

**Mandates of the Special Rapporteur on the situation of human rights defenders; 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 and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

Ref.: AL VNM 8/2025  
(Please use this reference in your reply)

29 December 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 52/4, 52/9, 59/4 and 60/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arbitrary arrest, detention, prosecution, repeated sentencing and ill-treatment of a woman human rights defender Ms. Cấn Thị Thêu and her sons Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương, as well as the prior conviction and continuing harassment and surveillance of their husband and father, Mr. Trịnh Bá Khiêm, their daughter and sister, Ms. Trịnh Thị Thảo, and the wife of Mr. Trịnh Bá Phương, Ms. Đỗ Thị Thu, in apparent retaliation for exercising their fundamental freedoms and for their peaceful land rights and human rights advocacy.**

Ms. Cấn Thị Thêu is a woman human rights defender and land rights activist. She has been central figure in mobilizing farmers in Dương Nội against land grabs, documenting evictions and land grabs, and advocating for accountability.

Mr. Trịnh Bá Tư is the son of Ms. Cấn Thị Thêu and a human rights defender and land rights activist. Before his arrest in 2020, he had been active in documenting human rights and land rights violations. He also used to be a book distributor for an underground publishing company.

Mr. Trịnh Bá Phương is the son of Ms. Cấn Thị Thêu and a human rights defender and land rights activist. Before his arrest in 2020, he had been active in documenting human rights and land rights violations and vocal on Facebook, sharing information and raising awareness on domestic issues.

Mr. Trịnh Bá Khiêm is the husband of Ms. Cấn Thị Thêu and father of Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương. He is a human rights defender and land rights activist. As farmer in Dương Nội Ward, Hà Đông District, Hà Nội, since 2014, Mr. Khiêm has strongly objected the Government's use of coercive methods to seize farmers' lands.

Ms. Trịnh Thị Thảo is the daughter of Ms. Cấn Thị Thêu and Mr. Trịnh Bá Khiêm, and sister of Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương. She has reportedly

been subjected to sustained intimidation, surveillance, and harassment by security authorities in connection with the detention of her family members and her role in communicating information regarding their detention conditions.

Ms. Đỗ Thị Thu is the wife of Mr. Trịnh Bá Phương. Since her husband's arrest, she has been subjected to intimidation and explicit threats of arrest in apparent retaliation for her advocacy on Mr. Trịnh Bá Phương's case, as well as for publicly sharing information concerning his prison conditions.

This communication follows and updates previous correspondence sent by Special Procedures mandate holders to your Excellency's Government, concerning the pattern of arrest, detention, prosecution, and ill-treatment of Mr. Trịnh Bá Phương, Mr. Trịnh Bá Tư, and Ms. Cần Thị Thêu (see AL [VNM 6/2016](#), [VNM 7/2016](#), [VNM 5/2020](#), [VNM 6/2021](#), [VNM 6/2022](#)).

We thank your Excellency's Government for its responses dated 6 April 2023 to the letter AL VNM 6/2022; 26 June 2023 to the letter AL VNM 6/2021; 4 February 2021 to the letter AL VNM 5/2020; and 13 April 2017 to the letters AL VNM 6/2016 and AL VNM 7/2016. We regret, however, that the replies do not address the specific allegations of arbitrary arrest and detention, intimidation, due process rights' violations, and ill-treatment raised in the communications. We are further concerned that the Government's responses conflate human rights advocacy with threats to national security, thereby dismissing the serious and credible concerns raised regarding the treatment of human rights defenders and land rights activists. We reiterate that the invocation of national security or public order must not be used to restrict rights guaranteed under international human rights law and standards.

Furthermore, Ms. Thêu was the subject of the Working Group on Arbitrary Detention's Opinion 79/2017 ([A/HRC/WGAD/2017/79](#)), which found her detention arbitrary, urged your Excellency's Government to immediately take steps to remedy the situation of Ms. Thêu to bring it into conformity with the relevant international norms, including by releasing her immediately, especially in light of her health condition, and to ensure a full and independent investigation of the circumstances surrounding the arbitrary detention.

