

Carlyle Human Rights Overview; The Implications of The Carlyle Group's Partnership with Abu Dhabi.

Recently the Carlyle Group, a Washington D.C.-based private equity firm, announced the sale of a 7.5% stake in its management and operations to the Mubadala Development Company, an arm of Abu Dhabi, one of the seven countries that comprise the United Arab Emirates (UAE).¹ In addition to the \$1.35 billion investment, the Abu Dhabi fund agreed to invest a further \$500 million into Carlyle's buyout funds.² Numerous politicians and media outlets have raised concerns about sovereign wealth funds (*i.e.*, government investment vehicles like the Abu Dhabi fund), noting in particular a frequent lack of transparency and questioning the advisability of foreign governments having ownership stakes in defense companies and critical infrastructure.³

Even more troubling issues are raised when American workers and their public pension funds essentially partner with funds like Abu Dhabi's Mubadala through their mutual investments in the Carlyle Group. Governmental organizations and non-profits alike have repeatedly found that Abu Dhabi and the UAE engage in practices that violate the very principals on which the United States was founded. Seventeen U.S. states—including California, Texas and Florida—are starting to look into pension fund connections with sovereign nations whose policies are problematic.⁴ Individual and pension fund clients similarly need to ask themselves if investing with the Carlyle Group could implicate them in supporting human rights abuses.

The UAE and Human Rights:

“The government's respect for human rights remained problematic.”

- United States Department of State, Country Report UAE, 2006.⁵

Since 2004, the UAE—a federation of seven semi-autonomous emirates—has been led by the Ruler of the Abu Dhabi Emirate.⁶ While the 420,000 citizens of the emirate benefit greatly from oil revenues and are worth about *\$17 million apiece*, the country is supported by nearly a million migrant workers who often labor in abject poverty and who work without many legal protections.⁷ Numerous governmental and non-governmental bodies have reported numerous human rights problems in the UAE including:

Human Trafficking and the Exploitation of Children:

- Every year, thousands of young boys are trafficked to the UAE to be trained as camel jockeys. While the UAE government estimated the number of child jockeys in 2005 at between 1,200 and 2,700, international organizations have put the numbers far higher at 5,000-6,000.⁸
- As of 2006, the UAE was failing to comply with minimum standards for the elimination of human trafficking.⁹ In its 2006 annual report on human trafficking, the US State Department placed the UAE on its Tier 2 Watch List for its “failure to show increased efforts to combat trafficking over the past year, particularly in its efforts to address the large-scale trafficking of foreign girls and women for commercial sexual exploitation.”¹⁰

Exploitation and Abuse of Migrant Workers:

- Nearly 80 percent of the UAE's population is foreign born, and foreigners account for 90 percent of the workforce in the private sector, including domestic workers. In May of 2006, the Ministry of Labor estimated there were 2,738,000 migrant workers in the UAE. Human Rights Watch has reported that exploitation of migrant construction workers by

employers, especially low-skilled workers in small firms, is a particularly severe problem. This situation is exacerbated by immigration laws that can punish immigrant workers for publicly speaking out about working conditions. According to the U.S. State Department's country report, workers who strike can be deported, and the UAE's Ministry of Labor issued a directive to ban employment of workers who instigate strikes.¹¹

- Although a 2003 law bars employers from forcing immigrant workers to surrender their passports in order to work, the State Department reports that this ban is not generally enforced and that the practice remains a "serious problem." Among other things, the illegal but widespread practice interferes with employees' ability to seek resolution of employment disputes. New labor laws proposed in March of 2007 do not even incorporate the supposed ban, and Human Rights Watch found that it had "virtually no impact."¹²
- A worker is eligible to move to a different employer only after two years of work and getting the permission of his current employer.¹³ Women domestic workers are often confined to their places of work.¹⁴

Abuse of Women:

- A 2005 study by UAE University reported that as many as 66% of all women permanently residing in the UAE have been subjected to domestic abuse and courts have found that men have the positive legal right to beat their wives as a form of discipline.¹⁵ As of January 2007, the government had also not recognized City of Hope, the country's only shelter for abused women, children, and domestic workers. The organization's director, Sharla Musabih, faced potential criminal prosecution in what she alleges to be a politically motivated case.¹⁶
- In March 2005, a court in Dubai sentenced a pregnant immigrant domestic worker to 150 lashes and deportation for adultery.¹⁷ Eleven out of twenty-six Filipina domestic workers interviewed in the UAE in March 2006 reported being deprived of adequate nutrition.¹⁸

