



United Arab Emirates

Universal Periodic Review

Report submitted to the United Nations Human Rights Council in the context of the third periodic review of the United Arab Emirates

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1 Scope of international obligations and cooperation with international human rights mechanisms and bodies

1.1 Scope of international obligations

The United Arab Emirates (UAE) has not ratified the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), the Rome Statute of the International Criminal Court (ICC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families nor the International Labour Organization's (ILO) Domestic Workers Convention (No. 189). Moreover, it has not accepted the competence of the Committee against Torture to conduct inquiries under article 20 of the Convention against Torture (UNCAT) nor the individual communication procedure under article 22.

During its last Universal Periodic Review (UPR), the UAE only noted the great majority of recommendations regarding the ratification of international treaties and compliance with international norms.¹

Furthermore, the UN Committee Against Torture expressed concern over the UAE's interpretative declarations to the UNCAT, which exclude pain or suffering arising from lawful sanctions from the definition of torture.²

Recommendations:

- Ratify the OPCAT, ICCPR, ICESCR, ICPPED, the Rome Statute of the ICC, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and ILO's Convention No. 189;
- Accept the Committee against Torture's competence under article 20 and article 22 UNCAT;

¹ Noted recommendations: 141.1 (Italy); 141.2 (Republic of Korea); 141.3 (Slovenia); 141.4 (Ukraine); 141.5 (Japan); 141.6 (Armenia, Benin, France and Australia); 141.7 (Uruguay and Peru); 141.8 (Armenia, Benin, France, Portugal and Australia); 141.9 (Ghana, Uruguay, Peru and Republic of Moldova); 141.10 (Germany); 141.11 (Australia); 141.12 (Ghana, Republic of Moldova); 141.13 (Chile, Iceland, Liechtenstein and Australia); 141.14 (Ghana and Republic of Moldova); 141.15 (Slovakia); 141.16 (Sierra Leone); 141.17 (Austria); 141.18 (Czechia); 141.20 (France, Liechtenstein and Paraguay); 141.21 (Liechtenstein, Paraguay); 141.22 (Slovakia); 141.23 (Portugal); 141.24 (Finland); 141.25 (Bangladesh, Ghana); 141.26 (Burkina Faso); 141.27 (Philippines); 141.28 (Honduras); 141.29 (Afghanistan); 141.30 (France, Portugal); 141.31 (Greece); 141.32 (Argentina); 141.33 (Portugal); 141.34 (Liechtenstein); 141.35 (Latvia); 141.36 (Paraguay); 141.37 (Burkina Faso); 141.38 (Chile); 141.39 (Kenya); 141.40 (Slovakia); 141.42 (Latvia); 141.43 (Finland); 141.44 (Mongolia); 141.45 (Canada); 141.46 (Uruguay); 141.47 (Kenya).

Supported recommendations: 141.19 (Liechtenstein); 141.41 (Uzbekistan).

² Committee against Torture, *Concluding observations on the initial report of the United Arab Emirates*, 25 July 2022, UN Doc. CAT/C/ARE/CO/1, para. 9 (hereinafter "Concluding observation").

- Remove all reservations that are incompatible with the object and purpose of the ratified instruments and ensure that international human rights standards take precedent in the event of any conflict with domestic legislation.

1.2 Cooperation with international human rights mechanisms and bodies

During the second cycle of its UPR, the UAE only noted the majority of recommendations to cooperate fully with treaty bodies, special procedures and other international mechanisms and institutions.³ Despite having supported a recommendation⁴ to respond positively to visit requests from special procedure mandate holders, the UAE failed to respond to visit requests from multiple special procedures.⁵

Regarding its reporting status, the UAE submitted its first report to the UN Committee against Torture in 2018, five years after its due date. In its concluding observations, the Committee expressed concern “over reports of torture or ill-treatment of detainees in reprisal for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights.”⁶ The Committee thus called on the UAE to “[e]nsure that human rights defenders, including those sharing information with United Nations human rights mechanisms, are able to work safely and effectively in the State party.”⁷

Lastly, the UAE has appeared in all reports of the UN Secretary General on intimidation and reprisals for cooperation with the UN between 2013 and 2021.

