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# الجمعية العامة



## مجلس حقوق الإنسان

### الدورة السابعة والسبعون

9 أيلول/سبتمبر - 9 تشرين الأول/أكتوبر 2024

البند 3 من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

## زيارة إلى فييت نام

### تقرير المقرر الخاص المعني بالحق في التنمية، سُريا ديفا\*

#### موجز

أجرى المقرر الخاص المعني بالحق في التنمية، سُريا ديفا، زيارة إلى فييت نام في الفترة من 6 إلى 15 تشرين الثاني/نوفمبر 2023. وكان الهدف الرئيسي من الزيارة هو تقييم إعمال الحق في التنمية في البلد والوقوف على التحديات المتبقية، بهدف صياغة توصيات للحكومة والجهات الأخرى صاحبة المصلحة، التي تعمل على تحقيق أهداف التنمية المستدامة.

ويعرض المقرر الخاص في هذا التقرير ملاحظاته بشأن الأطر القانونية والسياساتية والمؤسسية المتعلقة بجوانب مختارة من الحق في التنمية، ويحدد القضايا المثيرة للقلق، ويقدم توصيات لضمان تنمية شاملة وتشاركية ومستدامة.

\* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغة التي قُدِّم بها فقط.



الرجاء إعادة الاستعمال

## تقرير المقرر الخاص المعني بالحق في التنمية، سُريا ديفا، عن زيارته إلى فبييت نام

### I. Introduction

1. The Special Rapporteur on the right to development, Surya Deva, visited Viet Nam from 6 to 15 November 2023 at the invitation of the Government.
2. The Special Rapporteur visited Hanoi, Ho Chi Minh City and the Provinces of Ha Tinh and Ben Tre and met with representatives of the central and provincial governments, United Nations agencies, development partners, non-governmental organizations (NGOs), businesses and universities.
3. The Special Rapporteur expresses his gratitude to the Government for its cooperation and to the representatives of businesses and NGOs, academics and other stakeholders for their valuable input. He would also like to thank the United Nations country team and the Resident Coordinator for the assistance extended to him prior to, during and after the visit.
4. The key objectives of the visit were to gain a first-hand understanding of the realization of the right to development in Viet Nam and to identify ongoing challenges, with a view to formulating practical recommendations for the Government, businesses and other stakeholders who are working towards the achievement of the Sustainable Development Goals and promoting the realization of the right to development in the country. The Special Rapporteur was especially interested in learning more about how governments at all levels ensured the active, free and meaningful participation of people in development policies and programmes, what policies and measures were in place to address intersectional inequalities and discriminations and how the Government had been approaching economic development amid the triple planetary crisis.
5. In the light of the broad scope of the mandate and the short time frame of a country visit, it was necessary to limit the scope of the visit and to focus on the implementation of the right to development in only a few thematic areas. The Special Rapporteur regrets that time constraints did not permit him to assess the full spectrum of the promotion, protection and fulfilment of the right to development in the context of the implementation of the 2030 Agenda for Sustainable Development, the Sendai Framework for Disaster Risk Reduction 2015–2030, the Addis Ababa Action Agenda of the Third International Conference on Financing for Development and the Paris Agreement. Nevertheless, the Special Rapporteur believes that fruitful lessons can be drawn from the areas that he was able to look into and that his conclusions and recommendations will serve to assist the Government and other stakeholders in improving their work towards the achievement of the Sustainable Development Goals and the rest of the post-2015 development agenda, as set out in the above-mentioned policy documents, in a manner compliant with all human rights, including the right to development.
6. The Special Rapporteur paid special attention to the gender dimension, considering the special developmental challenges faced by women and girls. He also focused on the situation of the most disadvantaged sections of society and, mindful of article 1 of the Declaration on the Right to Development, paid particular attention to the challenges faced by persons belonging to minority groups, Indigenous Peoples and persons with disabilities in participating in, contributing to and enjoying economic, social, cultural and political development.

## II. General country context

7. Viet Nam is a unitary State located in South-East Asia. It has a total area of 331,212 km<sup>2</sup> and a population of 99.5 million (2022).<sup>1</sup> Viet Nam is divided into 63 provinces and cities.

8. The 2013 Constitution of Viet Nam<sup>2</sup> defines the country as a socialist State ruled by law and of the people, by the people and for the people (art. 2). Under article 6 of the Constitution, the people exercise the State power in the form of direct democracy and of representative democracy through the National Assembly, People's Councils and other State agencies. Article 8 (2) specifies that all State agencies, State officials and employees must show respect for the people, conscientiously serve the people, maintain close contact with the people, listen to their opinions and submit to their supervision.

9. Article 3 of the Constitution states, among other things, that the State shall recognize, respect, protect and guarantee human rights and citizens' rights and pursue the goals of a prosperous people and a strong, democratic, equitable and civilized country in which all people enjoy an abundant, free and happy life and are given conditions for their development. Article 5 (2) declares that all ethnicities are equal and unite with, respect and assist one another for mutual development, while article 5 (4) states that the State shall implement a policy of comprehensive development and create the conditions for minority groups to fully utilize their internal strengths and develop together with the country. Other relevant rights guaranteed by the Constitution are the right to social security (art. 34), the right to enjoy and access cultural values (art. 41) and the right to live in a clean environment (art. 43).

10. Article 16 of the Constitution states that all people are equal before the law and that no one shall be subjected to discriminatory treatment in political, civil, economic, cultural or social life. The article, however, does not specifically prohibit both direct and indirect discrimination, nor does it incorporate any of the grounds enumerated in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

11. The National Assembly is defined as the highest authority. It exercises constitutional and legislative powers, decides on important issues for the country and conducts oversight over all activities of the State (art. 69). Under article 71, the duration of each term of the National Assembly is five years but, in special cases, and with the approval of at least two thirds of its members, the National Assembly can either shorten or extend its term, following a recommendation by its Standing Committee. The extension of a term of the National Assembly cannot exceed 12 months, except during wartime.

12. The President of Viet Nam is the Head of State (art. 86). The President is elected by the National Assembly and is accountable and reports to the National Assembly (art. 87).

13. The Government is the highest administrative State agency. It exercises the executive power and reports to the National Assembly, the Standing Committee of the National Assembly and the President (art. 94). The Government consists of the Prime Minister, deputy prime ministers, ministers and heads of ministerial-level agencies. The organizational structure and the number of members of the Government are decided by the National Assembly (art. 95).

14. Local governments consist of People's Councils and People's Committees, which are the executive bodies, led by Chairs (arts. 111 and 112). There are three levels of local governments: provincial, district and municipal.

15. The people's courts exercise judicial power; they have the duty to safeguard justice, human rights, citizen's rights, the socialist regime, the interests of the State and the legal rights and interests of organizations and individuals (art. 102). The people's court system includes the Supreme People's Court, the high courts, the provincial-level people's courts, the district-level people's courts and military courts at all levels (Law on Organization of People's Courts, art. 3).

