



**United Arab Emirates Shadow Report
Report submitted to the Committee against Torture**

Prepared by:

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1. Introduction

On 19 July 2012, the United Arab Emirates (UAE) acceded to the UN Convention against Torture (UNCAT) committing to respecting the principle of the absolute abolition of torture. It also thereby committed to taking active measures to prevent and prosecute allegations of torture and offering reparation to victims. In spite of this, the Emirati government has taken few steps to effectively follow through its accession with concrete and serious action. Rather, Emirati forces continue to torture individuals and there are reports of numerous cases of torture perpetrated by UAE forces inside and outside the UAE. Despite such reports, the Emirati government has done little to hold offending individuals accountable, leading to a climate of impunity for abusers. Ongoing cases of torture in conjunction with a heavy reliance on cyber surveillance mechanisms, vague legislation allowing for a wide range of abuses, the systematic detention of activists, dissidents, and human rights defenders, and a judicial system lacking independence and impartiality, have led to allegations that the UAE is a police state.¹

In this report, Americans for Democracy & Human Rights in Bahrain (ADHRB) evaluates the United Arab Emirates' implementation of the Convention against Torture.

2. Background

Since the 2011 Arab Spring, Emirati authorities have severely restricted expression critical of the government. The government has employed sophisticated spyware to surveil and target journalists, activists, and dissidents and several reports confirm that the government usually monitors and in some cases censors incoming international mail, wiretaps telephones, mails and other electronic forms of communication without following appropriate legal procedures. Beginning in 2012, the government expanded its legal ability to stifle dissent by promulgating and updating restrictive laws. In 2012, the government promulgated its Cybercrime Law, which criminalizes defamation, its counter-terrorism law, which defines a terrorist act as any act that would "antagonize the State."²

Under this legal infrastructure, Emirati authorities have been able to suppress free expression. Newly empowered security forces have targeted human rights defenders, journalists, bloggers, professors, and ordinary people, arbitrarily detaining, forcibly disappearing, and sometimes torturing them.

Even as security agents arrest, detain, and torture UAE citizens, Emirati armed forces and Emirati-supported forces in Yemen operate a network of secret prisons where torture, including sexual torture, is rampant.³

3. Definition and prohibition of torture according to the CAT

According to Article 1 of the UNCAT: "*torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity*" in order to obtain information, punish, intimidate, or coerce."⁴

Article 2 states that "*no exceptional circumstances whatsoever [...] may be invoked as a justification of torture.*" It also calls on State parties to adopt "*effective legislative, administrative, judicial or other*

¹ "United Arab Emirates: URGENT ACTION: The UAE slides into a police state," Gulf Centre for Human Rights, 14 August 2012, <https://www.gc4hr.org/news/view/219>.

² "United Arab Emirates 2018," Amnesty International, <https://www.amnesty.org/en/countries/middle-east-and-north-africa/ united-arab-emirates/report-united-arab-emirates/>.

³ Maggie Michael, "In Yemen's secret prisons, UAE tortures and US interrogates," Associated Press, 22 June 2017, <https://www.apnews.com/4925f7f0fa654853bd6f2f57174179fe>.

⁴ UN General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, June 1987, <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>.

measures to prevent acts of torture in any territory under its jurisdiction.” Thus, Article 2 specifies the absolute and non-derogable characteristics of the prohibition of torture.

Article 4 calls upon States to enshrine prohibitions of torture in their domestic laws in order to “*ensure that all acts of torture are offences under [their] criminal law[s].*” These laws must make torture “*offences punishable by appropriate penalties which take into account their grave nature.*”

Article 12 calls upon States to ensure that the “*competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.*” Under Article 14, States must grant torture victims an “*enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.*”⁵

3.1 Prohibition of torture according to UAE national legislation

The UAE submitted its State Party report to the Committee against Torture in June 2018, five years after the deadline passed in 2013. In its report,⁶ the UAE stated that its national laws prohibit torture and other ill-treatment and are aimed at preventing and prohibiting torture, punishing the perpetrators, compensating the victims, and ultimately fully complying with the UNCAT.

