INTERNATIONAL COURT OF JUSTICE

INTERPRETATION AND APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

(THE STATE OF QATAR *v.* THE UNITED ARAB EMIRATES)

APPLICATION INSTITUTING PROCEEDINGS

filed in the Registry of the Court
on 11 June 2018

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To the Registrar of the International Court of Justice, the undersigned, being duly authorized by the State of Qatar ("***Qatar***"), states as follows:

1. On behalf of Qatar and pursuant to Article 40, paragraph 1, of the Statute of the Court ("***Statute***") and Article 38 of the Rules of Court, I have the honor to submit to the Court the present Application instituting proceedings against the United Arab Emirates ("***UAE***"). The Court has jurisdiction pursuant to Article 36(1) of the Statute and Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination ("***CERD***"), which entered into force on 4 January 1969. Both Qatar and the UAE are parties to the CERD, acceding to it on 22 July 1976 and 20 June 1974, respectively.

I.

PRELIMINARY STATEMENT

2. This Application concerns a legal dispute between Qatar and the UAE regarding the UAE's deliberate and flagrant violations of the CERD. The UAE, unlawfully seeking to pressure Qatar to allow it to interfere in Qatari sovereignty over its affairs, has targeted Qataris and their families for discriminatory treatment. In the process, the UAE has caused severe and irreparable harm to Qatar and Qataris. The UAE's chosen approach to international affairs contravenes core principles of international human rights law, including the protections contained in the CERD.

3. The UAE has enacted and implemented a series of discriminatory measures directed at Qataris based expressly on their national origin—measures that remain in effect to this day. In particular, on 5 June 2017 and the days that followed, the UAE:

- expelled all Qataris within its borders, without exception, giving them just two weeks to leave;

- prohibited Qataris from entering into or passing through the UAE, and ordered UAE nationals to leave Qatar or face severe civil penalties, including deprivation of their nationality and the imposition of criminal sanctions;

- closed UAE airspace and seaports to Qatar and Qataris and prohibited all inter-state transport, which together with coordinated measures enacted simultaneously by other nearby states, rendered Qatar inaccessible by air, by land, and by sea;[1]

- interfered with the rights of Qataris who own property in the UAE;

- prohibited by law any speech deemed to be in "support" of Qatar or opposed to the actions taken against Qatar, on threat of severe financial penalty or up to fifteen years imprisonment; and

- shut down the local offices of Al Jazeera Media Network ("***Al Jazeera***") and blocked the transmission of Al Jazeera and other Qatari stations and websites.[2]

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[1] The other states closing their borders or prohibiting transport are the Kingdom of Saudi Arabia ("***Saudi Arabia***"), the Arab Republic of Egypt ("***Egypt***"), and the Kingdom of Bahrain ("***Bahrain***").

[2] Saudi Arabia, Egypt, and Bahrain announced their own imposition of the same or similar measures beginning on 5 June 2017. *Kingdom of Saudi Arabia severs diplomatic and consular relations with Qatar*, SAUDI PRESS AGENCY (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637298; *Egypt Severs Diplomatic Relations with Qatar*, SAUDI PRESS AGENCY (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637371; *Bahrain severs relations with Qatar*, SAUDI

4. Further, the UAE has not only failed to condemn racial hatred against Qataris, but has directly incited hate speech, as well as a full-scale media campaign against Qatar and Qataris. UAE government officials themselves actually have participated in social media attacks on Qatari "sympathizers" and have called for attacks against Qatar.

5. These and other actions described herein targeting Qatar and Qataris (collectively, "***Discriminatory Measures***") are unlawful. The UAE imposed them on Qataris across the board, without any justification under international law, and in particular, without exception and without reference to the particular circumstance of the Qataris impacted. There was no possibility of a hearing or any form of review for the Qataris impacted, much less one affording basic due process. The UAE's actions clearly violate the CERD.

6. Tragically, but inevitably, the burden of the UAE's Discriminatory Measures has fallen on Qataris, who have been subjected to human rights abuses since June 2017. The gravity of the harm suffered has been exacerbated by the historically close ties between the people of Qatar and its neighbors. For decades, citizens of Qatar and the UAE, who share a common language and cultural heritage, have studied and worked together, prayed together, and married into each other's families. The sweeping and indiscriminate nature of the Discriminatory Measures has interfered with the most basic elements of daily life for Qataris. They have been denied the ability to marry and live together as a family, to receive medical care, to obtain an education, and to work and own property in order to provide for themselves and their families—simply on the basis that they are Qatari, married to Qataris, the children of Qataris, or otherwise linked to Qatar.

PRESS AGENCY (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637356.

7. In December 2017, the Office of the United Nations High Commissioner for Human Rights ("***OHCHR***") published a report documenting the devastating negative impact the Discriminatory Measures have had on the human rights of Qataris. The OHCHR concluded, in relevant part:

> [The Discriminatory Measures], consisting of severe restrictions of movement, termination and disruption of trade, financial and investment flows, as well as suspension of social and cultural exchanges imposed on the State of Qatar, had immediately translated into actions applying to nationals and residents of Qatar, including citizens of KSA, UAE and Bahrain. Many of these measures have a potentially durable effect on the enjoyment of the human rights and fundamental freedoms of those affected. As there is no evidence of any legal decisions motivating these various measures, and due to the lack of any legal recourse for most individuals concerned, these measures can be considered as arbitrary. These actions were exacerbated by various and widespread forms of media defamation and campaigns hated [*sic*] against Qatar, its leadership and people.
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> The majority of the measures were broad and non-targeted, making no distinction between the Government of Qatar and its population. In that sense, they constitute core elements of the definition of unilateral coercive measures as proposed by the Human Rights Council Advisory Committee: 'the use of economic, trade or

> other measures taken by a State, group of States or international organizations acting autonomously to compel a change of policy of another State or to pressure individuals, groups or entities in targeted States to influence a course of action without the authorization of the Security Council'. Moreover, measures targeting individuals on the basis of their Qatari nationality or their links with Qatar can be qualified as non-disproportionate and discriminatory.
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> [. . .]
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> The majority of cases remain unresolved and are likely to durably affect the victims, particularly those having experienced family separation, loss of employment or who have been barred from access to their assets.[3]

The OHCHR's conclusions mirror those of multiple other human rights bodies, including Amnesty International, Human Rights Watch, and the Committee to Protect Journalists, as well as national human rights bodies, such as Qatar's National Human Rights Committee ("***NHRC***").[4]

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[3] **Annex 16**, OHCHR Technical Mission to the State of Qatar, 17-24 November 2017, *Report on the Impact of the Gulf Crisis on Human Rights* (December 2017) (hereinafter "OHCHR Report"), ¶¶ 60-61, 64 (emphasis added).

[4] To date, the NHRC has published five reports on the general effect of the Discriminatory Measures on Qatar and Qataris, all of which are cited in this Application. However, the figures which underlie these reports vastly understate the actual impact of the Discriminatory Measures, as they rely on self-reporting by affected individuals, many of whom fear reprisal.

8. The Discriminatory Measures constitute blatant violations of the UAE's core obligations under the CERD to prohibit and eliminate racial discrimination, including discrimination based on national or ethnic origin. Their harmful impact remains ongoing, and all good-faith efforts by Qatar and other members of the international community to negotiate a resolution have failed.

9. Qatar therefore respectfully asks the Court to exercise its jurisdiction to uphold core human rights protections: to hold the UAE accountable for its flagrant violations of the CERD, to redress the harm thereby caused to Qatar and its people, and to employ the full extent of its authority to prevent further harm.

II.

JURISDICTION OF THE COURT

10. The Court has jurisdiction over this dispute pursuant to Article 36(1) of the Statute and Article 22 of the CERD.[5]

11. As members of the United Nations, Qatar and the UAE are parties to the Statute. Article 36 of the Statute provides that the Court's jurisdiction comprises "all matters specially provided for…in treaties and conventions in force."[6] Both Qatar and the UAE also are parties to the CERD.[7] Neither party has entered a reservation to Article 22 of the CERD, which provides for the Court's jurisdiction:

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[5] International Convention on the Elimination of All Forms of Racial Discrimination, 4 January 1969, 660 U.N.T.S. 195 (hereinafter "CERD").

[6] Statute of the International Court of Justice, art. 36(1).

[7] Qatar acceded to the CERD on 22 July 1976 and the UAE on 20 June 1974.

> Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

12. A dispute has plainly arisen between Qatar and the UAE concerning the interpretation and application of the CERD. [8]

13. Qatar repeatedly has raised the specific human rights violations resulting from the UAE's unlawful discrimination since June 2017 and thereafter. For example, in his address to the United Nations General Assembly in September 2017, Qatar's Emir, His Highness Sheikh Tamim Bin Hamad Al-Thani, condemned the "illegal blockade," the resulting negative impact on Qataris, and the broad violations of "the human rights conventions with arbitrary measures that have caused social, economic and

[8] *See, e.g., Application of the International Convention for the Suppression of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Order of 19 April 2017, I.C.J.*, ¶ 22 (citing *Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase, Advisory Opinion of 30 March 1950, I.C.J. Reports 1950*, p. 74) (holding that a dispute arises where there are "clearly opposite views concerning the question of the performance or non-performance of certain treaty obligations."); *see also Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Preliminary Objections, Judgment of 17 March 2016, I.C.J. Reports 2016*, p. 3, ¶ 49 (citing *Mavrommatis Palestine Concessions, Judgment No. 2 of 30 August 1924*, P.C.I.J, Series A, No. 2, p. 11) (holding that a dispute is "a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons").

religious distress to thousands of citizens and residents of the Gulf Cooperation Council states, by violating the basic human rights to work, education, freedom of movement and the right to dispose of private property," as well as violations of "human rights conventions and agreements, which guarantee the human right to freedom of opinion and expression."[9] In September 2017, the Qatari Minister of Foreign Affairs, His Excellency Sheikh Mohammed Bin Abdulrahman bin Jassim Al-Thani, brought to the attention of the Human Rights Council the "grave violations" of human rights resulting from the "illegal siege" imposed by the UAE and others, which he stated "clearly violates international laws and covenants related to human rights."[10] Detailing instances of family separation and other interferences with "fundamental rights and freedoms," he stated that "it is difficult to understand why people should pay the price for these political rifts."[11] He also reiterated Qatar's readiness to engage in dialogue to end the crisis,

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[9] **Annex 15**, Address by His Highness Sheikh Tamim bin Hamad Al-Thani, Emir of the State of Qatar, at the General Debate of the 72nd Session of the United Nations General Assembly, 19 September 2017 (certified translation) (hereinafter "Address by H.H. Sheikh Tamim bin Hamad Al-Thani"), p. 4; *see also* General Assembly of the United Nations, *Qatar: H.H. Sheikh Tamim bin Hamad Al-Thani, Amir* (19 September 2017), https://gadebate.un.org/en/72/Qatar.

[10] Address by His Excellency Sheikh Mohammed Bin Abdulrahman bin Jassim Al-Thani, Minister of Foreign Affairs of the State of Qatar, at the 36th Regular Session of the United Nations Human Rights Council, 11 September 2017, *available at* http://webtv.un.org/watch/qatar-1st-meeting-36th-regular-session-human-rights-council/5571405779001/?term=&lan=original (hereinafter "MFA 11 September 2017 Statement"); **Annex 13**, Permanent Mission of the State of Qatar to the United Nations Office in Geneva – Switzerland, *HE the Foreign Minister delivers a statement before the 36th Session of the Human Rights Council* (11 September 2017).

