

**Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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**

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(Please use this reference in your reply)

10 January 2024

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; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 49/10, 51/8, 54/14, 53/4, 52/9, 50/17, 52/4, 53/12 and 52/7.

In this connection, we would like to express our deepest concern about the new charges brought against 84 of the 133 individuals who were indicted in 2011 for calling for democratic reforms in the United Arab Emirates (UAE). Ninety-four of these defendants were sentenced to long prison terms under terrorism-related charges (the “UAE 94” trial). Most of them were detained beyond the completion of their previous sentences. The 84 individuals subject to new charges under the 2014 Counter-Terrorism Law include **Husain Moneif al-Jabri, Hasan al-Jabri, Sultan Bin Kayed Mohammed al-Qasimi, Rashed Omran Ali Obeid al-Shamsi, Khalid Mohammed Abdullah al-Shiba al-Nuaimi, Ibrahim Ismail Ibrahim al-Yasi, Mohammed Abdullah al-Roken, Abdulsalam Mohammed Darwish al-Marzooqi, Fouad Mohammed Abdullah Hasan al-Hmadi, Hadeef Rashed Abdallah Nasser al-Aowis, Mohammed Ali Saleh al-Mansori, Khalifa Hilal Khalifa Hilal al-Nuaimi, Nasser Bin Ghaith al-Marri, Mahmood Hasan al-Hosani, Mansour Hassan al-Ahmadi, Hamad al-Shamsi, Mohammed Saqr al-Zaabi and Mr. Ahmed al-Shaiba al-Nuaimi**. We express our concern about the alleged irregularities in the latest trial, known as UAE 87, related to the non-observance of fair trial guarantees and the use of torture or other cruel, inhuman, or degrading treatment or punishment to extract forced confessions. We also express our concern about the deterioration of the health of certain of these individuals during their years of detention and the incommunicado detention of at least twelve of these individuals.

We remind your Excellency’s Government that Special Procedures mandate holders have previously raised concerns on the UAE 94 trial in two letters dated 7 November 2012 (ARE 7/2012) and 16 April 2013 (ARE 1/2013), respectively. These concerns have been reiterated in communications ARE 1/2021, ARE 3/2021

and ARE 1/2022, which focused on the arbitrary detention and sentencing of human rights defenders. Furthermore, the arrest and detention of 60 defendants in the ‘UAE 94’ trial was deemed arbitrary in Opinion No. 60/2013 by the Working Group on Arbitrary Detention (WGAD) during its 68<sup>th</sup> session, and the Working Group requested their immediate release and the adoption of adequate measures of reparation. Recently, the WGAD reiterated its concerns in Opinion 19/2023 and considered that article 40 (1) of the Counter-Terrorism Law does not meet the standards of international human rights law. The Working Group also considered that detention imposed indefinitely under the pretext of “rehabilitation needs” does not alter the fact that the law results in the incarceration of persons and, therefore, must adhere to the applicable body of international human rights law.

We have also raised our concerns about Federal Law No. 7/2014 for the purpose of countering terrorism (hereinafter "Counter-Terrorism Law") and its application in a letter sent to your Excellency's Government on 13 November 2020 (ARE 6/2020). While reiterating our recommendation to review the legislation to align it with international human rights standards, we regret that no reply has been received to date. We further note that some of the issues related to this letter, including the impact of the Counter-Terrorism Law on freedom of opinion and expression, freedom to receive and communicate information and ideas, freedom of peaceful assembly and association, and the prohibition of arbitrary detention, as well as the pattern of torture and ill-treatment of persons accused of terrorism offences, and the fact that these persons are subject to a legal regime with fewer procedural safeguards than those charged with crimes not classified as related to terrorism were raised in the last cycle of the UAE Universal Periodic Review (2023) (see A/HRC/WG. 6 /43/ARE/2, paras. 13, 19, 26, 27 and 32). The Universal Periodic Review Working Group recommended the revision of the Counter-Terrorism Law to align it with international human rights standards and ensure that terrorism is not a ground for limiting public dissent (A/HRC/54/15).

According to the information received:

#### *Context*

In March 2011, the United Arab Emirates' State Security Apparatus (SSA) allegedly initiated a campaign of arrests against a group of 133 Emirati academics, judges, lawyers, students, and human rights defenders who signed a petition addressed to the President of the United Arab Emirates and the country's Federal Supreme Council calling for democratic reforms. The SSA allegedly subjected those arrested to secret and prolonged *incommunicado* detention and severe acts of torture. There are reasons to believe that some individuals were also subjected to solitary confinement. Secret detention is prohibited under international law and amounts to enforced disappearance and other cruel, inhuman, or degrading treatment or punishment.

On 7 January 2013, the 94 defendants were charged with founding, organising and administering an organisation aimed at overthrowing the Government on the basis of articles 117, 180/1 and 182 of the UAE's Penal Code. Arrested individuals were later sentenced in a mass trial, known as the “UAE 94” trial, before the Special Security Court within the Federal Supreme Court in Abu Dhabi. In July 2013, the Court convicted 61 of the 94 defendants, in addition to eight individuals *in absentia*, on counterterrorism and cybercrime-related

charges, sentencing them to between 7 and 15 years in prison, allegedly based largely on coerced self-incriminating confessions, which were made by defendants while being interrogated in custody by SSA agents.

### *The UAE 87 trial*

It is alleged that in December 2023, in the context of COP28 UAE (the United Nations Climate Change Conference), the UAE authorities brought new charges against a group of 84 individuals under its counterterrorism law, allegedly in retaliation for forming an independent advocacy group in 2010.

The 84 individuals have been referred to the Abu Dhabi Federal Appeal Court to face charges for establishing, supporting, and financing a terrorist organisation, per the UAE's counter-terrorism law, particularly articles 21 and 29. It is reported that 43 of the men have been charged with establishing a terrorist organisation and 44 with supporting and endorsing a terrorist organisation.

