

Universal Periodic Review – United Arab Emirates (UAE)

Joint submission to the Universal Periodic Review 43th Session of the UPR working group May 2023

Submitted by:

International Campaign for Freedom in the United Arab Emirates (ICF UAE), The International Center for Justice and Human Rights (ICJHR) and HuMENA for Human Rights and Civic Engagement.

1. Introduction

1.1 This submission to the Universal Periodic Review of the United Arab Emirates (UPR) is made by The International Campaign for Freedom in the United Arab Emirates (ICFUAE), The International Center for Justice and Human Rights (ICJHR) and HuMENA for Human Rights and Civic Engagement.

1.2 This submission examines the UAE government's compliance with UPR recommendations and international human rights obligations. To this end, it assesses the implementation of the recommendations received by the UAE during the 3rd UPR cycle and provides follow up recommendations. The structure of the submission is as follows:

- Section 2 examines compliance with international treaties.
- Section 3 examines cooperation with UN mechanisms.
- Section 4 examines the establishment of a national human rights authority.
- Section 5 examines freedom of expression.
- Section 6 examines Detainees of Conscience.
- Section 7 examines the anti-terrorism law.
- Section 8 examines the Counselling law.
- Section 9 examines human rights defenders.
- Section 10 examines Section 10 examines the Harassment of Dissidents' Families.
- Section 11 provides recommendations to address concerns and progress in implementing recommendations under the third cycle of the UPR.

2. Ratification of international treaties

2.1 During the third cycle of the UAE's universal periodic review, the UAE government received more than 30 recommendations regarding accession to the main international instruments in the field of human rights, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other international treaties. Although the government committed to considering these recommendations and preparing the legislative environment for accession to these treaties, on the whole, it did not take serious measures to achieve them.

3. Cooperation with United Nations mechanisms

3.1 During the third cycle of the universal periodic review, the government received 7 recommendations to strengthen cooperation with UN mechanisms and respond to outstanding requests for visits by special procedures mandate holders, such as a request for a visit by the Special Rapporteur on the situation of human rights defenders. However, UAE authorities continue to ignore these requests.

4 Establishment of a National Human Rights Body

4.1 During the third cycle of the Universal Periodic Review, the UAE government received several recommendations to establish a national human rights institution in accordance with the Paris Principles. The UAE government responded to these recommendations, but the institution seems to lack independence and diversity, as most members are police and military officers.

5 Freedom of Expression

5.1 During the third cycle of the UPR, the UAE government received 15 recommendations to improve freedom of expression, including amending the Cybercrime Law and provisions of the Penal Code that restrict freedom of expression to bring them in line with international standards.

5.2 The UAE Constitution guarantees freedom of expression in Article 30, provided it is within the limits of the law. However, UAE laws significantly restrict the right to freedom of expression and use vague language that lend themselves to government overreach and therefore does not comply with international standards for freedom of expression.

5.3 The UAE authorities issued Law No. 34 of 2021 on Combating Rumours and Cybercrime, which came into force on January 2, 2022, replacing the previous Federal Law No. 5 of 2012 on Combating Information Technology Crimes.

5.4 The new law does not address the problematic provisions of its predecessor. On the contrary, it restricts civil space and freedom of expression in the UAE and maintains the criminalisation of acts protected by international law. It also enables the criminalisation of the work of journalists, whistleblowers, activists, and peaceful critics, and exposes those who engage in legitimate civic activities to harsh prison sentences and heavy fines.

5.5 The law uses a variety of broad and ambiguous terms, such as interfering with "state security" and weakening "public confidence" in the country, which effectively allows authorities to ban all types of online speech that might be critical of the authorities or the UAE's rulers.

5.6 Similar to the provisions of the 2012 Cybercrime Law, Article 20 of the new text mandates a life sentence in prison for any person who "establishes, manages, or operates a website or publishes information, programs, or ideas that involve or advocate the overthrow or change of the ruling regime in the state," thereby de facto silencing, criminalising, and prohibiting any form of political dissent in the UAE.

5.7 Article 25 criminalises "mockery" or "harming the reputation, prestige, or standing of the state, any of its agencies or institutions, or any of its founding members, or the flag or currency of the state," and Article 28, criminalising the use of the Internet to disseminate information or data that "includes insulting a foreign country." These materials were previously used by UAE judicial authorities to sentence Emirati human rights defender Ahmed Mansour to 10 years in prison.

