



UNIVERSAL PERIODIC REVIEW SUBMISSION FOR UAE

NGO Submission

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ABOUT HRF

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding ideals of the human rights movement, those most purely represented in the 1948 Universal Declaration of Human Rights and the 1976 International Covenant on Civil and Political Rights.

The Human Rights Foundation Center for Law and Democracy (HRF-CLD) is a program of HRF. HRF-CLD promotes legal scholarship in the areas of comparative constitutional law and international law, with a focus on international human rights law and international democracy law.

ABOUT MENA Rights Group

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

INTRODUCTION

This submission was prepared by HRF and MRG, for the Universal Periodic Review (UPR) of the United Arab Emirates (UAE). In this submission, HRF and MRG evaluate the UAE's implementation of recommendations made during its previous UPR, as it relates to the current human rights situation in the country, which is characterized by systematic, widespread, and gross violations of human rights, including the ongoing curtailment of the freedom of expression, right to privacy, LGBTQ+ rights, women's rights and right to life, liberty and security of persons. It also presents challenges related to the independence of the judiciary and the country's counter-terrorism framework.

FOLLOW-UP ON THE PREVIOUS REVIEW

1. The most recent UPR of the UAE by the United Nations (UN) Human Rights Council took place on the 18th of January 2018.¹ The Human Rights Council considered and adopted the outcome of the country's review during its 29th session, on June 7, 2018. A total of 232 recommendations were made to the UAE, with the government accepting 132 recommendations.²
2. As a UN Member State, the UAE has committed to protecting, promoting, respecting the individual rights and fundamental freedoms laid out in the Universal Declaration of Human Rights (UDHR). The UAE has also ratified the: Convention Against Torture (CAT), Convention on Elimination of Discrimination Against Women (CEDAW), Convention on the Elimination of all forms of Discrimination (CERD), and Convention on the Rights of the Child (CRC).
3. Domestically, the UAE's Constitution of 1971 (Constitution) guarantees several human rights (*see infra the United Arab Emirate's National Framework For Protecting Human Rights*). However, despite these constitutional guarantees, in practice, individuals in the UAE are subjected to human rights violations, not least by the existence of laws that criminalize and impinge upon their fundamental freedoms.

THE UNITED ARAB EMIRATES' NATIONAL FRAMEWORK FOR PROTECTING HUMAN RIGHTS

4. The UAE Constitution³ (*hereafter* UAE Constitution) contains several key provisions relating to the protection of the fundamental rights and freedoms of its citizens.
5. *Article 12* of the UAE Constitution refers to compliance with international law:

¹ U.N. Human Rights Council, Working Grp. on the Universal Periodic Review of the 29th Session, *Report on the Working Group on the Universal Periodic Review: UAE*, <https://www.ohchr.org/en/hr-bodies/upr/ae-index>.

² U.N. Human Rights Council, Working Grp. on the Universal Periodic Review of the 29th Session, *Report on the Working Group on the Universal Periodic Review: UAE*, Infographic, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/AE/UAE_Infographic_29th.

³ *UAE Constitution, 1971*, Const. Project (2004), https://www.constituteproject.org/constitution/United_Arab_Emirates_2004.pdf.

The foreign policy of the Union shall be directed towards support for Arab and Islamic causes and interests and towards the consolidation of the ties of friendship and cooperation with all nations and peoples on the basis of the principles of the Charter of the United Nations and ideal international standards.

6. In relation to equal protection, Article 25 states:

All persons shall be equal before the law. No discrimination shall be practiced between citizens of the Union by reason of race, nationality, religious belief, or social position.

7. In relation to arbitrary detention and freedom from torture, Article 26 states:

Personal freedom shall be guaranteed to all citizens. No person may be arrested, searched, detained, or imprisoned except in accordance with the provisions of the law.

No man should be subject to torture or other indignity.

8. Article 28 guarantees the right to a fair trial and the right to counsel:

Punishment shall be individual. An accused shall be deemed innocent until he has been convicted by means of a legal and just trial. The accused shall have the right to appoint the person who shall conduct his defence during the trial. The law shall prescribe the circumstances in which the presence of a counsel for the defence shall be obligatory. Physical and mental abuse of an accused person shall be prohibited.

9. In relation to freedom of expression, the UAE Constitution states in Article 30:

Freedom to hold opinions and express them orally, in writing or by other means of expression shall be guaranteed within the limits of the law.

10. In relation to the right to privacy, Article 31 states:

Freedom of communication by means of the posts, telegraph or other means of communication and their secrecy shall be guaranteed in accordance with the law.

11. In relation to judicial independence, Article 94 states:

Justice is the basis of authority. Judges shall be independent and shall be subordinate to no authority but the law and their own consciences in the performance of their duties.

POLITICAL BACKGROUND

12. In January 1968, the British government withdrew its forces from the Persian

Gulf, which included the seven emirates⁴ of Abu Dhabi, Al-Khaimah, Ajman, Dubai, Fujairah, Sharjah, and Umm Al Quwain. After years of negotiations, the seven emirates formed a federation in 1972,⁵ and today make up the UAE.

13. Each emirate has its own leader, an Emir, who manages each emirate's resources autonomously. The seven Emirs make up the Federal Supreme Council (FSC), the highest constitutional authority in the UAE, which holds legislative and executive powers. A majority of five FSC members, including the vote of Abu Dhabi and Dubai, is required to pass resolutions of the Supreme Council on substantive matters.⁶
14. The FSC also elects the president and vice president.⁷ Since the formation of the UAE, the seven Emirs have elected the leader of Abu Dhabi as president, and the leader of Dubai as prime minister. The president has a renewable term limit of five years, and each elected president thus far has been in office until death.⁸ The first elected president was Zayed bin Sultan Al Nahyan, who held power for 32 years, followed by Khalifa bin Zayed Al Nahyan for 17, until his passing in 2022, when Mohamed bin Zayed Al Nahyan was elected as the current president.⁹
15. The Arab Spring movement spread to the UAE in the early 2010s, sparking unrest in the country. The government responded to uprisings and dissent by tightening its control on political expression and free speech.

FREEDOM OF EXPRESSION

16. The UAE has relied on several draconian laws and policies, including the Penal Code and Law on Combatting Cybercrimes, to further restrict the freedom of expression, for citizens and non-citizens alike.
17. During its 2018 review, the UAE received recommendations from countries to strengthen and protect the freedom of expression in the UAE, including by

⁴ *Persian Gulf Region*, Rand Corporation, <https://www.rand.org/topics/persian-gulf-region.html>; *History of the UAE*, Britannica, <https://www.britannica.com/place/United-Arab-Emirates/History>.