The UAE87 group includes prominent activists and dissidents already serving prison sentences, including detainees from the UAE94 case, many of whom are allegedly nearing the end of their sentences or have been arbitrarily held in detention after the completion of their sentences. The trial started on 7 December 2023. This joint prosecution would constitute the second-largest political mass trial in the UAE's history after the UAE94 case. The 84 individuals accused include political activists, journalists and human rights defenders.

Concerns have been expressed over the possibility that these new charges have been imposed on the defendants with the purpose of extending the sentences of those already released or about to be released, reflecting a broader pattern of suppression of dissent and civil society in the UAE. According to the information received, the defendants have been forced to sign documents confessing to committing “terrorist acts”.

The charges imposed on these 84 defendants carry severe penalties, including death and life imprisonment, under article 21 of the Counter-Terrorism Law.

On 1 December 2023, all 84 individuals facing new terrorism charges were able to contact their families. However, only two were able to inform their families of the new charges and ask for a lawyer. The information suggests that these 84 individuals did not have adequate access to counsel of their own choosing, or legal aid. The information further suggests that only a few were able to appoint lawyers to assist in their defense. However, the lawyers were not allowed to sit with them, nor were they allowed to receive the case papers or view their client's files. In one instance, a lawyer reportedly had to sign a commitment not to share the case papers with the defendants or their families. Another lawyer said that he reviewed the case papers in the prosecutor's office but was not allowed to take a copy with him.

Reportedly, three detainees said that they were not informed of the new charges or the trial ahead of time but only heard about it after the first hearing. During this first hearing, which took place on 7 December 2023 at the Abu

Dhabi Federal Appeals Court, the defendants were present, and their names and their charges were read out.

The second hearing of the trial was on 14 December 2023, also before the Abu Dhabi Federal Appeals Court. It focused on the testimonies of the Public Prosecution Office (PPO) witnesses. It was noted that these witnesses were three SSA members who wore black masks to hide their identities. The hearing took place secretly, with no presence of any local media. Some relatives of the defendants were able to attend the trial. However, they were taken to a separate room equipped with a muted sound screen to follow the session's proceedings. The third hearing took place on 21 December 2023. The next session will be on 11 January 2024.

It is alleged that the human rights implications raised by the latest charges brought against the UAE87 defendants are part of a pattern of violations arising from the arrests of the UAE94 conducted in 2012. According to the information received, most defendants have been detained under the Munasaha regime, regulated by the Counter-Terrorism Law and the Munasaha Centre Law, two pieces of legislation which have been highlighted as problematic for allowing the targeting of peaceful dissidents in the UAE.

Furthermore, it is asserted that the new charges pressed against the complainants and the UAE87 as a whole largely contradict the prohibition against double jeopardy (*ne bis in idem*) because they relate to events in 2011, for which these individuals had already been convicted in 2013 and for which some had already served or are serving prison terms. Furthermore, concerns were brought about the fact that the Counter-Terrorism Law was promulgated in 2014, while the acts for which the defendants are accused date back to 2011, contradicting the legal principle that a law can only be applied to an act that occurs after the law was adopted.

*Some of the defendants in the ongoing trial*

*Mr. Mohamed Abdullah Al-Roken* (محمد عبد الله الركن) is an Emirati lawyer, human rights defender and the former President of the Emirates Jurists Association, born on 26 September 1962. In his legal work, Mr Al-Roken provided legal assistance to victims of human rights violations and human rights defenders in the United Arab Emirates, most notably some members of the 'UAE 5' and the 'UAE 7' – individuals who were persecuted for their criticism of government policies and their membership of the Reform and Social Guidance Association (Al-Islah), respectively. He was arrested on 17 July 2012, as part of the "UAE94", and was sentenced to 10 years' imprisonment. He completed his sentence on 17 July 2022 but remains detained. He was the subject of WGAD Opinions No. 60/2013 and No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA. The first arrest of Mr. Al-Roken was the subject of the joint communication sent by Special Procedures mandate holders to your Excellency's Government on 8 September 2006 (ARE 7/2006). The arrest, detention and trial of human rights defenders, judges and lawyers, including Mr. Al-Roken, referred to as the 'UAE 94' case, was the subject of two communications by the Special Procedures mandate holders to

your Excellency's Government, ARE 7/2012 and ARE 1/2013, sent on 7 November 2012 and 16 April 2013 respectively. On 31 July 2019, the Special Procedures mandate holders sent a joint communication (ARE 3/2019) to your Excellency's Government concerning the continued detention and alleged ill-treatment of Mr. Al-Roken in Al-Razeen prison. We would like to thank your Excellency's Government for the responses received to all of the above-mentioned communications. However, we regret that the response to ARE 3/2019, dated 17 October 2019, was limited to denying the allegations without meaningfully addressing them with verifiable information or further details. The latest communication on Mr. Al-Roken was sent on 25 January 2021. We would like to acknowledge the reply received from your Excellency's Government on 24 March 2021 but note once again with regret that the reply is limited to denying the allegations and characterizing them as 'unfounded'.

*Mr. Hadeef Rashed Abdallah Nasser al-Aowis* (هادف راشد عبد الله ناصر العويس) is an Emirati citizen, born on 1 October 1958. He is a lawyer and was the head of the law department at the College of Sharia and Law at the United Arab Emirates University and the dean of the College of Graduate Studies. He was arrested on 11 September 2012 and sentenced to 10 years in prison on 2 July 2013 for "establishing and managing an organisation with the aim of committing crimes that harm State security, opposing the Constitution and the basic principles of the UAE ruling system and having links and affiliations to organisations with foreign agendas" under the Federal Criminal Code, and the Counter-Terrorism Law (ARE 3/2021). He was the subject of a letter sent to your Excellency's Government on 16 April 2013 (ARE 1/2013). We acknowledge your Excellency's Government reply to this letter. He completed his sentence on 11 September 2022 but remains detained. His fate and whereabouts were unknown from 18 July 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Mohamed Ali Saleh Al-Mansori* (محمد على صالح المنصوري) is an Emirati citizen, born on 16 July 1957. He was the Director of the Office of the Crown Prince of Ras Al Khaimah. He was a prominent lawyer working on human rights issues and was the former head of the United Arab Emirates Jurists' Association board, which was dissolved by the authorities in 2011. Mr. al-Mansori was arrested on 16 July 2012 after signing the petition calling for democratic reforms. On 2 July 2013, he was sentenced to 10 years of imprisonment with an additional three years of probation. Mr. Al-Mansori was subject of six communications sent to your Excellency's Government on 7 November 2013 (ARE 5/2013), 16 April 2013 (ARE 1/2013), 7 November 2012 (ARE 7/2012), 15 January 2010 (ARE 1/2010) and 8 September 2016 (ARE 7/2006). We thank your Excellency's Government for its replies to ARE 1/2013, ARE 7/2012 and ARE 7/2006. He completed his sentence on 16 July 2023 (an additional prison sentence was handed down in another case) but remains detained. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally allowed to call his family from an unidentified facility of the SSA.

