

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 right to privacy

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8 February 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 the right to privacy, pursuant to Human Rights Council resolutions 40/16, 43/4, 41/12, 43/16 and 46/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning Law No. 20 of 2019 Promulgating the Law on Combating Money Laundering and Financing of Terrorism (Law No. 20). We understand this law to include expansive registration requirements for associations which may have a disproportionate effect on the capacity of civil society actors and groups to function (A/HRC/26/29, para. 52). We are particularly concerned that the legislation may result in the infringement of fundamental human rights, including the rights to freedom of association, freedom of expression, and privacy, all protected under the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social, and Cultural Rights (ICESCR) to which your Excellency's Government acceded to in 2018. We note that these rights are also protected by the Arab Charter, which your Excellency's Government ratified in 2013.

We respectfully underline the importance of maintaining and upholding the fundamental guarantees of international and human rights law, particularly with respect to counter-terrorism efforts. We stress that respect for international human rights law treaties and norms is a complementary and mutually reinforcing objective in adopting any effective counter-terrorism measure. Consequently, we recommend review and reconsideration of certain aspects of Law No. 20 to ensure its compliance with Qatar's international and regional legal obligations. We note that best international practice encourages States to independently review counter-terrorism and emergency law regularly to ensure it remains necessary and compliant with international law.

Applicable International and Human Rights Law Standards

We respectfully call your Excellency's Government's attention to the relevant provisions enshrined in the ICCPR and ICESCR. In particular, we underscore the importance of implementing international human rights standards applicable under ICCPR including article 19, guaranteeing the right of everyone to freedom of opinion and expression; ICCPR articles 21 and 22, guaranteeing the rights of everyone to freedom of peaceful assembly and of association; and ICCPR article 17, protecting

against arbitrary or unlawful interference with a person's privacy, reputation, and home. We also respectfully call your Excellency's Government's attention to ICESCR articles 3 and 6, which ensure the equal right of women to enjoy all enumerated economic, social, and cultural rights. Pursuant to article 2 of the ICCPR and ICESCR, your Excellency's Government is under a duty to take deliberate, concrete, and targeted steps towards meeting the obligations recognized in the respective Covenants, which include adopting laws and legislative measures as necessary to give domestic legal effect to the rights stipulated in the Covenants and to ensure that the domestic legal system is compatible with the treaties.

In addition, we 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, also known as the UN Declaration on Human Rights Defenders. The Declaration reaffirms each State's responsibility and duty to protect, promote, and implement all human rights and fundamental freedoms, including every person's right, individually and in association with others, "to form, join and participate in non-governmental organizations, associations or groups" and "to solicit, receive and utilise resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means" (A/RES/53/144, arts. 5, 13).

It is important to keep in mind the principle that the obligations of the State to protect, promote, and implement human rights continue to apply in the context of counter-terrorism, including when enacting countering the financing of terrorism measures. The financing of terrorism has long been a concern for States as evidenced by the negotiation and agreement on the 1999 International Convention for the Suppression of the Financing of Terrorism, which was designed to criminalize acts of financing terrorism—which Qatar acceded to on 27 July 2008. Since then, a number of Security Council resolutions have expressly called for the criminalization of terrorism financing, including the landmark Security Council Resolution 1373 and Security Council Resolution 2462, the first comprehensive resolution addressing the prevention and suppression of terrorism financing. The latter resolution "[d]emands that Member States ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism. . . comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law."

In parallel, the Financial Action Task Force (FATF) has set forth international practices and guidelines aimed at preventing global money laundering and terrorist financing. The FATF recommendations, while non-binding, provide recognized international guidance for the countering of terrorism financing. Recommendation 8 provides guidance to States on the laws and regulations that should be adopted to oversee and protect the subset of non-profit organizations (NPOs) that have been identified as being vulnerable to terrorist financing concerns. Such measures must be "focused and proportionate;" as a "a 'one size fits all' approach to address all NPOs is not appropriate." We respectfully remind your Excellency's Government that, as FATF has reaffirmed, implementation of Recommendation 8 requires implementation "in a manner which respects countries' obligations under the Charter of the United Nations and international human rights law."

