

ADHRB

For consideration at the 29th session of the UN working group

1. ADHRB welcomes the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of the United Arab Emirates (UAE). This submission focuses on the UAE's compliance with its second-cycle recommendations to adhere to international treaties and human rights mechanisms, guarantee the rights to free expression, association, and assembly, and reform the criminal justice system.

Introduction

2. The Government of the UAE received 48 recommendations concerning treaty compliance; 19 recommendations concerning free expression, press, association, and assembly; 2 recommendations concerning torture; and 11 recommendations concerning the death penalty during its second UPR cycle.
3. This assessment finds that the government has failed to implement the vast majority of these recommendations, and that it continues to impose severe restrictions on political activity, human rights work, and independent civil society space. Moreover, the authorities regularly subject those that violate these restrictions to torture, enforced disappearance, arbitrary detention, and unfair trial procedures – contravening other second-cycle UPR recommendations pertaining to treaty compliance and criminal justice reform.
4. The submission is divided into the following sections:
 - a. Treaty Compliance
 - b. Domestic Restrictions on Free Expression, Press, Association, and Assembly
 - c. Criminal Justice: Torture, Enforced Disappearances, and Capital Punishment
 - d. Conclusion and Recommendations

Treaty Compliance

5. At the time of its second UPR cycle in 2013, the UAE was party to five international human rights treaties: the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Convention on the Rights of the Child (CRC); and the Convention on the Rights of Persons with Disabilities (CPRD).¹ The Emirati government had entered reservations and/or declarations to all of the aforementioned treaties except the CPRD.
6. During its 2013 review, the UAE received nearly 50 recommendations to ratify additional international human rights treaties and withdraw its reservations and declarations from those to which it has already acceded.

¹ "Status of Ratification: Interactive Dashboard – Ratification of 18 International Human Rights Treaties," United Nations (UN), Office of the High Commissioner for Human Rights (OHCHR), 2017, <http://indicators.ohchr.org/>

7. The UAE has done little to implement these recommendations. In 2016, the Emirati government ratified the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography. The UAE has not ratified any other major international human rights treaty since 2013 – including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) – nor has it withdrawn its existing reservations or declarations.
8. The UAE has also failed to fully adhere to the international treaties to which it has already acceded. Emirati authorities continue to violate the rights to free expression, association, and assembly, as well as the right to be free from torture and ill-treatment, contravening the principles outlined in the CAT, CEDAW, and other international standards. The remainder of this submission addresses these violations.

Domestic Restrictions on Free Expression, Press, Association, and Assembly

9. The Emirati government has failed to implement its 19 second-cycle recommendations to protect free expression, press, association, and assembly. ADHRB finds that the UAE has taken further action to limit these freedoms during the period under review by building on an already expansive legal framework designed to criminalize many forms of activism, peaceful criticism, and dissent. Independent indices on press freedom currently rank the UAE among the most restrictive in the world.²

Constitution

10. The UAE's 1971 constitution contains some protections for freedom of expression, including Article 30, which maintains that the "freedom of opinion and of expressing that opinion verbally, in writing, or by any other medium of expression is guaranteed as provided in law."³ During its second UPR cycle, the UAE accepted recommendation **128.111** to "enhance implementation of the constitutional provisions on freedom of expression." However, as demonstrated below, the constitutional protections provided by Article 30 have been directly undermined by other legislation that constrain free expression, and the government has taken no action to "enhance" existing constitutional guarantees. For these reasons, ADHRB assesses that recommendation **128.111** is not implemented.

Press and Publications Law

11. The UAE received several second-cycle recommendations to either repeal the 1980 Press and Publications Law or amend it to protect free expression, including **128.106**. The government has not implemented these recommendations.

