

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

Mandates of the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

REFERENCE: UA G/SO 218/2 G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214 (3-3-16)
ARE 7/2012

7 November 2012

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the independence of judges and lawyers pursuant to Human Rights Council resolutions 15/18, 16/16, 16/4, 15/21, 16/5, and 17/2.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **alleged mass arrest and detention of human rights defenders, judges and lawyers.**

One of the subjects of the present communication is Dr. **Mohamed Abdullah Al Roken**, a prominent human rights lawyer, founding member of Bridging the Gulf - Foundation for Human Security in the Middle East and former president of the UAE Jurists Association, reportedly dissolved by the authorities in 21 April 2011. In 2011, Dr. Al Roken represented two of the five human rights defenders known as the UAE5, who were sentenced to imprisonment for "publicly insulting" the UAE Government. The UAE5, namely Messrs. Ahmed Mansoor, Nasser bin Ghaith, Fahad Salim Dalk, Hassan Ali al-Khamis and Ahmed Abdul Khaleq, were the subjects of an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on 27 September 2011, and an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to

freedom of expression and the Special Rapporteur on the independence of judges and lawyers on 25 November 2011. We regret that to date no reply to these communications has been received from your Excellency's Government. The Working Group on Arbitrary Detention further adopted Opinion 64/2011 (United Arab Emirates) on 22 November 2011, which considered the detention of Mr. Ahmed Mansoor as arbitrary and in contravention of articles 9, 10 and 19 of the Universal Declaration of Human Rights.

Mr. **Ahmed Abdul Khaleq**, a stateless person of Emirati origin, was also the subject of a communication sent to your Excellency's Government on 16 July 2012, following his reported expulsion from the UAE to Thailand. Mr. Khaleq was also the subject of two urgent appeals dated 27 September 2011 and 25 November 2011. Regrettably, no response has been received to date in relation to these communications. During the days prior to his own arrest, Dr. Al Roken had advocated for Mr. Khaleq not to be expelled to Thailand, and has also been providing legal assistance to human rights defenders who were reportedly arrested on charges of threatening state security and who have been detained without charge since March 2012. Reportedly, many of the detained are members of Al Islah (Reform and Social Guidance Association), an organization involved in peaceful political debate in the UAE and which calls for greater democracy in the political system of the country.

Another subject of the present communication is Mr. **Mohamed Al Mansoori**, on whom a travel ban has been allegedly imposed since October 2007 and whose passport has been refused renewal since March 2008. On 28 December 2009, Mr. Mansoori was reportedly dismissed from his position as a legal advisor to the UAE Government following a television interview in which he criticized the lack of freedom of expression in the country. His dismissal was the subject of a communication sent to your Excellency's Government on 15 January 2010. Regrettably, no response has been received to date in relation to this communication.

According to the information received:

26 March 2012

Former judge Dr. **Ahmad Al Zaabi** and human rights defender Mr. Ahmad Gaith Al Suwaidi were driving from Dubai airport to Abu Dhabi when they were arrested at the entrance of Abu Dhabi by state security officers. Reports state that Mr. Al Zaabi was transported to Al Rahba prison, where he was detained for four months. On 24 July, he was brought before the Abu Dhabi Court of First Instance where he was sentenced to one year's imprisonment for alleged fraud and assuming another person's identity. This charge is reportedly in relation to the fact that the passport of Mr. Al Zaabi, who was allegedly forced to resign in 2011 due to his support for democratic reform, still indicated that he was a judge. Mr. Al Zaabi's lawyer did not reportedly appeal the sentencing. Sources indicate that the whereabouts of Mr. Al Suwaidi are currently unknown.

16 July 2012

Director of the Centre for the Memorization of the Qur'an, Mr. **Abdulrahmane Al Hadadi**, was reportedly arrested at Sharjah International Airport, as he was attempting to travel to Mecca with his family. His electronic devices were also reportedly confiscated.

Prominent human rights lawyer, former president of the UAE Jurists Association and deputy chairman of Al Islah, Mr. **Mohamed Al Mansoori**, was allegedly arrested at 11:30 a.m. in the Souk of Ras El Khaimah. According to reports, a group of approximately 25-28 men subsequently accompanied Mr. Mansoori to his home, where they conducted an extensive search, confiscating a laptop and other personal items.

Student Mr. **Khalifa Al Nuaimi** was reportedly arrested at his home in Sharika by state security officers, who searched his house for five hours and confiscated his electronic devices.

