for believing that the persons in question had been tortured or ran the risk of being tortured in the event of their return to their country of origin. Diplomatic assurances against torture and other cruel, inhuman or degrading treatment or punishment had been made a prerequisite for the acceptance of such requests.

16. Viet Nam continued to cooperate actively with foreign partners to prevent acts of torture through exchanges of information on, and experience of, implementing the Convention and using counter-terrorism tools, and through international conferences and workshops on combating terrorism.

17. To conclude, he wished to reiterate his country's strong commitment to respecting and protecting human rights, including through the use of robust measures to prevent and punish torture in all its forms and thereby contribute to the effective implementation of the Convention.

18. **The Chair** (Country Rapporteur) said that he wished to congratulate the State party for ratifying the Convention and submitting its initial report, albeit over a year late. The presence of the delegation reflected the Government's determination to engage in a regular

dialogue with the Committee, which appreciated the opportunity to discuss ways of combating what was reported to be widespread torture and ill-treatment in Viet Nam.

19. Noting that article 373 of the Criminal Code provided for punishments ranging from as low as 6 months' imprisonment, and that torture committed at the instigation, or with the consent or acquiescence, of a public official did not appear to be criminalized at all, he asked whether there were plans to make domestic provisions related to orders from a superior fully compliant with the Convention and, if so, within what time frame.

20. In reference to paragraph 84 of the State party's report, he said that it was unclear what the statute of limitations was for torture. It should be stressed, however, that any statute of limitations for the crime of torture opened the door to impunity and was therefore in contravention of the Convention. The Committee strongly recommended that the State party should amend the relevant provision of its Criminal Code to ensure that all acts of torture could be prosecuted and punished irrespective of the time that had elapsed since their commission.

21. In the report, mention was made of disciplinary sanctions applicable to various categories of officials found guilty of breaching the law. It would be helpful to know whether such measures were considered to be alternatives to criminal prosecution, or whether they could be imposed on top of criminal sentences.

22. Despite recent amendments to the Criminal Code, the criminalization of torture in the State party's legislation remained inadequate. The State party should adopt a definition of torture in line with article 1 of the Convention and ensure that punishments for torture were commensurate with the seriousness of the crime. He wished to know whether the entry into force of the 2015 Criminal Code had led to an increase in the number of prosecutions for torture and whether further amendments to the Code would be considered in order to establish a simpler and clearer legal basis for such prosecutions.

23. According to paragraph 100 of the State party's report, only 10 cases of torture had been brought before domestic courts between 2010 and 2015. However, the Committee had received several reports alleging that torture, police brutality and deaths in custody remained prevalent in Viet Nam. In its 2014 report entitled "Public insecurity: Deaths in custody and police brutality in Vietnam", Human Rights Watch had documented, for the period 2010–2014, 14 cases of death in custody due to police violence, 4 cases of unexplained death in police custody, 9 cases of death attributed to suicide or illness and 11 cases of injury caused by police violence. According to the report, most of the perpetrators had not been disciplined or had received an extremely lenient punishment. The Committee had also been made aware of claims that, in the first two weeks of June 2018, the police had violently dispersed demonstrations, resorting to excessive force and even torture. In the light of such reports, the very low number of cases of torture that had been prosecuted between 2010 and 2015 indicated that the crime was severely underreported, perhaps because of a lack of faith in the judiciary or a fear of reprisals. He invited the delegation to comment on the claim that torture and police brutality remained common in Viet Nam, and asked what steps would be taken to rectify the situation.

24. Referring to paragraph 159 of the report, he drew the delegation's attention to the fact that the Standard Minimum Rules for the Treatment of Prisoners adopted in 1955 had been superseded, in October 2015, by the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules.

25. He would be grateful for statistics on the average time spent in temporary custody and in pretrial detention. He wished to know whether domestic law provided for a maximum period of pretrial detention and, if so, what it was. He would also welcome an explanation of whether pretrial detention orders could be appealed and, if so, how.

26. According to information provided to the Committee: persons considered to be a threat to security, social order or public safety could be detained without trial in detention centres, where fundamental legal safeguards were not applied to them; persons could be deprived of their liberty in reformatories, re-education camps and compulsory detoxification centres; in re-education camps, persons could be held without trial — in some cases, incommunicado — for up to two years; social protection centres intended for

homeless people had been used to detain protesters without guarantees of due process; and, in compulsory detoxification centres, persons could be held without trial for up to four years. He asked whether the State party would adopt measures to ensure that normal legal safeguards, including the right of appeal, were applied to all detainees, and that detention in the aforementioned facilities was subject to judicial, and not only administrative, proceedings and was not used as a substitute for regular criminal detention.

27. It was unclear whether the right to defence counsel applied from the time of arrest or was implemented only once persons deprived of their liberty were brought before a judge. It would be helpful to have statistics on how many suspects had had access to a lawyer from the outset of detention and how many had been accompanied by a lawyer during interrogations. More details would be welcome on the implementation of the new legislation relating to the provision of legal aid.

28. The Committee would appreciate the delegation's comments on reports that persons accused of security-related offences were not afforded the same rights as persons accused of ordinary offences, including the right to inform their families of their arrest and the right to defence counsel. He wished to know whether all persons deprived of their liberty had the right to request and receive a medical examination by an independent medical doctor.

29. It would be interesting to hear about how the Government ensured that the fundamental legal safeguards set forth in domestic legislation were enjoyed in practice. He would like to know, in particular, if law enforcement officers were made aware of the rights of persons deprived of their liberty and of the sanctions that might be imposed on them if they did not uphold those rights.

30. He would welcome clarification as to whether all interrogations were recorded; if they were not, he wished to know how it was decided which ones would be. It was unclear how long recordings were stored for and on how many occasions and under which circumstances they had been made available to the accused or the defence team.

31. It would be helpful to receive information on any central register of prisoners that existed in the State party. If such a register did exist, he would like to know whether it contained details of the location of all persons held in custody and the legal basis for their deprivation of liberty, and whether it also contained data relating to persons being held in administrative detention or in medical facilities.

32. He would be grateful for a full account of how the health of detainees was assessed, including in relation to contagious diseases, and would like to know whether all newly arrived detainees and prisoners underwent a medical examination in accordance with the Nelson Mandela Rules. If they did, the Committee would appreciate details on the number of cases of torture or ill-treatment that had been identified during such examinations and referred for further investigation, and on the outcome of any such cases. If medical examinations upon arrival were not already routine, he wondered if the Government would consider instituting them.

33. With regard to the State party's practice of holding gay and lesbian detainees separately from the general prison population, it was unclear who determined the sexual orientation of persons deprived of their liberty, how they did so and with whom they shared the information.

34. Additional details would be welcome regarding the structure of the medical service responsible for the care of prisoners, including whether it was part of the health system or of the public security system. It was unclear how many of the personnel working in the service were doctors, and who was responsible for the recruitment and dismissal of the employees. Clarification would be appreciated regarding the procedures medical staff were expected to follow if they encountered cases of torture.

35. The Committee would be interested to learn about any oversight mechanism in place to ensure that police officers used force proportionately and only when necessary. It would be useful to receive data on the number of cases of excessive use of force the mechanism had identified each year. If no such mechanism existed, he wished to know if the State party intended to establish one. Following the adoption of the legislation relating to

complaints of police misconduct, it would be helpful to learn how many such complaints had been received, who processed them and what their outcome had been.

36. The Committee strongly encouraged the State party to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the meantime, it would appreciate information on any plans the State party had to establish an effective and independent mechanism to monitor places of detention and conduct unannounced visits. It would also welcome the delegation's comments on any plans to establish a national human rights institution.

37. In connection with article 3 of the Convention, on non-refoulement, he would be grateful for details of the countries to which the 221 persons deported from the State party between 2011 and 2016 had been returned, and wished to know whether diplomatic assurances had been received in any of those cases. He also wished to know whether any deportations had been halted because of a risk of torture. He would appreciate clarification of whether the State party intended to include in domestic legislation a prohibition on deportations that violated the principle of non-refoulement.