[11] MFA 11 September 2017 Statement, *supra* note 10.

but within the framework of mutual respect and preservation of the sovereignty of the States.[12]

14. For its part, the UAE continues to violate the CERD and assert—without any legal basis—that such measures are justified, while at the same time ignoring or outright denying the existence of the ongoing human rights violations. On 18 August 2017, six Special Rapporteurs wrote jointly to the UAE to bring to its attention the "adverse situation and the violations of human rights of Qatari migrants in the United Arab Emirates…as a result of the United Arab Emirates government's decision to suspend ties with the State of Qatar, particularly their right to movement and residence, family unity, education, work, freedom of expression, health and the right to property, without discrimination on any basis" and explicitly referenced the CERD and specific rights protected thereunder.[13] The joint communication further urged the UAE to take all necessary steps to respect the rights of persons affected.[14] In response, on 18 September 2017, the UAE stated it was "highly displeased" that the communication was issued as an urgent appeal and declined to address the asserted violations in any detail, stating only that it "continues to uphold" the CERD, and that it is "fully aware of its obligations and commitments in that regard."[15]

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[12] *Ibid.*

[13] **Annex 11**, Joint Communication from Special Procedures Mandate Holders of the Human Rights Council to the United Arab Emirates, AU ARE 5/2017 (18 August 2017) (hereinafter "Joint Communication of Special Procedures Mandate Holders"), pp. 1, 4.

[14] *Ibid*., p. 7.

[15] **Annex 14**, Reply of the Permanent Mission of the United Arab Emirates to the United Nations Office and Other International Organizations at Geneva to the Joint Communication from Special Procedures Mandate Holders of the Human Rights Council, HRC/NONE/2017/112 (18 September 2017), pp. 2, 3.

15. In January 2018, the UAE, along with Saudi Arabia, Bahrain, and Egypt, issued a "joint statement" attacking the conclusions of the OHCHR Report, expressing "their denunciation of the report's methodological failure that included a misleading description of the political crisis," and taking the position that "the boycott…of Qatar is part of the exercise of their sovereign right to protect and defend their national security," without making any attempt to address the substantive violations raised in the Report.[16] In February 2018, His Excellency the Qatari Minister of Foreign Affairs again addressed the Human Rights Council, raising again the unlawful actions, including by the UAE, invoking the conclusions of the OHCHR Technical Mission, which "objectively and systematically describes the serious human rights violations by the blockading countries against citizens and residents both in the State of Qatar and in the blockading countries," and confirming that "these violations continue to this day."[17] He called upon the Council and its Special Procedures mechanisms to put an end to

[16] **Annex 18**, Saudi Press Agency, *Joint Statement issued by four boycotting States denouncing report of UNHCHR's technical mission on its visit to Qatar* (30 January 2018).

[17] **Annex 19**, Permanent Mission of Qatar to the United Nations Office in Geneva – Switzerland, *Statement of HE Deputy Prime Minister of Foreign Affairs to the 37th Human Rights Council* (25 February 2018), (hereinafter "MFA 25 February 2018 Statement"); *see also* Qatar Ministry of Foreign Affairs, *Qatar Calls on Human Rights Council to Immediately End Siege Countries' Violations* (28 February 2018), https://www.mofa.gov.qa/en/all-mofa-news/details/2018/02/28/qatar-calls-on-human-rights-council-to-immediately-end-siege-countries%27-violations (describing an additional statement made by Qatar in response to the UAE's statement discussed *infra* ¶ 16, in which Third Secretary of the Permanent Delegation of Qatar Talal Al-Na'ama reiterated that the UAE's actions constitute "unilateral coercive measures in contravention of the principles of international law, international human rights law and the Charter of the United Nations").

the human rights violations, which he referred to as "unilateral coercive discriminatory measures."[18]

16. Later in February 2018, the UAE responded to Qatar's intervention at the Human Rights Council in a statement issued with other countries, to state that they will "continue to exercise their sovereign right to boycott the Government of Qatar, guaranteed by international law[.]"[19] The UAE also stated that "this small political crisis between countries must be resolved within the framework of the existing Kuwaiti mediation efforts led by His Highness Sheikh Sabah al-Ahmad al-Jaber al-Sabah."[20]

17. Unfortunately, UAE's support for the Kuwaiti mediation efforts has been in name only. While Qatar expressed its willingness to engage in an "unconditional dialogue,"[21] including as part of the Kuwaiti mediation, the UAE has repeatedly rejected attempts by Kuwait and other third parties to provide a

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[18] **Annex 19**, MFA 25 February 2018 Statement, *supra* note 17.

[19] *See* **Annex 20**, *Arab Quartet responds to Qatar's remarks at the UN Human Rights Council*, AL ARABIYA ENGLISH (28 February 2018).

[20] *Ibid.*

[21] *See* **Annex 15**, Address by H.H. Sheikh Tamim bin Hamad Al-Thani, *supra* note 9, p. 5 (calling for an "unconditional dialogue based on mutual respect for sovereignty" to address the ongoing human rights crisis, noting that Qatar "has supported since the beginning" the mediation efforts of the Kuwaiti emir); *see also* Qatar Ministry of Foreign Affairs, *Foreign Ministry's Spokesperson: Qatar Continues to Welcome Kuwaiti Mediation, Hopes for Serious Steps by Siege Countries* (3 March 2018), https://mofa.gov.qa/en/all-mofa-news/details/2018/03/03/foreign-ministry%27s-spokesperson-qatar-continues-to-welcome-kuwaiti-mediation-hopes-for-serious-steps-by-siege-countries; Qatar Ministry of Foreign Affairs, *Qatar Highly Appreciates HH the Emir of Kuwait's Speech on Gulf Crisis* (24 October 2017), https://www.mofa.gov.qa/en/all-mofa-news/details/2017/10/24/qatar-highly-appreciates-hh-the-emir-of-kuwait%27s-speech-on-gulf-crisis.

basis for good faith discussions, instead stating that the UAE has no intention of ending the Discriminatory Measures, or of even negotiating with Qatar, without full capitulation from Qatar to the UAE's illegal political demands.[22] Indeed, the UAE Minister of State for Foreign Affairs, "[w]hile applauding a Kuwaiti effort to mediate the crisis, … said Emirati and Saudi officials planned to concede nothing to Qatar[.]"[23] In December 2017, the UAE even declined to send its head of state to participate in the 2017 GCC summit, despite an invitation to do so from Kuwait and public statements from Qatar that the summit would provide a "golden opportunity" to "start a dialogue" to resolve the crisis, leaving the Emirs of Qatar and Kuwait as the only heads of state to attend the meeting.[24] The result of the UAE's tactics is that, in spite of the

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[22] *See infra* ¶¶ 26-28 (describing political demands); *see, e.g.*, UAE Ministry of Foreign Affairs & International Cooperation, *Arab Officials Demand Action from Qatar in Briefing with UN Correspondents* (20 July 2017), https://www.mofa.gov.ae/EN/MediaCenter/News/Pages/20-07-2017-UAE-Qatar.aspx (quoting Reem bint Ibrahim Al Hashimy, UAE Minister of State for International Cooperation, as referencing political demands and stating that "our demands are clear. The principles for mediation are laid out. Now it is on Qatar to come to the table."); *see also* Ali Bakeer, *GCC crisis: Why is Kuwaiti mediation not working?*, AL JAZEERA (11 August 2017), http://www.aljazeera.com/indepth/opinion/2017/08/gcc-crisis-kuwaiti-mediation-working-170807093244546.html.

[23] Jon Gambrell, *Emirati Diplomat to AP: 'Nothing to Negotiate' with Qatar*, U.S. NEWS (7 June 2017), https://www.usnews.com/news/business/articles/2017-06-07/uae-ruling-family-member-qatar-now-questioning-its-leaders.

[24] Ahmed Hagagy, *Gulf rulers boycotting Qatar skip annual summit*, REUTERS (5 December 2017), https://www.reuters.com/article/us-gulf-qatar-summit/gulf-rulers-boycotting-qatar-skip-annual-summit-idUSKBN1DZ15U; Ministry of Foreign Affairs of the State of Qatar, *Foreign Minister: Qatar Sees Any GCC Meeting Golden Opportunity for Civilized Dialogue* (22 October 2017), https://www.mofa.gov.qa/en/all-mofa-news/details/2017/10/22/foreign-minister-qatar-sees-any-gcc-meeting-golden-opportunity-for-civilized-dialogue; *see also* Patrick Wintour, *UAE announces new Saudi alliance that could reshape Gulf relations*, THE GUARDIAN (5 December 2017),

efforts of the Emir of Kuwait and others, including the United States, France, and the European Union, no resolution has been brokered.[25]

18. Most recently, on 1 May 2018, in light of the urgency presented by the human rights crisis caused by the UAE's discriminatory conduct, His Excellency Sultan Ben Saed Al-Marikhi, the Qatari Minister of State for Foreign Affairs, requested that the UAE Minister of State for Foreign Affairs, His Excellency Anwar Gargash, agree to negotiate to address the ongoing violations of the CERD.[26] The request asked for a response within two weeks. The UAE did not respond at all. Six weeks later, the UAE still has not responded.

19. The parties have not been able to settle their dispute, despite genuine attempts by Qatar to negotiate with a view toward

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https://www.theguardian.com/world/2017/dec/05/uae-saudi-arabia-alliance-gulf-relations-gcc.

[25] *Trump Offers to Mediate Talks on the Qatar Crisis*, REUTERS (7 September 2017), https://www.reuters.com/article/us-gulf-qatar-usa/trump-offers-to-mediate-talks-on-qatar-crisis-idUSKCN1BI2SG; *Qatar Emir Meets Merkel, Macron on First Foreign Tour since Crisis*, FRANCE 24 (15 Sept. 2017), http://www.france24.com/en/20170915-qatar-emir-angela-merkel-emmanuel-macron-gulf-crisis; *Communiqué de presse à l'issue de l'entretien entre le Président de la République et l'Emir du Quatar*, Elysée, (15 September 2017), http://www.elysee.fr/communiques-de-presse/article/communique-de-presse-a-l-issue-de-l-entretien-entre-le-president-de-la-republique-et-l-emir-du-quatar/; Ali Bakeer, *GCC crisis: Why is Kuwaiti mediation not working?*, AL JAZEERA (11 August 2017), http://www.aljazeera.com/indepth/opinion/2017/08/gcc-crisis-kuwaiti-mediation-working-170807093244546.html.

[26] **Annex 21**, Request for Negotiation, His Excellency Sultan Ben Saed Al-Marikhi, Qatar Minister of State for Foreign Affairs, to His Excellency Anwar Gargash, UAE Minister of State for Foreign Affairs, dated 25 April 2018, received via fax and registered mail on 1 May 2018.

resolving the dispute,[27] nor have the parties agreed on another form of dispute resolution. It is evident that further attempts at negotiations would be futile, and waiting any longer is prejudicial to Qataris currently suffering as a result of the UAE's violations of the CERD.[28]

20. Upon the filing of the present Application, the matters in dispute between Qatar and the UAE concerning the UAE's interpretation and application of the CERD therefore fall within the compulsory jurisdiction of the Court.