<sup>1</sup> CCPR/C/VNM/4, para. 4.

<sup>2</sup> See <https://faolex.fao.org/docs/pdf/vie127527.pdf>.

16. Viet Nam has ratified the following United Nations human rights treaties: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, its Optional Protocol on the involvement of children in armed conflict and its Optional Protocol on the sale of children, child prostitution and child pornography, the Convention on the Rights of Persons with Disabilities and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Viet Nam has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the International Convention for the Protection of All Persons from Enforced Disappearance.

17. The Constitution is the supreme law of the country and its provisions take precedence over provisions of international treaties. In cases where other domestic legislation contains divergent provisions with an international treaty ratified by Viet Nam, the provisions of such a treaty shall prevail.<sup>3</sup> The National Assembly, the President and the Government may decide to apply provisions of international treaties directly, if they deem that such provisions are sufficiently clear and detailed. If the provisions are not considered sufficiently clear and detailed, the domestic authorities may decide to amend, supplement, annul or enact a domestic legal normative document for their implementation.<sup>4</sup>

<sup>18.</sup> Viet Nam is a State member of the International Labour Organization (ILO) and has so far acceded to 25 ILO conventions, including seven of the eight fundamental conventions and two fundamental conventions directly pertinent to the elimination of discrimination, which are the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In 2019, Viet Nam ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In 2020, Viet Nam ratified the Abolition of Forced Labour Convention, 1957 (No. 105).

19. Article 1 of the Declaration on the Right to Development defines the right to development as an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized. Since then, the right to development has been reaffirmed in several international agreements, including the Rio Declaration on Environment and Development and the Vienna Declaration and Programme of Action. In 2015, the right to development was explicitly recognized in four key internationally agreed policy documents: (a) the Addis Ababa Action Agenda of the Third International Conference on Financing for Development; (b) the Sendai Framework for Disaster Risk Reduction 2015–2030; (c) the 2030 Agenda, in which the General Assembly set out the Sustainable Development Goals; and (d) the Paris Agreement. Those documents have become part of the policy and normative foundation of the mandate of the Special Rapporteur.

20. As the Special Rapporteur highlighted in his report to the Human Rights Council on reinvigorating the right to development,<sup>5</sup> there are three elements and four facets of the right to development. The three elements are the ability of human beings to participate in, contribute to and enjoy the right to development. The four facets are economic, social, cultural and political development. Four overarching principles of the right to development can also be derived from the relevant normative instruments: (a) self-determination; (b) intersectionality; (c) intergenerational equity; and (d) fair distribution.

21. Viet Nam is a member of the Human Rights Council (2023–2025) and recently participated in the second voluntary national review on the implementation of the Sustainable Development Goals. In May 2024, Viet Nam went through the fourth cycle of the universal periodic review.

<sup>3</sup> Law on Promulgation of Legal Normative Documents (2015), art. 156 (5).

<sup>4</sup> Law on Treaties (2016), art. 6.

<sup>5</sup> [A/HRC/54/27](#).

### III. Right to development through the lens of the Sustainable Development Goals

22. Viet Nam has made considerable advances in the implementation of the 2030 Agenda in several areas such as reducing poverty, improving access to clean water and sanitation and developing resilient infrastructure and fostering innovation. The Special Rapporteur expresses particular appreciation for the multidimensional poverty reduction approach adopted by the Government. Moreover, in 2017, the Prime Minister issued a decision on a national action plan and road map for the implementation of the Sustainable Development Goals by 2030. The two national target programmes on new rural development and sustainable poverty reduction have delivered positive results.

23. In its 2023 voluntary national review, Viet Nam recognized the need to accelerate action in relation to several Sustainable Development Goals: (a) addressing malnutrition among children from ethnic minority groups (Goal 2); (b) improving health and well-being and expanding essential health-care services for all people, in particular vulnerable populations such as older persons and ethnic minorities (Goal 3); (c) improving equitable access to quality education, in particular for vulnerable groups (Goal 4); (d) combating harmful social norms on gender (Goal 5); (e) increasing renewable energy and boosting energy efficiency (Goal 7); (f) making additional efforts to address environmental issues in both urban and rural areas (Goal 11); (g) promoting sustainable consumption and production (Goal 12); (h) mobilizing resources for disaster risk management and climate change mitigation and adaptation (Goal 13); (i) preserving life below water (Goal 14); and (j) protecting biodiversity and improving ecosystem services (Goal 15). The achievement of the Sustainable Development Goals in Viet Nam has been affected, as in other countries, by the coronavirus disease (COVID-19) pandemic, climate change and international armed conflicts affecting the global economy.

24. Viet Nam is committed to: (a) prioritizing investments in human capital, science and technology and innovation, upgrading infrastructure to improve productivity, developing a green and circular economy and building resilience against natural disasters and climate change; (b) enhancing socialism-oriented market institutions, fostering public administration reform and promoting the participation of vulnerable groups in decision-making processes; (c) further reforming the social protection system to strengthen the resilience of communities and support for vulnerable groups; (d) stabilizing macroeconomic fundamentals, continuing COVID-19 recovery support and mobilizing and enhancing the efficient use of financial resources for sustainable development; (e) improving the availability of data to enhance the monitoring of progress towards the achievement of the Sustainable Development Goals; and (f) engaging all stakeholders and collaborating with all partners to achieve the Goals for all by 2030. According to the *Sustainable Development Report 2024*, Viet Nam ranks 54 out of 167 countries in terms of overall performance in achieving the Sustainable Development Goals.<sup>6</sup>

25. The Ministry of Planning and Investment provided information on several measures planned to improve the availability of accurate and reliable data on Sustainable Development Goal achievement. Among other measures, the following are planned: (a) standardizing the statistical information system on sustainable development; (b) standardizing the calculation methods for sustainable development indicators in accordance with international standards; (c) mobilizing technical support from development partners, in particular specialized United Nations agencies, in collecting real-time data on the Goals; (d) mobilizing the participation of social organizations and NGOs to provide data for the process of monitoring, supervising and evaluating progress towards the achievement of the Goals; and (e) integrating the collection of information on the statistical indicators of the Goals into existing statistical surveys (the living standards survey, the population change and family planning survey and the labour and employment survey).

<sup>6</sup> Jeffrey D. Sachs, Guillaume Lafortune and Grayson Fuller (Dublin, Dublin University Press, 2024), p. 20.

26. The Special Rapporteur has identified the lack of sufficient, accurate and consistent data to measure progress towards the achievement of the Sustainable Development Goal targets as a challenge that should be addressed by the Government. Moreover, the collection of disaggregated data is critical from the perspective of the right to development. Disaggregated data are needed to identify development priorities at all levels and for all segments of society. Disaggregated data are also crucial to enable an assessment of how policies and programmes affect individuals and groups that have faced (or continue to face) discrimination.