² "2017 World Press Freedom Index," Reporters Without Borders, 2017, <https://rsf.org/en/ranking>; "Freedom of the Press 2017," Freedom House, 2017, <https://freedomhouse.org/report/freedom-press/freedom-press-2017>

³ The Constitution of the United Arab Emirates, Government of the United Arab Emirates, 2011, http://www.iedja.org/wp-content/uploads/pdf/litterature_juridique/EMIRATS%20ARABES%20UNIS/revision_constitutionnelle_2011.pdf

12. The Press and Publications Law allows Emirati authorities to censor foreign and domestic news sources and prohibits criticism of the UAE government, its allies, or its religion.⁴ The law also criminalizes the publication of any material that could prove damaging to the Emirati economy. As a result of this restrictive legal environment, self-censorship is common and widespread.⁵
13. As early as 2009 it was reported that the Emirati government was considering a new press law.⁶ However, in the years since, the authorities have not promulgated any such legislation, and the Press and Publications Law of 1980 remains the chief legal framework regulating the media. Notably, according to Human Rights Watch, the alternative law under consideration in 2009 may have imposed even more excessive restrictions on press freedom and the right to free expression.⁷

Cybercrime Law

14. The UAE received several second-cycle recommendations to reform the country's Federal Law No. 5 of 2012 on Combating Cybercrimes,⁸ known informally as the cybercrime law, including **128.112** and **128.108**. However, the government did not accept these recommendations, and it has failed to take any steps to bring the law in line with international standards. While the cybercrime law includes provisions that purportedly seek to curb the spread of extremist content on the internet, it also gives the government wide authority to monitor online communications and prosecute users for expressing dissident views.⁹
15. The cybercrime law regulates information technology, which it broadly defines to include "websites, any information network, or information technology means," as well as blogs, social networking fora, text messages, and emails.¹⁰ Many of the law's provisions are vague and can be used to target individuals solely for exercising their right to free expression or association:¹¹
 - a. Article 26 provides for a minimum of 5 years in prison and a fine of nearly \$275,000 for using information technology in such a way as to support the activities of any "unauthorized group."¹² Under Emirati law, this can include human rights organizations or groups calling for peaceful political reform.
 - b. Article 28 holds that an individual shall be punished with imprisonment and a fine of nearly \$275,000 for using information technology "with intent to incite acts or publishes or

⁴ "Freedom in the World 2017: United Arab Emirates," Freedom House, 2017, <https://freedomhouse.org/report/freedom-world/2017/united-arab-emirates>

⁵ Ibid.

⁶ Roy Greenslade, "UAE aims to stifle press freedom," *The Guardian*, 16 April 2009, <https://www.theguardian.com/media/greenslade/2009/apr/16/dubai-press-freedom>

⁷ Ibid.

⁸ Federal Law No. 5 of 2012 on Combating Cybercrimes, Government of the United Arab Emirates, 13 August 2012, http://ejustice.gov.ae/downloads/latest_laws/cybercrimes_5_2012_en.pdf

⁹ Federal Law No. 5 of 2012 on Combating Cybercrimes, Government of the United Arab Emirates, 13 August 2012, http://ejustice.gov.ae/downloads/latest_laws/cybercrimes_5_2012_en.pdf ; "UAE: Cybercrimes Decree Attacks Free Speech," Human Rights Watch, 28 November 2012, <https://www.hrw.org/news/2012/11/28/uae-cybercrimes-decree-attacks-free-speech>

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

transmits information, news or cartoon drawings or any other pictures which may endanger the national security and the higher interests of the State or afflicts its public order.”¹³

- c. Article 29 holds that individuals shall be punished with imprisonment and a fine of nearly \$275,000 for using information technology “to make sarcasm or damage the reputation, prestige or stature of the State or any of its institutions or its president, vice-president, any of the rulers of the Emirates, their crown princes, or the deputy rulers of the Emirates, the State flag, the national peace, its logo, national anthem or any of its symbols.”¹⁴
- d. Article 30 provides up to life in prison for anyone who uses information technology or incites others to use information technology in such a way as “to advocate the overthrow, change, or usurpation of the system of governance in the state, or obstruct provisions of the constitution or existing law, or oppose the fundamental principles on which the system of governance in based.”¹⁵
- e. Article 32 allows individuals to be punished with imprisonment and a fine of more than \$136,000 for using information technology “for planning, organizing, promoting or calling for demonstrations or protests or the like without license from the competent authority.”¹⁶
- f. Article 38 allows individuals to be imprisoned for using information technology to communicate “incorrect, inaccurate or misleading information which may damage the interests of the State or injures its reputation, prestige or stature.”¹⁷