In particular, the government highlighted Article 6 of its Constitution, which states that “*no man shall be subjected to torture or other indignity.*” It also noted Article 28, which provides that the “*physical and mental abuse of an accused person shall be prohibited,*” As well as Article 41, which states that “*every person shall have the right to submit complaints to competent authorities, including the judicial authorities, concerning the abuse or infringement of the rights and freedoms stipulated in this Chapter.*”⁷

In addition to noting various articles of the Constitution, specific provisions of the Emirati Penal Code prohibit torture. Article 242 of the Penal Code provides that

Any public official who uses torture, force or threats against an accused person, a witness or an expert, either directly or through an intermediary, for the purpose of obtaining a confession to an offence, or coercing the person into making a statement or providing information about an offence or concealing facts shall be sentenced to a fixed term of imprisonment.

Article 245 of the Penal Code provides that

All public officials or persons entrusted with a public service who use the authority of their office to subject others to cruel treatment, offend their decency or cause them bodily harm shall be sentenced to imprisonment for a minimum term of 1 year and/or to a minimum fine of Dh 10,000.

In light of these provisions the Emirates’ report states that, “*It is clear from the provisions of the above articles that effective measures are in place for preventing acts of torture, particularly during the questioning, arrest and detention phases, and that every safeguard is taken to ensure that no torture is practiced.*”

The UAE’s report draws attention to other legislative instruments in an effort to prove Emirati authorities’ willingness to comply with the Convention. The report cites Article 86 of the Minister of the Interior’s

⁵ UN General Assembly, “Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Treaty Series, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

⁶ United Arab Emirate, “Initial report submitted by the United Arab Emirates under Article 19 of the Convention due in 2013,” Committee Against Torture, CAT/C/ARE/1, 26 December 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fARE%2f1&Lang=en.

⁷ “The Constitution,” [no publication date and no publishing information], <https://www.government.ae/en/about-the-uae/the-constitution-of-the-uae>.

Decision No. 471 of 1995, concerning the regulation of correctional and penal facilities. It provides that, *“The use of cruelty, beating, torture or other means of physically assaulting prisoners is prohibited, as is mental duress of any kind. No disciplinary punishments other than those prescribed by law may be imposed on prisoners.”* The report notes that there are

*Mechanisms for the protection of complainants and witnesses from any kind of intimidation or ill-treatment during the information-gathering and investigation phase. The Constitution of the United Arab Emirates and various pieces of the legislation in effect provide for the right to submit complaints. They also establish safeguards for the protection of complainants and witnesses from any form of ill-treatment, harm, indignity and intimidation to which they may be subjected for having lodged a complaint or a formal report. All persons who believe that they have suffered harm, including persons who have been subjected to torture and their families, are entitled under the laws of the United Arab Emirates to bring proceedings for compensation before the domestic courts, as provided for in the Civil Code.*⁸

According to the UAE’s State Party report, the Emirati Ministry of Interior has adopted a series of initiatives to protect members of the community and to combat all forms of torture. Among these initiatives are disseminating a human rights culture, establishing and supporting a victim and witness protection program, promoting best practices when dealing with inmates, and establishing a training academy for personnel employed in penal institutions.. According to the government, the Ministry of Interior is also engaged in drafting a number of strategic policies and practices to combat torture and other cruel, inhuman or degrading treatment.

However, even as the government acceded to the UNCAT officials noted a reservation to the Convention, stating that *“lawful sanctions applicable under national law, or pain or suffering arising from or associated with or incidental to these lawful sanctions, do not fall under the concept of torture.”*⁹ This reservation undermines the definition of torture, as enumerated in Article 1 of the Convention. It also raises serious doubts about the Emirate’s commitment to implementing and following through with the Convention.