Context and Content of Law No. 20

It is our understanding that Law No. 20 was passed on 11 September 2019, and effectively replaces Law No. 4 of 2010 as the State's primary law governing the financing of terrorism. Additionally, Law No. 27 on Combatting Terrorism was issued on 27 December 2019, replacing Law No. 3 of 2004.

Chapter 1 of Law No. 20 defines key terms, including "terrorist," "terrorist act," and "politically exposed persons." Chapter 2 specifically concerns the money laundering and terrorist financing offences. Chapter 3 provides for preventative measures and introduces the requirement that NPOs adopt a risk-based approach. Chapters 7 and 9 stipulate the powers of supervisory and investigative authorities, including in the regulation of NPOs.

Issues Concerning Human Rights

NPO Registration Requirements

We observe that article 40 of Law No. 20 prohibits NPOs from operating within Qatar "[w]ithout a prior license or registration from the regulatory authorities." Article 40 further specifies that, "[w]hen considering applications for license, registration or renewal, the regulatory authorities shall verify identities of the shareholders in the requesting entity, the main management as well as true beneficiaries."

We are concerned that the present NPO registration requirements may unduly restrict protected rights and freedoms, without regard for the objective criteria of necessity, proportionality, and non-discrimination under international law. (CCPR/C/21/Rev.1/Add.13, para 6; CCPR/C/GC/18, para. 1). We draw your Excellency's attention to the Human Rights Committee's findings that stringent and undue registration requirements for civil society organizations may impede their activities protected under the ICCPR. (A/61/267, para. 23). Procedures governing registration must be "simple, easily accessible, non-discriminatory, and non-onerous or free of charge." (A/HRC/20/27, para. 95). We note that the requirement to identify all "true beneficiaries" is particularly burdensome for NPOs, particularly smaller, community-based organizations that may have the administrative resources to identify each specific individual. Such burdensome registration requirements can particularly impede the work of women-led organizations. (A/HRC/40/52, para. 42; A/HRC/46/36, para. 13). In this regard, we refer to FATF's Interpretative Note to Recommendation 8, which recognizes that while NPOs "could be required to take reasonable measures to confirm the identity, credentials and good standing of beneficiaries," that "does not mean that NPOs are expected to identify each specific individual, as such a requirement would not always be possible and would, in some instances, impede the ability of NPOs to provide much-needed services."

We urge your Excellency's Government to ensure that the license and registration requirements for NPOs under Law No. 20 do not impede the legitimate activities of NPOs, including the exercise of the rights to freedom of association and associated freedoms guaranteed under the ICCPR and ICESCR. We echo the concern of the Special Rapporteur on the right to freedom of peaceful assembly and of association, that "[m]andatory registration. . . provides an opportunity for the State to refuse or delay registration to groups that do not espouse 'favourable' views."

(A/HRC/26/29, para. 54). Similarly, we draw your Excellency's attention to the fact that "[t]he use of national security or counter-terrorism legislation to restrict or prohibit the formation or registration of associations is often detrimental to the right to freedom of association of minority groups." (A/HRC/26/29, para. 59).

In addition, we observe that article 40 of Law No. 20 does not include a mechanism for appealing denials of registration applications. In this regard, we reaffirm the conclusion of the Special Rapporteur on the right to freedom of peaceful assembly and of association, that "associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an impartial and independent court" (A/HRC/20/27, para. 61).

