

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a 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 and the Special Rapporteur on the situation of human rights defenders

Ref.: AL VNM 2/2025
(Please use this reference in your reply)

10 July 2025

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a 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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 53/3, 51/8, 57/31, 55/2, 52/9, 50/17 and 52/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged negative human rights impacts associated with the implementation of Viet Nam's Just Energy Transition Partnership (JETP), including information we have received regarding the continued incarceration of environmental justice lawyer and environmental human rights defender Mr. Dang Dinh Bach in connection with the exercise of his human rights activities. Mr. Bach was arrested on 24 June 2021 and sentenced to five years in prison for "tax evasion" pursuant to article 200 of the 2015 Criminal Code. His sentence was confirmed by the appeal court on 11 August 2022.

This communication relates to previous communications which were submitted to the Government of Viet Nam on 18 February 2022 (AL VNM 2/2022) and on 25 May 2023 (AL VNM 3/2023), to which Your Excellency's Government had replied on this matter thus far on 19 February 2022 and on 17 March 2023. We also refer to opinion 22/2023 of the Working Group on Arbitrary Detention, which has concluded that the deprivation of liberty of Mr. Dang Dinh Bach being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 16, 19 and 26 of the International Covenant on Civil and Political Rights is arbitrary and falls within categories I, II, III and V.

According to the information received:

Human rights concerns relating to the negotiations, design and implementation of the Just Energy Transition Partnership (JETP)

Announced in December 2022, the Viet Nam JETP is a USD 15.5 billion project involving financial pledges from a number of actors. To date, financing and

projects being rolled out to support the implementation of the JETP are largely being negotiated and financed through bilateral arrangements, including through national development agencies and development financial institutions, such as Germany's Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), French Agence Française de Développement (AfD), the European Investment Bank (EIB) and Japan's Japanese International Cooperation Agency (JICA). Regarding multilateral development banks, the Asian Development Bank (ADB) and International Finance Corporation (IFC) were identified in the "Political Declaration Establishing the Viet Nam JETP" as playing a lead role in financing. In addition, the Resource Mobilization Plan (RMP) identified the United Nations Development Program (UNDP) as lead technical partner for JETP implementation.

While feasibility studies and human rights impact assessments for development of an energy transition mechanism have been carried out, for example, under the auspices of the UNOPS Southeast Asia Energy Transition Partnership, in partnership with the Commission for the Standards, Metrology and Quality of Viet Nam and Ministry of Science and Technology, on the development of national standards in Viet Nam for offshore wind and battery energy storage systems (BESS), there seems to be little or no up-to-date information available as to how the recommendations of these studies will be applied in actual and future project development stages.

Past and ongoing technical and financing considerations appear to be the primary focus of discussions and negotiations in the design and implementation of the JETP. Preventing and addressing the potential or actual adverse human rights impacts of the JETP appear to remain unaddressed by comparison, including impacts on the situation of environmental human rights defenders (EHRDs) and their ability to conduct their legitimate activities in a safe and conducive environment. This includes EHRDs' ability to exercise their rights to participate and express their opinions at all relevant stages of the JETP's development and implementation.

The case of Mr. Dang Dinh Bách:

In this context, we remain extremely alarmed about the situation of environmental justice lawyer and human rights defender Mr. Dang Dinh Bách who was arrested on 24 June 2021 and sentenced to five years in prison for "tax evasion" pursuant to article 200 of the 2015 Criminal Code.

Mr. Bách was the director of a nonprofit organization in Hanoi called the Law and Policy of Sustainable Development Research Centre (LPSD), which represented marginalized communities in cases involving health and environmental harms, including due to industrial pollution from a pesticide manufacturer, phosphate factory, coal-fired power plants and loss of land and livelihoods due to forced relocation in the context of a hydropower project. His organization was forced to close down or 'restructure' following his arrests. LPSD Center was also, among others, the coordinator of the Action for Justice, Health, and Environment (JHE) advocacy coalition and a member of Viet Nam Sustainable Energy Alliance (VSEA), a coalition of 12 Vietnamese and

international CSOs established in 2012 to strengthen sustainable energy development by promoting participatory energy policy-making processes, implementation of decentralized renewable energy solutions, and the application of energy efficiency.

