

**Mandates of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; and the Working Group on Arbitrary Detention**

REFERENCE:  
AL USA 18/2021

6 April 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights; and Working Group on Arbitrary Detention, pursuant to Human Rights Council resolutions 45/5 and 42/22.

We would like to bring to the attention of your Excellency's Government my serious concerns about the **negative impact on human rights of certain activities of the Department of State's "Rewards for Justice" program (P.L. 98-533, 22 U.S.C. § 2708, hereinafter "RFJ")**. Specifically, our concerns involve (1) the denial of human rights of foreign individuals who are not charged with crimes; (2) the inducement of third parties to assist in the denial of the human rights of said individuals; and (3) the coercion of foreign individuals to carry out crimes on behalf of the U.S. Government under the threat of punishment for not doing so.

We first wish to address the denial of human rights of foreign individuals who are not charged with crimes, and the inducement of third persons to assist in denying these rights.

According to information received,

RFJ offers financial rewards for information leading to the identification and/or the arrest or conviction of foreign individuals on foreign territory who are deemed by the U.S. Government to be involved in planning and/or committing, or to be otherwise associated with, acts of terrorism or the facilitation or financing of such acts.

RFJ publicizes the names, photographs and personal details of targeted individuals on its website and on Twitter, resulting in this information being widely disseminated by news media around the world.

RFJ specifies that some individuals about whom it seeks information have been charged with crimes, but for many others there is no public indication of charges having been brought against them in any jurisdiction. Some individuals who are not known to face charges but about whom RFJ offers rewards for information are targets of UN Security Council sanctions<sup>1</sup> or unilateral U.S. sanctions.<sup>2</sup>

We are sharing with your Excellency our concern that designating foreign individuals who have no criminal charges against them, and publicizing their names, photographs and personal details with the intent to bring about their capture, violate

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<sup>1</sup> For example, Abu Ubaidah (Direye) ([https://rewardsforjustice.net/english/abu\\_ubaidah.html](https://rewardsforjustice.net/english/abu_ubaidah.html)).

<sup>2</sup> For example, Salih al-Aruri ([https://rewardsforjustice.net/english/salih\\_al\\_aruri.html](https://rewardsforjustice.net/english/salih_al_aruri.html)).

their due process rights, including the right to be considered innocent until proven guilty, the right to fair trial and the right to defend oneself. Moreover, the public dissemination of this information may prejudice the individuals' ability to enjoy these – and other – rights in the future.<sup>3</sup> It also violates their rights to reputation and to privacy and can violate their rights to work, to freedom of movement and to family life as well as their right to life itself.<sup>4</sup>

Where these individuals are designated by your Excellency's Government in the absence of legal proceedings in the United States or any other jurisdiction, these actions operate as extrajudicial punitive sanctions against them. We note also that the designations can be subject to errors or abuses that would be precluded by the application of due process rules.

By offering financial rewards to persons who provide RFJ with the requested information about targeted individuals, as well as to persons who identify previously undesignated individuals, the program induces third parties, including news media that further disseminate the information and individuals attracted by the reward of money, to aid and assist RFJ in violating the aforementioned rights. As you may recall, a U.S. Government military program offering similar financial inducements to identify suspected terrorists led to the capture and imprisonment of foreign individuals on the basis of statements that later proved unsubstantiated, and that were likely made simply for the reward money.<sup>5</sup> As the risk of this is presumably greater among poor populations, it is relevant that low-income countries are increasingly sources of the international terrorism that RFJ seeks to counter.<sup>6</sup> Moreover, information from persons untrained in identification can lead to the pursuit and capture of the wrong individuals.<sup>7</sup>

The U.S. Government is required by law, and widely expected, to respect and protect the human rights mentioned above as part of obligations under the International Covenant on Civil and Political Rights (ICCPR), ratified by the United States on 8 June 1992, and through other agreements and instruments that are widely deemed to constitute customary international law, including the Universal Declaration of Human Rights (UDHR).<sup>8</sup>

Our second concern about the RFJ program is its coercion of individuals to carry out crimes under the threat of punishment for not doing so. We highlight the case of the captain of an Iranian oil tanker to illustrate my concern. This case was described in our

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<sup>3</sup> Due process may be denied through unduly suggestive pretrial identification (*Stovall v. Denno* (1967), 388 U.S. 293) and publicity (*Irvin v. Dowd* (1961), 366 U.S. 717).

