

STATEMENT

UPR Pre-Session on United Arab Emirates

Geneva, 13 December 2017

Delivered by: Treatment Action Group

Presenting organization:

1. This statement is delivered on behalf of Treatment Action Group (TAG), an independent, not-for-profit, community-based research and policy think tank that works to ensure all people with HIV, tuberculosis (TB), and hepatitis C virus (HCV) receive lifesaving treatment, care, and information.

Process and motivation for developing the statement:

2. This is TAG's first time participating in UPR processes. Our participation is motivated by the high volume of appeals TAG received from migrant workers to the UAE detailing discriminatory immigration policies related to screening for TB. These appeals came to TAG starting in 2014 through the online platform www.TBonline.info, which TAG manages. TAG developed its submission through in depth interviews with migrant workers deported from the UAE for evidence of TB.

Plan of the statement:

3. This statement addresses the rights to health, scientific progress, information, and nondiscrimination of migrant workers to the UAE. Our statement focuses on migrant workers deported for suspected TB, but other migrants have experienced similar rights violations in the context of mandatory screening for HIV and other communicable diseases.
4. We note that in a country where migrants comprise over 90 percent of the workforce, migrant health policy is public health policy. Consequently, the issues raised in this statement speak to creating scientifically informed, rights-based public health policy for the country as a whole.

Follow-up from the UAE's 2nd Review:

5. Despite many recommendations by countries under the 2008 and 2013 UPR cycles, the UAE has not acceded to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) or the International Covenant on Civil and Political Rights (ICCPR), falling short of the UAE's intention to align national laws with international human rights standards (e.g., the UAE-supported recommendation 128.156 made by Turkmenistan in the 2013 UPR cycle).
6. Many countries participating in the UAE's 2nd Review recommended that the UAE take action to strengthen protections for migrant workers in the domain of economic, social, and cultural rights (e.g., recommendation 128.51 by Brazil). Further, Nepal recommended that the UAE "continue efforts to safeguard the dignity

and protect the interests of migrant workers, including through requisite institutional and legislative measures” (rec. 128.53).

Current status:

7. The experiences of migrant workers deported for TB since 2013 indicate that national legislation continues to fall short of international standards with regard to the rights to health, scientific progress, and information.
8. Revisions to legislation made since the UAE’s 2nd Review have failed to remedy discrimination against migrant workers on the basis of health status. Cabinet Decree No. 7/2008 established that migrants seeking employment must undergo mandatory medical exams to detect infectious diseases including TB. Migrants suspected to have TB applying for residency permits were declared unfit and forcibly deported.
9. In January 2016, Decree No. 5/2016 amended the existing regulations so that migrants seeking annual renewal of residency permits equally have to undergo medical exams. Unlike first-time migrants, migrants seeking renewal found to have TB are now subject to treatment inside the UAE. However, the revised law did not change the practice for first-time migrants, who are still subject to deportation.

The Right to Scientific Progress and Migrant Health in the UAE:

10. The UAE has ratified the Arab Charter on Human Rights, which establishes the right of everyone to enjoy the benefits of scientific progress (Art. 42), as well as the rights to health (Art. 39) and nondiscrimination (Art. 2). Fulfilling the right to scientific progress requires states to disseminate the benefits of science, without discrimination, including tangible advances such as new medicines or diagnostic tests.¹ Attention to the right to scientific progress ensures that as science advances, new health technologies are made available.
11. Of foremost concern, the UAE’s TB screening procedure does not reflect the current standard of scientific evidence. As applied, the law does not distinguish between different forms of TB—e.g., latent TB infection (i.e., LTBI, which by definition is non-transmissible); the appearance of lung scars on chest X-ray (which could indicate previously treated TB or even lung infections other than TB); and active TB disease (which is rendered non-infectious quickly after the start of effective therapy). The screening procedure employs a diagnostic algorithm that does not make use of the best available tools in line with World Health Organization (WHO) guidelines.

The Right to Information and Migrant Health in the UAE:

12. TAG expresses grave concern that the application of UAE immigration law violates migrant workers’ right to information (Arab Charter Art. 32) and privacy (UDHR Art. 12). In most cases, employers are directly notified about a worker’s medical unfit

¹ Farida Shaheed, UN Special Rapporteur in the field of cultural rights, The right to enjoy the benefits of scientific progress and its applications, UN Doc. No. A/HRC/20/26.

status, and many migrant workers are unable to access their test results. The direct health authority–employer communication channel cuts migrants out of the chain of information concerning their own health and denies them the ability to make autonomous health decisions.

13. Furthermore, disclosing the health status of migrant workers to employers without their consent increases the risk of stigma and discrimination and deters health-seeking behavior, thereby undermining the stated public health objectives of the law.

Recommendations:

14. Since its 2nd Review, the UAE has made modest progress in aligning its national laws and regulations with international human rights standards, but further reforms are required to fully protect the dignity and welfare of migrant workers with respect to health. The United Nations will hold a High-Level Meeting (HLM) on TB in 2018. We urge the UAE to commit to a rights-based response to the TB epidemic before the HLM by acting on the following recommendations:
 - a. Accede to the ICESCR and ICCPR to strengthen the national health system’s ability to adopt scientifically sound, rights-based public health policies.
 - b. Join the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
 - c. Revise health-related immigration laws and policies to:
 - i. **Adopt scientifically informed TB screening practices in line with obligations under the right to science and WHO guidelines.** In particular, discontinue to use the appearance of lung scars on chest X-rays as grounds for deportation and lifetime ban from seeking employment in the UAE.
 - ii. **Protect migrants’ right to information.** Migrants must be able to directly receive information on their health status and access medical exam results.
 - iii. **Establish a firewall between the enforcement of immigration law and health protection and promotion,** based on the recognized importance of health, irrespective of a person’s legal status.
 - iv. **Discontinue the practice of TB screening as an instrument to determine the immigration permissibility.** Migrants from TB high-burden countries should be screened for LTBI and offered preventive treatment. There must be no compulsory treatment of LTBI, which is by definition non-infectious.
 - v. **Develop mechanisms to link migrants with TB to care in place of deportation.** In particular, migrants who have started TB treatment in their home country should be allowed to enter UAE after demonstrating non-infectiousness; those found to have TB should be linked to care in the UAE.
 - vi. **Establish an independent mechanism to allow migrants means of redress** in the event a health determination jeopardizes immigration status.

On behalf of Treatment Action Group, thank you for your attention.

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