
Advance Edited Version

Distr.: General
31 May 2022

Original: English

Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its ninety-third session, 30 March–8 April 2022

Opinion No. 19/2022 concerning Ryan Cornelius (United Arab Emirates)*

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights. In its resolution 1997/50, the Commission extended and clarified the mandate of the Working Group. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The Council most recently extended the mandate of the Working Group for a three-year period in its resolution 42/22.
2. In accordance with its methods of work,¹ on 16 December 2021 the Working Group transmitted to the Government of the United Arab Emirates a communication concerning Ryan Cornelius. The Government has not replied to the communication. The State is not a party to the International Covenant on Civil and Political Rights.
3. The Working Group regards deprivation of liberty as arbitrary in the following cases:
 - (a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);
 - (b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);
 - (c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);
 - (d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);
 - (e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability,

* In accordance with paragraph 5 of the Working Group's methods of work, Elina Steinerte did not participate in the discussion of the present case.

¹ [A/HRC/36/38](#).

or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

Submissions

Communication from the source

4. Ryan Cornelius is a British national, born in 1954. At the time of his initial detention in 2008, Mr. Cornelius was reportedly a successful businessman, with particular experience in property development. Immediately before his arrest in the United Arab Emirates in 2008, Mr. Cornelius was resident with his family in Bahrain. He now has no home of his own.

a. Context

5. According to the source, human rights abuses in the United Arab Emirates are well documented. The source adds that basic freedoms taken for granted elsewhere, such as freedom of expression, freedom of association and freedom of religion, remain profoundly limited. The criminal justice system is widely criticized at the international level. In this respect, the source notes that in 2014, the Special Rapporteur on the independence of judges and lawyers investigated the judicial system of the United Arab Emirates and was “alarmed by a number of credible reports stating that persons arrested for allegedly violating the security of the State are subject to numerous procedural violations. Some are kept in secret detention facilities and held incommunicado, or even in solitary confinement, for extended periods of time, and under these circumstances many are subject to torture and/or ill treatment.”²

6. The source states that the official capacity of United Arab Emirates prisons is believed to be a little over 7,000, whereas the actual prison population is believed to be in excess of 11,000, meaning that the prison system is at more than 150 per cent capacity. The source notes that foreign prisoners are believed to make up the vast majority of inmates. The source adds that coronavirus disease (COVID-19) has spread within the United Arab Emirates prison population and there are reports that the authorities have allegedly tried to cover up the extent of the spread. The source also notes that in March 2020, senior United Nations human rights officials “urged the Emirati authorities to investigate and reform detention conditions” that amounted to “torture or cruel, inhuman or degrading treatment or punishment”.³ The source thus submits that there can be little doubt that the United Arab Emirates regularly acts contrary to the rule of law, treats prisoners poorly and detains individuals arbitrarily.

b. Background

7. The source reports that in 2004, Mr. Cornelius, along with other business partners, purchased a lease on high-profile development land in Dubai. The first phase of the development, which subsequently came to be known as “the Plantation”, was financed by a short-term loan from CCH, a German-headquartered finance house. Loans by CCH to the Plantation and a number of other projects derived from a line of credit which they had originally obtained from Dubai Islamic Bank to finance their trade factoring operations. In 2007, at the onset of the financial crisis, Dubai Islamic Bank called in its line of credit to CCH. Unable to comply because the money had been loaned onwards, CCH reportedly negotiated a three-year restructuring agreement for its debt to Dubai Islamic Bank. Dubai Islamic Bank made it a precondition for signing the agreement that Mr. Cornelius should act as a guarantor, and that the Plantation and his personal assets should be pledged as security.

8. According to the source, Dubai Islamic Bank agreed to the restructuring agreement and further made an undertaking that it would not bring criminal charges or advance civil claims while parties adhered to the restructuring agreement and repayment schedule. Loans provided to Mr. Cornelius and his business partners were ultimately the responsibility of the Chairman of Dubai Islamic Bank. In 2008, the latter was replaced as Chairman of the Bank

² The source refers to <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14237&LangID=E>.

³ The source refers to <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25726&LangID=E>.

by another individual who is also the head of the Ruler's Court – the Managing Director of the Investment Corporation of Dubai among other positions and one of the most powerful men in Dubai. In addition, he is understood to be extremely close to Dubai's ruling family.

9. The source notes that Mr. Cornelius's business dealings were thus a matter of concern for the financial and political authorities, as well as for the United Arab Emirates financial institutions in Dubai, and cannot be viewed as acts of alleged criminality in isolation. The source adds that it is clear that the loan associated with the Plantation development was a high-profile matter of financial and political interest to the authorities of the United Arab Emirates, and likely a matter of interest to the new Chairman.

c. Arrest and detention

10. Notwithstanding the fact that Mr. Cornelius and his associates adhered to the restructuring agreement and repayment schedule, Mr. Cornelius was reportedly arrested at Dubai International Airport immigration on 21 May 2008. He was transferred by four men in civilian clothes in an unmarked car to Dubai Police Headquarters. There, he was allegedly subjected to various breaches of his rights: a hood was placed over his head, his hands were zip-tied and he was taken to a windowless basement interview room. The source adds that Mr. Cornelius was interrogated aggressively for several hours with no access to legal representation whatsoever. He was thereafter provided with documents in Arabic – a language he was unable to read – and was induced to sign a document on the basis that he would be set free if he did so. The source adds that Mr. Cornelius signed the document but was thereafter placed immediately in solitary confinement, again without any access to legal representation.