Criminalization of Homosexuality:

- In November 2005 Abu Dhabi Police arrested 26 men, 13 citizens and 13 other Arabs and Asians, for alleged homosexual activity. Government officials reportedly said that the men were transferred to the ministry's Social Support Center and would "be given the necessary treatment, from male hormone injections to psychological therapies" after their trial. 12 of the 13 Abu Dhabi nationals involved were later sentenced to five years in prison; the other was given six months, all for immoral activities.¹⁹

Restrictions on Workers' Rights:

- According to Human Rights Watch, the UAE fails to enforce laws mandating a minimum wage; the average migrant construction worker in the UAE receives the equivalent of US\$175 per month.²⁰
- There is no affirmative right to join a union in the UAE, and domestic workers are not even covered by the country's inadequate labor law.²¹ As of November 2006, the UAE had not ratified the ILO provisions for freedom of association or the right to organize and of collective bargaining or the provision addressing occupational health and safety of workers.²² The new UAE labor law proposed in March 2007 explicitly punishes striking workers.²³

Failure to protect freedom of association and expression:

- Since 2000, the government has barred 12 prominent UAE commentators and academics from disseminating their views. For example, in June 2006 the Federal High Court issued an arrest warrant for the president of the independent Jurists Association, Muhammad al-Mansoori, for “insulting the public prosecutor.” Another member of the Association, Muhammad al-Roken, was detained for 24 hours in July and again in August for three days. On both occasions officials questioned him about his human rights activities and his public lectures. Security officials confiscated his passport and barred him from leaving the country.²⁴

Failure to create bodies to help with human rights oversight:

- The government did approve the formation of a human rights organization in 2006, but actions taken against other such groups could discourage its creation. While the law states that applications to establish human rights organizations must be responded to within one month of their filing, groups who applied in 2004 and 2005 had still not received a reply from the Ministry of Labor and Social Welfare as of November 2006.²⁵

What kind of America is Carlyle Creating?

In recent years, the United States has seen a shift in wealth and power to an ever smaller group of Americans, with commensurate increases in income inequality, the number of Americans without affordable health care coverage and escalating attacks on the right to free association.

Support for unfair tax systems exacerbates income inequality:

- Carlyle’s spokesperson has told Congress that the company believes, “there is no ‘inequity’ in the current taxation of capital gains attributable to carried interests,”²⁶ even though under current policy private equity executives pay only 15% on their income. Carlyle has demonstrated a willingness to pay dearly to protect the status quo: the firm has paid \$260,000 to lobbyists to work on the issue,²⁷ and has contributed \$30,000 to the Democratic Congressional Campaign Committee and made contributions to numerous individual politicians examining the preferential tax treatment of private equity earnings.²⁸

Exploitation of migrant labor in low-wage portfolio companies:

- As one of the partners in a consortium that purchased Dunkin’ Brands—parent company of Dunkin’ Donuts and Baskin Robbins—in 2005, Carlyle is now implicated in a company policy requiring franchisees to participate in the “Basic Pilot Program,” a voluntary program using government data to verify workers’ employment status.²⁹ Given the extent to which Dunkin’ Donuts depends on a low-wage immigrant workforce, this voluntary policy has the potential to disrupt the lives of thousands of employees and their families.

Taking advantage of low-income students:

- In both Mexico and the United States Carlyle invests in proprietary universities that take advantage of working-class students’ desire for advancement through education. In the US, Carlyle has announced a joint venture with the parent company of the University of Phoenix,³⁰ an organization with a 16% graduation rate³¹ and which recently settled a sexual harassment case filed by the EEOC for \$225,000³² and just lost an appeal for dismissal of a federal court case alleging the school fraudulently obtained millions of dollars in federal student aid.³³ In Mexico, one of Carlyle’s portfolio companies is the

Universidad Latinoamericana,³⁴ a private university where tuition is several times over the typical monthly wage and the quality of education has been questioned.³⁵

Finances polluters of low-income neighborhoods:

