

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **UAE: Trial of Activists ‘Fundamentally Unfair’ *Drop Charges and Free the Accused***

(Abu Dhabi, October 2, 2011) – The trial of five activists detained nearly six months ago for “publicly insulting” the United Arab Emirates president and other top officials is fundamentally unfair, four international human rights organizations said today. The charges should be dropped and the activists released, they said.

Amnesty International, the Arabic Network for Human Rights Information (ANHRI), Front Line Defenders, and Human Rights Watch said the activists’ trial has been marked by procedural flaws and has violated the most basic defense rights of the accused. Emirati authorities should drop all charges and free the activists at the next hearing, scheduled for October 2, 2011, in Abu Dhabi’s Federal Supreme Court.

The previous four trial sessions have been held in secret, closed to family members as well as the media and human rights observers. The court told the rights groups on September 29 that the fifth hearing will be open to the public.

“All we have been able to see behind the façade of the courthouse is a sham,” said Jennie Pasquarella, a civil liberties lawyer who is part of a delegation in the UAE on behalf of the rights groups to monitor the trial. “By not respecting the rights of the defendants to a fair trial, the Emirati authorities are forcing us to conclude that they have already decided the outcome.”

The five activists, who were arrested in April and whose trial opened on June 14, are: Ahmed Mansoor, an engineer and blogger; Nasser bin Ghaith, an economist and university lecturer at Sorbonne Abu Dhabi and advocate for political reform; and online activists Fahad Salim Dalk, Ahmed Abdul-Khaleq and Hassan Ali al-Khamis. The five are charged under article 176 of the penal code, which makes it a crime to publicly insult top officials.

Because the case is being prosecuted under state security procedures, the Federal Supreme Court is hearing the charges in the first instance, affording no right of appeal.

At the start of the last hearing, on September 26, four of the defendants walked out after the panel of judges again refused to address any of their due process requests, including releasing them on bail. The court has not allowed the defendants to review the evidence and charges against them, including evidence collected by the state security prosecution during the investigative period. The court did not allow defense lawyers to cross-examine one prosecution witness and has not allowed sufficient time to cross-examine others.

Authorities closed the first four hearings of the trial to the public, journalists, international observers, and the families of the accused without explanation. UAE and international law allow for closed hearings only in very limited circumstances.

On multiple occasions, the court has either denied or failed to rule on motions to release the defendants on bail, even though none of the defendants are charged with a violent offense and authorities have not suggested the defendants pose a flight risk. On September 25, the chief prosecutor told the rights groups that the court was holding defendants without bail for “their own safety,” which is not a permissible ground for detention under international law.

The five activists, their families, and their lawyers have received numerous death threats as a result of an ongoing campaign of intimidation by some Emiratis in support of the ruling elite. To date, authorities have not investigated the threats or prosecuted those responsible.

The four rights groups are sending two independent legal observers to monitor the October 2 hearing. Authorities have not responded to requests by Human Rights Watch to visit Mansoor, who is a member of the advisory committee of its Middle East division and of ANHRI’s network, to check on his condition.

“Every day that these men remain behind bars solely for exercising their right of free speech exacerbates the travesty of justice now taking place,” Pasquarella said. “In fact, this case has nothing to do with justice or security but everything to do with snuffing out political dissent and calls for greater democracy.”

**For more information, please contact:**

In Abu Dhabi, for the rights’ groups, Jennie Pasquarella (English): +971-556615630

In Abu Dhabi, for Human Rights Watch, Samer Muscati (English): +971-509237654; or [muscats@hrw.org](mailto:muscats@hrw.org)

In London, for Amnesty International, the press office: +44-20-7413-5566 or [james.lynch@amnesty.org](mailto:james.lynch@amnesty.org)

In Cairo, for the Arabic Network for Human Rights Information, the press office: +20-223964058 or [rawdaahmed@anhri.net](mailto:rawdaahmed@anhri.net)

In Dublin, for Front Line Defenders, Jim Loughran: +353-1-212-3750; or [jim@frontlinedefenders.org](mailto:jim@frontlinedefenders.org)

**Background**

In the UAE, the penal code allows the government to jail people simply for expressing their peaceful views, in contravention of clear international human rights guarantees of free speech. Article 176 of the penal code permits a sentence of up to five years in prison for “whoever publicly insults the State President, its flag or national emblem.” Article 8 of the code widens the application of the provision to include the vice president, members of the Supreme Council of the Federation, and others.

The five are charged under article 176 for having used the online political forum UAE Hewart. None of the messages allegedly posted by the accused to the banned site do more than criticize government policy or political leaders, said the four human rights groups, which have reviewed the posts. There is no evidence that the men used or incited violence in the course of their political activities.

Mansoor faces additional charges of inciting others to break the law, calling for an election boycott, and calling for demonstrations. In March, shortly before his arrest, he publicly supported a petition signed by more than 130 people advocating universal, direct elections for the Federal National Council (FNC), a government advisory board, and legislative powers for the council.

A letter smuggled out of prison in late August signed by four of the activists said that procedural flaws have led them to be “certain that we have not and will not obtain a fair trial, which every defendant deserves.” In the letter, the activists demanded that the court cease trying them in secret and allow observers and citizens to attend the hearings. They also urged the court to release them on bail, allow them to review the charge sheet against them, and allow their lawyers to question prosecution witnesses.

After the letter’s release, bin Ghaith, one of the signatories, complained that prison authorities encouraged other inmates to harass him. After he had an altercation with another prisoner, prison authorities chained him in solitary confinement in a cell without air conditioning despite the 40-degree Celsius heat.

Freedom of speech is guaranteed under the UAE's constitution and is well established under international human rights law. The International Covenant on Civil and Political Rights (ICCPR) holds that “everyone shall have the right to freedom of expression...to seek, receive and impart information and ideas of all kinds.” While the UAE is not a party to the ICCPR, it constitutes an authoritative source and guideline reflecting international best practice. Accepted international standards only allow content-based restrictions in extremely narrow circumstances, such as cases of slander or libel against private individuals or speech that threatens national security.

Article 32 of the Arab Charter on Human Rights, which has been ratified by the UAE, guarantees the right to freedom of opinion and expression, and to impart news to others by any means. The only restrictions allowed on the practice of this right are those imposed for “respect for the rights of others, their reputation, or the protection of national security, public order, public health, or public morals.” Article 13(2) of the Charter also requires that hearings be “public other than (except) in exceptional cases where the interests of justice so require in a democratic society which respects freedom and human rights.”

The United Nations Declaration on Human Rights Defenders provides that countries should “take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action” as a result of their participation in human rights activity.