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[27] *See Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation) Judgment of 1 April 2011, I.C.J. Reports 2011*, p. 70, ¶ 157 ("[T]he concept of 'negotiations'. . . requires—at the very least—a genuine attempt by one of the disputing parties to engage in discussions with the other disputing party, with a view to resolving the dispute.").

[28] On 8 March 2018, Qatar deposited a communication with the CERD Committee under Article 11 of the CERD. While the CERD Committee procedure set out in Articles 11-13 of the CERD provides a framework by which the parties might come to a consensual resolution, initiation or completion of that procedure is not a precondition to the Court's exercise of jurisdiction. *See, e.g., Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Joint Dissenting Opinion of President Owada, Judges Simma, Abraham and Donoghue and Judge Ad Hoc Gaja, I.C.J. Reports 2011*, p. 142, ¶ 43 ("The Committee established by the Convention has no power to impose a legally binding solution on the disputing States.…Ultimately, a favourable outcome depends on the readiness of the parties to come to an agreement, in other words, on their willingness to negotiate…[W]here a State has already tried, without success, to negotiate directly with another State…it would be senseless to require it to follow the special procedures in [Articles 11-13 of the CERD]."). Here, where the UAE has stated that its demands are non-negotiable, its conduct has made evident that reliance on negotiations would be futile, and as the prejudice to the human rights of Qataris continues unabated, Qatar has concluded that it must invoke the jurisdiction of this Court to achieve a binding resolution of the dispute.

III.

THE FACTS

A. Imposition of Discriminatory Measures against Qatar and Qatari Nationals

21. The "spark that lit the fuse" for the UAE's unlawful actions occurred on 23 May 2017, when cyber hackers posted a fake news story on the website of the Qatar News Agency ("***QNA***"), attributing incendiary false statements to the Emir of Qatar supporting the Islamic Republic of Iran and criticizing the U.S. President.[29] Qatar immediately and publicly confirmed that the QNA website had been hacked and the story was false.[30] Qatar called the operation an act of "cyberterrorism" that "represent[ed] a clear violation and breach of international law and of the bilateral and collective agreements signed between the member states of the GCC, as well as collective agreements with the Arab League, the Organization of Islamic Cooperation, and the United Nations."[31]

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[29] *See* William Maclean, *Gulf rift reopens as Qatar decries hacked comments by emir*, REUTERS (23 May 2017), https://www.reuters.com/article/us-qatar-cyber/gulf-rift-reopens-as-qatar-decries-hacked-comments-by-emir-idUSKBN18K02Z.

[30] Ministry of Foreign Affairs of the State of Qatar, *Foreign Minister: 'Qatar Will Address the Media Campaign Targeting It* (25 May 2017), https://mofa.gov.qa/en/all-mofa-news/details/2017/05/25/foreign-minister-%27qatar-will-address-the-media-campaign-targeting-it%27; Ministry of Foreign Affairs of the State of Qatar, *An Official Source at the Ministry of Foreign Affairs: The Perpetrators of the Electronic Piracy against Qatar News Agency Website Will Be Prosecuted* (24 May 2017), https://mofa.gov.qa/en/all-mofa-news/details/2017/05/24/an-official-source-at-the-ministry-of-foreign-affairs-the-perpetrators-of-the-electronic-piracy-against-qatar-news-agency-website-will-be-prosecuted.

[31] *UAE violated international law by hacking QNA website: Qatar*, GULF TIMES (17 July 2017), http://www.gulf-times.com/story/556991/UAE-violated-international-law-by-hacking-QNA-webs.

22. Nevertheless, the UAE continued to broadcast the false statements widely and seized upon them as an excuse to implement the Discriminatory Measures. In particular, on 5 June 2017, the UAE's Ministry of Foreign Affairs issued the following statement, announcing that the UAE was severing all diplomatic and consular ties with Qatar and enacting a broad series of Discriminatory Measures against Qatar and Qataris:

> UAE affirms its complete commitment and support to the Gulf Cooperation Council and to the security and stability of the GCC States. Within this framework, and based on the insistence of the State of Qatar to continue to undermine the security and stability of the region and its failure to honour international commitments and agreements, it has been decided to take the following measures that are necessary for safeguarding the interests of the GCC States in general and those of the brotherly Qatari people in particular:
>
> 1-In support of the statements issued by the sisterly Kingdom of Bahrain and sisterly Kingdom of Saudi Arabia, the United Arab Emirates severs all relations with the State of Qatar, including breaking off diplomatic relations, and gives Qatari diplomats 48 hours to leave UAE.
>
> 2-Preventing Qatari nationals from entering the UAE or crossing its points of entry, giving Qatari residents and visitors in the UAE 14 days to leave the country for precautionary security reasons. The UAE nationals are likewise banned from traveling

to or staying in Qatar or transiting through its territories.

3-Closure of UAE airspace and seaports for all Qataris in 24 hours and banning all Qatari means of transportation, coming to or leaving the UAE, from crossing, entering or leaving the UAE territories, and taking all legal measures in collaboration with friendly countries and international companies with regards to Qataris using the UAE airspace and territorial waters, from and to Qatar, for national security considerations.

The UAE is taking these decisive measures as a result of the Qatari authorities' failure to abide by the Riyadh Agreement on returning GCC diplomats to Doha and its Complementary Arrangement in 2014, and Qatar's continued support, funding and hosting of terror groups, primarily Islamic Brotherhood, and its sustained endeavours to promote the ideologies of Daesh and Al Qaeda across its direct and indirect media.

[…]

While regretting the policies taken by the State of Qatar that sow seeds of sedition and discord among the region's countries, the UAE affirms its full respect and appreciation for the brotherly Qatari people on account of the profound historical, religious and

fraternal ties and kin relations binding UAE and Qatari peoples.[32]

23. The UAE implemented these and other Discriminatory Measures in a calculated and brutal manner, without regard to their impact upon individuals and their rights. Such Measures included:

- closing airspace to Qatari aviation companies and Qatari-registered aircraft, as well as air transportation to and from Qatar, which together with coordinated measures enacted simultaneously by other nearby states rendered Qatar inaccessible by air and by land;[33]

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[32] **Annex 2**, UAE Ministry of Foreign Affairs, *Statement of Support for Blockade and Cessation of Ties* (5 June 2017) (hereinafter "UAE 5 June 2017 Statement").

[33] *Ibid.* The UAE's measures were taken in coordination with Saudi Arabia, Bahrain, and Egypt. *See* Kingdom of Saudi Arabia Ministry of Foreign Affairs, *Announcement of Cessation of Ties* (5 June 2017), www.mofa.gov.sa/ServicesAndInformation/news/MinistryNews/Pages/ArticleID20176513029701.aspx; Bahrain Ministry of Foreign Affairs, *Statement of the Kingdom of Bahrain on the severance of diplomatic relations with the State of Qatar* (5 June 2017), http://www.mofa.gov.bh/Default.aspx?tabid=7824&language=en-US&ItemId=7474; *Qatari Planes Banned from Egyptian and Saudi Airspace*, BBC (6 June 2017), http://www.bbc.com/news/world-middle-east-40164552. Saudi Arabia immediately closed Qatar's only land border after severing ties with Qatar on 5 June 2017. *See* Tom Finn, Ibrahim Saber, *Qatar-Saudi land border deserted after frontier shut*, REUTERS (12 June 2017), https://www.reuters.com/article/us-gulf-qatar-border-saudi-idUSKBN1931PO. Though the border was briefly reopened in August 2017, Saudi Arabia's customs directorate indefinitely closed the border on 18 December 2017. *Saudis permanently close only land border with Qatar*, AL JAZEERA (20 December 2017), https://www.aljazeera.com/news/2017/12/saudi-permanently-closes-land-border-qatar-171220062311052.html.

- imposing transport restrictions on Qatari ships and their use of UAE territorial waters and seaports;[34]

- collectively expelling Qataris from UAE territory, giving them just two weeks to leave;[35] and

- prohibiting Qataris from entering into or passing through UAE territory and ordering UAE nationals to leave Qatar or face severe civil penalties, including deprivation of their nationality, and criminal sanctions.[36]

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[34] **Annex 4**, UAE Federal Transport Authority Circular No. 2/2/1023, "Entry Restrictions to All Qatar Vessels and Cargoes: Implementation Process of the decision related to Qatar sanctions" (11 June 2017).

[35] **Annex 2**, UAE 5 June 2017 Statement, *supra* note 32.

[36] **Annex 16**, OHCHR Report, *supra* note 3, ¶ 34; **Annex 2**, UAE 5 June 2017 Statement, *supra* note 32. As reported by the Saudi Press Agency, Saudi Arabia, Egypt, Bahrain and others announced similar measures that day and in the days that followed. *See, e.g.*, Saudi Press Agency, *Kingdom of Saudi Arabia severs diplomatic and consular relations with Qatar* (5 June 2017), https://www.spa.gov.sa/viewfullstory.php?lang=en&newsid=1637327; Saudi Press Agency, *Egypt Severs Diplomatic Relations with Qatar* (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637371; Saudi Press Agency, *Bahrain severs relations with Qatar* (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637356. *See also* Saudi Press Agency, *Yamen* [sic] *severs relations with Qatar* (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637361; Saudi Press Agency, *Libya Severs Diplomatic Relations with Qatar* (5 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637406; Saudi Press Agency, *Mauritania Severs Diplomatic Relations with Qatar*, (7 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1637919; Saudi Press Agency, *Comoros severs diplomatic relations with Qatar* (7 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1638089; Saudi Press Agency, *Djibouti reduces its diplomatic representation with Qatar* (8 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1638421; Saudi

The UAE issued these Discriminatory Measures without concern for the fact that many families in Qatar and the UAE are composed of both Qatari and Emirati nationals.

24. After 5 June 2017, the UAE escalated its restrictions on freedom of expression, particularly in relation to Qatari broadcasts and broadcasters. Having already blocked access to at least eight news websites operated by Qatari entities, including Al Jazeera, at the end of May 2017, the UAE also blocked the transmission of other Qatari stations and websites, including channels owned by Qatar's beIN Media.[37] Reporters Without Borders and other human rights groups condemned these acts and the UAE's demand that Qatar silence Al Jazeera, highlighting their unjustified and disproportionate impacts on core human rights.[38]

25. The UAE also announced that it would criminalize "sympathizing" with Qatar.[39] The Attorney General of the UAE

Press Agency, *Niger recalls Ambassador to Qatar* (10 June 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1638877.

[37] *Saudi Arabia, UAE, Bahrain block Qatari news websites*, COMMITTEE TO PROTECT JOURNALISTS (25 May 2017), https://cpj.org/2017/05/saudi-arabia-uae-bahrain-block-qatari-news-website.php; Zahraa Alkhalisi, *Blocked in Dubai: Qatar cartoon and soccer channels*, CNN MEDIA (8 June 2017) http://money.cnn.com/2017/06/08/media/uae-qatar-media-blocked/index.html; Request for Consultations by Qatar, United Arab Emirates—Measures Relating to Trade in Goods and Services, and Trade-Related Aspects of Intellectual Property Rights, WTO Doc. WT/DS526/1 (4 Aug. 2017), https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20wt/ds526/1%20or%20wt/ds526/1/*)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#.

