



UNITED ARAB EMIRATES

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 15TH SESSION OF THE UPR WORKING GROUP, JANUARY - FEBRUARY 2013

FOLLOW UP TO THE PREVIOUS REVIEW

The human rights situation in the United Arab Emirates (UAE) has deteriorated in the four years since the last Universal Periodic Review (UPR) in December 2008. *Freedom of expression has been stifled, respect for freedom of association remains minimal, and the authorities continue to use incommunicado detention and torture.*

Following the review in 2008, the government supported recommendations relating to human trafficking, the rights of women and migrant workers, accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and freedom of expression.¹

*Amnesty International also welcomes the government's invitation to the UN Special Rapporteur on trafficking whose visit to the UAE took place in 2012.*²

The UAE endorsed a recommendation to ensure effective support for victims of domestic violence³ and in February 2010, the Committee on the Elimination of Discrimination against Women called on the government to take comprehensive measures to protect women from all forms of gender-based violence.⁴ *However, to Amnesty International's knowledge there has been little progress with implementing these recommendations; in fact, in a deeply disturbing development, in October 2010, the Supreme Court upheld a husband's right to "discipline" his wife and children, provided that it left no mark, effectively sanctioning domestic violence.*⁵

*The UAE authorities have made some progress on the recommendation to consider allowing female citizens married to non-citizens to pass on their nationality to their children,*⁶ although regrettably the UAE did not indicate its position on this recommendation when the outcome of the 2008 review was formally adopted by the Human Rights Council in March 2009.⁷ *In November 2011, the UAE President issued a directive giving the children of UAE women married to foreign nationals the right to apply for citizenship when they reach 18 years of age,*⁸ which represents a partial move forward for women's rights in the UAE.

*Despite accepting recommendations on foreign migrant labour,*⁹ *Amnesty International considers that such workers continue to be inadequately protected against exploitation and abuse by their employers or sponsors, including in terms of working long hours for little pay, poor living conditions, confiscation of passports, and non-payment of wages.*¹⁰

*The UAE supported recommendations to ratify the CAT,*¹¹ *but four years later has yet to do so.*

*Despite the UAE's support of a recommendation to limit the number and extent of restrictions on the right to freedom of expression,*¹² *Amnesty International has documented deepening repression of dissent in the UAE in the past four years, including arbitrary arrests, threats to revoke citizenship of political activists, and increased restrictions on civil society organisations.*¹³

*Amnesty International also regrets that in the 2008 review of the UAE, human rights concerns regarding incommunicado detention and torture and other ill-treatment were not adequately addressed.*¹⁴

THE NATIONAL HUMAN RIGHTS FRAMEWORK

UN human rights mechanisms

The UAE is a candidate in the 2012 elections to the UN Human Rights Council and has submitted a set of election pledges.¹⁵ In light of the authorities' intensifying attack on free speech,¹⁶ Amnesty International is concerned that the government's pledges does not commit to upholding freedom of expression. A commitment to promote dialogue with civil society rings hollow in the face of ongoing, and worsening, restrictions on the ability of NGOs to operate freely in the country, as detailed in this submission.

The death penalty

*The UAE retains the death penalty in national legislation, including for offences such as drug trafficking which do not meet the criterion of "most serious" crimes for which the death penalty may be imposed under international law. In October 2009, the President issued a decree relating to national security, which, among other things, provides for the imposition of the death penalty against people convicted of disclosing information that harms the state.*¹⁷

In 2011, the UAE resumed executions for the first time since 2008. On 10 February 2011, Rashid Rabee al-Rashidi was executed by firing squad at a shooting range in Dubai. At least 31 death sentences were imposed in 2011, including at least 12 people sentenced to death for smuggling drugs into the country.