<sup>4</sup> Three U.S. doctors were murdered in 1993-94 after appearing on an anti-abortion organization's "wanted posters" and website (*Planned Parenthood of the Columbia/Willamette, Inc. v. American Coalition of Life Activists* (290 F.3d 1058 (9th Cir. 2002) (en banc)).

<sup>5</sup> Alissa J. Kness, "The Military Commissions Act of 2006: An Unconstitutional Response to *Hamdam v. Rumsfeld*," *South Dakota Law Review* 52 (2007), p. 410; one such case was the 2004 trial of Murat Kurnaz.

<sup>6</sup> Walter Enders, Gary A. Hoover and Todd Sandler, "The Changing Nonlinear Relationship between Income and Terrorism," *Journal of Conflict Resolution* 60 (2) (2014), p. 22.

<sup>7</sup> Christopher M. Supernor, "International Bounty Hunters for War Criminals: Privatizing the Enforcement of Justice," *Air Force Law Review* 50 (2001), p. 244; he notes that "(e)ven highly trained police officers occasionally arrest the wrong individual."

<sup>8</sup> The UDHR, while not legally binding, is considered an authoritative guide to the interpretation of the human rights to which the UN Charter commits all of its members (Ian Brownlie (ed.), *Basic Documents on Human Rights*, 3rd ed. (1992), p. 21).

earlier communication (Ref. UA USA 9/21). We regret that we received no response to either that communication or any of my earlier communications.

According to the additional information received:

The captain, an Iranian national, had an employment contract with the National Iranian Tanker Company (NITC), a state enterprise, and was assigned to a vessel for a voyage to transport gasoline from Iran to Venezuela in 2020. While en route, on 22 May 2020, RFJ offered him \$5 million and personal protection to divert the tanker and its cargo to the control of U.S. authorities, with smaller payments and protection for its crew, and it threatened sanctions and possible U.S. criminal charges against him if he did not comply. RFJ stated that he was “supporting a U.S. designated foreign terrorist organization” as the tanker was “connected to the IRGC<sup>9</sup> of Iran.” The captain did not respond to the offer.

On 24 June 2020, the U.S. Office of Foreign Assets Control imposed sanctions against the captain, blocking his property and interests in property in the United States or in the possession or control of U.S. persons, and exposing persons engaging in transactions with him to secondary sanctions.

On 14 January 2021, the captain, no longer employed by the NITC and not at sea, received a message from RFJ informing him that his oil tanker was transporting petroleum products connected to the IRGC and offering a reward of up to \$15 million for information leading to the disruption of the IRGC’s illicit financial networks. The same day, RFJ’s Twitter account in the Persian language publicly disseminated the captain’s photo and referred to “Up to \$15 million in rewards,” naming him as well as the tanker and calling them “Part of Iran’s plan to support terrorism through oil.”

On 15 January 2021, the Persian-language TV channel Iran International reported that “The United States has set a reward for information leading to the capture” of the captain.

By requiring an individual to carry out tasks in exchange for financial compensation under the threat of punishment for not doing so, RFJ engages in forced labour as defined in the ILO Forced Labour Convention, 1930 (No. 29), a definition accepted by the United States through its ratification of the ILO Abolition of Forced Labour Convention, 1957 (No. 105) on 25 September 1991. Forced labour is prohibited by the ICCPR and other human rights instruments. The problem is exacerbated by the criminal nature of the tasks that RFJ requires of an individual in order to avoid punishment. In the case described here, these include maritime cargo theft, barratry, piracy and possible crimes of corruption, kidnapping and incitement to mutiny. Other legal consequences include personal liability for the value of the diverted cargo.<sup>10</sup>

As the penalty for not carrying out these tasks is the imposition of sanctions, we take the liberty to refer your Excellency to previous communications<sup>11</sup> in which we

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<sup>9</sup> Iranian Revolutionary Guards Corps.

