



Universal Periodic Review: United Arab Emirates

Third Cycle

Submission to the Stakeholders' Summary

Alkarama Foundation, 29 June 2017

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1. The present contribution falls within the framework of the third cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in the United Arab Emirates and takes into account the recommendations made in June 2013.

1 Background framework

2. Over the past four years, the human rights situation in the UAE has deteriorated and basic rights and civil liberties have increasingly been curbed. Lawyers, teachers, human rights defenders and anyone openly critical of the government has been prosecuted for endangering national security under charges that clearly fall within their rights to freedom of expression and peaceful assembly. After the largest political trial in the country's history – in the case of 94 people who were charged and brought before the National Security Court and sentenced to lengthy prison terms following an unfair trial¹ – the country has seen the cycle of repression intensify after 2014.

3. Moreover, recently the authorities started using deprivation of nationality under the pretext of "national security" as a new and ultimate tool to suppress dissenting voices, in clear violation with article 15 of the Universal Declaration of Human Rights (UDHR).

4. After an official country visit from 27 January to 5 February 2014,² the Special Rapporteur on the independence of judges and lawyers (SRIJL), Gabriela Knaul, expressed deep concerns over the human rights situation in the country, in particular with regards to the lack of independence of judges and lawyers, and the grave violations that persist, including secret and *incommunicado* detention and torture.

5. In addition, the rights and freedoms in the country are being increasingly restricted by an oppressive legal arsenal: the 2014 Law on Combating Terrorism Offences, the 2012 Law on Combating Cybercrime and the new amendments to the Penal Code. This repressive arsenal was repeatedly used to punish peaceful activists on account of their statements or public positions against the government, especially on social media.

1.1 Scope of international obligations

6. The UAE has neither ratified the International Covenant on Civil and Political Rights (ICCPR) nor the International Convention for the Protection of All People from Enforced Disappearance (ICCPED) and the Optional Protocol to the UNCAT.

7. Recommendations:

- a) Ratify the abovementioned Conventions.

1.2 Constitutional and legislative framework

8. During the last UPR, the UAE agreed to repeal the 1980 Law on Publications,³ yet to date the recommendation has not been implemented and the law is still in force.

9. On 20 August 2014, Federal Law No. 7/2014 "On Combating Terrorism Offences" was issued, which defines a terrorist act as any act that would cause "unrest or panic among a group of people" or that would otherwise "upset the State", without specifying for example the violent nature of such acts,⁴ and therefore paving the way for the criminalisation of peaceful acts of protest.

10. The UAE Cybercrime Law No. 5/2012 was enacted on 13 August 2014, which among other provisions violating the fundamental right to freedom of expression, criminalises defamation and slander

¹ Alkarama Foundation, *UAE: Unfair Mass Trial of 94 Dissidents*, 3 April 2013, <https://www.alkarama.org/en/articles/uae-unfair-mass-trial-94-dissidents> (accessed on 21 June 2017).

² OHCHR, *UN human rights expert urges the United Arab Emirates to strengthen the independence of its judiciary*, 6 February 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14237&> (accessed on 21 June 2017).

³ Recommendation n. 128.106. (United Kingdom of Great Britain and Northern Ireland).

⁴ Article 1.

and provides for harsh prison sentences up to life imprisonment for anyone, "who establishes, manages or runs a website, or publishes information aiming or calling to overthrow or change the ruling system of the State".⁵

11. On 18 September 2016, Decree Law No. 7/2016 was issued, amending the UAE Penal Code. The decree, which amends 132 existing articles and adds 34 new articles to the PC, endangers basic rights including the right to life and the right to freedom of opinion and expression as well as the right to freedom of peaceful assembly and association.

12. Recommendation:

- a) Amend these national legislations restricting fundamental freedoms to bring them into conformity with international standards.

1.3 Institutional and human rights infrastructure

13. Despite the UAE's commitment⁶ to establish a National Human Rights Institution (NHRI) in accordance with the Paris Principles, no such body has been put into place to date.

14. However, by virtue of Decision No. 7/2013, the government established a consultative Human Rights Committee within the UAE Federal National Council. This permanent parliamentary Committee is mandated, *inter alia*, with giving its opinion on the compliance of draft laws with the constitution, national legislation and international obligations of the UAE. Given that since 2013, laws that severely restrict fundamental human rights were passed, it becomes obvious that this Committee either lacks independence or can easily be discarded given its mere consultative nature.