*The Convention on the Rights of the Child (CRC), to which the UAE is a party, states that nobody below the age of 18 at the time the offence was committed may be sentenced to death.*¹⁸ *Press reports indicate that the Court of Cassation in the emirate of Dubai, which has a separate legal system, generally adheres to the CRC. However, the Supreme Court of the UAE in Abu Dhabi has handed down death sentences to juvenile offenders in violation of international law.*¹⁹

Criminalisation of freedom of expression

*Freedom of expression is guaranteed under Article 30 of the UAE's Constitution "within the limits set by law".*²⁰ *However, Article 176 of the UAE's Penal Code permits a sentence of up to five years in prison for "whoever publicly insults the State President, its flag or national emblem". Article 8 of the Penal Code extends the above punishment to also include insults against the Vice-President and members of the Supreme Council of the Federation.*²¹

Discrimination

Amnesty International is concerned that domestic workers continue to be excluded from the protection of national labour legislation, meaning that they do not formally have the right to limits on working hours, rest breaks and paid holidays in line with International Labour Organization (ILO) standards.²² According to a local press report in May 2012, the UAE authorities are proposing a draft law on domestic workers, which reportedly includes provisions to guarantee monthly payment of wages, one paid day off a week, and 14 days paid annual leave.²³

Amnesty International has concerns about other areas of discrimination that exist within the laws and Constitution of the UAE; however, these are not addressed in this submission.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Restrictions on freedom of expression and the right to a fair trial

Amnesty International is concerned that there are severe restrictions on freedom of expression in the UAE. There are no political parties and political dissent is not tolerated. Islamists or those critical of the human rights or political situation in the country are often targeted for arrest, arbitrary detention and unfair trial.

Ahmed Mansoor, a civil society activist and blogger, and four other men, known as the "UAE 5",²⁴ were arrested in April 2011 after calling for greater political rights and freedoms. They were charged under Articles 176 and 8 of the Penal Code for 'publicly insulting' the UAE President, Vice-President and the Crown Prince in messages critical of government policy posted

on an online discussion forum, which has been blocked by the authorities since February 2010.²⁵ On 27 November 2011, despite a ruling by the UN Working Group on Arbitrary Detention that he had been arbitrarily detained,²⁶ Ahmed Mansoor was sentenced to three years in prison and the four others each to two years. All were released the following day under a presidential pardon, although their criminal records remain.

The five men were subjected to an unfair trial in breach of international standards, including the Arab Charter. The court did not allow the defendants to review the evidence and charges against them until six months into the trial. The trial was initially held behind closed doors, though international observers were subsequently allowed to attend. The men were not allowed to hold confidential meetings with their lawyers, who were also not allowed to cross-examine one of the prosecution witnesses nor given sufficient time to cross-examine others. The five were also prosecuted under State Security procedures, which do not allow the right of appeal.²⁷

Restrictions on freedom of association

NGOs operating in the UAE are severely limited by the 2008 Law on Associations. This law is not consistent with international law, including the Arab Charter, which provides for freedom of association, subject only to restrictions prescribed by law and which are for reasons of "national security or public safety, public health or morals or the protection of the rights and freedoms of others".²⁸ Article 16 of the Law on Associations prohibits NGOs and their members from interfering "in politics or in matters that impair state security and its ruling regime". In 2011, the boards of both the Jurist Association and the Teachers' Association were dissolved under Article 16. This action has further stifled free expression as both had signed a public appeal calling for greater democracy in the country.²⁹ In October 2011, the Minister of Social Affairs extended the suspension of the Jurist Association board for a further six months.

The Jurist Association has faced growing restrictions on its activities since the 2008 UPR. In 2010, the government prohibited representatives from taking part in meetings outside the UAE and cancelled seminars planned by the organization without giving a substantive reason. UAE security officials have also pressured some of the Association's members to resign.

In March 2012, the authorities closed the local offices of two international organizations, the National Democratic Institute, a body linked to the Democratic Party in the United States, and the Konrad Adenauer Stiftung, linked to Germany's Christian Democratic Union. Both bodies promote the exchange of ideas and political debate as the foundation of democracy.³⁰ Amnesty International is unaware of any reason given for the closures.

Threats to revoke citizenship

The government is threatening to revoke the UAE citizenship of seven men because of their political activity, punishing them for peacefully expressing dissent and in an attempt to intimidate others from exercising their right to freedom of expression. The seven men are all members of the Reform and Social Guidance Association (al-Islah), a non-violent political organization that advocates greater adherence to Islamic precepts.

