

Mandates of the Special Rapporteur on the rights of Indigenous Peoples; the Working Group on Arbitrary Detention; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to education; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of religion or belief

Ref.: AL VNM 5/2022
(Please use this reference in your reply)

18 October 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights of Indigenous Peoples; Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to education; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 51/L31, 42/22, 46/9, 44/3, 42/16, 43/16 and 49/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged failure of the Socialist Republic of Viet Nam to recognize the right to self-determination of the Khmer Krom Indigenous Peoples who live mainly in the Mekong Delta region, in the South-West of Viet Nam, as well as the alleged violation of their rights to freedom of expression, association, health, food, water, housing, a safe, clean, healthy and sustainable environment, freedom of religion or belief, as well as their linguistic and cultural rights.

In particular, we are concerned by the case of Mr. **Duong Khai**, a Khmer Krom youth who was temporarily detained and questioned by the Police on 13 April 2021, on 4 February 2022, and then again on 30 July 2022, together with another Khmer Krom youth, Mr. **Thach Cuong**, for his human rights work regarding the rights of the Khmer Krom people, including their right to self-determination. Mr. Duong Khai's case was raised in a previous Communication to the Government of Viet Nam (VNM 3/2021), to which Your Excellency's Government responded on 20 September 2021 (letter No.143/VNM. 21). We would also like to bring to Your Excellency's Government's attention the cases of Mr. **Danh Set** and Mr. **Tang Thuy**, two Khmer Krom men who were temporarily held in police custody, questioned for their activism on the rights of Khmer Krom Indigenous Peoples, and reportedly ill-treated; and the case of Mr. **Thach Rine**, a Khmer Krom man who was arrested in October 2021 on charges of "abusing democratic freedoms", as per Article 331 of the Viet Nam's Criminal Code, for wearing a T-shirt with a Sustainable Development Goals (SDGs) logo, and who was released after six months, in April 2022, without having undergone a fair trial and without any access to his family and lawyer.

According to the information received:

The Khmer Krom are Indigenous Peoples who live predominantly in an area, the Mekong Delta region, in Viet Nam, which they have continuously inhabited

for thousands of years. In Khmer language, the area is known as Kampuchea-Krom. The Khmer Krom are one of the largest Indigenous Peoples in Viet Nam. Their language, Khmer, is part of the larger Mon-Khmer language family. Most Khmer Krom are adherents of the Khmer style of Theravada Buddhism, while a minority are Roman Catholic. The reunification of Viet Nam in 1975 led to the collectivization of indigenous Khmer Krom agricultural lands, and in the large resettlement efforts that followed, an influx of people belonging to Vietnamese ethnic groups, mostly Kinh, was brought into traditional Khmer Krom lands.

Right to self-determination

Despite voting in favour of the United Nations Declaration on the Rights of Indigenous Peoples (hereinafter “UNDRIP”) on 13 September 2007, the Government of Viet Nam has not developed any specific legislation on Indigenous Peoples, or ethnic minorities. Moreover, the Government does not use the term “Indigenous Peoples” to refer to any of the 54 recognized ethnic groups in the country, including the Khmer Krom who self-identify as such.

Freedom of expression

The 2018 Cybersecurity Law, together with Decree No. 15/2020/NDCP on penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transaction, as well as restrictive and vaguely formulated articles of the Criminal Code, have been reportedly used in Viet Nam to restrict freedom of expression online and offline by all citizens, including the Khmer Krom. Cases of the alleged arbitrary arrest, questioning, detention, incommunicado detention and sentencing of Khmer Krom people in relation to their online and offline exercise of fundamental freedoms and activism to promote the rights of Khmer Krom Indigenous Peoples include the following cases:

