



# **Universal Periodic Review: United Arab Emirates**

**Second Cycle**

**Submission to the Stakeholders' Summary**

**Alkarama, 16 July 2012**

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## 1 General Context and Recent Developments

1. This contribution to the Office of the High Commissioner for Human Rights' summary of stakeholders' information is made in the context of the second cycle of the Universal Periodic Review of the United Arab Emirates (UAE). Given the objective of the second cycle of the UPR to "focus on, inter alia, the implementation of the accepted recommendations and the developments of the human rights situation in the State under review"<sup>1</sup>, Alkarama will examine progress made on implementation of recommendations relevant to its work, as well as the situation in the country, which has witnessed a clear degradation since the 2008 review. The issues raised by Alkarama in July 2008 as part of the first review of the United Arab Emirates also remain largely valid.

2. Although not rocked by mass protests and political change like a number of other Arab countries over the course of 2011-2012, the UAE have experienced regular demands by civil society for more openness, transparency and political participation. State attempts to control freedom of expression, opinion, assembly and association has therefore increased exponentially. There continues to be multiple arbitrary detentions in the country, in some cases accompanied by torture and unfair trials. The situation of the Bidoon (or 'stateless') has not improved, nor has that of migrant workers.

## 2 Attacks on Freedom of Association and Expression

3. During its review in December 2008, the United Arab Emirates accepted several recommendations relating to freedom of expression, mostly concerning the law on press and publications. However, a number of other recommendations, related to freedom of expression and association were not accepted. Unfortunately, in reaction to events in the rest of the Arab world, the Emirati authorities have since increased their efforts to repress questioning and criticism of the authorities and their policies, most particularly in the last few months. Given this crackdown, these rights require urgent protection through recommendations during this second cycle.

### 2.1 Attacks on Freedom of Association

4. Political parties remain banned in the country. The Emirati authorities are also weary of the creation of new associations and organisations. In addition to the restrictive 2008 Law on Associations, they use various measures to prevent civil society organisations from carrying out their activities.

5. We refer for example to the cases of associations having their boards dismissed and replaced by State-appointed individuals<sup>2</sup>, supposedly for having violated section 16 of the UAE's 2008 Law on Associations, which prohibits NGOs and their members from interfering "in politics or in matters that impair state security and its ruling regime." This has happened to the Emirati Lawyers' Association, the main jurists' association, as well as the Teachers' Association, the organisation representing teachers' interests in the Emirates. The board of *Al-Islah Reform and Social Guidance Association*<sup>3</sup> was also dismissed.

6. Furthermore, members of *Al-Islah* and other organisations have been subjected to a large campaign of prosecutions and systematic repression by the security forces. Many have been removed from their educational, army and security government positions, some of whom were high-ranking, through forced retirement or sacking. At least 13 members of *Al-Islah* are currently detained.

### 2.2 Attacks on Freedom of Expression

7. The government has gradually increased its crackdown on activists and reformers who are critical of its policies. This includes through legal proceedings, arbitrary detention, unfair trials, the use of travel bans and even to the removal of the nationalities of critics. It is also adopting concerning legislative measures in this regard.

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<sup>1</sup> Resolution on the 'Review of the work and functioning of the Human Rights Council' adopted by the Human Rights Council at its 16<sup>th</sup> session on 25 March 2011 ( A/HRC/RES/16/21), para. 6.

<sup>2</sup> See for example CNN, *UAE Dissolves the Teachers' Association*, 3 May 2011, <http://insidethemiddleeast.blogs.cnn.com/2011/05/03/uae-dissolves-the-teachers-association/> (accessed 1 July 2012).

<sup>3</sup> *Al-Islah* holds beliefs similar to those of the Egyptian mainstream Islamic organization the Muslim Brotherhood. It seeks to increase space for civil society in the UAE, including through calls for increased political participation for citizens, but has not called into question the legitimacy of the current authorities.

