

Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
UA VNM 2/2017 Rev.1

21 March 2017

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 28/11, 25/2, 32/32, 27/23, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of excessive use of force by the police against peaceful demonstrators, including environmental human rights defenders as well as arrests and other undue restrictions imposed on them, while they were on their way to Ha Tinh province, in order to file complaints against Formosa Plastics.**

Violent arrests and excessive use of force against Vietnamese citizens, participating in a peaceful environmental demonstration against Formosa Plastics, were the subject of a previous communication sent by various Special Rapporteurs, dated 10 August 2016, case no. VNM 5/2016. We acknowledge receipt of the response your Excellency's Government dated 3 March 2017. We take note of the various points raised in relation to the individual cases mentioned, the protection of the right of individuals to peacefully assemble and the situation of human rights defenders in the country. These however do not alleviate the concerns we have on these issues in light of the new below allegations received.

According to the new information received:

In April 2016, a significant amount of fish stocks were found dead on the coastline of the provinces of Ha Tinh, Quang Binh, Quang Tri, Thua Thien-Hue and Nghe An. The first governmental investigation allegedly suggested that a massive tide of toxic red algae could have caused the death of the fish. However,

many people in the country expressed their doubts and peaceful demonstrations were organized in various cities, in May and June 2016. In July 2016, the Government finally confirmed the link between the toxic discharge from the Formosa Ha Tinh Steel Plant and the death of the fish. The authorities ordered the plant's owner to pay damages of \$500 million USD. On 29 September 2016, the Prime Minister, Mr. Nguyen Xuan Phuc, issued Decision 1880 which stated that only victims from the provinces of Ha Tinh, Quang Binh, Quang Tri and Thua Thien-Hue would benefit from the compensation. The issuance of this binding decision led to the rejection of the 506 individual complaints against Formosa Plastics, as a court is reportedly not competent to make a ruling on the same issue when a governmental decision has been delivered.

On 14 February 2017, a group of about 700 protestors, including environmental human rights defenders, peacefully gathered in Song Ngoc, in order to join the neighbouring Ha Tinh province and submit 619 individual legal complaints to the People's Court. All these complaints were coming from individuals from Nghe An, a province that is not included in the compensation scheme defined by Decision 1880. They called for a compensation of approximately \$20 million USD.

The group was due to reach Ha Tinh by bus (distance of 170 kilometres from Song Ngoc), but the hired bus company cancelled its service, after it had reportedly received threats from the authorities. The peaceful protestors started to travel by foot, cars and motorbikes, and were followed by armed police forces.

It is reported that about 20 kilometres away from Song Ngoc, the group of protestors encountered a police roadblock. The roadblock was composed of around 2,000 policemen, deployed to prevent the protestors from reaching their destination. While talking with the authorities, the group was allegedly attacked by dozens of men in plain clothes. The men mainly targeted marchers who were using cameras and phones to cover the event. **Father Nguyen Dinh Thuc**, the organizer of the demonstration, was also reportedly attacked. The men in plain clothes towed a car containing 10 people, including two who were live streaming the event on *Facebook*. The police witnessed the entire scene without intervening.

The protestors then decided to sit and started to pray. At this moment, a group of men in plain clothes reportedly infiltrated the group and started to throw stones at the police forces. In a response to this attack, the policemen used tear gas and fired flash grenades at the group. As they were trying to run away, protestors were directly assaulted by the policemen who were using their electric batons, rods and fists.

It is reported that around 15 male protestors were arrested by the police, physically assaulted and later taken to remote areas, from where they had to find

their own way home. One of them suffered from a fractured backbone, lost four teeth and was taken to the hospital, alongside with four others protestors.

The peaceful demonstrators reportedly intend to proceed with submitting additional complaints to the People's Court. However, the organizers of the protests are allegedly facing anonymous threats and acts of harassment, including actions directed against their families and employers, preventing them from continuing their peaceful protest.

We are seriously concerned at the reported excessive use of force by the police against peaceful protestors, including environmental human rights defenders and the arrest of a number of them, as a direct response to the exercise of their rights to freedom of peaceful assembly and freedom of opinion and expression and their legitimate activities aimed at protecting human rights. We also express concern at the lack of police intervention to the physical attacks at the protestors by non-uniformed groups. We are similarly concerned about the imposition of a police roadblock which constitutes an undue restriction to the aforementioned rights and the right to freedom of movement. We are deeply concerned that the acts of harassment and threats against the organizers of protests and their relatives will deter them from continuing their peaceful actions. Finally, we express concern about the repetition of police crackdown over peaceful protestors in relation to the Formosa environmental disaster.

While we do not wish to prejudge the accuracy of these allegations, they appear to be in contravention with articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Vietnam on 24 September 1982, which specify that everyone should have the right to freedom of expression and opinion and the right to freedom of peaceful assembly. In this connection, we reiterate the principle enunciated in Human Rights Council Resolution 12/16 that calls on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on peaceful demonstrations; reporting on human rights and discussion of government activities.

We would like to draw the attention of your Excellency's Government to the Human Rights Council resolution 24/5 which reminds States of their obligations to protect the rights of all individuals to freedom of peaceful assembly and association.

Additionally, we wish to bring to the attention of your Excellency's Government the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 5, 6 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of peaceful marchers in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.

2. Please provide information concerning the legal grounds for the arrests of protestors and explain how this is compatible with Viet Nam's obligations under international human rights law.

3. Please provide information regarding the imposition of the police roadblock and the violent response of the police forces. Please indicate how such measures are compatible with international human rights norms and standards.

4. Please provide information on the health situation of the demonstrators who have been hospitalized.

5. Please provide information about any on-going investigations undertaken regarding the aforementioned allegations, in particular with respect to the excessive use of force by the police and plain-clothed actors against the protestors.

6. Please provide information about measures taken to ensure that human rights defenders and protestors in general can exercise their rights of freedom to peaceful assembly and freedom of opinion in a safe and conducive environment without fear of harassment or persecution.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

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