*Mr. Nasser Bin Ghaith al-Marri* (ناصر بن غيث المري) is an Emirati citizen and a university lecturer at the Abu Dhabi branch of the Paris-Sorbonne University. He is a human rights defender and an academic, previously lecturing in

economics at the above-mentioned university before he was arrested on 18 August 2015. Mr. Bin Ghaith was one of the five men in the ‘UAE 5’ case, arrested and imprisoned in 2011 along with Mr. Mansoor. He was convicted and sentenced on 29 March 2017 to ten years in prison on charges including “posting false information” about UAE leaders and their policies. He is expected to complete his sentence on 18 August 2025. Mr. Bin Ghaith was the subject of previous communications sent on 26 April 2011 (ARE 4/2011), 27 September 2011 (ARE 6/2011) and 25 November 2011 (ARE 8/2011), regarding his arrest and prosecution in the case known as ‘UAE 5’, and again on 27 August 2015 (ARE 3/2015), concerning his arrest on 18 August 2015. He was also the subject of a communication sent on 3 May 2017 (ARE 3/2017) regarding his conviction and sentencing to 10 years’ imprisonment under the provisions of the Penal Code, the 2012 Cybercrime Law, and the 2014 Counterterrorism Law, and ARE 1/2021, concerning the conditions of his detention and hunger strikes.

*Mr. Husain Moneif al-Jabri* (حسين منيف الجابري) is an Emirati citizen, born on 29 March 1959. Before his arrest, he was the head of the training and development department at the Abu Dhabi municipality. He is currently stateless as his Emirati citizenship was revoked. He was arrested on 9 April 2012 as part of the “UAE 94”. He was sentenced to 10 years of imprisonment with an additional three years of probation. He completed his sentence in April 2022 but remains detained. He was the subject of WGAD Opinion No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Hasan al-Jabri* (حسن منيف الجابري) was born on 15 June 1960 and acted as Director of the Office of the Diwan – Charitable Work. He is currently stateless as his Emirati citizenship was revoked. He was arrested on 9 April 2012, as part of the “UAE 94” and was sentenced to 10 years of imprisonment with an additional three years of probation. He completed his sentence in April 2022 but remains detained. He was the subject of WGAD Opinion No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Sultan Bin Kayed Mohammed al-Qasimi* (سلطان بن كايد محمد القاسمي) is an Emirati citizen who was born on 23 March 1958. He is a member of the ruling family of the Ras al-Khaimah emirate and a leader of al-Islah, a political association in the UAE. He was arrested on 20 April 2012 as part of the “UAE 94” and was sentenced to 10 years of imprisonment. He completed his sentence in April 2022 but remains detained. He was the subject of WGAD Opinions No. 60/2013 and No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Rashed Omran Ali Obeid al-Shamsi* (راشد عمران علي عبيد الشامسي) is an Emirati citizen who was born on 11 February 1977. He was the Media and Loyalty Programs director at al-Ittihad Association, Dubai. He was arrested on 16 July 2012 as part of the “UAE 94” and was sentenced to 10 years of imprisonment with an additional three years of probation. He completed his

sentence on 16 July 2023 (an additional prison sentence was handed down in another case) but remains detained. He was the subject of WGAD Opinions No. 60/2013. His fate and whereabouts were unknown from June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Khalid Mohammed Abdullah al-Shiba al-Nuaimi* (خالد محمد عبد الله الشيبية النعيمي) is an Emirati citizen who was born on 1 December 1951. He is the Director of the Social Guidance and Counselling Association. He was arrested on 1 July 2012 as part of the “UAE 94”. He completed his sentence on 16 October 2023. An additional prison sentence was handed down in another case, and therefore remains detained. He was the subject of WGAD Opinion No. 60/2013. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Ibrahim Ismail Ibrahim al-Yasi* (إبراهيم إسماعيل إبراهيم الياسي) is an Emirati citizen who was born on 1 October 1961. He was Secretary General of the Executive Council of the Emirate of Ajman. He was arrested on 16 July 2012 as part of the “UAE 94”. On 2 July 2013, he was sentenced to ten years in prison, followed by three years’ probation. His sentence expired on 16 July 2022. He was the subject of WGAD Opinion No. 19/2023. His fate and whereabouts were unknown from June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Abdulsalam Mohammed Darwish al-Marzooqi* (عبد السلام محمد درويش المرزوقي) is an Emirati educator born on 19 December 1970. He was the head of the Family Reform Department in Dubai Courts. He was arrested on 24 July 2012, as part of the “UAE 94” and was sentenced to 10 years of imprisonment with an additional three years of probation. He completed his sentence on 24 July 2022 but remains detained. He was the subject of WGAD Opinions No. 60/2013 and No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Fouad Mohammed Abdullah Hasan al-Hmadi* (فؤاد محمد عبدالله حسن الحمادي) is an Emirati citizen, born on 29 June 1963. He was arrested on 31 July 2012 as part of the “UAE 94”. He was sentenced to ten years of imprisonment. He completed his sentence on 31 July 2022 but remains detained. He was the subject of WGAD Opinion No. 19/2023. His fate and whereabouts were unknown from 12 June 2023 until 1 December 2023, when he was finally able to call his family from an unidentified facility of the SSA.