Recommendations:

- Fully cooperate with UN human rights mechanisms, including by accepting pending visit requests from special procedures mandate holders and by offering a standing invitation to all special procedures of the Human Rights Council;
- Implement the recommendations contained in the 2022 UN Committee against Torture’s concluding observations;
- End reprisals against individuals cooperating with the UN.

³ Noted recommendations: 141.49 (United Kingdom of Great Britain and Northern Ireland); 141.52 (Portugal); 141.53 (Kenya); 141.54 (Sweden); 141.55 (Cyprus); 141.56 (Latvia); 141.57 (Netherlands).

Supported recommendations: 141.48 (Pakistan); 141.50 (Saudi Arabia); 141.51 (Switzerland); 141.58 (Germany).

⁴ 141.58 (Germany).

⁵ This includes requests from the Special Rapporteur on contemporary forms of slavery (first requested in 2008); the Working Group on Business and Human Rights (first requested in 2012); the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (first requested in 2013); the Special Rapporteur on freedom of opinion and expression (requested in 2014); the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (first requested in 2015); the Working Group on Enforced or Involuntary Disappearances (first requested in 2015); the Special Rapporteur on the sale and sexual exploitation of children (requested in 2016); the Working Group on Arbitrary Detention (requested in 2016); the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (requested in 2019); the Special Rapporteur on freedom of religion or belief (requested in 2021); and the Independent Expert on foreign debt and human rights (requested in 2021).

⁶ “Concluding observations”, *op. cit.*, para. 13.

⁷ “Concluding observations”, *op. cit.*, para. 14.

2 National human rights framework

The UAE supported all 18 recommendations on establishing a National Human Rights Institution during its previous UPR.⁸ In this regard, Federal Decree No. 12/2021 on the National Commission for Human Rights (NCHR)⁹ established a national human rights institution. In its article 6, the Federal Decree states that “the mechanism for selecting the members of the commission shall be determined by a decision from the head of state,” pointing to a direct link between the NCHR and the executive power. Furthermore, according to the Emirates Detainees Advocacy Center, the commission is headed by a former member of the UAE military and most of the commission members, appointed in December 2021, are former police officers and graduates of the Dubai Police Academy.¹⁰ The commission also “includes a number of individuals known to have links to the UAE’s State Security Apparatus (SSA) and to have abused prisoners of conscience in the past.”¹¹

Recommendations:

- Ensure the independence of the NCHR, in line with the Principles relating to the Status of National Institutions (The Paris Principles).

3 Implementation of international human rights obligations

3.1 Human rights in the context of the fight against terrorism

In 2020, UN special mandate holders expressed their concern over the fact that the UAE’s 2014 Counter-Terrorism Law contains imprecise and ambiguous language that could allow certain forms of criticism or dissent to be interpreted and prosecuted as terrorism, seemingly at the subjective discretion of the relevant

⁸ Supported recommendations: 141.65 (Mozambique); 141.66 (Sierra Leone); 141.67 (India); 141.68 (Republic of Moldova); 141.69 (Botswana); 141.70 (Mexico); 141.71 (France); 141.72 (Georgia); 141.73 (Kenya); 141.74 (Indonesia); 141.75 (Mongolia and Uruguay); 141.76 (Germany); 141.77 (Senegal); 141.78 (Egypt); 141.79 (Gabon); 141.80 (Tunisia); 141.81 (Ukraine); 141.82 (Honduras).

⁹ Available in Arabic at: [https://www.moj.gov.ae/assets/2022/%20قانون%20اتحادي%20رقم%20\(12\)%20لسنة%202021,%20بشأن%20الهيئة%20الوطنية%20للحقوق%20الإنسان.pdf.aspx](https://www.moj.gov.ae/assets/2022/%20قانون%20اتحادي%20رقم%20(12)%20لسنة%202021,%20بشأن%20الهيئة%20الوطنية%20للحقوق%20الإنسان.pdf.aspx) (accessed 18 July 2022).

¹⁰ Emirates Detainees Advocacy Center, *Led by an army officer - A group of officers is heading UAE’s NHRI*, December 20, 2021, <https://en.edacrights.com/post/259> (accessed 4 May 2022).

