

ADVANCE UNEDITED VERSIONDistr.: General
9 March 2012

Original: English

Committee on the Elimination of Racial Discrimination**Eightieth session**

13 February – 9 March 2012

Consideration of reports submitted by States parties under article 9 of the convention**Concluding observations of the Committee on the Elimination of Racial Discrimination****Lao People's Democratic Republic**

1. The Committee considered the sixteenth to eighteenth periodic reports of Lao People's Democratic Republic, submitted in one document (CERD/C/LAO/16-18), at its 2149th and 2150th meetings (CERD/C/SR.2149 and CERD/C/SR.2150), held on 28 and 29 February 2012. At its 2159th and 2160th meetings (CERD/C/SR.2159 and 2160), held on 6 and 7 March 2012, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined sixteenth to eighteenth periodic reports which comply with the Committee's revised guidelines for the preparation of treaty-specific reports, and of the common core document. The Committee also welcomes the open and frank dialogue with the high-level delegation of the State party as well as the responses given to the issues raised by Committee members during the dialogue.

B. Positive aspects

3. The Committee notes the legislative and policy measures taken by the State party which contribute to combating racial discrimination, including:

- (a) The adoption in 2009 of the Prime Minister's Decree on Associations;
- (b) The adoption in 2009 of the Master Plan on Development of the Rule of Law in Laos toward 2020;
- (c) The scientific study undertaken on the ethnic composition of the State party's population which has led to the formal recognition of 49 ethnicities classified into 4 ethno-linguistic groups.

4. The Committee welcomes the ratification by the State party of the following international instruments since the consideration of the sixth to fifteenth periodic reports:

(a) The International Covenant on Civil and Political Rights, on 25 September 2009;

(b) The Convention on the Rights of Persons with Disabilities, on 25 September 2009.

(c) The International Covenant on Economic, Social and Cultural Rights, on 13 February 2007;

(d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 20 September 2006;

(e) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, on 20 September 2006.

5. The Committee further notes the improvement in the representation of smaller ethnic groups in elected and public bodies.

C. Concerns and recommendations

6. While noting the provisions of article 176 of the State party's Criminal Code on discrimination against ethnic persons as well as the various non-discrimination articles contained in other laws, such as those in the Labour Law and the Law on Health Care, the Committee remains concerned that they do not include all elements of the definition of racial discrimination under article 1 of the Convention. (art. 1, 2).

The Committee recommends that the State party introduce in its legislation a comprehensive definition of racial discrimination, fully in accordance with article 1 of the Convention, prohibiting discrimination on the basis of race, colour, descent, or national or ethnic origin. The Committee also recommends that the State party define direct and indirect discrimination in its civil and administrative laws.

7. The Committee is concerned that the State party has not taken all the necessary legislative measures to incorporate the provisions of the Convention in its domestic law, as provided for by the 2009 Presidential Ordinance on Treaty Making, Participation and Implementation. (art. 2).

The Committee urges the State party to review its legislation and take the most appropriate approach for incorporating the Convention's provisions into domestic law, either by adopting a comprehensive law against racial discrimination or amending existing laws. The Committee recommends that the State party take into consideration in this regard the relevant recommendations articulated in the present concluding observations.

8. The Committee notes the concern of the State party as regards the lack of resources for the establishment of a national human rights institution. The Committee also notes the variety of bodies tasked with the supervision of the implementation of human rights treaties, as listed in paragraph 65 of the Core Document. The Committee wishes to stress the crucial role that an independent national human rights institution plays in the protection and promotion of human rights, and in combating racial discrimination in particular. (art. 2).

Recalling its previous recommendation, the Committee encourages the State party to establish a national human rights institution compliant with the Paris Principles (General Assembly resolution 48/134). The Committee invites the State party to seek

assistance in this regard from the international community, including the United Nations Office of the High Commissioner for Human Rights.

9. The Committee regrets the paucity of information provided on the implementation of article 3 of the Convention. (art. 3).

Recalling its general recommendation No. 19 (1995) on racial segregation, the Committee requests the State party to include in its next periodic report information on any ethnic residential patterns as well as on measures taken to monitor trends and to prevent segregation.

10. While noting the explanation of the State party that article 66 of the Criminal Code on 'division of solidarity' was introduced in response to the Committee's recommendation at the sixty-sixth session in April 2005, the Committee regrets that the said article does not prohibit dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination nor ban organisations or activities promoting racial discrimination, as required by article 4 of the Convention. (art. 4, 2).

Recalling its general recommendations No. 1 (1972) on States parties obligations, No. 7 (1985) on legislation to eradicate racial discrimination and No. 15 (1993) on article 4, which stipulate that the provisions of article 4 are mandatory and preventive in nature, the Committee recommends that the State party incorporate in its Criminal Code provisions giving full effect to article 4 of the Convention. The Committee also recommends that the State party add racist motivation as an aggravating circumstance for crimes in general, under article 41 of the Criminal Code. Moreover, the Committee requests the State party to include in its next periodic report information on the application of article 66 of the Criminal Code.