8. The case of “**UAE 5**” is one such example. The five men, human rights defender Ahmed Mansoor, Nasser bin Ghaith, economist and university lecturer at Sorbonne Abu Dhabi, and online activists Fahad Salim Dalk, Ahmed Abdulkhaleq, and Hassan Ali al-Khamis, were arrested in April 2011 and accused of “publicly insulting” UAE rulers by posting comments on the banned online forum “UAE Hewan”. Their trial before the State Security Court was manifestly unfair, and the detention of Ahmed Mansoor was found to be arbitrary by the UN Working Group on Arbitrary Detention.<sup>4</sup>

9. **Faisal Al Zaidi** and **Rachid Bin Abbad** have been calling for an end to corruption within the public Abu Dhabi Airports Company, since January and August 2010 respectively, including through an online YouTube video<sup>5</sup>, issued after they did not receive a response to the letters they sent to the authorities about the issue. As a result, both lost their jobs shortly afterwards. While the labour court ruled in their favour in September 2011, neither man has been reinstated to their former positions. In addition to losing their jobs, both men were arbitrarily arrested and detained incommunicado in August 2011 – Mr Al Zaidi for close to one month and Mr Bin Abbad for one week. During this time, they were questioned on their anti-corruption efforts and then released without any legal proceedings.<sup>6</sup>

10. Human rights defenders on the ground also report the increasing use of **travel bans** against activists. Individuals concerned were not informed they had been placed under a travel ban, and only found out when trying to travel overseas. Individuals requesting information about the reasons for the travel ban, how long it is to last, or how to appeal this decision have not received any formal information, or documentation. For example, **Rashid Al Shamsi**<sup>7</sup> was not allowed to leave the country on 26 June 2012. Another online activist, **Musabeh Al Rumaithi** was prevented from crossing the border to Oman by road.<sup>8</sup> Internationally renowned human rights defenders such as **Ahmed Mansoor** and **Dr. Mohammed Al Mansoori** are also affected by this. Others have expressed fears of reprisals if they speak out about travel bans against them.

11. In an even more alarming trend, it appears the Government is resorting to the removal of the nationality of critics. For example, seven Emirati members of *Al-Islah* had their **Emirati nationality withdrawn** approximately seven months ago: Sheikh Mohammad Abdul Razak Al-Sediq, Dr Ali Hussain Al-Hammadi, Dr Shahin Abdullah Al-Haosni, Mr Hussein Munif Al-Jabri, Mr Hassan Munif Al-Jabri, and Mr Ibrahim Hassan Al-Marzouqi in December 2011, and Mr Ahmed Ghaith Al Suwaidi in June that year. The seven men have been in detention since March, as they have refused to take the Comorian nationality imposed on them by the authorities, as they have no ties to the country.

12. Finally, the Ministry of Interior has stated that it will make changes to the country’s cyber crimes law, Law No. 2 of 2006<sup>9</sup>, before the end of the year.<sup>10</sup> These changes include harsher imprisonment sentences for defamation against ‘symbols of the State’, and the introduction of other types of sanctions including banning individuals from the use of mobile phones and the internet for a period of time. This is concerning, particularly because this law is used in large part to target activists, but is rarely used in instances to prevent individuals from threatening human rights activists and reformers carrying out lawful activities.

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<sup>4</sup> Working Group Opinion No. 64/2011. Also see Alkarama press release, *UAE: UN finds detention of Ahmed Mansoor arbitrary, request reparation payout*, 14 February 2012, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=856](http://en.alkarama.org/index.php?option=com_content&view=article&id=856) (accessed 26 June 2012).

<sup>5</sup> <http://www.youtube.com/watch?v=9xUfhYZTaPo> (accessed 31 January 2012)

<sup>6</sup> Alkarama press release, *United Arab Emirates: Attacks on Freedom of Expression Continue, Al Zaidi and Bin Abbad affected*, 31 January 2012, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=850](http://en.alkarama.org/index.php?option=com_content&view=article&id=850) (accessed 27 June 2012).

<sup>7</sup> See Mr Al Shamsi’s twitter feed: @RashedAlshamsi.

<sup>8</sup> See Mr Al Rumaithi’s twitter feed: @budhabisea.

<sup>9</sup> Gulfnews.com, *UAE cyber crimes law*, 20 July 2009, <http://gulfnews.com/uaessentials/residents-guide/legal/uae-cyber-crimes-law-1.442016> (accessed 1 July 2012).