- When Carlyle purchased Texas-based “bio-solids” producer Synagro in April of 2007,³⁶ it helped Synagro leadership avoid an increasingly successful shareholder group demanding information about the health effects of Synagro’s processing of human waste into fertilizer.³⁷ Anecdotal evidence indicates residents near sites using human waste fertilizer report infections and a variety of symptoms, including symptoms consistent with endotoxin exposure, respiratory complications, and various gastrointestinal problems, among others.³⁸ Synagro plants are often located in poor and minority neighborhoods, including Hunts Point, in the Bronx, and Detroit, Michigan.³⁹
- When the Carlyle Group was part owner of the 7-UP bottling company, the US EPA found charged the company with discharging dangerous industrial runoff into the Los Angeles River. The company pled guilty to twelve criminal counts of violating the Clean Water Act and paid more than \$1M in civil and criminal fines.⁴⁰

Using US money to invest in Burma/Myanmar:

- Carlyle-owned Frontier Drilling has been accused of partnering with a Korean company to work under a contract with the Burmese Junta-controlled Myanmar Oil and Gas Enterprise.⁴¹

How could Abu Dhabi’s Ownership of the Carlyle Group affect US Corporate practices?

Already Carlyle Partner David Rubenstein has stated that specific Carlyle funds would not invest in Israel, a seeming nod to his new partners’ commitment to the Israeli boycott.⁴² As a private equity buyout firm, The Carlyle Group has no independent committee to deal with questions of Corporate Governance, and it does not report on its business policies to any governmental agency. In North America, the Carlyle Group has interests in critical industries including entertainment, education, telecommunications, defense and aerospace, energy and healthcare.

Investors need to ask if they want their money supporting a regime with documented human rights offenses like those of Abu Dhabi, as well as how Carlyle’s decision to enter into this partnership reflects the dedication of its leadership to high returns over all other considerations.

¹ <http://www.ft.com/cms/s/0/f9bae8ba-679e-11dc-8906-0000779fd2ac.html> ;
<http://www.forbes.com/afxnewslimited/feeds/afx/2007/09/20/afx4139129.html>

² http://blog.washingtonpost.com/washbizblog/2007/09/carlyle_group_sells_stake_to_a.html

³ See for instance Christopher Corr, “United States: When M&A and National Security Don’t Mix,” October 24, 2007, *Mondaq.com* (<http://www.mondaq.com/article.asp?articleid=53566>); Ben Laurance and Louise Armistad, “Rising Power of the Sovereign Funds,” *Sunday Times (London)*, October 28, 2007 (http://business.timesonline.co.uk/tol/business/industry_sectors/banking_and_finance/article2752048.ece); and Krishna Guha, “Warning over Sovereign Wealth Funds,” *Financial Times*, June 22, 2007 (<http://www.ft.com/cms/s/0/7963f2f2-2021-11dc-9eb1-000b5df10621.html>).

⁴ <http://dealbook.blogs.nytimes.com/2007/09/27/mideast-draws-private-equity-and-us-pension-cash/> ;
<http://www.bloomberg.com/apps/news?pid=20601015&sid=aXk.dnYs3oi4&refer=munibonds> ;
http://www.nytimes.com/2007/09/27/business/worldbusiness/27dubai.html?_r=1&ref=business&oref=slogin

⁵ <http://www.state.gov/g/drl/rls/hrrpt/2006/78865.htm>

⁶ US Department of State, Country Reports on Human Rights Practices, March 8, 2006.

⁷ Barney Gimbel, “The Richest City in the World,” *Fortune*, March 12, 2007.

⁸ Human Rights Watch, “United Arab Emirates: Events of 2006” *World Report 2007*
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>

