



**GLOBAL
DETENTION
PROJECT**

**MIGRANT-
RIGHTS.ORG**

UNITED ARAB EMIRATES

SUBMISSION TO THE COMMITTEE AGAINST TORTURE

74th SESSION, JULY 2022

ISSUES RELATING TO IMMIGRATION DETENTION

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Joint submission from:

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ABOUT THE GLOBAL DETENTION PROJECT

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

ABOUT MIGRANT-RIGHTS.ORG

Migrant-Rights.org is a Gulf Cooperation Council (GCC)-based advocacy platform working to advance the rights of migrant workers. It aims to change perspectives towards migrant workers by improving access to information on migration in the Gulf region and its migration corridors and promoting informed, local discussion on migration issues. Both off and online, Migrant-Rights.org engages residents, local businesses, and employers to challenge perspectives towards migrants and improve working conditions for some of the region's most vulnerable workers.

UNITED ARAB EMIRATES

Submission to the Committee Against Torture 74th Session, July 2022

Issues Relating to Immigration Detention

The Global Detention Project (GDP) is an independent research centre based in Geneva, Switzerland, that promotes the human rights of detained migrants, asylum seekers, and refugees. It works to improve transparency in the treatment of detainees, to encourage adherence to fundamental norms, to reinforce advocacy aimed at reforming detention practices, and to promote scholarship of immigration control regimes.

Migrant-Rights.org is a Gulf Cooperation Council (GCC) based advocacy platform working to advance the rights of migrant workers. It aims to change perspectives towards migrant workers by improving access to information on migration in the Gulf region and its migration corridors and promoting informed, local discussion on migration issues. Both off and online, Migrant-Rights.org engages residents, local businesses, and employers to challenge perspectives towards migrants and improve working conditions.

The two organisations welcome the opportunity to provide information relevant to the consideration of the 74th periodic review of the United Arab Emirates to the Convention Against Torture. This submission concerns issues specifically related to immigration detention, or the detention of foreigners for reasons related to their non-citizen status.

1. CONTEXT

- 1.1.1** Migrants account for nearly 80 percent of the UAE's population and 90 percent of the labour force. The Kafala system, or sponsorship system, ties migrant workers' legal status to employers. With only the exception of very wealthy investors, most migrant workers cannot access any form of long-term or permanent residency, and the Ministry of Interior has a wide breadth to deport non-citizens without a court order.
- 1.1.2** The UAE routinely detains and deports non-nationals for immigration violations or violations of "public security or morals." While these practices were reduced or paused for a period during the height of the Covid-19 pandemic, they resumed even while the virus remained a significant risk.
- 1.1.3** Detained non-citizens in the UAE frequently face arbitrary arrests, poor conditions of detention, an inability to access information about their cases, and deportation without recourse to legal remedies. Their treatment amounts to cruel, inhuman, or degrading treatment or punishment, prohibited by Article 16 of the Convention Against Torture.

- 1.1.4** The UAE does not provide publicly accessible data on the number or nationality of non-nationals detained or deported. In January 2022, the Global Detention Project and Migrant-Rights.org issued a joint information request to the Ministry of Interior and the Human Rights Office of the Justice Department asking for information about the numbers of people detained and deported for migration-related reasons in recent years as well as an up-to-date list of facilities used for this purpose. As of this writing, we have not received any responses to our requests.
- 1.1.5** Despite the lack of transparency in UAE’s detention practices, there have been numerous reports revealing arbitrary detention and mistreatment in detention centres, including from the media and human rights organisations.¹
- 1.1.6** The mass deportation of hundreds of African migrant workers in the summer of 2021 revealed the extent to which these violations have become standard practices in the UAE. An estimated 800 workers primarily from Uganda, Nigeria, and Cameroon were rounded up – most in their bedclothes, some even naked – and put onto buses without explanation. They were detained for up to several months without charge, without information about the reason for their detention, and with almost no access to their embassy officials. They were then deported without redress, and without the opportunity to retrieve personal belongings or owed wages.
- 1.1.7** In addition to these issues, Cameroonian migrant workers who were part of this group were refouled to a country of conflict, in violation of the CAT and non-refoulement principles of international law. Many of these migrants, now either back home or in third countries to escape conflict, continue to bear the scars of their detention and the upheaval it has caused in their lives.