[38] Reporters Without Borders, *Unacceptable Call for Al Jazeera's Closure in Gulf Crisis* (28 June 2017), https://rsf.org/en/news/unacceptable-call-al-jazeeras-closure-gulf-crisis.

[39] **Annex 3**, Attorney General Warns Against Sympathy for Qatar or Objecting to the State's Positions, AL BAYAN ONLINE (7 June 2017)

released a statement on 7 June 2017 that "expressing sympathy, bias, or affection for [Qatar], or objecting to the position of the State of the United Arab Emirates and the strict and firm measures that it has taken against the Qatari government, whether through social media with tweets or posts, or any other verbal or written method, is considered a crime" under the UAE's Federal Decree on Combating Cybercrimes.[40] According to the Attorney General's statement, the punishment for violation includes a jail term of up to fifteen years and a fine of not less than AED 500,000 (approx. USD 136,000).[41]

26. A few weeks later, on 23 June 2017, the UAE escalated the crisis of its own making, issuing a threat to maintain the Discriminatory Measures indefinitely if Qatar did not accede to a

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(certified translation); *see also* **Annex 1**, Federal Decree-Law No. (5) of 2012, Issued on 25 Ramadan 1433 AH, Corresponding to 13 Aug. 2012 AD, ON COMBATING CYBERCRIMES (hereinafter "Federal Decree on Combating Cybercrimes").

[40] **Annex 3**, Attorney General Warns Against Sympathy for Qatar or Objecting to the State's Positions, AL BAYAN ONLINE (7 June 2017) (certified translation); *see also Qatar sympathisers to face fine, jail*, GULF NEWS (7 June 2017), https://gulfnews.com/news/uae/government/qatar-sympathisers-to-face-fine-jail-1.2039631; *UAE bans expressions of sympathy towards Qatar – media*, REUTERS (7 June 2017), https://www.reuters.com/article/gulf-qatar/uae-bans-expressions-of-sympathy-towards-qatar-media-idUSL8N1J40D2; *UAE threatens 15 years in prison for expressions of 'sympathy' with Qatar*, COMMITTEE TO PROTECT JOURNALISTS (7 June 2017), https://cpj.org/2017/06/uae-threatens-15-years-in-prison-for-expressions-o.php; Sam Wilkin, *Support for Qatar Could Land You in Jail, U.A.E. Warns Residents*, BLOOMBERG (7 June 2017), https://www.bloomberg.com/news/articles/2017-06-07/support-for-qatar-could-land-you-in-jail-u-a-e-warns-residents.

[41] *Ibid*.; *see also* **Annex 1**, Federal Decree on Combating Cybercrimes, *supra* note 39.

list of thirteen political demands (the "***Thirteen Demands***").[42] These included demands that Qatar: permanently shut down Al-Jazeera, all affiliate stations, and all other Qatar-funded news outlets; subjugate its foreign policy and ability to pursue diplomatic and strategic relationships to the will of the UAE; hand over individuals "wanted" by the UAE; and allow broad intrusions—including monthly "audits"—into Qatar's internal decision-making.[43] Qatar was given ten days to respond, which was subsequently extended by 48 hours at the request of the Emir of Kuwait.[44]

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[42] **Annex 7**, *The 13 demands on Qatar from Saudi Arabia, Bahrain, UAE and Egypt*, THE NATIONAL (23 June 2017).

[43] Specifically, the demands of the UAE included that Qatar: terminate the Turkish military presence currently in Qatar and end any joint military cooperation with Turkey inside of Qatar; consent to yearly "compliance" audits for ten years, including monthly audits for the first year; pay reparations for losses purportedly caused by Qatar's policies, in an amount to be determined "in coordination" with Qatar; cease contacts with political opposition in the UAE and hand over details of Qatar's prior contacts with and support for those groups; curb diplomatic ties with Iran, close its diplomatic missions there, expel members of Iran's Revolutionary Guard from Qatar, cut off any joint military cooperation with Iran, and engage only in trade and commerce with Iran that "complies" with U.S. and international sanctions; revise citizenship laws, in particular the practice of granting citizenship to nationals from the UAE who are "wanted" in the UAE, and revoke Qatari citizenship if that citizenship violates the UAE's laws; align itself with the other Gulf and Arab countries militarily, politically, socially, and "on economic matters, in line with an agreement reached with Saudi Arabia in 2014"; sever ties and stop all means of funding for individuals, groups, or organizations that have been designated as terrorists by the UAE, the United States, and other countries; and freeze assets of wanted individuals from the UAE and provide any desired information about their residency, movements, and finances. *See ibid*.

[44] *Qatar given 10 days to meet 13 sweeping demands by Saudi Arabia*, THE GUARDIAN (23 June 2017), https://www.theguardian.com/world/2017/jun/23/close-al-jazeera-saudi-arabia-issues-qatar-with-13-demands-to-end-blockade; Saudi Press Agency, *In response to Amir of Kuwait's request, Saudi Arabia, UAE,*

27. While the UAE had claimed, without substantiation, that the Discriminatory Measures were motivated by its national security concerns, the substance of the Thirteen Demands made clear that they were actually an attempt to curtail media freedom and undermine Qatar's sovereignty by attempting to dictate Qatar's international relations, as well as interfere with Qatar's internal affairs. On 28 June 2017, the Committee to Protect Journalists issued the following statement:

> [T]he demand to shutter all Qatari-funded media—including the international network Al-Jazeera, but also the news websites *Al-Arabi Al-Jadeed*, *Middle East Eye*, *Arabi21*, Egypt's Rassd news agency, and others—shows clear contempt for the principle of press freedom and to [the UAE, Saudi Arabia, Bahrain, and Egypt's] treaty commitments to the rights to free expression and to freely receive and impart information. The demand also represents a clear attempt to interfere in the internal affairs of the countries where these media companies operate—under the guise of demanding that Qatar not interfere in other countries' internal affairs, thereby limiting the diversity of sources for information and views in the region.[45]

Bahrain & Egypt agree to extend the grace period offered to Qatar to 48 hours (3 July 2017), http://www.spa.gov.sa/viewstory.php?lang=en&newsid=1644914.

[45] Joel Simon, *Calls to shutter Qatari media show contempt for press freedom*, COMMITTEE TO PROTECT JOURNALISTS (28 June 2017), https://cpj.org/2017/06/calls-to-shutter-qatari-media-show-contempt-for-pr.php.

28. On 5 July 2017, the UAE issued an additional list of "six principles" with which Qatar must comply in order for the Discriminatory Measures to be lifted.[46] In a public statement, the UAE claimed that these "principles" were consistent with principles in various international conventions related to "combating international terrorism," including to "refrain from interfering in the internal affairs of States." [47] The UAE later underscored that these "principles" were intended to supplement, rather than replace, the original Thirteen Demands.[48] But again, the UAE's reference to combatting terrorism has been revealed as just pretext. For example, a UAE official has been quoted as saying that the Discriminatory Measures would end if Qatar agreed to give up hosting the 2022 FIFA World Cup, and a financial plan designed to force Qatar to pass the World Cup to another Gulf

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[46] *See* **Annex 9**, *READ: Full joint statement of boycotting countries on Qatar crisis*, AL ARABIYA ENGLISH (5 July 2017).

[47] *Ibid*.

[48] *See Boycotting quartet reaffirms its demands on Qatar*, ECONOMIST INTELLIGENCE UNIT COUNTRY REPORTS – EGYPT EDITION (3 August 2017), https://country.eiu.com/article.aspx?articleid=1345752318&Country=Qatar&topic=Politics&subtopic=Forecast&subsubtopic=International+relations&u=1&pid=1325726316&oid=1325726316&uid=1; *Four Arab States Double Down on Qatar Boycott*, AGENCE FRANCE PRESSE (30 July 2017), http://www.newagebd.net/article/20920/four-arab-states-double-down-on-qatar-boycott.

State was leaked in November 2017.[49] As before, Qatar refused to comply with this latest challenge to its sovereignty.[50]

B. Impact of the UAE's Discriminatory Measures

29. Due to their relative proximity, shared culture, and previously open borders, many Qataris live, work, study, and travel within the UAE, and are married to Emiratis. The same is true for many Emiratis in Qatar.

30. As a result of these close ties, the Discriminatory Measures have had a devastating impact on Qataris and families of which they are a part. They have interfered with basic human rights protected by the CERD, including the rights to marriage and choice of spouse, free expression, education, medical treatment, work, property, and others. Further, Qataris have been denied any effective means of legal recourse to seek redress against the Discriminatory Measures.

1. Interference with Marriage and Choice of Spouse

31. Family ties often cut across national boundaries in the Gulf region, with 3,694 marriages between Qataris and citizens of the UAE as of June 2017.[51] These ties often span generations, and

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[49] *UAE official urges Qatar to give up World Cup to end crisis*, FOX NEWS (9 October 2017), http://www.foxnews.com/world/2017/10/09/uae-official-urges-qatar-to-give-up-world-cup-to-end-crisis.html; Ryan Grim and Ben Walsh, *Leaked Documents Expose Stunning Plan to Wage Financial War on Qatar – and Steal the World Cup*, THE INTERCEPT (9 November 2017), https://theintercept.com/2017/11/09/uae-qatar-oitaba-rowland-banque-havilland-world-cup/.

[50] *See Sheikh Tamim: Any talks must respect Qatar sovereignty*, AL JAZEERA (22 July 2017), http://www.aljazeera.com/news/2017/07/sheikh-tamim-talks-respect-qatar-sovereignty-170721184815998.html.

[51] **Annex 11**, Joint Communication of Special Procedures Mandate Holders, pp. 1-2.

for these families, the ability to live and move freely between their multiple countries of citizenship is essential to maintaining the togetherness of their family units and the well-being of the parents and children within those units.

32. The collective expulsion of Qataris from the UAE, the recall of Emiratis in Qatar, and the prohibition or restrictions on entry and travel to the UAE have had a profound impact on mixed-nationality families. Since the imposition of the Discriminatory Measures, Qatar's NHRC found 82 cases of family separation involving the UAE, and stated that the "real impact is greater."[52] Likewise, Human Rights Watch found almost half of the individuals interviewed (22 of 50), which included Qataris, reported that the travel restrictions had cut them off from immediate family members.[53]

33. In addition to forced separation, the Discriminatory Measures have disproportionately harmed infant children born in Qatar to Qatari mothers and Emirati fathers. Because these children possess their fathers' nationality, the families must rely upon the UAE to obtain proof of the infant's nationality. However, since the UAE has withdrawn its embassy from Qatar, the only way to obtain proof of national identity and passports for the infant is for the parent and child to travel to the UAE—which Qatari mothers cannot do subsequent to the Discriminatory Measures.[54] As such, these families are left with an impossible

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[52] **Annex 22**, National Human Rights Committee, *A Year of the Blockade Imposed on Qatar* (June 2018) (hereinafter "NHRC Fifth Report"), p. 14; **Annex 12**, National Human Rights Committee, *100 Days Under the Blockade* (30 August 2017), p. 5.