<sup>10</sup> Emirates Today, *Imprisonment and deprivation of the use of communications technologies, Legal Amendments Increase Sanctions for Cyber Crimes*, 5 June 2012, <http://www.emaratalyoum.com/local-section/accidents/2012-06-05-1.489614> (all in Arabic - accessed 1 July 2012).

### 3 Arbitrary arrests and detentions

13. While no recommendations were accepted by the Emirati authorities with regards to the issue of arbitrary arrests and detentions during the first cycle, we maintain that this is a crucial issue which must be addressed as part of the UAE's second UPR cycle.

14. Reports indicate that the Emirati authorities are preparing a new draft law regarding the judicial system, to replace the current law. Reports suggest the Federal National Council<sup>11</sup> discussed the law in June 2012, but maintained the session closed to the public. However, information leaked that this new law requires constitutional changes, including the naming of the President of the UAE as the head of the Federal Judicial Council. These changes represent a step backward in the separation of powers, and would place all branches of government under the control of the executive, namely the Emir Abu Dhabi, which seeks to expand its decision-making power, particularly on questions relating to state security.<sup>12</sup>

15. Many people continue to be arbitrarily detained without charge, tortured and in some cases convicted without receiving the minimum guarantees of a fair trial. Emirati security forces, namely the Criminal Investigations Department (CID), have continued to carry out arrest without warrants, in violation of Emirati legal procedure. The duration of police custody and preventative detention set by the Code of Criminal Procedure is not respected in numerous cases. The law sets out that the police officers who carried out the arrest should send a report to the Prosecutor within 48 hours. The Prosecutor must then decide within 24 hours to release or continue to detain the suspect. The latter may be imprisoned for 21 days without charge, renewable for crimes or offences punishable by imprisonment. The court decides on any extension, which theoretically cannot exceed 30 days. In practice, however, judges prolong the detention indefinitely without charge. Secret detention is also a common practice, especially when arrests are carried out by the State Security for political reasons. Places of detention are not always known, in some cases being private residences belonging to members of the ruling families (see the case of Mr al-Qasimi below) and the secret detention may last months or even years. Foreigners, particularly migrant workers, are even more often affected by arbitrary detention than Emirati nationals.

16. Arbitrary detention is often used to intimidate or to silence requests for reforms. For example, UAE security forces arrested **Mr Sultan bin Kayed al-Qasimi**, on Friday 20 April 2012, without showing an arrest warrant or informing him of any charges against him. Mr al-Qasimi, the cousin of the ruler of the Ras al-Khaimah emirate, is one of the most prominent reformers in the country, peacefully campaigning for civil and political reforms, including with *Al-Islah*. He remains held at the ruler's house in Ras al-Khaimah to date, in isolation and without being charged.<sup>13</sup>

17. However, unfair trials and arbitrary detention is not restricted to foreigners and human rights defenders and political activists. Terrorist suspects are also exposed to such violations. The trial of two Chinese nationals of Uygher origin is one such example. **Abdessalam Salim** (also known by his Chinese name as Mayma Ytiming Shalmo), 37, and **Omar Akbar** (Wimiyar Ging Kimili), 35, were arrested in June 2008 and tried after two years in solitary confinement. Fellow detainees reported that the two men were brutally tortured during their detention. A summary trial followed, reportedly based mainly on forced confessions made by the two men. They were found guilty on 29 June 2010 and sentenced to ten years imprisonment.<sup>14</sup> They continued to be maintained in solitary confinement.

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<sup>11</sup> The Federal National Council (FNC) (المجلس الوطني الاتحادي, *al-Majlis al-Watani al-Ittihad*) is the federal legislative authority, but plays a largely advisory role. It is composed of 40 members who represent the Emirati people. Twenty members are elected by the Emirati population through a general election and the other half are elected by the electoral college and rulers of each emirate. The National Election Committee (NEC), established in February 2011 by a consensus between the UAE Supreme Council and chaired by the Minister of State for Federal National Council Affairs, is responsible for carrying out elections for the FNC.

<sup>12</sup> Emirates Today, *FNC passes bill to transfer presidency of the Supreme Judicial Council to the Head of State, Constitutional amendment and a check for an 'independent judiciary'*, 27 June 2012, <http://www.emaratayoum.com/local-section/other/2012-06-27-1.494963> (all in Arabic - accessed 1 July 2012).