¹¹ *Ibid.*

¹² Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, *Comments and suggestions on the 2014 Law No. 7 On Combatting Terrorism Offences (Law 7) which abrogated Federal Decree-Law no. 1/2004*, 13 November 2020, UN Doc. OL_ARE_6/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25663> (accessed 20 April 2022), pp. 20-21.

authorities.^{12,13} The Committee against Torture further noted that this law “provides for exceptions to the Code of Criminal Procedure which allow for remand on the initiative of the prosecutor for up to three months, and an unlimited extension of remand upon judicial order.”¹⁴

The Counter-Terrorism law also allows the detention of individuals in Munasaha centres¹⁵ when they appear to pose a terrorist threat. Munasaha centres are “[a]dministrative units aiming at the enlightenment and reform of persons deemed to pose terrorist threat or those convicted of terrorist offences.”¹⁶ However, the law is unclear about the threshold at which a person will be deemed to pose a terrorist threat.^{17,18}

Lastly, terrorism offences fall under the investigative jurisdiction of the SSA, which has broad investigation and detention powers and was responsible for torture in multiple cases documented by

¹² Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, *Comments and suggestions on the 2014 Law No. 7 On Combatting Terrorism Offences (Law 7) which abrogated Federal Decree-Law no. 1/2004*, 13 November 2020, UN Doc. OL_ARE_6/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25663> (accessed 20 April 2022), pp. 20-21.

¹³ Such loose definitions allowed the state to add four individuals linked to the UAE94 mass trial case to the country’s terrorist list due to their political activism. These are Hamad Al Shamsi, Ahmed Al Nuaimi, Mohammed Al Zaabi, and Saeed Al Tenaiji, who were added to the UAE’s national terrorism list in September 2021 by ministerial resolution No. 83. UN special mandate holders expressed concern over the fact that their listing “seem to be in relation to their legitimate human rights activities.” They are currently living in exile. See: Mandates of the Special Rapporteur on the situation of human rights defenders; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Ref.: AL ARE 1/2022*, 25 January 2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26978> (accessed 18 May 2022); MENA Rights Group, *Joint statement condemning the inclusion of four Emirati activists and members of the UAE 94 on the UAE terrorism list*, 17 September 2021, <https://www.menarights.org/en/articles/joint-statement-condemning-inclusion-four-emirati-activists-and-members-uae-94-uae> (accessed 11 May 2022);

¹⁴ “Concluding observations”, *op. cit.*, para. 17.

¹⁵ The functioning of such centres was further regulated on 4 September 2019, when a law was issued, by decree, providing for the establishment of a National Munasaha Centre (hereinafter “Munasaha Centre Law”). A copy of the law (in Arabic) is available here: https://elaws.moj.gov.ae/UAE-MOJ_LC-Ar/00_%D8%A7%D8%B1%D9%87%D8%A7%D8%A8/UAE-LC-Ar_2019-09-04_00028_Markait.html?val=AL1&Words=%D8%A7%D9%84%D9%85%D9%86%D8%A7%D8%B5%D8%AD%D8%A9#Anchor14 (accessed 10 August 2022).

¹⁶ Article 1 of the Counter-Terrorism Law.

¹⁷ The definition of “posing a terrorism threat” is set out at article 40 (1) of the Counter-Terrorism Law, which establishes that “a person shall be deemed as posing a terrorist threat if said person adopts extremist or terrorist ideology to the extent that he/she seems likely to commit a terrorist offence.” However, the law is silent about the threshold at which a person will be deemed “likely” to commit a terrorist offence, nor is it clear how “likelihood” is assessed.

¹⁸ In practice, the Munasaha regime may lead to indefinite detention. For instance, MENA Rights Groups documented the cases of 11 individuals who were kept in detention under the Munasaha regime after the completion of their sentences. See MENA Rights Group, *The use of Munasaha “rehabilitation” centres in the United Arab Emirates*, 16 June 2020, <https://menarights.org/en/documents/use-munasaha-rehabilitation-centres-united-arab-emirates> (accessed 11 August 2022).

MENA Rights Group.¹⁹

Recommendations:

- Amend the Counter-Terrorism Law to adopt a terrorism definition in line with international standards;
- Ensure procedural guarantees to all those subjected to the Munasaha regime, including by allowing them to challenge their detention and by establishing maximum periods of detention.