Case of Mr. Duong Khai

Mr. Duong Khai is a Khmer Krom youth and human rights defender who has been active in the promotion of the rights of the Khmer Krom Indigenous Peoples of the Mekong Delta whose members self-identify as Khmer Krom and speak the Khmer language. Mr. Duong Khai was the subject of a previous communication to the Government of Viet Nam (VNM 3/2021), dated 22 June 2021, to which Your Excellency’s Government responded on 20 September 2021 with letter No. 143/VNM.21. In the letter, the articles posted and shared on social media by Mr. Duon Khai containing a translation of the UNDRIP into Vietnamese and Khmer, were recalled, which Your Excellency’s Government considered, along with the printed copies of UNDRIP found at Mr. Duong Khai’s residence during the authorities’ administrative check on 13 April 2021, as “distorting the history of the Khmer Krom ethnic group and Southern Viet Nam”. Your Excellency’s Government also recalled Mr. Duong Khai’s relationships with non-governmental organizations in foreign countries, stressing how these latter’s frequent misinterpretation of the “content and spirit” of UNDRIP in the sense of promoting the self-determination of Indigenous

Khmer Krom people undermines Viet Nam's national unity and incites separation and autonomy, ultimately threatening Viet Nam's national security and territorial integrity.

As indicated in the previous communication (VNM 3/2021), Mr. Duong Khai was detained on 13 April 2021. On 4 February 2022, Mr. Duong Khai was held in custody again. At around 11:00 am, Mr. Duong Khai went to the Police station in Soc Trang province, after having been summoned to “*verify a couple of things*”, as stated in the summon he received. Once at the Police station, Mr. Duong Khai was held in custody and his phone was confiscated. He was reportedly interrogated for several hours, until 1:30 am on 5 February 2022. After 1:30 am, he was allowed to sleep until 8 am, and after that he was interrogated again until 8:00 pm of the same day. As sign of protest for how the police was treating him, Mr. Duong Khai refused to eat any food. Altogether, his interrogation lasted 30 hours, during which the police asked him to sign a confession letter indicating that he had shared illegal information on the Internet (i.e. the UNDRIP translation into Vietnamese and Khmer, and the Kampuchea-Krom Federation's activities and programs). Mr. Duong refused to sign the confession letter. Mr. Duong Khai was reportedly denied access to a lawyer during the entire process of interrogation, and no legal documents were provided to him after his release.

On 30 July 2022, Mr. Duong Khai was again held in custody and interrogated by the Ho Chi Minh City Police. At that time, Mr. Duong Khai was together with another Khmer Krom youth, Mr. Thach Cuong, in Ho Chi Minh City, where they were planning to meet with the owner of a restaurant to discuss organization of a Khmer Krom cultural dinner. The information about the event was posted on social media. Once arrived at the location, Mr. Duong Khai and Mr. Thach Cuong found the Police waiting for them. They were reportedly held in custody and brought to a Police station in the city, where they were interrogated for several hours, in separate rooms, about the Khmer Krom event they wanted to organize. At around mid-night, the two were released.

Case of Mr. Danh Set

Mr. Danh Set is a 30-year-old Khmer Krom man, friend of Mr. Duong Khai, who lives in Vinh Chau Town of Soc Trang province.

On 18 February 2022, at around 9:00 am, Mr. Danh Set was reportedly detained by the Police of Soc Trang Province, who summoned him to the local village police station in Vinh Phuoc Ward, Vinh Chau Town in Soc Trang province. The summon letter reportedly indicated the police wanted to “*verify a couple of things*”. Once at the police station, Mr. Danh Set was held in custody, and his phone was confiscated. The police reportedly requested him to provide the codes to access his phone and Facebook account, but he refused to share this information. During the interrogation, the police also reportedly questioned him about sharing information on the Internet, and about his contact with Khmer Krom individuals outside Viet Nam. Reportedly, the police inquired about his relationship with Mr. Duong Khai.

Mr. Danh Set was reportedly hit on his head with a water bottle during the interrogation, after which he conceded to grant access to his phone and Facebook accounts. He was reportedly interrogated until 11:00 pm the same day. The interrogations continued the following day, from 8:00 am to 5:00 pm. The police reportedly threatened to not release him and forced him to pay a fine of VND 70 million (USD 2,984) if he refused to sign a confession letter in which he accused Mr. Duong Khai, and to read it while being recorded in a video. Mr. Danh Set accepted to sign and read the letter and was finally released without having to pay the fine, at 5:00 pm on 19 February 2022. The Police did not return him his phone. Mr. Danh Set was denied access to a lawyer during the entire process of interrogation and no legal documents were provided to him with the reasons of his temporary detention.

Case of Mr. Tang Thuy

Mr. Tang Thuy is a 50-year-old Khmer Krom man who was repeatedly asked to present himself to the police station in Vien Binh village, Soc Trang province, and to sign a confession letter denouncing his friend, Mr. Duong Khai.

On 24 February 2022, Mr. Tang Thuy reportedly received a letter from the police in Vien Binh village, Tran De district, Soc Trang province, summoning him to the police station. Having received no explanations on the reasons of the request, Mr. Tang Thuy decided not to present himself to the police station. In the following days, he reportedly received a similar letter from the same police officers. But again, in the absence of any legal explanations for the summoning, he refused to report to the police station.

In the morning of 2 March 2022, at around 9:00 am, at least 30 police officers reportedly arrived by car and motorcycles and arrested Mr. Tang Thuy in the street near his house in Vien Binh village, Tran De district, Soc Trang province. One police officer reportedly pointed a gun at him, forcing him to get into their car. While in police custody, Mr. Tang Thuy was beaten in the chest. During the interrogation, which lasted until the following day, 3 March 2022, Mr. Tang Thuy was beaten again on the chest by police, and also in the face and head with water bottles. The police also reportedly asked Mr. Tang Thuy to sign two confession letters: one, with which he would accept the accusations of betraying Viet Nam for sharing information against the country; and another, in which he would denounce his friend, Mr. Duong Khai. Mr. Tang Thuy refused to sign both letters and was eventually released. Mr. Tang Thuy was reportedly denied access to a lawyer during the entire process of interrogation, and no legal documents were provided to him after his detention.

Case of Mr. Thach Rine

Mr. Thach Rine is a 62-year-old Khmer Krom man arrested for reportedly sharing an animated picture of Ho Chi Minh, although it appears that his arrest may have been due to his wearing a T-shirt with the UN SDGs logo.

On 25 June 2021, the police of Kim Son village, Tra Cu district, Tra Vinh province, entered Mr. Thach Rine's house in Tra Cu C hamlet, Kim Son village,

during his absence. According to his wife's testimony, who was at home at that time of the incursion, the police confiscated a T-shirt with the United Nations SDGs logo and 150 booklets of United Nations documents, including Khmer-translated copies of the International Covenant on Civil and Political Rights, Universal Declaration of Human Rights and UNDRIP. Mr. Thach Rine was brought to the police station of Tra Cu district for an interrogation, which reportedly lasted 10 hours (from 8 am to 6 pm) and took place without a lawyer. During the interrogation, the police did not mention the T-shirt, but rather accused Mr. Thach Rine of sharing on social media an animated picture of Ho Chi Minh, on 14 June 2021. After Mr. Thach Rhine agreed not to share any more pictures of Ho Chi Minh, he was eventually released.

On 14 October 2021, the police returned to Mr. Thach Rine's house, in Kim Son village, and arrested him for a second time reportedly without an arrest warrant. The police presented a letter accusing Mr. Thach Rine of sharing the same animated picture for which he was arrested in June 2021. After reading the letter, which accused Mr. Thach Rine of "abusing democratic freedoms" pursuant to article 331 of Viet Nam's Criminal Code, he was handcuffed and forced into the police car. Initially, the police told Mr. Thach Rine he would remain in prison for two months; then, on 24 January, he was put on a closed-court trial and, after being forced to accept the alleged crimes, sentenced to a 6-months prison term. The day of his arrest, Mr. Thach Rine's family was informed of Mr. Thach Rine's detention at the Police station in Tra Cu district, Tra Vinh province. However, family members were never allowed to visit him in person despite several attempts. Mr. Thach Rine's family was also not informed of the trial, of which no information was made public and which reportedly took place without a lawyer, whose access was denied to Mr. Thach Rine. During his detention, in Tra Vinh province for 5 months first, and in Vung Tau province for 27 days then, Mr. Thach Rine's health worsened, but his access to medicines was reportedly delayed or denied by prison authorities. After his release, Mr. Thach Rine has admitted having difficulties recalling memories of his time in prison.