<sup>13</sup> Alkarama press release, *Emirates (UAE): Arrest of Sultan bin Kayed al-Qasimi, president of the "Call for Reform" (Islah) association*, 26 April 2012, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=940](http://en.alkarama.org/index.php?option=com_content&view=article&id=940) (accessed 27 June 2012).

<sup>14</sup> Alkarama press release, *UAE: the Working Group confirms the arbitrary nature of the detention of two Uighurs*, 21 November 2011, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=884](http://en.alkarama.org/index.php?option=com_content&view=article&id=884) (accessed 27 June 2012).

We fear that they may have since been deported back to China, where they may face the death penalty.

#### 4 Torture

18. The issue of torture in the United Arab Emirates was not discussed at length during the first cycle of the UPR, beyond two recommendations accepted by the Emirates to “accede to the Convention against Torture (Albania)”<sup>15</sup> “[I]n a timely manner (Japan)”<sup>16</sup>. Four years since accepting this recommendation, the Emirates have not yet acceded to this important convention.

19. In fact, reports by Emirati human rights defenders and former detainees regular raise the problem of the ongoing practice of torture in places of detention, notably in pre-trial detention. Al-Wathba prison in Abu Dhabi is notorious for the practice of torture and cruel, inhumane and degrading treatment and punishment. Torture includes use of stress positions, *falaqa* (beating on the soles of the feet) with hoses and sticks, and the withholding of food, water and access to the toilet. Individuals most affected by torture are terrorist suspects, opposition figures and government critics, and foreigners, particularly migrant workers.

20. As described above in the case of the **two Uyghers**, confessions extracted under torture have been used to condemn individuals in the past, without the courts taking these allegations into consideration. This is also the case in the UAE 5, described above: a complaint about their ill-treatment was laid by their lawyer during their trial, but was not followed up by the public prosecution.<sup>17</sup>

21. Furthermore, impunity for acts of torture and ill-treatment is rampant. We refer as an example to the widely-mediatised case of the Emirati royal and brother of the President of the UAE, Sheikh Issa bin Zayed al-Nahyan, who was caught on video torturing an Afghan merchant in 2004. Despite the case making world headlines in May 2009, Sheikh al-Nahyan was acquitted on 10 January 2010, on the basis that he had been drugged<sup>18</sup>, despite claims that there were numerous other cases of individuals who had also been torture by him.

#### 5 The Situation of the Bidoon

22. While not addressed in the recommendations accepted by the Emirates during the country’s first UPR, the situation of stateless people (locally known as **Bidoon**, or ‘without’), estimated to number between 10’000 to 100’000<sup>19</sup>, remains an issue in the country. Although the UAE affirms that efforts to resolve the situation have been made since mid-2008, by facilitating the granting of a nationality other than Emirati nationality, in order to then apply for a residence permit in the UAE, this practice is counter-productive. One of the only countries who is willing to grant nationality to members of the Emirati *Bidoon* community are the Comoro Islands, after the impoverished island state received large sums of money from the UAE in 2009. However, once individuals take the necessary steps to adopt Comorian nationality, they are often threatened with deportation. A number of individuals continue to be detained arbitrarily, waiting for their supposed deportation to the Comoros, even though the individuals concerned have no personal ties to the Comoros and have been living in the territory of the UAE for generations.

23. Beyond the problems posed by the lack of access to basic citizens’ rights for the Bidoon, it places individuals in a particularly vulnerable position. For example, one of the UAE 5 – **Ahmed Abdulkhaleq’s** situation means that he is more vulnerable to arbitrary treatment by the authorities, as he does not technically have the right to residency in the country. He and his family were recently instructed to obtain Comorian nationality in order to regulate their status in the country, which they

<sup>15</sup> *Report of the Working Group on the Universal Periodic Review - United Arab Emirates* (A/HRC/10/75), para. 91.25. Adopted by the Human Rights Council on 19 January 2009.

<sup>16</sup> *Report of the Working Group on the Universal Periodic Review - United Arab Emirates* (A/HRC/10/75), para. 91.32. Adopted by the Human Rights Council on 19 January 2009.