4. Practice of Torture, Cruel, Inhuman and Degrading Treatment inside the Emirati territory

Numerous reports¹⁰ have documented ongoing cases of torture committed by Emirati forces, including cases where human rights defenders, dissidents, and ordinary people have been tortured after being arrested for criticizing the government. Among the methods officials use are sleep deprivation, denial of medical treatment, verbal threats, beatings, and sexual assault.

Ahmed Mansoor is a prominent activist, human rights defender, and critic of the government. As a result of his activism, security forces repeatedly targeted him for intimidation and harassment, and he has received death threats. In March 2017, 12 state security officers raided his home in Ajman without a warrant and took him to an unknown location, where he was denied the ability to contact his family or his lawyer. In detention, officers tortured him, including through the use of detention in solitary confinement, the prolonged use of which constitutes torture.¹¹

⁸ United Arab Emirate, “Report submitted by the United Arab Emirates under Article 19 of the Convention.”

⁹ “Status of accession to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” United Nations Treaty Collection, 7 August 2019, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-9&chapter=4&clang=en#EndDec.

¹⁰ See: “Systematic torture: Statistics from Dubai Central Jail,” Reprieve, 28 October 2013, https://reprieve.org.uk/wp-content/uploads/2015/03/2013_10_28_INT-UAE-Torture-Report-final.pdf; “U.N. says UAE activist Mansoor’s prison conditions ‘may constitute torture,’” Reuters, 7 May 2019, <https://www.reuters.com/article/us-emirates-prisoners/u-n-says-uae-activist-mansoors-prison-conditions-may-constitute-torture-idUSKCN1SD1OZ>.

¹¹ “UAE: UN experts condemn conditions of detention for jailed activist Ahmed Mansoor,” United Nations Special Procedures, 7 May 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24571&LangID=E>.

Dr. **Nasser Bin Ghaith** is a prominent Emirati economist and academic and critic of the government. Security forces forcibly disappeared Dr. bin Ghaith in August 2015 during a raid on his home. They held him in an undisclosed location for one year until his first hearing before the State Security Chamber of the Federal Supreme Court in Abu Dhabi on free expression charges. During his trial, which was held behind closed doors, Dr. bin Ghaith told the court that officers had detained him in a secret location and had beaten him, deprived him of sleep, and physically tortured him for up to a week. The judge reportedly turned off Dr. bin Ghaith's microphone in order to silence him. The Abu Dhabi Court of Appeal sentenced him to ten years in prison.¹²

In December 2015, members of the State Security Forces arrested **Taysir Salman**, also known as **Taysir Al Najjar** at the Criminal Investigation Department of Abu Dhabi and took him to an unknown location. Officers held him in secret for over two months, during which time he alleges he was tortured and ill-treated. He was allowed to contact his family at the end of February 2016, and he informed them that he was being detained at Al Wathba prison. In March 2017, he was sentenced to three years in prison and fined 30,000 Dirhams (roughly 82,000 US dollars).¹³

In November 2015, State Security Force personnel raided **Amina al-Abdouli's** house without presenting a warrant. They forcibly disappeared al-Abdouli, a teacher, in an unknown location. She was charged with committing free expression crimes stemming from criticizing the government. During detention, she was confined in a small room without windows and denied access to a lawyer and her family. She was detained for two-and-a-half months, and interrogated. During the interrogation, officers insulted her, threatened her, beat her, and tortured her. They tied her hands and forced her to stand for long periods of time, and beat her all over her body; ordered to insult her family, especially the parents of her father. They forced her to sign 25 papers, including a statement written by the interrogators, and she was sentenced to five years in prison.¹⁴