*Mr. Khalifa Hilal Khalifa Hilal al-Nuaimi* (خليفة هلال خليفة هلال النعيمي) is an Emirati citizen, born on 24 July 1987. He was arrested on 16 July 2012 as part of the “UAE 94”. He was a presenter at Al Dhafra Channel. He was sentenced to 10 years of imprisonment with an additional three years of probation. He completed his sentence on 16 July 2022 but remains detained. He was the subject of WGAD No. 19/2023.

*Mr. Mahmood Hasan al-Hosani* (محمود حسن الحوسني) is an Emirati citizen, born on 20 April 1980. He was a public relations officer at Sharjah Transport. He

was arrested on 16 July 2012 as part of the “UAE 94”. On 2 July 2013, he was sentenced to seven years in prison. His sentence expired on 16 July 2019, but he remains detained.

*Mr. Mansour Hassan al-Ahmadi* (منصور حسن الأحمدى) is an Emirati citizen, born on 16 April 1985. He was an employee at the Roads and Transport Authority. He was arrested on 16 July 2012 as part of the “UAE 94”. On 2 July 2013, he was sentenced to seven years in prison. He was released two years after the completion of his sentence in April 2021. He was re-arrested on 5 June 2023. He was the subject of WGAD Opinion No. 60/2013.

*Mr. Hamad al-Shamsi* (حمد محمد رحمه الشامسي), executive director of the Emirates Detainees Advocacy Centre; *Mr. Mohammed Saqr al-Zaabi* (محمد صقر الزعابي), former president of the Emirates Jurists Association, and *Mr. Ahmed al-Shaiba al-Nuaimi* (امد الشيبه النعيمي) writer, education consultant, and specialist in applied educational psychology were indicted as part of UAE 94, in 2013. Living in exile, the three human rights defenders were tried in absentia in a trial allegedly marred by judicial irregularities, receiving lengthy prison sentences. In September 2021, the Emirati authorities placed Al-Shamsi, Al Zaabi and Al-Nuaimi on the local terrorist list. On 25 January 2022, they were the subject of a letter sent to your Excellency’s Government (ARE 1/2022) regarding their inclusion on the national terrorist list. In December 2023, UAE authorities filed new charges against the three individuals, accusing them of establishing a terrorist organisation in response to their creation of an independent advocacy group in 2010. These charges allegedly replicate those charges for which Al Shamsi, Al Zaabi and Al-Nuaimi were previously tried in absentia in 2013.

Without prejudging the accuracy of the received information, we express our serious concern over the judicial prosecution of the 84 defendants, following flawed judicial processes allegedly based on forced confessions due to torture, prohibited expressly by article 15 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, such that no evidence obtained by torture shall be admitted into proceedings and other serious violations of fair trial standards. Several of the defendants are human rights defenders or civil society activists. We further express profound concern about the possibility of prison sentences being imposed on them as a result of these proceedings.

***A) Concerns related to the new terrorism-related charges brought against the 84 individuals under the 2014 Counter-Terrorism Law***

We would like to express our concern about the nature of the new charges brought against the 84 above-mentioned individuals, which, according to the information received, appeared to be based on articles 21 and 29 of the Counter-Terrorism Law for facts that took place in 2011.

We recall that in the previous communication ARE 6/2020, we expressed our concern about the imprecise, ambiguous and uncertain scope of the terms "terrorist offence" and "terrorist purpose" in article 1 of the Counter-Terrorism Law, which do not indicate precisely what kind of individual conduct would fall within its scope. We remind your Excellency's Government that any counter-terrorism legislation should

be limited to criminalising conduct that is properly and precisely defined on the basis of the provisions of international counter-terrorism instruments, including UN Security Council resolution 1566 and the model definition set out by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and should be strictly guided by the principles of legality, necessity, proportionality and non-discrimination. We underscore that the definition of terrorism and related offences must be accessible, formulated with precision, non-discriminatory and non-retroactive (A/HRC/16/51). We recall that the principle of legal certainty, enshrined in article 11 of the Universal Declaration of Human Rights (UDHR), requires that criminal laws be sufficiently precise so that it is clear in advance what types of behaviour and conduct constitute a criminal offence and the consequence of committing such an offense. This principle recognises that ill-defined and/or overly broad laws are inherently susceptible to arbitrary application and abuse, including discrimination, and cannot serve as a legal basis for necessary or proportionate restrictions on rights or freedoms (A/HRC/43/46, para. 15). As such, the broad and vague definitions combined with the severity of the punishments has a severe chilling effect on the enjoyment of fundamental freedoms including the freedom of expression and the freedom of peaceful assembly and association, and consequently on civic space in the country.

Likewise, we express our concern about article 29 of the Counter-Terrorism Law, which punishes a range of acts related to the financing of terrorism by whoever:

*Offers, collects, prepares, obtains or facilitates the obtainment of funds for the purpose of using same, although aware that they will be used, in part or in whole, in the commission of a terrorist offence;*

*Offers funds to a terrorist organisation or person or collects, prepares, obtains or facilitates the obtainment of funds for such terrorist organisation or person, although aware of their or purpose or*

*Acquires, takes, manages, invests, possesses, transmits, transfers, deposits, keeps, uses or disposes of funds or carries out any commercial or financial bank transaction although aware that all or part of such funds are collected as a result of a terrorist offence, owned by a terrorist organisation or intended for the financing of a terrorist organisation, person or offence.*

Once again, we note with concern that due to the broad definition of what constitutes a "terrorist offence", this provision is likely to criminalise a range of acts outside the scope of terrorism, including the receipt of funding from any organisation or institution that may express dissenting political views.

We express further concern about the severity of the penalties provided for by articles 21 and 29 of the Counter-Terrorism Law, ranging from a minimum sentence of ten years to life imprisonment and the death penalty. Given our concerns expressed above regarding the broad categorisation of what could be considered "a terrorist offence" and the fact that most of the individuals have already served their sentences related to the events of 2011, we are concerned that these penalties may be unlawfully disproportionate to the act committed and therefore incompatible with international law.

