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**UNITED ARAB EMIRATES**

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## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report outlines the situation of freedom of religion and freedom of expression in the United Arab Emirates (hereinafter, the 'UAE'). While noting positive developments in the area of religious freedom, ADF International remains concerned at the continued criminalization of blasphemy, proselytism and other so-called 'crimes violating religious creed and rites', as well as at the country's failure to recognize marriages between Muslims and non-Muslims, except when the woman is Christian or Jewish.

### (a) Freedom of Religion and Freedom of Expression

3. According to most recent estimates made in July 2022, the population of the UAE is 9.4 million, of which roughly 90% are expatriates. 76% of the population are Muslim, along with 9% Christian, 10% Hindu or Buddhist and the remaining 5% following other or no religions.<sup>1</sup>
4. According to Article 7 of the Constitution of the UAE, 'Islam is the official religion of the Federation and the Muslim Shari'a is a main source of its legislation.'<sup>2</sup> This notwithstanding, Article 25 guarantees equality before the law for all persons and freedom from discrimination for 'citizens of the Union', including on the basis of religious belief.<sup>3</sup>
5. While the Constitution guarantees several relevant human rights, these are qualified in a manner that introduces ambiguity regarding their scope. Article 32 of the Constitution guarantees freedom of worship 'in accordance with established customs, provided that it does not conflict with public policy or violate public morals'.<sup>4</sup> The concept of 'accordance with established customs' – and lack of clear normative elaboration – warrant concerns in terms of both its compatibility with the scope of permissible limitations on religious freedom under international law, and the resulting risks of excessive or arbitrary restrictions on the exercise of this fundamental human right.
6. Relatedly, Articles 30 and 33 guarantee freedoms of opinion, expression, assembly and association 'within the limits of the law'.<sup>5</sup>

#### *Notable Developments*

7. The government has undertaken several actions to safeguard freedom of religion, including the enactment of Federal Decree Law No. 15 of 2020, which removed references to *hudud* crimes – religious offenses as defined in Islamic Shari'a – from

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<sup>1</sup> World Population Review 'United Arab Emirates – General Info' (July 2022)

<https://worldpopulationreview.com/countries/united-arab-emirates-population>.

<sup>2</sup> United Arab Emirates Constitution of 1971 (18 July 1971) <https://elaws.moj.gov.ae/English.aspx?val=EL1>, art. 7.

<sup>3</sup> Id., art. 25.

<sup>4</sup> Id., art. 32.

<sup>5</sup> Id., arts. 30 & 33.

the penal code, thereby decriminalizing apostasy and other acts.<sup>6</sup>

8. In February 2019, on the occasion of Pope Francis's apostolic visit, the United Arab Emirates hosted the signing of the 'Document on Human Fraternity for World Peace and Living Together'. The Document calls inter alia for interfaith harmony and dialogue, respect for the right of every person to freedom of belief, thought, expression and action, condemns terrorism and violent extremism, and insists on the need to protect places of worship from such threats.<sup>7</sup>
9. The papal visit inspired a number of initiatives, including launching the International Day of Human Fraternity on 4 February.<sup>8</sup> It also contributed to the launch of the 'Abrahamic Family House' project, a complex under construction in the Emirati capital comprising a synagogue, a church and a mosque. The project, commended as a symbol of interreligious harmony, is expected to be completed in late 2022.<sup>9</sup>
10. Other reforms, such as the secularization of courts and marriage laws, have also had a positive impact on the enjoyment by persons belonging to religious minorities of their human rights and fundamental freedoms.<sup>10</sup>
11. The most recent editions of the World Watch List, an annual ranking of the top 50 countries where it is most difficult to be a Christian, reflect a gradual improvement in the situation of religious minorities in the UAE, with the country going from being ranked 47th in 2020 to dropping from the list entirely in 2021 and 2022.<sup>11</sup>
12. While the country has attained laudable improvements in the area of religious freedom over the current reporting period, a number of problematic laws remain in force which continue to threaten the rights to freedom of religion and expression in the country.