In July 2015, security forces arrested **Alya Abdulnoor**, a young Emirati woman, and charged her with financing international terrorist groups. Although she suffered from cancer, officials detained Abdulnoor in an unknown location for four months. During that time, officials reportedly tortured her and forced her to sign a false confession. When her family was allowed to visit her in January 2019, they saw that she was under heavy guard in a windowless room without ventilation and chained to her bed. Due to her medical condition, her family has repeatedly asked authorities to allow release Abdulnoor, so she can spend her final days at home. The family cited Federal Law No. 43/1992 which allows for a prisoner's release on medical grounds.¹⁵ However, the authorities have rejected their requests. Despite being in critical condition with only a few months left to live, the government denied her adequate medical treatment. Abdulnoor died in May 2019.¹⁶

¹² For more information see: "UAE sentences Dr. Nasser bin Ghaith to 10 years in prison," Americans for Democracy & Human Rights in Bahrain, 29 March 2017, <https://www.adhrb.org/2017/03/uae-sentences-dr-nasser-bin-ghaith-10-years-prison/>; "Nasser bin Ghaith," Frontline Defenders, accessed 7 August 2019, <https://www.frontlinedefenders.org/en/profile/nasser-bin-ghaith>.

¹³ "Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017 Opinion No. 58/2017 concerning Taysir Hasan Mahmoud Salman (United Arab Emirates)," United Nations Working Group on Arbitrary Detention, 20 October 2017, https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_58.pdf.

¹⁴ "Amina Al-Abdouli tortured in UAE prisons: Second new recording," International Centre for Justice and Human Rights, 22 June 2018, <http://www.ic4jhr.org/en/2014-11-30-18-36-45/media/923-press-release-amina-al-abdouli-tortured-in-uae-prisons-second-new-recording.html>.

¹⁵ Bill Law, "The UAE's Torture in the Shadows," Fair Observer, 14 February 2019, https://www.fairobserver.com/region/middle_east_north_africa/united-arab-emirates-news-uae-alya-abdulnoor-arab-world-news-43490/.

¹⁶ "Alya Abdulnoor died in custody after UAE authorities refused to release her on medical grounds," International Centre for Justice and Human Rights, 6 May 2019, <http://www.ic4jhr.org/en/2014-11-30-18-36-45/media/1020-alya-abdulnoor-died-in-custody-after-uae-authorities-refused-to-release-her-on-medical-grounds.html>

In 2013, the Emirati government tried 94 dissidents, human rights defenders, and activists in a trial of the "UAE 94," a group authorities claimed associated with a group aiming at overthrowing the country's political system. At the trial's conclusion, the Federal Supreme Court in Abu Dhabi sentenced 56 people to 10 years in prison, eight others *in absentia* to 15 years in prison, and five defendants to seven years in prison. The court acquitted 25 defendants. Reportedly, at least 64 detainees were held at undisclosed locations for up to a year before the trial and many of the detainees did not have access to legal assistance for at least eight months. During the trial, defendants described and outlined allegations of torture, including ill-treatment, beatings, threats, humiliation, and insults, in hand-written letters. However, the court ignored their allegations.¹⁷

The Emirate's vague and broad national security legislation empowers authorities to deem a wide range of behaviors to be threats to national security. Under these provisions, national security cases are sent to the State Security Department. The individuals detained and held under these auspices are often held in separate sections of prisons or in undisclosed locations for extended periods and away from impartial judicial supervision and their families. During this period, detainees are at the most risk of torture and abuse. Prison authorities also use solitary confinement as a punitive measure, holding detainees narrow, hot, and unventilated cells. Excessive use of solitary confinement is regarded as a form of "white torture," which is understood as abuse meant to weaken prisoners by making them psychologically unstable and that can bring on depression, insomnia, confusion, hallucinations, and psychosis.

Prison personnel use other forms of abuse as well, including chaining prisoners' hands and legs from behind to inflict pain and forcing them to sit in the prison yard under the sun. Guards have also deliberately put loudspeakers in jails, forcing detainees to listen to loud music at every hour of day and night. Inmates can also be forced to eat expired food or drink salt water. Furthermore, prisoners are routinely denied medicine and medical treatments for pre-existing health conditions or illnesses developed while in detention..¹⁸

By committing and sanctioning abuses and failing to prosecute security forces and government actors who have committed abuses, the UAE has violated its treaty obligations under the CAT.