38. He would welcome updated information on the number of stateless persons present in the State party, what sort of protection they were offered under domestic law and what steps the Government planned to take to address their situation. He wished to learn whether the authorities tracked the number of individuals present in the State party who might qualify as refugees and whether such persons were afforded any forms of protection other than legal safeguards. It would also be helpful to hear about any measures the State party was taking to address the numbers of its nationals fleeing to Thailand to seek asylum.

39. He wished to receive details of the Government's plans to improve the physical condition of places of detention. He would be grateful for data on prison overcrowding in the State party and would welcome the delegation's comments on the reasons for the dramatic increase in the prison population between 1996 and 2018.

40. It would be useful to have a detailed response to reports that 429 prisoners had been executed in the State party between August 2013 and June 2016. Data would be welcome on the number of deaths that had occurred in custody in recent years, their causes, the related investigations and any sanctions that were imposed on law enforcement personnel.

41. He would appreciate the delegation's comments on reports that the physical abuse of prisoners was widespread and on how the State party intended to ensure that disciplinary measures did not constitute ill-treatment. He would like to have details of the legislation that regulated the use of isolation, including its maximum permitted length.

42. He would welcome the delegation's comments on reports of the appalling treatment of prisoners of conscience, including information on who was responsible for such treatment. It would be useful to hear about any plans the State party had to ensure that the treatment and conditions of detention of prisoners of conscience was brought into line with international standards.

43. The Committee had received information that civil society organizations were unable to operate in the State party owing to a climate of oppression. He would appreciate the delegation's comments on the conditions for non-governmental organizations working in the area of human rights in the State party.

44. **Ms. Belmir** (Country Rapporteur) said that it would be useful to have details of any methodology in place to evaluate the effectiveness of training programmes for law enforcement, judicial, medical and prison staff on the Convention and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol), including whether such programmes had led to a decrease in the number of cases of torture. She wished to hear about any training provided to medical personnel in the detection of physical and psychological effects of torture.

45. She was concerned about reports that educational materials in the State party contained the message that human rights should not be used as a pretext for interference in

a State's internal affairs. It was unclear how that position was compatible with the provisions of the international human rights treaties ratified by the State party.

46. The Committee would appreciate more details on the situation in the State party with regard to unhindered access to all places of detention for authorized independent human rights observers. Information would be welcome on how the authorities ensured proportionality in the use of coercive measures. It was unclear whether representatives of non-governmental organizations were permitted to be present during the expulsion of foreign nationals.

47. The Committee was concerned and would appreciate clarification about: the fact that both the police and the People's Procuracies had investigative powers and the ability to order pretrial detention; the independence of the judiciary in the light of the fact that many of its members belonged to the Communist Party; the lack of constitutional oversight; the fact that pretrial detention orders were not appealable; and the statement that the Supreme People's Procuracy was responsible for overseeing the legality of detentions and judicial proceedings and decisions. In terms of criminal procedures, it would be helpful to know what investigators were and were not permitted to do during interrogations, what safeguards were in place for persons in police or pretrial detention, especially with regard to access to medical attention, and what oversight there was of officers who interrogated and guarded persons in police custody and pretrial detention. Data on the prison population and detention conditions would be appreciated.

48. Notwithstanding the State party's claims in its report under the universal periodic review process, a range of sources had submitted that torture and ill-treatment, including incommunicado detention, solitary confinement and punitive transfers, were rampant and that the behaviour of investigators and doctors only exacerbated the conditions of arrest and detention. It should be pointed out that the low number of complaints of torture or ill-treatment might stem from a fear of reprisals.