3.2 Right to freedom of opinion and expression

During its last UPR, the UAE supported several recommendations related to the right to freedom of opinion and expression and the protection of human rights defenders.²⁰ However, while the right to freedom of expression is protected under article 30 of the Emirati constitution, the right is severely restricted by other pieces of legislation. These include the abovementioned Counter-Terrorism Law and the Law on Combatting Rumours and Cybercrime that came into force in January 2022.²¹ The penal code further contributes to this restrictive framework by criminalising all speech criticising the government and its authorities.²²

In practice, MENA Rights Group documented multiple cases of individuals being punished for the exercise of their freedom of speech and assembly, especially human rights defenders and political

¹⁹ A summary of some of these cases can be found in section 10 of the joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at: MENA Rights Group, *Joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, June 26, 2022, <https://menarights.org/en/documents/joint-report-mena-rights-group-and-edac-uaes-implementation-un-convention-against-torture> (accessed August 4, 2022)

²⁰ Supported recommendations: 141.112 (France); 141.113 (Indonesia); 141.114 (Iraq); 141.118 (Qatar); 141.119 (Lebanon); 141.121 (Mexico); 141.124 (Switzerland); 141.127 (France); 141.128 (Norway); 141.129 (Latvia).

Noted recommendations: 141.115 (Norway); 141.116 (Slovenia); 141.117 (Netherlands); 141.120 (Canada); 141.122 (Estonia); 141.123 (Sweden); 141.125 (United States of America); 141.126 (Qatar); 141.130 (Belgium); 141.131 (Italy); 141.132 (Austria).

²¹ This law restricts civic space and free speech, as well as enables the criminalisation of the work of journalists, whistleblowers, activists and peaceful critics, subjecting those engaged in lawful activities to harsh prison sentences and excessive fines. See MENA Rights Group, *Human rights NGOs call on the UAE to immediately repeal or amend its new Law on Combatting Rumours and Cybercrime*, 24 January 2022, <https://www.menarights.org/en/articles/human-rights-ngos-call-uae-immediately-repeal-or-amend-its-new-law-combatting-rumours-and> (accessed 11 May 2022).

²² As an example, the Emirati Penal Code criminalises insulting, mocking or harming the reputation of the president, the flag, national emblem or national symbols, the state itself, its institutions or officials, its founding members, and the national anthem. More information on the restrictions imposed by the Penal Code can be found at: MENA Rights Group, *New UAE penal code: increased restrictions on fundamental freedoms*, 18 May 2022, <https://menarights.org/en/articles/new-uae-penal-code-increased-restrictions-fundamental-freedoms> (accessed 16 August 2022).

dissidents.²³

Recommendations:

- Amend the 2014 Counter-Terrorism Law (Federal Law No. 7 of 2014), the Law on Combatting Rumours and Cybercrime (Federal Decree Law No. 34 of 2021) and the Penal Code, to bring them in line with international standards on the right to freedom of expression;
- Repeal any laws or provisions that criminalise defamation or blasphemy, lawful criticism and peaceful dissent;
- Release those imprisoned for exercising their fundamental freedoms;
- Guarantee freedom of the press and ensure journalists and media workers are free to practice in a safe and enabling environment without undue interference or restrictions.

3.3 Arbitrary deprivation of nationality

Revocation of nationality has been used on politically motivated grounds against human rights defenders and dissidents, without any consideration for the risk of statelessness. For example, some of those convicted in the UAE94 mass trial were stripped of their Emirati citizenship.²⁴

Recommendations:

