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مجلس حقوق الإنسان

الدورة السابعة والأربعون

21 حزيران/يونيه - 9 تموز/يوليه 2021

البند 2 من جدول الأعمال

التقرير السنوي لمفوضة الأمم المتحدة السامية لحقوق الإنسان

وتقارير المفوضية السامية والأمين العام

مذكرة شفوية مؤرخة 6 نيسان/أبريل 2021 موجهة من البعثة الدائمة للإمارات العربية المتحدة لدى مكتب الأمم المتحدة في جنيف إلى رئيس مجلس حقوق الإنسان

تود البعثة الدائمة للإمارات العربية المتحدة لدى مكتب الأمم المتحدة والمنظمات الدولية الأخرى في جنيف أن تحيل طيه الرسالة المرفقة الموجهة إلى رئيس المجلس (انظر المرفق).

وستكون البعثة الدائمة ممتة إذا عُمّت هذه المذكرة ومرفقها* باعتبارهما وثيقة من وثائق مجلس حقوق الإنسان، في إطار البند 2 من جدول الأعمال.

* استُنسخ المرفق كما ورد، وباللغة التي قُدم بها فقط.



Annex to the note verbale dated 6 April 2021 from the Permanent Mission of the United Arab Emirates to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Letter from H.E. Mr. Ahmed Aljarman, Permanent Representative of the United Arab Emirates to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to present my compliments and to reaffirm the UAE Government's support for your important mandate and work as the President of the Human Rights Council.

The UAE deeply appreciates your efforts with others to address human rights issues globally. This includes for Yemen, where the conflict and humanitarian suffering have presented significant challenges to address for our international community.

In this regard, I wish to refer to the letter sent to the President of the Human Rights Council by the Kingdom of Saudi Arabia on behalf of the Coalition States for Support of Legitimacy in Yemen in September 2019, and to my letter to the United Nations High Commissioner for Human Rights dated 1 March 2020, which both concern the human rights situation in Yemen and the Group of Eminent International and Regional Experts on Yemen (Group of Experts).

The UAE remains committed to supporting the legitimate Government of Yemen and its people during this difficult time. While the UAE has drawn down its armed forces from Yemen last year, it continues to provide substantial humanitarian aid to the people of Yemen, around US\$6.5 billion to date.

As you know, the UAE initially supported the Group of Expert's mandate and work, until it became clear to the UAE that there were significant challenges relating to professionalism, balance, and non-adherence to the mandate. The UAE has thoroughly reviewed the Group of Experts most recent reporting (A/HRC/45/6 and A/HRC/45/CRP.7) and its allegations against the UAE, and wishes to note to your office that the UAE maintains its significant concerns.

The UAE welcomes that there have been improvements in the Group's reporting provided in 2020. This includes a more realistic picture of the Houthi forces' responsibility for a wide range of serious human rights violations and abuses. In addition, the UAE has responded to prior allegations made by the Group, and the Group has subsequently removed the allegation against the UAE from its reporting.

The Group continues, regrettably, however, to demonstrate shortcomings in its standards and accuracy of reporting, including as explained in the prior Coalition and UAE responses. Its attempts to address some of the concerns previously raised by the UAE have served only to highlight and further reinforce the UAE's concerns. The Group now makes only a few particular allegations against the UAE for its conduct in Yemen. The UAE's rejection of these specific allegations is unequivocal, including as set out in its previous responses.

Despite the limited instances of specific allegations against UAE forces, the Group continues to deliberately make a general link between the UAE and many alleged violations committed by other parties, in respect of which the UAE had no role or responsibility. The Group consistently implies that the UAE has responsibility for serious violations, such as rape and sexual violence, allegedly committed by Yemeni forces, without providing a basis or explanation. That, combined with the highly unusual way in which the Group tries to name and shame the UAE senior political leadership, regrettably indicates that Group does not take an objective and fair approach to the UAE Government.