Article 1 - Prohibition and criminalization of torture and ill-treatment

The Convention understands a subtle difference between torture and ill-treatment. Torture is differentiated by the degree of suffering involved whether the abuse is committed for a specific purpose, including gaining information, punishment, intimidation, or discrimination.¹⁹ Even then, there is no hard rule on whether an act can be categorized as torture or ill-treatment. Importantly, The UNCAT's definition of torture covers "not only positive acts, but also omissions."²⁰ By this, the Committee against Torture has concluded that recklessness can constitute torture. One member of the Committee has further concluded that acts of negligence can constitute torture.²¹

The Human Rights Committee has released Pronouncements on the Definition of Torture²² in which it specifies that the words "the perpetrator of the act of torture" include not only the public authorities but

¹⁷ "United Arab Emirates: United Arab Emirates: UAE 94 trial violates the basic rights to fair trial and due process," Gulf Centre for Human Rights, 27 August 2013, <https://www.gc4hr.org/news/view/477>.

¹⁸ "Report on the prison conditions in the United Arab Emirates," International Centre for Justice and Human Rights, 30 August 2013, <http://www.ic4jhr.org/en/activites/reports/519-uae-report-on-the-prison-conditions-in-the-united-arab-emirates.html>.

¹⁹ Camille Giffard, "The Torture Reporting Handbook," Human Rights Centre, University of Essex, April 2015, <https://www1.essex.ac.uk/hrc/documents/practice/torture-reporting-handbook-second-edition.pdf>

²⁰ Association for the Prevention of Torture and Center for Justice and International Law, "Torture in international Law-A guide to jurisprudence," 2008, https://www.apr.ch/content/files_res/jurisprudenceguide.pdf

²¹ Ibid.

²² Survey of the Human Rights Committee's Pronouncements on the Definition of Torture - A background paper to the APT Expert Seminar on the Definition of Torture, November 2001, https://www.apr.ch/content/files_res/Definition%20of%20Torture_Seminar_EN.pdf.

also groups and individuals acting within the State Party's territory with its open or tacit consent. Moreover, in its General Comment 20 (44th Session), the Committee expanded this concept in qualifying the author of violations, distinguishing among perpetrators acting in their official capacity, outside their official capacity, or in a private capacity. It added that this definition extends to law enforcement personnel, medical personnel, police officers, and "any other persons involved in the custody or treatment of any individual subjected to any form of arrest, detention or imprisonment."²³

By purposefully denying necessary medical care and other needs for Alya Abdulnoor, the UAE has violated its obligations under the CAT. In her case, the denial of adequate medical treatment and the conditions of her detention, caused extreme suffering and led to her eventual death and as such, constitutes a violation of the prohibition on torture.

Article 2 - Prevention of Torture

Article 2 of the CAT calls on states to take reasonable steps to prevent torture. If such acts occur, the State is obligated to take effective measures to ensure non-repetition.

The UAE has not demonstrated its willingness to take serious steps to halt torture or ensure that officials do not carry out acts of torture. According to the Human Rights Committee this failure to address concerns about torture and its repetition constitutes a violation of the Convention.²⁴

Articles 11, 12, 13 - Deaths in custody, duty to investigate and right to complaint for victims.

Article 11 urges states to ensure that the measures they have taken to prevent torture are effective. Under Article 12, State Parties "shall proceed to a prompt and impartial investigation [...]" when they have reasonable grounds to believe that torture and other acts of cruel, inhuman, and degrading treatment have been committed within their jurisdiction. This obligation is complemented by Article 13, which provides that individuals shall have the right to complain to the competent authorities. In seeking to ensure individuals have the right to lodge complaints, the CAT has emphasized that governments must supervise all places of detention, and moreover that such supervision is separate from police and judiciary.²⁵

Under Article 13, authorities are obligated to investigate not only complaints of torture, but also suspicions of torture. Specifically, the Article provides that "[...] any individual [...] has the right to complaint to its competent authorities." This right consists of the right to lodge a complaint to the competent authorities, as well as the right to have the complaint investigated. In such instances, criminal investigations must seek additional information, such as from forensic medical reports.