11. According to the source, Mr. Cornelius was subsequently held in solitary confinement for six weeks, during which period he was again interrogated aggressively on two occasions in a padded, soundproof cell. The source adds that these interrogations were characterized by hyperaggressive conduct from his questioners with the omnipresent threat of violence. The source notes in particular that throughout this process, Mr. Cornelius was not provided with any access to legal representation. Thereafter, on 15 June 2008, while still being held in solitary confinement and unable to communicate with the outside world, Mr. Cornelius was served by Dubai Islamic Bank with a notice of breach of a clause in the repayment conditions for a loan for which he was acting as guarantor, and was given 15 days to remedy that breach. The source adds that Mr. Cornelius was prevented from responding in any way as a result of his ongoing unlawful solitary confinement. As a result, after those 15 days were up, his real estate development, which held significant value, and which he had used to secure the loan, was seized by Dubai Islamic Bank. The source notes that it is overwhelmingly likely, given the context of Mr. Cornelius's detention, that Dubai Islamic Bank was aware both of his detention and of his inability to respond to the notice served upon him. In this respect, the source asserts that this conduct is wholly consistent with the nature of the criminal corporate raid that was deployed against Mr. Cornelius.

12. According to the source, Mr. Cornelius was transferred to a different holding cell within Al-Rashid Police Station following those initial periods in solitary confinement. It was only at that stage that Mr. Cornelius was able to engage a local lawyer. The source asserts in particular that not only was Mr. Cornelius repeatedly questioned in the absence of a lawyer and induced to sign documents in Arabic, but the period for which he was held in solitary confinement is likely to have had a particularly deleterious effect on both his physical and his mental health. The source notes that Mr. Cornelius was reportedly held in solitary confinement for a prolonged period of several months before being charged with fraud. The source adds that he made multiple applications for bail. Although the source notes that it is impossible to be certain, it believes that more than 10 applications were made. Each of those applications was reportedly denied, and Mr. Cornelius was then held in detention until his trial in March 2010. The source emphasizes that the period for which Mr. Cornelius had been in detention by the time of his trial was already equivalent to two thirds of the maximum sentence available for fraud in Dubai at that time.

d. Trial proceedings

13. According to the source, the trial process against Mr. Cornelius was fundamentally flawed. The source adds that no interpreter was provided to Mr. Cornelius during the trial proceedings, with the unsurprising consequence that he was unable to follow the proceedings. The lawyer appointed for him did not speak English. The source asserts that in those circumstances, there can be no sensible suggestion that Mr. Cornelius was afforded a fair trial. Furthermore, the source reports that the trial process was beset by significant irregularities. Around mid-August 2010, the presiding judge of the proceedings at that time, an Egyptian national, reportedly convened a meeting of both the prosecution and the defence lawyer at the conclusion of the trial in which he indicated that he was unable to convict Mr. Cornelius and his co-defendants for fraud on the basis of the evidence provided. The judge then reportedly recused himself from further involvement in the case, and thereafter indicated that there should be further investigation of “more senior Dubai Islamic Bank executives who are not on trial”.

14. The source notes that notwithstanding this clear indication by the presiding judge of a defective trial process, Mr. Cornelius was not released, and the prosecuting lawyer thereafter brought a new charge against Mr. Cornelius of “theft from public bodies” before a new judge. The source notes that by this stage the prosecution had already had a chance to become familiar with the entirety of Mr. Cornelius’s defence lawyer’s submissions: in effect, having failed at its attempt to prosecute Mr. Cornelius on a straightforward charge of fraud, the prosecuting authority reportedly shifted the goalposts once it had seen the defence provided.

15. According to the source, the amended charges reclassified Dubai Islamic Bank as a public body, which had the effect of indicating that the loan which Mr. Cornelius and others had defaulted on as a result of their imprisonment was effectively an unpaid debt to the State. The source notes that the consequence of this manipulation of the prosecution process was to significantly increase the sentence available upon conviction. The source further notes that Dubai Islamic Bank is a publicly listed company, and thus claims that it is also likely that the designation of Dubai Islamic Bank as a public body is linked to the political nature of Mr. Cornelius’s prosecution, in such a way as to render the ongoing detention arbitrary. The source further alleges that the tactic deployed by the authorities of the United Arab Emirates of designating certain non-governmental businesses as public bodies has been deployed in other cases of alleged arbitrary detention and is likely an improper mechanism routinely used by the State.