In this regard, I respectfully submit the attached views of the UAE on the Group of Expert's recent reports for your consideration. The UAE remains fully committed to all of

its obligations under international human rights and humanitarian law, and to peace and stability for Yemen and its people.

(Signed) H.E. Mr. Ahmed Aljarman
Ambassador, Permanent Representative,
United Arab Emirates

Attachment

Response of the United Arab Emirates to the Report of the Group of Eminent International and Regional Experts on the Situation of Human Rights in Yemen (A/HRC/45/6)

Introduction

1. The United Arab Emirates (“UAE”) is deeply concerned about the suffering of the Yemeni people caused by the conflict instigated by Houthi militias against the legitimate Government of Yemen. The UAE drew down its forces from Yemen in 2019, and it continues to prioritize humanitarian and political support to resolve the conflict and alleviate the suffering of the Yemeni people.¹
2. The UAE is a strong supporter of the Riyadh Agreements of 5 November 2019, and the Kingdom of Saudi Arabia and other partners’ efforts, such as the United States, to resolve the conflict. In 2020, the UAE provided humanitarian assistance to Yemen valued at US\$52 million, including food, medical and COVID-19 supplies, water, infrastructure, and education.
3. While the UAE is a significant provider of humanitarian assistance, it is not a major actor on the ground with forces in support of the Yemeni Government. The UAE does not have effective control over territory or persons – as do parties to the conflict – that is necessary to ground responsibility extraterritorially for international human rights obligations.²
4. The UAE is fully committed to respecting international human rights and humanitarian law in its ongoing support for Yemen. In respect of the Group’s reporting to the UN Human Rights Council for 2020, the UAE shares the concerns set out by the Coalition to Restore Legitimacy in Yemen.³ In this present note, the UAE wishes to limit its observations to the Group’s allegations against the UAE in relation to its 2020 reporting.

Overview of concerns with the Group’s allegations against the UAE

5. The UAE has responded to numerous allegations made by the Group against the UAE, and the Group has subsequently removed the specific allegation from its further reporting. One such example relates to the UAE air strike against the Al-Husseini mosque in Aden, which previously the Group had alleged was a violation of international humanitarian law.⁴

¹ Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the Group of Eminent International and Regional Experts on Yemen (A/HRC/45/6), 28 September 2020 (hereinafter, the “2020 Experts Report”) para. 17; Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen (A/HRC/45/CRP.7), 29 September 2020 (hereinafter, the “2020 Detailed Findings Report”) para. 41; *AED22 bn in assistance provided by UAE to Yemen from April 2015 through 2020*, Emirates News Agency, 9 February 2020, <https://www.wam.ae/en/details/1395302822587>.

² 2020 Detailed Findings Report, para. 30; Response of the United Arab Emirates to the Report of the Group of Eminent International and Regional Experts on the Situation of Human Rights in Yemen (A/HRC/42/17), 1 March 2020 (hereinafter, the “UAE 2020 Response”), paras. 29-31, not yet published by the UN.

³ Response of the Coalition Forces Supporting Legitimacy in Yemen to the Report of the Group of International and Regional Experts on Yemen for the Year 2020 (hereinafter the “Coalition 2020 Response”), not yet published by the UN.

⁴ Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the Group of Eminent International and Regional Experts as submitted to the United Nations High Commissioner for Human Rights (A/HRC/42/17), 9 August 2019; Situation of human rights in Yemen, including violations and abuses since September 2014, Report of the detailed findings of the

The UAE responded by demonstrating, including through the UN's own reporting, that this mosque was being used by Houthi forces, and was a legitimate military objective that was subject to a proportionate strike against those forces.⁵

6. The UAE welcomes that there have been significant improvements in the Group's reporting provided in 2020. This includes, in particular, a more realistic picture of the Houthi forces' responsibility for a wide range of serious violations and abuses.⁶ The Group continues, regrettably, however, to demonstrate shortcomings in its standards and accuracy of reporting, including as explained in the prior Coalition and UAE responses.⁷ In fact, and as detailed below, the Group's attempts to address some of the concerns previously raised by the UAE have served only to highlight and further reinforce those concerns.