²³ To give a few examples, this was the case of those tried in the UAE94 mass trial, of Ahmed Mansoor, of Mohamed Al-Roken and of Nasser Bin Ghaith. In all these cases, individuals were convicted for expressing peaceful criticism against the government. In the case of Ahmed Mansoor, violations continued after his conviction, as authorities retaliated against him after regional media published a prison letter he wrote detailing his mistreatment in detention and flagrantly unfair trial. He was moved to a smaller and more isolated cell, denied access to critical medical care, and has his reading glasses confiscated. Not only those criticising the UAE government and policies but also political activists speaking about other countries may be punished in the UAE, as was the case of Jordanian Ahmed Al Atoum, who was prosecuted for speaking out about corruption in Jordan via his Facebook profile. Similarly, some of the charges brought against Nasser Bin Ghaith related to tweets in which he criticised Egyptian authorities. See: section 10 of the Joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *op. cit.*; Frontline Defenders, Mohamed Al-Roken, <https://www.frontlinedefenders.org/fr/profile/mohamed-al-roken>; Amnesty International UK, In the spotlight: Dr Mohammed Al-Roken (UAE), prisoner of conscience, 23 November 2021, <https://www.amnesty.org.uk/groups/sutton/spotlight-dr-mohammed-al-roken-uae-prisoner-conscience>; Frontline Defenders, Detention of Nasser Bin Ghaith, 29 March 2017, <https://www.frontlinedefenders.org/en/case/detention-nasser-bin-ghaith>; Amnesty International, UAE: Prominent academic jailed for 10 years over tweets in outrageous blow to freedom of expression, <https://www.amnesty.org/en/latest/news/2017/03/uae-prominent-academic-jailed-for-10-years-over-tweets-in-outrageous-blow-to-freedom-of-expression/>; Working Group on Arbitrary Detention, *Opinion No. 76/2017 concerning Nasser Bin Ghaith (United Arab Emirates)*, 21 November 2017, UN Doc. A/HRC/WGAD/2017/76, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/007/85/PDF/G1800785.pdf?OpenElement> (all links accessed 11 May 2022).

²⁴ This was the case, for instance, of Mohammed Abdulrazzak al-Sidiq and Abdulsalam Mohamed Derwish al-Marzooqi. Some of the men's family members consequently also lost their citizenship restricting their access to public services. For example, al-Marzooqi's daughter, and his only family member still living in the UAE, was denied the right to receive a COVID-19 vaccine, as she could not present a valid Emirati ID. See MENA Rights Group, "UAE94" detainee Mohammed Al Sidiq held arbitrarily since 2012, March 10, 2021, <https://menarights.org/en/caseprofile/uae94-detainee-mohammed-al-sidiq-held-arbitrarily-2012>; MENA Rights Group, "UAE94" detainee Abdulsalam Al Marzooqi held arbitrarily since 2012, June 02, 2021, <https://menarights.org/en/caseprofile/uae94-detainee-abdulsalam-al-marzooqi-held-arbitrarily-2012> (accessed 23 May 2022) (all links accessed 23 May 2022).

- Ensure international obligations are upheld with regards to the right to a nationality and the rights of stateless persons;
- Reinstate the nationality of all persons who have been arbitrarily stripped of their nationality;
- Ratify the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

3.4 Right to life, liberty and security of person

3.4.1 Arbitrary deprivation of liberty

During its last UPR, the UAE only noted recommendations to establish a maximum limit for pretrial detention²⁵ and to inform without delay all persons deprived of their liberty of the charges against them.²⁶

The Code of Criminal Procedure (CCP) foresees that arrested persons shall be presented to the public prosecutor within 48 hours²⁷ and the public prosecutor shall interrogate them within 24 hours or order their release.²⁸ It also prescribes that the accused must be informed of the charge(s) imputed against them upon first seeing the investigative authority.²⁹

These time limits, however, do not apply to cases falling under the 2003 State Security Law, which foresees its own detention periods. This law allows SSA officials to stop and search individuals and to place them in administrative detention for prolonged periods of time. In this regard, the president of the SSA may order the detention of suspects for up to 60 days, renewable for another 30 days, before suspects are presented to the public prosecution.³⁰

In practice, MENA Rights Group documented multiple cases in which individuals were detained for longer than the three-month time limit imposed by the 2003 State Security Law, before being brought to a court and charged.³¹

Recommendations:

- Amend the 2003 Law on State Security and the Counter-terrorism law to ensure that those arrested by the SSA are brought promptly before a judicial authority;
- Amend the CCP to provide a maximum limit for pretrial detention.

3.4.2 Torture and ill-treatment

During its last UPR, the UAE only noted recommendations to stop the practices of torture, ill-treatment and *incommunicado* detention.³² The Emirati constitution prohibits torture and other cruel,

²⁵ Noted recommendation: 141.140 (Botswana).

²⁶ Noted recommendation: 141.142 (Chile).

²⁷ Article 47 CCP.

²⁸ Article 104 CCP.

²⁹ Article 99 CCP.

³⁰ Article 28, 2003 State Security Law.

³¹ Notably, in two cases the concerned individuals were detained for over a year before being charged. These are Ahmed Mansoor, who was arrested, without a warrant, by Emirati security forces, and was subsequently disappeared by the authorities, which failed to reveal his whereabouts for over one year; and Taysir Salman, a Jordanian journalist who was arrested in the UAE on 13 December 2015, kept in secret detention for over two months and held without charges for more than a year.