#### *Legal restrictions on freedom of religion and expression*

13. Title 5 of the Penal Code addresses 'crimes violating religious creed and rites'. Article 312 criminalizes inter alia 'offense to any of the Islamic sacred beliefs or rites' and 'insult to any of the divine recognized religions'. Such acts, if performed publicly, are punished with a minimum jail sentence of one year, along with a fine.<sup>12</sup>

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<sup>6</sup> Federal Decree Law No. 15 of 2020, [https://www.moj.gov.ae/assets/2021/Federal%20Decree%20Law%20No.%20\(15\)%20of%202020%20Concerning%20the%20Penal%20Code.pdf.aspx](https://www.moj.gov.ae/assets/2021/Federal%20Decree%20Law%20No.%20(15)%20of%202020%20Concerning%20the%20Penal%20Code.pdf.aspx).

<sup>7</sup> Pope Francis, Ahmad Al-Tayyeb 'A document on Human Fraternity for World Peace and Living Together' (5 February 2019) [https://www.vatican.va/content/francesco/en/travels/2019/outside/documents/papa-francesco\\_20190204\\_documento-fratellanza-umana.html](https://www.vatican.va/content/francesco/en/travels/2019/outside/documents/papa-francesco_20190204_documento-fratellanza-umana.html).

<sup>8</sup> For Human Fraternity 'International Day of Human Fraternity' <https://www.forhumanfraternity.org/international-day-of-human-fraternity/>.

<sup>9</sup> R. Gomes 'Abrahamic Family House in Abu Dhabi to open in 2022' (15 June 2021) Vatican News, <https://www.vaticannews.va/en/vatican-city/news/2021-06/abu-dhabi-abrahamic-family-house-2022-human-fraternity.html>.

<sup>10</sup> J. Casper 'Sunday Worship Comes to Gulf' (14 December 2021) Christianity Today, <https://www.christianitytoday.com/news/2021/december/united-arab-emirates-christians-sunday-worship-uae-workweek.html>.

<sup>11</sup> Open Doors 'World Watch List' (2022) <https://www.opendoorsusa.org/christian-persecution/world-watch-list/>.

<sup>12</sup> Federal Law No. 3 Concerning the Penal Code, [https://elaws.moj.gov.ae/UAE-MOJ\\_LC-En/00\\_PENALTIES%20AND%20CRIMINAL%20MEASURES/UAE-LC-En\\_1987-12-08\\_00003\\_Kait.html?val=EL1](https://elaws.moj.gov.ae/UAE-MOJ_LC-En/00_PENALTIES%20AND%20CRIMINAL%20MEASURES/UAE-LC-En_1987-12-08_00003_Kait.html?val=EL1), art. 312.