⁵ *Id.*; *What are the Trucial States?*, World Atlas, <https://www.worldatlas.com/articles/what-are-the-trucial-states.html>.

⁶ *The Federal Supreme Council*, United Arab Emirates, <https://u.ae/en/about-the-uae/the-uae-government/the-federal-supreme-council>.

⁷ *The Political System of the UAE*, Helen Ziegler & Associates, <https://www.hziegler.com/articles/political-system-of-the-uae.html>.

⁸ *Id.*

⁹ Sherouk Zakaria, *Sheikh Mohamed bin Zayed elected President of the UAE*, Khaleej Times (May 14, 2022), <https://www.khaleejtimes.com/uae/sheikh-mohamed-bin-zayed-elected-president-of-the-uae>.

revising and amending the notoriously repressive Federal Law No. 5 of 2012 on Combatting Cybercrimes.¹⁰ In 2021, the UAE government repealed the 2012 law and adopted Federal Decree-Law No. 34 of 2021 on Combatting Rumors and Cybercrimes (*hereafter* 2021 Law on Combatting Cybercrimes).¹¹ Instead of addressing the human rights concerns in the 2012 law, the 2021 Law on Combatting Cybercrimes continues to restrict the freedom of expression.¹² It also contains several abusive provisions from the 2012 law.¹³

18. Article 20 of the 2021 Law on Combatting Cybercrimes, which uses the same language as the 2012 law, sentences anyone who uses the internet 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 is based,” to life in prison.¹⁴ Additionally, Article 22 sentences anyone who uses the internet to “provide to any organizations, institutions, agencies, or any other entities information not authorized for publishing or circulating liable to harm state interests or damage its reputation, stature, or status,” to up to 15 years in prison.¹⁵
19. Furthermore, the law adopts vague and overbroad language that grants the UAE authorities sole discretion to determine which content should be protected under the law.¹⁶ State authorities have the ability to criminalize statements that “harm the state’s national security” and “decrease public confidence in the state.”¹⁷ Journalists, human rights defenders, and political opposition members are thereby targeted.
20. A provision in the 2012 Law on Combatting Cybercrimes, which is similar to Article 22 of the new law, was among those used to sentence Ahmed Mansoor, a

¹⁰ U.N. Human Rights Council, *supra* note 1.

¹¹ Federal Decree-Law No. 34 of 2021 on Combatting Rumors and Cybercrimes. Text available at Joint Statement on the UAE’s adoption of Federal Decree Law No. 34 of 2021 on Combatting Rumors and Cybercrime, *Access Now* (Jan. 25 2022), <https://www.accessnow.org/cybercrime-law-uae/>.

¹² *Human Rights NGO’s Call on the UAE to Immediately Repeal or Amend its New Law Combatting Rumors and Cybercrime*, MENA Rights Group (Jan. 24, 2022), <https://menarights.org/en/articles/human-rights-ngos-call-uae-immediately-repeal-or-amend-its-new-law-combatting-rumours-and#nolink>.

¹³ *UAE: Sweeping Legal ‘Reforms’ Deepen Repression*, Human Rights Watch (Jun. 5 2022), <https://www.hrw.org/news/2022/06/05/uae-sweeping-legal-reforms-deepen-repression>.

¹⁴ *Id.*

¹⁵ *United Arab Emirates: New Cybercrime and Anti-rumor Law Violates Rights*, Article 19 (Jan. 24, 2022), <https://www.article19.org/resources/united-arab-emirates-new-cybercrime-and-anti-rumour-law-violates-rights/>.

¹⁶ *Id.*

¹⁷ MENA Rights Group, *supra* note 12.

prominent UAE human rights defender, known as “the last human rights defender in the UAE,”¹⁸ to ten years in prison.¹⁹ He was arrested in 2017 and forcibly disappeared for over six months.²⁰ He was kept in solitary confinement, and only sentenced in May 2018,²¹ on the basis of personal e-mails and WhatsApp messages.²² On December 31, 2018, the UAE Federal Supreme Court upheld his sentence.²³

21. The UAE has also prosecuted foreign citizens who reside in the UAE and criticize their own governments. For example, in October 2020, Ahmed Etoum,²⁴ a Jordanian resident of the UAE, was sentenced to 10 years in prison for writing a Facebook post criticizing the Jordanian government.²⁵ He was sentenced under both the 2012 Law on Combatting Cybercrimes and Article 166 of the UAE Penal Code, for posts that “incite[d] discord among Jordanian residents in the UAE along the lines of supporters and opponents of the Jordanian government, which can threaten social peace within the country.”²⁶ The posts described the nepotism within the monarchy and the king’s responsibility to relieve poverty, release those who are imprisoned, and ensure freedom of expression in Jordan.²⁷

22. Moreover, amendments made to the Penal Code in 2021, limit journalists’ freedom of expression and ability to do their work. Article 178 sentences “anyone who, without a license from the appropriate authorities, collects ‘information, data, objects, documents, designs, statistics or anything else for the purpose of handing them over to a foreign country or group or organization or entity, whatever its name or form, or to someone who works in its interest,’” up to 15 years in prison.²⁸ And Article 217 criminalizes publishing or sharing “false or

¹⁸ *Open Letter to the Emirati authorities to free human rights defender Ahmed Mansoor on his 50th Birthday*, Gulf Center for Human Rights (Oct. 16, 2019), <https://www.gc4hr.org/news/view/2229>.

¹⁹ Human Rights Watch, *supra* note 13.

²⁰ Gulf Center for Human Rights, *supra* note 18.

²¹ *Id.*

²² Human Rights Watch, *supra* note 13.

²³ *The Persecution of Ahmed Mansoor*, Human Rights Watch (Aug. 25, 2016),

<https://www.hrw.org/report/2021/01/27/persecution-ahmed-mansoor/how-united-arab-emirates-silenced-its-most-famous-human>.

²⁴ United Nations Working Group on Arbitrary Detention, Opinion No. 53/2021 concerning Ahmed Majed Ahmed al-Atoum (United Arab Emirates), *Human Rights Council* (Dec. 17, 2021),

https://www.ohchr.org/sites/default/files/2022-01/A_HRC_WGAD_2021_53_UAE_AEV.pdf; *United Arab Emirates: Jordanian activist sentenced to 10 years in prison for criticising corruption in his home country*, MENA Rights Group (Dec. 17, 2021), <https://menarights.org/en/caseprofile/united-arab-emirates-jordanian-activist-sentenced-10-years-prison-criticising>.