In addition, concerns about the use of broadly defined provisions on national security, public order and online expression to penalize the peaceful exercise of fundamental freedoms, resulting in arbitrary arrest, detention and disproportionate sentencing of human rights defenders and activists, were formally raised by Special Procedures in communications OL [VNM 7/2021](#) and OL [VNM 6/2023](#). While we thank your Excellency's Government for its reply to VNM 7/2021, we regret not receiving a reply to VNM 6/2023.

According to the information received:

The Trịnh family originates from Dương Nội Ward, Hà Đông District, Hà Nội, where compulsory land acquisition began in 2007-2008 for urban development projects. Farmers, including the Trịnh family, protested compensation that

reportedly fell far below market value. Between 2010 and 2014, multiple forced evictions allegedly involved beatings, intimidation and arrests of protesters.

#### *Dương Nội land disputes*

Dương Nội is a ward of Hà Đông district, on the outskirts of Hà Nội. In the 2000s, authorities planned to seize large areas of farmland there to make way for real estate projects, including urban development zones, industrial parks, and commercial housing. In 2007-2008, local authorities announced compulsory land acquisition, offering compensation far below market value. Many farmers rejected this, arguing it was unfair, non-transparent, and violated their rights to livelihood. Local farmers, including the family of Ms. Cấn Thị Thêu and Mr. Trịnh Bá Khiêm, refused to hand over their land and organized sit-ins, banners, and demonstrations. They also documented forced evictions and posted photos and videos online.

Between 2010 and 2014, a series of violent confrontations between the authorities and the farmers took place during forced evictions in Dương Nội. Farmers alleged beatings and harassment by security forces. Dương Nội became emblematic of Viet Nam's land rights crisis, where farmers hold only land-use rights (not ownership), and compulsory acquisition for "economic development" often leads to dispossession. The dispute attracted wide attention, linking local villagers' grievances with the broader human rights movement.

#### *Đông Tâm land dispute and violent clash*

Đông Tâm is a commune in Mỹ Đức district of Hà Nội. The long-standing dispute between village residents and authorities involved the status of certain parcels of land, which villagers reclaimed for civilian use, while authorities intended to use for military purposes.

In the early hours of 9 January 2020, authorities deployed thousands of security forces to raid Đông Tâm commune, resulting in a violent clash with local villagers. The clash resulted in at least three police officers killed and the death of the 84-year-old village leader. Mobile networks and internet services were reportedly disrupted during the raid. In the days following the raid, some human rights defenders reported receiving a message that access to their Facebook profile had been restricted due to "legal requirements" in their country, allegedly due to violations of the Law on Cybersecurity (2018).

In the months that followed, 29 villagers were arrested and prosecuted for various charges connected to the incident. Trials began on 7 September 2020. On 14 September 2020, two of the defendants were sentenced to death for murder, while the others were handed down sentences varying from 15 months suspended sentences to life imprisonment. According to information received, the trial was marred by a number of violations of fair trial rights, such as the alleged denial of access to lawyers to meet with their clients privately or at all, to access their clients' case files as well as denying the lawyers the chance to confer with one another on the first day of the trial. The death of the village leader was not investigated.

Mr. Trịnh Bá Phương, Mr. Trịnh Bá Tư and Ms. Cấn Thị Thêu were not present in Đồng Tâm at the time of the incident. However, prior and after the incident, they had been actively documenting the land dispute and calling for accountability for the death of the village leader.

*Ms. Cấn Thị Thêu*

Ms. Cấn Thị Thêu has engaged in land rights advocacy since 2007. In April 2014, she was arrested while filming a land seizure in Dương Nội Ward and was sentenced to fifteen months' imprisonment for "resisting public officials", under article 257 the 1999 Penal Code. After her release, Ms. Cấn Thị Thêu continued to participate in peaceful protests against land grabs.