1.2 Adherence to international conventions

- 1.2.1** The UAE has ratified only half of the core international human rights treaties. It has not ratified key instruments relevant to the protection against arbitrary detention, including the International Covenant on Civil and Political Rights and the Convention on the Human Rights of Migrant Workers and Their Families. It has also not ratified the 1951 Convention Relating to the Status of Refugees.
- 1.2.2** Upon ratification of the Convention against Torture, the UAE issued a declaration aimed at narrowing the definition of torture provided for in Article 1 which stated:

“...sanctions applicable under national law, or pain or suffering arising from or associated with or incidental to these lawful sanctions, do not fall under the concept of “torture” defined in article 1 of this Convention or under the concept of cruel, inhuman or degrading treatment or punishment mentioned in this Convention.”²

In response, more than a dozen states parties to the Convention registered official objections to this reservation with the UN Secretariat for being “incompatible with the object and purpose of the Convention.”²

1.3 Legal Framework

- 1.3.1** Although UAE law provides safeguards to all people in the country, it provides wide scope for detaining and deporting non-citizens, making them vulnerable to arbitrary and abusive detention measures as well as criminal penalties.
- 1.3.2** According to Article 26 of the UAE Constitution, “No person may be arrested, searched, detained or imprisoned except in accordance with the provisions of law. No person shall be subjected to torture or to degrading treatment.” Article 28 prohibits “the physical and mental abuse of an accused person.”³ The Emirati Penal Code explicitly prohibits the use of torture by officials: Article 242 states that “any public official who uses torture, force or threat against an accused person, a witness or an expert, either directly or indirectly, for the purpose of obtaining a confession to an offence, or coercing the person into making a statement shall be sentenced to a fixed term of imprisonment.” While Article 344 reads: “Whoever illegally kidnaps, arrests, detains or deprives a person of his freedom, whether by himself or through another by any means without lawful justification, shall be punished by term imprisonment.” Punishment can be up to life imprisonment.⁴ Article 2 of the Code of Criminal Procedures (Federal Law No. (35) of 1992 Concerning The Criminal Procedural Law) also prohibits the “torture or degrading treatment” of any person.
- 1.3.3** These safeguards notwithstanding, there remain a number of legal protection gaps and an even wider gap between law and practice in the country. The law permits indefinite detention, including incommunicado detention, without appeal.
- 1.3.4** Federal Law No (6) for 1973 Concerning "Immigration and Residence" provides for administrative detention measures in certain circumstances, including to execute a deportation or as punishment for violating immigration provisions, as well as criminal measures.⁵ Aliens can be detained for up to three months for failing to maintain a valid residence permit; failing to leave the country after cancellation or expiry of an entry or residence permit; or failing to pay overstay fines (Article 21).
- 1.3.5** Article 29 provides for the deportation of any alien who does not have a residence permit, or who has not renewed his permit in accordance with legal requirements, or whose permit has been cancelled. Article 23 allows authorities to order the deportation of a non-national—even if holding a residence permit — if he has no apparent means of living; or if the security authorities see that public interest or public security or public morals require his deportation. According to the US Country Report on Human Rights practices in the UAE, when authorities suspect a foreigner of crimes of “moral turpitude,” authorities sometimes deport the individual without recourse to the criminal justice system.
- 1.3.6** Authorities may also detain any foreigner against whom a deportation order has been issued for a period not exceeding thirty days which may be

extended for a similar period if such arrest is necessary to carry out the deportation order (Article 25). Under Article 26, the Ministry of Interior is to bear the costs if the foreigner cannot cover the expense of deportation. Article 28 provides that anyone ordered deported may not return to the UAE, except with special permission from the Minister of Interior.

- 1.3.7** Article 31 provides criminal penalties for anyone who enters the UAE illegally, including imprisonment for a period of “not less than one month” and/or fines of “not less than 1,000 Dirham” (approximately \$270), followed by deportation ordered by the court. Article 35, a catch-all general provision, states that any person who violates the provisions of this law or related regulations shall be punished with imprisonment for a period not exceeding three months and a fine of no less than one thousand Dirham (approximately \$270).
- 1.3.8** Despite these legal provisions, migration-related detention measures often appear to be wielded arbitrarily and in an ad hoc manner. In the instance of the mass deportation of African migrants, no explanation was provided to the workers for their detention. The only common thread between the detainees was the colour of their skin. In a public statement made after the deportations denying any transgression of justice or racial motivation, the UAE claimed that the workers were linked to a sweeping catalogue of crimes including “prostitution networks, human trafficking, indecent acts, extortion, and assault.” The public statement also claimed that workers were only deported after “due legal process,” which contradicted the testimonies of more than a hundred workers interviewed by Migrant-Rights.org,⁶ ImpACT International, and Euro-Mediterranean Human Right Monitor.⁷
- 1.3.9** In 2021, six deported Cameroonians told the Thomson Reuters Foundation (TRF) that they were repeatedly denied access to lawyers or information about the charges against them following their arrest, and that their concerns about the ongoing violence back home were dismissed. The Cameroon’s consul-general in Dubai also told TRF he had received “no official information” from the UAE’s foreign ministry on the arrests and deportations, despite three written requests. Attempts to visit the prisoners at al-Wathba prison were denied.⁸
- 1.3.10** Just as it has not yet ratified the 1951 Refugee Convention, the UAE has also failed to implement a transparent or codified system for providing protection to asylum seekers or refugees. It has been accused of detaining and *refoulement* of individuals, including members of the Uyghur community.⁹