<sup>10</sup> Iranian Maritime Law of 1964.

<sup>11</sup> AL USA 22/2020 of 26 August 2020, AL USA 24/2020 of 4 September 2020 and AL USA 30/2020 of 21 December 2020.

detailed the human rights that are violated by U.S. sanctions against individuals, including the right to life in the case described here, and in which we also express our concerns about the dubious legality of these unilateral sanctions under international law.

In connection with the concerns expressed above, we invite your Excellency to please refer to the **Annex on Reference to international human rights law applicable in this case** attached to this letter.

As it is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all matters brought to our attention, we would be grateful for your answers and observations on the following matters:

1. We would be very grateful if you could please explain whether, and if so how, the activities of the Rewards for Justice program take into account the State of the USA's human rights obligations under the conventions it has ratified..
2. Please explain whether your Excellency's Government monitors the impact of the activities of the Rewards for Justice program on the human rights of individuals about whom information is sought, and, in the case of breaches, whether it corrects them or intends to correct them.
3. Please elaborate on whether your Excellency's Government considers it possible to structurally align the activities of the Rewards for Justice Program with U.S. obligations pertaining to human rights, to the extent that it is not presently the case.

We would appreciate receiving a response within 60 days. Past this period, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

As usual, our approach consists, and will continue to consist in seeking to establish a confidential dialogue with states and other interlocutors, in order to allow for a fruitful exchange and discuss matters of concern to our mandate in a constructive manner. We have thus far not received a single response from Your Excellency's Government. We would rather continue to engage confidentially to the extent that a substantive dialogue does take place. In its absence, we may have to consider, as last resort, to highlight my concerns in a public manner. Should this be the case, any public statement on my part will indicate that we have been in contact with Your Excellency's Government to bring to its attention the issue in question and seek clarification.

While awaiting a reply, we urge that all measures be taken to ensure that your Excellency's Government conducts the Rewards for Justice Programme in full compliance with all aspects of the ICCPR and other elements of human rights law.

We would also like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its

regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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

Alena Douhan  
Special Rapporteur on the negative impact of unilateral coercive measures on the  
enjoyment of human rights

Elina Steinerte  
Vice-Chair of the Working Group on Arbitrary Detention

## Annex

### Reference to international human rights law

In connection with the above concerns, we would like to refer your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situations described in this communication:

We would like to draw your Excellency's particular attention to article 9 of the ICCPR which states that "everyone has the right to liberty and security. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."

We also refer to article 14 of the International Covenant on Civil and Political Rights (ICCPR) with respect to the extrajudicial designation of foreign individuals who are not charged with crimes but whose whereabouts are sought by RFJ, and with respect to the imposition of punitive sanctions against individuals who do not act in accordance with RFJ's requests. This article addresses the procedures that constitute due process. Article 14(2) establishes that all persons charged with a criminal offence are to be presumed innocent until their guilt is established through legal procedures. As a criminal charge is essential for establishing one's legal innocence as well as guilt, the presumption of innocence can only be strengthened if no criminal charges are levied. As for determining whether a crime has been committed, article 14(1) holds that everyone charged with a crime "shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law," during which the accused person has the right to defend himself in person or through legal assistance of his or her own choosing (article 14(3)(d)). This mandates a presumption that if no charge is brought, the act in question does not rise to the level of a crime for which a hearing shall be held.

The due process obligation is also addressed in article 2 of the ICCPR, which states that "any person whose rights or freedoms as herein recognized are violated shall have an effective remedy" (ICCPR, article 2(3)(a)), and that "any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy" (ICCPR article 2(3)(b)).

