



European Resolution on the UAE: "Biased and Prejudiced?"

Mission to UAE investigates crackdown on free expression in which 64 activists have been detained

10 December 2012 - A crackdown in the United Arab Emirates (UAE) has violated the free expression rights of 64 detainees, including human rights lawyers, in the Gulf Kingdom, according to a report based on a mission undertaken by the Gulf Centre for Human Rights (GCHR) in November 2012. The mission confirms the findings of the European Parliament earlier this year, which called for the release of all prisoners of conscience, activists and human rights defenders.

The mission, which was undertaken in cooperation with Human Rights Watch and the Arabic Network for Human Rights Information (ANHRI) with support from IFEX, was organised as part of an ongoing campaign started in 2011 by human rights groups to support and protect fundamental freedoms in UAE and in particular, freedoms of expression, opinion and association. It was carried out by British Barrister Victoria Meads of Toops Chambers, London UK.

On 26 October 2012, the European Parliament approved a Resolution¹ following an investigation by members of the European Parliament on the state of human rights in the UAE. The Resolution specifically refers to the 64 detainees imprisoned stating that the UAE had accelerated its crackdown on human rights defenders and civil society activists. The Resolution expressed grave concerns with regards to the treatment, repression and intimidation of human rights defenders, political activist and civil society actors who peacefully exercise their basic rights to freedom of expression, opinion and assembly. The European Resolution goes on to call for the release of all prisoners of conscience, activists and human rights defenders.

In a statement issued by the UAE Minister of State for Foreign Affairs, Anwar Gargash, he said in response, "The biased and prejudiced report levelled unsubstantiated accusations without examining the facts of the situation on the ground."

¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0400+0+DOC+XML+V0//EN&language=EN>

In the wake of the European Resolution, a fact-finding mission was organised by the GCHR on 30 October to 3 November 2012 in cooperation with its partners to investigate the detention and treatment of the 64 detainees imprisoned without charge; the State claiming to suspect them of offences threatening National Security.

The following information was gathered over the course of a week of interviewing a number of different sources with firsthand knowledge of the extensive human rights violations that are currently taking place.

Further, attempts were made to speak to the Federal Attorney General, the Judge responsible for the renewed detention and the State Prosecutor to provide the opportunity for any prejudice or bias contained in the European Resolution to be set aside. All such requests were refused. Requests were made for access to detained human rights lawyers Mohamed Al-Roken and Mohamed Al-Mansouri², thus providing an opportunity for the findings of the European Parliament to be disproved.

The Attorney General refused the meeting and instead directed that any appointments be made through the Ministry of Foreign Affairs. The Ministry of Foreign Affairs declined to organise any such meeting, suggesting at one stage that they did not know of the Federal Attorney General and then stating that it was not their remit. Upon returning to the Attorney General's office, the mission lawyer's demands for a meeting were again refused. Access was denied to the prisoners, with officials stating that the only recognised lawyer was Abdul-Hameed Al-Kumaity despite the fact that Mr. Al-Kumaity has been formally denied the right to exercise power of attorney for all the defendants.

Arbitrary Detention of 64 Dissidents

The 64 prisoners have been snatched from their families and are currently being kept in unknown detention centres, without access to their lawyers and with only very limited contact with their families.

What is their crime? As of yet none have been charged, each are produced before the Courts and their detention extended with no reason given by the State as to what interrogation is further required, why it is necessary to extend their detention or the offences to which they are suspected to have committed. Most of them were only subjected to interrogation once when they were first detained in July 2012.

To the outside world; tourists and visitors alike, UAE is a forward thinking country competing with the Western world in all aspects, a country that the United Kingdom is committed to forging an alliance and a relationship with, a country that whilst this

² <http://www.hrw.org/news/2012/08/01/uae-us-uk-should-criticize-dissident-arrests>

mission took place, celebrities were flocking to Formula 1 and basking in its riches. Yet the ongoing human rights violations, including the denial of the right to freedoms of expression, opinion and association, provide a remarkable contrast that is getting little attention internationally, apart from the work of human rights organisations and the European Parliament statement.