²⁵ *UAE: Jordanian Convicted for Criticizing Jordan on Facebook*, Human Rights Watch (Feb. 11, 2021),

<https://www.hrw.org/news/2021/02/11/uae-jordanian-convicted-criticizing-jordan-facebook>.

²⁶ *Id.*

²⁷ *Id.*

²⁸ Human Rights Watch, *supra* note 13.

tendentious news, statements or rumors” and spreading “propaganda” that may “disturb public security or sow terror among people,” “damage the public interest,” or “incite public opinion.”²⁹

23. The country’s Counter Terrorism Law further contributes to this restrictive framework, as shown below (*see infra Counter-Terrorism and Human Rights*).

RIGHT TO PRIVACY

24. The UAE’s authoritarian government has extensively violated the right to privacy for both its citizens and foreigners by relying on sophisticated surveillance technology.³⁰

25. In July 2021, an investigation conducted by the *Guardian*, along with other media and human rights organizations, including Amnesty International, revealed that numerous human rights activists, journalists, and lawyers across the world have been targeted by authoritarian governments through spyware developed by NSO Group, a company specializing in cyber surveillance.³¹ The investigations showed that the UAE is among the NSO Group’s clients.³² Reports showed that the UAE has deployed NSO’s spyware, Pegasus, among other tools, to hack and target its dissidents in the UAE and in exile. For example, NSO technology was used to hack prominent human rights defender Ahmed Mansoor.³³ Similarly, Alaa Al-Siddiq, a UAE human rights activist who died in exile in the United Kingdom in 2021, was targeted by the UAE government with Pegasus. Her lawyer was also hacked with Pegasus.³⁴

26. The UAE not only hacks its own citizens, but also utilizes spyware technology against dissidents of its allies. In December 2021, the Electronic Frontier

²⁹ *Id.*

³⁰ *Id.*

³¹ *Revealed: Leak Uncovers Global Abuse of Cyber-Surveillance Weapon*, *The Guardian* (Jul. 18, 2021), <https://www.theguardian.com/world/2021/jul/18/revealed-leak-uncovers-global-abuse-of-cyber-surveillance-weapon-nso-group-pegasus>.

³² Chaim Levinson, *With Israel’s Encouragement, NSO Sold Spyware to UAE and Other Gulf States*, *Haaretz* (Aug. 25, 2020), <https://www.haaretz.com/middle-east-news/2020-08-25/ty-article/.premium/with-israels-encouragement-nso-sold-spyware-to-uae-and-other-gulf-states/0000017f-dbf3-d856-a37f-fff3a4ba0000>.

³³ Bill Marczak and John Scott-Railton, *The Million Dollar Dissent: NSO Group’s iPhone Zero-Days used against UAE Human Rights Defender*, *Citizen Lab* (Aug. 24, 2016), <https://citizenlab.ca/2016/08/million-dollar-dissident-iphone-zero-day-nso-group-uae/>.

³⁴ Stephanie Kirchgassner, *New Evidence Suggests Spyware Used to Surveil Emirati Activist Alaa Al-Siddiq*, *The Guardian* (Sept. 24, 2021), <https://www.theguardian.com/world/2021/sep/24/new-evidence-suggests-spyware-used-to-surveil-emirati-activist-alaa-al-siddiq>.

Foundation filed a lawsuit against DarkMatter Group, a cybersecurity company, and three of its former executives, on accusations of hacking Saudi women's rights defender Loujain AlHathloul's iPhone.³⁵ The company is considered to be the UAE's cyber arm, providing a wide range of cyber services, including identifying, monitoring, and targeting Emirati dissidents and journalists, lawyers, as well as human rights defenders from the Middle East.³⁶

27. Reports also showed that Pegasus was used by UAE officials against members of the royal family, including Princess Latifa, the daughter of Sheikh Mohammed bin Rashid al-Maktoum, who failed to escape the UAE in 2018 after reportedly being subjected to "constant torture"³⁷ by her father, and the Sheikh's ex-wife Princess Haya, who fled the UAE to the United Kingdom in 2019.³⁸ Similarly, Roula Khalaf, editor of the *Financial Times*, and dozens of journalists at *Al-Jazeera*, found that they were being spied on by the UAE government with Pegasus.³⁹
28. The UAE has banned most Voice over Internet Protocol — free internet-to-internet voice and video calls — such as Apple's FaceTime, Facebook's WhatsApp, and Skype. This ban forces millions of users in the UAE to use a UAE message and video chatting app called "ToTok," which was publicized by the UAE media as an alternative to the banned video chatting apps.⁴⁰ According to an investigative piece by *The New York Times*, the UAE has used "ToTok" as a spying tool by which to track conversations, images, sounds, and videos.⁴¹

LGBTQ+ RIGHTS

³⁵ *Saudi Human Rights Activist, Represented by EFF, Sues Spyware Maker DarkMatter For Violating U.S. Anti-Hacking and International Human Rights Laws*, Electronic Frontier Foundation (Dec. 9, 2021),

<https://www.eff.org/press/releases/saudi-human-rights-activist-represented-eff-sues-spyware-maker-darkmatter-violating>.

³⁶ Mark Mazetti and Adam Goldman, *Ex-U.S. Intelligence Officers Admit to Hacking Crimes in Work for UAE*, *The New York Times* (Sept. 14, 2021), <https://www.nytimes.com/2021/09/14/us/politics/darkmatter-uae-hacks.html>.

³⁷ Dan Sabbagh, *Data Leak Raises New Questions Over Capture of Princess Latifa*, *The Guardian* (Jul. 21, 2021),

<https://www.theguardian.com/world/2021/jul/21/data-leak-raises-new-questions-over-capture-of-princess-latifa>.

³⁸ Dan Sabbagh, David Pegg, Paul Lewis and Stephanie Kirchgaessner, *UAE Linked to Listing of Hundreds of UK Phones in Pegasus Project Leak*, *The Guardian* (Jul. 21, 2021), <https://www.theguardian.com/world/2021/jul/21/uae-linked-to-listing-of-hundreds-of-uk-phones-in-pegasus-project-leak>.

³⁹ *Al Jazeera Journalists Targeted by 'Saudi and UAE Spyware Attack*, *Independent UK* (Dec. 21, 2020),

<https://www.independent.co.uk/news/world/al-jazeera-hack-malware-b1777027.html>.