Further, Article 17 of the ICCPR, prohibits "arbitrary or unlawful interference with [a person's] privacy, family, home or correspondence" as well as "unlawful attacks on his honour and reputation."

With respect to forced labour, we refer to the ILO Abolition of Forced Labour Convention, 1957 (No. 105), which concerns forced labour imposed by states and which the United States ratified on 25 September 1991. The Convention augments the

ILO Forced Labour Convention, 1930 (No. 29) and carries forward the definition established in the earlier Convention's article 2(1), in which forced labour is considered "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." This definition remains in effect.<sup>12</sup>

Article 8(3) (a) of the ICCPR states that "No one shall be required to perform forced or compulsory labour." Although article 8(3)(c)(iii) allows for derogations "in cases of emergency or calamity threatening the life or well-being of the community," these criteria do not correspond to the illustrative case of the captain of the Iranian oil tanker cited in the letter to which this Annex is attached. Article 4 of the ICCPR elaborates the rules under which a party to the Convention may derogate from its obligations on the basis of an emergency, and the emergency declared by U.S. President Donald J. Trump in Executive Order 13846 of 6 August 2018, "Reimposing Certain Sanctions With Respect to Iran," which underlies the case, conforms to neither the conditions nor the procedures required.

As RFJ also threatened the captain with possible prosecution if he did not accept its offer, we refer to the prohibition of arbitrary arrest or detention, elaborated in article 9 of the ICCPR, insofar as his alleged support of a foreign terrorist organization is based on his job and employer being "connected to the IRGC," a situation he shares with more than 2 million other individuals.<sup>13</sup>

Article 12 of the ICCPR refers to the right to freedom of movement, as this right may be compromised by the publicity given by RFJ to the individuals it targets.

Regarding the right to life enunciated in ICCPR article 6, may we draw your attention to the UN Human Rights Committee's General Comment No. 36 (2018), which states that this right "concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death" and that the right to life "should not be interpreted narrowly." Obligations relating to foreign individuals are also addressed by this General Comment; paragraph 63 refers to each state's "obligation to respect and ensure the rights under article 6 of all persons who are within its territory and all persons subject to its jurisdiction, that is, all persons over whose enjoyment of the right to life it exercises power or effective control. This includes persons located outside any territory effectively controlled by the State whose right to life is nonetheless affected by its military or other activities in a direct and reasonably foreseeable manner."

The obligation to ensure the human rights of foreign individuals extends beyond the right to life. While the ICCPR, in article 2, obliges each state to respect and ensure all human rights enshrined therein "within its territory and subject to its jurisdiction,"

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<sup>12</sup> International Labour Organization, "ILO Standards on Forced Labour: The New Protocol and Recommendation at a Glance"  
[https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_508317.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_508317.pdf), p. 3.

<sup>13</sup> Jamshid Ansari, head of the Iranian Government's Administrative and State Recruitment Organization, quoted in "State Recruitment for 30,000 Jobs Scheduled," *Financial Tribune*, 27 August 2017, <https://financialtribune.com/articles/economy-domestic-economy/71224/state-recruitment-for-30000-jobs-scheduled>.

the Human Rights Committee established by the Covenant has judged this obligation to also apply extraterritorially.<sup>14</sup>

Finally, with regard to the right to work, we refer to article 23 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Convention on Economic, Social and Cultural Rights (ICESCR), which the United States signed on 5 October 1977. Although the United States is not directly bound by either of these instruments, its obligation to respect this right is widely acknowledged as customary international law, as reinforced by the United States' membership in the United Nations. Article 55 of the UN Charter calls on the United Nations to promote, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all," and article 56 creates an obligation for member states to cooperate with the United Nations in achieving that objective.

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<sup>14</sup> *Sophie Vidal Martins v. Uruguay* (**Comm. No. 57/1979, U.N. Doc. Supp. No. 40 (A/37/40) at 157 (1982)**); *Mabel Pereira Montero v. Uruguay*, Comm. No. 106/1981, U.N. Doc. Supp. No. 40 (A/38/40) at 186 (1983)).