16. The source reports that on 27 April 2011, the newly appointed judge found Mr. Cornelius guilty of “embezzlement of State funds”. Mr. Cornelius was sentenced to 10 years’ imprisonment, and was further ordered to repay the loan of \$501 million alongside a further \$500 million fine. The source submits that the trial process was particularly protracted and was beset by irregularities and the overwhelming likelihood of bias and/or external interference. The source notes that during this second trial process, the hearings were extremely brief and Mr. Cornelius’s lawyer was not permitted to pose questions or cross-examine witnesses. The source further notes that, in a breach of Dubai law, the name of the complainant who had brought the initial allegation against Mr. Cornelius was withheld throughout the proceedings. In this respect, the source notes that ordinarily Dubai law provides that a document known as an “FIR report” must be disclosed. An FIR report contains, among other things, the identity of any complainant. The source contends that such document was never disclosed and Mr. Cornelius was thus prosecuted without knowing the identity of any complainant – in breach of local law, and an omission which is allegedly wholly consistent with the politically skewed nature of the prosecution against him.

17. The source reports that Mr. Cornelius and his business partner both served their full 10-year sentences. Mr. Cornelius was a model prisoner, but he was not afforded the typical reduction in sentence for good behaviour of up to 25 per cent. In this respect, the source notes that under United Arab Emirates law, Mr. Cornelius had a statutory entitlement to early release for good behaviour. On any assessment, that entitlement should have manifested itself some considerable time before May 2018 (the end point of his full 10-year sentence). However, for reasons which have never been explained, and which may again be consistent

with the nature of the allegedly flawed prosecution and sentence, Mr. Cornelius was not given any time off his sentence for good behaviour.

e. Additional retroactive sentence

18. The source reiterates that Mr. Cornelius should have been entitled to early release for good behaviour. However, he was not released and remained held in custody without any explanation from the authorities.

19. The source reports that on 15 March 2018, by which time Mr. Cornelius had served all but two months of his full 10-year sentence, he and a fellow defendant were taken, without notice, from Al-Awir Prison to a judge's office. The source notes that this event was not a hearing in any normal, legal sense of the word. Rather, it was held behind closed doors and did not feature any of the typical components of a hearing – most notably the right to be heard by way of representation or submission. The source adds that a lawyer representing Dubai Islamic Bank was present, although neither Mr. Cornelius nor his fellow defendant had legal representation.

20. The judge informed Mr. Cornelius and his fellow defendant that Dubai Islamic Bank had requested the imposition of an additional 20-year detention, pursuant to Dubai Law No. 37 of 2009. Several days later, on or around 18 March 2018, Mr. Cornelius was returned to the same office before the same judge and was informed that, pursuant to Law No. 37, his sentence would be extended by a further period of 20 years, notwithstanding the 10-year period already served.

21. The source notes that Dubai Law No. 37 of 2009 came into force on 31 December 2009. The source thus submits that the enactment of Law No. 37 significantly postdates the commission of the offences for which Mr. Cornelius was convicted and imprisoned. In essence, according to the source, Law No. 37 provides a mechanism for further imprisonment by the United Arab Emirates in circumstances in which a prisoner is alleged to have failed to repay sums owed to a creditor.

22. The source recalls that the underlying trial process to which Mr. Cornelius was subjected between 2008 and 2011 was also fundamentally flawed (see paras. 13–16 above). Accordingly, the source submits that the conduct of the underlying trial process is symptomatic of the treatment to which Mr. Cornelius has been subjected. The source reiterates that the features of the process to which Mr. Cornelius has been subjected bear all the hallmarks of a criminal corporate raid. In short, it is reportedly likely that the initial arrest of Mr. Cornelius in 2008, the subsequent initial trial process and his treatment thereafter are all facets of that criminal corporate raid.

23. According to the source, at the hearing on or around 18 March 2018 during which Mr. Cornelius's sentence was extended from 10 years' to 30 years' imprisonment, Mr. Cornelius was not afforded the right to make any submissions, either in writing or orally, and he was not put on notice that further sentencing proceedings would take place.

24. The source reports that Mr. Cornelius thereafter sought leave to appeal, but he was allegedly deliberately prevented, by prison authorities, from appealing against the extension to the sentence. When Mr. Cornelius informed the prison authorities that he wished to lodge an appeal, he was reportedly told that prisoners serving a 10-year sentence were not entitled to give power of attorney to a lawyer – an assertion that has no basis in law. The source notes that Mr. Cornelius applied five times to a court notary to issue a power of attorney but was denied on each occasion. The source adds that notwithstanding this attempt to frustrate Mr. Cornelius's attempt to appeal, he undertook to defend himself and lodged an appeal. According to the source, the date set for that appeal hearing was 13 May 2018. Mr. Cornelius was, however, not allowed to board a prison bus to the courthouse on that day. He was informed by prison authorities that his name was not on the driver's list and he was refused transport. He was thereby physically prevented from attending the appeal hearing. The source notes that the effect of this physical bar on attendance was that the judge set to hear the hearing reportedly dismissed the appeal on the basis of non-attendance. The source submits that this represents an unsophisticated but nevertheless effective mechanism by which Mr. Cornelius was denied his lawful right to appeal.