27. The Special Rapporteur specifically refers to the progress and challenges in the achievement of Sustainable Development Goals 5, 10 and 13 in the sections below.

## IV. Key thematic issues

### A. Gender equality

28. Gender equality is enshrined in article 26 of the Constitution of Viet Nam and in the 2006 Law of Gender Equality. Article 26 (2) of the Constitution explicitly requires the State, society and family to create conditions for the comprehensive development of women.

29. The Special Rapporteur welcomes the information received that draft laws are assessed for gender equality and that gender-responsive approaches are integrated into developing standards and new technologies.

30. The authorities reported that they were striving to achieve progress in ensuring the equal participation of women in decision-making bodies at different levels of the government and public administration. Targets are set for women's representation in party committees at all levels (25 per cent) and for the National Assembly and People's Councils at all levels (35 per cent) by 2030. Under the country's Gender Equality Strategy 2021–2030, by 2025, 60 per cent of State agencies and local governments must have women in key leadership positions, rising to 75 per cent by 2030. At the time of the visit, 30.3 per cent of the seats in the National Assembly were held by women and 3 of the 18 ministers in the central Government were women. At the local level, the ratio of women representatives in People's Councils during the period 2021–2026 was higher than during the period 2016–2021, reaching 29 per cent at the provincial level, 29 per cent at the district level and 29 per cent at the commune level. In the executive branch, 13 out of 30 ministries, ministerial-level agencies and government-attached agencies had women in top leadership positions.<sup>7</sup> According to information provided by the Government to the Special Rapporteur, four ministers were women and 47 out of the 63 provincial administrations had women in top positions.

31. However, stereotypes still appear to exist that lead to a preference for male candidates for decision-making positions, in particular at the highest levels of leadership in areas of public policy beyond education, employment and health. At the same time, the Special Rapporteur received reports that women with disabilities and those belonging to ethnic minority groups continued to be underrepresented at all levels of government. Women from ethnic minority groups comprise only 6 per cent and 7.3 per cent of party bodies and People's Councils, respectively; men from ethnic minority groups comprise 36.1 per cent and 39.0 per cent, respectively.<sup>8</sup>

<sup>32.</sup> Women's representation at the management level of businesses also remains low: in 2023, women represented only 11 per cent of chief executive officers and between 20 per cent

<sup>7</sup> Viet Nam, *Voluntary National Review 2023 on the Implementation of the Sustainable Development Goals*. Available at <https://hlpf.un.org/sites/default/files/vnrs/2023/VNR%202023%20Viet%20Nam%20Report.pdf>, pp. 71 and 72.

<sup>8</sup> Pauline Tamesis and Caroline Nyamayemombe, "Voices from Viet Nam: invest in women, accelerate progress", United Nations Sustainable Development Group, 7 March 2024. Available at <https://unsdg.un.org/latest/stories/voices-viet-nam-invest-women-accelerate-progress>.

and 44 per cent of other senior management positions such as chief operating officers and chief financial officers.<sup>9</sup> As at 31 December 2020, Viet Nam had 242,326 women-owned businesses, accounting for 30 per cent of the total number of businesses operating in the country.<sup>10</sup> Women in Viet Nam also have a lower retirement age in comparison to men, although the Government is taking steps to gradually bridge this discriminatory gap. Moreover, in 2021, 57 per cent of women were in vulnerable employment, compared with 47 per cent of men.<sup>11</sup> The percentage of people working in the informal economy is relatively high, thus affecting the protection of their labour rights, including social security. While the percentage of women in the informal economy is lower than that of men, those women are twice as likely to earn less than the regional minimum wage rate.<sup>12</sup> According to some information received, women continued to spend nearly double the amount of time on unpaid household work compared with men,<sup>13</sup> notwithstanding public awareness-raising campaigns and capacity-building activities, although the Viet Nam Women's Union noted that the situation was slowly changing in cities. For women belonging to ethnic minority groups, the proportion appears to be even higher, even though no disaggregated data on unpaid household and care work seem to be collected in a systematic manner, which makes it difficult to identify the root causes of the gender gap.

33. The National Committee for the Advancement of Women was established to assist the Prime Minister in work related to gender equality, in an effort to coordinate activities among ministries and sectors. The Ministry of Labour, Invalids and Social Affairs is the ministry that takes the lead on gender issues. Sociopolitical organizations, in particular the Viet Nam Women's Union at the central level and the relevant women's unions at other levels, also work on gender equality issues.

34. The Labour Code of Viet Nam defines labour discrimination (art. 3 (8)) and prohibits it (art. 8 (1)). Article 169 of the Code establishes that the retirement age of employees will be gradually increased in accordance with a pre-approved plan, until it reaches the age of 62 for men in 2028 and 60 for women in 2035.

35. On 4 June 2019, decision No. 681/QĐ-TTg, on the road map for the implementation of the Sustainable Development Goals was issued, which covers Goal 5 (Achieve gender equality and empower all women and girls).

36. By means of its resolution No. 88/2019/QH14 of 18 November 2019, the National Assembly approved the Master Plan on Socioeconomic Development in Ethnic Minority and Mountainous Areas for the Period 2021–2030. Decision No. 1719/QĐ-TTg of 14 October 2021 on the National Target Programme for Socioeconomic Development in Ethnic Minority and Mountainous Areas for the Period 2021–2030 is supplemented by 10 component projects, including the project entitled "Implementing gender equality and addressing urgent issues for women and children".

37. According to the 2019 population and housing census, the overall school attendance rate at the lower secondary school level was 92.2 per cent for boys and 93.5 per cent for girls. At secondary school, the overall attendance rate of boys was 7.1 per cent lower than that of girls. The literacy rate of men and women between the ages of 15 and 60 reached 98.2 per cent and, for those aged 15–35, it was 99.3 per cent. For the provinces in the north-west, the Central Highlands and the south-west, the literacy rate was 94.7 per cent for

<sup>9</sup> Grant Thornton International Business Report, "Progress on women in senior leadership stalling", 8 March 2023, p. 2. Available at <https://www.granthornton.com.vn/contentassets/e415c36189744988b88777ab31a8e87e/women-in-business-2023.pdf>.

<sup>10</sup> *Voluntary National Review 2023 on the Implementation of the Sustainable Development Goals*, p. 72.

<sup>11</sup> World Bank, World Development Indicators database. Estimates are based on data obtained from International Labour Organization. Available at <https://data.worldbank.org/indicator/SL.EMP.VULN.MA.ZS?locations=VN> and <https://data.worldbank.org/indicator/SL.EMP.VULN.FE.ZS?end=2023&locations=VN>.