1.4 Length of Detention

- 1.4.1** Migrants and refugees can remain in detention anywhere from a month to more than a year. Some of the factors that can prolong detention include: difficulties getting passport/travel documents (especially for those whose passports are held by sponsors who will not return them); procuring the funds to pay overstay fees; waiting for a clearance or “no objection letter” from local police before leaving (which can be delayed if there are claims

against a worker for theft, or if the migrant has any debts from loans); and in case of refugees, waiting until a resettlement country accepts them.

1.5 Detention Conditions and Treatment

- 1.5.1** The government does not release statistics on prison demographics and capacity, and non-governmental organisations are not authorised to visit prisons and report on their conditions. However, detainees have frequently complained of overcrowding, lack of adequate medical care, and other abuses.
- 1.5.2** Migrants detained in the summer of 2021 told Migrant-Rights.org of overcrowded, unhygienic conditions in al-Wathba prison, even amid the risks of the ongoing pandemic. Authorities held migrants 62 to a cell, depriving them of hygiene products. They did not receive soap, toothpaste, or a change of clothes until over a month after their detention. They drank only dirty tap water and were forced to compete for a handful of paracetamol pills in lieu of actual medical care.¹⁰
- 1.5.3** Accounts from other detainees indicate that such practices are commonplace. According to Human Rights Watch (HRW), at least four HIV-positive prisoners in Dubai's al-Awir Central Jail were allegedly denied medication for periods as long as five months.
- 1.5.4** Women detainees also face protection gaps. Victoria Edem, a Cameroonian nurse who was three months pregnant when she was arrested with her husband, told TRF she had no access to her anaemia medication during her two-month detention and lost seven kilograms.¹¹
- 1.5.5** Holding prisoners in unsanitary conditions and in prolonged detention without charge puts their mental and physical at risk, in violation of Article 16 of the Convention Against Torture.
- 1.5.6** There are frequent reports of prison guard brutality, discrimination against non-citizens and women, lack of medical access, and administrative deportation without the opportunity to appeal.¹² These issues amount to cruel, inhuman, or degrading treatment, prohibited by Article 16 of the CAT.
- 1.5.7** According to the 2020 US Country Report on human rights practices in the UAE, there were no public reports of impunity involving officials, but there was also no publicly available information on whether authorities investigated complaints of police abuses, including prison conditions and mistreatment.¹³ The 2021 report also stated that there have been reports of mistreatment, abuse, and torture in state security detention facilities. Prisoners complained to embassy representatives about routine abuse of fellow inmates, including long periods of solitary confinement and confinement in non-cooled spaces where temperatures could reach 100 degrees Fahrenheit for most of the year.¹⁴

2. RECOMMENDATIONS

We encourage the Committee to make the following recommendations to the State Party with regard to its migration-related detention policies and practices:

- People placed in migration-related detention should not be tortured or mistreated while in detention;
- Provide public statistics on the practice, scope and conditions of immigration detention, including information about the sites of detention used for migration-related detention purposes as well as annual data on the numbers of people detained for migration-related reasons and disaggregated data on the age, gender, and nationalities of migrant detainees;
- Trafficked persons must be identified and never subjected to criminal penalties, never detained, and always provided appropriate care and assistance;
- Ensure that domestic workers and all other migrant workers are not treated as “runaways” when fleeing from abusive working conditions; not prosecuted for “absconding”; and not punished with fines, imprisonment, or deportation;
- Women and their children, as well as separated or unaccompanied children, who are slated for deportation should never be detained and instead provided with appropriate care and assistance in the community;
- Ensure non-discrimination on the basis of race, nationality, ethnic origin with respect to decisions to detain and deport, as well as conditions of detention, and access to legal and consular representation;
- Improve conditions in detention, including by: eliminating overcrowding in detention centres; ensuring access to medical care, medicines, and hygiene products, including gender-specific items; ensuring that all sites of detention are clean, meet basic hygienic conditions, and provide adequate quality and quantity of food; implementing all COVID-19 mitigation measures in detention centres, including social distancing, testing, PPE, and vaccines; provide specialist medical care, including for HIV positive detainees, pregnant women, and others with special needs.
- Each migration-related detention order should be on the basis of an individual assessment of each case, assessing the necessity and proportionality in light of possible alternative non-custodial measures;
- Ensure that detention is maintained for the shortest time possible;
- Ensure that each detention order is regularly and automatically reviewed by a judicial organ;
- Immigration detainees must be segregated from criminal prisoners;
- Immigration detainees should have access to consular authorities when they wish;
- Ensure access to immigration detainees by family members, civil society groups, and legal representatives;
- Ratify the Optional Protocol to the Convention against Torture (OPCAT) and establish an OPCAT-mandated National Preventive Mechanism empowered to investigate all sites of detention, including immigration detention centres,

and in the meantime ensure that an ombudsperson can monitor the situation of immigration detainees and receive and investigate complaints;

