

President

Prof. Robert K. Goldman, United States

Vice-Presidents

Prof. Carlos Ayala, Venezuela
Justice Radmila Dragicevic-Dicic, Serbia

Executive Committee

(Chair) Dame Silvia Cartwright, New Zealand
Justice Sir Nicolas Bratza, United Kingdom
Ms Nahla Haidar El Addal, Lebanon
Mr Shawan Jabarin, Palestine
Mr Belisario dos Santos Junior, Brazil
Justice Sanji Monageng, Botswana
Ms Mikiko Otani, Japan
Prof. Marco Sassoli, Italy / Switzerland

Executive Committee Alternates

Justice Martine Comte, France
Ms Ambiga Sreenevasan, Malaysia

Other Commission Members

Ms Hadeel Abdel Aziz, Jordan
Prof. Kyong-Wahn Ahn, Republic of Korea
Justice Chinara Aidarbekova, Kyrgyzstan
Justice Adolfo Azcuna, Philippines
Dr. Elizabeth Biok, Australia
Ms Catalina Botero, Colombia
Mr Reed Brody, United States
Justice Azhar Cachalia, South Africa
Prof. Miguel Carbonell, Mexico
Justice Moses Chinhengo, Zimbabwe
Prof. Sarah Cleveland, United States
Mr Mazen Darwish, Syria
Ms Leilani Farha, Canada
Mr Gamal Eid, Egypt
Mr Roberto Garretón, Chile
Prof. Michelo Hansungule, Zambia
Ms Gulnora Ishankhanova, Uzbekistan
Ms Hina Jilani, Pakistan
Ms Jamesina Essie L. King, Sierra Leone
Justice Kalthoum Kennou, Tunisia
Prof. César Landa, Peru
Justice Qinisile Mabuzza, Swaziland
Justice José Antonio Martín Pallín, Spain
Prof. Juan Méndez, Argentina
Justice Charles Mkandawire, Malawi
Justice Yvonne Mokgoro, South Africa
Justice Tamara Morschakova, Russia
Justice Willy Mutunga, Kenya
Justice Egbert Myjer, Netherlands
Prof. José Luis Caballero Ochoa, Mexico
Justice John Lawrence O'Meally, Australia
Justice Fatsah Ouguergouz, Algeria
Dr Jarna Petman, Finland
Prof. Mónica Pinto, Argentina
Prof. Victor Rodríguez Rescia, Costa Rica
Mr Alejandro Salinas Rivera, Chile
Mr Michael Sfar, Israel
Justice Ajit Prakash Shah, India
Justice Kalyan Shrestha, Nepal
Justice Marwan Tashani, Libya
Mr Wilder Taylor, Uruguay
Justice Philippe Texier, France
Justice Lillian Tibatemwa-Ekirikubinza, Uganda
Prof. Rodrigo Uprimny Yepes, Colombia

H.E. Le Thanh Long

Minister of Justice, Viet Nam

H.E. General To Lam

Minister of Public Security, Viet Nam

13 March 2023

Your Excellencies,

Re: Criminal investigation against human rights lawyer Dang Dinh Manh in relation to the legitimate exercise of his professional duties and right to freedom of expression

On behalf of the International Commission of Jurists (ICJ), I am writing regarding the criminal investigation against Dang Dinh Manh, a lawyer and human rights defender, under article 331 of Vietnam's Penal Code. The ICJ is deeply concerned that Dang Dinh Manh is being subjected to undue criminal investigation that aims to impair his work as a lawyer and his right to freedom of expression protected under international human rights law.

We have received credible information that Dang Dinh Manh was summoned on 21 February 2023 by the Long An Police Investigative Agency to report to the Police on 2 March 2023 for an interrogation. This followed a request from the Department of Cybersecurity and High-Tech Crime Prevention of the Ministry of Public Security to potentially charge him under article 331 of Vietnam's Penal Code, for allegedly "abusing democratic freedoms to infringe on the interests of the State, organizations and individuals" by spreading images, words and articles online through video clips.