49. She would appreciate further details about the cases of human rights defenders Le Cong Ding, Tran Huyuh Duy Thuc, Nguyen Tien Trung and Le Thang Long, who had been convicted of subversion — based on confessions obtained under torture — and sentenced to between 5 and 16 years' imprisonment, followed by 3 to 5 years' house arrest. In addition to those cases, which had been submitted to the Working Group on Arbitrary Detention, she would also like more information about the cases of other human rights defenders who had allegedly been tortured into confessing, namely, Nguyen Than Thuo Thanh, Dinh Luong, Nguyen Van Hoa, Nguyen Vict Dung and 86-year-old Thich Huyen Quang. She would welcome the delegation's comments on the case of the 18 prisoners who had allegedly been ill-treated by doctors while in pretrial detention, including Nguyen Bac Truyen, Dinh Nguyen Kha and Tran Thi Thuy.

50. Noting that several of the people who had died in custody, such as Nguyen Man Than, had been held for minor offences and that a number of detainees whose deaths had been ruled as suicides, including Le Phuc Hung, Nguyen Van Duc, Nguyen Huru Tan, Nguyen Cong Nhut, Huang Van Ngai, Dinh Dang Dinh and one 17-year-old, had in fact been brutalized, she wished to know whether their deaths had been investigated and, if so, what the outcome of the investigations had been.

51. She wondered how the State party reconciled the possibility of holding individuals suspected of offences against national security in administrative detention for up to two years without trial with its obligation to ensure due process. What measures had been taken or were being considered to improve the detention conditions of persons on death row and inform them in a timely manner of their execution date? Following the case of a prisoner who had suffered for hours after being given a lethal injection, was that mode of execution still used or had the authorities reverted to other methods?

52. The delegation should comment on the impunity enjoyed by police officers, even in cases of serious violations, and on why some court decisions were rendered after as little as three hours of hearings. Its comments on the obstacles lawyers had to overcome in order to meet with their clients and how they squared with the State party's obligations regarding the right to counsel would also be appreciated. Regarding the right to file a complaint, it would be useful to know what exactly was meant by the term "verifying" in the context of

complaints submitted to the Supreme People's Procuracy and whether decisions not to verify a complaint were appealable. Data on how many complaints of confessions obtained under duress had been registered, referred for investigation or closed and on any criminal or disciplinary sanctions imposed following such complaints would be welcome. It would also be useful to know what steps were taken to ensure that prosecutors and judges acted on such complaints and to prevent the executive branch from interfering in related investigations. Furthermore, she would appreciate information on how the independence and confidentiality of the complaints mechanism was guaranteed for complainants who were deprived of their liberty, whether victims could meet privately with prosecutors who visited places of detention and whether they could raise allegations of torture at any stage of proceedings.

53. Lastly, she wished to know more about the three cases referred to in paragraph 224 of the report in which compensation had been awarded to victims whose confessions had been obtained under torture, specifically the nature of the acts, who the perpetrators were, what penalty had been meted out and what redress had been provided to the victims. How was the State party following up on the cases of the victims of the dioxin in Agent Orange?

54. The State party had reported that there were many provisions of domestic law that prohibited the use of coerced statements as evidence and that, under the Code of Criminal Procedure, confessions obtained using torture or violent means were invalid. The Committee had received reports alleging that the vast majority of persons in pretrial detention were denied access to counsel during the investigation phase, and that they were thus extremely vulnerable to torture or ill-treatment during questioning. It had heard of numerous cases in which forced confessions had been accepted by the courts, and very few cases in which they had been rejected. While the State party's report mentioned some such cases, the Committee would like to know the actual extent of the problem and how the Government intended to address it. It would be useful if the delegation could inform the Committee of the number of such cases and the measures taken to combat such practices.

55. The Committee had also received reports that some doctors had failed to observe rules of ethics when dealing with persons who had been subjected to torture, and had even received information on a case in which a doctor had been responsible for ill-treatment. It would be helpful to the Committee if the delegation could provide information on whether mechanisms existed to report such situations to the authorities and describe what sanctions or other measures were taken when such cases were detected. The Committee would also like to receive information on forensic examinations carried out following allegations of torture or ill-treatment, deaths of persons in custody and false or suspicious reports of suicide among persons deprived of their liberty.