The UAE is a federation of seven semi-autonomous Emirates, with a permanent resident population of 3.8 million, of which less than 17 percent are citizens; there are at least 1.1 million additional non-permanent residents. The seven Emirate rulers constitute the Federal Supreme Council, the highest legislative and executive body. The Council selects a president and vice president from its membership; the president, in turn, appoints the prime minister and cabinet. There are no democratically elected legislative institutions or political parties. There are no general elections; however, citizens express their concerns directly to their leaders through traditional consultative mechanisms such as the open *majlis*, or council. A consultative body, the Federal National Council (FNC), consists of 40 advisors, 20 of whom are elected by an appointed electorate.

In 2011, the Federal Council increased the electorate but still did not open it up to all citizens, and the voters remain hand-picked by the State following State Security checks ensuring that the selected electorate are not pro-democracy or anti-establishment in any way.

In March 2011, 133 people signed a letter demanding that the vote be given to all Emirate citizens without qualification. Twenty-five of the detainees all put their names to this request. Most are members of Al Islah, a peaceful Islamist group which states that its goal is to seek change and a more democratic society.

Part 3 of the Constitution of the United Arab Emirates, on Freedom, Rights and Public Duties, protects the right to freedom of opinion and expressing it verbally in writing or by other means of expression pursuant to Article 30. Article 31 goes on to protect the freedom of communication by post, telegraph or other means of communication and the secrecy thereof.

Both rights however are qualified with the words, "in accordance with law" which provides a margin for the government to restrict these rights in practice. The government drafts all Friday sermons in mosques and censors private association publications. Most significantly, the law prohibits criticism of the rulers, and acts intended to create or encourage social unrest. The Penal Code provides for Prosecution of anyone found to be outwardly criticising the government.

The State maintains that these prisoners are a National Security risk and are thus detained for that reason, but they are unable to provide any evidence to show any attempt to incite uprising or overthrow the government. Campaigns by Al Islah have

always been by peaceful means utilising social networking sites and written petitions to the government and there is no evidence to the contrary.

The State has continuously repressed their activities over three decades and the arrests of the current detainees amounts to an overarching effort to stifle them and take away their freedom of speech.

All the detainees are professional people and important members of the community; they include the Vice President of the Student Association of UAE, a sitting Judge and two former Judges, and notably two leading human rights lawyers Mohamed Al-Roken and Mohamed Al-Mansouri.

Their detention is not the first time the State has sought to prevent their campaigns. Members of Al Islah have been forced to retire from important positions early, some as young as 35 years old; societies have been closed down; Facebook and Twitter accounts intercepted; and, in the case of human rights defender Ahmed Mansoor, the state [has resorted to physical assault, smear campaigns and scare tactics](#)³.

This goes further than affecting just its members, but their relatives too. In one case the son of a detainee had his scholarship to University taken from him without cause and in another all passports have been seized, preventing one member of the group from even arranging his own daughter's wedding. Their children will forever be prevented from obtaining professional positions for fear that they will become too influential.

The family members remain petrified both for the safety and well-being of their detained loved ones but for their own safety too, they are too frightened to discuss in any great detail the harassment they have received and are constantly under threat of arrest for daring to speak out. Some have even been told to stop attending Court, which they do daily with eternal hope that they may catch even just a glimpse of their loved ones.

The State continuously checks their Twitter and Facebook accounts along with vetting all blogs. Whilst the mission lawyer was visiting with one group of family members, five spy bugs were located in plug sockets in their hallway. They cannot even speak freely in their own homes.

In the case of three detainees, including the son and son-in-law of Dr. Al-Roken, the Prosecution to date continues to deny that they are detained, yet the two men ring their families from the same telephone numbers as confirmed detainees. The family are beside themselves with worry; a newborn baby has not yet been seen by his father and the family was led to believe at one stage that they both must be dead. Without

³ <http://www.gc4hr.org/news/view/250>

confirmation that the two men are in custody, the family is unable to obtain a Power of Attorney over financial affairs and consequently have no access to funds and are unable to deal with any household affairs. They have no idea when this ordeal will end.