⁹ http://uae.usembassy.gov/2006_trafficking_in_persons_report.html

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- ¹⁰ Human Rights Watch, "United Arab Emirates: Events of 2006" World Report 2007
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>
- ¹¹ Human Rights Watch, "United Arab Emirates: Events of 2006" World Report 2007
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>
- ¹² US Department of State, Country Reports on Human Rights Practices, March 8, 2006 and Human Rights Watch, "Draft Labor Law Violates International Standards," March 25, 2007.
- ¹³ Human Rights Watch, "Building Towers, Cheating Workers," p. 11.
<http://hrw.org/reports/2006/uae1106/uae1106web.pdf>
- ¹⁴ Human Rights Watch, "Overview of human rights issues in United Arab Emirates," 2006; Human Rights Watch, "Draft Labor Law Violates International Standards," March 25, 2007.
- ¹⁵ US Department of State, Country Reports on Human Rights Practices, March 8, 2006.
- ¹⁶ Human Rights Watch, "United Arab Emirates: Events of 2006" World Report 2007
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>
- ¹⁷ "UAE Court Orders 150 Lashes," Houston Chronicle, March 14, 2005.
- ¹⁸ Human Rights Watch, "Swept Under the Rug: Abuses Against Domestic Workers Around the World," July 2006.
p. 15. <http://hrw.org/reports/2006/wrd0706/wrd0706webwcover.pdf>
- ¹⁹ US Department of State, Country Reports on Human Rights Practices, March 8, 2006.
- ²⁰ Human Rights Watch, "Building Towers, Cheating Workers," p. 7.
- ²¹ US Department of State, Country Reports on Human Rights Practices, March 8, 2006.
- ²² Human Rights Watch, "Building Towers, Cheating Workers," p. 59 & 61.
- ²³ Human Rights Watch, "Draft Labor Law Violated International Standards," March 25, 2007.
- ²⁴ Human Rights Watch, "United Arab Emirates: Events of 2006" World Report 2007
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>
- ²⁵ Human Rights Watch, "United Arab Emirates: Events of 2006" World Report 2007
<http://hrw.org/englishwr2k7/docs/2007/01/11/uae14724.htm>
- ²⁶ "Taxes on Private Equity Partners Are Equitable and Fair," Press Release, Private Equity Council, September 6, 2007. (<http://www.thecarlylegroup.com/eng/industry/13-topnews-article4039.html>)
- ²⁷ Brian Wingfield, "King of the Lobby," *Forbes*, August 29, 2007
(http://www.forbes.com/businessinthebeltway/2007/08/28/washington-lobbying-congress-biz-beltway_cx_bw_0829blackstone.html)
- ²⁸ "Senate Democrats Facing a 'Pay as You Go' Problem," *New York Times*, November 7, 2007.
- ²⁹ http://www.boston.com/business/articles/2006/05/30/dunkin_joins_program_to_verify_if_workers_are_legal/
- ³⁰ "Apollo Group, Carlyle Group form \$1B Joint Venture," *CMN*, October 22, 2007
(<http://money.cnn.com/news/newsfeeds/articles/newstex/AFX-0013-20411142.htm>)
- ³¹ "University of Phoenix Stagers Under Growing Criticism," *Consumer Affairs.Com*, February 11, 2007.
(http://www.consumeraffairs.com/news04/2007/02/univ_phoenix.html)
- ³² <http://kob.com/article/stories/S180825.shtml?cat=504>.
- ³³ See "Troubles Grow for a University Built on Profits," *New York Times*, February 11, 2007 and
http://www.lieffcabraser.com/pdf/uphoenix_order_20070820.pdf
- ³⁴ <http://www.thecarlylegroup.com/eng/industry/13-topnews-article3196.html>
- ³⁵ Palmira Gonzalez. Son Escuelas Nuevo nicho para fondos; Estiman que logran rendimiento a la inversion mayores al 20% en el sector educativo. El Norte (Mexico). July 5, 2007
- ³⁶ <http://www.pehub.com/article/articledetail.php?articlepostid=8712>
- ³⁷ "For Odors Unpleasant, Inspiration from Wall Street," *NYT* August 13, 2006.
- ³⁸ "Sewage Biosolids Land Application: Reported Health Incidents," Cornell Waste Management Institute, updated 2/23/07.
- ³⁹ "Synagro, Operator of NY Organic Fertilizer Facility in South Bronx Focus of Faith-Based Institutional Investors Shareholder-Sponsored Environmental Resolution," Interfaith Center on Corporate Responsibility Press Release, January 30, 2006, and
<http://www.michigancitizen.com/default.asp?sourceid=&smenu=1&twindow=&mad=&sdetail=5101&wpage=1&skkeyword=&sidate=&ccat=&ccatm=&restate=&restatus=&reoption=&retype=&repmin=&repmax=&rebed=&rebath=&subname=&pform=&sc=1070&hn=michigancitizen&he=.com>
- ⁴⁰ http://www.upi.com/NewsTrack/Top_News/2005/11/11/bottler_to_pay_1m_for_river_pollution/7979/ and
<http://www.corporatecrimereporter.com/sevenup111005.htm>
- ⁴¹ <http://www.norwatch.no/index.php?artikkelid=1510&back=1#>
- ⁴² <http://www.nytimes.com/2007/09/27/business/worldbusiness/27dubai.html?pagewanted=print>