



Universal Periodic Review – United Arab Emirates (UAE)

Submission to the Universal Periodic Review
29th Session of the UPR working group
June 2017

Submitted by:

International Centre for Justice and Human Rights (ICJHR)

www.ic4jhr.org

icjhr.geneva@gmail.com

150 Route de Ferney
1218 Grand Saconnex,
Geneva, Switzerland

Tel. +41 22 920 29 29

Web. www.ic4jhr.org

Email. info@ic4jhr.org

ICJHR is a Geneva-based non-profit and non-governmental organization established in May 2014 according to the Swiss Associations' Law. Its work focuses on the promotion and protection of human rights in the Arab Gulf region, particularly in the United Arab Emirates (UAE). We work on case submissions and urgent actions with the UN Special Procedures to advocate for human rights and raise awareness of human rights situations in the region

Introduction

1. The Government of UAE received 33 recommendations concerning right to freedom of opinion and expression, human rights defenders and other related issues during its 2nd UPR cycle.

2. This submission demonstrates that the right to freedom of opinion and expression continues to be restricted and not fully and effectively respected and protected in practice. On the contrary, the UAE Government recently issued new legislations and amend its domestic laws as a device to repress individuals from exercising such fundamental right. Cases of human rights violation against human rights defenders have also been increasingly reported during the past few years. Enforced disappearance, arbitrary arrest and detention as well as torture and ill-treatment remain systematic and widespread in the UAE criminal justice system and are known to be used to suppress human rights defenders and political opponents.

Legal Framework

(a) Amendment of relevant legislation to guarantee freedom of expression¹

3. The right to freedom of opinion and expression is guaranteed by the UAE government and is in fact explicitly enshrined in its legal frameworks at both national² and regional level.³

4. Nonetheless, at international level, the UAE have not ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention for the Protection of All Persons from Enforced Disappearance (ICED).

5. Despite being guaranteed by the laws, the right to freedom of opinion and expression in the UAE is restricted and often violated. Furthermore, despite its commitment made during the last UPR in 2013 by accepting the aforementioned recommendations, during the past recent years, not only the UAE did not comply with the recommendations to amend relevant legislation to ensure that it is aligned with international human rights law on the freedom of expression but also issued new legislations and amended its existing laws to strictly control over the right to freedom of opinion and expression.

6. On 18 September 2016, the Emirati President issued Decree Law No. (7) of 2016 amending the UAE Federal Penal Code No. (3) of 1987. The decree amended various articles which endangers the right to freedom of expression. Some articles could be used as a pretext to detain human rights defenders and restrict their freedom.⁴

7. The new law punishes with 15 to 25 years of prison anyone who “*insults the president of the UAE*” (Article 176) and with 10 to 25 years anyone who “*insults, mocks, harms the reputation, prestige or statute of the state, its flag, its emblem, its symbols or any of its*

¹ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph nos. 128.106 (United Kingdom of Great Britain and Northern Ireland) p.21, 128.109 (Turkmenistan) p.22, 128.111 (Italy) p.22, and 128.114 (Sweden) p.22 of the report.

² The Emirati Constitution guarantees such right under Article 30 which directly states about freedom of expression that “Freedom to hold opinions and express them orally, in writing or by other means of expression shall be guaranteed within the limits of the law” and Article 31 which affirms the right to communication and its secrecy.

³ At regional level, as a state party to Arab Charter on Human Rights since its ratification in 2008, the UAE is bound by legal obligations to guarantee fundamental rights and freedoms as stipulated under the Charter including Article 26 which states that “Everyone has a guaranteed right to freedom of belief, thought and opinion”.

⁴ Articles 176, 180, 180 bis, 181, 182, 197 bis 1 et2, 198, 198 bis

institutions.” Such a provision hinders the right to peaceful criticism and violate the right of individuals to hold and voice their opinion.

8. Other articles including Article 182 bis⁵ further restrict the right to freedom of opinion by criminalizing the communication of ideas that “*endanger state security*”, a term so vague it has been used by the UAE government to suppress human rights defenders and silence their free voices.

9. On November 12, 2012, Federal Decree Law No. (5) of 2012 on Combating Cybercrimes was issued. The decree’s vaguely worded provisions provide a legal basis to prosecute and jail people who use information technology to, among other things, criticize senior officials, argue for political reform, or organize unlicensed demonstrations.

10. The examples of such vague and broad provisions can be seen from Article 28⁶, Article 29⁷ and Article 38⁸ of the law.

11. Many human rights defenders were arbitrary detained and sentenced on the basis of this law between 2013 and 2017. Moreover, on 12 March 2017, Ministerial Resolution No. 220 of 2017 established a Federal Public Prosecution specialized in Information Technology crimes.