7. There are serious questions whether that the Group is objective and fair concerning its allegations against the UAE. The UAE does not make this statement lightly, but there are significant and objective reasons for this conclusion. The Group now makes only a few particular allegations against the UAE for its conduct in Yemen.⁸ The UAE's rejection of these specific allegations is unequivocal, including as set out in its previous responses.⁹ Despite the limited instances of specific allegations against UAE forces, the Group continues to deliberately make a general link between the UAE and many alleged violations committed by other parties, in respect of which the UAE had no role. The Group consistently implies that the UAE has responsibility for violations allegedly committed by Yemeni forces, without providing a basis or explanation.

8. The Group also continues to fail to be specific about which State it is alleging violations against, preferring to generally refer to the Coalition and emphasizing a leading role for the UAE role therein. This does not reflect the facts. That, combined with the highly unusual way in which the Group tries to name and shame the UAE senior political leadership,¹⁰ regrettably indicates that Group does not take an objective and fair approach to the UAE Government.

The Group makes only two particular allegations against UAE, both of which are unjustified

9. The Group, including as reflected in both its 2020 Report and additional 153-page conference room paper,¹¹ in effect makes only two particular allegations against the UAE, one of which is not even an issue falling within the Group's mandate.

Alleged detention at Al-Bureiqah base

10. The Group's first allegation concerns arbitrary detention and torture, including sexual violence against men and boys, allegedly committed by UAE forces at an Al-Bureiqah base prior to their withdrawal from Yemen in mid-2019.¹² The Group alleges further violations in detention facilities committed by the UAE which are currently unknown or unreported, by speculating that "*former detainees are likely to be delayed and/or reluctant in reporting the full extent of violations*".¹³

11. The UAE continues to reject these allegations unequivocally, including as it has never exercised effective control over such places of detention or detainees, in replacement of the

Group of Eminent International and Regional Experts on Yemen (A/HRC/42/CRP.1), 3 September 2019.

⁵ UAE 2020 Response.

⁶ 2020 Experts Report, paras 33, 47, 59, 61 and 78 for instance; 2020 Detailed Findings Report, paras 77, 90, 105, 118, 147 for instance.

⁷ Coalition 2020 Response and UAE 2020 Response.

⁸ 2020 Experts Report, paras. 18, 66, and 68; 2020 Detailed Findings Report, paras. 45, 167, 203, and 226.

⁹ UAE 2020 Response, paras. 8 and 30.

¹⁰ 2020 Experts Report, Annex p. 22; 2020 Detailed Findings Report, Annex 1 p. 115.

¹¹ 2020 Detailed Findings Report.

¹² 2020 Experts Report, para. 66; 2020 Detailed Findings Report, para. 45).

¹³ 2020 Detailed Findings Report, paras. 170, 175.

legitimate Yemeni authorities.¹⁴ To the contrary, the UAE has encouraged Yemeni forces to work with the International Committee of the Red Cross (“ICRC”) and to allow ICRC visits to their places of detention.

Airstrikes in Aden and Zingibar in August 2020

12. Second, the Group notes that the UAE, on 28 and 29 August 2020, launched air strikes in Aden and Zingibar. The UAE identified these air strikes as against terrorist groups, but this has been disputed by Yemeni Government officials.¹⁵ The UAE provided the following information on the air strikes to the UN Security Council, as is noted by the Group:¹⁶

- [O]n 28 and 29 August 2019 the United Arab Emirates conducted precision air operations aimed at countering and deterring imminent threats to Coalition forces and the people of Aden. The United Arab Emirates received credible intelligence that terrorist elements, namely Al-Qaida in the Arabian Peninsula, had seized Alam and were activating sleeper cells in and around Aden, as evidenced by skirmishes around the airport. On that basis, the United Arab Emirates took appropriate and proportionate action. These operations were carried out in accordance with the applicable rules and principles of international law.¹⁷

13. It is unclear why the Group determined that, based on its mandate from the UN Human Rights Council, it should focus on these air strikes.¹⁸ The Group does not question the fact that parties to the armed conflict were targeted in the air strikes, nor does it allege there was any violation of international humanitarian law, which is the applicable legal framework. As a result, there is no issue relevant to the Group’s mandate, and this part of the Group’s report does not contain findings appropriate for submission to the UN Human Rights Council.

