



**Alternative report on United Arab Emirates' implementation of the
International Convention on the Elimination of All Forms of Racial
Discrimination**

Submitted by:

International Centre for Justice and Human Rights (ICJHR)

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ICJHR is a Geneva-based non-profit and non-governmental organization established in May 2014 according to the Swiss Associations' Law. Its work focuses on the promotion and protection of human rights in the Arab Gulf region, particularly in the United Arab Emirates (UAE). We work on case submissions and urgent actions with the UN Special Procedures to advocate for human rights and raise awareness of human rights situations in the region.

Introduction

The United Arab Emirates (UAE): Situation of Human Rights Violations and Impunity

The government of the United Arab Emirates (UAE) is classified among authoritarian regimes in the world according to the 2016 Global Democracy Index. In 2017, the country was ranked 147th¹ out of 167 countries in the 2017 Davos World Economic Forum Annual Meeting.

The UAE's recent Democracy Index rank is a consequence of the government's refusal of all calls for reforms and the deteriorating human rights situation in the country. Such regime and situation undermine individuals' fundamental rights and freedoms, including those guaranteed by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

To be more precise on the issues related to racial discrimination, the UAE authorities have deliberately hired non-Emirati citizens including Nepalese and other nationalities to guard detention centers where human rights defenders, bloggers and political opponents are subjected to enforced disappearance, arbitrary arrest, torture and ill-treatment.

Moreover, the Emirati officials have also used anti-discrimination and anti-hatred law i.e. the Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred as a device to prosecute human rights defenders, bloggers and political opponents and imprison them for posting messages considered to be 'harmful' to the State or national security. The examples of such practice can be seen from the cases of Tayseer Al-Najjar, blogger and human rights activist Osama Al-Najjar, blogger Mohammed Al-Zomor, blogger Walid Al-Shehhi, blogger Saud Kaleb, the three sisters namely, Asma, Maryam and Al Yaziyah Suwaidi, and Dr. Nasser Bin Ghaith.

The rights to dignity and equality of migrants and their families are also not respected. Apart from being prohibited from establishing associations and unions that could defend their economic and social rights on their behalf, migrant workers in the UAE are also under the sponsorship system (Kafalah) where their passports are confiscated by the employees and

¹ <http://www.echr.org.uk/news/democracy-index-2016-united-arab-emirates-rank-147>

the authorities do not take any serious action against such practice, and permission to leave the country from employers is a condition to their freedom of movement.

Furthermore, the authorities have arbitrarily stripped Emirati citizens of their nationality and denied them the necessary guarantees to defend themselves and their right to appeal judicially and administratively. The UAE government also ignored concerns and recommendations raised by the international community including human rights organizations and the United Nations Bodies requesting the country to stop violating the rights and freedoms guaranteed by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and to fulfill the commitments made during the 2013 periodic review before the Human Rights Council.

UAE authorities involve foreign residents in their violation of human rights and fundamental freedoms

Article 2 (1) of International Convention on the Elimination of All Forms of Racial Discrimination: "Promoting understanding among all races"

The United Arab Emirates (UAE) has chosen in its report to review a set of the international index that would create a state of coexistence of multi-races. It has also enumerated a set of legislations, including the Constitution and claimed to have guaranteed fundamental rights and freedoms.

However, the UAE is keen on recruiting and hiring non-Emirati residents for certain specific tasks which most likely are in clear violation of fundamental rights and freedoms. Moreover, the UAE government even threatens to expel those individuals out of the country and place them on banned lists from re-entering the UAE in the case where they refuse the employment offers. This would spread hatred among Emirati victims of human rights violations and foreign residents and constitute a breach of Article 2 (1) of the Convention, which emphasizes on "understanding among all races".

The UAE authorities, for instance, have employed Nepali nationals to control and guard secret detention centers where dissidents and human rights activists are detained and known to be subjected to interrogation, enforced disappearance, arbitrary detention, torture and ill-treatment, and prohibited from family members and lawyers visits.

In fact, the Emirati officials still currently hide and refuse to disclose the locations of detention centers, where detainees are usually guided blindfolded in order to conceal their whereabouts.

The International Centre for Justice and Human Rights (ICJHR) suspects that most of the secret detention centers are located in the main building of the State Security Apparatus, where no one besides the Apparatus employees can enter or access. The State Security Apparatus' main

building is located on the Arabian Gulf Road in the Emirate of Abu Dhabi and is a one hour drive from Abu Dhabi airport.