Despite their obligation to initiate investigations into claims of torture, Emirati authorities have not done so. For example, during their trial, members of the UAE 94, including Dr. Nasser bin Ghaith alleged that they had been tortured. Despite reporting their allegations to the court, Emirati authorities did not investigate their concerns. Nor, in the case of Alya Abdulnoor did the government provide forensic medical reports on her case.

²³ OHCHR, General Comment No. 20: Prohibition of torture or other cruel, inhuman or degrading treatment or punishment (article 7), 1992, [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a\)GeneralCommentNo20Prohibitionoftortureorothercruel,inhumanordegradingtreatmentorpunishment\(article7\)\(1992\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/a)GeneralCommentNo20Prohibitionoftortureorothercruel,inhumanordegradingtreatmentorpunishment(article7)(1992).aspx).

²⁴ Lene Wendland, Association for Prevention of Torture, "A Handbook on State Obligations under the UN Convention against Torture," 2002, https://www.apt.ch/content/files_res/A%20Handbook%20on%20State%20Obligations%20under%20the%20UN%20CAT.pdf.

²⁵ Survey of the Human Rights Committee's Pronouncements on the Definition of Torture - A background paper to the APT Expert Seminar on the Definition of Torture, November 2001, supra n.28.

Article 15 - Excluding evidence extracted under torture

Article 15 of the CAT provides that “each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” The Committee further enshrines this by highlighting that judicial procedures based solely or principally upon confessions of witnesses or suspects are weak.²⁶ The prohibition on using statements during trial that stem from torture is additionally strengthened by the principle of non-incrimination and the right of a person to not make self-incriminating statements.²⁷

Both the Human Rights Committee and the CAT recognize that conditions of detention may themselves constitute ill-treatment or, in extreme cases, torture. In order to ensure that the conditions in states’ prisons do not rise to the level of ill-treatment or torture, each state is obligated to ensure that detention conditions conform to the United Nations’ Standard Minimum Rules for the Treatment of Prisoners, also known as “the Mandela Rules.”²⁸

Incommunicado Detentions and Enforced Disappearance

Although the UAE is not a State Party to the Convention for the Protection of All Persons from Enforced Disappearance, the CAT understands incommunicado detention as creating a situation conducive to torture. To this end, Committee has requested that States parties include relevant information on incommunicado detention in their reports under Articles 2 and 11, which deal with measures to prevent torture.

5. Practice of Torture Cruel, Inhuman and Degrading Treatment outside Emirati territory

A State’s obligations to international treaties do not end in cases outside its borders if it exercises power and authority outside its territory. Rather, a State must still respect its human rights obligations continues. In this case, the UAE remains beholden to the relevant provisions of the CAT even in its actions in Yemen and regardless of the nationality of the victim. In the case of the CAT, while most of its provisions have no territorial limitation, Articles 2 (1), 5 (1) (a), 5 (2), 6 (1), 7(1), 11, 12, 13 and 16 (1) have jurisdictional clauses.²⁹ These articles impose positive and negative obligations to the States. While States’ obligations to fulfil positive actions are limited to certain situations, States’ negative obligations are not territorially restricted, nor is the broader obligation to cooperate to end torture or ill-treatment restricted to specific territories. Through its engagement in the conflict in Yemen, the UAE has violated Articles 1, 2, 4, 5 11, 12, 13 of the CAT.

