



POLITICAL PRISONERS IN THE UNITED ARAB EMIRATES

The International Campaign for Freedom in the United Arab Emirates



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Introduction



In recent times, the United Arab Emirates (UAE) has projected itself as the epicentre of wealth and luxury, with Dubai thrown to the forefront as a new global centre of commerce. However, beneath the glitz and glamour lies a much darker reality in which freedom of speech and freedom of the press have all but been expelled. Though the UAE Constitution of 1971 grants freedom of opinion to all citizens, the decades that have followed have seen the introduction of new measures aimed at controlling and eliminating any criticism of the state. In light of the democratic uprisings that occurred in the Arab Spring of 2011, the UAE has adapted to evolving means of dissent by introducing the 2012 Cybercrime Law that gives the regime carte blanche in arresting those who advocate for reform or criticise the government online. This has led to widespread fear and use of arbitrary arrest,

forced disappearances, unfair trials, torture and deportation. In conjunction with this, the vague and ambiguously drafted 2014 Terrorism Law permits the authorities to arrest and charge anyone who “antognises the government,” allowing them to retain prisoners after completing their sentence for an indeterminate ammount of time, at their own discretion. Today, it is estimated that the UAE has detained more than 200 political prisoners - although the numbers may be more¹. Those detained in trials such as the UAE 94 in 2013, as well as the arrest of Ahmed Mansoor and Dr Nasser Bin Ghaith in 2017, have endured torture, solitary confinement, no access to lawyers, and threats to their family’s wellbeing. Thus, the ICFUAE calls on the UAE to reform its policies on freedom of speech and the press immediately, and to abide by international law and free its political prisoners.

¹ <http://icfuae.org.uk/news/more-200-political-prisoners-uae>

Political System



Until declaring independence in 1971, the UAE were British protectorate territories known as the Trucial States. Today, they are seven Emirates - Abu Dhabi, Dubai, Sharjah, Ajman, Umm al-Quwain, Ras al-Khaimah and Fujairah - each of whom are ruled by their own respective monarchs. Politically, they operate under a bicameral system. The Federal Supreme Council (FSC) is the “highest constitutional, legislative and executive authority,” and it is here that the monarchs assign the position of President and Vice-President of the UAE, draw up general policies, and approve federal legislation and appointees to the Federal Supreme Court. The President, in turn, who is de facto

hereditary to ruler of Abu Dhabi, appoints the position of Prime Minister, which is de facto hereditary to the ruler of Dubai.

However, the formation of political parties are strictly forbidden and the only semblance of democratic elections is through the Federal National Council (FNC), a consultative body with no legislative power composed of forty representative, half of whom are appointed by the FSC and half of whom are elected. The judicial system, as outlined in a 2014 UN report, meanwhile, is not independent and remains ‘under the de facto control of the executive branch of the government.’

Contemporary Climate

As hitherto mentioned, in the wake of the Arab Spring the Emirati authorities have systematically clamped down on freedom of expression within the Federation and embarked on a campaign of harassment of activists, journalists, students and lawyers. The dawn of this repression began with the trial of the UAE 5, who peacefully advocated greater political rights and freedom. All five were convicted in November 2011, including Ahmed Mansoor and Dr Nasser bin Ghaith, who, although pardoned in July 2012, have since been arrested again and sentenced to 10-years in prison. The apogee of this repression, however, is reflected in the case of the UAE 94, a disparate group of academics and lawyers arrested in 2013 after accusations of plotting to overthrow the government, having signed a petition calling for democratic reform. Of these 94, 69 were found guilty and sentenced to between 7 and 15 years sentences of imprisonment.

Since then, the Emirati authorities have cracked down on independent non-governmental organisations, beginning with the boards of the Independent Jurist's Association and the Teachers Association, both of which were dissolved after signing a joint letter with NGOs advocating reform. Further arrests were made among al-Islah, a civil society organisation outlawed and, in some cases, stripped of Emirati citizenship. This has been facilitated by the introduction of the aforementioned Cybercrime and Terrorism Laws that has given the regime the authority to arbitrarily choose who they see as "terrorists." The vague definition of "terrorism" within this law means that scores of people accused of being an "enemy of the state", as well as their families, are at great risk of arrest, torture, and expulsion from the Federation.