Apart from the case of Nepali guards, the UAE authorities have also hired foreign judges who are non-UAE nationals and put them under control and pressure, which at the end potentially leads to unfair trials without any rights guarantee against particularly, political detainees, bloggers and human rights activists.

According to our sources, some judges are threatened with expulsion or their contracts canceled if they do not comply with the instructions of the executive. Some non-Emirati judges are usually not neutral and used by the government to take revenge on opponents.

This is what happened to the economic expert and human rights defender Dr. Nasser Bin Ghaith who was sentenced to ten years of imprisonment by the Federal Court of Appeal which was headed by an Egyptian judge on March 29, 2017. It is important to note that Dr. Bin Ghaith was arrested because of his tweets criticizing the Egyptian government and the UAE policy. He was charged for having posted tweets considered by the authorities of the UAE as disturbing the relations between the UAE and the Egyptian State via the Internet².

Concerning the above, the UN Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul, has made her remarks during her visit in the United Arab Emirates (UAE) on January 27, 2014 that hiring non-Emirati judges on a temporary contract basis subjected to an annual renewal is a matter of concern as it puts them under pressure and influence of executive authority which has a power on making decisions as to whether their contracts would be renewed or not³.

Restriction on establishment of civil society organizations by the UAE authorities

Article 2 (e) of the Convention: Encouraging civil society organizations

The right to establish associations is enshrined and guaranteed in various international covenants, including the International Covenant on Civil and Political Rights (ICCPR). This right is also affirmed by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which calls upon signatory states to encourage civil society organizations.

Despite being a party to ICERD and instead of taking an effort to encourage civil society organizations, the UAE authorities issued regulations on establishment of associations through licensing or registration system in order to control them and arbitrarily use the

² For more information see the link of FIDH: <https://www.fidh.org/en/issues/human-rights-defenders/united-arab-emirates-stop-paying-lip-service-to-human-rights-and>

³ Report of the special rapporteur on independence of judges and lawyers, mission to the United Arab Emirates, A/HRC/29/26/Add.2, 5 May 2015

system as a device to prevent human rights defenders or activists from establishing independent and credible associations, which can reveal cases of violation based on a discriminatory and racist ground.

The International Centre for Justice and Human Rights (ICJHR) would like to note that Dr. Mohammed Al-Roken⁴ has already submitted a request, prior to his arrest, to establish a human rights organization. His request was rejected by the authorities who ordered other supporters of the regime to cover up human rights violations. It is noteworthy that Dr. Mohammed Al-Roken, who is sentenced to ten years in prison and imprisoned in Al-Rezeen prison, has received the Ludovic Trarieux International Human Rights Award for 2017.

Furthermore, the UAE authorities did not hesitate to close institutions and study centers that have potential to expose the violation of human rights, freedom and discrimination on the basis of race, gender, color and religion, and to prevent human rights organizations such as Amnesty International and Human Rights Watch from entering and establishing their branches/offices in the UAE. Additionally, the authorities also pursued any person who cooperated with human rights organizations and provided them with information indicating the involvement of the UAE authorities in serious human rights violations. This recently happened with human rights activist Ahmed Mansoor, who was arrested by the State Security Apparatus on 20 March 2017 and was subjected to numerous violations against his personal safety and freedom and his right to family and lawyer visit⁵.

It must be reminded that the UAE government has pledged during the Human Rights Periodic Review in 2013 to establish national human rights institutions which will work independently and monitor rights violations in accordance with the Paris Principles, including those facilitating and creating understanding between races and fighting against racial discrimination. Nonetheless, the UAE authorities have not yet fulfilled their commitments claiming that the plan is still under study.

To date, the UAE has not ratified the Optional Protocol to the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which requires a party to the Protocol to establish a national mechanism to prevent torture.

Use of the Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred to violate fundamental rights and freedoms

⁴ See Amnesty international campaign to support him:
<https://www.amnesty.org/fr/latest/campaigns/2015/04/1000-days-in-prison-how-mohammed-al-roken-is-sacrificing-his-freedom-for-human-rights-in-the-uae/>

⁵ ICJHR, Statement, "Mr. Ahmed Mansoor being held in solitary confinement with no access to a lawyer", 10 May 2017

Article 4 of the Convention: legislative measures against incitement to hatred and discrimination

The UAE government claimed that the enactment of the Federal Law No. 2 of 2015 on Combating Discrimination and Hatred is intended to implement the provisions under Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

However, the authorities of the UAE have in fact deliberately drafted the articles of criminalization and punishment in a generalized, broad and vague manner in order to be able to easily prosecute political activists, lawyers and bloggers and imprison them for long period of time. Indeed, the law lacks a clear and precise structure that would adhere to the rules adopted in democratic societies when restricting individuals' freedoms, most importantly the rules of necessity, proportionality and legitimacy.