Furthermore, Mr. Bách was a member of the Executive Board of the VNGO-EVFTA Network, a group of development and environmental civil society organizations established to raise awareness about the EU-Viet Nam Free Trade Agreement (EVFTA). Prior to his arrests, Mr. Bách applied for membership of the Viet Nam Domestic Advisory Group (DAG), a civil society body with the role of monitoring implementation of the JETP agreement. Due to the delays in the establishment of the DAG, civil society participation in the EVFTA has been hindered. Concerningly, Mr. Bách's arrest and imprisonment had taken place alongside JETP negotiations.

24 June 2025 marked the 4th year of Mr. Bách's incarceration. We express serious concern regarding the continued detention of Mr. Bách in connection with the exercise of his freedom of expression and his peaceful and legitimate human rights and environmental rights activities, which he was conducting in advance of his arrest.

Increasing restrictions on participation rights and on independent civil society organizations working on environmental and energy issues

Additional concern is expressed about the broader impact of the above-mentioned allegations, which can have a profound chilling effect on the right to participate of environmental human rights defenders (EHRDs) and civil society as a whole in critical decisions regarding the renewable energy transition and related human rights risks, including in the context of the JETP. This includes decisions on land acquisition for renewable infrastructure, which may occur without proper safeguards, including meaningful consultation, or compensation, particularly for Indigenous Peoples, ethnic minorities and smallholder farmers.

These allegations reflect ongoing concerns in relation to the ability of civil society actors to perform their legitimate role in the context of the most critical environmental and energy transition challenges facing Viet Nam, including all relevant aspects pertaining JETP design and implementation. In fact, since June 2021, the Vietnamese government has reportedly targeted EHRDs and climate justice leaders through, among others, intimidation, surveillance, and/or harassment, including judicial harassment under charges of tax evasion, while increasing restrictions on independent organizations working on environmental and energy issues.

We would like to reiterate that the charges against these environmental human rights defenders were based on vague and arbitrarily enforced tax laws for civil society organizations, which impose unreasonable registration and approval requirements on non-governmental organizations, thus disproportionately restricting the rights to freedom of opinion and association.

Weak institutional and regulatory frameworks governing JETP

The above-mentioned concerns are amplified by the weak institutional and regulatory frameworks governing the JETP. In view of the wide array of actors and stakeholders involved, including financial and other business actors, and the need to balance the initiative's objectives and its human rights impacts, the JETP currently appears to lack the necessary institutional and regulatory frameworks that enable a human rights approach to be embedded within energy transition processes, including as they relate to transparency, meaningful participation and accountability. Serious gaps include the lack of clear, dedicated sectorial policy guidance for donor governments, financing institutions, and businesses to implement a rights-based approach to Viet Nam's energy transition. We are deeply concerned that these gaps, compounded with serious human rights violations stemming from the crackdown on civil society actors, will result in the project's failure to address the full spectrum of human rights and climate justice considerations necessary for achieving a just and inclusive energy transition.

Further, we are concerned about the lack of a comprehensive human rights-based approach in the development and implementation of the JETP. This, combined with the undue restrictions placed on civil society actors, which hinder their meaningful participation and ability to provide oversight on critical aspects of the project, could undermine the successful achievement of its objectives.

The responsibility of financial actors to respect human rights in Viet Nam's JETP

A Resource Mobilization Plan (RMP) was completed and released in December 2023. A number of Governments are part of the International Partners Group (IPG). While the RMP provides some information on IPG member responsibilities, including in relation to the implementation of a just transition in line with the ILO Declaration of Fundamental Principles and Rights at Work and the Paris Agreement that expressly refers to workers in the preamble and the obligation of States to respect human rights in all climate action, there is no publicly available information on how IPG members are to translate their human rights commitments into clear, designated responsibilities, including through a cohesive and coherent governance structure within the IPG to ensure respect of human rights throughout the JETP's implementation. Moreover, although several IPG members have issued strong public statements of concern about the pattern of arrests and detentions of EHRDs in Viet Nam, none of the JETP funding or technical assistance commitments have been conditional on the protection and respect of human rights by JETP implementing actors or the protection of the civic space. In fact, insufficient information is publicly available in relation to whether any human rights due diligence has been conducted by relevant investors and banks to ensure that their activities or business relationships in the context of the JETP are not causing, contributing or linked to adverse impacts on human rights.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our deep concerns in relation to how human rights considerations – especially as they pertain to EHRDs’ and other civil society actors’ ability to conduct their legitimate activities in a safe and conducive environment – appear to have been inadequately taken into account at the different stages of the JETP’s financing, development and implementation.