Arrests and Treatment in Detention

Each of the arrests of the detainees follows a common theme. Some were arrested in their homes; others went out shopping and did not return, another was arrested at the airport. Search and arrest warrants have scarcely been provided and where they have been, no reason is recorded for their arrest.

All of those detained had their heads covered with black cloths so they could not see where they were going and they were taken to undisclosed locations. Some of the families did not hear from their relatives for a number of weeks. When they have called they have had very restricted conversations and as soon as they are asked about their treatment, the telephone is cut off. On the whole, detainees have learnt not to speak in any great detail over the phone, often repeating the words, "I am fine, I am eating, I am drinking, I am fine." However, their appearances in Court tell a very different story.

The State randomly produces them in Court in varying groups in order to obtain authority for continued detention. Courts may not grant an extension of more than 30 days of detention without charge; however, judges may continue to renew 30-day extensions to the detention period indefinitely and without charge. A 2004 anti-terrorism law allows public prosecutors to hold suspects in terrorism-related cases without charge for six months. Once a suspect is charged, terrorism cases are handled by the Supreme Court, which may extend the detention period indefinitely.

Whilst detention is due for extension every 30 days, the Prosecution is trying to ensure that the detainee's lawyer, Abdul-Hameed Al-Kumaity, is not present by producing them early at Court. Their lawyer is never notified of when they will be in Court and has to resort to attending Court everyday along with their relatives in the hope that they may be produced, and then the only access he is allowed is a few minutes in Court with them in the presence of the Judge during the proceedings for the extensions.

When they have appeared in Court they show signs indicative of persons who have been undergoing mental torture. Article 26 of the Constitution of UAE provides that personal liberty is guaranteed to all citizens. No person may be arrested, searched, detained or imprisoned except in accordance with the provisions of law and furthermore no person shall be subjected to torture and degrading treatment. When this is put to the authorities by the lawyer with conduct and the relatives, any such

degrading treatment is denied, and it is suggested that they are not physically assaulted and therefore they claim that the treatment does not amount to torture.

The detainees are unable to stand properly and sources say this is because they are being kept in cells that are so small they cannot stand up. Some have been disorientated, unable to recognise their loved ones and close friends. Some have been given medication and made to take it with a cloth covering their heads so they have no idea what medication they are being given and it seems likely that they are being given sedatives given their appearance in Court. Others report they have been given the proper medication they require for health issues.

Many suffer from illness including diabetes, cancer, kidney and liver disease and yet most are left untreated, apart from a few who have received treatment, including one taken to hospital. Some of those requiring glasses report having had their glasses confiscated and documents are put in front of them that they are unable to read, yet made to sign. One detainee reported walking 1000 times in just one day around his cell, which is no bigger than a grave, to try and keep him sane and in reasonable health. Another detainee who was once a math and physics teacher was unable to solve a simple math problem when asked by his son.

The detainees report that they are deprived of sunlight, with one reporting that they had not seen sunlight for 100 days. Air conditioning is constantly directed at them in their small cells, and there are reports that at least some of them have not been given blankets for warmth and no chairs to escape sitting on the cold concrete floor.

Matters took a turn for the worse in November for one detainee, who was threatened with rape and sexual assault. (The detainee's name is not being disclosed in order to protect him and his family.) During the course of being interrogated he was blindfolded and informed that one officer in the room had removed his undergarments. This was reported both verbally in Court and in writing by his lawyer, Abdul-Hameed Al-Kumaity, but as seems to have been the case with all complaints by detainees, nothing was recorded by the Judge in Court, the authorities not questioned and the complaint ignored.

The Legal System and Legislation

The constitution provides for an independent judiciary; however, its decisions are subject to review by the political leadership. The judiciary is composed largely of contracted foreign nationals and potentially subject to deportation, most of whom are therefore appear to be too frightened to properly question the actions of the Prosecution and the State.