There is no logic or sense in terms such as "sedition" and "prejudices" which may be understood as criminalizing free expression and opinion and opening the door to arbitrary interpretation and abuse. Besides, Article 3 of the Federal Law No.2 of 2015 which prohibits invoking freedom of opinion and expression states that "No words or action which may incite to commit the crime of blasphemy or defamation of religions contrary to the provisions of the present Decree Law may be debated on the right of freedom and expression."

The International Centre for Justice and Human Rights (ICJHR) noted a clear violation of various basic rights such as the right to freedom of opinion and expression, the right to freedom of thought and belief, and the right to broadcast and receive ideas and opinions by any means without limits and without harassment by using Law No. 2 of 2015 on Combating Discrimination and Hatred as a pretext.

Article 5 of the Convention: States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law

Since the beginning of the Arab Spring in 2011, the UAE authorities have tried to crack down on these revolutions by taking immigrants from the nationalities of Syria, Egypt, Libya, Yemen and the Occupied Palestinian Territory as hostages. The UAE security services detained 13 Egyptians between November 21, 2012 and January 7, 2013. They held them incommunicado until February 7, 2013, where they were sentenced to between 7 and 9 months in prison for belonging to the Muslim Brotherhood. The 13 Egyptians are:

1. Ibrahim Abdulaziz Ibrahim: telecommunication engineer in one of the oil companies, who is a resident in the UAE for 30 years.

2. Ali Ahmed Simbel: doctor in one of the medical centers in the "Jumeirah" area in the Emirate of Dubai since 29 years ago.
3. Ahmed Mahmoud Taha: mathematics teacher, who lives in the Emirate of Ajman and had been working in the UAE for 25 years.
4. Salah Mohamed Rizk Moushid: electromechanical engineer in Dubai Municipality, who has been residing in the UAE for 25 years.
5. Abdullah Mohammed Ibrahim Zaazaa: dental specialist who had been working in the UAE for 25 years and owns a private clinic in the Emirate of Umm Al Quwain.
6. Ahmed Labib Jafar: freelance journalist and director of "Seven Seas center consulting and training", who has been residing in the UAE for 14 years.
7. Murad Muhammad Hamid Othman, a businessperson and owner of a construction company, who has been residing in the Gulf Arab state for 14 years.
8. Mohamed Mahmoud Ali Shehda: consultant psychiatrist in one of the government hospitals in Dubai for 10 years.
9. Medhat Mohamed Mustafa Al-ajiz: teacher of chemistry at the College of Pharmacy at the University of Ajman for 10 years.
10. Abdalmmunim Sayed Ali Abdalhafez: director of a scientific laboratory in the Emirate of Dubai who has been living in the UAE since 2008.
11. Abdullah Mohamed Larbi Omar: teacher and administrator of the Islamic Education, and the imam and preacher of the Dubai Airport mosque.
12. Saleh Faraj Daifallah: director of a Control Department of Islamic banks in the Emirate of Dubai.
13. Mohamed Abdel Moneim Mahmoud Mohammed: doctor who, resides in the Emirate of Sharjah.

Furthermore, 30 Libyans had been arrested during the months of August and September 2014. The names of only nine of them can be revealed as follows:

1. Bashir Al-Sabah
2. Tahir Kalfat
3. Kamal Aldharat
4. Mohamed Kamal Aldharat
5. Mohammed al-Fiqi
6. Mohammed Al-Aradi
7. Seddik Alkkla

8. Mahmoud Ben Gharbia

9. Salim Al-Aradi

The abovementioned individuals were accused of supporting the Libyan revolution and financing groups in Libya.

The United Arab Emirates (UAE) is in breach of the right to freedom of opinion and expression and the right to freedom of peaceful assembly and association.⁶

While the UAE authorities claimed that economic, social and cultural rights are guaranteed to all without discrimination, until today, they have not yet ratified the International Covenant on Civil and Political Rights (ICCPR) adopted on 16 December 1966 which is ratified by more than 168 States, the International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted on 16 December 1966 and ratified by more than 164 countries as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Optional Protocols related to these instruments.