[53] *See* **Annex 10**, Human Rights Watch, *Qatar: Isolation Causing Rights Abuses* (12 July 2017) (interviewing Qatari, Saudi, and Bahraini individuals) (hereinafter "Human Rights Watch July 2017 Report").

[54] *See* Human Rights Watch, "*Gulf Crisis Shows How Discrimination in Saudi Arabia, Bahrain, UAE, and Qatar Tears Families Apart"* (21 July

choice—leaving the infant's mother behind in Qatar, thereby risking indefinite family separation, or staying together as a family in Qatar without proof of the child's identity, at risk of *de facto* statelessness for the child.[55]

34. Although the UAE, following the outcry from international human rights organizations, purported to implement measures to account for the "humanitarian situation" of Qatari-Emirati families, these measures are patently insufficient to mitigate the human rights violations of Qataris. As reported by the UN High Commissioner and other human rights organizations in the aftermath of the imposition of the Discriminatory Measures, the measures taken by the UAE—consisting primarily of announcing "committees" and "hotlines" for Qatari-Emirati families purportedly to deal with issues arising out the Discriminatory Measures—have been "clearly insufficient to address the human rights impact."[56] Further, in some cases,

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2017), https://www.hrw.org/news/2017/07/21/gulf-crisis-shows-how-discrimination-saudi-arabia-bahrain-uae-and-qatar-tears.

55 *See* **Annex 10**, Human Rights Watch July 2017 Report, *supra* note 53.

56 **Annex 14**, Reply by the United Arab Emirates to the Joint Communication from Special Rapporteurs of the Office of the United Nations High Commissioner for Human Rights, HRC/NONE/2017/112 (18 September 2017) ("[a] committee representing all relevant entities in the country has been established in order to facilitate procedures for families of mixed Emirati-Qatari nationality and to deal with issues related to real estate, businesses and vehicles owned by Qatari nationals, as well as matters related to health. In that regard, a hotline has also been set up"); Office of the United Nations High Commissioner for Human Rights, "*Qatar diplomatic crisis: Comment by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein on impact on human rights"* (14 June 2017), http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID =21739&LangID=E (noting that measures implemented to address dual nationality families "are not sufficiently effective to address all cases" and that the UAE and Bahrain have threatened to jail and fine people who express sympathy for Qatar); **Annex 6**, Amnesty International, "*Gulf/Qatar dispute: Human dignity trampled and families facing uncertainty as sinister deadline passes"* (19 June 2017), p. 2 (hereinafter

individuals have been hindered from using them by fear of reprisals.[57] Out of fifty Gulf nationals interviewed by Human Rights Watch, only twelve attempted to use the UAE's "hotlines," and only two of these twelve obtained permission to live in Qatar.[58] The majority of Gulf nationals interviewed did not attempt to call the hotlines, citing concerns that the hotlines could expose them to reprisal or, more simply, would be futile.[59] The NHRC's June 2018 Report concluded: "…according to international organisations and reports despite the formation of these alleged committees and the allocation of telephone numbers to receive communications, this procedure has been deemed highly ineffective."[60] Against the scope and gravity of the UAE's blanket expulsion and exclusion of Qataris based on their national origin, these "hotlines" are cosmetic at best and cannot address the devastating human rights impact on Qataris.

35. As documented by the OHCHR Report, "[t]he decision of 5 June has led to cases of temporary or potentially durable separation of families across the countries concerned, which has caused psychological distress as well as some difficulties for some individuals to economically support their relatives left in Qatar or the other countries."[61]

"Amnesty International June 2017 Report"); **Annex 10**, Human Rights Watch July 2017 Report, *supra* note 53.

57 *See* **Annex 6**, Amnesty International June 2017 Report, *supra* note 56, p. 2.

58 *See* **Annex 10**, Human Rights Watch July 2017 Report, *supra* note 53, p. 6.

59 *Ibid.*

60 **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 10.

61 **Annex 16**, OHCHR Report, *supra* note 3, ¶ 32.

2. Interference with Free Expression

36. As noted above, after 5 June 2017, the UAE immediately moved to undermine free expression from and regarding Qatar, including by blocking access to Qatari news websites and criminalizing so-called "sympathy" with Qatar. At the same time, prominent UAE outlets began to publish anti-Qatar editorials on a daily basis.[62] The UAE's attacks on free expression have been described by the OHCHR as part of a "widespread defamation and hatred campaign against Qatar."[63] Between June and October 2017, at least 1,120 press articles and 600 anti-Qatar caricatures were published in Gulf States, including the UAE.[64] Press articles and anti-Qatar caricatures continue to be published in the UAE, and popular entertainment programs routinely broadcast anti-Qatar messages.[65]

Image 1: Caricature from UAE News Agency

[62] *See, e.g.*, Kristian Coates Ulrichsen, *What's going on with Qatar?*, THE WASHINGTON POST (1 June 2017), https://www.washingtonpost.com/news/monkey-cage/wp/2017/06/01/whats-going-on-with-qatar/?utm_term=.9a4d95e090f1.

[63] **Annex 16**, OHCHR Report, *supra* note 3, ¶ 14.

[64] *Id.* ¶ 16 (considering negative press articles and anti-Qatar caricatures published in the UAE, Saudi Arabia, and Bahrain).

[65] *Id.* ¶¶ 16-17.

37. The UAE's campaign against Qatar is not limited to the Gulf. SCL Social, a British communications company, revealed in its 2017 public disclosures pursuant to the U.S. Foreign Agents Registration Act that the UAE's National Media Council had paid it USD 330,000 to launch a public relations campaign against Qatar on social media.[66] The contract reportedly required the creation of advertisements for social media websites like Facebook, Twitter, and YouTube that linked Qatar with terrorism and promulgated an artificial movement using the hashtag #boycottqatar.[67] The English-language campaign was arranged to coincide with the United Nations General Assembly meeting in September 2017.[68]

38. UAE government officials have also made public statements fostering anti-Qatari sentiment. In November 2017, a former Chief of the Dubai Police Force and current Head of General Security for the Emirate of Dubai falsely accused Al Jazeera of provoking an attack in Egypt and called for the bombing of the media network.[69] The UAE's Minister of State for Foreign

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66 SCL Social Limited Registration Statement Pursuant to the Foreign Agents Registration Act (6 Oct. 2017), https://www.fara.gov/docs/6472-Registration-Statement-20171006-1.pdf; Anita Kumar & Ben Wieder, *Steve Bannon's already murky Middle East ties deepen*, MCCLATCHY WASHINGTON BUREAU (23 October 2017), http://www.mcclatchydc.com/news/politics-government/white-house/article180111646.html.

67 Julia Ainsley, Andrew W. Lehren and Anna R. Schecter, *The Mueller effect: FARA filings soar in shadow of Manafort, Flynn probes,* NBC NEWS (19 Jan. 2018), https://www.nbcnews.com/news/us-news/mueller-effect-fara-filings-soar-shadow-manafort-flynn-probes-n838571.

68 *See* SCL Social Limited Registration Statement Pursuant to the Foreign Agents Registration Act (6 October 2017), https://www.fara.gov/docs/6472-Registration-Statement-20171006-1.pdf.

69 Dhahi Khalfan (@Dhahi_Khalfan), TWITTER (24 November 2017), https://twitter.com/Dhahi_Khalfan/status/934069452261425152 (unofficial

Affairs tweeted support for a Saudi royal court adviser's so-called "blacklist," a campaign intended to expose the names and identities of anyone showing sympathy with Qatar and anyone who "conspires" against the UAE.[70] He expressed that this "blacklist" "[was] extremely important" in exposing nationals who were sympathetic to Qatar.[71] These calls foment a toxic and hostile culture that affects all Qataris and exposes even relatively benign acts of civility toward Qataris to the risk of punishment. In July 2017, for example, an Emirati national was arrested for publishing a video voicing his opinion that Emiratis should not stand against Qatar; Amnesty International called for his release, but whether he remains detained is unclear.[72] In December 2017, Youssef Al Serkal, the President of the UAE General Sports Authority, was discharged from his position after public shaming by Emirati media for hugging a Qatari official.[73]

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translation: "The alliance should bomb the terrorism propaganda machine. The channel of ISIS, Al Qaeda and Al Nusra, the Jazeera of terrorism."); *Dubai security chief calls for bombing of Al Jazeera*, AL JAZEERA (25 November 2017), https://www.aljazeera.com/news/2017/11/dubai-security-chief-calls-bombing-al-jazeera-171125143439231.html.

70 The Saudi adviser created a hashtag on Twitter, #TheBlacklist, with the stated intention of compiling accusations of "conspiracy" against Saudi Arabia, the UAE, Egypt, and Bahrain. *Saudi Twitter users urged to expose Qatar sympathisers*, AL JAZEERA (20 August 2017), http://www.aljazeera.com/news/2017/08/saudi-twitter-users-urged-expose-qatar-sympathisers-170820100619561.html.

71 *Ibid*.; *Tweet names of Qatar sympathisers to 'blacklist': Saudi royal aide*, MIDDLE EAST EYE (18 August 2017), http://www.middleeasteye.net/news/saudi-royal-adviser-calls-names-add-blacklist-qatar-sympathisers-1564107564.

72 **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 34.

73 *Qatar's blockade in 2017, day by day developments*, AL JAZEERA (21 October 2017), http://www.aljazeera.com/news/2017/10/qatar-crisis-developments-

39. Together, the coordinated campaign to shut down speech from Qatar, proliferate false and inflammatory news about Qatar and its people, criminalize sympathy toward Qatar and its people, and isolate and punish Qataris, interferes with the right to freedom of expression and creates a culture of fear for Qataris and those related or otherwise associated with them. A Qatari woman with brothers in the UAE told Amnesty International that they "are scared to speak to us even over the phone. The law does not allow them to sympathize with us. They are very reserved in the conversations we have, as if we were strangers."[74]

3. Interference with Medical Treatment

40. Qataris frequently accessed medical treatment in the UAE, either because they resided in the UAE or because certain essential medical treatment was not available in Qatar. The UAE's collective expulsion of Qataris and blanket restrictions on Qatari travel included Qataris receiving essential medical treatment. As a result, Qataris requiring medical attention in the UAE that is not available in Qatar have been denied necessary care, as have Qataris in the UAE who have been prohibited from continuing their course of medical treatment.[75] As of June 2018, the NHRC of Qatar had documented four cases of interference with medical treatment by the UAE.[76]

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october-21-171022153053754.html; **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 34.

[74] Amnesty International, "*Gulf dispute: Six months on, individuals still bear brunt of political crisis"* (14 December 2017), https://www.amnesty.org/en/documents/mde22/7604/2017/en/.

[75] *See* **Annex 8**, National Human Rights Committee, *Second Report Regarding the Human Rights Violations as a Result of the Blockade on the State of Qatar* (1 July 2017), p. 23 (documenting treatment at hospitals in the UAE, as well as in Saudi Arabia, Bahrain, and Egypt).

[76] **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 51.