We also wish to express once again deep concern at the reported arbitrary arrest and detention of environmental human rights defender Mr. Dang Dinh Bach which appear to be directly related to the legitimate exercise of his rights to freedom of expression and peaceful assembly and on an issue of public interest, where transparency and access to information are essential. This is especially concerning given, in its opinion 22/2023, the Working Group on Arbitrary Detention has concluded that the deprivation of liberty of Mr. Dang Dinh Bach, being in contravention of articles 2, 3, 6, 7, 8, 9, 10, 11 and 19 of the Universal Declaration of Human Rights and articles 2, 9, 14, 15, 16, 19 and 26 of the International Covenant on Civil and Political Rights is arbitrary and falls within categories I, II, III and V.

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) you may have on the above-mentioned allegations.
2. Please provide an update on the current status of arrested environmental defender, Mr. Dang Dinh Bach.
3. Please indicate what steps have been taken and measures put in place by your Excellency's Government to ensure that all human rights defenders, environmental advocates, civil society organisations, and non-governmental organisations can meaningfully participate in shaping climate and environmental policies and decision-making, particularly within the context of the JETP, in a safe and conducive environment and without the fear of reprisals.
4. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuses in the context of renewable energy transition initiatives have access to justice and to effective remedies if harm occurs, in line with the UN Guiding Principles on Business and Human Rights (UNGPs) and the Paris Agreement
5. Please highlight the steps that your Excellency’s Government has taken, or is considering taking to establish robust enforcement mechanisms, including by having legal frameworks and policy guidance which require human rights due diligence for investors, and requiring investors

to investigate and report on the actions of investees in the context of the JTEP, as set forth by the UNGPs.

6. Please indicate the steps that your Excellency's Government has taken, or is considering taking, to ensure that business enterprises domiciled in its territory and/or jurisdiction establish or participate in effective operational-level grievance mechanisms in line with the UNGPs, and to cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.
7. Please indicate what steps your Excellency's Government has taken to advance implementation of the National Action Plan for Law and Policy Improvement to Promote Responsible Business Practices, which was enacted and published on 14 July 2023 (the Plan). Please highlight how the legal, policy and institutional frameworks for the implementation of the JETP are aligned with the commitments contained in the Plan.

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.

Please be informed that letters on this subject matter have been sent to Germany's Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), the France's Agence Française de Développement (Afd), the European Investment Bank (EIB), Japan's Japanese International Cooperation Agency (JICA), the Asian Development Bank (ADB), the International Finance Corporation (IFC) and copy of these letters to their respective country of residence.

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

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transnational corporations and other business enterprises

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Annex

Reference to international human rights law and standards

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

We would like to recall to your Excellency's Government of Viet Nam's obligations under the International Covenant on Civil and Political Rights (ICCPR) to which Viet Nam acceded on 24 Sep 1982, which provides in its article 9(1) and (4) as well as the general comment 35 on article 9 of the Human Rights Committee that an arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion, expression, assembly and association, is arbitrary (CCPR/C/GC/35, para. 17).

UN Guiding Principles on Business and Human Rights

We would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultation with governments, civil society, human rights defenders and the business community. The guiding principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These guiding principles are based on the recognition of:

- a) "The existing obligations of States to respect, protect and fulfil human rights and fundamental freedoms.
- b) The role of business enterprises as specialized bodies or corporations performing specialized functions, which must comply with all applicable laws and respect human rights.
- c) The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

It is a recognized principle that States must protect against human rights abuses by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (guiding principle 1). In addition, States should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights..." (guiding principle 3). The guiding principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur.

The guiding principles also clarify that business enterprises have an independent responsibility to respect human rights. However, States may be considered to have breached their international human rights law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed

by private actors.

The guiding principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The commentary to principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.

