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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**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; 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.**

REFERENCE: UA G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (53-24)  
ARE 5/2013

7 November 2013

Excellency,

We have the honour to address you in our capacity 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; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 16/4, 24/5, 16/5, and 16/23.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged use of the new Cyber Crime Law to impose undue restrictions on online freedom of expression. Additionally, we have received information concerning allegations of torture against a group of detainees, as well as information regarding their deteriorating health.

The group of individuals known as the UAE 94 were previously the subject of an urgent appeal sent on 5 August 2013 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 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; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. We regret that no reply has thus far been received from your Excellency's government.

The Federal Legal Decree No. 5/2012 amending the 2006 Cyber Crime law (hereinafter the Cyber Crime Law) was the subject of a letter of allegation sent by the 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 to your Excellency's government on 4 December 2012. Again, we regret that to date no reply has been received.

Mr. **Waleed al-Shehhi** was a member of the legal team of the UAE 94 during their trial which took place last year. Dr. **Mohammed al-Mansoori**, Mr. **Ali al-Kindi**, Mr. **Ahmed al-Qobaisi** and Mr. **Jumaa al-Felasi** are part of the UAE 94 and are currently serving sentences at Al-Razeen prison. Mr. **Mohamed al-Zumer** was arrested on 5 December 2012 and was reportedly held incommunicado until 5 June 2013. He has been charged under the Cyber Crime Law, but has not yet been sentenced. .

According to the information received:

Mr. Waleed al-Shehhi was reportedly arrested on 11 May 2013 by State security forces. He appeared in court on 5 August 2013 and again on 19 August 2013. He is due to appear in court again on 30 September 2013 to face charges under the Cyber Crime Law. It is reported that he will be charged under articles 24, 29 and 41 of that law and article 262 of the Penal Code. The charges relate to comments he made on social media which supposedly "insulted the judiciary". Sources inform us that the postings expressed concern at irregularities in the trial of the UAE94, and also addressed the issue of the alleged incommunicado detention of members of Al-Islah before their transferral to Al-Wathaba prison. It is alleged that in no way did the postings comment on the judiciary or indeed any State body. If found guilty, Mr al-Shehhi faces up to 15 years imprisonment and a fine of up to 1 million dirhams (approximately €212,000).

It is alleged that from his arrest on 5 December 2012, Mr. Mohamed al-Zumer was held in solitary confinement until he was transferred to al-Sader jail on 23 May 2013. On 16 September 2013, the first hearing of the trial against him took place, and two more hearings took place on 24 and 29 October in which Mr al-Zumer was due to give evidence. Mr. al-Zumer is reportedly charged with using social media to "endanger State security and insult the rulers" under the Cyber Crime Law. Mr. al-Zumer denies the charges and claims to have simply peacefully supported those calling for pro-democratic reforms. There have been serious allegations that Mr. al-Zumer has been subjected to abuse and torture. The allegations about his treatment in detention are consistent with allegations made by members of the UAE 94, which were reportedly not adequately addressed during their trial. It is reported that Mr. al-Zumer has been kept in prison cells which were either very hot or very cold, that he was deprived of sleep, regularly beaten on the head, subjected to constant fluorescent lighting and was interrogated blindfolded after being deprived of sleep. Further allegations include not being allowed to use the toilet without removing all of his clothes, as well as being given a description of the harsh treatment meted out to all prisoners at al-Sader prison. It is reported that when Mr. al-Zumer began a hunger strike to protest these conditions, he was threatened with beatings and further torture unless he stopped.

It is further reported that 18 of the convicted 69 members of the UAE 94 have been on hunger strike to protest their conditions of detention and that their health rapidly deteriorated as a result. Six individuals began their hunger strike on 31 July 2013, two on 11 August 2013 and ten on 18 August 2013. We have received information that all 18 put an end to their strikes in the week ending 25 October 2013. The conditions they were protesting included alleged beatings by prison authorities, being barred from group prayer, having their cell windows painted black and locked shut, having their calls monitored and disconnected if they talk about certain subjects and restrictions on family visits. Sources indicate that restrictions on family visits are imposed even when families have obtained written permission from the Prosecutor to visit the detainees, and have driven for many hours to see them. It is further reported that Dr. Mohammed al-Mansoori's shoulder was dislocated during a beating by prison guards and that this precipitated the protest.

It is alleged that Dr. al-Mansoori fainted on a number of occasions and was administered glucose in the prison clinic. This is despite the fact that he reportedly refused medical attention until prison authorities responded to the concerns of the detainees. On 21 August 2013, Mr. Ali al-Kindi and Mr. Ahmed al-Qobaisi were hospitalized. They had been on hunger strike since 31 July. It is also reported that Mr. Jumaa al-Felasi collapsed in the prison and injured his head. He was administered glucose and his wound was bandaged but he was allegedly not brought to hospital.

Acute concern is expressed at allegations of abuse and mistreatment while in detention of the individuals mentioned above which, if confirmed, would conform to the UN definition of torture. Grave concern is expressed that alleged shortcomings in the judicial system and procedural guarantees and poor conditions in prisons have caused detainees to resort to hunger strike as a form of protest. Serious concern is expressed at the allegations that the new Cyber Crime Law is being used to limit freedom of expression online. Further concern is expressed at the possibility that the charges being brought against the above-mentioned individuals are related to their legitimate work defending human rights.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

We wish to refer your Excellency's Government to 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.”

We would also like to refer to article 20 of the UDHR 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.”

We would also 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 9 para. 3 point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms; and

- 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.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would like to draw the attention of your Excellency's Government to article 15 of the CAT, which provides that, "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

We also recall that paragraph 7c of Human Rights Council Resolution 16/23 urges States "To ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;"

We would like to draw your Excellency's Government's attention to article 4 of the CAT which requires States Parties to ensure that all acts of torture are offences under its criminal law and to make the offences punishable by appropriate penalties. In this regard we would also like to draw your attention to article 12 of the CAT, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires States Parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency's Government's attention to paragraph 3 of Resolution 2005/39 of the Commission on Human Rights which, "Stresses in particular that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national

authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;”.

We would also like to draw your Excellency's Government's attention to Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]”. We would also like to draw your Excellency's Government's attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.”

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 individuals 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. Please provide the details, and where available the results, of any medical or psychological evaluations or other inquiries which may have been carried out in relation to the allegations of torture outlined above. If no such inquiries have taken place, please explain why not.
3. In connection with the above, please kindly provide information about the state of health of the individuals mentioned above, as well as details of their access to independent medical professionals, independent legal representation and family members.
4. Please provide the full details of how the Federal Legal Decree No. 5/2012 amending the 2006 Cyber Crime law complies with the obligations under the international legal framework of human rights law and standards including, *inter alia*, article 19 and 20 of the UDHR.

5. Please explain what measures have been taken to ensure that all human rights defenders in the United Arab Emirates, in particular those working on civil and political rights, can carry out their peaceful and legitimate activities without fear of judicial harassment, violence, torture or any other restrictions.

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 individuals 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.

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opinion and expression

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