On 10 June 2016, she was again arrested following peaceful protests and was later sentenced by the People's Court of Đống Đa District to twenty months' imprisonment for "causing public disorder", under article 245 of the 1999 Penal Code. She was released on 10 February 2018 after completing her sentence. The Working Group on Arbitrary Detention found her detention to be arbitrary ([A/HRC/WGAD/2017/79](#)).

On 12 July 2019, she was reportedly beaten by plainclothes police outside Prison No. 6 (Thanh Chương District, Thanh Hóa Province) while attempting to visit prisoners on hunger strike.

On 25 June 2020, Ms. Cấn Thị Thêu was apprehended by a group of police officers, without a warrant, as she was leaving a relative's house. On 29 June 2020, state-owned media reported that Ms. Cấn Thị Thêu had been charged under article 117 of the 2015 Penal Code for "making, storing, spreading information, materials, items for the purpose of opposing the State".

On 5 May 2021, the People's Court of Hòa Bình sentenced her to eight years' imprisonment followed by three years' probation. Her sentence was upheld on appeal on 24 December 2021. On 22 February 2022, she was transferred to camp 5, Thanh Hóa Province.

Ms. Cấn Thị Thêu, currently detained at prison No. 5 in Thanh Hóa Province, continues to be subjected to degrading detention conditions that have reportedly had a serious impact on her physical health and dignity. Between 28 July and August 2025, Ms. Thêu reportedly suffered a serious medical episode, during which she experienced alarming symptoms, including fingernails turning dark purple to black. She was briefly transferred to Ngọc Lặc hospital but was returned to detention after two days. Prison authorities reportedly refused to provide her or her family with a copy of the medical diagnosis, citing "operational necessity," despite repeated requests.

According to information received, Ms. Thêu has stated that prison authorities frequently harass and psychologically torment her, creating conditions she described as unbearable. During a family visit on 5 December 2025, prison authorities has reportedly confiscated all her bowls and food containers, forcing

her to store food in nylon bags. Her sleeping mat has been removed despite the cell floor reportedly being wet and damp, and her plastic hand fan, used to repel flies and mosquitoes, was also confiscated. These measures appear punitive in nature and raise serious concerns regarding medical neglect, inhuman and degrading treatment, and violations of the State's heightened duty of care toward detainees.

*Mr. Trịnh Bá Tư*

In June 2015, Mr. Trịnh Bá Tư was reportedly beaten by plainclothes police while collecting his father, Mr. Trịnh Bá Khiêm, from detention near Thanh Chương District, Nghệ An Province. He sustained a serious injury to his left eye, later requiring two surgical operations and resulting in permanent vision impairment. On 20 September 2016, he was arrested and beaten while livestreaming outside the People's Court of Đống Đa District, Hà Nội, and reportedly received death threats during overnight detention.

On 24 June 2020, he was arrested in Hòa Bình Province following coordinated police raids in connection with his publishing activities and documentation of the Đồng Tâm incident. He was charged under article 117 of the 2015 Penal Code, "making, storing, spreading information, materials, items for the purpose of opposing the State."

On 5 May 2021, the People's Court of Hòa Bình sentenced him to eight years' imprisonment and three years' probation. His sentence was upheld on appeal on 24 December 2021. On 22 February 2022, he was transferred to prison No. 6 in Nghệ An Province, hundreds of kilometres away from his family. He reportedly suffers from [REDACTED] caused by beatings during his arrest.

On 6 September 2022, after submitting denunciation letters regarding prison conditions, Mr. Trịnh Bá Tư was reportedly taken to a room inside prison No. 6 and beaten by prison guards for four to six hours. He was then shackled and placed in solitary confinement for ten days, after which he was transferred to the criminal detention area. Following these events, he allegedly went on hunger strike. On 5 October and 15 October 2022, his father travelled over 300 kilometres to visit him but was denied access both times.

Mr. Trịnh Bá Tư is currently detained at prison No. 6 in Nghệ An Province. He has reportedly been held in prolonged solitary confinement since 31 October 2025. According to the information received, he is confined alone in a sealed, dark cell for twenty-four hours a day, with the door only briefly opened twice a day to deliver meals. He is reportedly denied meaningful human contact, visitors, and adequate lighting.