On 13 April 2022, Mr. Thach Rine was released from the prison in Vung Tau province, a province far from Tra Vinh, where he was first arrested and where his family believed he had been detained all along. The family members and the community suspect that the reason of Mr. Thach Rine's first detention and de facto enforced disappearance resides in him wearing a T-shirt with the logo of the UN SDGs, and in his posting of pictures and videos of him reading the UNDRIP translated into Khmer.

Access to land

As stated in article 4 of the 2013 Land Reform Act, "land belongs to the entire people with the State acting as the owner's representative and uniformly managing land. The State shall grant land use rights to land users in accordance with this Law". Under the legislation, the Government can decide to whom to grant the use of the land, and for how long. The Mekong Delta region in particular, where numerous indigenous and minority ethnic groups have been living for centuries, including the Khmer Krom, has been considerably affected

by the policy, as the land is fertile, pristine, and abundant in natural resources. However, in the absence of any legal protection and customary recognition on their lands, these groups have been subjected to systematic land confiscations by the Government, which has reportedly been granting concessions on their lands for economic and development purposes.

Land dispossessions have taken place without the free, prior, and informed consent of the people affected, as prescribed by the UNDRIP, nor with an adequate, whenever existent, compensation, or resettlement, as laid down in national laws (including the 2013 Land Law).¹ When resettlement has taken place, families were reportedly forced to relocate in small plots of unfertile land or in areas that lack access to basic infrastructure and services, including schools and healthcare facilities, which has hampered livelihoods, impeded timely and adequate access to health care services, and created food insecurity and malnutrition, leading to further marginalization and further impacting their right to the highest attainable standard of physical and mental health.

Resettlements have, thus, generated the social and cultural disintegration of many ethnic communities, and seriously affected the communities' social and cultural rights, also neglecting the special relationship these communities have with their lands. Consequently, ethnic tension has increased due to the state-sponsored migration program to bring non-indigenous settlers into the indigenous lands. In the Mekong Delta region, for example, indigenous lands have been systematically allocated to ethnically Kinh people, or they were designated for conservation (i.e. national parks) and tourism. Disputes over land have often culminated with clashes between local residents and authorities, and with the arrest of the protesters holding peaceful protests.² In 2020, for instance, Vietnamese authorities sent hundreds of police forces armed with guns, electric batons, and tear gas, to attack indigenous Khmer Krom farmers who were farming on their confiscated farmlands and who were asking for their lands to be returned to them.

The right to health and the right to a healthy environment

As other indigenous and ethnic minority groups in the Mekong Delta, most Khmer Krom people are farmers. The increase in demand for higher rates of rice production from 1 to 3 times per year has translated into many Khmer Krom farmers buying expensive herbicides, pesticides, and fertilizers to make the rice grow faster and protect it from insects. This has not only led to indebtedness to local banks and to Vietnamese private loaners, but also their constant exposure to chemicals, and the consumption of contaminated food and water, which has increased the number of Khmer Krom people (together with other minorities' members living in the Delta) displaying various kind of diseases, including blindness in either one or both eyes. Furthermore, the Khmer Krom people face several other environmental problems in their lands: soil-degradation from over-farming and deforestation are on the rise, as is the frequency of floodings, which the topography of the area, made of low dams, a weak slope of the river and a lack of drainage in the lands, further exacerbates. This, together with increasing

¹ A/HRC/40/56/Add.1, Report of the Special Rapporteur on the right to food, 18 December 2018, p.9

² Ibid.

infiltrations of saline water in the rice fields and salt-deposits in the nearby area, is not only damaging the rice production, but also putting the Khmer Krom farmers' lives and livelihoods increasingly at risk.

