



Ref: TG MDE 25/2014/022
AI Index: MDE 25/024/2014

Open letter to the Director of the Human Rights Department at the Ministry of Foreign Affairs in the United Arab Emirates (UAE)

Ms Amna Al-Muhairy
Director of the Human Rights Department
Ministry of Foreign Affairs
Abu Dhabi
PO Box 1
United Arab Emirates (UAE)

9 December 2014

Dear Ms Al-Muhairy

I am writing in relation to the statement issued in your name by the Ministry of Foreign Affairs on 19 November 2014¹ in response to the Amnesty International report, *"There is no freedom here" Silencing dissent in the United Arab Emirates* (MDE 25/018/2014),² and to address concerns that you raised.

As you are probably aware, Amnesty International is a global movement of more than seven million people who campaign for a world where human rights are enjoyed by all. The organization is guided only by our vision for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights standards. Amnesty International is independent of any government, political ideology, economic interest or religion. The organization documents, reports and campaigns on human rights violations in all countries.

The research for Amnesty International's report on the United Arab Emirates (UAE) was based on information obtained from a wide and diverse range of public and private sources with direct knowledge of the human rights situation in the country, including activists, journalists, families of prisoners, UAE-based organizations, media reports, and reports of other international human rights NGOs. Amnesty International also drew on statements made by UAE government officials and submissions made by your government to the UN Human Rights Council and UN treaty bodies, as well as on the findings of those bodies in relation to the UAE.

In 2013 and 2014, Amnesty International sought meetings with the UAE authorities while conducting the research for this report, including with the Minister of Justice, Minister of Interior, UAE Attorney General, UAE ambassador to the UK, and other officials and, in November 2013, we requested authorization to conduct a visit to al-Razeen Prison in Abu Dhabi, where most of the prisoners

¹ Statement of the Ministry of Foreign Affairs on the Amnesty International report, 19 November 2014, <http://www.mofa.gov.ae/Mofa/portal/3a90668c-be1b-4d85-8bce-5df6cab27411.aspx>

² Amnesty International, "There is no freedom here" Silencing dissent in the United Arab Emirates, 18 November 2014, (MDE 25/018/2014) <http://www.amnesty.org/en/library/info/MDE25/018/2014/en>

featured in our report are serving their sentences. Amnesty International received no response to any of these requests. (However, at an earlier stage, in 2011, the organization was able to meet with the Attorney General.)

In response to your assertion that Amnesty International rejected your answers to various questions raised by us in October 2014 – that is, certain questions which we put to His Excellency, the Assistant Foreign Minister for Legal Affairs, Dr Abdulrahim Yousif Al Awadi, in relation to the issues covered in this report – I believe that the organization faithfully reflected throughout the report the content of a letter dated 30 October 2014 from His Excellency. We also included the letter in full as an appendix to the report.

The 19 November statement attributed to you acknowledges the scope of the report and indicates that it will take time to assess it. Your statement noted that you had only a cursory glance at the report, which you say highlighted “many inaccurate and flawed allegations”. Your statement did not specify what you found inaccurate and flawed. I look forward to receiving your government’s considered assessment of Amnesty International’s findings and concerns.

While Amnesty International is disappointed that the UAE government seems to have dismissed outright the concerns highlighted in our report, I hope that once your government has had time to review it in full, you will acknowledge the points we make, and take steps to implement the recommendations in the report in order to bring the UAE’s laws and practices into line with international human rights standards.

I also welcome your observation that the report is presented in good faith and I confirm precisely this.

Amnesty International takes note of the points made in your statement in respect to the achievement of the UAE in establishing a diverse society and the creation of economic opportunities, and welcomes your government’s stated commitment to continually improving the implementation of human rights. Amnesty International values its constructive dialogue with the government of the UAE and I view this as an opportunity to engage positively with each other in order to promote and protect human rights in the UAE in the context of our shared interest of improving your government’s adherence to international human rights standards.

In addition, the organization respectfully draws your attention to your obligations under international human rights law to promote and protect all human rights, including the rights to due process and fair trials, and the rights to freedom of opinion and expression, and association and assembly, which are essential for any society and form the foundation for a wide range of other rights.

The statement issued by the Ministry of Foreign Affairs on 19 November drew attention to threats posed to the UAE by “extremist organizations”. Amnesty International understands the need for the UAE to maintain stability and security but reminds the UAE government that states must respect human rights in any actions they take in the name of national security or public order. While international human rights law permits states to impose certain restrictions on the exercise of the right to freedom of expression for these and other specified legitimate purposes, criminalizing peaceful political expression and/or criticism of the authorities is neither proportional nor necessary to maintain national security or public order. Any restrictions on the right to freedom of expression must be provided by law, which must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly, and must conform to the strict tests of necessity and proportionality.³

³ The UN Special Rapporteur on Freedom of Expression has underlined this in his 2010 report to the UN Human Rights Council (10 April 2010, UN Doc. A/HRC/14/23, paras 72-87).

Your statement asserts that the majority of the signatories to the March 2011 petition, which was signed by 133 women and men and which called for democratic reform in the UAE, “have not been affected by State actions.” Your statement however did not acknowledge that, despite the fact that many of the signatories are not currently imprisoned, dozens have nevertheless been subjected to arbitrary arrest and detention, harassment, and forced early retirement from their jobs, while others have had their citizenships arbitrarily revoked or placed on travel bans.