We are further concerned that most of the accused have been detained under the Munasaha regime and reiterate our concerns expressed in communication ARE 6/2020 about the coercive nature of these centres, the fact that the legislation does not seem to include any time limit on the length of time a person can spend in one of these centres (subject to the obligation of the prosecution to submit a periodic report on the person every three months (art. 40 (3) of the Counter-Terrorism Law), and the fact that some of the detentions under this regime could be qualified as arbitrary. In this regard, we respectfully remind your Excellency's Government that the prohibition of arbitrary deprivation of liberty is recognised in all major international and regional instruments for the promotion and protection of human rights, including article 9 of the UDHR and article 14 of the Arab Charter of Human Rights (ACHR), and constitutes a peremptory norm of international law, or *jus cogens*.

**B) *Fair trial and judicial safeguards***

We express our deep concern about the potential severity of the sentences, including the death penalty, to which the individuals mentioned above could be subjected for acts that appear to be related to the incidents in 2011 for which they are currently serving or have served sentences. We are also concerned about the alleged procedural irregularities that may have occurred at the time of the arrest or re-arrest of these individuals, including the alleged six-month incommunicado detention of at least ten of the named individuals without proper access to their families and the fact that they have been forced to sign confessions of “committing terrorist acts”. Allegations of forced or coerced confessions are also troubling, which would violate the prohibition in article 15 of the Convention against Torture such that no information or confession acquired via torture or other ill-treatment shall be admitted into any proceedings.

We are further concerned about allegations of violations of due process during their judicial proceedings, in particular allegations that most of the defendants did not know of the new charges brought against them until the first hearing, did not have meaningful access to a lawyer and adequate time and facilities to prepare their defence, may not have received adequate disclosure of the evidence, and did not have the opportunity to effectively challenge the charges and the evidence brought against them.

We further express our concern that the trial was conducted in a non-transparent manner, behind closed doors and without the presence of the media and the families of the accused. We express our grave concern that several of the 84 defendants, including 13 of the 15 individuals mentioned here, despite having already served their sentences, remained in detention and are now facing new terrorist-related charges that appear to be linked to the charges previously brought against them. In this regard, we recall the principle of *ne bis in idem* under international law and article 16 of the ACHR, which guarantees that individuals may not be tried or punished twice for the same act in respect of which they have already been finally convicted or acquitted, and we strongly urge your Excellency's Government to respect this principle.

We underline that all individuals, regardless of the severity of the charges brought against them, have a right to a fair trial. The right to a fair trial is recognized not only in human rights treaties but also within international humanitarian law,

international criminal law, international counter-terrorism conventions and customary international law (see A/63/223). It comprises various interrelated attributes and is often linked to the enjoyment of other rights, such as the right to life, the prohibition against torture and other cruel, inhuman, or degrading treatment or punishment, and humane conditions of detention.

When confronting the challenge of terrorism in particular, the Human Rights Committee has stressed the importance of developing and maintaining effective, fair, humane, transparent and accountable criminal justice systems which provide access to a fair and public hearing and to independent and adequate legal representation in accordance with obligations under international law (CCPR/C/GC/32). Should they be confirmed, the facts alleged would contravene, inter alia, articles 3, 5, 7, 8, 9, 10, and 19 of the UDHR, articles 5, 6, 8, 11, 13, 14, 15 and 16 of the ACHR and articles 2, 15 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which UAE acceded to on 19 July 2012. They would also contravene principles 10, 11, 17 and 32 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Should the allegations of solitary confinement be confirmed, we would like to recall the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by General Assembly Resolution 70/175 (A/RES/70/175), which prohibits indefinite and prolonged solitary confinement (rule 43 with rule 44), and restricts its use for as short time as possible as a measure of last resort, to be used only in exceptional circumstances (rule 45)<sup>1</sup>. It shall be noted that States parties to the CAT, including the UAE, are obliged to conduct prompt, impartial and thorough investigations when complaints of torture or other ill-treatment are made, in accordance with articles 12 and 13 of the Convention.

We also wish to emphasise that the death penalty may only be imposed following judicial proceedings that ensure the most stringent guarantees of fair trial and due process established under international human rights law. Any execution resulting from proceedings indicating a potential violation of the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR, would amount to a violation of the right to life as set out in article 3 of the UDHR. We note that only full respect for the most stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from an arbitrary execution.

We would like to express further concern for the inclusion of Mrs. Al-Shamsi, Al Zaabi and Al-Nuaimi in the national terrorist list. We bring to the attention of your Excellency's Government that individuals or groups may only be placed on a terrorism watchlist where it is necessary and proportionate in response to an actual, distinct, and measurable terrorist act or threat, following a fair and accountable legal process and subject to effective judicial safeguards (Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Human Rights Principles Applicable to Watchlisting 2000).

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<sup>1</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/443/41/PDF/N1544341.pdf?OpenElement>.

***C) Limitations on freedom of expression and association and impact on civic space***

We express our concern at allegations that the current trial would be set in the context of a continuation of a pattern of violations stemming from the “UAE 94” arrests carried out in 2012 to silence political dissent in the country. We recall that in communication ARE 6/2020, we expressed our concern regarding the negative effects of counter-terrorism legislation on freedom of expression and association.

We recall that the rights to freedom of opinion and expression are enshrined in global and regional human rights treaties and documents, in particular, article 19 of the Universal Declaration of Human Rights, and are considered to reflect customary international law. Although freedom of expression may be subject to certain limitations, freedom of opinion is absolute. Even when the views expressed by individuals are critical of the State, the State has a positive obligation to foster and ensure an enabling environment for the enjoyment of the right to freedom of expression so that citizens can exchange, communicate information and opinions, and contribute to the building of a just society freely and without fear. While recognising that the right to express oneself and access information and ideas is subject to certain limitations, these restrictions must meet standards of legality, necessity, proportionality and non-discrimination. Restrictions must be publicly provided for by laws that meet standards of clarity and precision and be subject to review by independent judicial authorities.