Surveillance and Disclosure

We are concerned that the surveillance and disclosure powers of the Regulatory Authority for Charitable Activities (RACA) as stipulated in Law No. 20 may unlawfully infringe on the protected right to privacy under article 17 of the ICCPR. Subsequently, it may also contravene article 19 of the ICCPR, as the right to privacy is often understood as an essential requirement for the realization of the right to freedom of expression as the undue interference with individuals' privacy can both directly and indirectly limit the free development and exchange of ideas (A/HRC/23/40). In particular, we observe that article 41 of Law No. 20 stipulates that "[p]rovisions of confidentiality, provided for in the laws, shall not prevent the regulatory authorities from having access to any information held by the bodies under their control whenever necessary to carry out their duties. Access to this information shall not be conditional on obtaining prior authorization from a judicial authority." We are troubled that this provision would negate other legal guarantees of confidentiality risk impinging on affected individuals' rights to privacy. In this regard, we emphasize the Human Rights Committee's statement that, in order to ensure the right to privacy, "confidentiality of correspondence should be guaranteed *de jure* and *de facto*" (CCPR/C/GC/16, para. 8).

We are also concerned with the apparent lack of procedural safeguards—namely the lack of judicial oversight—to oversee the authority of regulators to surveil individuals and NPOs. We echo the findings of the United Nations High Commissioner for Human Rights, that any laws authorizing surveillance "need to be sufficiently precise," circumscribing with "reasonable clarity" any discretion given to government actors, in deciding whom to surveil. (A/HRC/39/29, para. 35). We remind your Excellency's Government of the conclusion of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, that "national laws must. . . [e]nsure that a surveillance operation be approved for use against a specific person only in accordance with international human rights law and when authorized by a competent, independent and impartial judicial body, with all appropriate limitations on time, manner, place and scope of the surveillance." (A/HRC/41/35, para. 50(c)).

Furthermore, the disclosure requirements in article 43 of Law No. 20 may impede the right to privacy and the right to freedom of association. Article 43 of Law No. 20 provides that "NPOs shall keep information and records for a period of not less than ten years and make them available to the competent authorities." Article 43 of Law No. 20 also states that "NPOs shall. . . enable [RACA] to have access and acquire all the information it requests in the form and within the time limit it sets.

Those bodies involved in the activities of the NPOs must provide information requested by the Authority.” We emphasize that this broad access to regulatory authorities absent adequate safeguards may contravene the principles of legality, necessity, and proportionality under international law and may open the door to targeting NPOs on the basis of their political or ideological views. While the provision acknowledges the need to apply a “risk-based approach,” we are concerned that the burden of collection on NPOs may be disproportionate to the stated purpose. We note the observation of the Special Rapporteur on the rights to freedom of peaceful assembly and of association that “[l]egislation that provides broad discretion to authorities to monitor or oversee the activities of associations poses a grave risk to the continued existence of organizations that engage in activities perceived to be threatening to the State” (A/HRC/26/29, para. 16).

We also observe that articles 50 and 53 of Law No. 20 respectively grant the Public Prosecution the power to use special investigative techniques—covert investigations, audio-visual surveillance, access to information systems, interception of communications and controlled deliveries—and to “order the examination or immediate access to records held by [financial institutions, designated non-financial business or profession, or any other person,” as well as “any information or data relevant to accounts, deposits, trust funds or any other funds or transactions that may assist the Public Prosecution in detecting facts of any potential ML, FT or predicate offences, or to identify and track the proceeds of such crimes.”

We caution that these broad powers to access personal information may lack sufficient procedural and judicial safeguards, thus raising serious concerns regarding the privacy protections required under the ICCPR. We recall that any restrictions on the right to privacy on counter-terrorism grounds must comply with the objective criteria of legality, proportionality, necessity, and non-discrimination. The measures restricting fundamental freedoms and rights must therefore be the least restrictive measure available. “The onus is on the Government to prove that a threat to one of the grounds for limitation exists and that the measures are taken to deal with the threat.” (A/61/267, para. 20). Furthermore, we are concerned that the investigatory powers may in turn impede the full enjoyment of the rights to freedom of expression and opinion.

Penalties and Sanctions

We note that article 44 enables your Excellency’s regulatory authorities, including RACA, to take various disciplinary actions against organizations or their leadership on the basis that they fail to comply with other provisions of Law No. 20 “or any decisions or guidelines on AML/CFT.” Under article 44, RACA is authorized to “[l]imit powers of the directors, Board Members, executives or officials—including by temporarily banning them—and to appoint “a special administrative supervisor or subjecting. . . NPOs to direct control.” Article 44 also stipulates that RACA is empowered to “[b]an violators from working in relevant sectors, on permanent or temporary basis”; to “prohibit continuation of work, practice of profession or activity”; and engage in the “[s]uspension or restriction of licenses” of NPOs.