⁴⁰ *Popular Chat App ToTok is Actually a Spying Tool of UAE Government*, *The Guardian* (Dec. 23, 2019),

<https://www.theguardian.com/world/2019/dec/23/totok-popular-chat-app-spying-tool-uae-government>.

⁴¹ Mark Mazetti, Nicole Perlroth, and Ronen Bergman, *It Seemed Like a Popular Chat App. It's Secretly a Spy Tool*, *The New York Times* (Aug. 14, 2021), <https://www.nytimes.com/2019/12/22/us/politics/totok-app-uae.html>.

29. In its last UPR review, the UAE received two recommendations to ensure the safety of, LGBTQ+ individuals, but these recommendations were not accepted.⁴² The UAE continues to adopt a hostile legal framework toward LGBTQ+ individuals. Both secular and sharia law in the UAE criminalize same-sex sexual conduct.⁴³ As a result, individuals engaged in consensual same-sex activity may be subjected to the death penalty.⁴⁴ Articles 80 and 177 of the Criminal Code of Abu Dhabi 1970 criminalize “unnatural sex with another person,” meaning homosexual sex, with a penalty of up to fourteen years’ imprisonment.⁴⁵ Sodomy is criminalized with a penalty of ten years’ imprisonment.⁴⁶ And the penalty for performing an unwarranted “sex correction” surgery is up to 10 years in prison.⁴⁷ Under Article 409 of the Penal Code, as amended in November 2021,⁴⁸ anyone over 18 who has sex with a female or engages in sodomy with a male over 18 can be punished with no less than six months’ imprisonment, and the same penalty applies to the other party.⁴⁹
30. Moreover, the UAE routinely arrests and deports LGBTQ+ individuals,⁵⁰ forcing many to adopt self-censorship tactics and hide their sexual identity as a means of protecting themselves from persecution.⁵¹ In November 2018, the University of Birmingham even warned its students and staff that LGBTQ+ rights are not adequately protected at its new Dubai campus, where being gay or transgender risks imprisonment, flogging, and execution.⁵²

⁴² U.N. Human Rights Council, *supra* note 1.

⁴³ Article 354 of the Federal Penal Code could potentially be read to impose the death penalty for consensual sodomy, though this interpretation has been disputed. The Arabic text of article 354 is ambiguously phrased and can be translated in different ways. While some sources indicate that the article punishes rape of a woman or forced sodomy with a man, others indicate that it punishes rape on women and sodomy between men. According to Amnesty International, Article 354 applies to rape only, and not to consensual same-sex acts. However, courts could potentially rely on sharia law to impose the death penalty for zina, the Islamic legal term for unlawful sexual intercourse. Consensual same-sex sexual acts can be interpreted as a form of zina. *See, Love Hate and the Law, Decriminalizing Homosexuality*, Amnesty Int’l (2008), pg. 48, <https://www.amnesty.org/en/wp-content/uploads/2021/07/pol300032008eng.pdf>.

⁴⁴ *United Arab Emirates*, Human Dignity Trust, <https://www.humandignitytrust.org/country-profile/ united-arab-emirates/>.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ The UAE’s new 2021 Federal Crime and Punishment Law came into force in January 2022.

⁴⁹ “*The love that dare not speak its name*”, Human Rights Watch, https://internap.hrw.org/features/features/lgbt_laws/.

⁵⁰ *UAE: Stop Policing Gender Expression*, Human Rights Watch (Sept. 7, 2017), <https://www.hrw.org/news/2017/09/07/uae-stop-policing-gender-expression>.

⁵¹ “*Dubai is Modern But Not When it Comes to LGBT Rights*”: *Gay Man On Lightyear Ban*, *The Guardian* (Jun. 16, 2022), <https://www.theguardian.com/neon/gender/gay-indian-man-in-dubai-talks-censorship-of-movies-in-uae#read-more>.

⁵² David Batty, *Birmingham University Warned of Risk to LGBT Rights at Dubai Campus*, *The Guardian* (Nov. 14, 2018), <https://www.theguardian.com/world/2018/nov/14/birmingham-university-warned-of-risk-lgbt-rights-dubai-campus>.

31. The UAE government continues to impose severe restrictions on any content that includes references to homosexuals and their rights. In 2020, the government banned the first Indian gay male romantic comedy, “Shubh Mangal Zyada Saavdhan” (“Be Extra Careful About Marriage”).⁵³ The film casts famous actor Ayushmann Khurrana as an openly gay man who battles traditional attitudes to be with his boyfriend.⁵⁴
32. Similarly, in June 2022, the UAE’s Media Regulatory Office banned the Disney-Pixar animated film *Lightyear* — which included homosexual characters — from public screening in all cinemas in the UAE, due to its violation of the country’s media content standards.⁵⁵
33. Furthermore, in June 2022, several media outlets reported that the UAE had threatened Amazon with penalties and gave the company a deadline by which to fulfill its demands to restrict search results and products on its website associated with LGBTQ+ people.⁵⁶ Due to this pressure, Amazon blocked the search results for LGBTQ+-related products (*e.g.*, rainbow flags and books about LGBTQ+ rights) from its UAE website, in direct violation of its commitment to the UN Guiding Principles on Business and Human Rights.⁵⁷

WOMEN’S RIGHTS AND SEXUAL AND GENDER-BASED VIOLENCE

34. In the last UPR cycle, the UAE accepted multiple recommendations to promote women’s rights.⁵⁸ However, while the UAE has made significant progress in the last decade to improve women’s rights in the region, women are still subjected to sexual and gender-based violence. Loopholes in the law still protect abusive husbands and jeopardize the safety and rights of women.

⁵³ Annie Banerji, *Bollywood’s First Gay Romantic Comedy Banned in UAE*, Reuters (Feb. 21, 2020), <https://www.reuters.com/article/india-emirates-lgbt-idUKL8N2AL4JA>.

⁵⁴ *Id.*

⁵⁵ Natasha Turak, *Amazon Blocks Searches for LGBTQ+ Products in the United Arab Emirates Amid Regional Anti-Homosexuality Push*, CNBC (Jul. 1, 2022), <https://www.cnbc.com/2022/07/01/amazon-blocks-searches-for-lgbtq-products-in-the-united-arab-emirates.html>.