<sup>12</sup> General Statistics Office, *Overall Situation of Workers in Informal Employment in Viet Nam* (Hanoi, 2023), p. 16. Available at <https://www.gso.gov.vn/wp-content/uploads/2023/06/LAO-DONG-CO-VIEC-LAM-PHI-CHINH-THUC-O-VIET-NAM-Eg-final.pdf>.

<sup>13</sup> *Voluntary National Review 2023 on the Implementation of the Sustainable Development Goals*, p. 66.

men and 97.8 per cent for women. In some provinces, the literacy rate of women aged between 15 and 60 was considerably lower (Ha Giang: 77.2 per cent; Quang Binh: 81.2 per cent; Ninh Thuan: 82.5 per cent; An Giang: 75.9 per cent; and Vinh Long: 82.1 per cent).

38. The Labour Law prohibits and penalizes sexual harassment in the workplace. However, the Special Rapporteur noticed that there appeared to be few policies and procedures to address sexual harassment at work and that awareness of such policies and procedures was low.

39. In 2022, Viet Nam adopted a new law on domestic violence, which provides a definition of acts of domestic violence, including forced sex against the will of either partner. New measures of protection were foreseen, such as additional funding for facilities to support the prevention and addressing of domestic violence and establishing a database for preventing and addressing domestic violence. In addition, government decree No. 144/2021/NĐ-CP of 31 December 2021 includes a dedicated section on administrative violations in the field of domestic violence. The Government, in its decision No. 2238/QĐ-TTg of 30 December 2021, approved the Strategy for Family Development in Viet Nam up to 2030, which is aimed at providing, among other things, information on preventing and addressing domestic violence, providing all domestic violence victims with essential services and ensuring that all local authorities apply models to intervene, prevent and address domestic violence.

40. Domestic violence results in physical and mental harm for victims and significantly hampers their participation not only in economic development, but also in social, political and cultural development. Women experience domestic violence disproportionately. According to government data, 97 per cent of women who reported being victims of domestic violence were able to access basic support services in 2022. While the adoption of the 2022 law and the strategy are welcome steps, the levels of awareness of issues related to gender-based violence appear to be low and, because of significant social stigma, cases are not reported. Even when cases are reported, proceedings are often slow and inefficient.

41. The sex ratio at birth in Viet Nam was 112 boys per 100 girls in 2022.<sup>14</sup> The Special Rapporteur received reports that the disproportion was a result of the selective termination of pregnancies in which the foetuses were identified to be of female sex. The practice stems from persistent cultural preferences for male children.

## **B. Vulnerable or marginalized groups**

42. When adopting the Sustainable Development Goals in 2015, States unanimously committed to leaving no one behind. They also agreed to ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in that regard (target 10.3). These commitments imply that Governments have a duty to formulate national development policies and measures that not only eliminate discrimination but also remedy the disadvantages faced by certain marginalized or vulnerable groups, such as ethnic minorities, persons with disabilities and migrant workers.

43. In Viet Nam, over 14 million people belong to one of the recognized 53 ethnic minorities. Despite progress reported towards the objective of leaving no one behind, the available data regarding progress under Sustainable Development Goal 10 show that there is a higher proportion of people living in poverty among ethnic minorities. Multidimensional poverty rates in the Northern Mountains and Central Highlands regions, where most people from ethnic minority groups live, are more than double the national average. Access to reproductive health for women in remote areas and among ethnic minorities is more limited than for women from the biggest ethnic group in Viet Nam (Kinh) and women in more developed regions. According to information from the authorities, the estimated poverty rate for ethnic minority households is about 17.82 per cent (a reduction of 3.2 per cent in

<sup>14</sup> Ibid.



comparison with 2022), while the poverty rate for the population overall is 2.93 per cent (a reduction of 1.1 per cent in comparison with 2022).

44. Theravada Buddhism is the most commonly followed religion in Viet Nam. Regarding religious minorities, the National Assembly adopted the Law on Beliefs and Religions on 18 November 2016 and the Government issued decree No. 95/2023/ND-CP for its implementation (replacing decree No. 162/2017/ND-CP).

45. According to information received, it is estimated that there are as many as 100,000 persons from the Hmong and other ethnic groups living in the Central Highlands who have been displaced from their places of birth and who do not have household registration documents. Such documents are required for nearly all legal actions that arise in the normal course of life. They are needed, for example, to obtain State identification cards, passports and certificates of birth, death and marriage, to purchase property, to secure bank loans, employment and housing, to adopt children, to purchase insurance and to access basic services such as health care and education.

46. The Special Rapporteur was informed that, in October 2023, People's TV in Viet Nam had aired a documentary entitled *Unnamed Village of Migrants*, which portrayed the Hmong's situation sympathetically and reported on the national Government's plans to provide the community of roughly 700 persons with identity documents. In December 2023, a follow-up programme had been aired on the same theme, on residents of Subdivision 179. It was noted in the programme that identity documents had yet to be provided and that such documents should be provided not just to persons in Subdivision 179, but to numerous other persons in Lam Dong Province, as well as in Dak Nong and Dak Lak Provinces. The Special Rapporteur was informed that the Provincial People's Committee of Lam Dong Province was carrying out two resettlement projects for irregular migrants from 392 households from the Hmong ethnic group and that, once the resettlement was carried out, the people would be issued identity documents and household registration documents.

47. The leading institution responsible for ethnic minority groups, the Committee for Ethnic Minority Affairs, has an advisory role and supervises the implementation of policies and socioeconomic development programmes and plans for ethnic minority areas. In 2014, the Committee created a statistical indicator system containing 119 statistical indicators in different fields, which facilitates the evaluation, forecasting, policymaking and development of socioeconomic plans by government agencies for ethnic minority groups. The Special Rapporteur learned that the Government had taken measures to encourage persons from ethnic minority groups to train as doctors and teachers, as well as measures to provide for vocational training and loans.

48. Article 5 (2) of the Constitution provides that "all the ethnicities are equal and unite with, respect and assist one another for mutual development; all acts of discrimination against and division of the ethnicities are strictly forbidden". However, Viet Nam has not yet enacted a specific law on anti-discrimination that incorporates a definition of racial discrimination. While 89 of 500 deputies of the National Assembly of Viet Nam come from ethnic minority groups, representation of such groups in the commune people's committees and in government employment is relatively low.

49. As of 2019, 92 per cent of persons belonging to ethnic minority groups had access to radio, 85 per cent had access to a television and many programmes were broadcast in minority languages such as Hmong, Thai, Ede, Cham and Khmer. Radio and television stations at the central and local levels all have thematic channels in ethnic minority languages. The Voice of Viet Nam broadcasts nearly 30 hours of programmes in 13 ethnic minority languages and Viet Nam Television broadcasts 24 hours a day in 26 ethnic minority languages. The 2021–2030 National Target Programme for Socioeconomic Development in Ethnic Minority Mountainous Areas is the first programme in Viet Nam dedicated to ethnic minority groups and people living in those regions. It has a budget of 5.6 billion dollars. Currently, six ethnic minority languages are officially taught and studied nationwide (with programmes and textbooks issued by the Ministry of Education and Training): Hmong, Cham, Khmer, Jarai, Ba Na and Ede.

