



United Arab Emirates

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1. Background

Following their independence in 1971, the United Arab Emirates decided to form a federation of seven emirates and an interim constitution which was permanently adopted in 1996. The federal institutions are not democratically elected and political parties are not authorised.

The Supreme Federal Council is the highest legislative body. It is composed of seven local emirs, and elects a President and Vice-President among its members. In reality, the post of President is hereditary since the current President of the Federation is, since 2 November 2004, the emir of Abu Dhabi, Khalifa bin Zayed Al-Nahyan who succeeded his father in office in 1971. The emir of Dubai, Sheikh Mohammed bin Rashid Al-Maktoum, vice president of the Council serves as head of government. These two emirates have a dominant role in the Council.

The country's nominal legislature, the Federal National Council, was renewed in December 2006 by a panel of 6,689 electors which represents only 1% of the population. It consists of forty members from all emirates (eight seats respectively for Abu Dhabi and Dubai, six for Sharja and Ras Al Khaima, and four for each of the three other emirates).

In recent years there has been an increasingly important role played by the Directorate of State Security (Amn ad-dawla) with its headquarters in Abu Dhabi, thus giving this emirate superior power *vis-à-vis* other members of the federation. The State Security intervenes in appointments and dismissals of civil servants and interferes in justice affairs, not hesitating to change court verdicts or to exert pressure against Justice officials, many of whom are foreigners.

The harassment of opponents from all sides was exacerbated after the attacks of September 11, 2001, be they political activists or defenders of human rights and public freedoms. More and more organizations and individuals are denied freedom of association, assembly or speech. Many activists have been arrested, arbitrarily detained and tortured.

2. Judiciary

The legislation is based on the Islamic Sharia for federal, local civil justice and criminal courts as well as the Federal High Court. A Penal Code was promulgated in 1987 and a Code of Criminal Procedure in 1992.

The judiciary is not independent and is often subject to political and security interference. Only the president and the 5 judges comprising the High Court and appointed by decree of President of the Federation are irremovable according to the Constitution.

The staff of the judiciary is composed largely of foreigners under contract, from Arab countries, which may at any time be revoked, thereby greatly reducing their independence. For the jurisdictions of the two emirates of Abu Dhabi and Dubai, the proportion of foreign judges is almost 70%. By contrast, the proportion of national prosecutors is 85% which starkly contrasts with the rest of judicial personnel.

The right to a counsel is limited and is left to the discretion of the prosecutor. An accused person cannot have a lawyer before the police investigation is closed. Trials are public with the exception of cases relating to internal and external national security, as these are exclusively handled by the Federal High Court. Article 101 of the Constitution stipulates that "the judgments rendered by this court are without appeal and binding". This provision constitutes a violation of the principle of the right of review.

3. The fight against terrorism after September 11, 2001

From September 2001, the Emirati authorities made, in the context of the fight against terrorism, drastic measures against opponents or persons suspected of affinity with the Islamist movement. Most of them have never called for violence and claimed political and social reforms without challenging the legitimacy of the State. Dozens, perhaps hundreds of people, including officials and members of security services and armed forces were arrested by State Security and arbitrarily detained and held incommunicado, some for several years without any charges being made against them. Among these suspects, some were forced to sign commitments not to make contact with defenders of human rights in return for their release. Others were forced to submit a weekly report on their activities while their families were themselves monitored. Many political refugees were arrested and often mistreated before being extradited to their countries of origin where they were wanted or feared reprisals.

Several university professors and senior officials were dismissed or retired from office without the authorities advancing reasons for these measures. Dozens of teachers are in the same situation. A list of authors banned from publication has been drawn up and includes: Dr. Said Hareb, Dr. Abderrezak Al-Fares, Dr. Mohammed Al-Rukn and Dr. Atik Al-Mansuri. These people are also banned from media and public lectures.

No public activity, of whatever nature, is now possible without obtaining prior authorization of the Security services. To organize a public lecture, a summary of the meeting must be submitted beforehand to the authorities.

New laws have instituted strict control over the mosques. The Friday sermons have been standardized by the central authority and imams who do not hold strictly to the version provided by the authorities are dismissed.

The United Arab Emirates adopted in July 2004 an anti-terrorism law that allows prosecutors to extend custody of detainees for up to 6 months, instead of the already originally excessive 3-week period instituted by law. Once an accusation is made, the case is reviewed by the Supreme Court, which may extend the detention indefinitely.

Some persons suspected of terrorist activities have been handed over to the U.S. military (see below the case of Yemeni citizen Sanad al-Kazimi still detained at Guantanamo Bay).

4. Arbitrary arrest and incommunicado detention

Searches and arrests are most often carried out without judicial warrant, in violation of legal procedures. The duration of police custody and preventive detention set by the Code of Criminal Procedure is not, in many cases, respected. The law provides 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 indefinitely the detention without the charge being defined.