The seven men acquired UAE citizenship as children and have never held any other citizenship. If carried out, the authorities' threat to strip them of their UAE nationality would amount to an arbitrary deprivation of their right to nationality and leave them stateless, in breach of the UAE's obligations under the Arab Charter,³¹ and they would no longer be able to work or reside legally in the country.³²

Incommunicado detention and torture

Amnesty International has regularly raised concerns with the authorities regarding individuals arrested by Amn al-Dawla (State Security) officials. Such individuals are commonly held incommunicado for prolonged periods of time, in undisclosed locations where they may face solitary confinement, torture and other ill-treatment in violation of international standards.³³

Detainees' allegations that they were tortured, including being hung up by the wrists or ankles and beaten on the soles of the feet, subjected to electric shocks and deprived of sleep for long periods, have rarely been investigated or resulted in prosecution of alleged perpetrators. Victims of torture and other ill-treatment report that they have been forced to sign self-incriminating statements, and have then been charged and prosecuted on the basis of such "confessions".

Naji Hamdan, a US citizen of Lebanese origin, was held incommunicado in solitary confinement for three months at a secret

Amn al-Dawla detention centre after his arrest in August 2008. He alleges that he was tortured by being strapped into an "electric chair" and beaten about the head until he lost consciousness. He has also stated that signed confessions used as evidence against him were false and that he had only signed them as a result of the torture inflicted upon him. Neither the court nor the responsible authorities appear to have taken any steps to investigate his allegations as international standards require.³⁴ In October 2009, Naji Hamdan was convicted on terrorism-related charges after a closed trial before the Federal Supreme Court. He was sentenced to 18 months' imprisonment, but released in November 2009 and deported.³⁵

In 2010, lawyers from an Indian NGO reported that 17 Indian men, who had been sentenced to death for murder, had been tortured following their arrest in 2009. Their death sentences were revoked on appeal in 2011.³⁶ Amnesty International is unaware of any investigation into their allegations having taken place.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of the United Arab Emirates to:

UN human rights mechanisms

- Cooperate fully with and accept all outstanding requests by UN Special Procedures to visit the United Arab Emirates;
- Ratify and implement all outstanding UN human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention relating to the Status of Stateless Persons, and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

The death penalty

- Establish a moratorium on executions with a view to abolishing the death penalty as provided by UN General Assembly resolutions 62/149, 63/168 and 65/206, respectively adopted on 18 December 2007, 18 December 2008 and 21 December 2010;
- Pending full abolition of the death penalty, abolish the death penalty for all crimes that do not meet the threshold of "most serious crimes", including for drug trafficking and for disclosing information that harms the state;
- Pending full abolition of the death penalty, ensure that no death sentences are handed down to juvenile offenders. Where the age of an accused young person is in doubt, the person should be presumed to be under the age of majority until and unless this is rebutted by the prosecution.

Discrimination

- Amend the Constitution and other relevant legislation to ensure that all human rights may be enjoyed equally by non-citizens, in accordance with international human rights law;
- Ensure that the provisions of the ILO Convention on Decent Work for Domestic Workers are fully integrated into national legislation and implemented in practice.

Restrictions on freedom of expression and right to a fair trial

- Revoke or amend all laws that criminalize, or are used to criminalize, freedom of expression, in particular Articles 176 and 8 of the Penal Code, in order to bring them in line with guarantees of free speech in international human rights law;
- Invite the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to visit the UAE;
- Ensure that all detainees are charged with an internationally recognizable criminal offence and receive a fair trial in accordance with international law and standards;
- Amend the procedures of State Security trials to ensure that they meet international fair trial standards.

Restrictions on freedom of association

- *Review, and where necessary, repeal or amend existing laws which govern NGOs and bring these in line with international human rights law and standards, including amending Article 16 of the Law on Associations, to ensure that NGOs can function free from state interference;*
- *Invite the Special Rapporteur on the rights to freedom of peaceful assembly and of association to visit the UAE.*

Threats to revoke citizenship

- *End any attempts to arbitrarily deprive political activists who have simply exercised the right to peaceful expression of their UAE citizenship.*

