



E-ISSN: 2789-9500  
P-ISSN: 2789-9497  
IJCCSL 2023; 3(2): 07-14  
© 2023 IJCCSL  
[www.criminallawjournal.org](http://www.criminallawjournal.org)  
Received: 05-06-2023  
Accepted: 06-07-2023

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## **Exploring the implementation of the conditional release system with electronic monitoring in UAE legislation: A legal analytical study**

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### **Abstract**

The criminal justice system focuses on rehabilitation, suppression of criminal behavior, preventing recidivism, and successful reintegration. Conditional release in the UAE allows offenders to demonstrate positive transformations, potentially reducing sentences and restoring freedom. The study discusses UAE conditional release legislation and potential issues, including unclear legal frameworks, limited guidance, and monitoring. Solutions include enhancing the legal framework, providing comprehensive guidance, and expanding monitoring and assessment scope. This study aims to shed light on some of the gaps and shortcomings in the legal provisions that address the conditional release system in the UAE. It attempts to arrive at suitable solutions while using a comparative approach between the UAE's legal system and other legal approaches, which has established a modern conditional release system characterized by flexibility and safeguarding the rights of the convicted individuals.

The study provides recommendations for advancing the UAE's parole system, aligning it with contemporary punitive policies, and humanizing the penal framework, paving the way for further research.

**Keywords:** Conditional release system, legal conditions, calculating duration, UAE legislation

### **1. Introduction**

Penal systems aim to rehabilitate individuals and prevent recidivism. They utilize custodial sentences and tailored treatment programs. In some cases, a portion of the sentence is served outside the facility, facilitating a gradual transition from confinement to limited freedom. During this phase, individuals are encouraged to reintegrate into society and fulfill specific responsibilities.

In spite of the importance and relevance of conditional release as a modern tool in penal policy, the legal frameworks overseeing it in the Emirates have remained rigid and unchanged since their establishment. Conditional release in the Emirates is regulated by Federal Law No. 34 of 1992, which focuses on the organization of penal institutions. This raises concerns about the adequacy of the current provisions and emphasizes the need for potential revisions.

Modern penal systems utilize a range of strategies, such as fractionated sentences, semi-liberty, electronic surveillance, and conditional release. For instance, in the United Arab Emirates, conditional release is emphasized. This approach allows the convicted individual to be released from prison after serving a predetermined portion of their sentence. Subsequently, they are subject to close supervision and engage in tailored programs aimed at reintegrating them into society and reducing the likelihood of reoffending <sup>[1]</sup>.

The implementation of punishment benefits both offenders and society. For offenders, it promotes rehabilitation, personal growth, and awareness of the consequences of their actions. It also deters future crimes. For society, punishment ensures justice, enhances trust in the judicial system, and provides security from individuals who pose a risk. It establishes clear boundaries and fosters responsibility and discipline. Overall, punishment serves justice, deterrence, rehabilitation, and protection for both offenders and society. Imprisonment and the loss of freedom have several drawbacks, including confinement and limited choices, negative psychological effects on prisoners, adverse impacts on families and society, ineffective rehabilitation opportunities, and instances of discrimination and injustice <sup>[2]</sup>. These disadvantages shed light on the challenges and problems associated with these penal systems.

### **Significance of the Study**

Comparative study reveals legislative framework for UAE legal system, addressing shortcomings in conditional release regulations for rehabilitation and preventing criminal relapse.

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This model can inspire insights and improve rehabilitation efforts. The comparative legislative models for conditional release offer a tailored blueprint for UAE legislators to build an effective, refined system, addressing gaps in the legal framework and enhancing rehabilitation capabilities.

The UAE legal system can choose a progressive path toward enhancing its criminal justice system by researching and incorporating the novel features of the comparative conditional release system. This strategy makes sure that the United Arab Emirates' distinct legal system and societal dynamics are taken into account when designing the parole system, which eventually results in a more thorough and successful strategy for fulfilling the objectives of rehabilitation and recidivism prevention.

### **Problem of the Study**

The current legislation on conditional release in the UAE does not align with contemporary standards, thereby impeding the attainment of its intended goals. These laws exhibit multiple deficiencies and inadequacies. They fail to establish specialized measures for individuals with a history of reoffending, while the authority to grant conditional release predominantly resides with the correctional administration, potentially encroaching upon the judiciary's jurisdiction. Furthermore, there is a notable absence of comprehensive rehabilitation programs, as the prevailing focus primarily revolves around imposing obligations on released individuals without providing the necessary material and moral support essential for their effective reintegration into society.