⁵⁶ Karen Weise, *Amazon Restricts L.G.B.T.Q. Products in United Arab Emirates*, The New York Times (Jun. 29, 2022), <https://www.nytimes.com/2022/06/29/business/amazon-lgbtq-uae-emirates.html>.

⁵⁷ *Guiding Principles on Business and Human Rights*, United Nations Human Rights Office of the High Commissioner (2011), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁵⁸ U.N. Human Rights Council, *supra* note 1.

35. The UAE recently altered the 2015 anti-discrimination law, taking long-awaited legal steps to combat gender-based violence. In 2016, the government removed a provision in the Penal Code that permitted men to discipline their wives and children physically.⁵⁹ In 2020, the Penal Code was again amended to remove the language which had been used to punish consensual sex outside of marriage, which disproportionately targeted women, especially victims of rape.⁶⁰ Although these changes represent a step in the right direction, grave threats to women's rights in the UAE remain. The UN Committee on the Elimination of Discrimination against Women expressed concern "about the maintenance of discriminatory provisions in the State party [UAE]'s legislation, such as the concept of male guardianship, and unequal rights of women and men with regard to marriage, custody, divorce and inheritance as stipulated by the Personal Status Law."⁶¹
36. A new law in 2020 allowed women to obtain restraining orders against their domestic abusers.⁶² However, the law contains problematic provisions that grant men the ability to abuse their wives and children to the extent that the authorities find acceptable.⁶³ Although domestic violence laws criminalize physical, psychological, and sexual violence, they also prioritize reconciliation between both parties over the safety of the victim.⁶⁴
37. Under the law regulating Personal Status Matters (PSM), a woman may lose her right to financial maintenance if she refuses sexual relations with her husband without lawful excuse, leaves home, or prevents her husband from entering the marital home for excessive periods of time.⁶⁵ Furthermore, the PSM law does not criminalize marital rape, as consent is considered implicit within marriage.⁶⁶
38. The UN Committee on the Elimination of Discrimination Against Women also expressed concern regarding Emirati nationality, noting that Emirati women can

⁵⁹ Human Rights Watch Submission to the Committee on the Elimination of Discrimination against Women on the United Arab Emirates: 80th Pre-Session, Human Rights Watch (Mar. 4, 2021), <https://www.hrw.org/news/2021/03/04/human-rights-watch-submission-committee-elimination-discrimination-against-women>.

⁶⁰ *Id.*

⁶¹ *Concluding Observations on the Fourth Periodic Report of the United Arab Emirates (CEDAW/C/ARE/4)*, Convention on the Elimination of Discrimination Against Women (July 1, 2022), para. 14, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fARE%2fCO%2f4&Lang=en.

⁶² Human Rights Watch, *supra* note 59.

⁶³ UAE: Greater Progress Needed on Women's Rights, Human Rights Watch (Mar. 4, 2021), <https://www.hrw.org/news/2021/03/04/uae-greater-progress-needed-womens-rights>.

⁶⁴ Human Rights Watch, *supra* note 59.

⁶⁵ *Id.*

⁶⁶ *Id.*

only confer their nationality to children born to non-Emirati fathers after a period of six years from birth, while children born of Emirati men acquire Emirati citizenship from birth.⁶⁷ In this regard, the Committee called on the UAE to “grant Emirati women the same rights as Emirati men to acquire, change and retain their nationality and to confer it on their children and foreign spouses.”⁶⁸

RIGHT TO LIFE, LIBERTY, AND SECURITY OF PERSONS

Death penalty

⁶⁷ The Committee noted that “Emirati women, unlike Emirati men, are unable to transmit their citizenship to a foreign spouse.” Convention on the Elimination of Discrimination Against Women, *supra* note 60, at para 40.

⁶⁸ *Id.* at para. 41.

⁶⁹ See Economic and Social Council, *Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty*, Economic and Social Council resolution 1984/50 (May 25, 1984), https://www.unodc.org/pdf/criminal_justice/Safeguards_Guaranteeing_Protection_of_the_Rights_of_those_Facing_the_Death_Penalty.pdf.

⁷⁰ U.N. Human Rights Council, *supra* note 1.

39. As mentioned above, the UAE's new Penal Code uses overbroad and ambiguous language, which severely limits the rights to freedom of expression and assembly, ultimately leading to the criminalization of any dissenting voice. The crimes enshrined in this code often entail heavy sentences, including capital punishment. In this regard, Article 188 of the Penal Code foresees that someone who in any way engages with any type of organization pursuing vague goals such as, *inter alia*, disrupting the constitution, laws, or basic principles upon which the governance system is based, may be punished with death or life imprisonment. Similarly, Article 190 punishes with death or life imprisonment instituting, organizing, administering, joining, or following any type of organization that aims to undermine national security or interests. These provisions do not meet international standards,⁶⁹ as they do not relate to the most serious crimes. This is particularly concerning, as the UAE rejected all recommendations on establishing a moratorium on executions and abolishing the death penalty during the last UPR cycle.⁷⁰

Practice of torture

40. During its last UPR, the UAE only noted recommendations to stop the practices of torture, ill-treatment, and *incommunicado* detention.⁷¹ Indeed, since then, these practices have continued unabated in the country. In its concluding observations on the initial report of the UAE regarding the national implementation of the CAT, the UN Committee against Torture expressed "particular concern that reports received detail a pattern of torture and ill-treatment against human rights defenders and persons accused of offences against State security."⁷²

41. Most of these acts are committed by the country's State Security Apparatus (SSA), which often operates by arresting people without a warrant and taking them to an undisclosed place, where they are detained *incommunicado* for long periods of time, sometimes lasting several months. Such prolonged periods of *incommunicado* detention in secret facilities amount to torture. While in

⁶⁹ See Economic and Social Council, *Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty*, Economic and Social Council resolution 1984/50 (May 25, 1984), https://www.unodc.org/pdf/criminal_justice/Safeguards_Guaranteeing_Protection_of_the_Rights_of_those_Facing_the_Death_Penalty.pdf.

⁷⁰ U.N. Human Rights Council, *supra* note 1.