The authorities of the UAE did not initiate or take an effort to put an end to the sponsorship system which violates the right of the workers to change their jobs without the sponsor's permission and their right to resign from the job and to leave the country without the sponsor's permission.

One of the Kafalah (sponsorship system) violations is the requisite for a worker to have an "exit permit" from his sponsor to leave the country and the sponsor can also end the worker's legal stay in the country which will put the worker at risk of being arrested since he cannot leave the country without a permit and would have to go through the deportation procedures.

In addition, keeping and confiscating migrant workers' passports by employers is quite common in the country despite the fact that UAE courts prohibited such action.

In her report during the 33rd Session of the Human Rights Council, held in Geneva from 13 to 30 September 2016, the Special Rapporteur on contemporary forms of slavery⁷, including its causes and consequences focused on the issue of the rights of migrant workers and criticized the sponsorship system in the Gulf region in general and in the United Arab Emirates (UAE) in particular.

Moreover, the migrant workers usually work in an extremely dangerous environment which lacks safety or security conditions. Employees who work in the field of high-rise buildings

⁶ As mentioned in article 5, d (vii, ix), International Convention on the Elimination of All Forms of Racial Discrimination

⁷ Report of the special rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/33/46, 04/07/2016

construction are especially at risk as shown in the high death rates among other workers. Further, in case of accidents, employers usually do not provide victims with appropriate medical cares.

Retention of wages or confiscation of passport is a practice often used by employers in the UAE as a means against employees to force them to stay and prevent them from leaving the jobs.

It is also crucial to note that foreign workers are not allowed to organize trade unions or open collective negotiations with their employers. Besides, the UAE government does not authorize civil society organizations either to monitor the workers' rights violations or to counsel the victims.

With regards to the economic and social rights of women, it is important to recall the lack of safeguards to protect domestic workers' rights. Indeed, the law expressly excludes domestic workers from any form of protection. Therefore, they are not protected by the hour limit on the maximum working time and do not benefit from a compensation for a sick leave as justified by the Minister of Labor Saqr Ghobash within the specificity of domestic employment.

We further consider that the UAE violated Article 5 of the ICERD by discriminating the family members of prisoners of conscience merely on the ground that they are relatives of the prisoners⁸. The following violations are examples of such discrimination:

- 1- Security authorities intervened directly in the work of schools and universities and prohibited a number of girls from continuing their education because of their imputed political affiliation with their fathers.
- 2- Number of women, who are relatives of detainees, have been transferred without reasons from their jobs in the Ministry of education (administrators and teachers) to other ministries.
- 3- Travel and job bans
- 4- We registered numerous cases in which wives of prisoners of conscience are targeted in livelihood by freezing salaries, preventing families from funds, disabling procurement and appropriating properties.

In view of the above, we opine and condemn that the Emirati authorities violated the individuals' rights to⁹:

⁸ See our report submitted to CEDAW, October 2015:
http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ARE/INT_CEDAW_NGO_ARE_21873_E.pdf

⁹ As mentioned in article 5 paragraph d (i,ii,v), e(i,v), International Convention on the Elimination of All Forms of Racial Discrimination

- freedom of movement and residence within the border of the State
- leave any country, including one's own, and to return to one's country
- work, to free choice of employment, to fair and favourable conditions of work, to protection against unemployment, to equal pay for equal work, and to fair and favourable remuneration
- education and training

Arbitrary revocation of nationality

Article 5 (d) (3) the right to nationality

Despite its obligation under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to guarantee that all persons have a right to enjoy fundamental rights, including the right to nationality, without discrimination, the UAE authorities are delay in acceding to Convention on certain questions relating to the conflict of nationality laws-The Hague, 12 April 1930 and the Convention on the Reduction of Statelessness (1961).

The authorities of the UAE deliberately revoke the nationality of human rights activists, bloggers and dissidents and deny them all guarantees of right to defend themselves, right to administrative and judicial appeal and remedy, and even right to access the decrees authorizing the withdrawal of their nationality. It should be noted that the revocation of nationality is applicable to both the Emiratis and non-Emiratis.

The International Centre for Justice and Human Rights (ICJHR) has also monitored the nationality revocation of father, wife, children and grandchildren in the UAE which is in clear violation of Article 8 of the UN Convention on the Rights of the Child (CRC) to which the UAE is a party. Article 8 stipulates that "States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference."