The Group continues to name and shame senior UAE leaders inappropriately and without basis

14. The UAE has previously noted that the Group implies criminal responsibility for the UAE’s most senior political leaders, by providing a list of “Main Actors” annexed to its annual reports. This sits alongside the fact that the Group states it has provided a “confidential list of alleged perpetrators” to the UN High Commissioner for Human Rights.¹⁹ As the UAE has previously noted, this listing of UAE political leaders is without any factual basis, it is contrary to international criminal law standards of command responsibility, and is unprecedented in the UN Human Rights Council context.²⁰

15. The Group has responded to the UAE’s concerns by simply adding a footnote to its “Main Actors” annex that names the UAE senior political leaders. The Group indicates that: “*This annex represents the main actors during the reporting period, and is separate and distinct from the strictly confidential list of alleged perpetrators that is provided to the United Nations High Commissioner for Human Rights.*”²¹ The Group does not explain in respect of what actions the named individuals would be ‘main actors’, but this can only be understood

¹⁴ Response of the United Arab Emirates to the Report of the United Nations High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts on Yemen, 2018, not published by the OHCHR, paras. 51-52. See 2020 Detailed Findings Report, para. 30, footnote 16.

¹⁵ 2020 Experts Report, para. 18.

¹⁶ 2020 Detailed Findings Report, para. 45, footnote 48: Letter dated 3 September 2019 from the Chargé d’affaires a.i. of the Permanent Mission of the United Arab Emirates to the United Nations addressed to the President of the Security Council, S/2019/706, available at: <https://undocs.org/en/S/2019/706>

¹⁷ This explanation is not provided in the 2020 Detailed Findings Report, *ibid.*

¹⁸ The Group’s mandate is to “report on the situation of human rights, to carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict”, para. 12(a) of the Resolution adopted by the Human Rights Council on 29 September 2017, A/HRC/RES/36/31.

¹⁹ 2020 Experts Report, para. 4 and Annex p. 19, footnote 1.

²⁰ UAE 2020 Response, paras. 33-35.

²¹ 2020 Experts Report, Annex p. 19, footnote 1.

by reference to the Group's mandate to monitor and report on "[t]he situation of human rights in Yemen, including violations and abuses since September 2014".²²

16. The Group's clarification therefore only serves to highlight further the UAE's concerns. It makes clear that the two lists are distinct and not the same, and therefore, that some individuals on the annexed public list may not be implicated as alleged criminal perpetrators, as reflected in the confidential list. That being the case, however, there is no legitimate or mandate-consistent reason for publicly listing such individuals. Either the Group is suggesting that the UAE's political leaders are criminal perpetrators, for which they provide no reasonable grounds whatsoever; or the Group is publicly listing them without any actual basis to do so under its mandate. The Group's highly unusual approach is without precedent in the UN Human Rights Council. As a consequence, it reveals that the naming of UAE political leaders in the annex is both without a clear basis and violates due process, and is designed to embarrass and pressure those senior leaders.

The Group seeks, without reason and unfairly, to associate the UAE with alleged violations committed by other parties

17. The Group seeks to link the UAE to responsibility for a significant range of alleged violations, in which the UAE in fact was not engaged or involved. The Group does this, first, by continually framing allegations against Yemeni forces as against "UAE-backed" Yemeni forces, and, second, by constant references to the Coalition without any further details of the State concerned, coupled with emphasizing a primary role of the UAE in the Coalition forces. As the UAE has raised these concerns before, and the Group has failed to address them, the approach taken by the Group can only be understood as deliberate.