15. The human rights department within the Ministry of Interior (MoI) is concerned with including human rights programs in the curricula of police institutes and monitoring its compliance with human rights regulations as well as receiving complaints, petitions and grievances related to human rights violations.⁷ There is very little information on the activity of the department and its capacity to independently and effectively investigate human rights complaints. It clearly lacks transparency as its annual reports of 2015 and 2016 have not been made available to the public and cannot be found on the website of the Ministry.

16. Recommendation:

- a) Establish without further delay an independent NHRI in line with the Paris Principles, and ensure the independence and effectiveness of other human rights protection and promotion mechanisms.

2 Cooperation with human rights mechanisms

2.1 Cooperation with Treaty Bodies

17. On 19 July 2012, the UAE acceded to the UNCAT. The initial State report to the Committee against Torture (CAT), due on 19 August 2013, is therefore nearly four years late.

18. Recommendation:

- a) Submit the overdue periodic report to the CAT.

2.2 Cooperation with Special Procedures

19. Despite having accepted the recommendation of considering to invite the Special Rapporteur on the protection and promotion of human rights while countering terrorism (SRCT),⁸ the UAE has since its last review, only received the visit of the SRIJL. The request for a visit by the SRCT was initially sent in September 2013 and renewed in March 2014, but no date for a visit has been set.

⁵ Article 30.

⁶ Recommendation n.128.41. (Burkina Faso; Cote d'Ivoire; Algeria; Maldives); n. 128.42. (Togo); n. 128.43. (Montenegro); n. 128.44. (Bahrain); n. 128.45. (Malaysia); n. 128.46. (Tunisia); n. 128.47. (Norway).

⁷ See website: <https://www.moi.gov.ae/ar/Central.Departments/genericcontent/for.administration.aspx> (accessed on 22 June 2017).

⁸ Recommendation n. 128.150 (Mexico).

20. The UAE has eight pending invitations by Special Procedures mandate holders, some dating as far back as 2005. The most recent request for a country visit to the UAE was addressed by the Working Group on Arbitrary Detention in February 2017.

21. Alkarama notes that the request by the Special Rapporteur on the situation of human rights defenders (SRHRD) in 2012 and the requests by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (SRFRDX) of 2014 remain unanswered.

22. Recommendations:

- a) Set, without delay, a date for the visit of the SRCT;
- b) Plan the visits of the SRHRD, SRFRDX, SRT and the WGAD.

2.3 Cooperation with the Security Council

23. According to a UN Security Council report published in June 2017,⁹ the UAE breached the arms embargo to Libya,¹⁰ providing attack helicopters, attack aircraft and armoured vehicles to forces loyal to Khalifa Haftar, in violation of its obligation as Member State.

24. Recommendation:

- a) Respect and comply with the resolutions of the UN Security Council.

3 Implementation of international human rights obligations

3.1 Right to life, liberty and security of the person

3.1.1 The death penalty

25. In January 2014, the UAE President ordered a hold on all executions,¹¹ an action interpreted as a first step towards a definitive moratorium on the use of the death penalty. However, in December 2016, Law No. 7/2016 amending the UAE Penal Code was passed, expanding the application of the death penalty to more than 16 articles. Some of the new provisions impose the death penalty and do not provide for a lesser alternative such as life in prison. Mandatory death sentences are contrary to the right to life as provided for by article 3 UDHR, as they amount to arbitrary deprivation of life.¹²

26. Furthermore, the new law provides the death penalty for a wide array of crimes including "attempts at the life of the president of the UAE [...] whether the crime was committed or only planned",¹³ which fails to comply with the international norm of applying the death penalty only for the most "serious crimes".¹⁴

27. Finally, the new law also calls for the application of the death penalty or life in prison with regards to the establishment or the participation in certain organisations without reference to acts of violence or any aggravating factor.¹⁵ These articles clearly violate the right to life, while simultaneously restricting the right of freedom of assembly and association.

28. Recommendations:

- a) Establish a *de jure* moratorium on the death penalty;
- b) Repeal provisions of the Penal Code that impose the death penalty and limit its application to the most serious crimes.