Incommunicado detention and torture

- *Ensure that all allegations of torture or other ill-treatment are independently, promptly and thoroughly investigated, and that anyone found responsible for such abuses is brought to justice, and that this commitment is officially and publicly communicated to all officers involved in arrest, detention and interrogation, in particular those of the Amn al-Dawla;*
- *Immediately end all incommunicado and secret detention;*
- *Ensure that detainees have immediate access – in law and practice – to their lawyers and families, as well as to adequate medical care;*
- *Ensure that detainees are brought promptly before a judge to rule on the lawfulness of their detention;*
- *Establish and maintain a central register to ensure that all detainees can be promptly traced, and to bring appropriate sanctions against officers responsible for the unlawful detention of detainees, including failure to keep proper records of detainees;*
- *Allow regular, unannounced and unrestricted inspections by independent national and international expert bodies to all places where people are, or may be, deprived of their liberty in order to monitor the treatment of detainees and their conditions of detention;*
- *Ensure that detainees who lodge complaints about torture or other ill-treatment can do so without fear of any kind of reprisal or prosecution;*
- *Invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Working Group on Arbitrary Detention to visit the UAE.*

ENDNOTES

¹ *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p17-19, para 91.1 (Qatar), 91.6 (Bahrain), 91.9 (United Kingdom), 91.13 (Indonesia), 91.17 (France), 91.18 (Italy), 91.20 (Norway), 91.21 (Philippines), 91.22 (Philippines), 91.23 (Philippines), 91.25 (Albania), 91.27 (Malaysia), 91.28 (Canada), 91.30 (Slovenia), 91.31 (Slovenia) and 91.32 (Japan).

² *The UN Special Rapporteur in Trafficking in Persons, especially Women and Children concludes her country visit to the United Arab Emirates*, 17 April 2012.

³ *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p19, para91.30 (Slovenia).

⁴ The Committee also regretted the lack of a specific law criminalizing domestic violence. For more information, see UN Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: United Arab Emirates*, 5 February 2010, p5-6.

⁵ Amnesty International, *Annual Report 2011: United Arab Emirates*, May 2011 <http://www.amnesty.org/en/region/uae/report-2011>

⁶ *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p19, para92.4 (Germany).

⁷ Report of the 10th session of the Human Rights Council (A/HRC/10/29), paragraph 429.

⁸ The government has announced that a committee has been set up to implement the decree and gather the names of people who qualify for citizenship. For more information, see Official website of the Prime Minister of the United Arab Emirates, Mansour bin Zayed issues resolution implementing President's directives, 15 December 2011, <http://www.uaepm.ae/en/media/news/articles/news937.html>

⁹ *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p17-19, para 91.9 (United Kingdom), 91.18 (Italy), 91.21 (Philippines), 91.22 (Philippines), 91.27 (Malaysia) and 91.28 (Canada).

¹⁰ Amnesty International, *Annual Report 2012: United Arab Emirates*, May 2012, <http://www.amnesty.org/en/region/uae/report-2012>

¹¹ *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p18, para91.25 (Albania) and 91.32 (Japan).

¹² *Report of the Working Group on the Universal Periodic Review: United Arab Emirates* (A/HRC/10/75), 12 January 2009, p18, para91.17 (France).

¹³ Amnesty International and Human Rights Watch, *United Arab Emirates: End arrests; free political activists: Stop crackdown on freedom of expression, association* (MDE 25/004/2012), 30 April 2012, <http://www.amnesty.org/en/library/info/MDE25/004/2012/en>

¹⁴ Amnesty International raised concerns regarding persons – both Emirati and foreign – who were arbitrarily arrested and held incommunicado for prolonged periods of time, commonly in undisclosed locations where they may face torture and other ill-treatment in its July 2008 submission to the UPR Working Group. For more information, see Amnesty International, *United Arab Emirates: Submission to the UN Universal Periodic Review: Third session of the UPR Working Group of the UN Human Rights Council, December 2008* (MDE 25/006/2008), 14 July 2008, <http://www.amnesty.org/en/library/info/MDE25/006/2008/en>

¹⁵ *Annex to the letter dated 13 March 2012 from the Permanent Representative of the United Arab Emirates addressed to the President of the General Assembly: Candidature of the United Arab Emirates for membership on the Human Rights Council for the period 2013-2015* (A/67/85), 9 May 2012.

¹⁶ Amnesty International, *UAE: Government suspension of Jurist Association board part of ongoing crackdown on civil society* (MDE 25/003/2012), 6 January 2012, <http://www.amnesty.org/en/library/info/MDE25/003/2012/en>

¹⁷ Both laws are contrary to international standards that restrict the imposition of the death penalty only to the most serious crimes, meaning those involving an intention to kill which resulted in the loss of life. See Article 6(2) ICCPR, Report of the Special Rapporteur on extrajudicial summary or arbitrary executions, 27 March 2007, UN Doc: A/HRC/4/20.