3 https://www.amnesty.org.uk/files/mde_25.018.2014_-_there_is_no_freedom_here_-_silencing_dissent_in_the_united_arab_emirates_uae.pdf?uf_udmHf9cbs9JPDiD09pRveHyDtuVIB=

4 <https://www.hrw.org/news/2012/05/10/uae-expanded-crackdown-islamist-group>

Legal Framework

The UAE's legal code is one of the most restrictive in the Middle East when it comes to freedom of speech and press. While the constitution grants the freedom of opinion and equality among all citizens, many of its laws are either reversed in later amendments or simply overlooked by the state. In recent years, the state has introduced a number of measures to further control its citizens, including the Cybercrime Law of 2012 and the Combating Terrorism Offences of 2014. The vague terminology of these laws has granted the state the freedom to arrest and label "terrorists," activists, scholars, and lawyers who have criticised the state or its allies online or in public.

The UAE's Constitution was introduced in December 1971. Under the Public Freedom, Rights and Duties, the constitution declares that 'all persons are equal before the law without discrimination between the citizens.' Article 26 outlines the personal freedom of all citizens, and Article 30 ensures the 'freedom of opinion and of expressing that opinion verbally, in writing, or by any other medium of expression is guaranteed as provided by law.' However, sections 70 to 85 of the Federal Law No. 15: Governing and Publications from 1980 clearly outline that 'the person of the President of the Republic or the rulers of the Emirates may not be criticised.' Continuing that any material that is 'harmful to Islam, or the system of Government in the country, or harms the country's interest or the basic

systems on which the society is founded shall be prohibited.' The Penal Code further sentences anyone who 'makes use of any means of communication or information technology or any other means, to diffuse information or news or to instigate to do acts that lead to expose the State security to danger or are incompatible with public policy' and Federal Law No 15 of 1980 concerning publications and publishing allows for censorship of domestic and foreign publications.

While the constitution grants the 'freedom of assembly and the freedom to hold meetings', Article 180 of the Penal Code sentences anyone who 'establishes, finds, organises or administers an association, organisation...that aims at calling to overthrow or take over the system of government, disrupting the application or the constitution or law provisions, fighting the fundamental principles on which is based the governing system of the state...violating the personal freedom of citizens or any other public liberties or rights protected by the constitution...or jeopardising national unity of social peace.' The vague language of the article means that anyone found participating in an organisation that the state deems unlawful can face up to ten years in prison. Article 180/1 also criminalises anyone found circulating, whether orally or in writing, the activities of the groups defined above.

5 Article 25 <https://government.ae/en/about-the-uae/the-constitution-of-the-uae>

6 <https://government.ae/en/about-the-uae/the-constitution-of-the-uae>

7 <https://www.ilo.org/dyn/natlex/docs/WEBTEXT/62110/65257/E80ARE01.htm#c7>

8 <https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/PDFs/Penal%20Code.pdf>

9 <https://www.alaraby.co.uk/english/indepth/2019/7/16/cybercrime-in-the-uae-curtailling-freedom-of-expression>

10 <https://www.adjd.gov.ae/sites/Authoring/AR/ELibrary%20Books/E-Library/PDFs/Penal%20Code.pdf>

The constitution also outlines the rights of prisoners, stating in Article 28 that ‘an accused shall be deemed innocent until he has been convicted by a means of legal and just trial.’ The article continues, stating that the ‘accused shall have the right to appoint the person who shall conduct his defence during the trial.’ The constitution underlines that ‘no man shall be subjected to torture or other indignity.’ This is upheld by the Federal Law No. 35 of 1992 Concerning the Criminal Procedure Law which reiterates the above and further limits the detention period to 24 hours after which the detainee must be sent to public prosecution. While Article 100 of the Criminal Procedure Law outlines the

right of an attorney for the accused, it goes back on itself, adding at the end; ‘unless otherwise decided by the member of the public prosecution in the interest of the investigation.’ Finally, Article 47 of the same law states that ‘the public prosecution shall interrogate the accused within twenty-four hours then it shall order either his arrest or his release’ Despite the laws stating the right to a lawyer, fair trial and criminalising torture, much evidence suggests that the state does not abide by these laws. For example, during the so-called UAE 94 trial in 2013 the detainees were subjected to torture, little or no access to lawyers, and secret pretrial detention for over six months.



¹¹ Ibid.

¹² https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf

¹³ Ibid.