16. In 2016, UAE President Sheikh Khalifa bin Zayed Al Nahyan enacted Federal Law No. 12 of 2016, which expanded the existing 2012 cybercrime Law.¹⁸ The 2016 amendment prohibits the use of inauthentic internet protocol (IP) addresses and punishes this offense with imprisonment or fines of up to Dh2,000,000 (approximately US\$544,500).¹⁹ In practice, this constrains the privacy of UAE residents by prohibiting the use of an IP address that allows the user to remain undiscoverable.²⁰ Because the UAE prescribes lengthy jail terms and large fines for expressing dissenting views, requiring that IP addresses be traceable further increases the risk faced by human rights defenders, journalists, and activists as they often utilize fabricated IP addresses as a means of protecting identities in the course of their work.²¹

17. Rather than narrow the focus of the law’s provisions in order to bring them into alignment with international standards, Emirati authorities have continued to apply it against peaceful government critics and human rights defenders. On 15 March 2017, for example, an Emirati court sentenced

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ “Dh500,000 fine if you use fraud IP in UAE,” Emirates 24/7, 22 July 2016, <http://www.emirates247.com/news/emirates/dh500-000-fine-if-you-use-fraud-ip-in-uae-2016-07-22-1.636441>

¹⁹ Ibid.

²⁰ “UAE Cybersecurity Law Threatens Freedom of Expression,” ADHRB, 27 July 2016, <http://www.adhrb.org/2016/07/uae-toughens/>

²¹ Ibid; William R. Marczak, John Scott-Railton, Morgan Marquis-Boire, and Vern Paxson, “When Governments Hack Opponents: A Look at Actors and Technology,” USENIX Association, <https://www.usenix.org/system/files/conference/usenixsecurity14/sec14-paper-marczak.pdf>

Jordanian journalist **Tayseer al-Najjar** to three years in prison and a \$136,000 fine on charges of violating Article 29 of the law by allegedly making comments on Facebook in support of “Gazan resistance” to Israeli military operations in 2014.²²

18. On 20 March 2017, UAE authorities arrested world-renowned human rights defender **Ahmed Mansoor**²³ and later accused him of using social media websites to commit a number of offences, including “promoting false and shaded information through the internet.”²⁴ The Public Prosecution for Cybercrimes ordered Mansoor’s arrest,²⁵ further suggesting that he will ultimately be tried under the cybercrimes law. Mansoor was previously detained in 2011 and has faced consistent surveillance, intimidation, and hacking in reprisal for his work.
19. On 29 March, an Emirati court sentenced prominent academic and human rights defender **Dr. Nasser bin Ghaith** to ten years in prison on charges brought under the cybercrimes law.²⁶ The charges stemmed from comments Dr. bin Ghaith made on Twitter; authorities also brought charges against Dr. bin Ghaith for posting information online about being tortured in 2011 and for his alleged connection with illegal political groups.²⁷
20. In addition to undermining free expression, the application of the UAE’s cybercrime legislation directly contravenes recommendations **128.105** and **128.117**, which call on the UAE to facilitate the work of human rights defenders and prevent the harassment of activists and journalists.