- Ratify other key human rights treaties, including in particular the International Covenant on Civil and Political Rights and the Convention on the Human Rights of Migrant Workers and Their Families.
- Withdraw its declaration limiting the scope of Article 1 of the Convention against Torture.
- Accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and adopt national asylum legislation.
- Uphold the fundamental obligation of *non-refoulement* as provided for under Article 3 of the Convention Against Torture.

ENDNOTES

¹ For example:

(1) Amnesty International, “Human Rights In The Middle East And North Africa: Review Of 2018 - United Arab Emirates.”

<https://www.ecoi.net/en/file/local/2003677/MDE2598992019ENGLISH.pdf>

(2) Human Rights Watch, “UAE: Eight Lebanese Face Unfair Trial,” 25 March 2019, <https://www.hrw.org/news/2019/03/25/uae-eight-lebanese-face-unfair-trial>

(3) Human Rights Watch, “UAE: Reported Covid-19 Prison Outbreaks,” 10 June 2020, <https://www.hrw.org/news/2020/06/10/uae-reported-covid-19-prison-outbreaks>

(4) France 24, “France opens case against Interpol president over Britons detained in UAE,” 5 May 2022, <https://www.france24.com/en/europe/20220511-france-opens-case-against-interpol-president-over-uae-torture-allegations>

² United Nations Treaty Collection, Chapter IV Human Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, New York, 10 December 1984, Status as at 13 October 2015, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-9&chapter=4&lang=en#EndDec.

³ United Arab Emirates's Constitution of 1971 with Amendments through 2009 https://www.constituteproject.org/constitution/United_Arab_Emirates_2009.pdf?lang=en

⁴ Federal Law No (3) of 1987 on Issuance of The Penal Code, [https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/\\$FILE/Penal%20Code.pdf](https://www.icrc.org/ihl-nat/6fa4d35e5e3025394125673e00508143/e656047207c93f99c12576b2003ab8c1/$FILE/Penal%20Code.pdf).

⁵ Law No (6) for 1973 Concerning Immigration and Residence As amended By virtue of law 7 of 1985, Law 13 of 1996 And Federal Decree- Law No. 17 of 2017 https://www.tlg.ae/source/uploads/ck_files/1561466522.pdf

⁶ Migrant-Rights.org, “We cried and we begged,” 22 September 2022, <https://www.migrant-rights.org/2021/09/we-cried-and-begged/>

⁷ EuroMed Monitor “They told us they hated black Africans,” 02 September 2021, <https://euromedmonitor.org/en/article/4600/%E2%80%9CThey-told-us-they-hated-black-Africans%E2%80%9D:-UAE-authorities-detain,-torture,-and-deport-over-800-migrants>

⁸ Thomson Reuters Foundation, “Cameroonian migrants deported from UAE face conflict or exile,” 17 September 2021, <https://www.reuters.com/article/us-emirates-rights-cameroon-feature/cameroonian-migrants-deported-from-uae-face-conflict-or-exile-idUSKBN2GD014>

⁹ The Washington Post, “Opinion: A detainee says China has a secret jail in Dubai. China’s repression may be spreading,” 22 August, 2021, <https://www.washingtonpost.com/opinions/2021/08/22/detainee-says-china-has-secret-jail-dubai-chinas-repression-may-be-spreading/>

¹⁰ Migrant-Rights.org, “We cried and we begged,” 22 September 2021, <https://www.migrant-rights.org/2021/09/we-cried-and-begged/>

¹¹ Thomson Reuters Foundation, “Cameroonian migrants deported from UAE face conflict or exile,” 17 September 2021, <https://www.reuters.com/article/us-emirates-rights-cameroon-feature/cameroonian-migrants-deported-from-uae-face-conflict-or-exile-idUSKBN2GD014>

¹² U.S. State Department, Country Reports on Human Rights Practices – United Arab Emirates, 2014-2021 <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/united-arab-emirates/>

¹³ U.S. State Department, Country Reports on Human Rights Practices – United Arab Emirates, 2020 <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/united-arab-emirates>

¹⁴ U.S. State Department, Country Reports on Human Rights Practices – United Arab Emirates, 2020 <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/united-arab-emirates/>