56. She asked for information about the reported practice of expulsion and deprivation of citizenship of Vietnamese nationals who were released from prison. The Committee had received information according to which that practice had been used mainly against prisoners of conscience, who were allegedly pressured to accept such treatment in exchange for early release. Specifically, she cited the cases of Dang Xuân Di u, Nguyen Cong Chiu and Pham Minh Hoan, who had been exiled to France and the United States of America. According to information received by the Committee, the authorities also used the punitive transfer of prisoners as a means of ill-treatment: specifically, Nguyen Ngoc Nhur Quyuh, known as Madame N m, Tran Thi Nga and Phan Kim Khauh had allegedly been transferred to places of deprivation of liberty up to 1,000 kilometres from their homes and families. Frequent transferral was also used for punitive purposes: a prisoner called Dien Cay had reportedly been transferred between facilities 20 times in six years. There had also been reports of the abusive use of solitary confinement and deprivation of contact with the prisoners' families and counsel. The Committee had also received numerous reports of the use of excessive force and violence by law enforcement officers to disperse demonstrators.

57. The Committee would like to receive information about the sex, age group and ethnicity of victims of such ill-treatment, the number of cases in which complaints had been filed, investigated and prosecuted and the number of convictions, as well as the sanctions applied. The persistence of reports of beatings of detainees with a view to extracting confessions was of particular concern. The Committee could only wonder about the

effectiveness of the measures taken by the State party to ensure that such treatment did not occur.

58. It would also be useful to the Committee if the State party provided specific information on measures taken to investigate ill-treatment of migrant workers, human trafficking and exploitation of Vietnamese and foreign women and girls. The Committee would also appreciate more information on the treatment of child drug addicts, including the reported failure to separate them from adults in detention and their exposure to ill-treatment and isolation, as well as problems in the administration of juvenile justice.

59. **Ms. Gaer** said that the ratification of the Convention and submission of the initial report on its implementation by a State party were of special importance to the Committee. She welcomed the quality of the report, especially in terms of general information on the situation of domestic law. Regarding deaths in custody, she asked about the cases of persons associated with minority religious or ethnic communities, such as Nguyen Huu Tan, a Buddhist who had been detained and had later died in particularly grizzly circumstances. The police had claimed that he had committed suicide, but that claim was highly suspicious for a number of reasons. An investigation into the case had evidently been carried out by the police themselves, and not by an independent, impartial body. She would appreciate it if the delegation would describe the procedure for establishing and ensuring independent investigations in such cases. In addition, the family of the victim had complained to the authorities about the case and had been subjected to a number of reprisals from the local police, including confiscation of their telephones and threats of arrest. Had anyone been sanctioned for negligence in supervising the responsible officials or for active participation in those acts? Had the State party established any oversight mechanisms or procedures to protect persons who denounced acts of torture against reprisals by local authorities?

60. In another case, a Hmong Christian, Ma Seo Sung, had been arrested and had, according to the police, committed suicide by hanging. However, the rope marks on his body had been inconsistent with the police account, and in that case as well, the family of the victim had reported receiving threats of reprisals. In 2015, a pastor of a Montagnard evangelical church, Ksor Xiem, had died, allegedly from injuries sustained in police custody, and a year later, Y Ku Knul, another Montagnard Christian, had died while under arrest; his family had pointed out that his body showed signs of electric shocks. The delegation should inform the Committee whether any officials had been investigated or received any sanctions in those cases.