The Group's unjustified framing of allegations against 'UAE-backed' Yemeni forces

18. The UAE has raised this issue each year of the Group's mandate, including in the context of the Group's many unjustified references in the previous reporting of allegations against UAE "proxy forces".²³ The UAE has pointed out to the Group the applicable legal standards for responsibility and attribution, and the lack of facts which support any of the Group's allegations in this respect.²⁴

19. The Group's response in its 2020 reporting has been to refer to alleged violations by "UAE-backed" Yemeni forces rather than to "proxy" forces. The allegations have centered on the "*United Arab Emirates-backed Security Belt forces*" and the "*STC [Southern Transitional Council] backed by the United Arab Emirates*".²⁵ Through this use of language, the Group seeks to tie the actions of these Yemeni forces, and responsibility for their actions, to the UAE Government.

20. In this regard, the Group finds that "*United Arab Emirates-backed Security Belt forces perpetrated rape and sexual violence*"²⁶ and further that "*these acts of sexual violence were committed as part of a pattern of violations by the UAE-backed Security Belt forces*".²⁷ The Group notes the alleged violations have occurred in Security Belt facilities,²⁸ and also at a facility which the Group is unable to identify.²⁹ There are no connections made or explained

²² A/HRC/RES/42/2 of 26 September 2019 renewing the mandate of the Group of Experts, Article 12 (a) "To monitor and report on the situation of human rights, to carry out comprehensive investigations into all alleged violations and abuses of international human rights law and all alleged violations of international humanitarian law committed by all parties to the conflict since September 2014, including possible gender dimensions of such violations, to establish the facts and circumstances surrounding the alleged violations and abuses and, where possible, to identify those responsible".

²³ UAE 2020 Response, paras. 26-28.

²⁴ UAE 2020 Response, paras. 29-32.

²⁵ 2020 Experts Report, paras. 68, 69; 2020 Detailed Findings Report, paras. 40, 194, 195, 198-199, and 219 for instance.

²⁶ 2020 Detailed Findings Report, para. 198.

²⁷ 2020 Detailed Findings Report, para. 199.

²⁸ 2020 Detailed Findings Report, para. 220.

²⁹ 2020 Detailed Findings Report, para. 198, footnote 287.

between UAE forces and Yemeni forces regarding the UAE's control over the Yemeni facilities or persons, or a UAE direction that Yemeni forces perpetrate rape and sexual violence.

21. The Group's allegations demonstrate its continuing failure to follow UN standards and objective reporting, and more regrettably a bias, and are deeply offensive to the UAE. The UAE position is very clear; it has zero tolerance for sexual violence in any manner or context, whether in Yemen or anywhere else.

22. The Group acknowledges the legal standards that apply for responsibility and attribution, namely, that the persons were "*acting on the State's instructions or under its direction or control*" in committing the violations.³⁰ As a result, the applicable law requires the UAE to have either directed or controlled the Yemeni forces and their alleged rape and sexual violence, or to have provided material assistance to Yemeni forces with the knowledge of, and with a view to facilitating, that UAE assistance would be used to commit rape and sexual violence.³¹

23. The Group provides no explanation, facts, or reasoning for a conclusion the UAE directed, controlled, or assisted the alleged rape by Yemeni forces of Yemeni women. There is no plausible basis for linking the UAE to responsibility for these abhorrent alleged violations. Given that the UAE has raised this issue with the Group previously, it is clear that the Group deliberately wishes to associate the UAE with these violations, despite that it has no credible basis for doing so.