14. Several other Penal Code provisions criminalize acts violating Shari'a, including 'approving, encouraging or promoting sin'<sup>13</sup>, breaking the Ramadan fast,<sup>14</sup> offending 'the sacred beliefs or rites prescribed by the other religions whenever these beliefs and rites are protected according to the rules of the Islamic Shari'a'<sup>15</sup>, and practicing or soliciting sorcery or witchcraft.<sup>16</sup> The applicability of these provisions is not limited to those who adhere to these practices or doctrines.
15. Articles 317-324 prohibit acts and associations 'opposing or vilifying the foundations or teachings' on which the Islamic religion is based, offending the religion or preaching another religion, doctrine or ideology. It also prohibits the receiving of foreign funds for such activities.<sup>17</sup> Along with imprisonment and fines, Article 325 empowers the State to shut down and disband such gatherings and associations and expel any foreigners involved in them.<sup>18</sup>
16. Federal Decree No. 2 of 2015 on 'Combatting Discrimination and Hatred' explicitly criminalizes blasphemy, defined as:
- '1- Offending, showing contempt or irreverence toward the Divine Entity. 2- Offending, insulting, challenging, defaming or disrespecting any religion or any of its rituals or sacred things, or disrupting or preventing licensed religious observances or ceremonies by violence or threat. 3- Distorting, destroying, desecrating or insulting, in any way, any of the holy books. 4- Insulting, disrespecting, offending or defaming one of the messengers or their spouses, family or companions. 5- Destroying, damaging or desecrating the sanctity of places of worship, cemeteries or graves, appurtenances or any of their contents.'<sup>19</sup>
17. This crime is punishable by a minimum of 5 years imprisonment and a fine.<sup>20</sup> The same punishment is applied to any act amounting to discrimination,<sup>21</sup> hate speech, which is defined as 'any speech or conduct which may incite sedition, prejudicial action or discrimination among individuals or groups',<sup>22</sup> or the instigation of 'tribal division'.<sup>23</sup> The punishment is doubled if committed by a public officer or a religious leader, or if committed in a place of worship.<sup>24</sup>
18. Restrictions on freedom of religion or belief also extend to the realm of family relations. Article 47 of Federal Law No. 28 on Personal Status prohibits marriage of Muslim women to non-Muslim men, as well as of Muslim men to non-Muslim women

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<sup>13</sup> Id., art. 312.

<sup>14</sup> Id., art. 313.

<sup>15</sup> Id., art. 315.

<sup>16</sup> Id., art. 316.

<sup>17</sup> Id., arts. 317-324.

<sup>18</sup> Id., art. 325.

<sup>19</sup> Federal Decree Law No. 2 of 2015 On Combating Discrimination and Hatred (15 July 2015)

<https://www.moj.gov.ae/assets/2020/Federal%20Law%20No%20%20On%20Combating%20Discrimination%20and%20Hatred.pdf.aspx>, art. 4.

<sup>20</sup> Id., art. 5.

<sup>21</sup> Id., art. 6.

<sup>22</sup> Id., art. 1 & 7.

<sup>23</sup> Id., art. 8.

<sup>24</sup> Id., art. 9.

unless she belongs to one of the 'revealed religions' (i.e. Christianity or Judaism).<sup>25</sup>

### *Freedom of Religion and Freedom of Expression in International Law*

19. Article 18 of the Universal Declaration of Human Rights affirms the right to freedom of freedom of thought, conscience and religion, including the right to manifest one's religion or belief either alone or in community with others and in public or private.<sup>26</sup> Similarly, Article 19 of the UDHR recognizes the right to freedom of expression.<sup>27</sup> Article 2 makes clear that everyone is entitled to these rights without distinction of any kind, including on the basis of religion.<sup>28</sup>
20. The UAE has not ratified the International Convention on Civil and Political Rights (ICCPR), which codifies the human rights to freedom of religion and expression.<sup>29</sup> However, these rights reflect established human rights standards and can be said to amount to customary international law.
21. Furthermore, the UAE is a State Party to the Arab Charter of Human Rights, which closely resembles the language of the ICCPR. Article 30 of the Charter asserts that 'Everyone has the right to freedom of thought, conscience and religion', and that:

'The freedom to manifest one's religion or beliefs or to perform religious observances, either alone or in community with others, shall be subject only to such limitations as are prescribed by law and are necessary in a tolerant society that respects human rights and freedoms for the protection of public safety, public order, public health or morals or the fundamental rights and freedoms of others.'<sup>30</sup>
22. Article 25 of the Arab Charter also asserts that 'Persons belonging to minorities shall not be denied the right to enjoy their own culture, to use their own language and to practice their own religion.'<sup>31</sup>
23. Article 32 of the Charter guarantees freedom of expression, which 'shall be subject only to such limitations as are required to ensure respect for the rights or reputation of others or the protection of national security, public order and public health or morals.'<sup>32</sup>
24. The application of laws derived from Sharia to non-Muslims, including the keeping of the Ramadan fast and adherence to other Islamic beliefs and practices, undermines freedom of religion and entails discrimination against persons belonging to religious minorities. Similarly, the prohibition on marriages between Muslims and non-Muslims contradicts the right, articulated in Article 16(1) UDHR, of 'men and women of full age, without any limitation due to race, nationality or *religion*, [...] to marry and to found a