61. During a visit to Viet Nam, she had met with leaders of the Unified Buddhist Church of Vietnam. The leader of that church, Thich Quang Do, was allegedly under house arrest in a monastery. The Committee would be interested to find out about the procedure and legal basis for assigning a person to house arrest and to learn how often persons were thus deprived of their liberty. Was such treatment reserved for specific people who were at odds with government policies? During her visit, she had also gone to the jail in Hanoi where the human rights lawyer Nguyen Van Dai was being held. The Committee had learned that, after his release from prison, he had been rearrested in December 2015, just prior to a scheduled meeting with representatives of the European Union, and had subsequently been detained incommunicado for 19 months. He and another human rights advocate, Nguyen Ngoc Nuhur Quyuh, known as Mother Mushroom, had provided information about ill-treatment, harassment, intimidation and torture; she too had been subjected to detention. The Working Group on Arbitrary Detention had determined that Mother Mushroom's detention had been arbitrary. She had identified 31 cases of deaths in custody. Could the delegation inform the Committee whether those cases had been investigated, and explain the Government's justification of such lengthy incommunicado detention? The Committee would also like to receive more detailed information about legal cases in which evidence extracted under torture had been quashed in court. Had any sanctions been imposed on those responsible for the coercion?

62. **Mr. Rodríguez-Pinzón** said that he too welcomed the submission of the initial report and the beginning of a dialogue with the State party. With respect to article 14 and the questions of redress, compensation and rehabilitation, the State party had mentioned some cases in which compensation had been provided. However, the Committee would like

to receive more comprehensive and consolidated information about the payment of such compensation, in particular for those cases mentioned in the report. It would also appreciate it if the delegation would describe how the perpetrators of ill-treatment or torture were held financially responsible for the compensation provided by the State to victims, and what effect such compensation had on the liability of the State. Lastly, he asked about the relationship between civil and criminal liability for acts covered by the Convention. Was there a legal obligation for criminal liability to be established first in order for civil proceedings and claims for compensation to be initiated?

63. **Mr. Hani** said that the second paragraph of the declaration issued by the State party upon ratification of the Convention was problematic, as it said that the State party did not consider the Convention as the direct legal basis for extradition in respect of the offences referred to in article 4 of the Convention, and that extradition would be decided on the basis of extradition treaties to which Viet Nam was a party or the principle of reciprocity, and would be in accordance with Vietnamese laws and regulations. The declaration had been the subject of an objection on the part of another State party. As it placed a provision of the Convention in a situation subordinate to domestic law, and in fact represented a derogation from one of the Convention's important provisions, it could not be considered to be a simple interpretative declaration. Rather, in line with article 2 (1) (d) of the Vienna Convention on the Law of Treaties of 1969, it should be considered a reservation, insofar as it changed the legal effect of the Convention by limiting its applicability. The declaration undermined the effectiveness of a number of other provisions of the Convention, rendering them dependent on the extradition treaties entered into by Viet Nam. It was thus incompatible with the object and purpose of the Convention. He asked whether the Government intended to withdraw the declaration and whether it had considered the possibility of accepting the authority of the Committee to receive complaints, in accordance with articles 21 and 22 of the Convention.

64. Noting that Human Rights Watch had published a report on rehabilitation centres and the use of forced labour in Viet Nam, he asked the delegation to describe the legal basis for sentencing people to forced labour and to inform the Committee whether the Government intended to eliminate that practice, in accordance with the relevant provisions of the Nelson Mandela Rules, in particular those that prohibited the use of punitive work. He asked whether the Government had registered acts of torture or ill-treatment by public officials against leaders or members of religious minorities or indigenous groups such as the Khmer Krom, and whether the delegation could provide information on the specific cases of Lieu Ny and Thach Thoul, who were leaders of the Khmer Krom community. Lastly, Dang Quoc Viet, a renowned film producer and director, had recently claimed that he had been arbitrarily detained and tortured into signing a confession of drug dealing. What kind of investigations did the authorities carry out in such cases?

65. **The Chair** said that he would like to know whether the State party would consider inviting the Special Rapporteur on torture to visit Viet Nam.

66. **Ms. Belmir** said that she had noted that the Independent Expert on minority issues had in 2010 reminded the State party of the need to establish a legal framework to ensure the protection of minority rights, in particular to protect minorities against displacement and confiscation of land without appropriate compensation. The State party already had two bodies that could serve as a basis, the Council of Ethnic Minorities, in the National Assembly, and the Government Committee for Ethnic Minority Issues. She would welcome the delegation's comments on the possibility of using them to that end.

The meeting rose at 1 p.m.