24. It is unsurprising and predictable, therefore, that media have also picked up on the Group's consistent suggestions that the UAE is responsible for human rights violations committed by Yemeni forces over which, in fact, it exercises no control. For example, one recent British media report was entitled "*Calls grow for release of Yemeni journalist held by UAE-backed forces.*" This allegation is made despite that there is no justification or evidence whatsoever that the UAE bears a responsibility for the alleged detention in this report.³²

The Group's conclusions associate the UAE, without justification, with significant responsibility for a wide range of violations in Yemen

25. The preceding makes clear the fact that, while the Group makes few particular allegations against the UAE, its reporting deliberately creates the impression that the UAE is responsible for, and associated with, a wide range of violations. This pattern is mirrored in the Group's main conclusions, which include the following as relevant to the UAE:³³

- The Group of Experts has reasonable grounds to believe that the Government [...] of ... the United Arab Emirates ... to the extent they exercise jurisdiction, and as applicable to each party, are responsible for human rights violations including arbitrary deprivation of life, enforced disappearances, arbitrary detention, gender-based violence, including sexual violence, torture and other forms of cruel, inhuman or degrading treatment, the recruitment and use in hostilities of children, the denial of fair trial rights, violations of fundamental freedoms, and economic, social and cultural rights.
- Individuals in the Government of ... in particular ... the United Arab Emirates ... have committed, as applicable to each party, acts that may amount to war crimes, including murder of civilians, torture, cruel or inhuman treatment, rape and other forms of sexual violence, outrages upon personal dignity, denial of fair trial, and

³⁰ 2020 Detailed Findings Report, para. 37; 2020 UAE Response, paras. 27, 29-31.

³¹ The ILC Commentary to Article 16 on aid and assistance indicates that the assistance must be given "with a view to facilitating the commission of the wrongful act", Draft articles on Responsibility of States for Internationally Wrongful Acts with commentaries, *Yearbook of the International Law Commission*, 2001, vol. II, Part Two, p. 66, para. 5.

³² *Calls Grow for Release of Yemeni Journalist Held by UAE-Backed Forces*, The Guardian, 10 February 2021, <https://www.theguardian.com/world/2021/feb/10/calls-grow-for-release-of-yemeni-journalist-held-by-uae-backed-forces>

³³ 2020 Experts Report, paras. 103 and 105(b).

enlisting children under the age of 15 or using them to participate actively in hostilities;

26. There is no reason for the Group to bundle up the few allegations it makes against the UAE with the many allegations against other parties. This pattern is further reinforced in the public comments of Group members. In respect of its 2020 report, one member of the Group stated concerning the serious violations of international human rights and humanitarian law: *“Responsibility for these violations rests with all the parties to the conflict - namely the government of Yemen, de facto authorities (Houthis), the Southern Transitional Council, and members of the coalition, in particular Saudi Arabia and the United Arab Emirates.”*³⁴ The Group’s situating of significant responsibility upon the UAE for violations is completely out of step with the Group’s particular allegations against the UAE, and the applicable legal standards and facts and evidence.

Conclusion

27. In summary, the UAE continues to be deeply concerned about the suffering of the Yemeni people caused by the ongoing conflict. The UAE is not major actor on the ground since mid-2019, and it does not have effective control over territory or persons in Yemen, as do the parties to the conflict. The UAE is fully committed to respecting international human rights and humanitarian law in its ongoing support for Yemen.

28. The Group’s reporting continues, regrettably, to demonstrate shortcomings in its standards and accuracy in allegations against the UAE Government, including as explained in prior Coalition and UAE responses. The Group makes only a few particular allegations against the UAE, for which the UAE has explained its unequivocal rejection.

29. The Group continues to deliberately link the UAE to many alleged violations committed by other parties, in respect of which the UAE had no role or responsibility. The Group also refuses to be specific about which State it is alleging violations against, preferring to refer generally only to the Coalition rather than any specific allegations against the UAE. This combined with the Group’s unjustified naming and shaming the UAE political leadership,³⁵ regrettably indicates that Group does not take an objective and fair approach towards the UAE Government.

³⁴ *Possible War Crimes in Yemen Filled by Arms Flows from West, Iran – U.N.*, Reuters, 16 September 2020, <https://www.reuters.com/article/yemen-security-un-int-idUSKBN2601NZ>.

³⁵ 2020 Experts Report, Annex p. 22; 2020 Detailed Findings Report, Annex 1 p. 115.