³² 141.109 (Qatar); 141.110 (Italy); 141.111 (Czechia).

inhuman or degrading treatment or punishment.³³ However, Emirati legislation does not define torture in accordance with the UNCAT.³⁴

In practice, cases documented by MENA Rights Group³⁵ show that, at least since 2011, the country's SSA has been responsible for a widespread pattern of human rights violations, which include arbitrary arrest and detention, enforced disappearance and torture, most notably against government critics, political opposition figures and human rights defenders.³⁶ Allegations of torture do not lead to investigations and thus acts of torture go unpunished. This may be due to a lack of independence of the judiciary (see section 3.5).

Finally, the UAE has extradited individuals to countries in which they face the risk of being tortured, in violation of its *non-refoulement* obligations under article 3 UNCAT.³⁷

Recommendations:

- Ensure that the definition of torture is in full compliance with the UNCAT;

³³ Article 26 of the Emirati constitution states that “[n]o man shall be subjected to torture or other indignity,” while article 28 prohibits “[t]he infliction of physical or mental harm on an accused person.”

³⁴ See “Concluding observations”, *op. cit.*, paras. 7-8.

³⁵ A summary of some of these cases can be found in section 10 of the joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. See Joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *op. cit.*

³⁶ The SSA often operates by arresting people without a warrant and taking them to an undisclosed place, where they are detained *incommunicado* for long periods of time, sometimes lasting several months. Often during this period detainees are subjected to different forms of torture or ill-treatment, frequently with the aim of extracting coerced confessions. See UN Office of the High Commissioner for Human Rights, *UAE: UN experts call for the immediate release of jailed human rights defender Ahmed Mansoor*, 12 June 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23195&LangID=E> (accessed 22 February 2022); Gulf Centre for Human Rights, *Patterns of Torture in the United Arab Emirates*, February 2022, <https://www.gc4hr.org/report/download/156> (accessed 22 February 2022), pp. 19-20; Gulf Centre for Human Rights, International Campaign for Freedom in the UAE, International Service for Human Rights, L'Organisation mondiale contre la torture SOS-torture Network, *Joint Submission on the United Arab Emirates to the 71st session of the UN Committee against Torture*, 26 June 2020, https://www.ishr.ch/sites/default/files/documents/uae_-_joint_ngo_submission_to_cat_-_26_june_2020_en_ff12.pdf (accessed 22 February 2022), pp. 5, 9, 11-14; UN Office of the High Commissioner for Human Rights, *UAE: UN experts condemn trial of foreign nationals based on forced confessions and call for their release*, 15 February 2016, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17043&LangID=E> (accessed 22 February 2022); MENA Rights Group, *UAE authorities disappear and deport Baloch man to Pakistan where he faces torture*, February 10, 2022, <https://menarights.org/en/case/abdul-hafeez-muhammad-ramzan> (accessed February 18, 2022); MENA Rights Group, “UAE 94 detainee Abdulsalam Al Marzooqi held arbitrarily since 2012”, *op. cit.*; MENA Rights Group, *Abdullah Al Shamsi released following more than two and a half years of arbitrary detention*, 19 April 2021, <https://menarights.org/en/caseprofile/omani-student-detained-uae-amidst-geo-political-tensions> (accessed 22 February 2022).

³⁷ For example, MENA Rights Group documented the case of Pakistani businessman Abdul Hafeez Muhammad Ramzan, who was arrested and forcibly disappeared by UAE security forces on 27 January 2022, before being deported to Pakistan on 2 February 2022. As an ethnic Baloch, who moved to the UAE after his father and younger brother were killed in Pakistan by Pakistani intelligence services, he is at high risk of torture in Pakistan, especially as he had no contact with his family since his deportation. In 2018, Ramzan's cousin Rashid Hussain Brohi, who was living in the UAE at the time and was an activist in the Baloch National Movement in Pakistan, was also arrested by UAE security forces, forcibly disappeared, and deported to Pakistan. Brohi's fate and whereabouts have remained unknown since. See MENA Rights Group, “UAE authorities disappear and deport Baloch man to Pakistan where he faces torture”, *op. cit.*