41. Similarly, the UAE subjected medicines and medical supplies to its blanket restrictions on ports and shipping. Before 5 June 2017, fifty to sixty percent of Qatar's pharmaceutical stock came from supply companies in Gulf countries, the majority of which are based in the UAE.[77] The Qatar Ministry of Health reported that it has thus far been able to cover the increased cost of importing most materials from other suppliers, but it has not been able to source all of the medicines previously shipped from Gulf States.[78]

4. Interference with Education

42. The Discriminatory Measures have gravely undermined the education of Qataris who were studying in the UAE. Among other effects, UAE schools summarily expelled Qataris or dropped Qatari students from class registration, refused to refund registration and other fees, and refused to grant students access to educational records.[79] As of June 2018, the NHRC documented 148 complaints related to interference with education by the UAE.[80]

5. Interference with Right to Work

43. The Discriminatory Measures have also violated the rights of many Qataris who work or own businesses in the UAE.

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[77] *Ibid*.; *see also* Barbara Bibbo, *Euro-med urges GCC countries to lift Qatar Blockade*, AL JAZEERA (24 January 2018), http://www.aljazeera.com/news/2018/01/euro-med-urges-gcc-countries-lift-qatar-blockade-180124190054488.html.

[78] **Annex 16**, OHCHR Report, *supra* note 3, ¶¶ 47-48.

[79] **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 18.; **Annex 10**, Human Rights Watch July 2017 Report, *supra* note 53; **Annex 16**, OHCHR Report, *supra* note 3, ¶¶ 50-53.

[80] **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 18.

Qataris working in the UAE when the Discriminatory Measures were imposed had their employment threatened or summarily curtailed when they were forced to leave the country. To cite just one example, Mr. H.A., a Qatari national born in 1953, stated: "I reside in the Emirate of Abu Dhabi in the UAE since 30 years and I am working there. After the decision to sever relations with the State of Qatar, I was forced to leave everything in Abu Dhabi and return to my country, and I lost my work and my life."[81] Further, the campaign of incitement against Qatar and Qataris has undermined business relationships and operations involving the UAE, threatening the livelihood of Qataris working or with interests in the UAE. [82]

6. Impacts on Property

44. The UAE has also enacted various measures interfering with rights to property based on Qatari national origin. In particular, Qatari individuals who own property in the UAE have been severely impacted. Property ownership in the UAE is common: Qataris bought approximately USD 500 million worth of property in Dubai in 2016 alone.[83] Because of the Discriminatory Measures, Qataris have been unable to visit their residential or commercial properties in the UAE since the UAE's collective expulsion of Qataris in June 2017. In addition, many Qataris are effectively banned from engaging in property transactions due to requirements that they enter into a power of attorney to enable a non-Qatari to sell property on their behalf. Valid powers of

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81 **Annex 12**, National Human Rights Committee, *100 Days Under the Blockade* (30 Aug. 2017), p. 7.

82 *Ibid*., pp. 7, 9-10.

83 *The boycott of Qatar is hurting its enforcers*, THE ECONOMIST (19 October 2017), https://www.economist.com/news/middle-east-and-africa/21730426-if-saudis-and-emiratis-will-not-trade-doha-iranians-will-boycott.

attorney must be authenticated by a UAE embassy, but the UAE embassy in Qatar is closed, and the UAE embassies in other jurisdictions have reportedly refused to authenticate such powers of attorney for Qataris. Qataris also have reported that Emiratis are unwilling to enter into business transactions for fear of sanction by their own government, including prosecution for showing "sympathy" to Qatar.[84] As a result, in many instances, property owners do not know the status or security of their real property. The UAE has also violated property rights by freezing assets of Qataris and limiting financial transfers to Qataris, including based on the named individuals' and entities' "links" to Qatar.[85]

45. In its June 2018 report, the NHRC identified 458 individual claims related to property in the UAE.[86] The claims include instances of Qataris being prevented from accessing real property or managing assets in the UAE and Qataris whose businesses may no longer rely on long-term agreements with Emirati counterparts.[87]

7. No Legal Recourse

46. Many Qataris have been left without any available legal recourse to vindicate their rights. The UAE has failed to provide any formal mechanism for Qataris to challenge the Discriminatory

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84 *See Gulf firms struggle to keep Qatar business ties despite crisis*, REUTERS (7 June 2017), https://www.reuters.com/article/gulf-qatar-economy-idUSL8N1J42RL.

85 **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 24; *UAE asks banks to freeze accounts of those named on Qatar-linked blacklist: WAM*, REUTERS (27 July 2017), https://www.reuters.com/ article/us-gulf-qatar-emirates/uae-asks-banks-to-freeze-accounts-of-those-named-on-qatar-linked-blacklist-wam-idUSKBN1AC0YH.

86 **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 24.

87 *Id.* p. 24-25.

Measures or their effects.[88] As they cannot enter the UAE, Qataris are prevented from physical access to UAE courts and institutions, and as a result of the "sympathy" laws and the threat of punishment associated with those laws, Qataris are also effectively barred from pursuing their rights through UAE local counsel or powers of attorney.[89] The OHCHR Report noted the absence of any formal litigation mechanism for victims of the Discriminatory Measures.[90] As explained therein, "legal cooperation has been suspended, including power of attorney. Furthermore, lawyers in these countries are unlikely to defend Qataris as this would likely be interpreted as an expression of sympathy toward Qatar."[91] In June 2018, the NHRC documented the inability for Qataris to "resort to the courts" and to "exercise the right to litigation and [the] right to defense," including through the "[n]on-implementation of court orders issued in favor of Qataris."[92]

C. International Condemnation of the UAE's Actions and Qatar's Attempts to Achieve Diplomatic Resolution

47. The UAE's Discriminatory Measures have been widely condemned by the international community. Zeid Ra'ad Al Hussein, the UN High Commissioner for Human Rights, stated shortly after the imposition of the Discriminatory Measures that he

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88 *See* **Annex 16**, OHCHR Report, *supra* note 3, ¶ 40.

89 *Ibid*. ("Furthermore, lawyers in these countries are unlikely to defend Qataris as this would likely be interpreted as an expression of sympathy towards Qatar."). The Discriminatory Measures therefore not only prevent Qataris from seeking redress against violations of their rights, but also render them unable to defend themselves if claims are brought against them in the UAE.

90 **Annex 16**, OHCHR Report, *supra* note 3, ¶ 40.

91 *Ibid.*

92 **Annex 22**, NHRC Fifth Report, *supra* note 52, p. 53.

was "alarmed" by the possible human rights impact of the measures being adopted and their "potential to seriously disrupt the lives of thousands of women, children and men," as well as "extremely troubled" by the criminalization of expressing sympathy for Qatar.[93]

48. As noted, on 18 August 2017, when six special rapporteurs of the UN Human Rights Council sent a joint communication to the UAE raising concerns about the violation of Qataris' human rights, the UAE responded only to deny that the rights of Qataris had been violated, at once repudiating its prior statements and denying that it ever implemented certain measures, while also asserting that it had taken steps to reduce the humanitarian consequences of these measures.[94]

49. The OHCHR subsequently dispatched a technical mission to Qatar in November 2017, with a mandate to gather information on the Discriminatory Measures' detrimental impacts on human rights and report recommendations to the UN High Commissioner for Human Rights. The technical mission determined that the measures (including the Discriminatory Measures imposed by the UAE) were arbitrary and unlawful, with significant negative effects on the enjoyment of fundamental human rights in the region, including the rights to freedom of expression, movement, family life, health, and education.[95]

50. Likewise, Human Rights Watch found that Qatar's isolation by its neighbors "is precipitating serious human rights

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93 OHCHR, *Qatar diplomatic crisis: Comment by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein on impact on human rights* (14 June 2017), http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21739&LangID=E.

94 See *supra* ¶ 14.

95 *See generally* **Annex 16**, OHCHR Report, *supra* note 3.

violations," including by "infringing on the right to free expression, separating families, interrupting medical care… interrupting education, and stranding migrant workers without food or water."[96] Amnesty International similarly concluded that the "arbitrary measures" taken against Qatar have resulted in "thousands of people in the Gulf fac[ing] the prospect of their lives being further disrupted and their families torn apart."[97] Reporters Without Borders decried the demand made to close Al Jazeera and other media outlets, calling it "an unacceptable act of blackmail."[98]

51. Since the UAE's imposition of the Discriminatory Measures, Qatar has worked to minimize the impact of the UAE's discriminatory conduct on Qataris and others present in Qatar. It has sought to alleviate the potential harm to the many UAE nationals who wish to remain in Qatar by relaxing residency permit requirements to confront the difficulty many UAE nationals may face obtaining renewals of their passports.[99] Qatar also has urged its nationals and residents to remain neutral and to treat with dignity the UAE nationals who have remained in Qatar.[100]

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96 **Annex 10**, Human Rights Watch July 2017 Report, *supra* note 53, p.1.

97 **Annex 6**, Amnesty International June 2017 Report, *supra* note 56.

98 Reporters Without Borders, *Unacceptable call for Al Jazeera's Closure in Gulf Crisis* (28 June 2017), https://rsf.org/en/news/unacceptable-call-al-jazeeras-closure-gulf-crisis.

99 Alaa Shahine and Nafeesa Syeed, *Game-Changing Qatar Law to Grant Expats Permanent Residency*, BLOOMBERG (2 Aug. 2017), https://www.bloomberg.com/news/articles/2017-08-02/qatar-passes-landmark-law-to-grant-permanent-residency-to-expats.

100 Qatar Ministry of the Interior, *MOI Statement on Residents from Countries that Cut Ties with Qatar* (11 June 2017), https://portal.moi.gov.qa/wps/portal/MOIInternet/mediacenter/moinews/newsdetails/!ut/p/a1/rVNdU8IwEPw1fQy5Ni1NfYtFy0cBpQi0L0xaA1ShLSWC-usNH4MPiqBjnpLM3s7u7R2O8AhHGV-nUy7TPOPz7TuqjhuMmnUd9JZnUBtYw2JO0HMJDAAPcYSjJOFnOFwkyzmaYzSTIoyExLxUoMVR4s8zcRmpYFuAhF2LBAkXEem48SIJ0Y

52. Further, as detailed above, Qatar has made numerous efforts toward a negotiated resolution of this dispute with the UAE. However, these efforts have been met by either a refusal to respond or a stated refusal to negotiate. The UAE has made it explicit that it will not compromise: it insists on Qatar's complete capitulation to its unlawful Thirteen Demands.[101]

IV.

THE UAE'S VIOLATIONS OF THE CERD

53. The UAE's imposition of the Discriminatory Measures violates the provisions and principles underlying the CERD, which commits States to pursuing "a policy of eliminating racial discrimination in all its forms."[102] CERD Article 1(1) defines "racial discrimination" as "*any distinction, exclusion, restriction or preference* based on race, colour, descent, or *national* or ethnic origin which has the *purpose or effect* of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."[103]

54. The UAE has taken the opposite course: it has unlawfully targeted Qataris on the basis of their national origin. It

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VCUgMapkTYdvWlq9I0kccXoQe4VAJ7DjAdKcLLY_Ctbrekk77rq-3lcAz-vf1RwCtAwUW9Jv9665rAOgX-T_DsAPAicPgAGjWaw0ggfLgV4li8Nuu4d4DmPYB8IPJJo6m8zzeBRayLCZ0iqNSTEQpyspLqb5nUharKw00KPJS8nlFhVKZ5uvKkmvwXdUsX0k8-gLGoWqY_akF-h0TWPW21vKNgIBr4OCXCe4JT7TYA-uPhEeF9M67UQoHNqGOysODXxM2Lxii9Gm5jJhahVwN_6vq3L_sQiCy8UOAi8WCkrcUPffq774YIh5TIFaxfvcn7AO8IyXh.