The problem with the study lies in the critique of the UAE legal policy regarding its treatment of conditional release under Federal Law No. (43) of 1992 and its amendments, as well as the absence of provisions allowing for the implementation of conditional release in conjunction with electronic monitoring systems.

### **Study Objectives**

This study aims to address deficiencies in Emirati conditional release system regulations, aiming to rehabilitate released persons and prevent re-engagement in criminal activities. It explores solutions using other comparative legal systems experience in conditional release and its application in the Emirati legal environment.

### **Methodology**

This study uses a descriptive and comparative approach to analyze conditional release laws in the United Arab Emirates and similar systems. It aims to provide a comprehensive understanding of these systems, highlighting their merits and limitations and identifying patterns, variations, and areas for improvement.

### **The Concept of Conditional Release & Its Legal Nature**

Conditional Release is a legal procedure that allows a convicted individual to be conditionally released before the completion of their sentenced term, on the condition of complying with specific requirements and obligations set by the competent authorities<sup>[3]</sup>. It is also defined as "the release of a convicted individual with restricted freedom before the completion of their full sentence, subject to conditions that impose obligations and restrict their liberty, and this freedom is contingent upon fulfilling those obligations"<sup>[4]</sup>. In other words, it is "a means employed by advanced penal systems to mitigate the drawbacks of prolonged incarceration, which

may have adverse effects that hinder prisoner rehabilitation and reintegration."

### **The Legal Regulation of Conditional Release**

The effective implementation of the Conditional Release system necessitates stringent compliance with a comprehensive set of conditions. Certain prerequisites are intrinsically linked to the incarcerated individual, while others are contingent upon the severity of the punishment and the fulfillment of financial obligations. These prerequisites constitute the indispensable substantive conditions. Furthermore, unwavering adherence to the formal conditions is imperative, as they are intricately intertwined with the procedural requirements essential for availing oneself of the advantages offered by this system. Moreover, it is of utmost significance to explicitly designate the competent authority vested with the responsibility of granting the privilege of conditional release.

### **Scope of Conditional Release**

The purview of conditional release shall be strictly confined to penalties of negative liberty and shall not encompass restrictive or coercive measures, including but not limited to the placement of minors in re-education centers or the confinement of addicts in treatment facilities. Furthermore, the conditional release mechanism shall expressly preclude the administration of alcohol-related substances to individuals convicted of offenses<sup>[5]</sup>. For the sake of practical implementation, it is duly established that convicts serving life sentences under the United Arab Emirates criminal justice system may be eligible for conditional release, subject to adherence to stipulated conditions<sup>[6]</sup>. Conversely, individuals sentenced to death shall be categorically ineligible for any form of conditional release.

The majority of legislations or legal frameworks share a common understanding on the matter of exclusion of conditional release in certain cases and circumstances, wherein the penalty constitutes a precautionary measure, regardless of any subsequent measures taken, the convicted individual shall not be entitled to reap the full benefits of conditional release. It can be emphasized that the importance of allowing eligible prisoners to benefit from the opportunity of conditional release where applicable. In cases where conditional release is not precluded due to the nature of the penalty, the individual should have no right to be considered for early release, even if they meet the required conditions and demonstrate rehabilitation<sup>[7]</sup>.

It is, therefore, deduced that an individual subjected to both punitive and precautionary measures, pursuant to legal frameworks that coalesce said sanctions, embodies a perilous entity whose release must be effectuated solely subsequent to the unequivocal cessation of the threat posed thereby<sup>[8]</sup>. Consequently, the mitigation of the individual's hazardous proclivities, achieved through the implementation of precautionary measures, effectively guarantees the absolute security of both society and the individual from the imminent perils. Furthermore, it is imperative to underscore that certain legal provisions categorically disallow any possibility of conditional release for this cohort of individuals, should they remain subject to precautionary measures subsequent to the execution of their punitive sentence, as is explicitly manifest in Italian law<sup>[9]</sup>.