⁹ Letter dated 1 June 2017 from the Panel of Experts on Libya established pursuant to resolution 1973 (2011) addressed to the President of the Security Council, (S/2017/466).

¹⁰ Resolution 2292 (2016).

¹¹ Kuwait News Agency, *EU welcomes stay of executions in UAE*, 7 February 2014, <http://www.kuna.net.kw/ArticlePrintPage.aspx?id=2359928&language=en> (accessed on 14 June 2017).

¹² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston to the Human Rights Council, 29 January 2007, A/HRC/4/20.

¹³ United Arab Emirates, Law No. 7/2016, article 175.

¹⁴ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston to the Human Rights Council, 29 January 2007, A/HRC/4/20.

¹⁵ Article 180 & 181.

3.1.2 Torture: a persistent issue

29. Since the last UPR, and despite the UAE's accession to the UNCAT, torture has still not been eradicated and many victims continue to be reported. Indeed, in 2013, in the aftermath of the UAE 94 trial,¹⁶ numerous consistent allegations of torture in detention emerged illustrating this systematic practice.¹⁷ Among the acts reported by detainees were beatings with plastic tubes, electrocutions, exposure to extreme temperatures, sleep deprivation and prolonged solitary confinement.

30. A number of cases were further documented whereby victims were sentenced on the basis of confessions extracted under torture in violation of article 15 UNCAT. For instance, Qatari national Dr Abdulrahmane Al Jaidah,¹⁸ who was arrested in 2013, was tortured and forced to sign confessions while being held in secret detention for eight months. He was later sentenced by the Federal Supreme Court to seven years in prison under the pretext of funding and helping "an illegal secret organisation" on the sole basis of these forced confessions.

31. Despite the UAE's commitment to investigate all allegations of torture during the last UPR,¹⁹ impunity for the perpetrators of torture prevails. In December 2016, Ahmed Mekkaoui²⁰ was sentenced to 15 years in prison after he was detained for eight months in secret detention and solitary confinement and subjected to severe acts of torture in order to extract confessions. Despite having reported this to the Public Prosecutor, Mekkaoui's allegations were ignored and the forced confessions admitted into evidence.

32. Following her visit to the UAE in 2014, the former SRIJL reported that more than 200 complaints of torture and ill-treatment had been presented before judges and prosecutors, but were not investigated or accounted for in judicial proceedings. She further expressed her concern over the fact that the lack of serious investigation into torture allegations "encourages impunity for perpetrators".²¹

33. Recommendations:

- a) Bring a definitive end to the practice of torture and reject any statement obtained thereby;
- b) Launch immediate and impartial investigations into all allegations of torture and prosecute those found responsible.

3.2 Right to a fair trial

34. State Security Forces, which are under the direct control of the MoI and operate without judicial oversight, continue to arrest lawyers, professors, human rights defenders and anyone critical of the government, without a warrant or informing the individuals of the reason for their arrest.

35. Upon arrest, the victims are brought to an unknown location and kept for extended periods of time in secret detention, during which the authorities fail to acknowledge the detention of the victim despite attempts from families and/or lawyers to locate their relative. Moreover, individuals are subjected to physical and psychological torture in order to obtain a self-incriminating statement which will consequently be used as evidence during proceedings.

36. In 2014, the SRIJL had expressed great concern regarding *incommunicado* detention and the use of torture following her visit to the country. She also criticised the lack of due process guarantees as well as the intimidation and harassment lawyers face when working on cases of national security.

¹⁶ Alkarama, *UAE: Unfair Mass Trial of 94 Dissidents*, 3 April 2013, <https://www.alkarama.org/en/articles/uae-unfair-mass-trial-94-dissidents> (accessed on 16 June 2017).

¹⁷ Alkarama, *UAE: Reports of Systematic Torture in Jails*, 27 June 2013, <https://www.alkarama.org/en/articles/uae-reports-systematic-torture-jails> (accessed on 16 June 2017).

¹⁸ Alkarama, *UAE: Qatari Doctor Sentenced to 7 Years in Prison on Basis of Coerced Confessions*, 3 March 2014, <https://www.alkarama.org/en/articles/uae-qatari-doctor-sentenced-7-years-prison-basis-coerced-confessions> (accessed on 21 June 2017).