This punitive isolation was allegedly imposed in direct retaliation for Mr. Trịnh Bá Tư's complaints regarding the provision of mouldy and spoiled rice to prisoners, a matter affecting basic health and hygiene. In light of Mr. Trịnh Bá Tư's previously reported health vulnerabilities, including [REDACTED] sustained during earlier beatings, the continuation of these conditions raises

serious concerns of cruel, inhuman or degrading treatment and the risk of irreversible physical and psychological harm.

*Mr. Trịnh Bá Phương*

Mr. Trịnh Bá Phương documented land rights abuses and the Đồng Tâm village raid of 9 January 2020 and reportedly had approximately 50,000 followers on Facebook. On 1 March 2020, he was summoned by Hòa Bình Police regarding his social media posts on the Dương Nội land dispute. Following the summon, Hòa Bình Police continued to closely monitor Mr. Trịnh Bá Phương and his family.

On 24 June 2020, he was arrested at his home in Hà Nội during a violent police raid conducted without warrant. Electronic devices and documents were confiscated. On 29 June 2020, he was formally charged under article 117 of the 2015 Penal Code, “making, storing, spreading information, materials, items for the purpose of opposing the State”.

During pre-trial detention, he was reportedly held incommunicado, denied access to legal counsel and family members, and subjected to a forced psychiatric examination without notification to his family. On 15 December 2021, the People’s Court of Hà Nội sentenced him to ten years’ imprisonment and five years’ probation. On 17 August 2022, the appellate court upheld the sentence. His family was barred from entering the courtroom and was reportedly assaulted by security officials outside. In August 2022, he was transferred to An Diễm Prison, Quảng Nam Province, more than 1,000 kilometres from his family. It is reported that he spent almost two years in solitary confinement with no family visits.

While serving this sentence, on 18 November 2024, prison authorities at An Diễm Prison allegedly discovered a handwritten note and slogans deemed “anti-State propaganda” under his bedding. In April 2025, he was charged again under article 117 of the 2015 Penal Code. On 27 September 2025, the People’s Court of Đà Nẵng convicted him for a second time under the same provision. He was sentenced to an additional eleven years’ imprisonment, bringing his total cumulative sentence to twenty-one years’ imprisonment and five years’ probation.

It was reported that the trial lasted just over three hours, that defence lawyers were obstructed, that family members and foreign diplomats were barred from attending despite prior assurances, and that police forcibly covered his mouth when he attempted to deliver a final statement.

This appears to be the first documented case in Viet Nam in which a political prisoner has been sentenced twice under article 117 of the 2015 Penal Code, while already serving a sentence.

On 9 December 2025, the High People’s Court of the Supreme People’s Court in Đà Nẵng issued a formal decision to bring the criminal case of Mr. Trịnh Bá

Phuong to appellate review. According to the decision, the appeal hearing is scheduled for on 27 December 2025 at the High People’s Court in Đà Nẵng.

*Mr. Trịnh Bá Khiêm*

Mr. Trịnh Bá Khiêm has been active in the Dương Nội land protests since 2007. On 25 April 2014, together with his wife, he was arrested for “resisting public officials”, under article 257 the 1999 Penal Code. On 19 August 2014, he was sentenced to one year and six months’ imprisonment. He was released on 25 June 2015.

On 12 July 2019, while attempting to visit prisoners on hunger strike at prison No. 6 in Thanh Chương District, Nghệ An Province, he was allegedly attacked by plainclothes officers, beaten and had money, phone and documents confiscated. On 21 March 2021, he was reportedly summoned by police in Hà Nội for interrogation regarding a livestream in which he criticized the detention of his wife and sons. Since the 2020 arrests of his family members, he has remained under constant surveillance and repeated harassment.