In March 2015, the UAE joined a coalition led by Saudi Arabia in Yemen. In areas the UAE controls, it has set up a network of secret prisons where Emirati forces and Emirati-supported forces engage in widespread and systematic torture.³⁰

Emirati security forces have abducted, or ordered the abduction of, dozens of Yemenis who were subsequently detained in secret prisons. Among the forms of torture, detainees have reported physical and

²⁶ Committee against Torture, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/SR. 245, 11 June 1996 http://www.bayefsky.com/summary/armenia_cat_c_sr.2451996.php.

²⁷ Association for the Prevention of Torture (APT), “Exclusion of evidence obtained through torture,” <https://www.apr.ch/en/evidence-obtained-through-torture/>.

²⁸ UNDOC, “The United Nations Standard Minimum Rules for the Treatment of Prisoner,” December 2015, https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf.

²⁹ General Assembly, “Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,” August 2015, *supra* 47.

³⁰ Maggie Michael, “Sexual abuses rampant in UAE-controlled prisons in Yemen,” Associated Press, 21 June 2018, <https://www.apnews.com/df23b77019d34564ae3ee2dddb22279>.

sexual torture, including beatings to the point of losing consciousness, rape, electric shock targeting genitals, hanging rocks from testicles, suspension from the ceiling, and imprisonment in a metal cell in the sun. Other former inmates report being routinely kept blindfolded with their legs and hands bound for months. At one main detention complex at Riyan airport in the southern Yemeni city of Mukalla, former inmates described being crammed into shipping containers smeared with feces and blindfolded for weeks. Others described being put on “the grill:” blindfolded and tied to a horizontal pole inside a circle of flame.³¹ Other witnesses tell of being sentenced to fake executions where they are dressed in supposed explosive suicide belts before a sound grenade is set off. Another former prisoner told of being placed inside a metal shipping container when the guards lit a fire underneath to fill it with smoke.³²

The Group of Eminent Experts has investigated twelve incidents involving human rights violations, including torture, ill-treatment, arbitrary arrest, detention, denial of timely medical treatment, denial of due process rights, and enforced disappearance. However, neither the Emirati nor the Yemeni government has investigated these allegations.³³

The UAE’s involvement in detention and torture in Yemen contravenes its obligations under the Article 5 para.1 of the CAT. This article provides that “each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases: (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State; (b) When the alleged offender is a national of that State; (c) When the victim is a national of that State if that State considers it appropriate.”³⁴

The Committee Against Torture, in its General Comment No. 2 (2008),³⁵ found that Article 2 in particular “undergird[ed] the Convention’s absolute prohibition against torture [and] reinforce[d] th[at] peremptory *jus cogens* norm” by obliging State parties to take actions that would reinforce the extant prohibition against torture. The Special Rapporteur against torture has underlined this, noting that States cannot dismiss the extraterritorial aspect of the *jus cogens* non-derogable prohibition against torture and ill-treatment. Furthermore, there are no jurisdictional references found in the Convention Against Torture to restrict or limit States’ obligations to respect all individuals’ rights to be free from torture and ill-treatment anywhere in the world³⁶.

While Article 1 of the CAT does not refer specifically to rape as a form of torture,³⁷ international cases law and reports by the Rapporteur on torture indicate that rape in detention and during interrogation as a means of punishing, intimidating, coercing, humiliating a victim, or in order to obtain information, or a confession, from the victim or a third person qualifies as torture.

³¹ Maggie Michael, “Inside Yemen’s secret prisons: ‘You can hear the screams,’” Associated Press via News.Com.AU, 23 June 2017, <https://www.news.com.au/world/middle-east/inside-yemens-secret-prisons-you-can-hear-the-screams/news-story/6f810a5df25919c42bcec8905294f6aa>.

³² “Report: Mass torture in network of UAE-run prisons in south Yemen,” Aljazeera, 12 August 2018, <https://www.aljazeera.com/news/2018/08/report-mass-torture-network-uae-run-prisons-south-yemen-180812144559235.html>.