5.8 The new law allows UAE authorities to control the media, as Article 19 prohibits the publication and dissemination of content, data, or information that "does not comply with the media content standards issued by the competent authorities."

5.9 Article 52 imposes a maximum prison sentence of one year for using the Internet or any electronic device to spread "false rumours" that are inconsistent with "what has been officially announced" by the State" and criminalises "the dissemination of sensational propaganda that incites public opinion or provokes or disturbs public security [...] or harms the public interest, national economy, public order, or public health," and broad terms that can be broadly interpreted by a judge do not meet the standards of legal clarity and predictability that allow for the use of such broad terminology to target human rights defenders, whistleblowers, journalists, or activists who seek to disseminate information that may not be consistent with the political interests of the state or its rulers, limiting the already shrinking space of civil society in the UAE.

6 Detainees of Conscience

6.1 During the third cycle of the UAE's Universal Periodic Review, the government received a recommendation to release individuals who had been imprisoned for expressing their opinions, but as discussed below, the government did not implement any of these recommendations and continues to detain these individuals despite the expiration of their sentences.

6.2 The UAE government claimed that there were no detainees of conscience in the UAE because all prisoners had committed criminal or terrorist offences. This ignores statements made by international human rights organisations and the Office of the High Commissioner for Human Rights regarding a number of Emirati activists who were arrested for their peaceful activities, such as Ahmed Mansour, Nasser bin Ghaith, and Mohammed al-Roken.

6.3 In 2014, the United Nations Working Group on Arbitrary Detention issued its Opinion No. 60/2013, stating that the detention of 61 individuals convicted in the 94th trial in the UAE was arbitrary, and that despite the expiration of the court sentences against 46 of them, the UAE authorities did not release any of the detainees under the pretext that they were being subjected to the "counselling program" because they posed a terrorist threat.

6.4 The UAE authorities are holding 46 members of the Emirates 94 group indefinitely despite the expiration of their sentences, which constitutes a form of arbitrary detention.

7. Anti-Terrorism Law

7.1 During UAE's third UPR cycle, one of the recommendations indicated the need to amend the anti-terrorism law and ensure that it does not constitute an obstacle to legitimate activities, but the UAE authorities have not amended the law.

7.2 Over the past years, human rights organisations have documented a large number of cases in which individuals have been charged under the Anti-Terrorism Law for non-violent acts, often linked to their exercise of fundamental freedoms.

7.3 The Anti-Terrorism Law includes a large number of vague definitions and crimes, and does not clearly define the concept of 'terrorism'. For example, according to

Article 1 of the Anti-Terrorism Law, a “terrorist crime” is defined as "Any act or omission punishable under this Act, and any act or omission constituting a felony or misdemeanour under any other law, when committed for a terroristic purpose."

7.4 This definition is problematic because it does not define terrorism itself, but refers to the concept of 'terrorist purpose', the definition of which then refers to the result of terrorism. This means that these definitions remain essentially non-specific, with one definition referring to another without providing a concrete and specific definition of the activities it covers.

7.5 Another example of a problematic provision is Article 14 of the Anti-terrorism Law, which considers as a terrorist offence any act that "threatens the stability, integrity, unity, sovereignty, or security of the state, or is contrary to the fundamental principles on which the system of government is based."

7.6 Similarly, Article 15 states that "anyone who, by any means of communication, declares his opposition to the State or its system of government or disloyalty to its leadership shall be punished by temporary deprivation of liberty." These provisions are also very broad and include nonviolent behaviour, so that any public criticism or opposition can be confused with terrorism.

7.7 Considering that a terrorist crime may involve a "threat to the unity of the state" in the form of peaceful criticism or political activity, the Anti-Terrorism Law classifies as a "terrorist organization" any group of people who come together with the aim of calling for change, forming an opposition party, or simply forming a group of people with an ideology opposed to the status quo.

7.8 In fact, UAE authorities have exploited these broad definitions to place human rights organisations and dissidents on the terrorist list.

7.9 The loose definitions have allowed UAE authorities to place four individuals associated with UAE Collective 94 on the country's terrorism list because of their political involvement. They are Hamad Al Shamsi, Ahmed Al Nuaimi, Mohammed Al Zaabi, and Saeed Al Tunaiji, who were placed on the UAE National Terrorism List in September 2021 pursuant to Ministerial Decision No. 83.