¹⁴ Article 2, 4 and 104

¹⁵ <https://legaladviceme.com/legislation/156/uae-federal-law-35-of-1992-concerning-criminal-procedural-law>

¹⁶ <https://legaladviceme.com/legislation/156/uae-federal-law-35-of-1992-concerning-criminal-procedural-law>

¹⁶ Ibid.

Cybercrime Law

In the wake of the state's crackdown on freedoms and rights since 2011, the authorities introduced the Cybercrime Law in 2012 that further restricts citizens' freedoms. The law covers all online activity including social media, blogs, SMS, and emails, allowing the state to further entrench and control its population in the online sphere. The articles are deliberately vague, giving the state the power to sentence to imprisonment anyone who they consider a threat to their rule. Article 24, for example, imprisons anyone who 'establishes or administers or runs a website or publishes on a computer network or any information technology means which would promote or praise any programs or ideas which would prompt riot, hatred, racism, sectarianism, or damage the national unity or social peace or prejudice the public order and public morals.' Article 26 then grants a minimum sentence of five years to whoever 'establishes, manages or runs a website or publishes information on the computer network or information technology means for the interest of a terrorist group or any unauthorized group, association, organization, or body.'

The Cybercrime Law, then, turns to penalise anyone who dares criticise the state, underlining that whoever publishes news, information, or cartoon drawings that 'endanger the national security and the higher interests of the State' will face detention. Article 29, meanwhile, penalises anyone who publishes

'information, news, statements or rumours on a website or any computer network or information technology means with intent to make sarcasm or damage the reputation, prestige or stature of the State or any of its institutions or its president, vice-president, any of the rulers of the Emirates, their crown princes, or the deputy rulers of the Emirates, the State flag, the national peace, its logo, national anthem or any of its symbols.'

The severity of the law demonstrates how the state now has the ability to sentence anyone who is part of an online group or organisation that they deem unlawful, as well as having the right to imprison anyone who criticises, in any way, the state or their allies. A pertinent example is that of Ahmed Mansoor, who was arrested on account of using his social media to, as is claimed by the state, 'publish false information that damages the country's reputation' and to spread 'hatred and sectarianism.'

17 http://ejjustice.gov.ae/downloads/latest_laws/cybercrimes_5_2012_en.pdf

18 Ibid.

19 http://ejjustice.gov.ae/downloads/latest_laws/cybercrimes_5_2012_en.pdf

20 Ibid.

21 <https://www.amnesty.org/en/get-involved/take-action/free-ahmed-mansoor/>

On Combating Terrorism Offences: Federal Law No. (7)

In addition to the Cybercrime Law, the UAE introduced in 2014 a new counter-terrorism law that has given the state the right to accuse activists, lawyers, and critics of being “terrorists” due to its vague definitions and terms. The law defines a terrorist as ‘whoever belongs to a terrorist organisation, commits a terrorist offence, participates directly or indirectly in causing its commission, or threatens of, aims at, plans, seeks, promotes or aids the commission of such commission.’ Article 14 of the law grants capital punishment or life imprisonment to whoever ‘commits an action or inaction intended for threatening the State’s stability, safety, unity, sovereignty or security, which contradicts the basic principles underlying the governance system of the State, or with the purpose of making a coup and taking over the power, illegally invalidating the provisions of the Constitution or preventing one of the State’s institutions or the public authorities from practicing their activities, or prejudicing the national

unity or the social security.’ The vagueness of the article thus permits the state to accuse anyone who they deem a “threat” to the State’s security as being a terrorist. This is upheld in the following article that declares imprisonment to anyone who ‘declares, by any means of communication, his opposition to the State, or to the ruling system therein or his non-allegiance to its leadership.’ The new law allowed the state to target peaceful activists such as Dr Nasser Bin Ghaith, who was arrested under both the Cybercrime and counter-terrorism law for ‘committing a hostile act against a foreign state,’ after he posted a tweet critiquing the failure to hold anyone accountable for the 2013 Raba’a Massacre in Egypt. He was further charged with ‘posting false information in order to harm the reputation and stature of the state and one of its institutions’ after posting claims on Twitter that he had not been given a fair trial as part of the “UAE5” case.

²² <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/98658/117474/F399649256/LNME-FED-LAW-7-2014.pdf>

²³ Ibid.

²⁴ Ibid.

²⁵ <https://www.frontlinedefenders.org/en/case/detention-nasser-bin-ghaith>



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