⁷¹ *Id.*

⁷² *Concluding Observations on the Initial Periodic Report of the United Arab Emirates (CAT/C/ARE/CO/1)*, Committee Against Torture (Aug. 22, 2022), para. 13, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhstCYii%2fcEaJpOJJ%2bEuS5zf36QKX8pkF4RByipUTTeEtgyS08tLfr2UpwKS%2br%2bBi7W1yeWHOiGr3OaND9cmE9AxRySLFB%2bWqvUzB73s37YBA>.

incommunicado detention, detainees are also further subjected to different forms of torture or ill-treatment, frequently with the aim of extracting coerced confessions, which are later used to convict detainees for exercising their fundamental freedoms.⁷³

42. The Committee against Torture thus called on the UAE to “[e]nsure that human rights defenders, including those sharing information with United Nations human rights mechanisms, are able to work safely and effectively in the State party, including by creating an enabling environment in which they can carry out their work in the promotion and protection of human rights,”⁷⁴ and to “[e]nsure that security and law enforcement officials who engage in torture are prosecuted and punished with penalties that are commensurate with the gravity of the offence of torture.”⁷⁵

Prohibition of refoulement

43. In the above-mentioned concluding observations, the UN Committee against Torture expressed “particular concern over reports of the mass summary deportation of approximately 800 African migrants lawfully resident in the State party [UAE] in 2021, including allegations of torture and ill-treatment in detention prior to deportation, a lack of issuance of arrest warrants, and deportation in the absence of an individual determination of the likelihood of the individual’s being subjected to torture or ill-treatment in the receiving country.”⁷⁶
44. Indeed, the UAE’s legislation does not foresee that a *non-refoulement* assessment is conducted in all expulsion cases. For example, the UAE’s Federal Law No. 6 of 1973 on entry and residence of aliens foresees in Article 23 that an alien may be deported, regardless of whether s/he has a permit, visa, or resident permit, “if such deportation is required by the public interest, public security, public morals or public health or in case he has no evident means to earn his living.” Similarly, Article 28 of the 2003 State Security Law allows the president of the SSA to order the deportation of a foreigner whose presence in the country poses a threat to national security. No exception is prescribed in these two pieces of legislation in

⁷³ Joint Report by MENA Rights Group and EDAC on the UAE’s Implementation of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, MENA Rights Group (Jun. 26, 2022), <https://menarights.org/en/documents/joint-report-mena-rights-group-and-edac-uaes-implementation-un-convention-against-torture>.

⁷⁴ Committee Against Torture, *supra* note 72, at para. 14.

⁷⁵ *Id.*

⁷⁶ *Id.* at 19.

case there are substantial grounds for believing that the concerned person would be in danger of being subjected to torture upon extradition.⁷⁷

45. MRG documented the case of Pakistani businessman Abdul Hafeez Muhammad Ramzan,⁷⁸ who was arrested and forcibly disappeared by UAE security forces on January 27, 2022, before being deported to Pakistan on February 2, 2022. As an ethnic Baloch, who moved to the UAE after his father and younger brother were killed in Pakistan by Pakistani intelligence services, his deportation exposed him to heightened risks of torture in his country of origin. In 2018, Ramzan's cousin Rashid Hussain Brohi, who was living in the UAE at the time and was an activist in the Baloch National Movement in Pakistan, was also arrested by UAE security forces, forcibly disappeared, and deported to Pakistan.⁷⁹ Brohi's fate and whereabouts have remained unknown since.

46. Human Rights Watch also documented multiple cases of groundless deportations of Shia Muslims to Pakistan, noting that none of them had a chance to challenge the deportation.⁸⁰ Similarly, in 2018, Ahmed Talip, a Uyghur man who had lived and worked in Dubai for nearly ten years, was deported from the UAE to China despite a Dubai Court ruling against extradition. Since then, his family has received no information as to his fate and whereabouts.⁸¹

47. Lastly, above-mentioned Saudi women right's activist, Loujain AlHathloul, was arrested in the UAE in 2018 and then renditioned to Saudi Arabia, where she was detained, imprisoned, and tortured, due to her activities as a human rights defender.⁸²

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⁷⁷ MENA Rights Group, supra note 73.

⁷⁸ *UAE Authorities Disappear and Deport Baloch Man to Pakistan Where He Faces Torture*, MENA Rights Group (Feb. 10, 2022), <https://menarights.org/en/case/abdul-hafeez-muhammad-ramzan>.

⁷⁹ *United Arab Emirates: Baloch Activist Held Incommunicado: Rashid Hussain Brohi*, Amnesty International (Feb. 20, 2019), <https://www.amnesty.org/en/documents/mde25/9880/2019/en/>.

⁸⁰ *UAE: Arbitrary Targeting of Pakistani Shia Residents*, Human Rights Watch (Jun. 22, 2021), <https://www.hrw.org/news/2021/06/22/uae-arbitrary-targeting-pakistani-shia-residents>.

⁸¹ Jomana Karadsheh, *Uyghurs are Being Deported from Muslim Countries, Raising Concerns about China's Growing Reach*, CNN (Jun. 8, 2021), <https://edition.cnn.com/2021/06/08/middleeast/uyghur-arab-muslim-china-disappearances-cmd-intl/index.html>.

⁸² Stephanie Kirchaessner, *Saudi Women's Rights Activists Sues Three ex-US intel Operatives Over Hacking for UAE*, The Guardian (Dec. 9, 2021), <https://www.theguardian.com/technology/2021/dec/09/saudi-womens-rights-activist-loujain-alhathloul-sues-us-intel-operatives-hacking-uae>; *Confirmation of Loujain Al Hathloul*, Amnesty Int'l (Mar. 22, 2021), <https://www.amnesty.be/veux-agir/agir-individus/reseau-actions-urgentes/article/confirmation-condamnation-loujain-hathloul>.

48. In the last UPR cycle, the UAE supported recommendations regarding respect for the principle of the separation of powers and strengthening the independence of the judiciary.⁸³ Yet, in the UAE, the judiciary remains largely under the control of the executive, especially in cases concerning state security. For example, judges of the Abu Dhabi Federal Court of Appeal, which, since 2016, has maintained primary jurisdiction over state security crimes,⁸⁴ are appointed by the Federal Council, upon recommendation of the Minister of Justice, himself appointed by the President of the UAE. Decisions issued by the Abu Dhabi Federal Court of Appeal, moreover, may only be appealed at the State Security Chamber of the Federal Supreme Court, which, since 2016, has been the court of last instance for state security and terrorism-related crimes.⁸⁵ With regard to the latter court, the Working Group on Arbitrary Detention said that it “considered the criminal proceedings before the Federal Supreme Court and found them to be in violation of the right to a fair trial.”⁸⁶ Judges of the Federal Supreme Court are appointed by the president upon approval of the executive bodies.⁸⁷ Similarly, the federal public prosecution was established under the direct supervision and control of the Minister of Justice, and the appointment of its members is done by the president upon approval of executive bodies.