(b) Legal and administrative measures taken to combat terrorism and respect of human rights and fundamental freedoms⁹

12. On 21 August 2014, the UAE President approved a new law on anti-terrorism offences (Federal Law No. (7) of 2014 on Combating Terrorism Offences), which is an update of the 2004 Act. The new law adds to a series of restrictive laws in the UAE, which seeks to suppress freedom of opinion and expression and uses ‘terrorism’ as a pretext to repress political dissidents as well as human rights defenders.¹⁰

13. The law contains vague provisions and the term ‘terrorism’ is not clearly defined, which leads to broad and arbitrary interpretations by the UAE authorities. This as a consequence opens the door to human rights violation i.e. it leads to generalize sentences against dissidents and human rights defenders under the pretext of ‘threat to national security or attack those in power’. It is of particular note that the new law also includes severe punishments by stating that any person who attacks or threatens, criticizes or threatens citizens, government officials, deputies, the Head of State or the ruling families, faces severe penalties amounting to life imprisonment or capital punishment.

⁵ Article 182 bis states that “a person shall be punished by imprisonment for a term not less than ten years, when he takes advantage of religion in promoting orally, in writing or in any other way ideas that may harm the unity or the social peace of the state.”

⁶ which provides for imprisonment and a fine of up to 1 million dirhams for anyone who uses information technology “with the intent of inciting to actions, or publishing or disseminating any information, news, caricatures, or other images liable to endanger state security and its higher interests or infringe on the public order”.

⁷ which imposes the same penalties for anyone using information technology “with the intent of deriding or harming the reputation, stature, or status of the state, any of its institutions, its president or vice president, the rulers of the emirates, their crown princes or their deputies, the state flag, national safety, its motto, its national anthem, or its symbols”.

⁸ which provides prison terms for anyone using information technology “who provides to any organizations, institutions, agencies, or any other entities incorrect, inaccurate, or misleading information liable to harm state interests or damage its reputation, stature, or status”.

⁹ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.157 (Mexico) p.24 of the report.

¹⁰ See our analysis of the law: <http://www.ic4jhr.org/en/activites/reports/106-reading-of-the-new-anti-terrorism-act-in-the-united-arab-emirates.html>

Trends and Recent Cases

(a) Protect human rights defenders from discrimination, harassment or intimidation¹¹

14. Despite its acceptance of the recommendation, human rights defenders continue to be discriminated and harassed by the UAE authorities i.e. they were subject to enforced disappearance and arbitrary arrest and detention, merely based on their peaceful exercise of the right to freedom of opinion. In fact, there are approximately 200 prisoners of conscience in the UAE.

15. On 2 July 2013, a group of 69 Emiratis known as UAE94 was convicted in unfair trial and sentenced from 7 to 15 years in prison for the peaceful exercise of their right to freedom of expression and association. They were imprisoned in Al-Razeen prison in Abu Dhabi and faced discriminatory treatment such as solitary confinement, torture, and ill-treatment.¹² The group of “UAE 94” was particularly targeted by the government for revenge and retribution.

16. On 20 March 2017, 12 members of the UAE security forces arrested human rights defender Ahmed Mansoor without a warrant after an overnight raid at his home in Ajman and confiscated all his electronic equipment and his family’s computers and cellphones. His family had no information on his whereabouts until authorities issued an official statement on 29 March 2017, saying he was arrested by the IT crimes prosecution and detained in the Central Prison in Abu Dhabi.

17. It is strongly believed that this arbitrary arrest of Mansoor is a result of his human rights activities and his use of the Internet to express his opinions and views and to expose gross human rights violation taking place in the UAE.

18. Since his arrest, Mansoor’s family has been allowed only one short visit with him on 3 April 2017, when authorities moved him from where he was being held, believed to be a detention facility adjacent to Al-Wathba Prison, to a prosecutor’s office in Abu Dhabi. It is reported that Mansoor is being held in solitary confinement with no access to a lawyer.

(b) Allow individuals the right to associate freely and provide expeditious due process for all those accused of crimes¹³

(c) Make the minimum use of criminal proceedings against persons availing themselves of the right to freedom of expression¹⁴

19. Many cases obviously demonstrate that the UAE government fails to implement the above recommendations. Instead, criminal proceedings have been used as a tool to repress human rights defenders and many times their right to fair trial was not guaranteed.