Anti-Terror Law

21. Like its cybercrime law, the UAE’s Terrorism Law No. 7 of 2014 is exceedingly broad and allows Emirati authorities to prosecute acts of free expression, association, and assembly as terror crimes. According to the law, for example, any action that is carried out with the intent of “antagonizing the state” is considered to be an act of terrorism.²⁸ This ambiguous definition also fails to require intent to cause death or injury as a prerequisite for terror crimes.²⁹ Furthermore, the law defines “terrorist organizations” as any group whose actions create “direct or indirect terrorist outcome[s].”³⁰ Taken

²² Afef Abrougui, “UAE Court Sentences Jordanian Journalist Tayseer al-Najjar to Prison,” Global Voices, 16 March 2017, <https://advox.globalvoices.org/2017/03/16/uae-court-sentences-jordanian-journalist-tayseer-al-najjar-to-prison/>

²³ “UAE: Free prominent human rights defender Ahmed Mansoor now,” Gulf Center for Human Rights, 20 March 2017, <http://www.gc4hr.org/news/view/1521>

²⁴ “UAE issues statement on Ahmad Mansour’s detention,” Gulf News, 29 March 2017, <http://gulfnews.com/news/uae/government/uae-issues-statement-on-ahmad-mansour-s-detention-1.2002628>

²⁵ Ibid.

²⁶ “UAE Sentences Dr. Nasser bin Ghaith to 10 Years in Prison,” ADHRB, 29 March 2017, <http://www.adhrb.org/2017/03/uae-sentences-dr-nasser-bin-ghaith-10-years-prison/>

²⁷ Ibid.

²⁸ “UAE: Terrorism Law Threatens Lives, Liberty,” Human Rights Watch, 3 December 2014, <https://www.hrw.org/news/2014/12/03/uae-terrorism-law-threatens-lives-liberty>

²⁹ Ellen Duthoy and Kate Kizer, “The UAE shouldn’t imprison activists in the name of counterterrorism,” Al Jazeera, 27 October 2015, <http://america.aljazeera.com/opinions/2015/10/the-uae-must-stop-imprisoning-activists-in-the-name-of-counterterrorism.html>; “UAE: Terrorism Law Threatens Lives, Liberty,” Human Rights Watch, 3 December 2014, <https://www.hrw.org/news/2014/12/03/uae-terrorism-law-threatens-lives-liberty>

³⁰ Ibid.

together, this vague language allows the government to criminalize many forms of peaceful expression and association on counterterror grounds.

22. The terrorism law provides for a variety of harsh penalties, including up to 15 years in prison for “publicly declar[ing]...animosity or lack of allegiance to the State.”³¹ In certain cases, the law allows for fines of up to \$27 million for actions it considers to be terrorist crimes.³² Additionally, the law prescribes the death penalty for such vague “terrorist” offences as “undermin[ing] national unity or social peace”³³ and/or possessing materials that are insulting towards Islam.³⁴ Though the government did not accept its numerous second-cycle recommendations to abolish the death penalty, this provision of the anti-terror law prevents the UAE from making progress on recommendation **128.130** to “reduce the number of crimes where the death penalty can be imposed,” which the government supported.
23. Emirati authorities have used the anti-terror law to target activists and human rights defenders as well. In 2014, a UAE court sentenced **Osama al-Najjer**, the son of another Emirati prisoner of conscience **Hussain al-Najjer**, to three years in prison and a \$136,000 fine under the anti-terror law. He was convicted of belonging to a banned group, offending and inciting hatred against the state via social media, and “passing information to foreign organizations” after Tweeting a response to the Emir of Sharjah and discussing allegations of torture and other abuses in the country’s prisons.³⁵ During his detention, al-Najjer has reportedly faced torture and solitary confinement.³⁶ As of March 2017, al-Najjer remained in prison despite completing his sentence.³⁷
24. The UAE received recommendation **128.150** and **128.157** to cooperate with the UN in order to ensure counterterror efforts respect human rights and fundamental freedoms, including by allowing a visit by the Special Rapporteur on the promotion and protection of human rights while countering

³¹ Ibid.