Furthermore, Al Islah member Mr. **Rashed Omran Al Shamsi** was allegedly arrested in Dubai and his home searched by state security officers, while Mr. **Omran Al Radhwan**, legal advisor to Abu Dhabi Islamic Bank, was arrested at his home, which was also extensively searched, while his electronic devices were confiscated. Dr. **Ibrahim Al Yassi**, Mr. **Mahmoud Al Hossani**, Mr. **Husain Al Najjar** and Mr. **Khalid Al Sheiba Al Nuami** were also allegedly arrested. Sources report that on 28 July, Ms. **Fatima Al Salagi**, the wife of Dr. Ibrahim Al Yassi, was banned from leaving the country to travel to Saudi Arabia.

17 July 2012

At 2:00 a.m., Dr. **Mohamed Abdullah Al Roken** was driving to a police station in Dubai to report the disappearance of his son Mr. **Rashid Mohamed Abdullah Al Roken** and brother-in-law Mr. **Abdullah Al Hajiri** when he was arrested by state security officers. Mr. Al Roken and Mr. Al Hajiri were reportedly arrested earlier that day in Hatta and their current whereabouts are unknown. Al Islah member Mr. **Essa Al Sari** was also allegedly arrested on this day.

18 July 2012

Mr. **Salim Hamdoon Al Shahhi**, the lawyer representing Dr. Al Roken and Mr. Al Mansoori, was reportedly arrested while seeking information on his clients from the State Security Prosecutor's Office. Reports state that Mr. Al Shahhi was detained for a short period of time and was subsequently transferred to an unknown location. On 6 September, the pre-trial detention of Mr. Al Shahhi and of six other detainees was extended by the judge of Sudanese nationality of the Supreme Court. During the court session, the detainees reportedly appeared to be in poor physical condition and were reluctant to speak to the judge. According to reports, Mr. Shahhi had lost weight, showed difficulties in walking, and demonstrated disorientation and distress. The judge was reportedly informed that the detainees were being held in solitary confinement, in cells measuring one metre square and with the lights permanently turned on.

Dr. **Issa Khalifa Al Suwaidi**, former Director of the Abu Dhabi Educational Zone, and Mr. **Tariq Al Qasim** were also reportedly arrested on this day. Furthermore, at 10:00 p.m., Mr. **Juma Darwish Al Felassi** was allegedly arrested as he left his car to enter his home. Reports state that Mr. Al Felassi's home was searched until past midnight, following which he was transported to an unknown location.

24 and 25 July 2012

On 24 July, Dr. **Adnane Julfar**, Mr. **Musabeh Al Rumaiti**, Mr. **Mohamed Al Naqbi**, Mr. **Hamad Roqait**, Mr. **Abdulraheem Al Zarouni**, Mr. **Saif Al Ajlah** and Mr. **Hassan Al Qattan** were reportedly arrested.

On 25 July, it is reported that Mr. **Abdusalaam Darwish**, Mr. **Saeed Naser Al Wahedi** and Mr. **Ali Al Manei** were also arrested on this day.

It is alleged that the above reported arrests carried out in July 2012 followed a statement made by Attorney General Mr. Salem Sa'eed Kubaish on 15 July, in which he ordered the arrest and investigation of a group of people for allegedly "establishing and managing an organization with the aim of committing crimes that harm state security", and for having alleged connections with "foreign organizations and outside agendas". The arrests also reportedly followed the arrest of a further thirteen human rights defenders since the beginning of 2012.

27 – 31 August 2012

Reports indicate that during this period, Messrs. **Abdulaziz Harib Al-Muhairi**, **Ali Abdullah Al Khaja**, **Ahmed Awad Al-Sharqi**, **Jamal Awad Al-Sharqi**, **Abdullah Al-Jabri**, **Rashid Khalfan Bin Sabt**, and **Ahmed Salim Al-Zaabi** were arrested.

9 September 2012

Mr. **Ali Saaed Al Kindi**, consultant and Prosecutor for State-related cases at Al Fujairah, and Mr. **Khamis Saaed Al Sam Al Zyoudi**, a former judge in the appeal court of Al Ain in Abu Dhabi, were allegedly arrested on the night of 9/10 September. Their current whereabouts are reportedly unknown.

11 and 12 October 2012

On 11 October 2012, Mr. **Mohamed Dhyab Al Abdouli**, a judge at the Appeal Court of Abu Dhabi and member of Al Islah, was reportedly arrested.

During the night of 11/12 October, Mr. **Abdulraheem Naqi**, Deputy Manager of the Education District in the Emirate of Ras El Khaimah and member of Al Islah, was allegedly arrested.

On 12 October, Mr. **Mansoor Al Ahmadi**, Vice President of UAE Student Union and member of Al Islah, was also allegedly arrested.

Sources indicate that State security agents carried out the above three arrests without the presentation of a warrant and that the whereabouts of the three persons are currently unknown. Furthermore, it is reported that no legal proceedings have yet taken place in relation to these arrests.