We are concerned that these provisions may be implemented in a manner that impinges the rights to freedom of association and freedom of expression and opinion, the right to participate in public affairs, and the right to work, as well as related social and economic rights. We emphasize that any administrative penalties must be enacted

in accordance with the international law requirements of legality, proportionality, necessity, and non-discrimination, as well as in accordance with due process and procedural rights. Independent oversight mechanisms and judicial review processes are vital to minimizing arbitrariness and abuse in the implementation of such penalties.

We note that, under article 44, any of RACA's enforcement actions "may be complained about as per controls, procedures and deadlines specified in regulations." We echo the Special Rapporteur on the rights to freedom of peaceful assembly and of association, that "States have an obligation to establish accessible and effective complaints mechanisms that are able to independently, promptly and thoroughly investigate allegations of human rights violations," including actions that contravene the freedom of association. (A/HRC/20/27, para. 77). As the Human Rights Committee has explicated in General Comment 31, the right to "accessible and effective remedies to vindicate...rights" is contained within article 2(3) of the ICCPR. (CCPR/C/21/Rev.1/Add.13, para. 15). We respectfully underline the importance of ensuring that the existing complaints mechanisms satisfy these guarantees.

With regard to the enumerated penalties, we respectfully call your Excellency's Government's attention to the Committee on Economic, Social, and Cultural Rights' statement in General Comment 18 that "[t]he right to work, as guaranteed in the ICESCR, affirms the obligation of States parties to assure individuals the right to freely chosen or accepted work, including the right not to be deprived of work unfairly." (E/C.12/GC/18, para. 4). We are especially concerned about the potential consequent effects of the stipulated penalties on families and private life, which may directly impact the economic and social rights of family members, including children, as documented by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/46/36, para. 13).

We also emphasize that under the ICCPR, "[s]uspension or involuntary dissolution of associations" should only occur if "sanctioned by an impartial and independent court in case of a clear and imminent danger resulting in a flagrant violation of domestic laws, in compliance with international human rights law" (A/HRC/20/27, para. 100). Governments should result to mandated dissolution of associations "only when softer measures would be insufficient" (A/HRC/20/27, para. 75).

Finally, we observe that article 57 grants the Public Prosecution the power to freeze or seize any assets or funds of individuals or organizations during its investigation of terrorism financing. Unlike the aforementioned provisions providing for the Public Prosecution's powers, we understand that article 57 does have a clause limiting the Public Prosecution's authority: after one's assets are frozen or seized, "such measures may be lifted or amended at any time by competent court upon a request from the Public Prosecutor, the suspects, or persons claiming rights to these properties." While this is a commendable safeguard, we underline the importance of enforcing due process and procedural rights prior to resorting to such actions. We note the severity of such measures and the detrimental impact that they may have on right to freedom of association and other social and economic rights. We respectfully recall that the freedom to contribute, solicit, and maintain contributions and funds is essential for NPOs to carry out their legitimate activities. In this regard, experts have noted that limitations on access to funds may severely restrict the existence of NPOs,

particularly affecting human rights and women's organizations (A/HRC/40/52, para. 42).

As it is our responsibility under the mandates that the Human Rights Council has provided to us to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned concerns.
2. Please provide information on what procedural safeguards your Excellency's Government has implemented to ensure that regulators' powers to surveil and access the records of NPOs pursuant to Law No. 20, are exercised in accordance with the principles of legality, necessity, and proportionality.
3. Please indicate what procedures are available for individuals, including human rights defenders, and NPOs to complain about enforcement actions taken by RACA and the Public Prosecution, and what remedial measures are available, including measures to redress financial and reputational harm, as well as violations of data privacy rights.
4. Please provide the most recent National Risk Assessment and any additional information related to its findings and recommendations.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

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