[101] *See supra* ¶¶ 17-18.

[102] CERD, *supra* note 5, art. 2(1).

[103] *Ibid.*, art. 1(1) (emphasis added).

has done so in an attempt to pressure Qatar into capitulating to the UAE's insistence that it be allowed to meddle in Qatar's internal affairs and to force Qatar to compromise its own human rights obligations, for example, by forcing the closure of Al Jazeera. The UAE's course of action places Qataris on an unequal footing, violates their basic human rights and fundamental freedoms, and is blatantly inconsistent with recognizing the "dignity and equality inherent in all human beings."[104]

55. While CERD Article 1(2) envisages certain distinctions between citizens and non-citizens, the CERD Committee has emphasized that this discretion "should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights."[105] Further, many of the rights and freedoms enumerated in Article 5 of the CERD "are to be enjoyed by all persons living in a given State, such as the right to equal treatment before tribunals…" [106]

56. Article 1(2) does not permit States Parties to distinguish between different groups of non-nationals. Under the CERD, such differential treatment constitutes prohibited discrimination "if the

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[104] *Ibid.* at preamble.

[105] Committee on the Elimination of Racial Discrimination, *General Recommendation XXX on Discrimination Against Non-Citizens*, U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004) (hereinafter "CERD Committee General Recommendation XXX"), ¶ 2; *see also* CERD, Art. 1(2).

[106] Committee on the Elimination of Racial Discrimination, *General Recommendation XX on article 5 of the Convention*, U.N. Doc. A/51/18 (1996) (hereinafter "CERD Committee General Recommendation XX"), ¶ 3. The CERD Committee enumerated a limited subset of rights that are "the rights of citizens, such as the rights to participate in elections, to vote, and to stand for election".

criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim."[107] Any distinctions that do not qualify under these criteria are an arbitrary and illegitimate misuse of the discretion afforded to States under Article 1(2). The arbitrariness of the Discriminatory Measures is underscored by the fact that the measures target Qataris and do not apply to other non-citizens of the UAE who are subject to its jurisdiction. Nor have individual circumstances been taken into account: the Discriminatory Measures have been applied *en masse*. It cannot be plausibly argued that these measures are proportionate to any legitimate aim.

57. Under Article 2(1) of the CERD, the UAE is under an obligation to "pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races[.]"[108] To this end, the UAE is obliged to, *inter alia*: (*i*) refrain from, prohibit, and prevent racial discrimination; (*ii*) amend, rescind, or nullify laws and regulations with discriminatory effects; and (*iii*) encourage integration.

58. The UAE has contravened its specific obligations under CERD Articles 2, 4, 5, 6, and 7, as well as the customary international law principle of nondiscrimination, by implementing sweeping discriminatory measures targeting Qataris on the basis of their national origin. In short, not only has the UAE failed to meet its obligations under CERD by enacting measures to prevent, prohibit, and criminalize racial discrimination and to combat prejudices, but it has also acted in direct opposition to the Convention by actively engaging in acts of racial discrimination and fostering a culture of prejudice.

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[107] CERD Committee General Recommendation XXX, *supra* note 105, ¶ 4.

[108] CERD, *supra* note 5, art. 2(1).

59. ***Prohibition on Collective Expulsion and Ban on Entry***. The mass expulsion of Qataris from the UAE and the total ban on entry of Qataris into the UAE are deliberate violations of the prohibition on racial discrimination against non-citizens under the CERD. This includes the prohibition against collective expulsion as articulated in General Recommendation XXX, which was adopted by the CERD Committee in August 2004 and is frequently brought to the attention of States Parties. In particular, blanket expulsion of Qataris from the UAE and the ban on entry by Qataris into the UAE discriminate against Qataris on the basis of national origin.[109] Without regard for General Recommendation XXX, UAE authorities expelled Qataris with no consideration of the personal circumstances of each individual, denied Qataris the right to challenge the expulsion order, and provided no other effective remedy.[110] While the UAE has attempted to justify the ban as a counter-terrorism measure, such a measure lacks any legal basis and is unsubstantiated and based on demonstrably false allegations.[111] Further, the expulsion of Qataris and the prohibition

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[109] *See* CERD Committee General Recommendation XXX, *supra* note 105, ¶ 9 (recommending that States "[e]nsure that immigration policies do not have the effect of discriminating against persons on the basis of … national … origin").

[110] *See ibid.*, ¶ 26 (recommending that States "[e]nsure that non-citizens are not subject to collective expulsion"); *ibid.* ¶ 25 (recommending that States provide "equal access to effective remedies, including the right to challenge expulsion orders").

[111] *See, e.g., US praises Qatar's fight against terrorism and calls for blockade to be lifted*, MIDDLE EAST MONITOR (22 July 2017), https://www.middleeastmonitor.com/20170722-us-praises-qatars-fight-against-terrorism-and-calls-for-blockade-to-be-lifted/; Robert Windrem & William M. Arkin, *Who Planted the Fake News at Center of Qatar Crisis?*, NBC NEWS (19 July 2017), https://www.nbcnews.com/news/world/who-planted-fake-news-center-qatar-crisis-n784056 (noting confirmation by U.S. and Qatari officials that statements allegedly made by the Emir of Qatar were false and likely planted by hackers working for the UAE); Embassy of the State of Qatar in the United States, *Qatar regrets the decision by Saudi Arabia, the United Arab Emirates and Bahrain to sever*

on entry by Qataris has been taken without any assessment of threat on an individual basis, which, by definition, constitutes an unlawful and disproportionate response.[112]

60. ***The UAE's Incitement of and Failure to Condemn Racial Hatred and Prejudice.*** Under Article 4 of the CERD, parties to the Convention "[s]hall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination."[113] States must also "declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, [and] incitement to racial discrimination."[114] Further, States Parties have an obligation to condemn propaganda that promotes racial hatred or discrimination in any form.[115] The CERD Committee has recognized that prohibited racist hate speech

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relations (6 June 2017), http://washington.embassy.qa/en/news/detail/2017/06/07/qatar-regrets-the-decision-by-saudi-arabia-the-united-arab-emirates-and-bahrain-to-sever-relations (expressing "deep regret over the decision of Saudi Arabia, the United Arab Emirates and the Kingdom of Bahrain to close their borders and airspace and cut off diplomatic relations," and calling such measures "unjustified" and "based on baseless and unfounded allegations").

112 *See* CERD Committee General Recommendation XXX, *supra* note 105, ¶ 10 (recommending that "any measures taken in the fight against terrorism do not discriminate, in purpose or effect, on the grounds of race, colour, descent, or national or ethnic origin and that non-citizens are not subjected to racial or ethnic profiling or stereotyping").

113 CERD, *supra* note 5, art. 4(c). The Committee has made clear "that the provisions of article 4 are of a mandatory character" and that "[p]ublic authorities at all administrative levels" are bound by those provisions. Committee on the Elimination of Racial Discrimination, *General Recommendation XV on article 4 of the Convention* (1993) (hereinafter "CERD Committee General Recommendation XV"), ¶¶ 2, 7.

114 CERD, *supra* note 5, art. 4(a).

115 *Ibid.* art. 4.

includes statements that discriminate on grounds of national origin, such as statements directed against immigrants or non-citizens.[116] States Parties' obligations under CERD thus mandate "resolute action to counter any tendency to target, stigmatize, stereotype or profile, on the basis of…national or ethnic origin, members of 'non-citizen' population groups."[117] This includes with respect to statements made by public officials, educators, the media, statements made on the Internet and other electronic communications networks, and in society at large.[118] The statements of public officials are "of particular concern."[119]

61. Article 7 of the CERD prescribes that, in addition, States Parties undertake:

> to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship

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116 Committee on the Elimination of Racial Discrimination, *General Recommendation No. 35 on Combating racist hate speech*, U.N. Doc. CERD/C/GC/35 (2013) (hereinafter "CERD Committee General Recommendation No. 35"), ¶¶ 6-7.

117 CERD Committee General Recommendation XXX, *supra* note 105, ¶ 12; *see also* CERD Committee General Recommendation No. 35, *supra* note 116, ¶ 10 ("The Committee recalls the mandatory nature of article 4….").

118 CERD Committee General Recommendation XXX, *supra* note 105, ¶ 12.

119 CERD Committee General Recommendation No. 35, supra note 116, ¶ 22. The Committee noted in particular "the role of politicians and other public opinion-formers in contributing to the creation of a negative climate towards groups protected by the Convention, and has encouraged such persons and bodies to adopt positive approaches directed to the promotion of intercultural understanding and harmony." *Ibid*., ¶ 15.

> among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.[120]

62. The UAE has failed to meet its obligations under Articles 4 and 7 of the CERD by failing to condemn racial hatred and prejudice and by inciting such hatred and prejudice against Qatar and Qataris. The Discriminatory Measures themselves focus minds on national origin and encourage discrimination and prejudice on that basis. Government officials in the UAE have directly incited hatred by engaging in media attacks on Qatari "sympathizers" and calling for physical attacks on Qatari institutions, and the UAE's criminalization of "sympathizing" with Qataris both inflames its anti-Qatar hate campaign and effectively stifles any response within the UAE to counter it.[121]

63. ***Discriminatory Interference with Protected Rights***. Article 5 of the CERD, referring to a State's "fundamental obligations" under Article 2, requires that States Parties "undertake to … eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment" of basic human rights. The rights and freedoms listed in Article 5 are not intended to be exhaustive but

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120 CERD, *supra* note 5, art. 7. The CERD Committee has highlighted the essential role of high-level public officials and the media, including social media, in condemning hate speech and promoting tolerance. CERD Committee General Recommendation No. 35, *supra* note 116, ¶ 37, 39.

121 *See supra* ¶¶ 25, 36-39.

rather indicative of the fundamental human rights guaranteed by the Charter of the United Nations, the Universal Declaration of Human Rights, and the core human rights treaties.[122] Under the CERD, the UAE is obligated "to guarantee equality between citizens and non-citizens in the enjoyment of these rights to the extent recognized under international law."[123] By enacting and enforcing the Discriminatory Measures, the UAE has violated, *inter alia*, the following human rights protections recognized under international law and enumerated in Article 5 of the CERD.

- **Violations of the Right to Marriage and Choice of Spouse**. The UAE has interfered with the right to marriage enumerated in CERD Article 5.[124] By expelling Qataris from its territory, recalling UAE citizens from Qatar, and prohibiting Emiratis from traveling to Qatar, the UAE has separated families and spouses.[125] Human rights leaders have observed that the Discriminatory Measures have had "a brutal effect, splitting children from parents and husbands from wives."[126]

- **Violations of the Right to Freedom of Opinion and Expression**. The UAE's Discriminatory Measures relating

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122 *See* CERD Committee General Recommendation XX, *supra* note 106, ¶ 1. Qatar reserves all rights to refer to rights in other instruments or customary international law not explicitly enumerated in Article 5.

