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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

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 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
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Excellency,

We have the honour to address you in our capacities as 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 resolution 16/4, 15/21, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **amendments to the 2006 Law on Cybercrime which have the potential to significantly curtail freedom of opinion and expression on the internet, as well as the right to freedom of association and peaceful assembly.**

According to the information received:

On 12 November 2012, the President of the United Arab Emirates, Sheikh Khalifa Bin Zayed Al Nahyan, issued Federal Legal Decree No. 5/2012 on cybercrimes, amending the 2006 Law on Cybercrime. While the amendments contain provisions relating to the protection of information related to credit cards, bank accounts and internet payment methods, they also include a number of broad clauses and vague definitions that would allow authorities to prosecute various forms of peaceful dissent expressed on the internet.

According to the information received, certain clauses of the Federal Decree would threaten internet users with lengthy imprisonment and heavy fines for acts such as posting content online critical of the Government or calling for peaceful demonstrations.

Article 26 of the Federal Decree provides for a maximum of five years in prison and a fine of 1 million dirhams (US\$ 272,000) for anyone using information technology in any activities associated with an “unlawful” group, including the intent to facilitate contact between its leaders or members, attract members, promote or applaud its ideas, fund its activities, or provide active aid to it”, thereby violating the right to freedom of association and of peaceful assembly.

Under Article 28, anyone who uses information technology “with the intent of inciting actions, or publishing or disseminating any information, news, caricatures, or other images liable to endanger state security and its higher interests or infringe on the public order”, would face imprisonment and a fine of up to 1 million dirhams (US\$ 272,000).

Under the provisions of Article 29, individuals would face the same penalties for “using information technology with the intent of deriding or harming the reputation, stature or status of the state, any of its institutions, its president or vice president, the rulers of the emirates, their crown princes or their deputies, the state flag, national safety, its motto, its national anthem, or its symbols”.

Article 30 provides a sentence of up to life in prison for anyone using such means “to advocate the overthrow, change or usurpation of the system of governance in the state or obstruct provision of the constitution or existing law, or oppose the fundamental principles on which the system of governance is based”. Similar sentences are foreseen for those inciting or facilitating such acts.

The provisions contained in Article 32 foresee imprisonment and a fine of 500,000 dirhams (US\$136,000) for anyone using information technology in order to “plan, organize, promote or advocate demonstrations, marches, and the like without a permit from the competent authorities”.

Article 38 provides prison terms for anyone using information technology that “provides to any organizations, institutions, agencies or any other entities incorrect, inaccurate or misleading information liable to harm state interests or damage its reputation, stature or status”.

These provisions have the potential to prohibit UAE citizens from providing information to journalists and human rights organizations; from posting any content online which may be deemed as threatening state security or from calling for peaceful demonstrations.

Concern is expressed that the amendments introduced to the 2006 Law on Cybercrime through the provisions of Federal Legal Decree No. 5/2012 may form part of a broader pattern of crackdown on dissidents and human rights defenders and may have

the effect of silencing critical voices calling for freedom and democracy. Further serious concern is expressed at the fact that the promulgation of the above-mentioned amendments follows the detention of 64 peaceful dissidents and human rights defenders, who have yet to be charged. In this connection, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, 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, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers have sent a joint urgent appeal on 7 November 2012, to which no reply has been received yet from your Excellency's Government.

While we do not wish to prejudge the accuracy of these allegations, we wish to call your Excellency's Government's attention to the principle enunciated in article 15 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, as endorsed in E/CN.4/1996/39 of 1996, which provides that, no person may be punished on national security grounds for disclosure of information if (1) the disclosure does not actually harm and is not likely to harm a legitimate national security interest, or (2) the public interest in knowing the information outweighs the harm from disclosure. Furthermore, in line with article 1.2 of the mentioned Principles, any restriction on expression or information based on grounds of national security must have the genuine purpose and demonstrable effect of protecting a legitimate national security interest.

We also deem it appropriate to make reference to the principle enunciated, *inter alia*, by the Commission on Human Rights in its Resolution 2005/38, which called upon all States to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence and which violate international human rights law.

We would also like to call on your Excellency's Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association in accordance with fundamental principles as set forth in article 20 of the Universal Declaration of Human Rights which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association."

In this connection, we would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of

the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Additionally, we would like to refer your Excellency's Government to 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully;

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems; and

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Regarding the right to access and communicate with international bodies, we would like to draw the attention of your Excellency's Government to article 5, paragraph c) of the Declaration which states that in order to promote and defend human rights and freedoms fundamental everyone has the right, individually or collectively, both nationally and internationally, "c) to communicate with non-governmental or intergovernmental organizations." Similarly, Article 9, paragraph 4, states that "(a) (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms."

We also wish to recall the provisions of resolution 12/2 of the Human Rights Council (A/HRC/RES/12/2), which, inter alia, "condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights" (OP 2) and "calls upon all States to ensure adequate protection from intimidation or reprisals for individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights (...)" (OP 3).

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please indicate how the provisions contained in Federal Legal Decree No. 5/2012 are in compliance with the obligations of the United Arab Emirates under international human rights law, including the provisions contained in the Universal Declaration of Human Rights and the Arab Charter on Human Rights.
3. Please indicate any steps taken in order to bring the amended 2006 Law on Cybercrime in line with international and regional human rights standards relevant to the right to freedom of opinion and expression and the right to freedom of peaceful assembly and of association.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

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

Frank La Rue

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

Maina Kiai

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

Margaret Sekaggya

Special Rapporteur on the situation of human rights defenders