The relatives and lawyers of the detainees are unable to turn to the media for assistance. The Press and Publications Law covers all media including print,

electronic, and book publishing. It governs content, requiring that publications be licensed and provides for prosecution under the Penal Code if the law is breached.

The law authorises censorship of domestic and foreign publications before distribution, and contains a list of proscribed subjects: criticism of the government, ruling families, and friendly governments, as well as other statements that threaten social stability. Government officials reportedly have warned journalists after they published material deemed politically or culturally sensitive.

Furthermore, a new federal decree on cybercrime was issued on November 13 which "criminalizes a wide range of non-violent political activities carried out on or via the Internet, from criticism of its rulers to organizing unlicensed demonstrations," according to Human Rights Watch.⁴

There is no independent Human Rights Commission that can offer any protection or intervention. In 2004, Mohamed Al-Roken petitioned the Ministry of Labour and Social Affairs to approve an Independent Human Rights Non Government Organisation, to be known as UAE Human Rights Society. The application was ignored despite the Ministry's own regulations that all applications were to be dealt with within 30 days. A second application for a similar organisation was made by Khalifa Bakhit Al-Falasi, and again there was no response.

In 2005, the Ministry instead approved the Emirates Human Rights Association, (EHRA), and all members are vetted by the government, ignoring again the previous applications for an independent body. Save for a few visits to the families during which they have tried to persuade the relatives to sign undertakings not to speak out against the government, the EHRA seems to have done nothing visibly to protect or intervene in the violations involving the 64 detainees.

Legal Avenues for the Detainees

The families, their lawyer and his employees have continually tried to file complaints and Appeals. The Courts and the Prosecution have refused to be served with the papers, stating that the documents will simply be thrown away if they are left with them. They refuse to acknowledge Mr. Al-Kuwaity as being the instructed Lawyer and inform the families that they will not recognise him as such or communicate with him in any way. The Prosecution and State officials have even resorted to appointing their own lawyers and have reportedly made attempts to persuade the families that Abdul Hameed Al-Kumaity is incompetent and they should withdraw instructions.

With lawyers being prevented from seeing their clients and properly representing them, some even having been arrested and deported, as well as the media, human rights organisations and judiciary being controlled by the State and family members

⁴ <http://www.hrw.org/news/2012/11/28/uae-cybercrimes-decree-attacks-free-speech>

threatened and harassed, these detainees have no voice and no way out. Their fate remains in the hands of a government that has thus far refused to acknowledge the violations committed against them and to comply with international law.

Conclusion and Recommendations

The conclusions of the European Parliament are clearly accurate in the absence of any evidence to the contrary. The findings during this mission wholly support those conclusions. International intervention is urgently required and the Western world should be reviewing human rights commitments in its dealings with the UAE, whilst the UAE continues to sanction such significant breaches of basic human rights.

The GCHR and its campaign partners respectfully call on the authorities in the UAE to:

- Immediately and unconditionally release all 64 human rights defenders and activists who are being held as a direct result of their legitimate human rights work;
- Immediately disclose the whereabouts of all human rights defenders that are being detained;
- Grant the 64 human rights defenders and activists in detention immediate and unfettered access to legal representation, as well as their families;
- Guarantee the physical and psychological integrity and security of the 64 human rights defender and activists who remain in detention;
- Guarantee in all circumstances that all human rights defenders in UAE are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions including judicial harassment;
- Guarantee the rights of freedom of expression, assembly, and association for all citizens and residents of the UAE.

The GCHR respectfully reminds the UAE authorities that the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by consensus by the UN General Assembly on 9 December 1998, recognises the legitimacy of the activities of human rights defenders, their right to freedom of association and to carry out their activities without fear of reprisals. We would particularly draw your attention to Article 6 (c): "Everyone has the right, individually and in association with others: (c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters", and to Article 12 (2): "The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a

consequence of his or her legitimate exercise of the rights referred to in the present declaration."