49. This overall control of the executive was concerning to the former Special Rapporteur on the independence of judges and lawyers, who noted that the Emirati constitution does not expressly recognize the separation of powers.⁸⁸ She also took note of reports and allegations of pressure exerted by members of the executive, prosecutors, and other state agents — in particular members of the SSA — over the work of judges in the UAE, expressing special concern over the above-mentioned fact “that the judicial system remains under the de facto control of the executive branch of government.”⁸⁹ Similarly, the Committee against Torture expressed concern “over reports of excessive control of the executive branch in the appointment of the judiciary resulting in a lack of accountability for

⁸³ U.N. Human Rights Council, *supra* note 1.

⁸⁴ Article 12(bis) Federal Law No. 3 of 1983, as amended by Federal Law No. 11 of 2016.

⁸⁵ Article 33(8) Federal Law No.10 Concerning the Federal Supreme Court.

⁸⁶ United Nations Working Group on Arbitrary Detention, Opinion No. 21/2017 concerning Mohamad Ismat Mohamad Shaker Az United Arab Emirates, Human Rights Council (Apr. 24, 2017), para. 52,

<https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FWGAD%2F2017%2F21&Language=E&DeviceType=Desktop&LangRequested=False>.

⁸⁷ Article 7, Federal Law No.10 Concerning the Federal Supreme Court and article 96 of the Emirati constitution.

⁸⁸ *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, Mission to the United Arab Emirates*, Special Rapporteur on the independence of judges and lawyers (May 5, 2015), para. 6, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/088/85/PDF/G1508885.pdf?OpenElement>.

⁸⁹ *Id.* at para. 33.

executive actions.”⁹⁰

COUNTER-TERRORISM AND HUMAN RIGHTS

50. Since the Arab Spring, the UAE has increasingly cracked down on dissent, enacting a legal framework that criminalizes the exercise of fundamental freedoms, especially freedom of expression, peaceful assembly and organization, and the right to receive and communicate information and ideas. Together with the above-mentioned Penal Code and Cybercrime Law, Federal Law No. 7 of 2014 ‘On Combatting Terrorism Crimes’ (Counter-Terrorism Law) plays a central role in this regard.

51. The Counter-Terrorism Law contains vague and broad definitions of criminal offenses, in contravention of international human rights standards and defying the principle of legality, thus opening the door to arbitrary interpretation and abuse.⁹¹ This has led multiple special mandate holders to express their fear that the law’s overly broad, imprecise, and ambiguous wording may “have serious effects on the enjoyment of human rights and fundamental liberties in the United Arab Emirates (UAE).”⁹² They further expressed concern “about the impact it may have on freedom of opinion and expression and the freedom to receive and communicate information and ideas, the freedoms of peaceful assembly and of association, and the prohibition of arbitrary detention.”⁹³ Similarly, in 2022, the UN Committee against Torture was “concerned over the vague and overbroad terminology contained in Federal Law No. 7 of 2014 relating to counter-terrorism efforts, including the legal definition of terrorism.”⁹⁴

52. In this regard, in accordance with Article 1 of the Counter-Terrorism Law, a

⁹⁰ Committee Against Torture, *supra* note 72, para. 23.

⁹¹ Special Rapporteur on the independence of judges and lawyers, *supra* note 88, para. 29.

⁹² *Comments and suggestions on the 2014 Law No. 7 On Combatting Terrorism Offences (Law 7) which abrogated Federal Decree-Law no. 1/2004*, Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders (13 November 2020), UN Doc. OL_ARE_6/2020, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25663>.

⁹³ Letter from Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders, to UAE Government, United Nations Human Right Council (Nov. 13, 2020), pg. 1, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25663>.

⁹⁴ Committee Against Torture, *supra* note 72, para. 17.

“terrorist offence” is defined as “every criminal action or inaction criminalized under the [Counter-Terrorism Law] and every action or inaction constituting a felony or misdemeanor referred to in any other law, if committed for terrorist purpose.” As noted by the special mandate holders, this provision is problematic, as it does not define terrorism itself, but instead refers to the term “terrorist purpose,” the definition of which then refers to a terrorist result. This means that these definitions “essentially remain undefined, as one definition refers or defers to another without clearly providing a concrete and constrained definition of the activities they encompass.”⁹⁵

53. Such loose definitions allowed the state to add four individuals linked to the infamous UAE94 mass trial case to the country’s terrorist list, due to their political activism.⁹⁶ Hamad Al Shamsi, Ahmed Al Nuaimi, Mohammed Al Zaabi, and Saeed Al Tenajji were added to the UAE’s national terrorism list in September 2021, by ministerial resolution No. 83. UN special mandate holders expressed concern over the fact that the listing “seem[ed] to be in relation to their legitimate human rights activities.”⁹⁷ They are currently living in exile.

54. Another worrying development coming from the Counter-Terrorism Law is the creation of Munasaha centres, which, according to Article 1, are “[a]dministrative units aiming at the enlightenment and reform of persons deemed to pose terrorist threat or those convicted of terrorist offences.”⁹⁸ As mentioned above, the terrorism definition is imprecise and ambiguous, giving great discretion to authorities to detain individuals in such centres. Moreover, this discretion was further increased by a law, issued by decree on September 4, 2019, providing for the establishment of a National Munasaha Centre (hereinafter “Munasaha Centre Law”).⁹⁹ Under this law, the mandate of the Munasaha centre exceeds that set out

⁹⁵ Letter, supra note 93, pg. 4.

⁹⁶ *Joint statement condemning the inclusion of four Emirati Activists and Members of the UAE 94 on the UAE Terrorism List*, MENA Rights Group (Sept. 17, 2021), <https://www.menarights.org/en/articles/joint-statement-condemning-inclusion-four-emirati-activists-and-members-uae-94-uae>.

⁹⁷ Letter from Special Rapporteur on the situation of human rights defenders, the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; to UAE Government, United Nations Human Right Council (Jan. 25, 2022), <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26978>.

⁹⁸ Federal Decree Law no. 28, on the Establishment of National Counseling Centers, September 4, 2019, United Arab Emirates (September 4, 2019), https://elaws.moj.gov.ae/UAE-MOJ_LC-Ar/00_ارهاب/UAE-LC-Ar_2019-09-04_00028_Markait.html?val=AL1&Words=المناصحة#Anchor14.