The criminal investigation against Dang Dinh Manh appears to be related to his work representing human rights defenders, political dissidents and other clients in apparently sensitive cases. Notably, Dang Dinh Manh is part of the team of lawyers representing Le Tung Van and his students in the Tinh That Bong Lai Temple case. Le Tung Van and the other defendants were convicted in July 2022 under article 331 for "abusing democratic freedoms". Dang Dinh Manh has expressed his concerns publicly through social media posts and videos about apparent due process violations by investigative agencies in the Tinh That Bong Lai Temple case, as well as other high-profile and sensitive cases that he has represented.

We further note with concern that there have been reports of at least four other lawyers who have been charged or investigated under article 331 since February 2023, two of whom worked with Dang Dinh Manh to represent the Tinh That Bong Lai Temple members.

Under international human rights law, lawyers, like other individuals, enjoy the right to freedom of expression. This right is protected by article 19 of the International Covenant on Civil and Political Rights (ICCPR), to which Vietnam is a State party. The UN Human Rights Committee, the body of experts mandated by the ICCPR to monitor its implementation, has emphasized in its General Comment No. 34 that protections for freedom of expression and opinion should extend to political discourse, commentary of public affairs, canvassing, and discussion of human rights. This protection also extends to online expression and information, as the UN Human Rights Council has reaffirmed in its June 2012 Resolution 20/8 that the same rights that people have offline must

also be protected online. Additionally, Principle 23 of the United Nations Basic Principles on the Role of Lawyers states clearly that a lawyer should be able to participate in public discussions of matters concerning the law, the administration of justice and the promotion and protection of human rights. Principle 16 also specifies that governments must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance or improper interference and must not face sanctions for discharging their duties in accordance with professional standards and ethics.

Furthermore, the UN Special Rapporteur on the independence of judges and lawyers has urged public prosecutors to “closely monitor situations and cases in which lawyers might be criminalized for performing their duties” and when such circumstances arise, “appropriate orders should be issued to prevent public prosecutors from maliciously prosecuting members of the legal profession who criticize State officials and institutions in the exercise of their independence and freedom of expression.” The Special Rapporteur’s comments came in an April 2022 report on protecting lawyers against undue interference in the free and independent exercise of the legal profession.¹

The ICJ is also concerned that article 331 of the Penal Code, which is being used to investigate Dang Dinh Manh and other human rights defenders, is inconsistent with international human rights law protecting the right to freedom of expression under the ICCPR. In fact, article 19(3) of the ICCPR provides that freedom of expression may only be subjected to certain restrictions that shall be provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security, public order, public health or public morals. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the UN Special Rapporteur on the situation of human rights defenders have previously noted the “lack of clarity and precision” in the formulation of article 331, and have expressed concern that it “unnecessarily and disproportionately limit[s] the legitimate activities of human rights defenders, civil society actors and social media activists in the country”.²

We therefore urgently request that your offices take immediate steps to:

- Cease the use of arbitrary criminal investigations against Dang Dinh Manh and other lawyers that are aimed at impairing their work as human rights lawyers and their right to freedom of expression;
- Take measures with a view to repealing or substantially amending article 331 of the Penal Code, in compliance with international human rights law that protect the right to freedom of expression and information; and
- Take all necessary measures to ensure the free exercise of the legal profession, in all circumstances, so that lawyers may exercise their legitimate professional rights and duties without fear of reprisals and free from all restrictions, including harassment through legal processes.

We appreciate your urgent attention to this matter. Please do not hesitate to contact us if you have any comments or questions. We stand by to provide any assistance required.

Yours Sincerely,



Ian Seiderman
Legal and Policy Director
International Commission of Jurists

¹ Human Rights Council, *Protection of lawyers against undue interference in the free and independent exercise of the legal profession*, UN Doc. A/HRC/50/36, 22 April 2022, para. 123.

² *Mandates of 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*, Reference AL VNM 4/2021, 1 November 2021.