¹⁹ Recommendations n.128.131 (Denmark) and n.128.132 (Spain).

²⁰ Alkarama, *UAE: Lebanese Man Sentenced to 15 Years in Prison on the Sole Basis of Confessions Extracted Under Torture*, 27 March 2017, <https://www.alkarama.org/en/articles/uae-lebanese-man-sentenced-15-years-prison-sole-basis-confessions-extracted-under-torture> (accessed on 16 June 2017).

²¹ Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyer, Mission to the United Arab Emirates, A/HRC/29/26/Add.2.

The UN expert noted that the country's judiciary remains under the *de facto* control of the executive branch, making its independence impossible in practice.²²

37. Recommendations:

- a) Put an end the practice of secret detention and respect due process and fair trial guarantees;
- b) Reform the judiciary and guarantee its independence from the executive.

3.3 Equality and non-discrimination: the right to nationality

38. The issue of statelessness persists unabated in the UAE. According to research provided to Al-karama by the Boston University School of Law, an unknown number of Bidoon registered in a regularisation campaign in 2008-2009, which promised to create a path to naturalisation. Instead, the process merely resulted in the issuance of stateless registration cards.²³ The Bidoon registered as stateless through the regularisation process subsequently received Comoros passports with the assistance of the UAE government.²⁴ Stateless Comoros passport holders suffer discrimination at the labour market and harassment by the authorities, including submission to work visa sponsorship requirements and accompanying fees.

39. In effect, when Comorian "economic citizenship" is held by persons without nationality, they remain stateless, and become deportable in their State of habitual residence. The children born in the UAE to parents who hold Comoros passports of convenience are only entitled to Comoros passports of convenience, which do not convey nationality.²⁵ These children and their parents may use Comoros passports to travel to certain countries,²⁶ but in the only place they call home, the UAE, Comoros passport holders depend on sponsors to access education, healthcare and work.

40. Since the last UPR, revocation of nationality has also been used as a form of reprisal and an ultimate tool to silence political opponents.²⁷

41. Recommendations:

- a) Put an end to deprivations of nationality motivated by political reasons;
- b) Enact legislation and publicise a process for the naturalization of those who registered during the 2008 campaign.

3.4 Freedom of expression, peaceful assembly and association

42. Despite its commitments, the UAE has not implemented the recommendations of the last UPR;²⁸ freedoms of opinion and expression have been further restricted and are regularly violated. Numerous peaceful activists have been prosecuted for "criticising" the government on social media and the authorities continue to detain prisoners of conscience convicted after unfair trials.

43. On 4 March 2013, the largest political trial in the history of the UAE began, in which 94 people, among them lawyers, activists and human rights defenders were accused of "wanting to overthrow the regime" and consequently sentenced to seven to ten years imprisonment, solely for making use of their

²² *Ibidem*.

²³ In Arabic "بطاقة مسجل لا يحمل أوراق ثبوتية".

²⁴ Ola Salem, *Stateless given hope of obtaining citizenship*, 27 July 2012, <http://www.thenational.ae/news/uae-news/stateless-given-hope-of-obtaining-citizenship> (accessed on 21 June 2016).

²⁵ UNHCR, Handbook on Protection of Stateless Persons Under the 1954 Convention Relating to the Status of Stateless Persons, para. 95.

²⁶ Neighboring Gulf countries have refused to extend visas to eligible candidates holding Comoros passports and residing in the UAE. The United States Department of Homeland Security does not consider Comoros passports acquired through the "economic citizenship program" to amount to legitimate travel documents as they are defined in U.S. law.

²⁷ International Center for Justice and Human Rights, *UAE : The United Arab Emirates denies the unlawfulness of the al-Siddiq siblings' citizenship revocation*, 10 October 2016, <http://www.ic4jhr.org/en/activities/statements/545-uae-the-united-arab-emirates-denies-the-unlawfulness-of-the-al-siddiq-siblings%E2%80%99-citizenship-revocation-2.html> (accessed on 21 June 2017).