Undoubtedly, the criminal policy in UAE legislation follows the approach of not allowing conditional release in

precautionary and preventive measures since they are subject to modification at any moment if the interests of the convicted individual require it. This implies that the conditions or type of precautionary measure can be adjusted according to the changing circumstances and needs of the individual under sentence. The underlying principle is that the criminal justice system seeks to maintain the flexibility required to safeguard public safety and protect the interests of society. By refraining from conditional release in precautionary measures, the authorities retain the ability to adapt and modify the measures based on evolving circumstances or any new information that may impact the individual's risk level or rehabilitation progress.

### Conditions Related to the Inmate

Conditions related to the inmate in the conditional release system include good behavior, participation in rehabilitation programs, employment or education, regular reporting, residence restrictions, curfew, and substance testing. Section (44) of the UAE Federal Law No. 43 of 1992 regarding the regulation of penal institutions states, "Every person sentenced to a term of imprisonment for one month or more shall be released if they have served three-quarters of the sentence, and their conduct while in the institution justifies confidence in their self-evaluation, and their release does not pose a threat to public security." These requirements aim to facilitate successful reintegration into society and reduce the risk of reoffending.

- **The inmate must have good conduct and behavior:** This means that they have displayed positive behavior during their time in prison or detention. This requirement is crucial for considering conditional release, as it indicates their readiness to reintegrate into society and reduces the risk of posing a threat to public safety.
- **The inmate should not pose a threat to public security:** The authorities responsible for managing the penal institution must ensure that the release of the incarcerated individual will not endanger public safety. This condition ensures that individuals granted conditional release are not likely to engage in activities that could harm public order and well-being.

### Conditions Related to the Punishment

The beneficiary of conditional release must be serving a custodial sentence, even if the sentence is life imprisonment. It is essential for the individual to have completed a specific portion of their sentence, known as the testing period<sup>[10]</sup>, in order to be eligible for the benefits of the Conditional Release system, as mandated by all relevant legislations.

Referring to Federal Law No. 43 of 1992 regarding the organization of penal institutions, we find that the UAE legislator has specified various probationary periods, as following:

- **Custodial Punishment:** every individual sentenced to a custodial punishment of one month or more of the sentence shall be eligible for conditional release after serving the three-quarters of the sentence duration have been completed
- **Life Sentence:** in the case of a life sentence, conditional release is granted after serving a minimum of twenty years. According to Section (45) of Federal Law No. 43 of 1992 regarding the organization of penal institutions, a person sentenced to life imprisonment, who has served fifteen years of the sentence, is allowed to submit an

application to the institution's officer for release<sup>[11]</sup>.

- **Multiple Sentences:** If the sentences for the crimes committed before the convict entered the prison were multiple, the release will be based on the total duration of these sentences<sup>[12]</sup>.
- **Sentences for the New Crimes:** If the convict commits a crime while being in the prison, the release will be based on the remaining time of his original sentence at the time of committing the new crime, plus the duration of the sentence imposed due to the new crime<sup>[13]</sup>.
- **Sentence associated with Detention:** If the convict has spent time in pretrial detention, the release will be based on the total sentence imposed, taking into account the duration of the pretrial detention that should be deducted from the overall sentence<sup>[14]</sup>.
- **Sentence reduced by the Pardon:** if a pardon is issued, reducing the sentence duration, the time spent in the prison for release will not include the portion of the sentence that was reduced due to the pardon<sup>[15]</sup>.

### The Exceptions to the Rules of Sections (44-47) of Federal Law No. 43 of 1992

By reading the provisions of articles (43) and (32) of Federal Law No. 43 of 1992 in the United Arab Emirates, we conclude that medical release is an explicit exception to the legal provisions related to conditional release. Article (32) of this law has specified the conditions for applying this exception, which can be summarized as follows:

- **Life-Threatening Illness:** In a correctional facility, a life-threatening illness refers to a medical condition that can cause severe harm or death to the prisoner, such as severe heart conditions or advanced cancer. The facility's medical staff provides treatment, but if specialized care is unavailable, a medical release may be considered. Section (32) of UAE Federal Law No. 43 of 1992 specifies that prisoners with life-threatening or severely incapacitating illnesses are referred to a medical committee for a release decision made by the Public Prosecutor and notified to the Ministry of Interior<sup>[16]</sup>.
- **Severely Incapacitating Illness:** A severely incapacitating illness in a correctional facility significantly impairs a prisoner's physical or mental capabilities, making them dependent on others for basic needs. Examples include severe neurological disorders or permanent physical disabilities. Section (32) of UAE Federal Law No. 43 of 1992 states that prisoners with such illnesses may require specialized medical attention and continuous care not feasible within the facility. In these cases, a medical release is considered, allowing the prisoner to receive proper care and support outside the facility, where resources better cater to their needs<sup>[17]</sup>.
- **Poses a Danger to Others:** In some cases, a prisoner's medical condition may pose a risk to others in the correctional facility, especially if they have a highly contagious infectious disease. To prevent outbreaks and protect everyone's well-being, measures like isolation or transfer to a medical facility may be taken. If the facility cannot handle the risk, a medical release might be considered. The decision is made after evaluation by the medical staff and committee mentioned in section (30) of this law,<sup>[18]</sup> prioritizing the well-being of all involved and providing appropriate medical care outside the facility.

Finally, every three months, the prisoner is presented to a government doctor by the police station, except if deported.



The medical report is a prerequisite to review the need for canceling the medical release order. The medical committee reviews the report and, if the prisoner's condition has improved, refers the case to the Public Prosecutor. The Public Prosecutor decides whether the prisoner should return to complete their sentence. The time spent outside during the release period is considered part of their overall sentence.

### **The Competent Authority for Granting Conditional Release**

The UAE Federal Law No. (43) of 1992 on Regulating Penal Institutions stipulates that the power to issue conditional release orders is not consistently allocated to a single entity. The dual approach for granting conditional release in the UAE refers to the practice where the authority to issue conditional release orders is alternately assigned to two different entities:<sup>[19]</sup> the Minister of Interior and the court that pronounced the original judgment. In some cases, the Minister of Interior holds the power to grant conditional release, while in other instances, this authority is given to the court. This dual approach provides a mechanism for decision-making that involves both administrative and judicial perspectives, offering flexibility and balance in determining whether an individual should be granted conditional release based on the specific circumstances of each case. This can be explained as follows:

#### **Authority of the Minister of Interior in Issuing Conditional Release**

In the UAE legislation, the authority of the Minister of Interior in conditional release lies in issuing the order for conditional release for those convicted after studying the case and evaluating the specified conditions and circumstances. The Minister of Interior has the power to issue conditional release orders for prisoners who meet the specified conditions in the relevant laws and regulations. According to the UAE law, the Minister of Interior is responsible for monitoring and implementing criminal policies and penalties, including the assessment of issuing conditional release according to the specified criteria. This release must be based on an evaluation of the behavior and performance of the convicted individual and in line with public safety and community protection standards.

Additionally, the Minister of Interior is required to inform the Public Prosecutor of the names of accused prisoners for whom approval has been granted for conditional release, ensuring coordination between relevant authorities and the proper implementation of procedures in accordance with UAE laws. Section 89 (repeated 3) of the Minister of Interior's Resolution No. (471) of 1995 regarding the issuance of the executive regulations for Federal Law No. (43) of 1992 on Regulating Penal Institution states: "Every prisoner sentenced to a term of restricted liberty for one month or more shall be released if he has served three-quarters of the sentence and his behavior during his time in the institution warrants trust in his self-evaluation, and if his release does not pose a threat to public security. If the sentence is life imprisonment, he shall be released if he has served at least twenty years. This release shall be ordered by the Minister of Interior, and the Public Prosecutor shall be informed of a copy of it"<sup>[20]</sup>. Likewise, Article (44) of Federal Law No. (43) of 1992 on Regulating Penal Institution states: "Every person sentenced to a term of restricted liberty for one month or more shall be released if he has served three-quarters of the sentence and his behavior

during his time in the institution warrants trust in his self-evaluation, and if his release does not pose a threat to public security. If the sentence is life imprisonment, he shall be released if he has served at least twenty years. This release shall be ordered by the Minister of Interior, and the Public Prosecutor shall be informed of a copy of it"<sup>[21]</sup>.

#### **Authority of the Court in Issuing Conditional Release**

Under UAE law, there is a specific scenario where the court that initially handed down a prison sentence has the authority to grant conditional release. This unique circumstance applies to individuals who have been given a life sentence and have completed a minimum of fifteen years behind bars. In practical terms, this means that if someone has been imprisoned for life and has met the requirement of serving at least fifteen years of their sentence, they have the opportunity to approach the court that issued their sentence<sup>[22]</sup>. They can make a request for conditional release, seeking a chance to re-enter society under certain conditions. The court, in this case, evaluates whether the person meets the necessary criteria for conditional release. These criteria usually involve assessing the person's behavior and the potential impact of their release on public safety. If the court finds that releasing the individual doesn't pose a risk to public security, they can grant the conditional release. This approach provides a way for individuals who have served a significant portion of their life sentence to have a fresh start, while ensuring that their release is aligned with public safety considerations.

According to this rule, if someone has received a life sentence and has served a minimum of fifteen years in prison, they can ask the court that sentenced them to consider letting them out on conditional release. The court looks at factors like their behavior, conduct, and whether their release could affect public safety before making a decision<sup>[23]</sup>. In this context section (45) of the Federal Law No. (43) of 1992 on Regulating Penal Institution says that "A person sentenced to life imprisonment who has completed fifteen years of their sentence may submit a request to the facility's officer for their release. The officers express their opinion on the request and forwards it, along with the prisoner's file, to the relevant administration. This administration assesses the potential impact of releasing the prisoner on public safety. The documents are then sent to the appropriate Public Prosecution for investigation, including questioning relevant individuals about the prisoner's behavior, verifying their good conduct, and integrity. Subsequently, the documents, along with the Public Prosecution's opinion, are presented to the court that issued the sentence. The court may decide to release the prisoner if their good behavior and reformation are proven. The court has the option to link the release to certain measures outlined in the penal law. The court's decision to accept or reject the request is final and cannot be appealed. If the request is denied, a new request cannot be submitted until at least one year has passed since the date of the previous denial"<sup>[24]</sup>.

Several steps are involved in the legal process for submitting a request for custodial release to the court: application submission, facility officer opinion, referral to relevant administration, investigation and interrogation, document submission, court decision, implementation of appropriate measures, non-appealable decision, and specified reapplication period. The process assures that the convicted person's release does not constitute a security risk and is dependent on the court's evaluation of their behavior and

record throughout their term. This technique gives the condemned person a second chance to start over after serving a significant period of time in jail, guaranteeing that their release does not endanger public safety [25].

It's recommended that the judiciary or public prosecution handle conditional release. Their legal expertise ensures impartial decisions, aligning with their justice commitment and oversight responsibilities. This prevents conflicts of interest, upholds integrity, and enhances the conditional release process. In this regard Zaher advocates that "The UAE legislator appears to favor an administrative approach, particularly considering the limited court jurisdiction over conditional release outlined in the Federal Punitive Institutions Regulation Law. This becomes evident in the recent decision to emphasize an administrative aspect in conditional release, restricting the role to notifying the public prosecutor of the release decision. However, this decision contradicts the provisions of Article 272 of the Criminal Procedure Law" [26]. Accordingly, section 272 of the UAE Federal Decree-Law No. 38 of 2022 on the Issuance of the Criminal Procedure Law states that "The public prosecution is responsible for executing the judgments issued in all criminal cases brought before the courts, and it has the authority, when necessary, to directly seek the assistance of public authorities" [27]. This provision mandates the public prosecution to execute judgments in all criminal cases, including matters like conditional release. If necessary, the public prosecution can directly seek aid from public authorities to fulfill this duty. Therefore, we lean towards the opinion that advocates for " it would have been fitting for the legislator to assign either the judiciary or the public prosecution the responsibility for conditional release" [28] to ensure proper alignment and the correct course of action.

### **The Legal Effects of Conditional Release**

The effects of conditional release are that it does not erase the conviction verdict and does not imply a final exemption from the obligation to serve the punishment. Additionally, the released person, under certain conditions, undergoes a probationary period to demonstrate good conduct and behavior. This is can be explained as following:

**Duration of Conditional Release:** Section (304) of the UAE Federal Decree-Law No. (38) of 2022 on Criminal Procedure Law stipulates that "conditional release may be granted for individuals sentenced to a custodial penalty, if they meet the conditions stipulated in the Penal Institutions Law. The conditionally released person remains under supervision for the remainder of their sentence and must adhere to the conditions specified in the referred law. Upon the request of the public prosecution, conditional release may be revoked if the released individual violates the conditions outlined in paragraph (2) of this article" [29].

From reading the provisions of section (304), we can deduce several legal rules related to conditional release, including the duration that the conditionally released individual must spend in the community, as it serves as a transitional period between confined prison life and free life in society. The provision allows individuals sentenced to a custodial penalty to be granted conditional release, allowing them to serve the remainder of their sentence outside prison. However, they must fulfill specific conditions set by the Penal Institutions Law to ensure public safety and successful reintegration. The individual remains under supervision to ensure compliance with the law, including reporting to authorities, refraining

from criminal behavior, and participating in rehabilitation programs. If the individual fails to comply, the public prosecution can request the revocation of their conditional release, ensuring they continue to meet the law's expectations. In essence, this provision establishes a system where individuals who have received custodial sentences might have a chance for conditional release, provided they meet certain criteria and agree to specific conditions. This approach seeks to strike a balance between giving individuals a chance to reform while safeguarding public safety and the integrity of the legal system.

### **Conditional Release & Erasing of the Conviction Verdict:**

Conditional release, such as custodial release, does not erase the conviction verdict. When an individual is granted conditional release, they are allowed to serve the remainder of their sentence outside of prison, under specific conditions and supervision. However, the original conviction and guilty verdict remain on their criminal record. The concept of conditional release, like custodial release, is aimed at providing an opportunity for rehabilitation and reintegration into society while still holding the individual accountable for their actions. If the custodial release complies with the conditions and demonstrates good behavior during the custodial release period, they may successfully complete their sentence without returning to prison.

In contrast, when a conviction is expunged or erased, it means that the criminal record of the individual is wiped clean, and the conviction is legally treated as if it never happened. This can occur under specific circumstances, such as the completion of a diversion program or meeting certain eligibility criteria. Expungement varies by jurisdiction, and not all convictions are eligible for this process. In brief, conditional release, like custodial release, allows an individual to serve the remainder of their sentence under certain conditions without erasing the conviction verdict, whereas expungement completely removes the conviction from the person's criminal record.

**Conditional Release & the Final Exemption:** Conditional release, such as custodial release, does not imply a final exemption from the legal obligations resulting from the conviction. When a person is granted conditional release, they are allowed to serve the remainder of their sentence in the community under specific terms and supervision. However, they are still considered to be serving their sentence, and the conviction and legal obligations associated with it remain in effect. The concept of conditional release is based on the idea of rehabilitation and providing an opportunity for the individual to demonstrate good behavior and reintegrate into society. By granting custodial release or conditional release, the authorities are offering a chance for the person to show that they can adhere to the conditions set forth and become a law-abiding member of the community. If the custodial release successfully fulfills the conditions of their release and demonstrates good conduct during the custodial release period, they may complete their sentence outside of prison. However, if they fail to comply with the conditions or engage in criminal activities again, they may be sent back to prison to serve the remaining sentence.

In contrast, a final exemption would mean that the individual is completely released from any further legal obligations related to the conviction. This typically happens when the full sentence has been served, or in some cases, when the conviction is expunged or pardoned through a legal process. Finally, it can be rightly stated that the conditional release

does not grant a final exemption from the legal obligations associated with the conviction. It is a supervised period aimed at rehabilitation, while the conviction remains in effect until the full sentence is served or other legal actions, like expungement or pardon, are taken.

### **Conditional Release & Replacing the Penalty of Deprivation of Liberty**

Conditional release does replace the penalty of deprivation of liberty to some extent. When persons are granted conditional release, they are allowed to serve the remainder of their sentence outside of prison under specific terms and supervision. This means that they are no longer confined to a correctional facility, and their freedom of movement is partially restored. The release on conditional release is contingent upon the individual meeting certain conditions and demonstrating good behavior during the conditional release period. These conditions are designed to ensure the safety of society and provide an opportunity for rehabilitation and reintegration into the community.

However, it's essential to note that while conditional release does replace the full deprivation of liberty, the person is still serving their sentence and remains under the supervision of conditional release authorities. They are required to follow the set conditions and restrictions, and failure to do so may result in their return to prison to serve the remaining sentence. So, while conditional release offers a measure of freedom and an alternative to being physically confined in prison, it does not entirely eliminate the penalty of the initial deprivation of liberty. It's a means to facilitate the person's transition back into society while ensuring they are held accountable for their actions and continue to serve their sentence in a more controlled environment.

In conclusion, conditional release is considered one of the executive measures for implementing punishment. Although the proper adaptation of this method includes a punitive aspect aimed at modifying the implementation, it is undoubtedly less severe than the incarceration inside prison walls. Therefore, it replaces a milder punitive approach than the harsher one the offender deserved. For this reason, we recommend the Emirati legislature to develop this system by integrating electronic monitoring. Additionally, we suggest supporting its implementation with a series of material and psychological procedures to assist the released persons in achieving rehabilitation and reformation, ensuring they do not return to criminal activities during the conditional release period.