20. On 29 March 2017, Dr. Bin Ghaith was convicted to ten years’ imprisonment by the Federal Appeal Court on charges of criticizing the Egyptian government on twitter, spreading false news about the UAE rulers and policies and collaborating with opponents. After his

¹¹ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.105 (Austria) p.21 of the report.

¹² ICJHR, report on prison condition in UAE 30/08/2016 <http://www.ic4jhr.org/en/activites/reports/519-uae-report-on-the-prison-conditions-in-the-united-arab-emirates.html>

¹³ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.119 (United States of America) p.22 of the report.

¹⁴ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.103 (Belgium) p.21 of the report.

conviction, he issued an open letter¹⁵ declaring his intention to go on a hunger strike on 2 April 2017 until his unconditional release and an authorization to allow him and his family to leave the country. Following his sentence, he was transferred to Al Razeen prison. Dr. Bin Ghaith, an economic expert and human rights defender, was arrested by the Emirati authorities without a warrant in August 2015 on account of his peaceful activities on Twitter. Since his arrest, he was subjected to torture and humiliation i.e. he was detained in secret detention for months and denied the right to contact a lawyer or his family. During his first hearing on 4 April 2016, Bin Ghaith informed the judge about the torture and ill-treatment he was subjected to but the judge refused to listen to him and turned off the microphone.

21. The date 17 March 2017 marked the official end of Al Najjar's sentence to three years of imprisonment.¹⁶ Nonetheless, the Court refused to release him and transferred him to a counselling centre (Munasaha Centre)¹⁷ after he was considered as a "threat" according to the Article 40¹⁸ of the Federal Law no. (7) of 2014 on Combating Terrorism Offences. On 1 June 2017, the Court extended his detention for a period of six months.

22. Al-Najjar was arrested on 17 March 2014¹⁹. On 25 November 2014, he was tried before the State Security Chamber of the Federal Supreme Court and sentenced with a final judgment to three years of imprisonment, a fine of Dh500'000 (136'000 US Dollars). The verdict of the Federal Supreme Court was final and may not be appealed under the UAE legislation²⁰.

(d) Investigate all allegations of torture and prosecute those responsible²¹

(e) Combat all cases of torture and other cruel, inhuman or degrading treatment and launch the National Verification Mechanism that allows to bring complaints before the judiciary²²

23. Despite its commitment to the recommendations, reports on torture and ill-treatment against human rights defenders in the UAE have increased. Neither serious and impartial

¹⁵ See the letter translated from Arabic, <http://www.ic4jhr.org/en/activites/statements/693-uae-dr-nasser-bin-ghaith-issues-an-open-letter-from-his-prison-in-the-united-arab-emirates-3.html>

¹⁶ He was charged with belonging to Al-Islah, offending the State via Twitter, and spreading lies about the torture of his father, Hussain Al-Najjar, who is one of the UAE94 human rights activists and currently serving an 11-year jail term.

¹⁷ The UAE authorities have used provisions regarding the Munasaha Centre to arbitrarily extend detention period of human rights defenders. Apart from Al-Najjar, there are also cases of Ahmed Mohamed Al-Mulla, Badr Al-Bahri and Abdullah Al-Helou. See Annex for our statement on Munasaha Centre.

¹⁸ Article 40: 1. A person shall be deemed as posing terrorist threat if said person adopts the extremist or terrorist ideology to the extent that he/she seem likely to commit a terrorist offence. 2. If a person appears to pose terrorist threat, he/she shall be sent to Munasaha centers, by virtue of a judgment issued by the Court and upon a request of the prosecution. 3. Every three months, the Munasaha Centre shall submit to the Prosecution a periodic report on the person sent to the Centre. The Prosecution shall submit such report along with its opinion to the court. The court shall order release of the person should it find that his/her condition so allows.

¹⁹ He was arrested by ten state security officers during a raid on his home and later taken to a state security secret detention centre, where he was interrogated and tortured. On 21 March 2014, he was transferred to Al-Wathba prison in Abu Dhabi. The Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment also issued a report on the arbitrary arrest, detention and torture of Al-Najjar. See the report at: UA G/SO 218/2 G/SO 214 (67-17) Health (2002-7) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (53-24) ARE 3/2014.

²⁰ In September 2016, the President Shaikh Khalifa Bin Zayed Al Nahyan issued a new law introducing the Federal Court of Appeal

²¹ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.131 (Denmark) p.23 of the report.

²² Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.132 (Spain) p.23 of the report.

investigation on allegations of torture is conducted nor the National Verification Mechanism is established.²³

24. Indeed, ICJHR in Geneva has received credible and frequent information, from inside and outside the UAE, stating that the detainees, including dissidents and human rights activists, were exposed to torture and other cruel, inhuman and degrading treatment by the prison authorities.²⁴

25. The prison authorities practice various methods of torture including, electrocution, beatings with sticks, suspension by the wrists or ankles, denailing, pelage, throwing insects, immersion in cold water in front of a fan, putting the detainee in a coffin for long hours, solitary confinement in very narrow and dark cells, threat of using the electric chair, confiscating the detainees' eyeglasses which weakened their eyesight, sleep deprivation, denial of exposure to the sun and air for months, standing on one leg during the investigation, putting prisoners under the sun for long hours, erosion and stripping detainees of all their clothes, cursing and humiliation, preventing detainees from making their religious practices such as fast and prayers, putting loud speakers praising the ruler.

26. On Thursday 25 May 2017, the Al Razeen prison authorities ordered Nepali guards to break into the prisoners' wards at 2 am, where prisoners of conscience are detained and asked them to take off all their clothes and cover their intimate body parts with only a towel. They were searched and all their body parts were touched in an insulting and degrading manner. Such degrading search caused the human rights activist Omran Radwan to go on a hunger strike in protest since 25 May 2017 until today.

27. In November 2015, the Al Razeen prison authorities installed loud speakers in each block to play extreme loud propaganda music that praises the ruler of Abu Dhabi. Due to the noise, Al-Roken²⁵ had a panic attack and fainted on the floor. Despite ringing the emergency bell and cameras installed in each cell, no guards immediately responded. Al-Roken was diagnosed with high blood pressure and ears infection caused by the unbearable noise. After this incident, he was transferred to a solitary confinement and forbidden from any visit.

28. The majority of "UAE 94" group²⁶ is detained in Al Razeen prison. Detainees reported that conditions in the prison are inhumane, humiliating and degrading. In September 2015, the prison authorities escalated their attack against prisoners as an authority named Tarek Hamad Al-Mekbali, along with a group of heavily armed Nepali guards, cuffed the hands and feet of prisoners, in addition to all those who protested against the barbarian practices inside the prison. Late at night, they put them in a yard outside the ward and humiliated them. Early 2016, many members of the "UAE 94" group were exposed to systematic punishment in Al

²³ The ICJHR has already revealed some of the names of persons who have tortured and mistreated the detainees including a police officer named Ahmed Abdullah who chained the prisoners' hands and legs from behind and made them with their hands bound, sit in the prison yard at noon under the scorching sun, which hurt and harmed them with marks in their hands and legs. Afterwards, he searched the luggage of the detainees, accompanied by the rest of the guards, and purposely started to scatter the prisoners' luggage, throw chairs, and squeeze shampoo and toothpaste on room floors in front of them.

²⁴ See Annex for our 2016 Report on Torture in the United Arab Emirates.

²⁵ In July 2012, Dr. Al-Roken is a lawyer who was subjected to enforced disappearance for eight months. Security forces arrested him as part of a wave of mass arrests that began in March 2012. The government initiated the campaign of arrests after a group of prominent activists, including Al-Roken, sent a petition to the president calling for legislative reforms. In July 2013, Dr. Al-Roken was sentenced to ten years' imprisonment and three years' probation.

²⁶ See Opinions adopted by the Working Group on Arbitrary Detention at its sixty-eighth session (13–22 November 2013) No. 60/2013, United Arab Emirates (UAE), A/HRC/WGAD/2013/60, which discusses on the case of "UAE 94" group.

Razeen prisons. Ill-treatment of detainees has led to a state of emaciation, yellowing and deterioration of prisoners' health.²⁷

(f) Take steps to protect human rights defenders from discrimination, harassment or intimidation, including the arbitrary deprivation of nationality²⁸

29. It is not only human rights defenders who are subject to human rights violation and abuses by the UAE authorities on account of their peaceful activities, but their family members' rights and freedoms are also affected as a means of reprisal.

30. Numerous reported incidents of the family members' human rights violation by the authorities are including but not limited to denial of a right to visit their detained family member, harassment and humiliation during their visit, denial of access to administrative documents²⁹, and revocation of their nationality.

32. In 2016, ICJHR reported fifteen cases of nationality withdrawal, some of which included the whole family (father, mother, children and even the grandchildren) while other cases applied only to father and children without mother. The ICJHR has been informed that the total number of the persons who were stripped of their nationality has reached 60 individuals.

33. In March 2016, Mr. Mohammed Abdul Razzaq Al-Siddiq's³⁰ two daughters and son namely, Asma, Duaa and Omar Abdul Razzaq Al-Siddiq were deprived of their nationality.³¹ Their nationalities were revoked without any legal basis or justification and they were forced to leave the country. The UAE authorities only revoked the nationality of the three siblings, among ten others, known for their background of online activism, which further demonstrates the practice of repression.