³² “Freedom in the World 2017: United Arab Emirates,” Freedom House, 2017, <https://freedomhouse.org/report/freedom-world/2017/united-arab-emirates>

³³ “UAE: Terrorism Law Threatens Lives, Liberty,” Human Rights Watch, 3 December 2014, <https://www.hrw.org/news/2014/12/03/uae-terrorism-law-threatens-lives-liberty>

³⁴ “Freedom in the World 2017: United Arab Emirates,” Freedom House, 2017, <https://freedomhouse.org/report/freedom-world/2017/united-arab-emirates>

³⁵ Ibid.; “Prisoner Profile: Online Activist Osama al-Najjar,” ADHRB, 2 November 2015, <http://www.adhrb.org/2015/11/prisoner-profile-osama-al-najjar/>

³⁶ Ellen Duthoy and Kate Kizer, “The UAE shouldn’t imprison activists in the name of counterterrorism,” Al Jazeera, 27 October 2015, <http://america.aljazeera.com/opinions/2015/10/the-uae-must-stop-imprisoning-activists-in-the-name-of-counterterrorism.html>; “UAE: Terrorism Law Threatens Lives, Liberty,” Human Rights Watch, 3 December 2014, <https://www.hrw.org/news/2014/12/03/uae-terrorism-law-threatens-lives-liberty>; “Prisoner Profile: Online Activist Osama al-Najjar,” ADHRB, 2 November 2015, <http://www.adhrb.org/2015/11/prisoner-profile-osama-al-najjar/>

³⁷ “UAE Decision not to release Osama al-Najjar ‘indefensible,’” Amnesty International, 18 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/uae-decision-not-to-release-osama-al-najjar-indefensible/>

terrorism. The UAE has not invited the Special Rapporteur despite his outstanding requests,³⁸ and it continues to use counterterror measures to target civil society actors and restrict basic freedoms.

2015 Anti-Discrimination Law

25. The Emirati government issued Federal Decree Law No. 2 of 2015, known informally as the anti-discrimination law, in July 2015.³⁹ As with the press, cybercrime, and anti-terror legislation, many of the law's provisions are vaguely worded and can be used to target free expression. Article 6, for example, allows for a prison sentence of up to five years for anyone "who commits any act of discrimination of any form by any means of expression or by any other means."⁴⁰ The law also fails to protect individuals from discrimination on the basis of gender or sexual orientation.

Additional Regulations

26. On 5 June 2017, the UAE was one of several states to cut diplomatic ties with Qatar citing the latter's alleged ties to terrorism. Soon after, on 7 June, the Emirati authorities announced that they would punish anybody determined to be criticizing the government or sympathizing with Qatar "whether it be through the means of social media, or any type of written, visual or verbal form."⁴¹ The announcement indicated that offenders could be subject to up to 15 years in prison. Earlier, in May 2017, the Emirati government also reportedly blocked the website of the Al Jazeera media outlet and several other Qatari newspapers.⁴²

Criminal Justice: Torture, Enforced Disappearance, and Capital Punishment

Torture and Enforced Disappearance

27. The UAE received **128.131** and **128.132** to end torture and improve accountability, but it received no recommendations concerning enforced disappearance. Though the government accepted both recommendations, it has failed to fully implement either. Detainees in the UAE regularly allege that Emirati security forces subject them to torture and other forms of ill-treatment. Nearly every activist and human rights defender listed above, including Ahmed Mansoor, Dr. Nasser bin Ghaith, and Osama al-Najjer, reported experiencing torture. There is also credible evidence that Emirati authorities forcibly disappear and torture individuals at secret detention facilities, as in the case of

³⁸ A/HRC/34/61, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*, Office of the High Commissioner for Human Rights, 21 February 2017.