- End practices of *incommunicado* detention in facilities controlled by the SSA;
- Investigate alleged cases of torture, including by the SSA, and hold perpetrators to account;
- Ensure foreign nationals can challenge their expulsion, including by raising *non-refoulement* concerns;
- Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

3.4.3 Fair trial

The CCP foresees the right to legal counsel during trial.³⁸ However, it does not foresee the possibility to appoint a lawyer from the time of arrest, neither does it prescribe the possibility of free legal assistance for cases not involving the death penalty or life imprisonment. In this regard, the Committee against Torture noted that “detainees often have difficulty gaining access to counsel, a doctor and family members or other persons of their choice.”³⁹

Furthermore, before one can meet with their lawyer “written permission must be obtained from the competent public prosecution office. Meetings take place within the sight but outside the hearing of an official of the facility.”⁴⁰ In practice, the former Special Rapporteur on the independence of judges and lawyers noted with concern that, especially in criminal cases heard before the State Security Chamber of the Federal Supreme Court, lawyers seem to face serious difficulties in accessing information, especially investigation files.⁴¹ The Special Rapporteur was also “alarmed at reports that some lawyers who take up cases related to State security have been harassed, threatened and had pressure exerted on them.”⁴²

Lastly, individuals detained *incommunicado* by the SSA are often subjected to torture with the aim of extracting confessions. While the UAE legal system foresees that proof obtained through any form of harmful treatment will be deemed null, in practice, criminal convictions systematically rely on confessions extracted under torture.⁴³ This is particularly worrying as article 165 of the CCP foresees that convictions may be based solely on confessions.

Recommendations:

- Amend the relevant legislation to ensure that:
 - everyone detained in criminal procedures has access to a lawyer from the moment of arrest;
 - free legal counsel is provided to all those who cannot afford it;
 - detainees can meet with their lawyers in private;

³⁸ Article 4, CCP.

³⁹ “Concluding observations”, *op. cit.*, para. 11.

⁴⁰ Article 18 of the act regulating penal facilities.

⁴¹ United Nations Human Rights Council, *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaut*, 5 May 2015, UN Doc. A/HRC/29/26/Add.2 (hereinafter 2014 Report of the Special Rapporteur on the independence of judges and lawyers), para. 57.

⁴² 2014 Report of the Special Rapporteur on the independence of judges and lawyers, *op. cit.*, para. 79.

⁴³ MENA Rights Groups documented multiple cases in which confessions obtained through torture were used as the main evidence to convict individuals. These include the cases of Yasser Sami Abedalafou and Abdallah Sami Abedalafou Abu Baker, Abdulmalik Al Mukhanqi and Abdullah Attiah, Alya Abdulnoor, Amina Al Abdouli, Maryam Al Balushi, Abdullah Al Shamsi, Abdelrahman Chouman and Ahmad Sobh. A summary of their cases can be found in section 10 of the joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Joint report by MENA Rights Group and EDAC on the UAE's implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *op. cit.*

- confessions alone are not sufficient to justify a conviction;
- Ensure confessions obtained under torture are not admitted as evidence in any proceedings.

3.4.4 Death penalty

The UAE rejected all recommendations on establishing a moratorium on executions and abolishing the death penalty during the last UPR cycle.⁴⁴ According to the World Coalition against the Death Penalty, on 31 August 2021, 10 individuals were under the death sentence in the country, yet the last known execution took place in 2017.⁴⁵ In this regard, the Committee against Torture expressed “concern over information provided by the State party that those convicted of capital offences may spend years on death row.”⁴⁶

This is concerning as certain broad and imprecise provisions of the country’s penal code foresee the possibility of applying the capital punishment. For example, article 188 of Penal Code foresees that someone who in any way engages with any type of organisation pursuing vague goals such as, among others, disrupting the constitution or laws or the basic principles on which the governance system is based, may be punished with death or life imprisonment. Similarly, article 190 punishes with death or life imprisonment instituting, organising, administering, joining or following any type of organisation that aims to undermine national security or interests. These provisions do not meet international standards,⁴⁷ as they do not relate to the most serious crimes, especially considering their almost all-encompassing wording.

Recommendations:

- Establish *a minima* a moratorium on executions with the aim of abolishing the death penalty.