I would further like to remind you that peacefully exercising the right to sign a petition that calls for democratic reform, or expressing through other peaceful means any criticism of the government, are a legitimate exercise of the right to freedom of expression. The UAE is bound to uphold the right to freedom of expression, which is enshrined in Article 19 of the UDHR, and set out in Article 32 of the Arab Charter on Human Rights, to which the UAE is a state party.

Further to your comment in respect of the rights enshrined in the UAE Constitution, Amnesty International has acknowledged in our report that the Constitution of the UAE contains some important safeguards of rights and freedoms that are guaranteed in the international instruments to which the UAE is a state party, including those relating to freedom of expression and association, fair trials, and freedom from torture and other ill-treatment, and the independence of judges. The report states that these safeguards in the Constitution seek to ensure that all individuals enjoy equal rights under law, and the human dignity that follows from this.

However, not only has the UAE government failed to date to implement these Constitutional safeguards in the administration of justice in the cases examined in the report, but restrictive, contradictory, overly broad and vaguely worded provisions contained in statute law, such as the Penal Code, Criminal Procedure Law, cybercrimes law, and the new counterterrorism law approved by the President in August 2014, continue to undermine full exercise of the rights to freedom of expression and association, to freedom from torture and other ill-treatment, and to due process and fair trials.

Amnesty International’s research has for example found that the State Security and other UAE authorities have routinely flouted requirements of both international law and the UAE Constitution with respect to arrest and detention procedures, prohibition on torture, the right to a fair trial, and the rights to freedom of expression and association.

The concerns highlighted in our report are also voiced by several UN human rights bodies and special procedures, including the Working Group on Arbitrary Detention and some UN Special Rapporteurs.

For example, in his report to the Human Rights Council in May 2013, the Special Rapporteur on the rights to freedom of peaceful assembly and of association expressed concern about the increasing restrictions to the exercise of freedom of association and of peaceful assembly in the UAE. This, he said, included the withdrawal of nationality, arrests, and detention and convictions against individuals who have solely exercised their fundamental rights and freedoms. The Special Rapporteur expressed his increasing concern about the physical and psychological integrity of individuals exercising their rights to freedom of peaceful assembly and association in the UAE, particularly of those protecting or promoting human rights. He reminded the UAE government of its “obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights.”⁴

⁴ Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association to the UN Human Rights Council, (30 May 2013, UN Doc. A/HRC/23/39/Add.2, paras 433-434).

In February 2014, the UN Special Rapporteur on the independence of judges and lawyers reported that she had received credible evidence of torture and other ill-treatment of detainees held incommunicado in secret detention facilities, and underlined that any information obtained as a result of torture or other ill-treatment must not be used as evidence against the victims and others, but must be used by the UAE authorities to prosecute the torturers. She recommended that your government establish an independent committee of experts experienced in medical forensics, psychology and posttraumatic stress to investigate allegations of torture and other ill-treatment of detainees. She also expressed concern that the UAE's judicial system remains under the de facto control of the executive branch of government.⁵

The Working Group on Arbitrary Detention has issued several opinions regarding the prisoners mentioned in our report, concluding, for example, that your government had deprived the "UAE 94" individuals of their right to a fair trial, enshrined in Article 10 of the UDHR. The Working Group on Arbitrary Detention found that the arrest and detention of the individuals resulted from the exercise of their rights to freedom of opinion and expression and to freedom of peaceful assembly and association, guaranteed under articles 19 and 20 of the UDHR, stating that the restrictions on those rights could not be considered to be proportionate and justified. It declared the arrest and detention of the 61 imprisoned following the mass trial to be arbitrary and called for your government to release them and afford them appropriate reparation.⁶

The statement of the Ministry of Foreign Affairs also notes that the Emirates Human Rights Association (EHRA) regularly conducted visits to some of the individuals whose cases were examined in the report. The EHRA told Amnesty International during a November 2013 meeting that they had written a report based on their inspections 18 months earlier of the conditions in a number of prisons and detention centres in the UAE and had found that most of them resemble those of "five star hotels." However, the EHRA has refused to share their findings with Amnesty International, stating that they are "internal."

I hope that I have been able to address some of the points you raised in your statement regarding our report and that your government is open to meaningful engagement with Amnesty International in the interests of protecting and promoting human rights in the UAE.

As I have stated above, Amnesty International was unable to secure meetings with UAE officials and to visit detention centres and prisons while carrying out the research for our report.

The organization would very much appreciate the opportunity to engage with the UAE government on the human rights issues highlighted in our report and would be most grateful for your assistance in securing meetings in early 2015 with a number of officials including the Minister of Interior, Minister of Justice, UAE Attorney General, and State Security Public Prosecutor.

We would also like to conduct a research visit in early 2015 to al-Razeen Prison in Abu Dhabi to be able to make an independent assessment of its conditions, and to meet with several prisoners, including Abdulla al-Hajri, Ahmed al-Zaabi, Ahmed Ghaiith al-Suwaidi, Dr Hadeef al-Owais, Khalifa al-Nuaimi, Dr Mohammed al-Mansoori, Dr Mohammed al-Roken, Saleh Mohammed al-Dhufairi, Salem al-Shehhi, and Sheikh Dr Sultan Kayed Mohammed al-Qassimi.

⁵ Office of the High Commissioner for Human Rights, Preliminary observations on the official visit to the United Arab Emirates by the United Nations Special Rapporteur on the independence of judges and lawyers (5 February 2014), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14223>

⁶ United Nations General Assembly, Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary detention at its 68th Session (13-22 November 2013, UN Doc. A/HRC/WGAD/2013/60).