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<sup>25</sup> Federal Law No. 28 on Personal Status (19 November 2005) [https://elaws.moj.gov.ae/UAE-MOJ\\_LC-En/00\\_PERSONAL%20STATUS/UAE-LC-En\\_2005-11-19\\_00028\\_Kait.html?val=EL1&Words=Personal%20Status](https://elaws.moj.gov.ae/UAE-MOJ_LC-En/00_PERSONAL%20STATUS/UAE-LC-En_2005-11-19_00028_Kait.html?val=EL1&Words=Personal%20Status), art. 47.

<sup>26</sup> Universal Declaration of Human Rights (10 December 1948) 217 A (III) (UDHR), art. 18.

<sup>27</sup> *Id.*, art. 19.

<sup>28</sup> *Id.*, art. 2.

<sup>29</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 171 (ICCPR), arts. 18&19.

<sup>30</sup> League of Arab States 'Arab Charter on Human Rights' (2004), art. 30.

<sup>31</sup> *Id.*, art. 25.

<sup>32</sup> *Id.*, art. 32.

family.<sup>33</sup>

25. Furthermore, the prohibition on expression critical of Islam or other 'divine recognized religions', and on the preaching of other religions, unduly restricts freedom of religion and expression, particularly for non-Muslim minorities. The criminalizing of blasphemy and proselytism do not constitute acceptable derogations from the right to freedom of expression. Restrictions ought to serve as a necessary protection of persons, not of religions as such.
26. During the previous UPR cycle, the UAE received no fewer than 17 recommendations related to guaranteeing the right to freedom of expression, of which it supported 7.<sup>34</sup> As reported above, despite some notable improvements, the government has failed to adequately address restrictions on free expression and freedom of religion, particularly for religious minorities.

#### **(b) Recommendations**

27. In light of the aforementioned, ADF International suggests the following recommendations be made to the United Arab Emirates:
  - a. Ensure full respect for freedom of religion or belief and freedom of expression, in accordance with international human rights law;
  - b. Repeal or amend Title 5 of the Penal Code on religious crimes to ensure its compatibility with international human rights law and standards governing freedom of religion and expression;
  - c. Repeal Article 312 of the Penal Code criminalizing insulting of religion and other religious offenses incompatible with international human rights law,
  - d. Repeal Article 313 of the Penal Code criminalizing the breaking of the Ramadan fast,
  - e. Repeal Article 315 of the Penal Code criminalizing the offense of religious beliefs or rites protected by Shari'a,
  - f. Repeal Article 316bis of the Penal Code criminalizing acts of sorcery or witchcraft,
  - g. Decriminalize peaceful proselytism, including by repealing or amending Article 317 of the Penal Code according to international human rights standards on freedom of expression and religion,
  - h. Amend Articles 317-325 of the Penal Code to decriminalize peaceful acts and associations deemed to oppose or vilify the foundations or teachings of Islam,
  - i. Decriminalize blasphemy, including by amending Federal Decree No. 2 of 2015 on Combatting Discrimination and Hatred;
  - j. Amend Federal Law No. 28 of 2005 on Personal Status to ensure the right to marry without discrimination based on religious affiliation;

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<sup>33</sup> UDHR, art. 16.

<sup>34</sup> Human Rights Council 'Report of the Working Group on the Universal Periodic Review – United Arab Emirates' UN Docs A/HRC/38/14, rec. 141.10, .112-.123, .125, .131, .132, .153.

- k. Redouble efforts to promote interreligious dialogue and coexistence and adopt positive measures to eliminate discrimination against persons belonging to religious minorities,



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