25. For the reasons set out below, the source submits that the continued detention of Mr. Cornelius amounts to arbitrary detention, irrespective of whether or not he has discharged any debt owed to Dubai Islamic Bank. Nonetheless, the source notes particularly that, in recent litigation before the Bahrain Chamber for Dispute Resolution, a judgment was given in which it was held that, pursuant to the sale of the Plantation land, the indebtedness to Dubai Islamic Bank had already been discharged. This judgment was reportedly referred to by one of the judges in a judgment by the High Court in London handed down on 31 July 2020 in the matter of *C.R.⁴ v. Dubai Islamic Bank*.⁵

26. According to the source, the additional 20-year sentence was imposed at the behest of Dubai Islamic Bank, as the power to imprison rests with the United Arab Emirates authorities. In light of the judgment of the Bahrain Chamber for Dispute Resolution, as well as other matters, litigation is ongoing in the High Court in London to challenge the assertion by Dubai Islamic Bank that there are sums that remain outstanding. The source adds that Mr. Cornelius is not a party to that litigation, as he has been left bankrupt by the actions of the United Arab Emirates authorities and Dubai Islamic Bank and has no funds to participate.

27. The source reiterates that Mr. Cornelius has been given a sentence of imprisonment following a trial process with underlying flaws, which he has been unable to appeal against, which he was unable to challenge at the time of its imposition and which is based upon a law that was not in force at the time that the alleged criminality took place; and furthermore, Mr. Cornelius remains in custody in conditions that are profoundly detrimental to his health. The source further notes that Mr. Cornelius's business partner also remains detained, having been subjected to a similar process.

f. Conditions of detention and current health status

28. According to the source, Mr. Cornelius has been held in custody by the authorities of the United Arab Emirates since March 2008. During the intervening 13 years, he has been repeatedly held in solitary confinement and is now detained at Al-Awir Prison. The source claims that prison conditions in the United Arab Emirates are exceptionally poor. The source adds that Mr. Cornelius's health has recently deteriorated significantly. In November 2019, he tested positive for tuberculosis, likely contracted from another prisoner. He reportedly did not receive treatment for a period of some 18 months. The source notes that tuberculosis is potentially fatal and kills hundreds of thousands of people each year. Mr. Cornelius also has high cholesterol and high blood pressure, and he is reportedly particularly vulnerable to tuberculosis because of his detention. The source notes that Mr. Cornelius has been denied access to medication and treatment by the United Arab Emirates. As a result, his continued incarceration constitutes a serious threat to his health and life.

g. Analysis of violations

29. In light of the above information, the source submits that the arrest and detention of Mr. Cornelius fall under categories I and III of the categories applicable to cases under consideration by the Working Group.

i. Category I

30. The source submits that Mr. Cornelius was deprived of his liberty, and remains deprived, without any legal justification. The source notes that, among other things, the basis for justifying detention must be accessible, understandable, non-retroactive and applied in a consistent and predictable way to everyone equally.⁶

31. In this respect, the source submits that Mr. Cornelius's ongoing detention is disproportionate. The source notes that any assessment of arbitrariness under customary international law (including within category I) requires a thorough examination of the lawfulness, reasonableness, proportionality and necessity of any measure depriving a human

⁴ The source notes that this judgment refers to Mr. Cornelius's business partner.

⁵ The source refers to <https://www.casemine.com/judgement/uk/5f28ec552c94e03986856f9c> – England and Wales High Court 2088 (Commercial Court).

⁶ The source refers to [A/HRC/22/44](#).

being of his or her liberty. Equally, “in order to avoid a characterization of arbitrariness, detention should not continue beyond the period for which the State party can provide appropriate justification”.

32. The source submits that the initial conviction of Mr. Cornelius, and in particular the recent extension of his sentence, meets the requisite definition of arbitrariness. In this respect, the source notes that while the proceedings resulting in Mr. Cornelius’s conviction were so unfair as to render his subsequent detention arbitrary in any event, the subsequent extension to Mr. Cornelius’s sentence was unfair, unlawful and without legal basis justifying the deprivation of liberty.

33. According to the source, Mr. Cornelius’s ongoing detention is pursuant to Dubai Law No. 37 of 2009. That law came into force on 31 December 2009. The source notes that the new law is punitive and retroactive, and adds that it received significant press coverage in the United Arab Emirates. The alleged criminality for which Mr. Cornelius was arrested, charged, tried and convicted was said to have taken place between 2004 and 2007. Mr. Cornelius has been in custody since March 2008. The alleged conduct for which Mr. Cornelius now remains in prison therefore occurred before the enactment of Law No. 37. With reference to article 11 (2) of the Universal Declaration of Human Rights, the source notes that the principle of *nulla poena sine lege* (no penalty without law) is fundamental to the most basic understanding of the rule of law.

34. According to the source, the enactment of Dubai Law No. 37 and the subsequent application of it to Mr. Cornelius’s case represents retroactive law.⁷ The source submits that there is no basis for any distinction between laws dealing with the commission of offences and laws relating to the imposition of sentences, as per the Universal Declaration of Human Rights. Hence, the penal punishment must, at a minimum, satisfy the principle of necessity (*nullum crimen, nulla poena sine necessitate*), the prerequisite of injustice (*nullum crimen, nulla poena sine injuria*) and the principle of guilt (*nullum crimen, nulla poena sine culpa*), in the interest of formal and material justice.⁸

35. Therefore, the source submits that the imposition of a 20-year sentence is arbitrary, pursuant to category I, on the basis of its retroactive nature. For the avoidance of doubt, no relevant law in force in the United Arab Emirates at the time of the commission of the offences for which Mr. Cornelius was convicted provided for the extended sentence imposed.