*Ms. Trịnh Thị Thảo*

Ms. Trịnh Thị Thảo has reportedly been subjected to sustained intimidation, surveillance, and harassment by security authorities in connection with her family relationship to imprisoned land rights activists and her role in communicating information regarding their detention conditions. She has been repeatedly monitored and questioned about her contacts, online activities, and communications with civil society actors, creating a climate of fear and psychological pressure.

These actions appear to be aimed at deterring her from disseminating information, engaging with international mechanisms, or advocating on behalf of her detained family members. The reported conduct raises concerns of collective punishment and reprisals against family members of human rights defenders, contrary to Viet Nam’s obligations to ensure that individuals may seek, receive, and impart information.

*Ms. Đỗ Thị Thu*

On 5 December 2025, officers from the Immigration Department (PA08) contacted Ms. Đỗ Thị Thu regarding an alleged decision to suspend her right to leave the country. When she appeared at PA08 premises on 9 December 2025, she was informed orally that she was subject to an exit ban on vague grounds of “national security,” yet no written decision, legal basis, duration, or information on appeal mechanisms was provided.

Ms. Thu was reportedly escorted into a room where at least seven officers from multiple security units interrogated her for approximately three hours. During this time, she was reportedly closely monitored, denied access to pen and paper, and questioned about her social media posts exposing the provision of mouldy food to detainees, as well as her contacts with relatives of political prisoners.

Officers reportedly warned her that the exit ban, initially indicated to last until 26 March 2026, would be extended indefinitely should she continue her online activities, and explicitly threatened that she would be arrested “one day” if she persisted.

Ms. Thu refused to sign the meeting record due to the absence of a mutually acknowledged written account. At the time of writing, no written decision has been issued, raising serious concerns regarding arbitrariness of the exit ban and lack of due process.

Without prejudging the accuracy of the allegations, we express grave concern that the information received indicates a sustained and systematic pattern of repression by the authorities against the Trinh family for their peaceful land rights activism and exercise of their right to freedom of expression. Collectively, family members have been subjected to six criminal convictions, resulting in more than forty years of cumulative imprisonment and extended probation, primarily under articles 257 of the 1999 Penal Code and 117 of the 2015 Penal Code. The reported use of incommunicado detention, serious fair-trial violations, forced psychiatric examination, denial of family access, beatings, shackling, medical neglect, prolonged solitary confinement, harassment, surveillance and transfers to distant prisons raises serious concerns of collective punishment and reprisals against a family of human rights defenders, amounting in some instances to cruel, inhuman or degrading treatment.

We respectfully remind your Excellency’s Government of its obligations under international human rights law, in particular the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to respect, protect and fulfil the rights to liberty and security of person, to a fair trial, to freedom of expression, and to be free from torture and ill-treatment. We further urge the Government to take all necessary measures to ensure the physical and psychological integrity of all persons concerned.

We also wish to express serious concern about the apparent broader pattern in Viet Nam of detaining human rights defenders for their peaceful and legitimate work in defence of human rights. The imposition of heavy sentences in such cases sends a clear and chilling message that suppresses legitimate dissent, with severe consequences not only for defenders themselves but also for their families, resulting in a serious shrinking of civic space in the country.

We are further concerned by the widespread use of long-term pre-trial detention and vague charges to penalize and prosecute human rights defenders for their work. We are troubled by the recurring pattern of closed trials, frequently conducted without access to a lawyer of choice and without full respect for due process guarantees. We also remain deeply concerned by persistent reports of inadequate provision of medical care in detention and the lack of, or severely restricted, access to detainees and their related medical information by their families and legal counsel.

We express serious concern regarding the application of national security and public order provisions of the Penal Code of Viet Nam. The vague and overly broad formulation of these offences enables their use against individuals who have merely exercised their rights to freedom of expression and peaceful assembly. Such provisions

fail to clearly distinguish between violent acts that may legitimately threaten national security and the peaceful exercise of fundamental freedoms.

We respectfully recall that the criminalization of the legitimate defense of human rights of others is incompatible with international human rights law. We are concerned that the cases of the abovementioned defenders, including women human rights defender, appear to reflect a broader pattern of restrictions on space for dissent and debate in Viet Nam, whereby critical or dissenting opinions are systematically characterized as threats to national security.

