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HAUT COMMISSARIAT DES NATIONS UNIES
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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders

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Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 15/18, 16/4, and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged arrest and risk of expulsion of Mr. **Ahmed Abdul Khaleq Ahmed Karim Al Baloushi**.

Mr. Abdul Khaleq, aged 35, is a stateless person of Emirati origin who resides in Ajman in the United Arab Emirates. He was arrested in April 2011, reportedly in connection with comments made on an online political forum which calls for democratic reforms in the Gulf region. He received threats from prison authorities and inmates while in detention, as well as being kept in solitary confinement on several occasions. Procedural safeguards normally granted to criminal defendants were restricted during the trial of Mr. Abdul Khaleq and there were due process violations throughout the trial. On 27 November 2011, he was found guilty of publicly insulting State officials under articles 8 and 176 of the Penal Code and sentenced to two years' imprisonment. On 28 November 2011, a pardon was issued by the authorities, and Mr. Abdul Khaleq was released. Since his release, Mr. Abdul Khaleq has refrained from public criticism of the authorities or advocating for political reform.

Mr. Abdul Khaleq was already the subject of previous communications sent to your Excellency's Government on 27 September 2011 by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on torture and other cruel, inhuman or degrading

treatment or punishment (A/HRC/19/44, page 85); and on 25 November 2011 by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of expression, and the Special Rapporteur on the independence of judges and lawyers (A/HRC/19/44, page 146).

We regret that to date no reply to these communications has been transmitted by your Excellency's Government.

According to the new information received:

In early 2012, Mr. Abdul Khaleq and his family applied for Comorian citizenship after being pressured by authorities in the United Arab Emirates to do so with a view to begin 'legalising' their status in the United Arab Emirates. This is in line with reports which indicate that one of the methods used by the authorities in the United Arab Emirates of granting stateless persons legal status in the country is to ask them to acquire another nationality, in order to then apply for a residence permit in the United Arab Emirates. Reportedly, Comoros is one of the few nations willing to grant these persons citizenship.

On 21 May 2012, Mr. Abdul Khaleq and his family reportedly received notification that their application for Comorian citizenship had been accepted.

Reportedly, on 22 May 2012, a relative of Mr. Abdul Khaleq was summoned to the Department of Immigration of the Ajman Emirate in order to complete some paperwork. It is communicated that upon arrival, this individual was asked to call a number of relatives, including Mr. Abdul Khaleq, and to ask them to present themselves at the Department.

It is alleged that when they arrived, Mr. Ahmed Abdul Khaleq was immediately separated from his relatives and taken to an undisclosed location. It is indicated that no arrest warrant was shown and no reason was given to Mr. Khaleq's relatives for the arrest.

According to reports, the only contact that Mr. Khaleq has had with the outside world since his arrest was one brief phone call on 24 May. It is reported that he was first being held at Al Wathba Jail, before being transferred to Al Sadr Jail. Sources indicate that it is feared that he may be expelled from the United Arab Emirates and sent to Comoros, a place to which he has never been and to which he has no personal ties.

Concern is expressed that the alleged arrest of Mr. Khaleq and the alleged threat he faces of being expelled from the United Arab Emirates may be directly linked to his reported criticism of the Government and advocacy for political reform prior to his arrest in April 2011. Should the allegations be verified, further concern is expressed that they form part of a series of actions aimed at intimidating and silencing human rights defenders and political activists in the United Arab Emirates.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned person is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

In this connection, 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 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.
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Moreover, we wish to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

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, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Ahmed Abdul Khaleq and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR. Please provide information on whether Mr. Khaleq has access to family members and legal counsel.
4. Please indicate whether Mr. Khaleq is currently the subject of any judicial processes. If so, please provide detailed information on all such processes, including any criminal or administrative charges against Mr. Khaleq and the legal grounds thereof.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that your investigations support or suggest the

above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders