



UPR Submission: United Arab Emirates June 2017

Summary

The United Arab Emirates has continued to violate human rights norms since its last Universal Periodic Review in 2012. This submission provides an update on the continued lack of adequate legal protections for migrant workers, women, and members of the LGBT community, suppression of the freedom of expression, and arbitrary detentions and forced disappearances carried out by the UAE both at home and during the military campaign in Yemen.

1. Migrant Workers and Migrant Domestic Workers

Despite labor reforms, the UAE's large migrant worker population remain acutely vulnerable to forced labor. Foreigners account for more than 88.5 percent of UAE residents, according to 2011 government statistics.

The *kafala* (visa-sponsorship) system, with some reforms, continues to tie migrant workers to their employers. Those who leave can be punished for "absconding" and fined, imprisoned, and deported. In 2016, a Labor Ministry decree outlining the rules for terminating employment and granting work permits to new employees took effect, which should theoretically make it easier for workers to change employers before their contract ends if their rights are violated. These reforms however, do not apply to domestic workers.

The UAE rejected recommendations during its previous UPR to ensure swift and effective implementation of legislation protecting the living and working conditions of foreign workers and abuses continue to occur. For example, in 2015, Human Rights Watch documented employers at the Saadiyat Island project withholding wages and benefits from workers, failing to reimburse recruiting fees, confiscating worker passports, and housing workers in substandard accommodation, nearly five years after Human Rights Watch first revealed systematic human rights violations associated with the project. The UAE summarily deported Saadiyat workers who went on strike to protest low pay after their employers contacted the police in 2015.

Migrant workers have no right to organize or bargain collectively, and they face penalties for going on strike.

The UAE continues to exclude domestic workers from UAE labor law protections. At least 146,000 female migrant domestic workers are in the Emirates – primarily from the Philippines, Indonesia, India, Bangladesh, Sri Lanka, and Nepal – cleaning, cooking, and caring for families. A 2014 Human Rights Watch report documented a range of abuses against domestic workers including unpaid wages, confinement to the house, workdays of up to 21 hours with no rest breaks and no days off, and in some

cases, employers physically or sexually assaulting them. Domestic workers face legal and practical obstacles to redress, and many return home without justice.

The UAE has made some reforms to increase domestic worker protection. By the end of 2017, domestic workers are to move from the Ministry of Interior's jurisdiction to the Ministry of Human Resources and Emiratisation, which oversees all other workers. While an important move, this has not resulted in domestic workers benefiting from labor law protections, or labor ministry enforcement mechanisms such as the wage protection system, or reforms to the kafala system. In 2017, the UAE also moved to adopt a new law that would strengthen domestic worker protections, including granting them a weekly rest day and paid leave, but these protections remain weaker than those in the UAE labor law.

As with past labor reforms, strong regulation, inspections, and enforcement of penalties are critical to ensuring that recruitment agencies and employers are held accountable and made to follow the law.

Recommendations

- Pass the draft domestic workers bill. After the bill becomes law, develop implementing regulations that will bring the country into line with the International Labour Organization's (ILO) Domestic Workers Convention.
- Ratify the ILO Domestic Workers Convention and align national laws to the treaty.
- Pass legislation that prohibits employers from retaining their employees' passports and provides for meaningful sanctions for offenders.
- Abide by the obligation under UAE Labor Law of 1980 to implement a minimum wage and cost of living index.
- Ensure that criminal justice authorities aggressively investigate, prosecute in good faith, and impose meaningful penalties on employers that violate relevant provisions of the labor law, penal code, and anti-trafficking law.
- Pass legislation that requires companies to escrow funds to ensure workers receive all benefits and payments in event of bankruptcy or other liability issues.
- Amend UAE labor law to guarantee workers' right to strike—including by establishing explicit voting and notification procedures for strikes—and to provide for binding arbitration of collective labor disputes only upon workers' request and only in limited circumstances.

2. Freedom of Expression

Despite accepting a recommendation in 2012 to “respect the right to freedom of expression and association, and make the minimum use of criminal proceedings against persons availing themselves of those rights”, people in the UAE who speak about human rights abuses are at serious risk of arbitrary detention, imprisonment, and torture, and many are serving long prison terms or have felt compelled to leave the country.

The UAE's 2014 counterterrorism law provides for the death penalty for people whose activities are found to “undermine national unity or social peace,” neither of which are defined in the law.

UAE authorities have launched a sustained assault on freedom of expression and association since 2011.

In March 2017, the UAE detained Ahmed Mansoor, an award-winning human rights defender. He remains detained and is facing speech-related charges that include using social media websites to “publish false information that harms national unity.” A coalition of 20 human rights organizations said

Mansoor was the last remaining human rights defender in the UAE who had been able to criticize the authorities publicly. UAE authorities have harassed and persecuted Mansoor for more than six years.

In the weeks leading up to his arrest, Mansoor had called for the release of Osama al-Najjar, who remains in prison despite having completed a three-year prison sentence on charges related to his peaceful activities on Twitter.

In March 2017, the UAE also sentenced prominent academic Nasser bin-Ghaith to 10 years in prison, whom authorities forcibly disappeared in August 2015, for charges that included speech-related offenses, including peaceful criticism of the UAE and Egyptian authorities. UAE-based Jordanian journalist Tayseer al-Najjar was also sentenced to three years in prison that was related to his online criticism in 2016 of Israeli military actions in Gaza and Egyptian security forces' destruction of tunnels. All of these arrests despite accepting a 2012 UPR recommendation to "Take steps to protect human rights defenders, journalists and religious minorities from discrimination, harassment or intimidation, including the arbitrary deprivation of nationality".

The UAE has also used the pretext of national security to prosecute protected expression. In July 2012, the authorities intensified a crackdown on dissidents with alleged ties to an Islamist group, al-Islah. The mass trial of 94 defendants for alleged links with al-Islah began on March 4, 2013 on charges that they had been part of a group that aimed to overthrow the country's political system. Authorities detained 64 of the men and held them at undisclosed locations for up to a year before the trial, and defendants later claimed in court that they had been ill-treated in detention. The UAE Federal Supreme Court found 69 of the 94 defendants guilty on July 2, 2013.

UAE authorities have also used citizenship revocation as a tool to punish peaceful dissidents and critics. In December 2011, the UAE announced through its official news agency that it had stripped six men of their UAE citizenship for "acts posing a threat to the state's security and safety" based on their membership in al-Islah. In March 2016, the UAE revoked the citizenship of two daughters and a son of imprisoned political dissident Mohammed Abdulraziq Al-Siddiq, who is serving a ten-year sentence following his conviction on charges stemming from peaceful political activities.

According to a 2016 report from Citizen Lab, a research institute at the University of Toronto that focuses on internet security and human rights identified a series of digital campaigns against UAE dissidents, dating back to 2012. Citizen Lab described the operator of these campaigns as "a sophisticated threat actor," and said that it was implausible that a state-actor was not behind the campaign. The research identified several pieces of information suggesting a connection between the operator and the UAE government.

Recommendations

- Release all prisoners held solely for their peaceful practice of their rights to free expression and association, including prisoners convicted of alleged crimes, prisoners currently on trial, and prisoners held arbitrarily.
- Revoke Penal Code articles and other criminal legislation used to prosecute individuals for the exercise of the rights to freedom of expression, association, or peaceful assembly, or amend such articles so that they comply with international law.
- Review all laws in the area of cybercrime, information and communications technology (ICT), and telecommunications to ensure their compliance with international human rights standards.

- Review all laws in the area of counterterrorism to ensure their compliance with international human rights standards.
- Halt arbitrary withdrawals of citizenship in retaliation for peaceful criticism and provide judicial remedies for those who have faced withdrawal of citizenship.

3. Arbitrary Detention, Torture, and Mistreatment of Detainees

The UAE arbitrarily detains, and in some cases forcibly disappears, individuals who criticize the authorities, and its security forces face allegations of torturing detainees both in the UAE and in Yemen. The UAE accepted just 2 out of 17 recommendations related to the issue of torture during its 2012 UPR, including those proposing a standing invitation to the Special Rapporteur on Torture, or calling on the UAE to ratify the OP-CAT.

In February 2017, a group of United Nations human rights experts criticized the UAE’s treatment of five Libyan nationals who had been held in arbitrary detention since 2014. Individuals arrested at the same time but subsequently released alleged that authorities tortured them to secure confessions and said they heard other detainees being tortured. The Libyans said their interrogators asked them about supposed links to the Muslim Brotherhood – which the UAE has designated a terrorist organization – and described being subjected to beatings, forced standing, and threats of rape, electrocution, and death. The special rapporteur on torture said he had received credible information that authorities subjected the men to torture. In May 2016, the Federal Supreme Court acquitted the men of having links to armed groups in Libya.

In another case involving the UAE’s state security apparatus, the son of an adviser to former Egyptian President Mohamed Morsy claimed that UAE authorities subjected him to “brutal physical and psychological torture” to get him to confess to membership in the Muslim Brotherhood. The allegation echoes numerous others that state security detainees have made since 2012.

In March 2016, a Dubai court acquitted British businessman David Haigh of charges brought under the UAE’s cybercrime laws. Haigh claimed after his release that Dubai police had punched and tasered him in an unsuccessful effort to make him confess to accusations of fraud. Haigh said that he regularly witnessed prison officers beating inmates during his two years of incarceration but was not able to see the evidence against him at his trial nor give evidence or cross-examine witnesses.

The UAE is a member of the Saudi-led coalition that has conducted aerial and ground operations in Yemen since March 2015, including scores of apparently unlawful attacks. The UAE supports Yemeni forces that have arbitrarily detained, forcibly disappeared, tortured, and abused dozens of people during security operations in Yemen. Human Rights Watch has documented UAE-backed security forces arbitrarily detaining or forcibly disappearing at least 38 individuals. The UAE also runs at least two informal detention facilities, and its officials appear to have ordered the continued detention of people despite release orders, and forcibly disappeared people, including reportedly moving high-profile detainees outside the country.

Recommendations

- Grant lawyers, journalists, independent monitors of detention facilities and human rights monitors access to both official and unofficial detention facilities in the UAE and to any UAE-run facilities in Yemen.

- Provide independent forensic medical examinations to defendants who say they have been tortured.
- Exclude evidence obtained by torture from any trial proceedings.
- Ensure prompt, independent, and impartial investigations into allegations of torture and other ill-treatment, enforced disappearances, and other serious human rights violations and bring those responsible to justice in proceedings that comply with international fair trial standards;
- Ensure that victims of torture, enforced disappearance, and arbitrary detention receive full reparations.
- Ratify the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4. Women’s Rights, Children’s Rights and Sexual Orientation and Gender Identity

Discrimination on the basis of sex and gender is not included in the definition of discrimination in the UAE’s 2015 anti-discrimination law, despite accepting during its 2012 UPR to “Fully incorporate in the Constitution or other national legislation the principle of equality between men and women”.

Federal law No. 28 of 2005 regulates matters of personal status in the UAE, and some of its provisions discriminate against women. For instance, the law provides that, for a woman to marry, her male guardian must conclude her marriage contract; men have the right to unilaterally divorce their wives, whereas a woman who wishes to divorce her husband must apply for a court order; a woman can lose her right to maintenance if, for example, she refuses to have sexual relations with her husband without a lawful excuse; and women are required to “obey” their husbands. A woman may be considered disobedient, with few exceptions, if she decides to work without her husband’s consent.

In 2010, the Federal Supreme Court issued a ruling—citing the penal code—that sanctions husbands’ beating and inflicting other forms of punishment or coercion on their wives, provided they do not leave physical marks.

UAE law permits domestic violence. Article 53 of the UAE's penal code allows the imposition of “chastisement by a husband to his wife and the chastisement of minor children” so long as the assault does not exceed the limits prescribed by Sharia, or Islamic law. Marital rape is not a crime in the UAE.

Article 356 of the penal code criminalizes (but does not define) “indecent,” and provides for a minimum sentence of one year in prison. In practice, UAE courts use this article to convict and sentence people for *zina* offenses, which include consensual sexual relations outside heterosexual marriage and other “moral” offenses, including same-sex relations. Different emirates within the UAE have laws that criminalize same-sex sexual relations, including Abu Dhabi where “unnatural sex with another person” can be punished with up to 14 years in prison, and Dubai which imposes 10 years of imprisonment for sodomy. The UAE rejected both recommendations it received in 2012 to de-criminalize consensual same-sex marriage.

Recommendations

- Enact a law prohibiting any form of discrimination against women in practice, policy or regulation.

- Amend or Abolish Penal Code Article 53, explicitly stating that no family member has the authority to “discipline” female dependents using violence and that “discipline” is not a legal defense in cases involving family violence.
- Enact a law criminalizing domestic violence and that provides for prevention of domestic violence, protection of survivors, and prosecution of abusers. Establish separate units within police stations focused on domestic violence and ensure that all police stations employ female officers. Issue guidelines to police on how to deal with domestic violence cases, including penalties for officers who do not allow women to file a complaint.
- Reform the Personal Status Law to provide women with equal rights in entering marriage, during marriage, and at its dissolution, including in all issues concerning children, inheritance, and property rights.
- Undertake a thorough review and issue guidance to judges prohibiting them from enforcing a male’s authority over a woman through the legal system.
- Decriminalize adult, consensual sexual relations conducted in private.