We affirm that civil society can peacefully channel discontent and enable constructive political discourse, as well as directly weaken the factors that drive individuals towards terrorism and violent extremism and the conditions conducive to terrorism, as defined in the UN Global Counter-Terrorism Strategy and in UN programmes to prevent and combat violent extremism.<sup>2</sup> As a member of the Counter-Terrorism Committee, we urge your Excellency's Government to ensure that any national measures or policies aimed at combatting terrorism do not have disproportionate effects on restricting civil society and civic space and are in line with international law, including international human rights law.

In this context, we would like to express our concerns about the charges brought against the 84 human rights defenders and political activists currently facing trial and the apparent lack of evidence to support them and their conviction on these charges, which appear to have been brought against them in retaliation for the exercise of their freedom of expression, whether online and offline, to denounce human rights violations in the country and to express discontent with policies affecting them. The criminalisation of human rights defenders and political activists is worrying not only because of the detrimental impact on the lives of these individuals and their families but also because of the broader chilling effect it creates in the civic space of the country. We are concerned that such an approach seeks to deter others from exercising their fundamental freedoms and defending the right of others to do so as well.

In addition, we are concerned that these provisions may also allow the authorities to limit or control media coverage and political debate. We also note with concern that section 26 (1) of the Counter-Terrorism Law provides that "no terrorist

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<sup>2</sup> Security Council Resolution 2178 (2014), Action plan of the Secretary-General for the prevention

organisation or terrorist person may hold a meeting or gathering, anywhere in the State, for terrorist purposes" and that the "public authority may break up the meeting or gathering by the use of force where necessary". In view of the broad scope of counter-terrorism legislation in the country and its impact on freedom of expression and association and civic space, as previously expressed, we urge your Excellency's Government to ensure the restrictive use of counter-terrorism legislation so as to uphold those fundamental rights and freedoms in the UAE.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

We are issuing this letter in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

We urge your Excellency's Government to disclose the evidence against the detainees and effectively guarantee their rights in accordance with international human rights law standards.

As 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, 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 allegations.
2. Please provide further information on how the vague definitions of "terrorist offence," "terrorist purpose" and "terrorist organisations" in the Counter-Terrorism Law are consistent with the principle of legality and how prosecutions under this law do not unduly infringe the lawful exercise of the freedoms of opinion, expression, and association protected under international law.
3. Please provide detailed information on the legal and factual basis for the prosecution and, if any, conviction and sentencing of the above-mentioned 84 defendants, and explain the compatibility of the charges and conviction with international human rights law, in particular the principles of legality, necessity, proportionality, non-discrimination, fair trial, and proportionality in sentencing. Furthermore, please indicate and how this prosecution is compatible with the international law principle of *ne bis in idem*.
4. Please provide detailed information about the judicial proceedings initiated against these persons from their arrest and detention and the factual and legal basis for their retrial, arrest/re-arrest, detention and prosecution. Please clarify whether an arrest warrant was provided and whether safeguards were put in place to ensure a fair trial, including access to lawyers, adequate time and facilities to prepare their defence, disclosure of the evidence, and a fair opportunity to contest the allegations, and how these were effectively implemented with respect

to the defendants.

5. Please provide information as to compliance with the absolute prohibition against torture and other ill-treatment, including legal, procedural and practical safeguards against the extraction of confessions or information by force, intimidation or other coercion, and further ensures the exclusion of any such confession or information from being used in proceedings, as required via article 15 of CAT.
6. Please explain how the measures related to the Munasaha Centres in particular are compatible with the prohibition of arbitrary deprivation of liberty. Please also provide further information on the nature and scope of “reform” and “enlightenment” programmes in these Munasaha facilities and how they are compliant with the right to education and the absolute right to freedom of opinion. Please further indicate what procedures are in place to ensure that persons placed in these facilities are treated in compliance with the UAE’s obligations under the CAT.
7. Please provide information about the manner in which articles 21 and 29 of the Counter-Terrorism Law are interpreted, the applicable prison sentences for these charges, and the conditions which need to be fulfilled for these provisions to be applied. Please also indicate how the above provisions are compatible with the principle of legal certainty under international law.
8. Please provide detailed information about whether any investigation or inquiry has been conducted into the allegations of the use of torture or other cruel, inhuman or degrading treatment or punishment, as well as the allegations of incommunicado detention. If no such investigations have taken place and no one has been held accountable, please explain why and what measures are proposed to be taken.
9. Please provide information on the detention conditions of the detainees, including any details about time spent in solitary confinement, family visits and communication with their lawyers, and the state of their physical and psychological well-being.
10. Please provide information on the measures taken to respect the absolute prohibition of secret detention and enforced disappearance and, in particular, to record all persons deprived of their liberty and to disclose their fate and whereabouts, as well as other basic information, including their state of health, to their relatives, legal counsels or any other persons having a legitimate interest.
11. Please explain what measures have been taken by your Excellency’s Government to implement the Working Group on Arbitrary Detention’s Opinions Nos. 60/2013 and 19/2023, concerning the arbitrary deprivation of liberty of Mohamed Abdullah Al-Roken, Husain Moneif al-Jabri, Sultan Bin Kayed Mohammed al-Qasimi, Rashed Omran Ali Obeid al-Shamsi, Khalid Mohammed Abdullah al-Shiba al-Nuaimi, Ibrahim Ismail Ibrahim al-Yasi, Abdulsalam Mohammed Darwish al-Marzooqi, Fouad Mohammed Abdullah Hasan

al-Hmadi, Khalifa Hilal Khalifa Hilal al Nuami, and Mansour Hassan al-Ahmadi.

12. Please indicate what measures have been taken to ensure that human rights defenders and political activists in the UAE are able to carry out their peaceful and legitimate work in a safe and enabling environment, without the risk of being prosecuted for national security and terrorism-related charges.