According to the information transmitted, a total of 64 human rights defenders and activists have been arrested and detained since the beginning of 2012, while the location of 56 of those detained is unknown. It is further alleged that independent lawyer Mr. **Abdulhameed Al Kumaiti** has been subjected to acts of harassment, intimidation and surveillance, as a result of his legal representation of the 64 detainees. Since the court session of Mr. Al Shahhi and others held on 6 September and as referred to above, Mr. Al Kumaiti has been reportedly followed by unknown men. It is further alleged that since 12 September, an unknown car has been following his movements.

Grave concern is expressed that the alleged arrest and continued detention, mostly in unknown locations, of the abovementioned persons may be directly linked to the legitimate and peaceful exercise of their fundamental rights and freedoms, including the rights to freedom of opinion and expression, and the right to provide legal assistance. Serious concern is expressed at the reported ill-treatment of detainees and at procedural irregularities, including the reported surveillance and intimidation of defense lawyer Mr. Al Kumaiti.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of the abovementioned persons is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee their right not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR).

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

In relation to the allegations, according to which the fate and whereabouts of Messers. Ahmad Gaith Al Suwaidi, Rashid Mohamed Abdullah Al Roken, Abdullah Al

Hajiri, Juma Darwish Al Felassi, Ali Saaed Al Kindi and Khamis Saaed Al Sam Al Zyoudi are currently unknown, we would like to bring to your Excellency's Government's attention the United Nations Declaration on the Protection of All Persons from Enforced Disappearance which sets out necessary protection by the State, and in particular:

- article 2 (no State shall practice, permit or tolerate enforced disappearances);
- article 3 (each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction);
- article 9 (right to a prompt and effective judicial remedy and the right to access of competent national authorities to all places of detention);
- article 10 (any person deprived of liberty shall be held in an officially recognized place of detention, in conformity with national law and to be brought before a judicial authority promptly after detention, the accurate information on the detention of persons and their place of detention being made available to their family, counsel or other persons with a legitimate interest);
- article 12 (each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention; each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.)

We would further like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the UDHR which provides that "[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

We would also like to call on your Excellency's Government to take all necessary steps to secure the rights to freedom of peaceful assembly and of association in accordance with fundamental principles as set forth in article 20 of the UDHR which provides that "[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association."

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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, and to take all necessary measures to ensure that any restrictions on the free exercise of

the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and 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.
- article 9 para. 3 point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
- article 12 paras 2 and 3 of the Declaration which provide that 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 Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Furthermore, we would like to refer your Excellency’s Government to article 11(1) of the Universal Declaration of Human Rights, which states: “Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

We would also like to refer your Excellency's Government to the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29

November 1985 and 40/146 of 13 December 1985, and in particular principle 1, which states: “The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.”; and principle 6, which states: “The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.”

In addition, principle 2 of the Basic Principles on the Independence of the Judiciary states: “The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.”

Moreover, we would like to refer your Excellency's Government to the Basic Principles on the Role of Lawyers, adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990, and in particular principle 16, which states: “Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.”; principle 17, which states: “Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.”; and principle 18, which states: “Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.”

Finally, we would like to refer your Excellency's Government to the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular guideline 12, which states: “Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.”; and guideline 13, which states: “In the performance of their duties, prosecutors shall: (a) Carry out their functions impartially and avoid all political, social, religious, racial, cultural, sexual or any other kind of discrimination; (b) Protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect.” Guideline 14 of the Guidelines on the Role of Prosecutors further states: “Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide information concerning the legal grounds for the arrest and detention of the abovementioned persons, and how these measures are compatible with international norms and standards, as stated, inter alia, in the UDHR. Please also provide information on whether all detainees have access to family members, legal counsel and adequate medical care.
4. Please provide detailed information on actions undertaken by prosecution services in the above mentioned cases and explain how such actions are compatible with international norms and standards, as stated, inter alia, in the Guidelines on the Role of Prosecutors.
5. Please provide information on measures taken to guarantee that all human rights defenders, lawyers and judges in the United Arab Emirates are able to carry out their legitimate and peaceful human rights without any pressures, threats, interferences, undue restrictions, hindrance, harassment or all other kinds of intimidation.
6. Please provide information on the fate and whereabouts of the alleged victims mentioned in this communication. If their fate and whereabouts are unknown, please provide the details on any investigation or other queries which may have been carried out. If no queries have taken place, or if they have been inconclusive, please explain why.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

We would like to bring to the attention of your Excellency's Government that should sources submit the allegations of enforced disappearance mentioned in this communication as cases to the Working Group on Enforced or Involuntary Disappearances, they will be considered by the Working Group according to its methods of work, in which case your Excellency's Government will be informed by a separate correspondence.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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