²⁸ Recommendations n.128.103. (Belgium), n.128.105. (Ireland), n. 128.109. (Turkmenistan), n. 128.111. (Italy) and 128.118. (Kuwait).

fundamental right to freedom of expression. The trial failed to meet international fair trial standards and was widely condemned by human rights organisations²⁹ and UN human rights bodies.³⁰

44. Furthermore, the new provisions of the Penal Code severely curb freedom of expression and punish with 15 to 25 years of prison anyone who "insults the president of the UAE", 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 institutions".³¹

45. Lastly, Cybercrime Law No. 5 of 2012, which criminalises defamation and provides for harsh prison sentences up to "life imprisonment for anyone, who publishes information aiming or calling to overthrow or change the ruling system of the State",³² is increasingly used to crackdown on peaceful dissent. The Law further criminalises "insulting the ruler",³³ "damaging national unity",³⁴ "damaging state reputation",³⁵ "organising without permission"³⁶ and "the participation in unlawful groups".³⁷ Most recently, journalist Taysir Salman³⁸ and activist Nasr Bin Ghaith³⁹ were prosecuted under this law and sentenced to three and ten years imprisonment respectively.

46. Recommendation:

- a) Amend the provisions of the Penal Code and the Cybercrime Law limiting the right to freedom of expression, in accordance with international standards.

3.5 Human rights and the fight against terrorism

47. The Anti-terrorism Law No. 7/2014 on the "fight against terrorist crimes" provides an extremely broad and vague definition of terrorism. Article 1 of the law defines a terrorist act as any act that would cause "unrest or panic among a group of people" or that would otherwise "upset the State", without specifying for example the violent nature of such acts, and hence paving the way for the criminalisation of peaceful dissent.

48. Under the Anti-terrorism Law, the custody period can be extended by renewable three-month periods without the detainee having to be brought before a judge,⁴⁰ therefore establishing an exceptional legal regime in violation of international standards.

49. Moreover, the law prescribes for the restraint of individuals in Munasaha Centres.⁴¹ The transfer of individuals is initiated by virtue of a judgment issued by the Court and upon a request of the prosecution,⁴² yet basing the detention on an administrative decision by the authorities as opposed to a judicial decision and thus denying individuals the right to challenge the legality of detention. This was the case for blogger Osama Al Najjar,⁴³ who was sent to a counselling centre after having served his

²⁹ Alkarama, *UAE: Human rights observers blocked from entering country worsens fair trial concerns in the 'UAE94' case*, 3 March 2013. <https://www.alkarama.org/en/articles/uae-human-rights-observers-blocked-entering-country-worsens-fair-trial-concerns-uae94-case> (accessed on 21 June 2017).

³⁰ Working Group on Arbitrary Detention, *Opinion No.60/2013*, 6 February 2013.

³¹ Article 176 (bis).

³² Article 30.

³³ Article 20 & 29.

³⁴ Article 24 & 28.

³⁵ Article 29 & 32.

³⁶ Article 32.

³⁷ Article 26.

³⁸ Alkarama, *UAE: Jordanian Journalist Sentenced to Three Years in Prison for a Facebook Post*, 30 March 2017, <https://www.alkarama.org/en/articles/united-arab-emirates-jordanian-journalist-sentenced-three-years-prison-facebook-post> (accessed on 21 June 2017).

³⁹ Alkarama, *UAE: Prominent Activist Naser Bin Ghaith Sentenced to Ten Years in Prison for a Series of Tweets*, 13 April 2017, <https://www.alkarama.org/en/articles/prosecuted-having-exercised-his-right-freedom-expression> (accessed on 21 June 2017).

⁴⁰ Article 41.

⁴¹ According to Article 1 of the Law, Munasaha centres are "administrative units aiming at the enlightenment and reform of persons are deemed to pose a terrorist threat or convicted of terrorist offences".

⁴² Article 40.

⁴³ Alkarama, *UAE: Arbitrary Detention of Blogger Osama Al Najjar in Counselling Centre Despite Termination of Full Prison Sentence*, 31 March 2017, <https://www.alkarama.org/en/articles/uae-arbitrary-detention-blogger-osama-al-najjar-counselling-centre-despite-termination> (accessed on 21 June 2017).

full three-year prison sentence for “instigating hatred against the State via Twitter” and “designing and running a website harmful to UAE institutions”.

50. Recommendation:

- a) Amend the repressive 2014 Anti-Terrorism Law and bring it into conformity with international human rights standards.