50. In the context of disaster preparedness, the Special Rapporteur was informed that, in areas populated by ethnic minority groups, the village radio system would broadcast news and announcements in local languages in an emergency.

51. To ensure that development programmes and projects truly address local developmental priorities, in particular in communes in which the populations comprise high percentages of ethnic minority groups, it is crucial to adopt a bottom-up participatory approach to all planning, development, implementation and monitoring processes. To ensure that the perspective of women from ethnic minorities is taken into consideration, authorities should plan and budget for their participation in all stages of planning, implementation and monitoring of development programmes and projects.

52. The Special Rapporteur notes that the Government of Viet Nam does not accept the concept of Indigenous Peoples, although it voted for the General Assembly resolution in which the Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples. This results in certain groups being unable to benefit from important rights such as self-identification and free, prior and informed consent.

53. The Special Rapporteur has received reports that some legislative provisions have been interpreted and applied in such a way as to have the effect of intimidating or restricting the rights of those working on the rights of ethnic minorities, Indigenous Peoples and non-citizens, including human rights defenders, lawyers and journalists. In particular, chapter XIII (offences against national security), article 117 (information designed to oppose the State) and article 331 (abusing democratic freedoms) of the Criminal Code have been utilized in such a manner. The Special Rapporteur has also received information that a disproportionate number of individuals belonging to ethnic minority groups have been charged and convicted under articles 109, 113 and 229 of the Law on Counter-Terrorism in relation to offences classified as “terrorist”, which are defined as acts designed to “oppose the people’s Government” or to “cause panic”.

54. Viet Nam has a State-run labour export programme that was initially envisioned to allow persons from low-income households to seek employment abroad and improve their economic situation, as well as send remittances back to the country. The Special Rapporteur has received reports that many of the persons participating in the scheme belong to minority groups. Migration is an important pathway to realizing the right to development; however, migrant workers are also vulnerable to exploitation. The Special Rapporteur received information that migrant workers from Viet Nam faced risks of forced labour, trafficking in persons, debt bondage, deception by recruitment agencies and exploitation in destination countries.

55. According to official data, between 2021 and 2023, 527 victims of trafficking were identified and provided with free assistance. In 2022, the hotline for victim support received nearly 2,000 calls related to trafficking in persons; 120 at-risk victims were rescued and supported. In the first quarter of 2023, the hotline received 400 calls and rescued and supported 14 victims. There are nearly 500 social protection centres nationwide supporting victims of trafficking in persons. The Special Rapporteur has, however, received reports that, upon return, victims of trafficking for purposes of labour exploitation often do not receive reintegration support and services, despite having suffered trauma and having paid a heavy price to escape slavery and return to their home country. He was also informed that a large proportion of such victims came from minority communities.

56. Viet Nam ratified the Convention on the Rights of Persons with Disabilities in 2015 and issued a plan on the implementation of the Convention (decision No. 1100/QĐ-TTg of 21 June 2016) to define the responsibilities of agencies in implementing the Convention. Directive No. 39-CT/TW of 1 November 2019, decision No. 753/QĐ-TTg of 3 June 2020 on the plan to organize the implementation of directive No. 39-CT/TW, decision No. 112/QĐ-TTg of 22 January 2021 on the social work development programme for the period 2021–2030 and decision No. 1929/QĐ-TTg of 25 November 2020 on the social assistance programme and community-based rehabilitation for persons with a psychosocial disability, children with autism and people with intellectual disabilities in the period 2021–2030 are the main documents regulating the situation of persons with disabilities.

57. Decree No. 61/2015/ND-CP of 9 July 2015 on policies to support job creation and the National Employment Fund provides that business establishments in which 30 per cent or more of the total number of workers have disabilities are eligible for loans at preferential rates, equal to 50 per cent of the loan interest rate.

58. Joint information circular No. 42/2013/TTLT-BGDDT-BLDTBXH-BTC of 21 December 2013 regulates education policies for persons with disabilities, including admission and enrolment priorities, education content, tuition policy, policies on scholarships and support for facilities and school supplies. Circular No. 03/2018/TT-BGDDT of 29 January 2018 regulates inclusive education for persons with disabilities.

59. Despite these positive legislative developments, the Special Rapporteur received reports about challenges faced by persons with disabilities. According to the data received, about 7.7 per cent of the population of Viet Nam has a disability, a significant portion of which are related to the use of Agent Orange by the military of the United States of America between 1961 and 1971. During the visit, the Special Rapporteur observed that persons with disabilities faced numerous challenges in accessing public infrastructure and facilities. For example, roads and most public buildings are not accessible for wheelchairs, road crossings are not provided with traffic lights adapted for visually impaired persons or persons in wheelchairs and adequate information about disasters or hazards is not available for persons with visual or hearing impairments. The levels of disability benefits are also insufficient to cover basic needs. Moreover, persons with disabilities are underrepresented in legislative bodies at different levels and they face discrimination in education, employment and online services.

### **C. Environmental pollution and climate change**

60. Viet Nam is highly vulnerable to climate change impacts such as sea level rise, biodiversity loss and marine plastic pollution. Climate change and environmental pollution pose the greatest risk to persons living in poverty, ethnic minorities and other people in remote, mountainous and low-lying areas, persons with disabilities, children and women. Communities living in the Mekong Delta have been facing soil degradation from overfarming, unpredictable monsoon floods, droughts, increasing infiltration of saline water in the rice fields and salt deposits in the nearby grounds. The Special Rapporteur witnessed first hand the coastal erosion in Bao Thuan Commune, Ben Tre Province, caused by sea level rise.

61. The Special Rapporteur was informed that, in 2022, 648 criminal prosecution cases against a total of 730 defendants had been brought for violations of laws on the environment, the protection of natural resources and food safety and 1,718 persons had been sanctioned for related administrative violations. In 2023, 606 criminal cases had been brought against 698 defendants and 4,938 individuals and 1,438 organizations had been sanctioned for administrative violations.

62. Viet Nam has signed and approved the Paris Agreement. It submitted its intended nationally determined contribution in 2015 and developed a national plan for the implementation of the Agreement in 2016. The 2020 Law on Environmental Protection has a chapter on responding to climate change that stipulates the responsibility to reduce greenhouse gas emissions and adapt to climate change to implement the intended nationally determined contribution. At the twenty-sixth Conference of the Parties to the United Nations Framework Convention on Climate Change, Viet Nam committed to achieving net zero emissions by 2050 and has pledged to reduce methane emissions by 30 per cent from 2020 levels by 2030. The national steering committee for implementing those commitments was established on 21 December 2021 and is headed by the Prime Minister.