11. While noting the answer given by the delegation of the State party, notably concerning the investigation conducted on the allegations of killings of young Hmong persons in the Xaisomboune Special Zone in May 2004, the Committee remains concerned that allegations of acts of violence against Hmong people are not properly and impartially investigated. (art. 5 (b)).

The Committee urges the State party to investigate promptly, thoroughly and impartially all allegations of acts of violence against members of the Hmong ethnic group. In this regard, the Committee draws the attention of the State party to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system.

The Committee also reiterates its previous recommendation that the State party should invite United Nations bodies for the protection and promotion of human rights to visit the areas where members of the Hmong ethnic groups have taken refuge.

12. The Committee notes the information provided by the State party in its letter of 2 October 2009 as well as during the dialogue regarding the conditions of Hmong persons repatriated under an agreement with a neighbouring country. Nevertheless, the Committee expresses concern that some persons, considered by the UNHCR as persons of concern, did not voluntarily repatriate and that international monitors were not allowed access to them upon their arrival in the State party. (art. 5 (b)).

The Committee calls upon the State party to ensure that repatriation of persons or groups, considered as persons of concern to UNHCR, is conducted on a genuinely voluntary basis. The Committee also urges the State party to give international monitors unrestricted access to returnees.

13. While noting the efforts of the State party to combat human trafficking including through regional cooperation, the Committee is concerned that human trafficking, which could affect the rural population and ethnic groups, remains a serious problem. (art. 5 (b))

In addition to the UPR recommendations on measures to combat trafficking which the State party has voluntarily committed to follow, the Committee calls upon the State party to address its root causes and to pay attention to any manifestation of vulnerability to trafficking due to ethnicity or subsequent to relocation.

14. Taking into account the intersectionality between ethnicity and religion in the State party and referring to the observations of the Special Rapporteur on freedom of religion or belief, the Committee is concerned at the discrimination reportedly experienced by certain ethnic groups in the exercise of their freedom of religion. (art. 5 (d)).

The Committee reiterates its previous recommendation that the State party take all necessary measures to ensure that all persons enjoy their right to freedom of thought, conscience and religion, without discrimination, in accordance with article 5 of the Convention.

15. The Committee expresses concern at the reluctance of the State party to take steps to discourage practices within some ethnic groups, particularly regarding inheritance and early marriages, which are prejudicial to the equal enjoyment and exercise of rights by either sex. (art. 5 (d) and (e)).

Recalling the State party's obligation to guarantee the right to equality in the enjoyment of human rights, the Committee calls on the State party to take account in public policies of the need to address discriminatory customs, primarily through education and other culturally sensitive strategies. In this regard, the Committee draws the attention of the State party to its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination.

16. In view of the customs and traditional practices of members of ethnic groups in mountainous areas, the Committee is concerned that the land regime of the State party, whereby land is allotted for housing, farming, gardening and grazing, fails to recognize a link between the cultural identity of ethnic groups and their land. (art. 5 (e)).

The Committee calls upon the State party to review its land regime with a view to recognizing the cultural aspect of land, as an integral part of the identity of some ethnic groups.

17. The Committee regrets that it has not been given information during the dialogue as to how communities' free prior and informed consent is ensured in practice in the implementation of projects that affect the use of their lands and resources, in particular in the implementation of development projects, such as the building of hydropower stations, extractive activities or in the context of land concessions and the establishment of economic special zones. (art. 5(e)).

The Committee urges the State party to ensure that the right of communities to free prior and informed consent is respected in the planning and implementation of projects affecting the use of their lands and resources. The Committee calls upon the State party to ensure that communities have the capacity to effectively represent their interests in decision-making processes. The Committee also recommends that the State party take all measures to ensure that communities have effective access to redress.

Moreover, the Committee calls upon the State party to ensure that the laws and regulations pertaining to consultations, impact assessments, displacement, and compensations, such as Prime Minister Decree No. 192/PM of 7 July 2006, fully

respect the rights of the members of communities living in the areas where development projects are to be implemented.

18. The Committee notes the development objective of the relocation policy which aims to cluster and settle scattered ethnic communities of the mountainous areas in lowland villages with better access to public services and infrastructure. The Committee further notes the affirmation by the State party that communities concerned by relocation projects have been consulted prior to resettlement and that these relocations have been made on a voluntary basis. At the same time, the Committee is seriously concerned that the implementation of the policy has uprooted communities who have also been forced to adopt new lifestyles and livelihoods. Moreover, the Committee regrets that it has not received information as to how alternatives to relocation as well as consideration of ethnic groups' ties to land have been taken into account in the implementation of the policy. (arts. 5(e) and 1).

The Committee reiterates its previous recommendation calling on the State party to consider all possible alternatives to relocation and to pay attention to the cultural ties of certain ethnic groups to their land. Moreover, the Committee recommends that the State party provide opportunities for smaller ethnic groups to define development in their own terms and to contribute to decision-making as to how development is operationalized.