36. The source also refers to article 27 of the Constitution of the United Arab Emirates, which provides that: “Crimes and punishments shall be defined by the law. No penalty shall be imposed for any act of commission or omission committed before the relevant law has been promulgated.”⁹

37. The source refers to the judgment of the Bahrain Chamber for Dispute Resolution, which makes it clear that no debt is currently owed that would justify the extended term of imprisonment imposed for the period or at all. The source adds that for the avoidance of doubt, irrespective of whether or not any debt is currently owed, Mr. Cornelius’s detention is arbitrary in any event.

ii. Category III

38. The source also submits that Mr. Cornelius’s detention clearly falls within category III, and adds that it is likely the case that there have been so many breaches of Mr. Cornelius’s due process and fair trial rights as to render his ongoing deprivation arbitrary.

39. In addition to the breaches under category I, the authorities of the United Arab Emirates have reportedly committed significant violations pursuant to category III in connection with the imposition of the extended 20-year sentence:

⁷ The source refers to opinion No. 10/2018.

⁸ *Ibid.*, para. 53.

⁹ The source refers to the jurisprudence of the Working Group on Arbitrary Detention, where the Working Group has previously indicated violations where individuals have been detained beyond the expiration of their sentences (see, *inter alia*, opinion No. 21/2000).

- (a) Mr. Cornelius was not given any prior notice of the imposition of the extended sentence;
- (b) Mr. Cornelius was not afforded the right to make submissions at the hearing at which that sentence was imposed;
- (c) Mr. Cornelius has been deprived of any ability to challenge that extended sentence.

40. The source asserts that the United Arab Emirates is under a duty to protect the due process rights of anyone subject to a potential period of imprisonment. The source notes that, bearing in mind Mr. Cornelius's age, the extended sentence is a de facto life sentence. If Mr. Cornelius is required to serve the remainder of the extended sentence, the likelihood is that he will die in prison.

41. According to the source, this case is a clear example of arbitrary detention in this regard. In particular, the source refers to principle 11 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment in relation to his extended sentence.

42. The source submits that Mr. Cornelius has been expressly blocked by the United Arab Emirates authorities from pursuing any appeal in the case. The source submits that the deliberate frustration or otherwise the failure of the United Arab Emirates authorities to allow Mr. Cornelius to pursue an appeal represents a basic failure of due process and renders his detention arbitrary. The source refers to the jurisprudence of the Working Group, where it has repeatedly held that a denial of a detainee's request to appeal against a sentence is conduct giving rise to a violation.¹⁰

43. The source submits that the initial proceedings have given rise to a period of arbitrary detention. Furthermore, and in any event, the extended sentence also gives rise to a separate period of arbitrary detention. The continued detention of Mr. Cornelius reportedly represents a prolonged and egregious violation of his basic human rights.¹¹ The source therefore submits that Mr. Cornelius is detained arbitrarily pursuant to category I and category III.

Response from the Government

44. On 16 December 2021, the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 14 February 2022, detailed information about the current situation of Mr. Cornelius and to clarify the legal provisions justifying his continued detention, as well as its compatibility with the obligations of the United Arab Emirates under international human rights law. Moreover, the Working Group called upon the Government of the United Arab Emirates to ensure Mr. Cornelius's physical and mental integrity.

45. The Working Group regrets that it did not receive a response from the Government. The Government did not request an extension of the time limit for its reply, as provided for in paragraph 15 of the Working Group's methods of work.

Discussion

46. The Working Group thanks the source for its submission. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

47. In determining whether Mr. Cornelius's detention was arbitrary, the Working Group has regard to the principles established in its jurisprudence to deal with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the

¹⁰ In this respect, the source refers to opinion No. 43/2012, para. 46.

¹¹ The source refers to [E/CN.4/2004/3](#), para. 84.

Government if it wishes to refute the allegations.¹² In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

Category I

48. The Working Group notes the source's submission that following his arrest, Mr. Cornelius was not brought promptly before a judge, that is, within 48 hours of the arrest barring absolutely exceptional circumstances, as per the international standard set out in the Working Group's jurisprudence.¹³ The Working Group further observes that he was not afforded the right to bring proceedings before a court so that the court may decide without delay on the lawfulness of his detention in accordance with articles 3, 8 and 9 of the Universal Declaration of Human Rights and principles 11, 32 and 37 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Judicial oversight of deprivation of liberty is a fundamental safeguard of personal liberty and is essential in ensuring that detention has a legal basis.¹⁴

49. The Working Group also observes that Mr. Cornelius was not promptly informed of the charges against him. Such an arrest is arbitrary and seriously undermines the capacity to mount an appropriate legal defence, violating article 9 of the Universal Declaration of Human Rights as well as principles 2 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.¹⁵

Bail

50. The source adds that Mr. Cornelius made multiple applications for bail, which it believes exceeded 10 applications. All were reportedly denied. Mr. Cornelius was then held in detention until his trial in March 2010. The Working Group recalls its own recurrent findings that pretrial detention must be the exception and not the rule, should be ordered for as short a time as possible,¹⁶ and must be based on an individualized determination that it is reasonable and necessary, taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. Courts must examine whether alternatives to pretrial detention, such as bail, electronic bracelets or other conditions, would render detention unnecessary in the case in question.¹⁷ In the present case, the Working Group concludes that an individualized determination of Mr. Cornelius's circumstances was absent, and as a result, his detention lacked a legal basis. In reaching this conclusion, the Working Group notes that the Government did not submit any information to suggest that such a determination took place or to rebut the source's submissions.