123 CERD Committee General Recommendation XXX, *supra* note 105, ¶ 3.

124 CERD, *supra* note 5, art. 5(c)(iv).

125 *See supra* ¶¶ 29-33.

126 OHCHR, *Qatar diplomatic crisis: Comment by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein on impact on human rights* (14 June 2017), http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21739&LangID=E.

to freedom of expression are a transparent attempt to silence dissenters, violating the right to freedom of expression enjoyed by Qataris and transgressing the principles of inclusion and respect for diversity that underlie the CERD.[127] The UAE violated these rights by, among other things, criminalizing and announcing an intention to vigorously prosecute any expressions of sympathy toward Qatar on social media or in any other form, blocking the transmission of Qatari news stations and websites (including Al Jazeera) into the UAE, and demanding the closure of Qatari media outlets.[128]

- **Violations of the Right to Public Health and Medical Care**. The UAE's Discriminatory Measures, including the mass expulsion of Qataris and the prohibition on travel between the UAE and Qatar, unlawfully interfere with the right to health and medical care.[129] Qataris receiving medical treatment at hospitals in the UAE have been prohibited from continuing their treatment, and Qatar has been prevented from importing necessary medical products.[130]

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127 CERD, *supra* note 5, art. 5(c)(viii).

128 *See supra* ¶¶ 24-26, 36-39.

129 *See* CERD, *supra* note 5, art. 5(e)(iv) ("In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: … The right to public health, medical care, social security and social services"; *see also* Universal Declaration of Human Rights, G.A. Res. 217 (III) A (1948), art. 25 ("[E]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including … medical care.").

130 *See supra* ¶¶ 40-41.

- **Violations of the Right to Education and Training**. The UAE's Discriminatory Measures have also unlawfully violated the right to education by forcing Qatari students studying in the UAE to interrupt their programs of study and return home to Qatar.[131]

- **Violations of the Right to Property**. The UAE's Discriminatory Measures have caused, in purpose and effect, violations of the right to property.[132] As a result of the forced expulsion of Qataris from the UAE, Qataris have been denied the ability to access, enjoy, utilize, or manage their property.[133] Further, the UAE has frozen Qatari assets and limited financial transfers to and from Qataris based on national origin.[134]

- **Violations of the Right to Work**. The UAE's Discriminatory Measures have caused violations of the

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131 *See supra* ¶ 42. *See also* CERD, *supra* note 5, art. 5(e)(v) ("In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: … The right to education and training.").

132 *See* CERD, *supra* note 5, art. 5(d)(v) ("In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: … The right to own property alone as well as in association with others").

133 *See supra* ¶¶ 44-45.

134 *See supra* ¶ 44.

right to work.[135] Qatari business owners have been prevented from entering the UAE in order to manage and oversee their businesses, renew necessary business and worker licenses, or renew their leases.[136]

- **Violations of the Right to Equal Treatment before Tribunals**. The Discriminatory Measures enacted by the UAE have effectively denied Qataris the right to equal treatment before UAE courts and other organs of the justice system.[137] By preventing Qataris from entering the country, criminalizing "sympathizing" with Qatar and creating a climate of racial hatred and incitement, the UAE has hindered Qataris' ability to hire an attorney, challenge discrimination, or otherwise exercise their legal rights.[138]

64. ***Denial of Effective Protection and Remedies against Acts of Racial Discrimination***. The UAE has also failed to provide Qataris in their jurisdiction with effective protection and remedies against acts of racial discrimination, in violation of Article 6 of the CERD. As noted, the entry ban prevents Qataris

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135 *See* CERD, *supra* note 5, art. 5(i) ("…States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethic origin, to equality before the law, notably in the enjoyment of the following rights: […] (i) The right to freedom of movement and residence within the border of the [State].)"

136 *See supra* ¶¶ 43-44.

137 *See* CERD, *supra* note 5, art. 5(a) ("…States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethic origin, to equality before the law, notably in the enjoyment of the following rights: (a) The right to equal treatment before the tribunals and all other organs administering [justice].").

138 *See supra* ¶ 46.

from appearing in UAE courts to challenge the Discriminatory Measures, and the criminalization of statements of "sympathy" for Qatar and the general atmosphere of hostility toward Qatar and Qataris have undermined the ability of Qataris to pursue remedies through local counsel in the UAE.[139] As a result, even if avenues for redress are ostensibly available to Qataris under UAE law, these avenues have been rendered completely ineffective because Qataris are unable to use them.

V.

RELIEF REQUESTED BY THE STATE OF QATAR

65. Qatar, in its own right and as *parens patriae* of its citizens, respectfully requests the Court to adjudge and declare that the UAE, through its State organs, State agents, and other persons and entities exercising governmental authority, and through other agents acting on its instructions or under its direction and control, has violated its obligations under Articles 2, 4, 5, 6, and 7 of the CERD by taking, *inter alia*, the following unlawful actions:

a. Expelling, on a collective basis, all Qataris from, and prohibiting the entry of all Qataris into, the UAE on the basis of their national origin;

b. Violating other fundamental rights, including the rights to marriage and choice of spouse, freedom of opinion and expression, public health and medical care, education and training, property, work, participation in cultural activities, and equal treatment before tribunals;

c. Failing to condemn and instead encouraging racial hatred against Qatar and Qataris and failing to take

[139] *See supra* ¶¶ 25, 36-39, 46.

measures that aim to combat prejudices, including by *inter alia:* criminalizing the expression of sympathy toward Qatar and Qataris; allowing, promoting, and financing an international anti-Qatar public and social-media campaign; silencing Qatari media; and calling for physical attacks on Qatari entities; and

d. Failing to provide effective protection and remedies to Qataris to seek redress against acts of racial discrimination through UAE courts and institutions.

66. Accordingly, Qatar respectfully requests the Court to order the UAE to take all steps necessary to comply with its obligations under CERD and, *inter alia*:

a. Immediately cease and revoke the Discriminatory Measures, including but not limited to the directives against "sympathizing" with Qataris, and any other national laws that discriminate *de jure* or *de facto* against Qataris on the basis of their national origin;

b. Immediately cease all other measures that incite discrimination (including media campaigns and supporting others to propagate discriminatory messages) and criminalize such measures;

c. Comply with its obligations under the CERD to condemn publicly racial discrimination against Qataris, pursue a policy of eliminating racial discrimination, and adopt measures to combat such prejudice;

d. Refrain from taking any further measures that would discriminate against Qataris within its jurisdiction or control;

e. Restore rights of Qataris to, *inter alia*, marriage and choice of spouse, freedom of opinion and expression,

public health and medical care, education and training, property, work, participation in cultural activities, and equal treatment before tribunals, and put in place measures to ensure those rights are respected;

f. Provide assurances and guarantees of non-repetition of the UAE's illegal conduct; and

g. Make full reparation, including compensation, for the harm suffered as a result of the UAE's actions in violation of the CERD.

VI.

JUDGE *AD HOC*

67. In accordance with the provisions of Article 31(3) of the Statute of the Court, and Article 35(1) of the Rules of the Court, Qatar declares its intention to exercise its right to choose a judge *ad hoc*.

VII.

RESERVATION OF RIGHTS

68. Qatar reserves the right to supplement and/or amend this Application, as well as the legal grounds invoked and the relief requested, as may be necessary to preserve and vindicate its rights under the CERD.

VIII.

APPOINTMENT OF AGENT

69. Qatar hereby designates as its Agent Dr. Mohammed Abdulaziz Al-Khulaifi, Legal Advisor to His Excellency Deputy Prime Minister and Minister of Foreign Affairs.

70. Pursuant to Article 40(1) of the Rules of the Court, communications relating to this case should be sent to:

Embassy of the State of Qatar
Borweg 7
2597 LR 'S-Gravenhage
The Hague
Netherlands

I have the honor to reassure the Court of my highest esteem and consideration.

The Hague, 11 June 2018

Dr. Mohammed Abdulaziz Al-Khulaifi

Legal Advisor to His Excellency
Deputy Prime Minister and Minister
of Foreign Affairs

Agent of the State of Qatar

CERTIFICATION

The aforementioned Agent of the State of Qatar certifies that the documents listed below and annexed to the State of Qatar's Application are true and accurate copies of the originals of these documents.

LIST OF ANNEXES

Annex 1	Federal Decree – Law No. 5 of 2012 on Combating Cybercrimes, dated 13 August 2012
Annex 2	Statement of Support for Blockade and Cessation of Ties by the UAE Ministry of Foreign Affairs, dated 5 June 2017
Annex 3	*Attorney General Warns Against Sympathy for Qatar or Objecting to the State's Positions*, AL BAYAN ONLINE, dated 7 June 2017 (Certified Translation)
Annex 4	UAE Federal Transport Authority Circular No. 2/2/1023, *Implementation Process of the Decision Related to Qatar Sanctions*, dated 11 June 2017
Annex 5	National Human Rights Committee, *First Report Regarding the Human Rights Violations as a Result of the Blockade on the State of Qatar*, dated 13 June 2017
Annex 6	Amnesty International, *Gulf/Qatar Dispute: Human Dignity Trampled and Families Facing Uncertainty as Sinister Deadline Passes*, dated 19 June 2017
Annex 7	*The 13 demands on Qatar from Saudi Arabia, Bahrain, UAE and Egypt*, THE NATIONAL, dated 23 June 2017
Annex 8	National Human Rights Committee, *Second Report Regarding the Human Rights Violations as a Result of the Blockade on the State of Qatar*, dated 1 July 2017
Annex 9	*Full joint statement of boycotting countries on Qatar crisis*, AL ARABIYA ENGLISH, dated 5 July 2017

Annex 10	Human Rights Watch, *Qatar: Isolation Causing Rights Abuses*, dated 12 July 2017
Annex 11	Joint Communication from the Special Procedures Mandate Holders of the Human Rights Council to the United Arab Emirates, dated 18 August 2017
Annex 12	National Human Rights Committee, *100 Days Under the Blockade*, Third Report on Human Rights Violations Caused by the Blockade Imposed on the State of Qatar, dated 30 August 2017
Annex 13	Permanent Mission of the State of Qatar to the United Nations Office in Geneva – Switzerland, *HE the Foreign Minister delivers a statement before the 36th Session of the Human Rights Council*, dated 11 September 2017.
Annex 14	The Permanent Mission of the United Arab Emirates to the United Nations Office and Other International Organizations at Geneva reply to the Joint Communication from the Special Procedures Mandate Holders of the Human Rights Council, dated 18 September 2017
Annex 15	Address by His Highness Sheikh Tamim bin Hamad Al-Thani, Emir of the State of Qatar, at the General Debate of the 72nd Session of the United Nations General Assembly, dated 19 September 2017 (Certified Translation)
Annex 16	Office of the United Nations High Commissioner for Human Rights' Technical Mission to the State of Qatar, 17-24 November 2017, *Report on the Impact of the Gulf Crisis on Human Rights*, dated December 2017
Annex 17	National Human Rights Committee, *6 Months of Violations, What Happens Now? The Fourth General Report on the Violations of Human Rights Arising from the Blockade of the State of Qatar*, dated 5 December 2017 (Certified Translation)
Annex 18	Saudi Press Agency, *Joint Statement issued by four boycotting States denouncing report of UNHCHR's technical mission on its visit to Qatar*, dated 30 January 2018