<sup>17</sup> Statement of 5 UAE Detainees, *Injustice Forces us to Initiate Hunger Strike*, 12 November 2011, <http://www.hrw.org/fr/node/102907> (accessed 27 June 2012).

<sup>18</sup> Al-Jazeera, *UAE sheikh acquitted of torture*, 10 January 2010, <http://www.aljazeera.com/news/middleeast/2010/01/2010110133141501815.html> (accessed 11 July 2012).

<sup>19</sup> The National, *Bidoon hope for an end to their uncertainty*, 3 September 2008, <http://www.thenational.ae/news/uae-news/bidoon-hope-for-an-end-to-their-uncertainty> (accessed 1 July 2012).

received on 21 May 2012. However, Mr Abdulkhaleq has now been threatened with deportation as he is now formally 'in the country illegally'. The Comoros have refused to accept him, stating they 'do not accept those with economic citizenship', and it seems he will soon be deported to Thailand.<sup>20</sup>

## 6 Other Elements

24. A further essential recommendation which remain outstanding include the establishment of a **national human rights institution**.<sup>21</sup> The establishment of such an institution in respect of the Paris Principles would be an important step towards the improvement of the human rights situation on the ground. This is an urgent measure which should be taken as soon as possible.

25. **Cooperation with human rights mechanisms** is also essential.<sup>22</sup> Cooperation with the Human Rights Council's Special Procedures has been irregular at best. For example, since the outcome of its first UPR was adopted at the Human Rights Council's 10<sup>th</sup> session, the Emirates have responded to only four of the 13 communications addressed to it by the UN Special Rapporteur on Torture, not all of which were complete.<sup>23</sup> In addition, the United Arab Emirates has only ratified two of the nine core international human rights treaties – the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of Discrimination against Women (CEDAW), without having ratified either of the two UN covenants.

## 7 Recommendations

Alkarama recommends that the United Arab Emirates should:

1. Amend the 2008 Law on Associations so that it complies with relevant international standards and reinstate the boards of associations which have been removed under this law.
2. Halt all persecution of human rights defenders and those peacefully expressing their opinions, including online. Immediately release and expunge the convictions of those convicted for expressing their opinion peacefully, and amend the penal code to de-penalise the peaceful expression of opinions (including article 8 and 176).
3. Take all necessary measures to ensure that: torture and ill-treatment ceases in all places of detention; that allegations of torture result in investigations capable of bringing those responsible to account; those found responsible are sanctioned appropriately; reparation be provided to victims of torture; and that statements and confessions obtained through torture and ill-treatment are excluded from legal proceedings.
4. Ensure that all trials meet international fair trial standards, including the full independence of the judiciary, and that all those detained arbitrarily are tried or released as quickly as possible.
5. End to discrimination against the Bidoons, including in the application of its nationality law.
6. Establish a national human rights institution in full conformity with the Paris Principles.
7. Ratify the International Covenant on Civil and Political Rights and the UN Convention against Torture.
8. Extend a standing invitation to United Nations Special Procedures.

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<sup>20</sup> Alkarama press release, *United Arab Emirates: Risk of expulsion of well-known government critic Ahmed Abdul Khaleq*, 29 May 2012, [http://en.alkarama.org/index.php?option=com\\_content&view=article&id=922](http://en.alkarama.org/index.php?option=com_content&view=article&id=922) (accessed 27 June 2012).

<sup>21</sup> "To consider establishing an independent national human rights institution that could advise the Government and receive and investigate complaints by the public (Netherlands)"; (Para. 91.29 of A/HRC/10/75).

<sup>22</sup> "To strengthen cooperation with human rights mechanisms, which will achieve further improvements in various areas" (Republic of Korea). (Para. 91.36 of A/HRC/10/75)

<sup>23</sup> See the Special Rapporteur's annual reports presented at the 10<sup>th</sup>, 13<sup>th</sup>, 16<sup>th</sup> and 19<sup>th</sup> sessions of the Council. One answer simply informed the Special Rapporteur that the individual in question had been released, but did not enter into any detail as to the torture allegations raised (see the Special Rapporteur's report to the Human Rights Council A/HRC/13/39/Add. 1, dated 25 February 2010, para. 269)