¹⁸ Article 37(a).

¹⁹ Amnesty International, *Death Sentences and Executions 2011* (ACT 50/001/2012), March 2012, p44-45, <http://www.amnesty.org/en/library/info/ACT50/001/2012/en>

²⁰ The UAE has also ratified the Arab Charter on Human Rights, Article 32 of which guarantees the right to freedom of opinion and expression

²¹ These provisions violate the Arab Charter and other international protections of freedom of speech, including by making it a criminal offence to insult public figures in the political domain and by not satisfying the narrow circumstances in which restrictions on speech may be permitted under international law. See, Jennie Pasquarella, *United Arab Emirates (UAE): Summary Trial Observation Briefing Paper on the UAE5 case* (MDE 25/008/2011), 3 November 2011, p2, <http://www.amnesty.org/en/library/info/MDE25/008/2011/en>; Human Rights Committee, General Comment No 34, 12 September 2011, UN Doc: CCPR/C/GC/34, para 38; Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 2 January 2007, UN Doc: A/HRC/4/27.

²² See, for example, International Labour Organization Convention Concerning Decent Work for Domestic Workers; Hours of Work (Industry) Convention, 1919 (No. 1), Article 2; Hours of Work (Commerce and Offices) Convention, 1930 (No. 30), Article 3; and Holidays with Pay (Revised) Convention, 1970 (No. 132) C. 106, Article 6(4).

²³ Gulf News, *Domestic workers get more protection from exploitation*, 2 May 2012,

<http://gulfnews.com/news/gulf/uae/employment/domestic-workers-get-more-protection-from-exploitation-1.1016692>

²⁴ The four other men were Nasser bin Ghaith, a university lecturer and advocate of political reform, and online activists Fahad Salim Dalk, Ahmed Abdul-Khaleq and Hassan Ali al-Khamis.

²⁵ Amnesty International and three other international human rights organizations, *Joint Statement – UAE: Free activists before elections* (MDE 25/005/2011), 22 September 2011, <http://www.amnesty.org/en/library/info/MDE25/005/2011/en>

²⁶ On 22 November 2011, the UN Working Group on Arbitrary Detention had found that Ahmed Mansoor had been arbitrarily detained because of his “peaceful exercise of the right to freedom of opinion and expression” and that he faced an unfair trial. It called on the UAE government to release him and provide adequate reparation.

²⁷ Jennie Pasquarella, *United Arab Emirates (UAE): Summary Trial Observation Briefing Paper on the UAE5 case* (MDE 25/008/2011), 3 November 2011, <http://www.amnesty.org/en/library/info/MDE25/008/2011/en>; Arab Charter, Articles 12, 13 and 16; ICCPR, Article 14.

²⁸ Arab Charter, article 24; ICCPR, article 22.

²⁹ Amnesty International and Human Rights Watch, *UAE: Government suspension of Jurist Association board part of ongoing crackdown on civil society* (MDE 25/003/2012), 6 January 2012, <http://www.amnesty.org/en/library/info/MDE25/003/2012/en>

³⁰ Amnesty International and Human Rights Watch, *United Arab Emirates: End arrests; Free political activists: Stop crackdown on freedom of expression, association*, (MDE 25/004/2012) 30 April 2012, <http://amnesty.org/en/library/info/MDE25/004/2012/en>

³¹ Article 29(2): 2. “No one may be exiled from his country or prohibited from returning thereto.”.

³² Amnesty International and Human Rights Watch, *United Arab Emirates: End arrests; free political activists: Stop crackdown on freedom of expression, association*, (MDE 25/004/2012), 30 April 2012, <http://www.amnesty.org/en/library/info/MDE25/004/2012/en>

³³ Arab Charter, articles 8 and 14; See also, for example, CAT and ICCPR, articles 7, 9 and 10.

³⁴ CAT, article 12.

³⁵ Amnesty International, *Amnesty International Report 2010*, May 2010, <http://www.amnesty.org/en/region/uae/report-2010>

³⁶ Amnesty International, *United Arab Emirates: Death sentence of Indian migrants revoked* (MDE 25/004/2011), 13 September 2011, <http://www.amnesty.org/en/library/info/MDE25/004/2011/en>