⁹⁹ Federal Law No. 7 of 2014 ‘On Combatting Terrorism Crimes’, text available in Arabic at: https://elaws.moj.gov.ae/UAE-MOJ_LC-Ar/00_ارهاب/UAE-LC-Ar_2019-09-04_00028_Markait.html?val=AL1&Words=المناصحة - Anchor14.

under the Counter-Terrorism Law and includes “the counselling and rehabilitation of holders of terrorist, extremist or deviant thought.”¹⁰⁰

55. Detention in a Munasaha centre is ordered by a decision of a court with jurisdiction over state security offenses (since 2016, this is the the Abu Dhabi Federal Court of Appeal). The Counter-Terrorism Law, however, does not explicitly require the court to determine the duration of detention at a Munasaha centre for individuals considered “terrorist threats,” nor does it explicitly require that that any detention order be renewed. Instead, in accordance with Article 40(3) of the Counter-Terrorism Law and Article 11 of the Munasaha Centre Law, the Munasaha centre must submit to the prosecution a periodic report on each person detained at the centre every three months. The prosecution then submits the report to the court, along with its opinion as to whether or not it deems that person likely to commit a terrorist offense. The law states that it is then the responsibility of the court to order the release of the person, should it find that his/her condition so allows.

56. MRG documented multiple cases of individuals who were initially convicted for exercising their right to freedom of expression and who, after completing their sentences, remained in detention under the Munasaha regime.¹⁰¹ Among others, this includes many of those convicted in the infamous UAE94 mass trial, such as Omran Al Harthi,¹⁰² who was sentenced to seven years in prison for peacefully criticizing the government online. He completed his sentence in 2019, yet remains detained under the Munasaha regime. Abdulsalam Al Marzooqi¹⁰³ and Hasan Al Jabri¹⁰⁴ suffered the same fate, having completed their sentences, respectively, in July and April 2022, yet seeing their detention extended under the Munasaha regime.

57. This system led the UN Committee against Torture to express concern “over the

¹⁰⁰ Article 1 of the Munasaha Centre Law provides the following definitions:

Terrorist thought: “Beliefs derived from ideologies, values or principles of terrorist groups.”

Extremist thought: “Beliefs derived from ideologies, values or principles of extremist groups intellectually.”

Deviant thought: “beliefs that are incompatible with the values, principles, and attitudes of society.”

¹⁰¹ *The Use of Munasaha “rehabilitation” centres in the United Arab Emirates*, MENA Rights Group (Jun. 16, 2020), <https://menarights.org/en/documents/use-munasaha-rehabilitation-centres-united-arab-emirates>.

¹⁰² “UAE94” detainee Omran Al Harthi detained indefinitely under pretext of “rehabilitation needs,” MENA Rights Group (Sept. 7, 2022), <https://menarights.org/en/caseprofile/uae94-detainee-omran-al-harthi-detained-indefinitely-under-pretext-rehabilitation-needs>.

¹⁰³ “UAE94” detainee Abdulsalam Al Marzoozi held arbitrarily since 2012, MENA Rights Group (Aug. 19, 2022), <https://menarights.org/en/caseprofile/uae94-detainee-abdulsalam-al-marzooqi-held-arbitrarily-2012>.

¹⁰⁴ “UAE94” detainee Hasan Al Jabri held arbitrarily since 2012, MENA Rights Group <https://menarights.org/en/caseprofile/uae94-detainee-hasan-al-jabri-held-arbitrarily-2012>.

use of *munasaha* (“counselling”) centres to indefinitely extend the incarceration of convicted individuals considered to hold terrorist, extremist or deviant views beyond the time provided for in their sentences,”¹⁰⁵ calling on the UAE to ensure “that detentions in *munasaha* centres be based on clear and identifiable criteria established by law, that orders for such detentions be limited in duration, that maximum periods of detention in *munasaha* centres be clearly defined by law, and that detainees have the ability to challenge the legality of their detention.”¹⁰⁶

RECOMMENDATIONS

58. HRF and MRG call on the UAE government to:

- a. Commit to ratifying the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention for the Protection of All Persons from Enforced Disappearance;
- b. Repeal or amend the 2021 Law on Combatting Rumors and Cybercrimes and provisions of the Penal Code, in order to protect, respect, and promote, without reservation, the rights of all individuals to freedoms of expression and association, and ensure that activists, journalists, and academics can operate peacefully and safely in the UAE, without fear of retaliation;
- c. Ensure all citizens and non-citizens are guaranteed the right to privacy, as articulated by the UN Human Rights Council and the International Principles on the Application of Human Rights to Communications Surveillance, by adopting a “moratorium on the use of spyware technology,” as suggested by UN experts¹⁰⁷;
- d. Urgently release all human rights activists, academics, and members of the political opposition detained for exercising their fundamental right of freedom of expression;

¹⁰⁵ Committee Against Torture, *supra* note 72, para. 17.

¹⁰⁶ *Id.* at para. 18.

¹⁰⁷ *Spyware scandal: UN experts call for moratorium on sale of ‘life threatening’ surveillance tech*, Special Procedures of the Human Rights Council (Aug. 12, 2021), <https://www.ohchr.org/en/press-releases/2021/08/spyware-scandal-un-experts-call-moratorium-sale-life-threatening>.

- e. Strengthen its commitment to gender equality by:
 - i. Withdrawing all reservations to CEDAW;
 - ii. Repealing laws that criminalize same-sex activity;
 - iii. Criminalizing marital rape;
 - iv. Implementing the recommendations of the UN Committee on the Elimination of Discrimination against Women in its Concluding observations on the fourth periodic report of the UAE;

- f. Establish a moratorium on executions, with the aim of abolishing the death penalty;

- g. Take actions to end the practice of torture in the UAE by:
 - i. Ending practices of *incommunicado* detention in facilities controlled by the SSA;
 - ii. Investigating alleged cases of torture, including by the SSA, and holding perpetrators to account;
 - iii. Implementing the recommendations contained in the 2022 UN Committee against Torture's concluding observations;

- h. Ensure foreign nationals can challenge their expulsion, including by raising *non-refoulement* concerns;

- i. Ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;

- j. Amend the Emirati constitution to include the separation of powers between the executive branch and the judiciary, and guarantee the independence of the judiciary in practice;

- k. Amend the Counter-Terrorism Law to adopt a terrorism definition in line with international standards; and

- l. Ensure procedural guarantees to those subjected to the Munasaha regime, including by allowing them to challenge their detention and by establishing maximum periods of detention.