34. Considering its accepted recommendations, it can be noted that the UAE has wholly failed to implement them. While the State guarantees the right to freedom of opinion and expression in its legal frameworks, in reality the laws are not effectively enforced. On the contrary, the UAE authorities indeed issued new legislations and amend the existing laws to be used as a device to restrict freedom of expression and to prosecute human rights defenders. Reported cases on human rights violation against human rights defenders have been drastically increased and the authorities continue to use 'public interest' and 'national security' as a pretext to suppress political dissidents.

²⁷ The inhumane practices are: (1) Denial of going out during the day, prison's authorities had to give prisoners extra vitamin D tablets every night to compensate for its lack. (2) Locking prisoners in their cells from 10am to 5am in complete darkness, which put them in isolation, hence, depression and mental disorders. (3) Most detainees complain about their worn and torn clothes. The prison's administration did not change their clothes for more than a year as they are prohibited to accept clothes from their families. Prisoners had to patch and tie worn parts. In November 2015, Al Razeen authorities have installed loud speakers in each block to play extreme loud propaganda music that praises the ruler of Abu Dhabi. Many prisoners have described the noise level as very loud, unpleasant and harmful. This music has been played not only during the whole day but also from 1 am to 2 am, i.e. during normal sleeping hours. It aims to provoke the prisoners. See Annex for our 2016 Report on Prison Conditions in the United Arab Emirates.

²⁸ Report of the Working Group on the Universal Periodic Review, United Arab Emirates (UAE), A/HRC/23/13, 23 March 2013. Recommendation at paragraph no. 128.105 (Austria) p.21 of the report.

²⁹ See our report submitted to the CEDAW Committee in its review to the United Arab Emirates' Periodic Report-62nd session

http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf

³⁰ Mr. Mohammed Abdul Razzaq Al-Siddiq was convicted in the UAE94 mass trial in July 2013

³¹ The general directorate of residency and foreigners affairs deprived them of all their official documents including their ID card, passport, driving license, health insurance and credit cards, resulting them in being stateless.

Recommendations

- 1- Introduce effective political reforms, respect freedom of expression in laws and in practice, and make the minimum use of criminal proceedings against persons availing;
- 2- Repeal the new legislatures that criminalize and repress peaceful practice of freedom of expression, or at least amend such laws, including Counter-Terrorism Law No. (7) of 2014, Cybercrimes Law No. (5) of 2012, and Penal Code No. (3) of 1987 and its amendment by Federal Decree Law No. (7) of 2016 to make them compatible with international laws and standards, and implement them in a transparent and effective manner;
- 3- Enhance implementation of the constitutional provisions on freedom of expression;
- 4- Take steps to protect human rights defenders and journalists from discrimination, harassment or intimidation, including the arbitrary deprivation of nationality;
- 5- Release all prisoners of conscience and human rights defenders;
- 6- Allow the Special Rapporteur on human rights defenders and the WGEID to visit the UAE;
- 7- Allow the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to visit the country to monitor human rights situation as well as to investigate allegations of torture and abuses;
- 8- Ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention for the Protection of All Persons from Enforced Disappearance;
- 9- Withdraw reservations on Articles 20 and 30 of the Convention against Torture and consider ratifying the Optional Protocol (OPCAT);
- 10- Stop the collective punishments imposed on prisoners of conscience's family members and guarantee their right to nationality, freedom of movement, study and employment, and independently access to administrative documents and procedures.
- 11- Implement the recommendations of CEDAW and CRC regarding women human rights defenders and rights of the child;
- 12- Investigate promptly and in an independent manner all cases of arbitrary and incommunicado detention, enforced disappearances as well as torture and ill-treatment, provide the victims with access to effective remedies, full redress and rehabilitation, and hold the perpetrators accountable;
- 13- Establish a national human rights institution in accordance with the Paris Principles with its mandate to monitor and examine allegations of human rights violations;
- 14- Stop using the provisions regarding Munasaha Centre in an abusive manner as a ground to arbitrarily extend detention period of prisoners of conscience;
- 15- Ensure that all persons deprived of their liberty receive a fair and public hearing by an independent and impartial court in accordance with international human rights standards.

Annex

1. ICJHR, Statement, *“UAE authorities misuse “Counselling Centres” to extend imprisonment of human rights defenders”*, 24 May 2017
2. ICJHR, report, *“Torture in the United Arab Emirates”*, June 2016
3. ICJHR, Report, *“Prison Conditions in the United Arab Emirates”*, August 2016