³⁹ "Anti-discrimination law enacted across UAE," *The National*, 20 July 2015,

<http://www.thenational.ae/uae/government/anti-discrimination-law-enacted-across-uae>

⁴⁰ Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred, Government of the United Arab Emirates, 15 July 2015,

http://ejustice.gov.ae/downloads/latest_laws2015/FDL_2_2015_discrimination_hate_en.pdf

⁴¹ Karen DeYoung, "Bahrain and UAE criminalize 'sympathy' for Qatar," *The Washington Post*, 8 June 2017, https://www.washingtonpost.com/world/national-security/bahrain-and-uae-criminalize-sympathy-for-qatar/2017/06/08/ce74a666-4c70-11e7-9669-250d0b15f83b_story.html?utm_term=.4c2fd1aa4f36

⁴² Zahraa Alkhalisi, "Al Jazeera blocked by Saudi Arabia, Qatar blames fake news," *Al Jazeera*, 24 May 2017, <http://money.cnn.com/2017/05/24/media/al-jazeera-blocked-saudi-arabia-uae/index.html>

Dr. Nasser bin Ghaith. Notably, recent investigations have also seriously implicated the UAE in torture and a network of secret detention facilities in Yemen.⁴³

28. Other demonstrative cases during the period under review include:

- a. **Kamal and Mohammed al-Darat**, two Libyan-American citizens, were arrested in August 2014 and held incommunicado for more than a month.⁴⁴ During this period, the al-Darats were prevented from accessing an attorney or consular services. Both Kamal and Mohammed al-Darat alleged they were tortured by the authorities, including beating, electrocution and sleep deprivation. After more than 500 days of pre-charge detention, the al-Darats were accused of supporting illegal groups under the anti-terror law. The al-Darats denied the charges and, after international outcry, were ultimately released in June 2016.⁴⁵
- b. **Dr. Mohammed al-Roken**, an Emirati human rights lawyer, was detained in March 2012 during a wave of mass arrests targeting reform activists. While in detention, security forces reportedly subjected Dr. al-Roken to torture and degrading treatment including solitary confinement without furniture or personal items, and denied him access to his lawyer. In a 2013 mass trial, al-Roken was sentenced to 10 years in prison.⁴⁶

Death Penalty

29. The UAE rejected 8 recommendations to abolish or institute a moratorium on the death penalty. It carried out the execution of one prisoner in 2014 and another in 2015, and the courts have continued to issue death sentences.

Conclusion and Recommendations

30. The Government of the UAE has failed to implement its UPR recommendations to increase treaty compliance; protect the rights to free expression, assembly, and association; and improve criminal justice procedures. To the contrary, it has expanded legal restrictions on fundamental freedoms and continued to subject civil society actors to torture, forced disappearance, and other abuses.

31. ADHRB calls on the UAE to:

⁴³ Maggie Michael, "In Yemen's secret prisons, UAE tortures and US interrogates," Associated Press, 22 June 2017, <https://apnews.com/4925f7f0fa654853bd6f2f57174179fe>; "Yemen: UAE Backs Abusive Local Forces," Human Rights Watch, 22 June 2017, <https://www.hrw.org/news/2017/06/22/yemen-uae-backs-abusive-local-forces>

⁴⁴ "Prisoner Profile: Kamal and Mohammed al-Darat," ADHRB, 26 October 2015, <http://www.adhrb.org/2015/10/prisoner-profile-kamal-and-mohammed-al-darat/>; "UAE: Investigate Allegations of Torture of Foreign Nationals," Human Rights Watch, 13 October 2015, <https://www.hrw.org/news/2015/10/13/uae-investigate-allegations-torture-foreign-nationals>

⁴⁵ Ashifa Kassam, "Salim Alaradi leaves UAE for Canada after being detained nearly two years," The Guardian, 2 June 2016, https://www.theguardian.com/world/2016/jun/02/salim-alaradi-freed-uae-canada?CMP=tw_t_b-gdnnews

⁴⁶ "Prisoner Profile: Dr. Mohammed al-Roken," ADHRB, 23 November 2015, <http://www.adhrb.org/2015/11/prisoner-profile-dr-mohammed-al-roken/>

- a. Ratify all international human rights treaties, particularly the ICCPR, the ICESCR, and the International Convention for the Protection of all Persons from Enforced Disappearance.
- b. Repeal or substantially amend the legal framework constricting basic freedoms outline above, specifically the press law, cybercrimes law, and anti-terror law.
- c. Immediately release all prisoners of conscience, including Ahmed Mansoor and Dr. Nasser bin Ghaith.