3.5 Independence of the judiciary

The UAE supported recommendations regarding respect for the principle of the separation of powers and to strengthen the independence of the judiciary.⁴⁸ Yet, the judiciary remains largely under the control of the executive. This leads, among others, to impunity for violations committed by the country’s SSA, which is also controlled by the executive.⁴⁹

Individuals arrested by the SSA are brought to trial before the Abu Dhabi Federal Court of Appeal, which, since 2016, has primary jurisdiction over state security crimes.⁵⁰ Judges of this Court are appointed by the Federal Council, upon recommendation of the Minister of Justice, himself appointed by the President of the UAE. Decisions of the Abu Dhabi Federal Court of Appeal may only be

⁴⁴ Noted recommendations: 141.96 (Mozambique); 141.97 (Austria); 141.98 (Liechtenstein); 141.99 (Portugal); 141.100 (Slovenia); 141.101 (Australia); 141.102 (Belgium); 141.103 (France); 141.104 (Ireland); 141.105 (Italy); 141.106 (Montenegro); 141.107 (United Kingdom of Great Britain and Northern Ireland); 141.108 (Mexico).

⁴⁵ World Coalition against the Death Penalty, *United Arab Emirates*, 31 August 2021, <https://worldcoalition.org/pays/ united-arab-emirates/> (accessed 11 August 2022).

⁴⁶ Concluding observations”, *op. cit.*, para. 37.

⁴⁷ See Economic and Social Council, *Safeguards guaranteeing protection of the rights of those facing the death penalty*, 25 May 1984, Economic and Social Council resolution 1984/50, https://www.unodc.org/pdf/criminal_justice/Safeguards_Guaranteeing_Protection_of_the_Rights_of_those_Facing_the_Death_Penalty.pdf (accessed 21 April 2022).

⁴⁸ 141.133 (Ghana); 141.134 (Czechia).

⁴⁹ See Articles 2 and 7, Federal Law No. 2 of 2003.

⁵⁰ See Article 12(bis) Federal Law No. 3 of 1983, as amended by Federal Law No. 11 of 2016.

appealed at the State Security Chamber of the Federal Supreme Court, which, since 2016, is the court of last instance for state security and terrorism-related crimes.⁵¹ Regarding the latter court, the Working Group on Arbitrary Detention said it “considered the criminal proceedings before the Federal Supreme Court and found them to be in violation of the right to a fair trial”.⁵² Judges of the Federal Supreme Court are appointed by the president upon approval of the executive bodies.⁵³ Similarly, the federal public prosecution was established under the direct supervision and control of the Minister of Justice and the appointment of its members is done by the president upon approval of executive bodies.⁵⁴ This leads to an overarching control of the SSA and the judiciary by the executive, severely limiting the probability that the latter will hold the former accountable for its violations.⁵⁵

Recommendation:

- Amend the Emirati constitution to include the separation of powers between the executive branch and the judiciary.
- Guarantee the independence of the judiciary.
- Ensure the executive does not exercise effective control over the appointment and dismissal of judges.

⁵¹ Article 33(8) Federal Law No.10 Concerning the Federal Supreme Court.

⁵² Working Group on Arbitrary Detention, *Opinion No. 21/2017 concerning Mohamad Ismat Mohamad Shaker Az (United Arab Emirates)*, UN Doc. A/HRC/WGAD/2017/21, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/190/33/PDF/G1719033.pdf?OpenElement> (accessed 12 May 2022), para. 52.

⁵³ Article 7, Federal Law No.10 Concerning the Federal Supreme Court and article 96 of the Emirati constitution.

⁵⁴ 2014 Report of the Special Rapporteur on the independence of judges and lawyers, *op. cit.*, para. 71.

⁵⁵ In this regard, The Committee against Torture expressed concern over “reports of excessive control of the executive in the appointment of the judiciary resulting in a lack of accountability for executive actions.” “Concluding observations”, *op. cit.*, para. 23.

MENA Rights Group is a Geneva-based legal advocacy NGO, focusing on the protection and promotion of fundamental rights and freedoms in the Middle East and North Africa. Adopting a holistic approach, we work at both the individual and structural level. We provide legal counselling to victims of human rights violations through recourse to international law mechanisms. In addition, we assess the human rights situation on the ground and bring key issues to the attention of relevant stakeholders to call for legal and policy reform.