Access to education in indigenous languages

The Khmer language is an integral component of the Khmer Krom's identity, traditions and culture. The Constitution of Viet Nam provides that "every ethnic group has the right to use its own spoken and written language to preserve its own identity and to promote its fine customs, practices, traditions and culture". About a decade ago, the Government of Viet Nam introduced Khmer language classes in the amount of 2 or 3 hours per week in public schools where the Khmer Krom students are the majority. However, the program has been reportedly enforced in an inconsistent and uneven manner since its launch. Viet Nam's Government has also repeatedly forbidden the Khmer Krom from bringing Khmer textbooks from Cambodia to Viet Nam for their students to learn their language and history; and although in recent years Viet Nam has published textbooks in Khmer for Khmer Krom youths, grammatical errors and incorrect spellings have been detected, since the books are written by Vietnamese who, as such, lack a proper knowledge of Khmer.

In response to the absence of a multilingual curriculum, and in order to preserve the Khmer language, Khmer Krom Buddhist monks teach Khmer in their temples. However, religious teachers attempting to teach Khmer language classes in village pagodas have met the opposition of local authorities, who have invoked articles 19 and 20 of the 2005 Education Law to prohibit the preaching of religion in schools and other educational institutions in Viet Nam,³ and have reportedly been subjected to intimidation and imprisonment.

Due to the absence of a comprehensive multilingual curriculum and of education in indigenous languages, many Khmer Krom youths cannot read and write Khmer. At the same time, young Khmer also lack a full knowledge of Vietnamese language. This limits students in their studies, as the high drop-out rates of Khmer Krom youths from school at an early age show, and this erodes the use of the Khmer language in the community. Lacking high quality education, vocational skills, and proficiency in Vietnamese, many Khmer Krom youths thus are unable to access well-paid jobs, and eventually end up locked in a cycle of poverty.

Freedom of religion and belief

While freedom of religion is enshrined in the Vietnamese Constitution, the 2016 Law on Religion and Belief poses severe limitations to freedom of religion and belief on religious groups, especially for those that have not been recognized by the State as a religious organization or are not affiliated with a registered religious organization. Moreover, authorities maintain the right to approve or refuse requests for registration as religious group, or systematically deny

³ A/HRC/28/66/Add.2, Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeld, paragraph 50.

registration, or exceedingly delay it, resorting to the protection of national security and social unity as a justification.

Against this backdrop, Kmer Krom Theravada Buddhists have not been recognized as a religious organization which has had several negative effects on its practitioners, de facto stripping them of important human rights and protections. Khmer Krom Theravada Buddhists and monks have consistently encountered limitations in reading relevant religious materials and in holding it in libraries, and they are prevented from exchanging information with the diaspora. Lack of recognition has resulted in Khmer Krom Buddhist monks' difficulties in getting permission to organize prayers, funerals or renovate their temples,⁴ and in its adherents' exposure to intimidations and threats, with systematic cases of reprisals and surveillance of both the monks and the followers.

The concerns related to the limitations imposed on religious groups not affiliated with a religious organization to carry out collective religious practices, have been the subject of a recent communication to the Government of the Socialist Republic of Viet Nam (see AL VNM 4/2022) to which, to date, we have not received a reply.

While we do not wish to prejudge the accuracy of these allegations, we are expressing our serious concern at what may constitute arbitrary arrest and ill-treatment of Khmer Krom persons with the aim of suppressing their right to freedom of expression, as well as the Khmer Krom Indigenous Peoples' cultural and linguistic rights. We are also concerned about the denial of the right of Khmer Krom peoples to identify as Indigenous Peoples, and laws and policies put in place towards their forced assimilation. We express our grave concern about the confiscation of the lands of Khmer Krom and their resettlement without their free, prior and informed consent. We also express concern over violations of the right to freedom of religion or belief and limitations to their right to manifest religion or belief in worship, observance, practice and teaching. In order to address these serious allegations, we are calling for an immediate, impartial and effective investigation into all allegations of human rights violations and abuses raised. We would like to highlight that any development projects should recognize the rights of Indigenous Peoples to their traditional lands; to free, prior and informed consent; to be consulted for the decisions affecting them and their right to fair compensation. Such projects and decisions should employ a human rights-based approach that considers indigenous cultures, promotes their participation and incorporates their knowledge and skills.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We are issuing this appeal in order to safeguard the rights of abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

⁴ A/HRC/28/66/Add.2, Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeld, p.16.