Solitary confinement

51. According to the source, following his arrest, Mr. Cornelius was held in solitary confinement for a period of six weeks. During this period, he was reportedly interrogated aggressively on two occasions in a padded, soundproof cell. Throughout this process, Mr. Cornelius was not provided with any access to legal representation that could challenge the legality of his detention. On 15 June 2008, while still held in solitary confinement and unable to communicate with the outside world, Mr. Cornelius was served by Dubai Islamic Bank with a notice of breach of a clause in the repayment conditions for a loan for which he was acting as guarantor, and was given 15 days to remedy that breach. The source adds that Mr. Cornelius was prevented from responding in any way, as a result of his ongoing solitary confinement.

¹² [A/HRC/19/57](#), para. 68.

¹³ Opinions No. 57/2016, paras. 110–111; No. 2/2018, para. 49; No. 83/2018, para. 47; No. 11/2019, para. 63; and No. 30/2019, para. 30.

¹⁴ Opinions No. 35/2018, para. 27; No. 83/2018, para. 47; No. 32/2019, para. 30; No. 33/2019, para. 50; No. 44/2019, para. 54; No. 45/2019, para. 53; No. 59/2019, para. 51; and No. 65/2019, para. 64.

¹⁵ Opinion No. 10/2018, para. 71.

¹⁶ See, for example, opinions No. 57/2014, para. 26; No. 8/2020, para. 54; No. 5/2021, para. 43; and No. 6/2021, para. 50. See also [A/HRC/19/57](#), paras. 48–58.

¹⁷ [A/HRC/19/57](#), paras. 48–58.

52. The source states that following this period of solitary confinement, Mr. Cornelius was subjected to further solitary confinement for a prolonged period of several months before being charged with fraud. The Working Group notes that giving prompt and regular access to family members, as well as to independent medical personnel and lawyers, is an essential and necessary safeguard for the prevention of torture as well as for protection against arbitrary detention and infringement of personal liberty. The Working Group also recalls that the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has deemed that solitary confinement in excess of 15 days is prolonged, at which point some of the harmful psychological effects of isolation can become irreversible.¹⁸

53. The Working Group finds the conduct described above to be in violation of Mr. Cornelius's right to have contact with the outside world under rules 43 (3), 45 and 58 (1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and principles 15 and 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Working Group also notes with concern that the denial of Mr. Cornelius's right to legal assistance during this period of solitary confinement adversely affected his ability to challenge the legality of his detention. The Working Group thus finds that his rights under articles 8 and 10 of the Universal Declaration of Human Rights and principles 4, 9, 11 and 32 (1) of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment were violated. He was also placed outside the protection of the law, in violation of his right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights.

Additional retroactive sentence

54. The source reports that on 15 March 2018, by which time Mr. Cornelius had served all but two months of his full 10-year sentence, he and a fellow defendant were taken, without notice, from Al-Awir Prison to a judge's office. The source adds that a lawyer representing Dubai Islamic Bank was present, but that neither Mr. Cornelius nor his fellow defendant had legal representation during this closed-door meeting. Several days later, on or around 18 March 2018, Mr. Cornelius was returned to the same office before the same judge and was informed that, pursuant to Dubai Law No. 37, his sentence would be extended by a further period of 20 years, notwithstanding the 10-year period he had already served.

55. The source submits that the subsequent extension to Mr. Cornelius's sentence and his ongoing detention pursuant to Dubai Law No. 37 of 2009 which came into force on 31 December 2009 is unfair, unlawful and without legal basis justifying the deprivation of liberty. The source adds that the new law is punitive. The alleged criminality for which Mr. Cornelius was arrested, charged, tried and convicted was said to have taken place between 2004 and 2007. Mr. Cornelius has been in custody since March 2008. The alleged conduct for which Mr. Cornelius now remains in prison therefore occurred before the enactment of Law No. 37.

56. The Working Group observes that the principle of legality (*nulla poena sine lege*) is a fundamental guarantee which includes:¹⁹

- (a) The principle of non-retroactivity (*nullum crimen, nulla poena sine lege praevia*);
- (b) The prohibition against analogy (*nullum crimen, nulla poena sine lege stricta*);
- (c) The principle of certainty (*nullum crimen, nulla poena sine lege certa*);
- (d) The prohibition against uncodified, unwritten, or judge-made criminal provisions (*nullum crimen, nulla poena sine lege scripta*).

57. Accordingly, an act is only punishable by law if, when committed, it was the object of "a valid, sufficiently precise, written criminal law to which a sufficiently certain sanction

¹⁸ A/63/175, para. 56; and A/66/268, para. 61. Likewise, rule 44 of the Nelson Mandela Rules refers to solitary confinement for a time period in excess of 15 consecutive days as being prolonged solitary confinement.