### **Implementing an Electronic Surveillance for those under Conditional Release**

The electronic monitoring system is a feasible alternative to pretrial detention and aligns with the government's legislative aims. The UAE Public Prosecution oversees the system, with the purpose of limiting the social ramifications of imprisonment, maintaining family cohesion, and saving money. Electronic monitoring, which employs remote technical means, prevents accused or convicted individuals from being absent from their residence or location. The individual must carry integrated electronic transmitting equipment throughout the monitoring time. Professional or vocational engagement, education, and medical care are all closely monitored<sup>[30]</sup>. The law on electronic monitoring emphasizes safeguards, including Cabinet decisions on methods, respecting individual dignity, safety, and privacy,

allowing appointment of medical professionals, and requiring consent for temporary placement of suspects<sup>[31]</sup>.

The Minister of the Interior, in consultation with relevant local authorities, shall issue decisions governing remote control activities in electronic surveillance areas<sup>[32]</sup>. Officers and workers at specialized police facilities monitor persons' compliance with electronic surveillance orders and judicial judgment's. They go to certain places to ensure compliance, livelihood, and equipment safety. They also offer reports to public prosecutors on the results of surveillance actions. The Minister of Justice can work with the authority head to select public employees who have certain tasks and skills that can be monitored electronically<sup>[33]</sup>.

The application of the surveillance penalty and the procedures specified in the country's current criminal statutes is permissible. This can be done electronically and in compliance with the laws and procedures stated in this section as well as Article (404) of this law<sup>[34]</sup>. Under electronic surveillance, a provisional status order may not be issued for offenses punishable by death or life imprisonment, offenses against the internal or external security of the State, or offenses for which the law demands the order of removal from the State<sup>[35]</sup>.

Due to the vagueness of Section 398 of the Criminal Procedure Law, electronic surveillance is not permissible in the situation of conditional release. If the circumstances, age, and place of residence of the guilty person do not indicate that he or she would commit another crime, the court can order electronic monitoring for up to two years. They must also be involved in a stable professional activity, pursuing education, or solely providing for their family. Electronic monitoring is not available to recidivists or convicted individuals. Based on the language of Section 398, it is conceivable to conclude that the use of electronic monitoring as part of a probation term is permissible under UAE law, as long as the conditions mentioned in the article are met.

### **Electronic Monitoring for Tracking Persons on Conditional Release**

Electronic monitoring is a gadget that is used to keep track of people who are on parole, probation, or community supervision. GPS tracking, geofencing, continuous tracking, tamper detection, communication, data logging, remote monitoring, alarms, and risk assessment integration are all part of the package. It does, however, pose privacy concerns and necessitates a delicate balance between public safety and private rights. Technical accuracy, monitoring procedures, and coordination between authorities and those being observed are all required for effective electronic monitoring.

According to Article 413 of the UAE Code of Criminal Procedure, the competent authority may release under the conditions specified in the UAE Federal Law No. (43) of 1992 on Regulating Penal Institution, order its implementation by electronic means, and follow the provisions and procedures specified in Article 401 of this Code. On the basis of monthly reports provided to it by the responsible authority on the monitoring of the convicted person's conduct and the performance of his obligations under this chapter, the Public Prosecutor's Office oversees the implementation of electronic surveillance. and the court that gave the judgment may alter the places and durations of placement under electronic surveillance, as well as its limits, at the request of the Public Prosecutor's Office or the court that rendered the ruling<sup>[36]</sup>.

## Conclusion

Penal systems in the UAE aim to rehabilitate individuals and prevent recidivism through custodial sentences and treatment programs. However, legal frameworks for conditional release remain rigid. Modern strategies include fractionated sentences, semi-liberty, electronic surveillance, and conditional release. However, imprisonment has drawbacks like confinement, negative psychological effects, and discrimination. The UAE's current legislation on conditional release lacks contemporary standards, causing impediments to its goals. It lacks specialized measures for reoffending individuals, and the authority to grant conditional release primarily resides with the correctional administration. Additionally, there is a lack of comprehensive rehabilitation programs and a critique of UAE legal policy, particularly regarding the treatment of conditional release under Federal Law No. (43) of 1992 and its amendments.