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 comment(s) you may have on the above-mentioned allegations.
2. Please explain the measures that your Excellency's Government has taken to ensure that the free, prior and informed consent is obtained from the Khmer Krom Indigenous Peoples when granting concessions on their lands for economic and development purposes, including information on whether the Government has engaged in consultations with the affected indigenous communities. If so, please provide details, dates and outcome of these consultations, and where appropriate, information on the measures of compensation put in place for all concerned persons, with a due assessment of the loss of their land and property.
3. Please provide information on measures taken to combat the alleged arbitrary arrest and ill-treatment against Khmer Krom Indigenous Peoples for their peaceful human rights activism, as well as, where available, the results, of such investigation and judicial or other official inquiries carried out in relation to the raised allegations. If no investigation has been initiated, please, explain why.
4. Please, provide information on the measures taken by the Government to ensure that diverse ethnic communities in Viet Nam, including Indigenous Peoples, can freely express their identity, participate in the cultural life of their choice and conduct their own cultural practices, use their own language, engage in educational activities and practice their religion or belief and customs without fear of intimidation.
5. Please, provide information on the actions taken by your Excellency's Government to ensure that all human rights defenders, including indigenous human rights defenders, operate in a safe and enabling environment, and carry out their activities without fear of reprisals or intimidation, in line with Viet Nam's international human rights obligations.
6. Please provide information on the measures taken to ensure that the Indigenous communities resettled have adequate and timely access to health care services.
7. Please provide information on measures adopted to ensure that Khmer Krom Indigenous Peoples enjoy their right to a culturally appropriate and relevant education, including quality education of and in their own language, in private and public schools. Please also explain the rationale for the prohibition of Khmer textbooks from Cambodia to study Khmer Krom language and history.
8. Please describe the measures in terms of policies, laws, regulations and

institutional arrangements, considered by your Excellency's Government to protect and recognize the rights of the unregistered or unrecognized religious communities, in particular the right to manifest their religion or belief in worship, observance, practice and teaching as provided by article 18 of ICCPR.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

Further, we would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render.

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

José Francisco Cali Tzay
Special Rapporteur on the rights of Indigenous Peoples

Mumba Malila
Vice-Chair of the Working Group on Arbitrary Detention

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Farida Shaheed
Special Rapporteur on the right to education

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards as well as authoritative guidance on their interpretation.

We would like to refer your Excellency's Government to article 19 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), ratified by Viet Nam on 24 September, 1982, which guarantee the rights to freedom of opinion and expression. Freedom of expression is the cornerstone of democracy, which allows individuals and groups to enjoy several other human rights and freedoms

We would also like to refer to article 3 of the UDHR and article 9 of the ICCPR, which state that everyone has the right to liberty and security of person. Article 9 of the ICCPR further states that no one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

According to Deliberation No. 10 on reparations for arbitrary deprivation of liberty of the Working Group on Arbitrary Detention, all victims of arbitrary deprivation of liberty are entitled to an enforceable right before the competent national authority to prompt and adequate reparations, which should be proportional to the gravity of the violations and the harm suffered.⁵

We would like to reiterate that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is codified in article 5 of UDHR and article 7 of the ICCPR. The latter provides that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." In addition, articles 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) further states that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. Article 12 of the CAT requires that each State Party ensures that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

We would like to also bring to the attention of your Excellency's Government the article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Viet Nam acceded on 24 September 1982, which enshrines the right of everyone, including prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR Committee) reiterates that "States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including

⁵ A/HRC/45/16, Annex I, para. 7.

prisoners or detainees, to preventive, curative and palliative health services.” Additionally, we would like to refer to the Mandela Rules, adopted unanimously by the UN General Assembly (A/RES/70/175), which recognize the responsibility of States to provide health care for prisoners, free of charge without discrimination (rule 24), paying special attention to those with special healthcare needs or with health issues that hamper their rehabilitation (rule 25) and indicate that prisoners requiring specialized treatment shall be transferred to specialized institutions or to civil hospitals (rule 27).