¹⁹ Opinion No. 10/2018, para. 50, in which the Working Group cites the *Max Planck Encyclopedias of International Law*.

was attached”.²⁰ Mr. Cornelius’s ongoing detention is based on a conviction under Dubai Law No. 37 of 2009, being applied retroactively. As such, the Working Group finds a violation of article 11 (2) of the Universal Declaration of Human Rights.

58. For the reasons set out above, the Working Group finds that the Government failed to establish a legal basis for the arrest and detention of Mr. Cornelius and that his detention is arbitrary under category I.

Category III

59. The source submits that following his arrest at Dubai International Airport on 21 May 2008, Mr. Cornelius was transferred by four men in civilian clothes in an unmarked car to Dubai Police Headquarters, where a hood was placed over his head, his hands were zip-tied and he was taken to a windowless basement interview room in which he was interrogated aggressively for several hours with no legal representation.

60. His inability to instruct and consult a lawyer has also denied Mr. Cornelius the ability to appear before an independent and impartial tribunal to determine his rights, and to seek an effective remedy by a competent national tribunal for his fundamental rights, thus preventing him from challenging the circumstances of his detention, in violation of his right to be recognized as a person before the law under article 6 of the Universal Declaration of Human Rights.

61. The Working Group notes with concern Mr. Cornelius’s treatment at Dubai Police Headquarters, and that he was induced to sign documents in Arabic – a language he was unable to read – without any legal representation. Moreover, during the trial proceedings, no interpreter was provided to Mr. Cornelius, who was unable to follow those proceedings. The lawyer appointed for him did not speak English. The Working Group finds that these failures to provide translation and interpretation assistance constitute a breach of principle 14 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, as Mr. Cornelius could not read or understand Arabic.²¹

62. The Working Group recalls that persons deprived of their liberty should have the right to legal assistance by counsel of their choice, at any time during their detention, including immediately after the moment of apprehension.²² Upon apprehension, all persons should be promptly informed of this right.²³ This right entitles persons deprived of liberty to be accorded adequate time and facilities to prepare their defence, including through the disclosure of information.²⁴

63. The Government has breached Mr. Cornelius’s right to legal assistance at all times, which is inherent in the right to liberty and security of person and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, in accordance with articles 3, 9, 10 and 11 (1) of the Universal Declaration of Human Rights as well as principles 15, 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and principle 1 of the Basic Principles on the Role of Lawyers.²⁵ The Working Group considers that these violations substantially undermined Mr. Cornelius’s capacity to defend himself in the judicial proceedings.²⁶

64. The Working Group notes with concern the following due process and fair trial rights violations in the conduct of Mr. Cornelius’s trials:

²⁰ Ibid.

²¹ See, for example, opinions No. 84/2018 and No. 34/2018, as well as opinion No. 70/2021, para. 106.

²² United Nations 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), principle 9 and guideline 8; A/HRC/45/16, paras. 51–52; and the Basic Principles on the Role of Lawyers, paras. 16–22.

²³ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, para. 12.

²⁴ Ibid., para. 14.

²⁵ A/HRC/29/26/Add.2, para. 56.

²⁶ United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, paras. 12, 15, 67 and 71.

- The presiding judge indicated that he was unable to convict Mr. Cornelius and his co-defendants on the basis of the evidence provided and reportedly recused himself from further involvement in the case, and thereafter indicated that there should be further investigation of “more senior Dubai Islamic Bank executives who are not on trial”.
- New charges brought against Mr. Cornelius of “theft from public bodies”, before a new judge, and the amended charges, reclassified Dubai Islamic Bank as a public body, after which, on 27 April 2011, the newly appointed judge found Mr. Cornelius guilty of “embezzlement of State funds”.
- An extremely brief second trial.
- Mr. Cornelius’s lawyer was not permitted to pose questions or cross-examine witnesses.
- In a breach of Dubai law, the name of the complainant who had brought the initial allegation against Mr. Cornelius was withheld throughout the proceedings.

65. Noting these violations, the Working Group observes that a very brief trial for serious criminal offences suggests that Mr. Cornelius’s guilt had been predetermined, in violation of his right to the presumption of innocence under article 11 (1) of the Universal Declaration of Human Rights.

66. Regarding the right to equality before courts and tribunals and to a fair trial, there is a strict obligation to respect the right to have witnesses admitted who are relevant for the defence, and to be given a proper opportunity to question and challenge witnesses against the defence at some stage of the proceedings. In the present case, that right was denied to Mr. Cornelius, and such a refusal to allow any witnesses on behalf of the defence bears the hallmarks of a serious denial of equality of arms in the proceedings. Accordingly, the Working Group finds that the rights of Mr. Cornelius to equality of arms and to a fair hearing under articles 10 and 11 (1) of the Universal Declaration of Human Rights were violated. The Working Group has expressed concern that the judiciary in the United Arab Emirates, particularly the Federal Supreme Court, is not independent and impartial because it is under the control of the executive branch.²⁷ The Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers.