We would like to bring to your Excellency's Government's attention that the report of the Special Rapporteur on freedom of peaceful assembly and of association to the General Assembly on the exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice, which calls States to: "Adopt all necessary measures to ensure that individuals, organizations, communities and indigenous people exercising their rights to freedom of peaceful assembly and of association in support of climate justice are not subjected to attacks, harassment, threats and intimidation, including conducting thorough, prompt, effective and impartial investigations into killings and violence against civil society actors, ensuring that perpetrators are brought to justice and refraining from issuing official and unofficial statements stigmatizing civil society groups engaged in climate justice" (A/HRC/76/222, para. 90(b)). The Special Rapporteur further called States to "ensure that law and practice illegitimately restricting the place where and manner in which protests may take place, including laws criminalizing protests at or near business worksites as well as blanket bans on particular forms of protest, are reformed, in order to ensure full access to and enjoyment of the right to freedom of peaceful assembly." (A/HRC/76/222, para. 90(d)).

We would also like to further recall that the Special Rapporteur on the situation of human rights defenders noted in his report to the Human Rights Council (A/64/226) that the only legal grounds upon which an interference with the freedom of association that is prescribed by law can be justified is if it meets the test as outlined by article 22, paragraph 2 of the ICCPR. These provisions require the interference in question to be pursuant to 'legitimate aims', such as in the interests of national security or public safety; public order (*ordre public*); the protection of public health or morals, or the protection of rights and freedoms of others. Without such a legitimate aim, interference is rendered contrary to international human rights law, and in the context of the activities of NGOs, the Special Rapporteur has argued that "difficulties in the formation and registration of human rights associations; criminal sanctions for unregistered activities; government interference, supervision and monitoring of NGO activities; and difficulties in accessing funding may restrict the right to freedom of association and therefore must reach the very high threshold under article 22, paragraph 2, of the International Covenant on Civil and Political Rights in order to be admissible." (A/64/226, para. 58.)

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, protects the freedom of the press as one of its core elements 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 any restrictions must be “the least intrusive instrument among those which might achieve their protective function”. ([CCPR/C/GC/34, para. 34](#)).

Furthermore, we bring to your attention 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, we would like to refer to articles 1 and 2 of the Declaration 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 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 9, paragraph 1, which provides for the right to benefit from an effective remedy and to be protected in the event of the violation of those rights;

- 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.

Furthermore, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment, confirmed by the General Assembly in July 2022 with resolution A/RES/76/300. A safe climate has been identified as a substantial element of this right. Viet Nam voted in favour of this resolution.

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. They state that States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence (principle 4).

These obligations have been further clarified in the report of the Special Rapporteur on the human right to a clean, healthy and sustainable environment – “Overview of the implementation of the human right to a clean, healthy and sustainable environment” (A/79/270) stating in its paragraph 45 that States have the obligation to guarantee safe civic spaces for all environmental, climate and human rights defenders, who must be free from any stigmatization, intimidation, criminalization and violence. Furthermore, States must diligently investigate, prosecute and punish perpetrators of such acts, while addressing the root causes of environmental and climate-related conflicts. This includes those at high risk as a result of their efforts in protecting their lands, the environment and climate, such as Indigenous Peoples, young people, children, women, journalists and scientists.

The Special Rapporteur on the rights to freedom of peaceful assembly and of association called on States to: adopt all necessary measures to ensure that climate defenders meaningfully participate in all just-transition policy development and implementation at all levels of decision-making; conduct thorough, prompt, effective and impartial investigations into killings and violence against civil society actors; ensure that perpetrators are brought to justice; and refrain from issuing official and unofficial statements stigmatizing climate defenders (A/76/222).

Finally, the Special Rapporteur on climate change and human rights highlighted that the public should have access to information on compliance with environmental regulations in the context of investments in renewable energy and just transition programmes. In addition, it was noted that intimidation of environmental human rights defenders by public administration bodies, business and other actors can have a deterrent effect on requesting information; and that States should gather and share information on threats of violence or attacks against environmental human rights defenders and available protection measures and challenges faced in accessing justice

(A/79/176). States have heightened obligations to protect climate activists, scientists and journalists as environmental human rights defenders (see A/HRC/54/25).