In the UAE criminal justice system, conditional release is confined to negative liberty penalties and does not include restrictive measures. Individuals serving life sentences and those sentenced to death are ineligible for conditional release. It forbids early release if the prerequisites are met, but it does not prevent preventive steps that can be tailored to particular situations and needs. Conditional release is a legal practice that allows condemned individuals to be freed before the completion of their sentence, subject to particular restrictions and duties imposed by competent authorities. This procedure tries to reduce the negative consequences of long-term detention while also improving rehabilitation and reintegration. Effective implementation necessitates strict adherence to requirements, which are tied to the detained individual and are dependent on the severity of the sentence and financial obligations. Adherence to formal conditions is essential for reaping the full benefits of this system.

According to UAE Federal Law No. 43 of 1992, inmates condemned to jail for one month or more are freed if they have served three-quarters of their sentence, have good behavior, participate in rehabilitation programs, and do not constitute a threat to public security. These conditions are intended to enable successful reintegration into society while also lowering the chance of recidivism. During their time in prison, the offender must demonstrate constructive behavior, indicating their willingness to reintegrate into society and lowering the chance of posing a threat to public safety. Individuals serving a correctional term, including life imprisonment, are allowed conditional release. Individuals must complete a particular portion of their sentence, known as the testing phase, to be eligible for this system. UAE legislators have set probationary terms for a variety of sentences, including custodial punishment, life imprisonment, multiple sentences, new offenses, pretrial detention, and pardon reduction. The release is dependent on the overall term issued, including the time spent in pretrial custody. Individuals must be eligible for these benefits, and their applications must be submitted to the institution's officer.

In the United Arab Emirates, medical release is an exception to the legal rules of Federal Law No. 43 of 1992. These situations include life-threatening illnesses, extremely incapacitating illnesses, and a risk to others. Life-threatening illnesses can result in serious harm or death for the prisoner, while highly incapacitating illnesses limit a prisoner's physical or mental capacities, leaving them dependent on others for basic requirements. A medical discharge may be

considered if the facility is unable to handle the risk. The choice is made following an appraisal by medical staff and a committee, with the well-being of all parties in mind. The police station presents the prisoner to a government doctor every three months, and the medical committee analyzes the report. If the inmate's condition.

The UAE Federal Law No. 43 of 1992 controls prison institutions by delegating authority to the Minister of Interior and the original judgment court. This two-pronged approach allows for greater flexibility and balance in determining conditional release based on specific circumstances. The Minister of Interior is in charge of imposing conditions, monitoring criminal policies, and evaluating the behavior and performance of convicted individuals. Individuals who have served at least fifteen years in prison may be granted conditional release after the court evaluates their behavior and potential impact on public safety. The ruling is final and not appealable.

Individuals serving 15 years in prison in the UAE may also request conditional release from the court that convicted them. Several steps are involved in the procedure, including application submission, facility officer opinion, referral, investigation, interrogation, document submission, court decision, measure implementation, and reapplication period. If the prisoner's behavior and repentance are demonstrated, the court may release them. Conditional release should be handled by the judiciary or public prosecution because their legal competence provides impartial judgments, aligns with justice commitment, prevents conflicts of interest, upholds integrity, and improves the process.

Conditional release in the UAE is authorized by Federal Decree-Law No. 38 of 2022, which permits those condemned to a custodial penalty to complete their sentences outside of jail under particular terms and supervision. This provision strikes a balance between reform, public safety, and the integrity of the judicial system by allowing individuals to serve their sentences outside of prison while keeping their original conviction and guilty verdict. If the releasee follows the restrictions and behaves well, they may be able to complete their sentence without having to return to prison. It is a supervised rehabilitation term that partially replaces the deprivation of liberty penalty. Individuals are allowed to serve the remainder of their sentence outside of jail under strict terms and supervision, allowing them to return to society and undertake rehabilitation and reintegration. It does not, however, totally eradicate the penalty.

This study makes some recommendations for implementing a balanced conditional release system with the purpose of fostering rehabilitation, public safety, and effective reintegration. They are as follows:

- To maintain fairness and openness, create explicit guidelines for qualifying criteria, application processes, and conditional release restrictions.
- In penal facilities, conduct risk assessments and strengthen rehabilitation programs.
- Increase judicial oversight of conditional release decisions, make information more open, and give full reintegration assistance.

Create a data-driven framework for tracking results and educate law enforcement, correctional personnel, and legal experts on conditional release.

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