63. Several important documents have been issued, including the decree on reducing greenhouse gas emissions and protecting the ozone layer, the National Climate Change Strategy to 2050, the action programme on the green energy transition and reduction in the carbon and methane emissions of the transportation sector, the national action plan on green growth for the period 2021–2030 and the methane emission reduction action plan to 2030. The Special Rapporteur notes the Government's efforts to encourage renewable energy

production, as highlighted by projects such as the Cam Hoa Solar Power Plant in Ha Tinh Province, and to restore the forest cover by adopting a protection model of conservation (e.g. the Can Gio Biosphere Reserve).

64. Despite these positive developments, several challenges, such as limited funding, policy incoherence, slow approval processes and the lack of availability of suitable technology, remain. It also seems that, although an environmental (or social) impact assessment is required under law before approving new development projects, a holistic, meaningful, participatory and transparent impact assessment is often missing in practice. Moreover, it is a matter of great concern that arrests and convictions of several environmental human rights defenders on charges such as tax evasion are having an adverse effect on the willingness of NGOs to contribute to the Just Energy Transition Partnership.

65. In early April 2016, a major leak of toxic waste into the ocean from a steel plant in Ha Tinh Province contaminated some 200 km of coastline in four provinces in central Viet Nam (Ha Tinh, Quang Tri, Quang Binh and Thua Thien-Hue), affecting the livelihoods of hundreds of fishing communities. According to some sources, as many as 270,000 people were affected by the ensuing environmental disaster. Demonstrations broke out following the event, with people demanding environmental justice and fair compensation for damage. The demonstrations were dispelled by the authorities and individuals suspected of being key organizers were arrested and sentenced to prison for various terms. The government negotiations with the company that owns the steel plant resulted in the company paying 500 million dollars in fines and compensation and committing to a number of changes to its environmental safeguards and management practices. The Prime Minister issued decisions No. 772/QD-TTg of 9 May 2016, No. 1138/QD-TTg of 25 June 2016, No. 12/QD-TTg of 6 January 2017 and No. 2124/QD-TTg of 28 December 2017, regulating compensation and other support measures for the victims. According to some sources, the compensation ranged from 130 dollars to 1,600 dollars per affected family. Many of the affected persons and communities consider the compensation awarded to be vastly inadequate. However, no mechanism to raise such complaints appears to exist and individuals who have attempted to organize protests and demand higher compensation and other support measures have faced arrest and criminal prosecution on various charges.

#### **D. Land acquisition**

66. Article 54 of the Constitution declares that land is a special national resource and an important resource for national development and is managed in accordance with the law. The State allocates or leases land to organizations and individuals. The State may recover land currently used by organizations or individuals in case of extreme necessity, as prescribed by a law for national defence or security purposes, or for socioeconomic development in the national or public interest.

67. Development projects often require the acquisition of land. While land acquisition may bring economic development or other public benefits, the Special Rapporteur has been made aware that, in some cases, individuals and communities who have lived off the land for generations may have been displaced without adequate compensation and/or resettlement. The Special Rapporteur has also received information that, under the 2013 Land Law and relevant decrees, communities have been notified only 15 days in advance that their land has been acquired and that they are subject to relocation, contrary to the principle of free, prior and informed consent and the need to ensure consultation throughout the development of resettlement plans. He has also received information that land is often sold to companies for prices far exceeding the amount of the compensation awarded to individuals.

68. Land recovery must be public and transparent, and compensation must be paid in accordance with the law. At the time of the visit, the legislation in force was the 2013 Land Law. Article 27 of that law stipulated that policies on residential land and community land of ethnic minorities must be enacted in accordance with the traditions, customs, cultural identity and conditions in each locality. The Special Rapporteur was informed that amendments to the law were approved by the National Assembly on 18 January 2024 and that documents guiding their implementation were under development. The Special

Rapporteur was informed that, according to the provisions of the 2024 Land Law, one of the grounds for land appropriation by the State was that the project should be included in the district-level annual land use plan. Before approving the annual land use plan at the district level, the competent State agency needed to collect people's opinions on the plan. The Special Rapporteur is looking forward to receiving more information on the procedure for consultation with the land users who might be affected by changes in land use plans.

69. The Special Rapporteur was informed that, under the 2024 Land Law, one of the land valuation principles was land valuation according to market principles (art. 158). The 2024 Land Law establishes two types of land prices: the land price list (art. 159) and the specific land price (art. 160). Reportedly, the compensation for land acquired by the State will be awarded according to the land price list, which is to correspond to its market value. The Special Rapporteur is looking forward to receiving more information regarding the implementation of the new provisions, the actual compensation rates, the resettlement plans, if any, and programmes to assist affected individuals and communities in finding new livelihoods.

## **E. Participation in decision-making processes**

70. Active, free and meaningful participation in decision-making processes is a key element of the right to development. Ensuring participation involves more than merely consulting individuals and communities. Rather, it implies placing rights holders at the centre of decision-making affecting their own economic, social, cultural and political development.

71. During the visit, the Special Rapporteur learned from various government officials about the importance that they attached to ensuring the inclusive participation of all people, including marginalized or vulnerable groups, when adopting or revising laws, developing policies and approving projects. Viet Nam already has a legal framework to enable the participation of people. For example, the 2022 Law on Implementation of Grassroots Democracy outlines the rights of people to be informed of government activities that affect them, contribute to the formulation of policies and projects and participate in local development activities. The Viet Nam Fatherland Front and the Women's Unions, as well as the Youth Union, detailed their efforts to facilitate the participation of people.

72. At the same time, the Special Rapporteur received information that people – especially from marginalized or vulnerable groups – and NGOs were often not able to participate in decision-making processes in an active, free and meaningful manner. The Government exerts significant control over the registration and operation of civil society organizations and has strict requirements for the approval of all public gatherings, meetings, demonstrations and marches. Multiple restrictions are imposed on the freedom of speech and expression (both offline and online). The shrinking civic space and the selective use of laws to target human rights defenders have a chilling effect on various participation opportunities. While consultations are generally conducted by various government authorities, these are often not meaningful in practice.

73. Government authorities informed the Special Rapporteur that articles 117 and 331 of the Criminal Code were only applied to individuals who took advantage of democratic freedoms to disseminate fake information and false news for the purpose of opposing the State or who were infringing on the rights and interests of organizations and individuals, and that the application of those articles was consistent with the spirit of article 19 (3) of the International Covenant on Civil and Political Rights. However, on the basis of the information received, the Special Rapporteur notes with concern the selective use of those provisions to target voices critical of government decisions and policies.

74. The Special Rapporteur notes that, under the provisions of the Criminal Procedure Code, in cases where the investigation needs to be kept secret on national security grounds, the Head of the Procuracy has the authority to consider and decide to allow the defence counsel to participate in the proceedings only from the end of the investigation. In all the cases that environmental and other human rights defenders raised with the Special Rapporteur, the above provision had been applied, meaning that individuals prosecuted for non-violent crimes and faced with long prison sentences were not allowed a legal defence

during the entire investigation phase of the proceedings. The application of the Criminal Procedure Code in that manner has a further chilling effect on persons who may have concerns about development projects.