The Committee requests the State party to include in its next periodic report information on the number of persons/villages and their ethnic affiliation which have been relocated as well as information on the impact of the relocation policy on the livelihood and the culture of the persons, villages and ethnic groups concerned.

19. The Committee notes the political will of the State party to reduce poverty in rural areas and to improve ethnic groups' enjoyment of economic and social rights, as shown by the implementation of policies and programmes, such as the Education Strategy by 2020 and Education for All programmes, and the Strategy Plan in Public Health Sector by 2020, which accord priority to disadvantaged districts. Nevertheless, the Committee is concerned that some ethnic groups do not have equal access to public services, such as in the area of health and education, either because of language barriers or because the provision of these services in remote locations are either of poor quality or inexistent. (art. 5(e)).

The Committee calls upon the State party to continue to address the ethnic and geographical disparities in the delivery of, and access to, public services, and to ensure that these services are culturally adequate. Bearing in mind its general recommendation No. 32 (2009) on the meaning and scope of special measures, the Committee requests the State party to include in its next periodic report information on special measures taken to reduce these disparities as well as information on the outcome of measures taken to overcome the language obstacle in the delivery of services. The Committee also requests that the State party provide in its next periodic report data on the enjoyment of economic, social and cultural rights, disaggregated by ethnic group and rural/urban area.

20. Notwithstanding the explanation provided by the State that no ethnic group is considered as a minority, the Committee emphasizes the need in a multi-ethnic society to recognize and promote the rights of ethnic groups of smaller size, including the need to protect their existence and their identity so as to prevent forced assimilation and loss of cultures as well as to ensure that their concerns are taken into consideration in public policies. (arts. 5, 2 and 1).

In line with its previous concluding observations, the Committee calls upon the State party to recognize without discrimination on the ground of ethnic origin, all human rights listed in article 5 of the Convention to all members of its ethnic groups that are

numerically inferior to the rest of the population, regardless of the name given to these groups in domestic law.

21. The Committee expresses its concern at the insufficient measures taken to preserve the ethnic languages spoken in the State party, in particular the non-written languages, which are part of the national cultural heritage. (art. 5(e)).

The Committee urges the State party to take the necessary measures to preserve the cultural heritage of ethnic groups, including their languages. In this regard, the Committee recommends that the State party explore all possibilities for capturing and documenting ethnic languages, traditional knowledge and cultures, and develop their teaching in school.

22. The Committee notes the measures taken, such as the adoption in 2005 of the Law on Complaints and the implementation of the Master Plan on Development of the Rule of Law, to improve access to justice in the State party. Nevertheless, the Committee expresses its concern at the absence of complaints of racial discrimination in light of the ethnic diversity of its population. (art. 6).

Considering that the absence of complaints does not signify a lack of racial discrimination and recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee recommends that the State party verify whether the absence of complaints of racial discrimination is not the result of victims' lack of awareness of their rights, fear of reprisals, limited access to remedies, lack of confidence in the police and judicial authorities, or the authorities' lack of attention or sensitivity to cases of racial discrimination.

The Committee recommends that the State party review judicial and other remedies available to victims to ensure that they are effective. To this end, the Committee calls upon the State party to pay particular attention to the additional challenges faced by ethnic groups in accessing justice, such as their remoteness and the language obstacles. The Committee also recommends that the State party continue to raise awareness of the Convention and of the State party's Criminal Code provisions relating to racial discrimination.

The Committee requests the State party to provide in the next report information on complaints about acts of racial discrimination, received through all mechanisms, including the village mediation units and the National Assembly, as well as information on relevant decisions in penal, civil or administrative court proceedings, including on any restitution or other remedies provided to victims of such acts.

23. While noting the implementation of the International Law Project initiated by UNDP, the Committee regrets that the information supplied in the State report, the Core Document and during the dialogue has not enabled it to ascertain to what extent training on the Convention and its provisions has been provided to government officials, the judiciary, law enforcement officials, teachers, social workers and other public officials. (art. 7).

The Committee requests the State party to include in its next periodic report information on measures taken to increase the awareness of the Convention and its provisions among those concerned by its implementation, including civil servants, the judiciary, members of the village mediation units, law enforcement officials, teachers and social workers. In particular, the Committee draws the attention of the State party to its general recommendation No. 13 (1993) on training of law enforcement officials in the protection of human rights.

24. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not

yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

25. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

26. The Committee recommends that the State party initiate and promote a dialogue with organizations of civil society working in the area of human rights protection, in particular in the implementation of these recommendations and in the preparation of the next periodic report.

27. The Committee encourages the State party to consider making the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

28. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

29. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

30. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 12 and 13 above.

31. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 7, 8 and 17 and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

32. The Committee recommends that the State party submit its combined nineteenth to twenty-first periodic reports in a single document, due on 24 March 2015, taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports, and 60-80 pages for the common core document, shall it consider updating it (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).