We would appreciate receiving a response within 60 days. Past this delay, 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any persons responsible for the alleged violations.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the WGAD may also transmit the case through its regular procedure in order to render a further 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 urgent appeal and the regular procedure.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

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

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Matthew Gillett

Vice-Chair on communications of the Working Group on Arbitrary Detention

Aua Baldé

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan

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

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

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or  
punishment

## Annex

### Reference to international human rights law

In connection with the abovementioned facts and concerns, we would like to take this opportunity to draw your attention to relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

#### A) *Broad application of the Counter-terrorism Law*

We respectfully remind your Excellency's Government of the relevant provisions of the United Nations Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); as well as Human Rights Council resolution 35/34 and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180. All these resolutions require that States ensure that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, must comply fully with all their obligations under international law. We would like to stress that counter-terrorism legislation with penal sanctions should not be misused against individuals peacefully exercising their rights to freedom of expression and freedom of peaceful association and assembly.

We would like to highlight that the absolute prohibition of enforced disappearance and the right to life are peremptory norms, *jus cogens* and applicable *erga omnes* in accordance with conventional and customary international law.

In the same vein, we would further like to refer to Human Rights Council resolution 22/6, which urges States to ensure that measures to combat terrorism and preserve national security are in compliance with their obligations under international law and do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights. Further, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism urged States to ensure that their counter-terrorism legislation is sufficiently precise to comply with the principle of legality, in order to prevent the possibility that it may be used to target civil society on political or other unjustified grounds (A/70/371, para 46(b)).

#### B) *Due process*

We would also like to draw to the attention of your Excellency's Government the UN Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37) and the UN Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27 August to 7 September 1990. They provide for the right to legal assistance, and for prompt access and consultation with counsel without intimidation, hindrance, harassment or improper interference.

We respectfully remind your Excellency's Government of the requirements under international human rights law for guarantees of procedural fairness and due

process of law that comprise the rights of the accused to the presumption of innocence and to defend oneself, the right to equality before the courts and tribunals and the right to a fair trial in line with articles 10 and 11 of the UDHR and 11, 12 and 14 of the Arab Charter on Human Rights.

We recall that the principle of legal certainty expressed in article 11 of the UDHR requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offence and what would be the consequence of committing such an offence. We reiterate that vaguely and broadly worded provisions undermine the principle of legality, cannot qualify as *lex certa*, and violate due process of law.

International standards provide that accused persons must have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. This entails access to documents and other evidence, which includes all materials that the prosecution plans to offer in court against the accused or that are exculpatory. Counsel should be able to meet their clients promptly, in private, and in conditions that fully respect the confidentiality of their communications. The Human Rights Committee has explained that the “availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way”.

Further, we recall that the free exercise of the legal profession contributes to ensuring access to justice, oversight of state power, protection of due process and judicial guarantees. According to international standards, States must guarantee that those who practice law can do so free from intimidation, obstacles, harassment or interference.

*C) Arbitrary detention*

We also draw to the attention of your Excellency’s Government that states have a heightened duty of care to take any necessary measures to protect the lives of individuals deprived of their liberty by the State, since by arresting, detaining, imprisoning or otherwise depriving individuals of their liberty, States parties assume the responsibility to care for their lives and bodily integrity, and they may not rely on lack of financial resources or other logistical problems to reduce this responsibility. The duty to protect the life of all detained individuals includes providing them with the necessary medical care and appropriate regular monitoring of their health. We, therefore, express our utmost concern over the reports of current defendants were held incommunicado for large periods of time and subject to ill-treatment while in detention, including with the aim of obtaining confessions.

*D) Torture or other cruel, inhuman or degrading treatment*

We would like to remind your Excellency’s Government of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment as codified in articles 2 and 16 of the CAT, to which the UAE acceded on 19 July 2012. Article 1 of the CAT, to which the UAE acceded on 19 July 2012. It prohibits “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a

third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

We further wish to recall that international human rights law and standards require States to treat all persons under any form of detention or imprisonment with humanity and with respect for the inherent dignity of the human person (article 20, ACHR; principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and General Assembly resolution 43/173 of 9 December 1988).

With regard to solitary confinement, we would like to recall the revised United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by General Assembly Resolution 70/175 (A/RES/70/175), which prohibits indefinite and prolonged solitary confinement (rule 43 with rule 44), and restricts its use for as short time as possible as a measure of last resort, to be used only in exceptional circumstances (rule 45). Due to the prisoner’s lack of communication and the lack of witnesses, solitary confinement enhances the risk of other acts of torture or ill-treatment.

Moreover, we are deeply concerned about the allegations of torture and ill-treatment of many of the detainees, who were held incommunicado for long periods of time and forced to sign confessions of “committing terrorist acts”. Article 15 of the CAT, ratified by the UAE, 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 remind your Excellency’s Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment as an international norm of jus cogens, and as mirrored, inter alia, in Human Rights Council Resolution 52/7 and General Assembly Resolution 77/209. In this context, we would also like to draw your Excellency’s Government’s attention to article 1 of the CAT, which the UAE accepted on 19 July 2012.

Moreover, 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.” Considering the international standards compiled above, we express our concern over the allegations that many of the 84 defendants currently on trial, including twelve of the fifteen here named were held in prolonged incommunicado detention and subject to acts of torture and ill-treatment, such as being forced to sign confessions.

E) *Effects on civil society*

Article 19 of the UDHR states that “everyone 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”.

Freedom of expression is absolute. The conditions for permissible restrictions of this right are reflected in the UDHR and in numerous regional and global human rights treaties: firstly, as expressed in UDHR art. 29, as well as in global and regional human rights treaties, any restriction must be “determined by law”. Practice by international monitoring bodies has not only a requirement on the form, but also the quality of the law. With respect to criminal laws, the requirement of clarity is higher, as per article 11 of the UDHR. Secondly, any restriction must pursue a legitimate objective. Within this context, article 29 of the UDHR limits those objectives strictly to the “respect for the rights and freedoms of others and to meet just requirements of morality, public order and general welfare in a democratic society”. Thirdly, restrictions must be necessary and proportionate, according to article 30 of the UDHR, which prohibits the use of overbroad restrictions that would destroy the essence of the right itself. The requirement further entails that the measure must be the least intrusive measure necessary amongst those which might achieve their protective function in order to protect a specified legitimate objective. Lastly, States have the burden of proof to demonstrate that any restriction is compatible with the requirements under customary international law.