Moreover, we wish to refer to the report of the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in which he makes reference to the fact that “[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life” and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty”.⁶ He also stresses that “for the right to health to be enjoyed in detention centres, health-care facilities, goods and services must be available, accessible, acceptable and of good quality”.⁷ In addition, the Special Rapporteur urges States to “[f]ully abide by, and implement, the Nelson Mandela Rules, in particular as regards the provision of health care in prisons”.⁸

Furthermore, we would like to reiterate the reference to General Comment 14 of the CESCR Committee, which states that the right to health contains the following interrelated and essential elements: Availability, Accessibility, Acceptability and Quality (GC 14, Para. 12). In particular, we wish to stress that the element of accessibility contain the dimensions of non-discrimination and physical accessibility, among others. In this connection, the CESCR Committee states that the obligations to *protect* include, *inter alia*, the duties of States to take measures to protect all vulnerable or marginalized groups of society (GC 14, Para. 35).

In addition, the CESCR Committee indicates that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment (GC 14, Para. 4). In this connection the Committee interprets the right to health, as defined in article 12.1, as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information (GC 14, Para. 11).

We would also like to refer your Excellency’s Government to its obligations under articles 13 of the ICESCR, which protects the right of all persons to education. Article 13(2), as clarified by the Committee on Economic, Social and Cultural Rights, provides an obligation of State parties to take positive measures to ensure that education

⁶ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18.

⁷ *Ibid.* para. 34.

⁸ *Ibid.* para. 98 (a).

is culturally appropriate for minorities and Indigenous Peoples (General Comment 13, para. 50).

In her report to the Human Rights Council on the cultural dimension of the right to education, the Special Rapporteur on the right to education recalled that States and other actors must recognize that cultural diversity is a fundamental characteristic of contemporary societies that must be both reflected and made the most of at all levels of the education system, formal or not (A/HRC/47/32, para. 22). She further underlined the right of learners to a culturally appropriate and relevant education (para. 79 a). According to the UNESCO Universal Declaration on Cultural Diversity (art. 5), all persons are entitled to quality education and training that fully respect their cultural identity.

We would also like to remind your Excellency's Government of its obligations under article 15 of the ICESCR, relating to the right of everyone to take part in cultural life. The Committee on Economic, Social and Cultural Rights, in its 2009 General Comment 21 on the right to take part in cultural life (E/C.12/GC/21), stressed that States parties should take measures to guarantee that the exercise of the right to take part in cultural life takes due account of the values of cultural life, which may be strongly communal or which can only be expressed and enjoyed as a community by Indigenous Peoples. The strong communal dimension of Indigenous Peoples' cultural life is indispensable to their existence, well-being and full development, and includes the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. Indigenous Peoples' cultural values and rights associated with their ancestral lands and their relationship with nature should be regarded with respect and protected, in order to prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and, ultimately, their cultural identity. States parties must therefore take measures to recognize and protect the rights of Indigenous Peoples to own, develop, control and use their communal lands, territories and resources (para. 36). Furthermore, States parties must also respect the rights of Indigenous Peoples to their culture and heritage and to maintain and strengthen their spiritual relationship with their ancestral lands and other natural resources traditionally owned, occupied or used by them, and indispensable to their cultural life (para. 49 d).

General Comment 21 (2009) also recalls that States have the obligation to respect and protect cultural heritage in all its forms. Cultural heritage must be preserved, developed, enriched and transmitted to future generations as a record of human experience and aspirations. Such obligations include the care, preservation and restoration of historical sites, monuments, works of art and literary works, among others (E/C.12/GC/21, para. 50).

In her report on intentional destruction of cultural heritage as a violation of human rights, the Special Rapporteur in the field of cultural rights recommended that States respect and protect tangible and intangible cultural heritage, and that they take appropriate legislative, administrative, educational and technical measures to prevent, avert, stop and suppress intentional destruction of heritage. She also recommended that States tackle, in accordance with international standards, extremist and fundamentalist ideologies, sectarianism and discriminatory attitudes towards, inter alia, those with

different views, minorities, Indigenous Peoples and women, which often lead to cultural cleansing in the form of cultural heritage destruction (A/71/317, para. 78 a), c) and p)).