Secret detention is a common practice, especially when arrests are carried out by the State Security for political reasons. Places of detention are not always known and the secret detention may last months or even years.

Many people have been arbitrarily detained without charge, tortured and sometimes convicted without receiving the minimum guarantees of a fair trial. In reality, this is to intimidate or to silence opponents or human rights activists.

Alkarama communicated to the Special Procedures human rights mechanisms of the United Nations, a list of persons arrested between 2001 and 2004 without judicial warrant, and without a specific reason to justify their arrest being communicated to them, and then arbitrarily detained and held incommunicado without due process of law. Their arrest was most likely linked to their criticism in private meetings of the government's policy.

All of these people were detained in harsh conditions and in locations not provided by the law for that purpose. No charges were notified to them; they were imprisoned for several years, and then released without any criminal proceedings being instituted against them.¹ The Working Group on Arbitrary Detention adopted on May 26, 2005 an opinion (No. 14/2005) declaring their deprivation of liberty as arbitrary.

Sbihat Abdallah Sultan Al-Alili², an engineer with the Ministry of Agriculture of the Emirate of Ajman, was arrested on 13 September 2005, held incommunicado and tortured for 78 days before being released without charge. He was arrested a second time on 15 February 2007, and was once again held incommunicado for several months and tortured. He was presented to the Supreme Court on 25 June 2008 on charges of "obtaining secret information concerning state security." His trial took place behind closed doors. Confessions extracted under torture were used against him. The Supreme Court sentenced him on 1 October 2007 to three years' imprisonment and ordered his dismissal from his work. His trial was flawed and his lawyer was not able to plead in court. This verdict is final and cannot be appealed. The Working Group on Arbitrary Detention adopted on 7 May 2008 an opinion declaring his deprivation of liberty to be arbitrary and in violation of articles 9, 10, 11 and 19 of the Universal Declaration of Human Rights. The Working Group invited on this occasion the Emirati Government to ratify the International Covenant on Civil and Political Rights.

Two other people were arrested in similar circumstances without a judicial warrant: Muhammed Ahmed Seif Al-Ghafili and Said Ali Hamid Al-Kutbi. Their homes and their offices were searched and they were held incommunicado in Abu Dhabi and released on 25 October 2005 without being charged. Humeid Salem al Ghawas al-Zaabi, a senior officer of the Emirate Air Force was arrested on 17 March 2004 and held incommunicado until 3 January 2006. He was released without ever having been subject to a legal procedure.

5. Torture and collective punishment

According to testimonies collected by Alkarama, those arrested by the State Security are held incommunicado and are often subjected to torture and inhumane treatment. These detainees may be released without any charges being brought against them. But if they are charged, the courts use confessions extracted under torture and refuse to order investigations.

Sbihat Abdallah Al-Alili was tortured by an officer of security services responsible for investigating his case and who was also the main witness for the prosecution during the trial. He suffered blows all over his body with a hose, he was forced to hold a chair on his head during the daytime, for 2 weeks. He was threatened with sexual violence, blindfolded during the interrogation and deprived of sleep.

¹ See http://fr.alkarama.org/index.php?option=com_content&task=view&id=92&Itemid=42

² Ibid..

Muhammed Ahmed Seif al-Ghafili, also suffered torture including beatings, suspension and threats of rape.

Salem Abdullah Al-Dousari, a Professor of Religious Education at Ajmane, who was arbitrarily revoked from teaching after 11 September 2001 was arrested, detained without legal procedure and subjected to ill treatment for a first time. He was arrested for a second time on 6 May 2008 and his family received a telephone call 3 days later informing them of his administrative detention in a psychiatric facility. His family fears he was tortured and assert he has always enjoyed good mental health.

Sanad al-Kazimi, a Yemeni national, was arrested in January 2003 and detained for more than eight months in secret detention in various places in Dubai and handed over to U.S. authorities. During his detention he was subjected to torture and inhuman and degrading treatment. He was beaten on all parts of his body, subjected to extreme temperature variations, chained naked for more than 20 days, threatened with rape and underwent a simulated drowning. He is being held without charge or trial for three and a half years at Guantanamo Bay (Cuba).

Mr. Abdallah Abu Al Qasem al-Ghazal, a Libyan national was arrested on 31 August 2001. He died as a result of torture at the premises of the State Security. The authorities have claimed that he committed suicide. Other Libyan nationals, arrested in the same period have been forcibly returned to their country. Among them was Ali Amish who reported having been tortured. Others are missing since their forced return.