We would also like to refer to 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, 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”. Article 6 (b) and c) of the Declaration provides that everyone has the right to freely 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 of these rights. Article 12, paragraphs 2 and 3, provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone 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.

The rights to opinion and expression are reflected also in global and regional human rights treaties and are considered reflective of customary international law. While the freedom of expression may be subject to certain limitations, the freedom of opinion is absolute. Even where the opinions expressed by people are critical of the State, it has a positive obligation to foster and ensure an enabling environment in terms of enjoyment of the right to freedom of expression, so that citizens are able to

exchange, communicate, information and opinions, and contribute to the building of a just society freely and without fear.

*F) Death Penalty*

We also wish to refer your Excellency's Government to article 3 of the UDHR which states that "Everyone has the right to life, liberty and security of person." We note that the sentence of death may only be imposed for the most serious crimes in accordance with the laws in force at the time of the commission of the crime and pursuant to a final judgement rendered by a competent court. In this regard, the Special Rapporteur on extrajudicial, summary or arbitrary executions concluded that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (A/HRC/4/20, para. 53). We also wish to emphasise that the death penalty may only be imposed following judicial proceedings that ensure the most stringent guarantees of fair trial and due process established under international human rights law. Any execution resulting from proceedings indicating a potential violation of the right to fair proceedings before an independent and impartial tribunal, as set forth in article 10 of the UDHR, would amount to a violation of the right to life as set out in article 3 of the UDHR. It is, hence, of utmost concern the allegations that the present trial proceedings would be based on confessions obtained through torture or other cruel, inhuman, or degrading treatment or punishment, following flawed judicial processes.

In addition, we remind your Excellency's Government that according to article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty, approved by the Economic and Social Council on 25 May 1984 "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings." The United Nations Safeguards above-mentioned also provide that anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment.

We stress that the enforcement of any sentence of death in contravention of a State's obligations under international law constitutes an arbitrary execution and is, thus, unlawful.

Against this background, we reiterate that the General Assembly has consistently called upon all States to establish a moratorium on executions with a view to abolishing the death penalty since its resolution 62/149 of 18 December 2007 (para. 7) and most recently, in its resolution A/RES/77/222 of 15 December 2022, called upon all States to respect the safeguards guaranteeing protection of the rights of those facing the death penalty. We reiterate that any measures to abolish the death penalty should be seen as progress towards the realization of the right to life.

In addition, we would like to underline the Basic Principles for the Treatment of Prisoners, adopted by the General Assembly in resolution 45/111, according to which prisoners should have access to health services available in the country without discrimination on the grounds of their legal situation (principle 9). We also recall that States have a duty to protect the health of prisoners and detainees in accordance with

the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 17 December 2015 and renamed the “Mandela Rules”), in particular rule 24 that establishes that the provision of health care for prisoners is a State responsibility and rule 27(1), which provides that all prisons shall ensure prompt access to medical facilities and treatment.

*G) Enforced or Involuntary Disappearances and Incommunicado detention*

The United Nations Declaration on the Protection of All Persons from Enforced Disappearances,<sup>3</sup> which establishes that no State shall practice, permit, or tolerate enforced disappearances. We would like to recall the guarantees of those deprived of liberty, as established in the 1992 Declaration on the Protection of all Persons from Enforced Disappearance, in particular its articles 9, 10 and 12, which establish the right to a prompt and effective judicial remedy as a means of determining the whereabouts of persons deprived of their liberty; access by the competent national authorities to all places of detention; to be held in officially recognized places of detention and to be brought promptly before a judicial authority after apprehension; to be provided promptly with accurate information about the person's detention and the place or places where he is being held to members of his family, his counsel, or any other person having a legitimate interest in knowing that information; and to maintain in every place of detention an up-to-date official register of all persons deprived of their liberty. Failure to meet these obligations may amount to enforced disappearances and, therefore a violation of articles 6, 7, 9, 10 and 16 ICCPR, by themselves and in conjunction with article 2.3, which guarantee the right to life, that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment; the right to personal liberty and security and the prohibition of arbitrary detention and the right to due process, respectively, with regards to the forcibly disappeared persons and with regards to their families.

The Declaration also proclaims that each State shall take effective legislative, administrative, judicial, or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. In particular, the Working Group recalls that the Declaration sets out the necessary protection by the State, in particular articles 7, 9, 10, and 12, which establish that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearance. These articles also establish the rights to a prompt and effective judicial remedy to determine the whereabouts of persons deprived of their liberty; the right for competent national authorities to access to all places of detention, the right to be held in an officially recognized place of detention, and to be brought before a judicial authority promptly after detention; the right to accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest; and the right to the maintenance in every place of detention of official up-to-date registers of all detained persons. Article 13 also stipulates that steps shall be taken to ensure that all involved in the investigation, including the complainant, relatives, counsel, witnesses, and those conducting the investigation, are protected against ill-treatment, intimidation, or reprisal and that the victims or family relatives have the right to obtain redress, including adequate compensation (article 19).

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<sup>3</sup> [Declaration on the Protection of all Persons from Enforced Disappearance |OHCHR](#)

Finally, we respectfully remind your Excellency's Government that the General Assembly has repeatedly affirmed that "prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment" and urged "all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that prolonged incommunicado detention and secret places of detention and interrogation are abolished". In this vein, one of the main findings of the joint study on global practices in relation to secret detention in the context of counterterrorism prepared by several Special Procedures of the Human Rights Council (2010) found that "[a]ny case of secret detention also amounts to a case of enforced disappearance.<sup>4</sup>

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<sup>4</sup> A/HRC/13/42\*