7.10 The mandate holders of the UN have expressed concern over the fact that the list "appears to be related to their legitimate human rights activities."

8. Counselling Law

8.1 In addition to the flaws in the Anti-Terrorism Law that were identified above, another worrying development resulting from the Anti-Terrorism Law is the establishment of counselling centres, which, according to Article 1, are administrative units intended to guide and reform those who pose a terrorist threat or those convicted in terrorist crimes.

8.2 As mentioned earlier, the definition of terrorism is imprecise and vague, which gives great discretion to the authorities to detain individuals in such centres.

8.3 Furthermore, this discretion has been increased by a law issued by decree of September 4, 2019, establishing the National Counselling Center (hereinafter “the Counselling Center Law”), and by virtue of this Act the mandate of the Counselling Center goes beyond that provided for in the Anti-Terrorism Law It includes

"counselling and rehabilitating those with terrorist, extremist or deviant ideology."

8.4 Both the Anti-Terrorism Law and the Counselling Law lack legal clarity on the nature of detention in the counselling center. For example, under UAE law, a person may be detained in a counselling center if (i) he or she poses a terrorist risk or (ii) he or she requests to complete a counselling program on his or her own initiative or through his or her guardian or caretaker (regardless of whether or not the individual in question fails or refuses to do so, without any need for justification). Once entered, the program must be completed.

8.5 The definition of "terrorist risk" is set forth in Article 40 (1) of the Anti-Terrorism Law, which states that "a person poses a terrorist threat if he or she adopts an extremist or terrorist ideology such that he or she fears committing a terrorist offence." However, the law does not address the threshold at which a person is considered "likely" to commit a terrorist offence, nor is it clear how "likely" is assessed.

8.6 Detention in the Counselling Centre is ordered by a judgement issued by a court responsible for investigating crimes against state security at the request of the State Security Prosecutor's Office.

8.7 The Anti-Terrorism Law does not specifically require the court to limit the length of time individuals deemed a "terrorist threat" may be detained at the Counselling Center, nor does it specifically require the renewal of a detention order. Instead, under Article 40(3) of the Anti-Terrorism Law and Article 11 of Counselling Centres Law, the Counselling Center must submit a report to the prosecutor's office every three months on each person detained at the Counselling Center. The prosecutor's office then submits the report to the court and gives an opinion on whether it believes that the person in question may have committed a terrorist crime. The law then provides that it is up to the court to order the person's release if it determines that the detainee's condition permits it.

8.8 In practice, The International Campaign for Freedom in the United Arab Emirates (ICF UAE) received statements from 46 individuals who were initially convicted under security-related laws for exercising their rights to freedom of expression, opinion, and association. In each of the 46 cases, the individuals completed their prison sentences prior to their incarceration at the Al-Razeen Prison Counselling Centre.

8.9 According to the information obtained by the ICF UAE, all the counselling centres that are currently in the UAE are located within the prison complexes. There is no evidence that the facilities and infrastructure of counselling centres differ from the prisons in which they are located. Indeed, in each of the documented cases, individuals were held in a wing of Al-Razeen Prison. The documented cases also indicate that there is no distinction between the Al-Razeen Counselling Centre and the Al-Razeen prison in which it is located.

8.10 Many of the cases documented involve individuals who have never been brought before a court of law to present a defence in relation to their current arrests. Furthermore, at least 40 individuals were denied access to legal counsel for the duration of their detention in Al Razeen Counselling Centre. In addition, despite a requirement that the court consider arrests every three months, neither the individuals nor their lawyers were provided with the evidence the prosecution

presented to the court, nor were they given the opportunity to challenge the decision not to release them.

8.11 In fact, the UAE authorities use these centres as a means to deprive prisoners of conscience whose sentences have expired, and to arbitrarily detain them indefinitely.

8.12 At least three detainees have spent more than three years in the Counselling Centre, which indicates that the detainees are at risk of prolonged detention as a result of the existing practices. In fact, one of the detainees, Abdullah Al-Helo, spent more years in the Counselling centre than the original sentence.

9. Human rights defenders

9.1 Human rights defenders in the UAE are subjected to systematic persecution and constant harassment by the UAE authorities.