³³ International Commission of Jurists, “Bearing the Brunt of War in Yemen: International Law Violations and their Impact on the Civilian Population,” July 2018, <http://www.ici.org/wp-content/uploads/2018/09/Yemen-War-impact-on-populations-Advocacy-Analysis-Brief-2018-ENG.pdf>.

³⁴ UN General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, June 1987, Supra 6.

³⁵ Committee Against Torture, General Comment N.2: Implementation of Article 2 by State Parties, CAT/C/GC/2, January 2008, <https://www.refworld.org/docid/47ac78ce2.html>.

³⁶ General Assembly, “Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,” August 2015, https://www.ohchr.org/Documents/Issues/SRTorture/A-70-303_en.doc.

³⁷ Wendland, “A Handbook on State Obligations under the UN Convention against Torture,” supra 31.

8. Failure to investigate and prosecute acts of torture

Under Articles 11, 12, and 13 of the CAT, the UAE is obligated to investigate any allegations of torture against Emirati individuals or in Emirati-controlled sites. Despite this, the UAE rarely initiates investigations and judges frequently ignore defendant's reports of torture.

Torture most frequently takes place during pre-trial detention during which prisoners have reported that they were coerced into signing confessions. Judges and courts have used coerced confessions in trials against torture victims despite concerns raised by defendants and their lawyers that the defendant was tortured and forced to confess. However, in a number of instances, courts have rejected the allegations without investigating them. Some defendants have reported that judges ordered their microphone to be switched off while they report on torture, abuse and ill-treatment. In spite of efforts by torture victims and their lawyers to report on pre-trial abuses and to seek impartial trials devoid of torture-induced confessions, Emirati courts have rarely launched judicial inquiries or ordered medical examinations into such allegations.³⁸

In the case of the "UAE 94," the defendants claimed they had been tortured and forced to confess to committing a number of crimes. However, neither the President of the Court nor the prosecutor opened an investigation into the defendants' allegations. The court also did not order the detainees to undergo medical examinations in an effort to verify their claims. Instead, the court admitted the detainees' "confessions" as valid evidence.

9. Recommendations

By acceding to the Convention Against Torture, the UAE has committed to fully implementing its provisions and taking all required steps to prevent and punish any act of torture. However, the UAE has not fully implemented the CAT. In light of the UAE's failure to take its obligations seriously, and in an effort to encourage compliance with the Convention, we urge the Emirati authorities to

1. Immediately release all the human right defenders, journalists, bloggers and political activists who have been tortured since 2011;
2. Establish and empower independent and impartial bodies to investigate all the allegations of torture and to hold the security personnel responsible for acts of torture, including through jail time;
3. Put in place effective legal instruments to ensure victims of torture and their families receive full and lasting compensation and rehabilitation;
4. Immediately accede to the Optional Protocol to the CAT and allow the Sub-Committee Against Torture unimpeded access to Emirati territory, detention centers and prisons;
5. Issue a standing invitation to visit to the UN Special Rapporteur on torture and allow the Rapporteur unimpeded access to detention centers and prisons;
6. Immediately close all UAE-run and -funded detention centers in Yemen and investigate allegations of torture and abuse and hold perpetrators accountable;
7. Withdraw its reservations under Articles 1 and 28 of the CAT and recognize without reservation the competence of the Committee on Torture.

10. Conclusion

By acceding to the UN CAT in 2012, the Emirati authorities committed to take all the required measures to prevent and prosecute any practice constituting torture or other cruel, inhuman and degrading treatments.

³⁸ "Report on the prison conditions in the United Arab Emirates," International Centre for Justice and Human Rights.

However, the UAE has failed to implement the Convention and to take even reasonable steps to halt torture and prosecute perpetrators.

The Emirati government must take firm, effective, and serious steps to bring its laws and practices into compliance with the Convention and to prevent all forms of torture and other ill-treatment, and ensure that all allegations of torture or other ill-treatment are promptly and thoroughly investigated, and those responsible held to account.