75. The Special Rapporteur also received information regarding the conditions with which international NGOs have to comply to be allowed to operate in the country. International NGOs can operate in Viet Nam after registration, which is regulated by decree No. 58/2022/ND-CP of 31 August 2020. The decree is aimed at ensuring that the conduct of foreign NGOs working in Viet Nam is of an apolitical, non-profit and non-religious nature.<sup>15</sup> According to its provisions, NGOs are prohibited from, among other things, organizing, implementing, participating in and sponsoring religious activities, as well as other activities that are inconsistent with national interests, violate the law or violate national defence, security, social order or safety. The main body dealing with registration is the Viet Nam Union of Friendship Organizations, a sociopolitical organization that is also a standing member of the Committee for Foreign Non-Governmental Organizations Affairs.

## **F. Role of business**

76. As articulated in the Special Rapporteur's 2023 report to the General Assembly entitled "Role of business in realizing the right to development",<sup>16</sup> businesses play a key role in realizing the right to development and implementing the Sustainable Development Goals. During the visit, the Special Rapporteur had an opportunity to meet representatives of several companies from various sectors: Beinco (coconut products), Cam Hoa Solar Farm (renewable energy), Formosa Ha Tinh Steel Corporation (steel manufacturing), VinES (battery packs for electronic cars) and VNG Corporation (online games, social networking and digital payment).

77. After seeing their business operations and exchanging information, the Special Rapporteur was pleased to note that those companies were integrating the latest technologies and innovations into their operations, promoting the welfare of their employees, supporting the transition towards renewable energy and supporting community projects. At the same time, the representatives of the companies that he met were not aware of international responsible business conduct standards, including the expectation to conduct human rights due diligence. Moreover, the companies did not have policies and processes in place to address, for example, sexual harassment in the workplace.

78. The Special Rapporteur received information about business-related concerns in Viet Nam in relation to trafficking in persons, the exploitation of migrant workers, discrimination on the grounds of gender and sexual orientation, occupational health and safety, freedom of association, collective bargaining and environmental pollution.

79. During the visit, the Special Rapporteur met officials of the Viet Nam Chamber of Commerce and Industry and learned about its efforts to promote green supply chains, decarbonization, the circular economy, gender equality, women's entrepreneurship and corporate contributions to the achievement of the Sustainable Development Goals. The Chamber of Commerce and Industry – in collaboration with the Ministry of Labour, Invalids and Social Affairs, the Ministry of Natural Resources and Environment, the Ministry of Industry and Trade, the Viet Nam General Confederation of Labour and the State Securities Committee of Viet Nam – launched a corporate sustainability index in 2016. However, the current laws on electricity do not provide for incentives to encourage companies to switch to using renewable energy.

80. The Special Rapporteur considers that the role of the Government is vital to ensure that companies respect all human rights (including the right to development), operate within planetary boundaries and contribute to achieving the Sustainable Development Goals. Under circular No. 96 of 2021, public listed companies are required to report on environmental, social and governance issues in their annual report. Moreover, by adopting the National

<sup>15</sup> The activities of foreign religious organizations are regulated by the 2016 Law on Belief and Religion of 2016 and decree No. 95/2023/ND-CP.

<sup>16</sup> [A/78/160](#).

Action Plan to Promote Responsible Business Practices (2023–2027), the Government has taken an important step in promoting responsible business conduct.

## G. Trade and investment agreements

81. Appropriately designed trade and investment agreements can support inclusive and sustainable development. The Special Rapporteur is encouraged that Viet Nam is embracing a holistic vision of trade. It is a party to three “new generation” free trade agreements, which include provisions on labour rights and/or sustainability: the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, the free trade agreement between Viet Nam and the European Union and the free trade agreement between Viet Nam and the United Kingdom of Great Britain and Northern Ireland. The signing of these free trade agreements has triggered some reforms to protect labour rights and the environment.

82. During the visit, the Special Rapporteur learned that the Ministry of Industry and Trade was developing a free trade agreement index with indicators to evaluate the results of the implementation of such agreements by different provinces and cities. In August 2022, the Government approved the free trade agreement project and assigned the lead to the Ministry of Industry and Trade, as part of the Government’s action programme for 2021–2026 (resolution No. 99/NQ-CP of 30 August 2021). In 2023, the Ministry of Industry and Trade established a trade agreement index working group that developed and approved a set of criteria for units selected to implement the project. In 2024, the Ministry of Industry and Trade and the working group will finalize the development of the index, deploy it, report to the Government on its results, rank provinces and cities on free trade agreement implementation and make public the free trade agreement implementation results. The Special Rapporteur is looking forward to learning more about the outcome of the project.

## H. Approval of development projects

83. Viet Nam has an ambitious vision for sustainable development and numerous needs in achieving all the Sustainable Development Goals. Development requires funding. Throughout the country visit, representatives of the Government, United Nations agencies and international development partners expressed their frustration about the slow pace of approval of development projects. The Special Rapporteur heard examples of delays of several years both for internationally funded projects and for projects submitted for approval by provincial authorities. Such delays mean that the much-needed funding does not reach the people in need in different provinces or, in some cases, is even lost.

## V. Conclusions and recommendations

84. During the country visit, the Special Rapporteur observed the impressive progress made by Viet Nam in achieving economic development and implementing social security programmes. Nevertheless, some important challenges remain, notably regarding the effective participation in and enjoyment of development by ethnic minorities and the effective participation of all segments of society in the planning, implementation and evaluation of development programmes and projects, as well as with regard to discrimination against women.

### A. Gender equality

**85. The Special Rapporteur recommends that the responsible government authorities take proactive measures to address the double burden faced by women and try to promote the progressive inclusion of women engaged in the informal economy in the pension and social benefits schemes. He also recommends that the government, at all levels, take more measures to offer vocational training and credit facilities to women from ethnic minority groups.**

86. The Special Rapporteur urges the Government to ensure that policies to address sexual harassment at work are put in place at all four levels of the government, as well as in State-owned enterprises. Moreover, businesses should be required to adopt sexual harassment policies and establish a gender-responsive complaint mechanism to deal with complaints. The Government should also ratify the ILO Violence and Harassment Convention, 2019 (No. 190). Moreover, the Government should require businesses to have more women in leadership positions.

87. The government at all levels should raise awareness to change patriarchal values, aid persons who are victims of domestic violence and establish more protective shelters for such persons.

## **B. Vulnerable or marginalized groups**

88. The Special Rapporteur recommends that the Government take effective measures to address the inequalities and lack of access to public services experienced by members of ethnic minority groups.