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.

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) on the factual allegations described above concerning the arrest, detention, prosecution, sentencing and treatment in detention of Ms. Cấn Thị Thêu, Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương.
2. Please clarify the precise legal basis and specific evidence supporting each arrest, charge, conviction and sentence imposed against Ms. Cấn Thị Thêu, Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương, including the acts that were considered to constitute offences under articles 257 of the 1999 Penal Code and 117 of the 2015 Penal Code, and how the use of these provisions, in particular article 117 of the 2015 Penal Code, is compatible with Viet Nam's obligations under articles 19, 21 and 22 of the International Covenant on Civil and Political Rights.
3. Please provide detailed information on the procedural safeguards applied during the investigations and trials, including access to lawyers of choice; confidential meetings between lawyers and their clients; access to case files; the public nature of the proceedings; the ability of families and observers to attend the trials; and the possibility for the defendants to present a full defense.
4. Please clarify the legal basis and medical justification for the reported forced psychiatric examination of Mr. Trịnh Bá Phương, and whether this examination was conducted with his free and informed consent and in line with international medical ethics.
5. Please provide detailed information on the conditions of detention of Ms. Cấn Thị Thêu, Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương, including access to timely and adequate medical care; access to family visits, legal counsel and correspondence; conditions of ventilation, hygiene, nutrition and access to clean water; and the availability of complaint mechanisms and remedies.

6. Please explain the legal basis and justification for the prolonged solitary confinement allegedly imposed on Mr. Trịnh Bá Tư since 31 October 2025, as well as any other periods of prolonged isolation previously imposed on Mr. Trịnh Bá Tư and Mr. Trịnh Bá Phương, and how such measures comply with the Nelson Mandela Rules and the prohibition of torture and ill-treatment under the Convention against Torture.
7. Please clarify the reasons for transferring detainees to prisons located hundreds of kilometres away from their families, including An Đầm Prison (Quảng Nam Province) and prison No. 6 (Nghệ An Province), and how such transfers comply with international standards on humane treatment and family contact.
8. Please indicate whether any independent, prompt and effective investigations have been initiated into the allegations of beatings and physical assaults by police and prison guards; shackling and punitive solitary confinement; denial of medical care; and other forms of ill-treatment described above, and, if so, please provide information on the status and results of such investigations, including any disciplinary or criminal accountability measures taken.
9. Please explain the legal basis for Mr. Trịnh Bá Phương's second prosecution and conviction under article 117 of the 2015 Penal Code while he was already serving a sentence for the same offence, including how this complies with the principles of legal certainty and protection against arbitrary punishment.
10. Please provide detailed information about the legal basis of Ms. Đỗ Thị Thu's alleged exit ban.
11. Please clarify what measures are in place to ensure that human rights defenders and land rights activists are able to carry out their legitimate activities, including by exercising their rights to freedom of expression and peaceful assembly, without fear of reprisals, including surveillance, arbitrary arrest, prosecution and intimidation.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. 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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should

be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Irene Khan

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

Gina Romero

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Tlaleng Mofokeng

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

## 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 to authoritative guidance on their interpretation.

We would like to refer your Excellency's Government to articles 3, 19 and 25 of the Universal Declaration of Human Rights (UDHR) and to articles 6, 7, 9, 14 and 19 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Viet Nam on 24 September 1982, which guarantee the right to life, the right to liberty and security of person, the right to a fair trial and due process, and the right to freedom of expression.

With regard to articles 6 and 9 of the ICCPR, which guarantee the right to life and the right to liberty and security of person, we recall that when a State holds an individual in its custody, it has a heightened duty of care to protect that individual's physical and mental integrity and to ensure humane conditions of detention, in full compliance with international standards.