In fact, the Directorate for Naturalization and Residence in the UAE is the one responsible for taking those individuals' identity cards, driving licenses, passports as well as healthcare cards, and later inform them that their nationality has been withdrawn and that they are given a period of time to acquire an alternative nationality or else, they will be detained for illegal stay.

The abovementioned case occurred to, for instance, Mr. Obaid Ali Al Kaabia, an Emirati citizen and one of the elderly and notable members of the Bani kaab tribe, who was arrested and forcibly disappeared by the State Security Apparatus in April 2016 before being released and arbitrarily deprived, along with his wife and children, of his Emirati nationality for representing a threat to national security.

The same happened on March 7, 2016 with the children of Sheikh Mohammed Abdul Razzaq Mohammed al-Siddiq namely, Asma, Du'a and Omar. Sheikh Mohammed Abdul Razzaq Mohammed al-Siddiq was born in Sharjah and is currently being held in Al-Rezeen prison and sentenced to 10 years' imprisonment under the "Emirates 94" case.

We also received information about non-Emirati people subjected to withdrawal of nationality but they refused to reveal their identities because they are in fear of reprisals from the UAE government.

In fact, the authorities use the withdrawal of citizenship as an arbitrary measure and punishment against those who criticize the government policy and consider them as a second-class citizen whose rights to identity, travel, work and study are denied.

Recommendations

The International Centre for Justice and Human Rights (ICJHR) calls on the Committee on the Elimination of Racial Discrimination to include the following recommendations in its report:

1. Review the provisions under the Federal Decree Law No. 2 of 2015 on Combating Discrimination and Hatred and amend them in compliance with international standards to ensure that the law shall not be used in an abusive or arbitrary manner as a pretext to violate the rights and freedoms of human rights activists, bloggers and political opponents;
2. Ensure equality between citizens and respect Article 5 of the Convention in promoting human rights without discrimination on the basis of gender, nationality or political opinion;
3. Stop abusing the rights of foreign nationals and putting pressure on them in the exercise of their profession, especially in the judicial, penitentiary and administrative fields;
4. Stop violating fundamental rights and freedoms and immediately release human rights defenders detained in prisons based solely on their peaceful human rights activities and stop discriminating them and their families on the basis of their convictions and opinions;
5. Abolish all discriminatory provisions on freedom of movement, of work, of study, of assembly and association and expression;

6. Guarantee protections for domestic workers under labour laws and take all necessary measures to protect domestic workers from exploitation (emotional, physical, and sexual);
7. Ratify the International Covenant on Civil and Political Rights, the International Convention on the Protection of All Persons from Enforced Disappearance, the International Covenant on Economic, Social and Cultural Rights, Convention on Certain Questions relating to the Conflict of Nationality Laws (Hague Convention), the Convention on the Reduction of Statelessness, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and Optional Protocols. Further, withdraw its reservations to conventions already ratified, including the International Convention on the Elimination of All Forms of Discrimination against Women and International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
8. The UAE authorities should stop the strict control over and ban of the establishment of independent civil society associations, and not to require licenses and to allow Emiratis and migrant workers to establish trade unions to defend their rights and negotiate on their behalf;
9. Establish a national human rights institution in accordance with the Paris Principles with its mandate to monitor and examine human rights violations, including racial discrimination and violations of the rights of migrant workers and their families, and to bring those responsible to judicial system before an independent and impartial judiciary;
10. Stop using the sponsorship system (Kafala) against migrant workers and take necessary measures to prevent and punish employers' practice of confiscating passports of migrant workers and their family members. Moreover, the government must empower female migrant workers and provide them with rights guarantees stipulated under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention on the Elimination of All Forms of Discrimination against Women;
11. Publicly publish the decrees referred as a ground to revoke nationality of any individual and ensure that those whose nationality is revoked have guarantees for their right to self-defense and to appeal such decision through judicial and administrative procedures. Besides, the authorities must ensure that deprivation of nationality shall not be used as a means of reprisal against family members particularly wives and children, of human rights activists or political opponents; and
12. Allow the UN Special Rapporteurs, Working Groups, Committees, Bodies and international organizations to visit the country to monitor and document

violations of rights and freedoms, to examine whether the UAE authorities comply with their obligations under the agreements they have ratified, and to review their progress in implementing the commitments made during the 2013 international Human Rights Periodic Review.