89. As self-identification is a fundamental principle of the United Nations Declaration on the Rights of Indigenous Peoples, the Special Rapporteur recommends that the Government consider allowing individuals, alone or in association with others, to choose their identity, including the right to identify as Indigenous Peoples. The Special Rapporteur also recommends that the Government consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). The cultural rights of affected communities should be taken into consideration in planning and implementing development programmes. Due consideration should also be given to ethnic minorities' right to free, prior and informed consent.

90. The Special Rapporteur recommends that the Government review the relevant regulations and policies on accessibility to all government facilities providing public services such as health care, education and administrative services and review the accessibility of public transport that persons with disabilities could use to participate in economic, political, social and cultural life.

91. The Special Rapporteur urges the responsible authorities to ensure the recruitment of a sufficient number of teachers, in particular in remote and rural areas, so that children with disabilities can receive an education.

92. The Special Rapporteur recommends that the government, at all levels, have ongoing dialogues with organizations of persons with disabilities to better understand their specific needs and include them in the preparation of development programmes and policies.

93. The Special Rapporteur urges the adoption of a "whole-of-government approach" to protect the rights of migrant workers and recommends that legal assistance be provided to migrant workers, in collaboration with the relevant agencies of destination countries. He also urges the authorities to provide comprehensive assistance and reintegration services to victims of trafficking in persons and trafficking in persons for purposes of labour exploitation upon their return to Viet Nam.

94. The Special Rapporteur recommends that the Government provide, as a matter of priority, all undocumented persons with the identification documents necessary to allow their participation in the economic, social and cultural and political development of the country, as well as the full spectrum of their human rights.

95. The Special Rapporteur also recommends that the General Statistics Office of Viet Nam work closely with NGOs and United Nations agencies to develop a robust methodology and apply it to the collection of reliable disaggregated data, including data that would allow for the measurement of the impact of development projects and programmes on ethnic minorities and other vulnerable populations such as persons with disabilities, as well as disaggregated data on unpaid household and care work.



### **C. Environmental pollution and climate change**

96. The Special Rapporteur recommends that the Government offer incentives to both companies and individuals to produce and/or use renewable energy.

97. The Special Rapporteur also recommends that the responsible authorities conduct holistic human and environmental rights impact assessments, in meaningful consultation with communities and individuals, in particular groups in vulnerable situations, when implementing green growth, climate change and environmental policies, for a just transition.

98. The Special Rapporteur further recommends that, to ensure environmental justice, participatory policymaking processes and access to information regarding projects and programmes potentially affecting the environment be established and enhanced and that effective remedies for communities and individuals for grievances resulting from those projects be put in place.

### **D. Land acquisition**

99. The Special Rapporteur urges the responsible authorities to implement the newly amended Land Law in a manner that addresses the gap between the market value for the use of land and the current compensation rates. They should also ensure that active, free and meaningful consultation with relevant individuals and communities is conducted before any land acquisition and that, if there are any grievances as a result of land acquisition for development purposes, individuals and communities have access to effective remedies for such grievances.

### **E. Participation in decision-making processes**

100. The Special Rapporteur believes, after meeting with various stakeholders, that even within the existing political system of Viet Nam there is significant scope for the government authorities at all four levels to listen to and accommodate the diverse views of people and NGOs. He strongly encourages the Government of Viet Nam to create an environment conducive to the active, free and meaningful participation of people in all decisions affecting them, including those related to the right to development and the Sustainable Development Goals. Doing so will assist in building an inclusive and equitable society in line with the underlying principles of the right to development.

101. The Special Rapporteur recommends that the Government explore ways within its legal system to pardon or remit the sentences of all environmental human rights defenders who have peacefully raised legitimate concerns or grievances and in turn show leadership in promoting the human rights of all.

102. The Special Rapporteur also recommends that Viet Nam take additional measures to promote equal participation in public and political affairs across ethnic groups, including the adoption of further special measures to guarantee proportionate representation at all levels of government. To ensure that development programmes and projects truly address local developmental priorities, in particular in communes with a high proportion of ethnic minorities in their population, it is crucial to adopt a bottom-up participatory approach to all planning, development, implementation and monitoring processes. To ensure that the perspective of women from ethnic minorities is taken into consideration, authorities should plan and budget for their participation in all stages of planning, implementation and monitoring of development programmes and projects.

103. The Special Rapporteur further recommends that all actors, including State institutions, businesses and investors, that produce information about development projects provide that information transparently. Specifically:

(a) Information about development projects should be shared with the affected communities as a matter of priority, in the language of those communities and in accessible formats;

(b) Information should be shared in a format that is accessible to the target populations (for example, technical information should be conveyed using language understood by laypersons; moreover, information should be made available online or be provided in conjunction with training to enable communities to access the information by telephone or other available media).

104. The Special Rapporteur recommends that Viet Nam ratify the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and enact the necessary implementing laws and by-laws.

## **F. Role of business**

105. The Special Rapporteur recommends that the Government ensure that companies respect all human rights (including the right to development) and that the responsible authorities take more sustained measures such as raising awareness, revising relevant laws and policies, offering incentives and disincentives to companies, encouraging the employment of persons with disabilities and engaging NGOs and universities to foster dialogues.

106. The Special Rapporteur also recommends that the Government integrate sustainable development and responsible business conduct provisions into its bilateral investment treaties.

107. The Special Rapporteur further recommends that the Government develop strategies to promote responsible business practices in the informal economy.

108. The Special Rapporteur recommends that all companies operating in Viet Nam act in line with the Guiding Principles on Business and Human Rights. They should develop processes to engage meaningfully all relevant stakeholders, speak up to preserve civic space, adopt a human rights policy, build internal capacity to conduct human rights due diligence, establish mechanisms to address the grievances of affected rights holders and contribute to realizing the Sustainable Development Goals.

109. The Special Rapporteur also recommends that the Formosa Ha Tinh Steel Corporation provide effective redress, including adequate compensation, to the thousands of individuals affected by its 2016 toxic discharge.

110. The Special Rapporteur further recommends that the Viet Nam Chamber of Commerce and Industry take more proactive measures to build the capacity of its members (in particular small and medium-sized enterprises) to embrace responsible business conduct as part of their operations.

## **G. Trade and investment agreements**

111. The Special Rapporteur recommends that the Government conduct research on how free trade agreements affect (both positively and negatively) marginalized or vulnerable groups such as children, ethnic minorities, the rural population, migrant workers and persons with disabilities. Moreover, to promote inclusive and sustainable development, initiatives such as the free trade agreement index, which is under development, should measure not merely the volume of trade but also the impact of trade on people and the planet.

## **H. Approval of development projects**

112. The Special Rapporteur urges the Government to work with all relevant stakeholders on finding solutions to simplify the approval procedures for development projects, without sacrificing the requirements for meaningful environmental and social impact assessments and consultations.