In her visit report to Viet Nam, the Special Rapporteur in the field of cultural rights recommended that the cultural rights of communities concerned be fully taken into consideration in planning and implementing development programmes and that the Government enable people to contribute to the design of programmes that significantly affect their way of life. The Special Rapporteur further stated that the Land Law of 2013 should be implemented in a manner that protects the collective use of land for communities wishing to retain and develop their traditional ways of life, which are most often based on agriculture, forest husbandry or fishing. Forced evictions carried out in contradiction of international human rights standards should cease. She recommended that the Government continue to support projects promoting bilingual education for Khmer communities and expand them into a national policy (A/HRC/28/57/Add.1, paras. 109, 110, 112 and 116).

We would also like to draw the attention of your Excellency's Government to 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, otherwise known as the UN Declaration on Human Rights Defenders, which was adopted by consensus at the UN General Assembly in 1998. In particular we would like to highlight articles 1 and 2 of the Declaration, which state that everyone, individually and in association with others, has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms and that each State has a primary responsibility and duty to promote, protect and implement all human rights and fundamental freedoms. Further to these, we would also like to reference as article 6 (a) of the Declaration, which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, and article 12, paragraphs 2 and 3, which provide that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), which was adopted in 2007 with a positive vote from your Excellency's government, in its article 1, states that Indigenous Peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law. This includes the rights to life, physical and mental integrity, liberty and security of person (article 7). It further provides in article 2 that Indigenous Peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular based on their indigenous origin or identity.

UNDRIP elaborates upon existing binding rights in the specific cultural, historical, social and economic circumstances of Indigenous Peoples. These fundamental human rights include equality and non-discrimination, personal integrity, culture, education, health and property all of which are recognized in the principal human rights treaties ratified by Viet Nam. Article 12 of the UNDRIP stipulates that Indigenous Peoples have the right to manifest, practice, develop and teach their spiritual

and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites. Article 13 further elaborates that Indigenous Peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons. And article 10 provides that Indigenous Peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Article 26 of UNDRIP provides for the right of Indigenous Peoples to lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired and for legal recognition of those rights with due respect to the customs, traditions and land tenure systems of the Indigenous Peoples concerned. Article 10 affirms that Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indigenous Peoples concerned and after agreement on just and fair compensation and where possible with the option of return.

The UN Committee on the Elimination of Racial Discrimination (CERD) in its General Recommendation 23 on the Rights of Indigenous Peoples provides that State parties recognize and protect the rights of Indigenous Peoples to own, develop, control and use their communal lands, territories and resources and where they have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent, to take up steps to return those lands and territories. Only when this is for factual reasons not possible, the right to restitution should be substituted by the right to just, fair and prompt compensation. Such compensation should, as far as possible, take the form of lands and territories.

We would like to refer to article 18 of the ICCPR which stresses that “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” The Commission on Human Rights (resolution 2005/40, paragraph 4d), the Human Rights Council (resolution 6/37) and the General Assembly (resolution 65/211, paragraph 12g) have reiterated the obligation of the States to ensure the right of all persons to worship or assemble in connection with a religion or belief, including of those not belonging to a religion or belief recognised by a State through a registration procedure.

In this regard, registration requirements established by the national law should not constitute an impairment for the peaceful exercise of the right to freedom of religion or belief and the subsequent right to freedom of worship. According to the Special Rapporteur on freedom of religion or belief, the registration should not be compulsory and it should not represent a precondition for practising one's religion, but only for the acquisition of a legal personality and related benefits; in the latter case, registration procedures should be easy and quick and not depend on extensive formal requirements in terms of the number of members or the time a particular religious group has existed; moreover, the registration should not depend on reviews of the substantive content of the belief, the structure, the clergy, etc. (see E/CN.4/2005/61, paras. 56-58).

We would like to remind your Excellency's Government that according to art. 2 of the 1981 Declaration, "discrimination based on religion or belief means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis". The 1981 Declaration further states in its article 2 (1): "[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief." In article 4 (1), the General Assembly establishes that: "All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]" According to article 4 (2) of the 1981 Declaration: "All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter".

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