67. In regard to the extended 20-year sentence, the Working Group notes with concern that Mr. Cornelius:

- Was not given any prior notice of the imposition of the extended sentence.
- Was not afforded the right to make submissions at the closed-door meeting at which that sentence was imposed and was not legally represented during that meeting.
- Was deprived of any ability to challenge the extended sentence.

68. The Working Group also notes with concern the procedural and physical hurdles imposed upon Mr. Cornelius as he sought to exercise his right to appeal (see para. 04 above). In the absence of a rebuttal by the Government, the Working Group concludes that Mr. Cornelius’s right to have his conviction and sentence reviewed by a higher tribunal was not respected, contrary to articles 8, 10 and 11 (1) of the Universal Declaration of Human Rights.²⁸

69. In light of this catalogue of violations set out above, the Working Group finds that Mr. Cornelius’s due process and fair trial rights were not respected. The Working Group concludes that these fair trial and due process violations are of such gravity as to give Mr. Cornelius’s detention an arbitrary character under category III.

²⁷ Opinions No. 21/2017, paras. 52–54; No. 55/2019, para. 41; No. 31/2020, para. 60; and No. 61/2020, para. 89. See also [A/HRC/29/26/Add.2](#), paras. 30–39, 96 and 100.

²⁸ Opinions No. 31/2020, para. 61; and No. 61/2020, para. 90; and see [A/HRC/29/26/Add.2](#), paras. 61 and 115.

Concluding remarks

70. The Working Group notes with concern the source's submission that Mr. Cornelius is seriously ill, having contracted tuberculosis in prison. The source notes that he has been denied access to medication and treatment by the authorities. The Working Group expresses its grave concern at Mr. Cornelius's deteriorating health, recalling rules 1, 24, 27 and 118 of the Nelson Mandela Rules which require that all persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity as human beings, including enjoying the same standards of health care that are available in the community. In particular, rule 27 (1) requires that all prisons ensure prompt access to medical attention in urgent cases. The Working Group calls on the Government of the United Arab Emirates to immediately and unconditionally release Mr. Cornelius and to ensure that he receives the required medical treatment as soon as possible.

71. The Working Group also notes that Mr. Cornelius is in his late sixties and that the extended sentence imposed could in effect be a life sentence for him. Accordingly, the Working Group refers the present case to the Independent Expert on the enjoyment of all human rights by older persons.

72. The Working Group notes that the present opinion is only one of several opinions in which the Working Group has found the Government of the United Arab Emirates to be in violation of its international human rights obligations.²⁹ The Working Group recalls that, under certain circumstances, widespread or systematic imprisonment or other severe deprivation of liberty in violation of the rules of international law may constitute crimes against humanity.³⁰

Disposition

73. In the light of the foregoing, the Working Group renders the following opinion:

The deprivation of liberty of Ryan Cornelius, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights, is arbitrary and falls within categories I and III.

74. The Working Group requests the Government of the United Arab Emirates to take the steps necessary to remedy the situation of Mr. Cornelius without delay and bring it into conformity with the relevant international norms, including those set out in the Universal Declaration of Human Rights.

75. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Cornelius immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law. In the current context of the global coronavirus disease (COVID-19) pandemic and the threat that it poses in places of detention, the Working Group calls upon the Government to take urgent action to ensure the immediate release of Mr. Cornelius.

76. The Working Group urges the Government to ensure a full and independent investigation of the circumstances surrounding the arbitrary deprivation of liberty of Mr. Cornelius and to take appropriate measures against those responsible for the violation of his rights.

77. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the independence of judges and lawyers and the Independent Expert on the enjoyment of all human rights by older persons, for appropriate action.

²⁹ See opinions No. 2/1998, No. 17/1998, No. 16/2002, No. 7/2004, No. 22/2004, No. 3/2008, No. 8/2009, No. 14/2010, No. 34/2011, No. 64/2011, No. 61/2012, No. 27/2013, No. 42/2013, No. 60/2013, No. 12/2014, No. 56/2014, No. 51/2015, No. 21/2017, No. 47/2017, No. 58/2017, No. 76/2017, No. 30/2018, No. 28/2019, No. 55/2019, No. 31/2020, No. 33/2020, No. 34/2020, No. 61/2020 and No. 88/2020.

³⁰ Opinions No. 47/2012, para. 22; No. 30/2018, para. 59; and No. 54/2021, para. 107.

78. The Working Group recommends that the Government accede to the International Covenant on Civil and Political Rights.

79. The Working Group requests the Government to disseminate the present opinion through all available means and as widely as possible.

Follow-up procedure

80. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

- (a) Whether Mr. Cornelius has been released and, if so, on what date;
- (b) Whether compensation or other reparations have been made to Mr. Cornelius;
- (c) Whether an investigation has been conducted into the violation of Mr. Cornelius rights and, if so, the outcome of the investigation;
- (d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the United Arab Emirates with its international obligations in line with the present opinion;
- (e) Whether any other action has been taken to implement the present opinion.

81. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example through a visit by the Working Group.

82. The Working Group requests the source and the Government to provide the above-mentioned information within six months of the date of transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

83. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and has requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken.³¹

[Adopted on 1 April 2022]

³¹ Human Rights Council resolution 42/22, paras. 3 and 7.