9.2 The twelfth annual report of the United Nations Secretary-General on cases of intimidation and reprisals against individuals cooperating with the United Nations, its representatives, and mechanisms, highlights the ongoing reprisals committed by the UAE against the prominent Emirati human rights defender, Ahmed Mansour, including subjecting him to torture and solitary confinement.

9.3 Since his arrest, Mansoor's health and well-being has severely deteriorated, having been taken to Al-Sadr Prison. A former prisoner disclosed the conditions in which he is living, stating that Mansoor is being held in an isolation ward, in a cell 4x4 metres wide with a small window to allow three hours of sunlight in a day. There is no bed nor running water, however prisoners are still expected to use the toilet and shower within the cell. While some prisoners in the isolation ward are allowed to eat in the prison canteen, Mansoor is made to take his meals within the cell. Thus, the only time he leaves the cell are for family visits which are infrequent.

9.4 In protest against his unfair trial and inhumane treatment, Mansoor has twice gone on hunger strikes. The first began on 17th March 2019 to protest the poor prison conditions and the unfair trial that he faced. He ended the hunger strike after an estimated 6

weeks, in which time his health deteriorated severely.[6] Mansoor went on hunger strike once

again in September 2019 after suffering severe beatings in retaliation for his protests.

9.5 The report also referred to the cases of Amina Al-Abdouli and Maryam Al-Balushi, who, despite having served their sentences, are still in detention after facing three new charges in 2019 for attempting to communicate with United Nations mechanisms to draw attention to their case, and the court sentenced them to 3 years' imprisonment on additional charges of spreading false news.

9.6 The UAE authorities arrested the founder of (Insan Human Rights Watch), which documents the violations of the Syrian regime in the field of human rights, on December 23, 2019 due to an email he sent to the French embassy requesting political asylum, fearing for his safety in the UAE.

9.7 In September 2021, an Emirati court sentenced Syrian human rights activist Abdul-Rahman al-Nahas to ten years in prison for membership in a "terrorist organization and insulting the reputation of the state" because of his contacts with human rights organisations.

9.8 Emirati human rights defender Jenan Al-Marzouqi was continuously harassed and threatened by UAE authorities for her human rights advocacy; her Emirati citizenship was also revoked.

9.9 On May 20, 2022, Marie Lawlor, the UN Special Rapporteur on the situation of human rights defenders, tweeted, "I have heard disturbing reports that human rights defender Jenan Al-Marzouqi is being abused and threatened both online and offline in retaliation for her work defending human rights in the UAE. "I am seriously concerned for her safety, especially since the authorities revoked her Emirati citizenship,".

9.10 In September 2021, UAE authorities placed three Emirati human rights defenders and an Emirati researcher on the terrorism list, which Marie Lawlor described as disturbing news.

10 Harassment of Dissidents' Families

10.1 UAE authorities continued their systematic policy of harassing the families of detainees of conscience in the UAE.

10.2 A large number of family members of detainees are prohibited from leaving the country and cannot visit their relatives outside the country.

10.3 UAE authorities have revoked the citizenship of more than 33 family members of detainees and confiscated their documents, preventing them from working, travelling, or even studying, and from accessing health services.

10.4 For example, UAE authorities have revoked the Emirati citizenship of the children of Abdul-Salam Al-Marzouqi, a detainee of conscience, and withheld his pension, which is the family's only source of income.

11 Recommendations

11.1 Urge UAE authorities to ratify human rights conventions, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights

11.2 Urge UAE authorities to process outstanding visitation requests from Special Procedures mandate holders and allow them to visit prisons.

11.3 Restructure the National Human Rights Commission to give it genuine independence, civil society representation, and diversity.

11.4 Work to strengthen freedom of expression and amend all relevant laws - especially the Anti-Terrorism Law and the Cybercrime and Rumour Law - that such that they effectively protect the right to freedom of expression.

11.5 Immediately release all prisoners of conscience and human rights defenders, especially those who have already served their sentences.

- 11.6 Fully amend the Law on Combating Terrorist Crimes and bring it in line with international standards.
- 11.7 Abolish the counselling law.
- 11.8 End systematic persecution of human rights defenders and lift all reprisals.
- 11.9 End the retaliation policy against the families of detainees, restore their citizenship and enable them to live freely.

Annex

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