We draw the attention of your Excellency's Government to the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as codified in article 7 of the ICCPR and in articles 2 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Viet Nam on 5 February 2015. Articles 12 and 13 of the CAT require States parties to ensure that their competent authorities proceed to a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed, and to ensure that complainants and witnesses are protected. Article 15 obliges States parties to ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 14(1) of the ICCPR sets out the general guarantee of equality before courts and tribunals and the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law. As emphasized by the Human Rights Committee in its general comment No. 32 (CCPR/C/GC/32), all trials in criminal matters must in principle be conducted orally and publicly. We also recall article 10 of the UDHR, which provides that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of any criminal charge against them.

Article 19 of the ICCPR guarantees the right to freedom of opinion and the right to freedom of expression, which includes the right "to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print, in the form of art, or through any other media". This right applies online as well as offline and includes not only the exchange of information that is favourable, but also that which may criticize, shock, or offend. In its [general comment No. 34](#), the Human Rights Committee stated that States parties to the ICCPR are required to guarantee the right to freedom of

expression, including “political discourse, commentary on one's own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse” (CCPR/C/GC/34, para.11).

The Committee further asserts that there is a duty of States to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (para.23). Recognizing how journalists and persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers, are frequently subjected to threats, intimidation and attacks because of their activities, the Committee stresses that “all such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress” (para.23).

Any restriction on the right to freedom of expression must be compatible with the requirements set out in article 19(3) ICCPR. Under these requirements, restrictions must (i) be provided by law; (ii) pursue one of the legitimate aims for restriction, which are the respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals; and (iii) be necessary and proportionate for those objectives. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant, and restrictions must always be “the least intrusive instrument among those which might achieve their protective function” ([CCPR/C/GC/34, para. 34](#)).

Articles 21 and 22 of the ICCPR also provide that the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others” (ICCPR, art. 21).

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests” (ICCPR, art. 22 (1)).

No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right (ICCPR, art. 22 (2)).

We would also like to draw attention to Deliberation No. 10 of the Working Group on Arbitrary Detention on reparations for arbitrary deprivation of liberty, which affirms that all victims of arbitrary deprivation of liberty are entitled to an enforceable right to prompt and adequate reparation before the competent national authority. Such reparations should be proportional to the gravity of the violations and the harm suffered and may include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

We also wish to bring to your Excellency's Government's attention article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to by Viet Nam 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 stressed that States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners and detainees, to preventive, curative and palliative health services (para.34). In addition, the Committee stresses that the right to health is "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" (general comment n°14, para.11).

In this regard, we refer to the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted unanimously by the General Assembly in resolution 70/175. Rule 24 affirms that prisoners should enjoy the same standards of health care that are available in the community, free of charge and without discrimination. Rule 25 emphasizes the need to pay special attention to prisoners with special health-care needs. Rule 27 provides that prisoners who require specialized treatment shall be transferred to specialized institutions or to civil hospitals. Furthermore, rule 69 stresses that, [i]ndividuals designated by a prisoner to receive his or her health information shall be notified by the director of the prisoner's serious illness, injury or transfer to a health institution".

We further recall the guidance of the former Special Rapporteur on the right to the highest attainable standard of physical and mental health, who has emphasized that violations of the right to health in contexts of confinement and deprivation of liberty may interfere with fair-trial guarantees, the prohibition of arbitrary detention and of torture and other cruel, inhuman or degrading treatment, and the enjoyment of the right to life, and that health-care facilities, goods and services in detention must be available, accessible, acceptable and of good quality. In addition, the Special Rapporteur on the right to the highest attainable standard of physical and mental health highlighted that "[e]veryone has the right to be free from non-consensual medical treatment and informed consent is required prior to the administration of medical treatment" (A/HRC/56/52, para.21. See also A/64/272, paras.13-23).

Finally, we wish to remind Your Excellency's Government that the legitimate role of human rights defenders is recognised by international law and referred 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, also known as the UN Declaration on Human Rights Defenders, in particular articles 1 and 2 which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5, point a), which provides for everyone's right to meet or assemble peacefully;
- article 6, point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 12, paragraphs 2 and 3, which provides 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.