Following the confiscation of their land by the authorities of the Emirates of Ras Al Khaimah who granted concession to the British company Steven Rock to operate a quarry and a cement plant, members of the Al-Shohoooh Al-Rahba tribe embarked on a peaceful protest movement. In retaliation, on 27 August 2005, the authorities imposed a collective punishment on all members of the tribe, civil servants from the tribe lost their employment and a dozen people were arrested and arbitrarily detained without legal procedure.

6. Freedoms of expression, assembly and association are restricted.

Political parties are not allowed and associations for the promotion of civil liberties and protection of human rights are strongly controlled.

Mohamed Al-Rukn, a lawyer, leading human rights activist and former president of the Association of Lawyers of the United Arab Emirates, was arrested on 23 August 2006 in his law office in Dubai by members of the State Security. He was detained incommunicado for two days and released without any charges having been brought against him, but his passport was confiscated.

Mohamed Al-Mansuri, a lawyer, leading human rights activist and President of the Independent Association of Jurists was the subject of an arrest warrant on 17 June 2006 as he was accused of "insulting the public prosecutor". In reality he was harassed because of his denunciation of human rights violations and his commitment to respect the rights of immigrant workers. He was dismissed from his office and prohibited from travelling. Following the example of Mohamed al-Rukn and several other Emirate intellectuals, he is forbidden since many years from publication and expression in the local media.

In July 2002, the Council of Ministers took the decision to suspend 33 officials of the Ministry of Education and put them into forced retirement while 24 others were transferred to other ministries. They have never been informed of the reasons for these measures.

On 21 August 2007, the Ministry of Education decided to transfer 83 of its civil servants, teachers, principals of colleges and educational advisers to other ministries to hold positions which do not correspond to their qualifications or to menial tasks. Some have been deprived of any activity while continuing to receive their salaries. Again, no reason was provided to those concerned. Discriminatory measures have also affected members of their families, their wives, mostly teachers, have been excluded from any promotion and their children have suffered arbitrary restrictions on access to higher education.

Most recently, Dr. Ahmed Salah Al Hamadi and Dr. Seif Al Shamsi, both professors of law at the Faculty of Al-Ain in Abu Dhabi were relieved of their duties on 7 July 2008 without being given any justification.

These arbitrary decisions have occurred in a context of successive purges in the state services to exclude citizens suspected of belonging to the reformist current or simply citizens suspected of having political opinions.

New provisions relating to the suspension and exclusion of members of the Civil Service were approved in March 2008 by the Council of Ministers. They punish non-compliance with Articles 63 and 64 of the Public Service Act, which prohibits officials, most notably in Art 64, "to belong to organizations, structures or parties involved in politics or to activate on their behalf or to participate in their campaigns or disseminate their ideas". It is feared that this statutory provision is interpreted broadly and applied in an arbitrary manner to dismiss officials suspected of non-conformism in a country where the public service is the main employer.

Societies, and in particular charities, have been halted because of the threats and intimidation they suffer. The Committee of University Teachers of the Emirates and many unions and associations of a public good nature are subjected to prohibitions imposed by the State Security.

Former senior members of the then recognised Emirates Students Union, have been banned from entering the public service in retaliation for their past commitments.

The first independent human rights organization of the Emirates has been awaiting approval since 2004 from the authorities who have instead established in 2006 an organization composed of government officials.

7. Conclusion

The participation of citizens in the United Arab Emirates in public affairs of the country is virtually non-existent and freedom of opinion, expression and association are restricted.

Serious human rights violations such as torture, arbitrary detention and unfair trials are regularly reported in a country where the judiciary is not independent.

The State has not ratified any international conventions with the exception of those on the Rights of the Child and the Elimination of All Forms of Racial Discrimination.

8. Recommendations

- Establish political reforms in the direction of greater participation of citizens in public life in the country especially through the adoption of universal suffrage and by respect the principle of equality before the law, including access to and remaining in the public service.
- Apply the principle of tenure of judges in practice, by extending it to all judges of the country, including foreigners, to ensure genuine autonomy of justice.

- Establish control of the State Security Department at the national level of representation by a Control Committee.
- Amend the laws limiting the rights of expression and association and repeal any administrative or judicial sanction because of the simple peaceful expression of an opinion or political or civil rights activism.
- Collaborate with the special procedures of the United Nations and in particular with the Working Group on Arbitrary Detention.
- On the normative level: the state should ratify the International Covenant on Civil and Political Rights and the Convention against Torture and incorporate into domestic law the crime of torture by establishing appropriate penalties and fight against the practice of incommunicado detention by establishing a system of control over all places of detention in the country by placing them under the authority of the law.
- Ratify the Conventions of the International Labour Organisation, including those relating to "freedom of association", "collective bargaining" and "protection of the right to organise" (C87 and C98), and integrate related provisions in the Constitution and internal laws and effectively implement them without any distinction between nationals and residents.