



**Australian Fair Trade Investment Network (AFTINET)
third submission on negotiations for an Economic
Cooperation Agreement between Australia and the
United Arab Emirates (UAE), February 2024**

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Respect for human rights and labour rights should be a precondition for preferential trade agreements

The government announced in December that it would proceed with negotiations for a preferential Economic Cooperation Agreement with the UAE, after previous negotiations were put on hold.

The government has a policy of including enforceable labour rights and environmental standards in trade agreements. As documented in AFTINET's previous submissions, the UAE has not ratified basic United Nations (UN) and International Labour Organisation (ILO) human rights and labour rights conventions.

Evidence of the violations of human rights and labour rights in the UAE has been extensively documented by both the UN and human rights organisations. A 2023 US State Department report presents evidence that that recent changes, including the 2022 labour law, have not substantially changed this situation.¹ The UAE measure to reduce carbon emissions have also been rated "highly insufficient" by independent scientific analysis.

Recommendations

The Australian government should not proceed with preferential trade negotiations with the UAE unless the UAE can demonstrate concrete steps to

- ratify relevant UN and ILO conventions and amend its domestic laws to safeguard human rights, including workers' rights, women's rights, and the rights of LGBTQIA people.
- demonstrate implementation of improved measures to meet the Paris agreement targets for reducing carbon emissions.

Civil and Political rights

The UAE is an absolute monarchy with no elected parliament based on universal voting rights and no guarantees of basic civil rights for citizens or migrant workers. The UAE is not a signatory to key human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).²

Labour rights and modern slavery in the UAE

Repeated investigations and reports have documented systemic exploitation, discrimination and modern slavery in the UAE.

The UAE is not a signatory to key ILO Fundamental Conventions, including the Freedom of Association and Protection of the Right to Organise Convention (1948), and the Right to Organise and

¹ US Department of State (2023) 2022 *Country Reports on Human Rights Practices: United Arab Emirates*, Bureau of Democracy, Human Rights and Labour, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/united-arab-emirates/#:~:text=Significant%20human%20rights%20issues%20included,in%20another%20country%3B%20unlawful%20government>

² OHCHR (2022) UN Treaty Body Database – United Arab Emirates https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=184&Lang=EN

Collective Bargaining Convention (1949).³ Furthermore, the UAE has not signed the ILO Migrant Workers Convention (1975).⁴

With more than 90% of the private sector workforce being composed of temporary migrant workers,⁵ the UAE is host to the fifth largest temporary migrant population in the world.⁶ The majority of migrant workers in the UAE are nationals of India, Bangladesh, Nepal, Sri Lanka, and Pakistan, working across all sectors and skill levels.

The *kafala* system ties migrant workers to individual employers who act as their visa sponsors, which restricts their freedom to change employers. The system punishes workers for ‘absconding’, and gives employers the power to revoke sponsorship at will. This removes the right of a worker to remain in the country and triggers repatriation procedures. The *kafala* system has been classified by human rights and labour rights organisations as a system of modern slavery.

Despite new laws alleged to be a reform of the UAE’s labour relations coming into force in 2022, the ITUC has determined that these laws “fail to meet international standards for workers’ rights” and bring “no change to the *kafala* system of modern slavery”.⁷

The 2023 report by the US department confirmed that the new labour law does not protect labour rights, and there is no national minimum wage.⁸ It also concludes that the law “neither provides for the right to organize or bargain collectively nor permits workers to form or join unions.”⁹

The report notes that the law does not apply to large sections of the workforce including domestic workers, free zones, or export-processing zones.¹⁰

The report documents that the main change in the new law is that private-sector foreign workers have the right to file labour-related grievances with the Human Resources Ministry. However, the report notes “The threat of deportation discouraged noncitizens from expressing work-related grievances.”¹¹

The report also found that “workers experienced nonpayment of wages, unpaid overtime, failure to grant legally required time off, withholding of passports, threats, and in some cases psychological, physical, or sexual abuse. Contrary to the law, employers routinely withheld employees’ passports, thus restricting their freedom of movement and ability to leave the country or change jobs. Media

³ International Labour Organisation (2022) Conventions and Recommendations, <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

⁴ International Labour Organisation (2022) Up-to-date Conventions and Protocols not ratified by United Arab Emirates, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11210:0::NO::P11210_COUNTRY_ID:103495

⁵ Migration Policy Institute (2013) Labor Migration in the United Arab Emirates: Challenges and Responses, <https://www.migrationpolicy.org/article/labor-migration-united-arab-emirates-challenges-and-responses>

⁶ Ibid.

⁷ International Trade Union Confederation (2021) UAE labour law reforms fail to address abuses of workers’ rights, 22 November, <https://www.ituc-csi.org/uae-labour-law-reforms-fail>

⁸ US Department of State (2023), op. cit. p.38 and p.40.

⁹ Ibid., p. 37

¹⁰ Ibid., pp. 37-38

¹¹ Ibid., p. 38

reported that employees were coerced to surrender their passports for “safekeeping” and sign documentation that the surrender was voluntary.”¹²

Women’s rights

Repeated investigations and reports have documented systemic discrimination against women in the UAE. Despite some reforms in the UAE over the past decade, significant discrimination against women and girls remains.

The reforms have included the prohibition of discrimination on the basis of sex and gender, and the revocation of family laws that obliged wives to “obey” their husbands, allowed husbands to discipline their wives, and punished consensual extramarital sex.

However, according to a Human Rights Watch 2021 submission to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) UAE laws still provide for male guardianship authority over women, and loopholes allow reduced sentences for men who kill a female relative. Judges may deem a woman in breach of her spousal obligations if she leaves the house or takes a job deemed outside “the law, custom, or necessity,” or if the judge considers it against the family’s interests.¹³

This continued discrimination against women is confirmed in the US 2023 State Department report which finds that Muslim women must have the consent of their guardians to marry. The law permits a man to have as many as four wives, but women may not have more than one husband. To obtain a divorce with a financial settlement, a woman must prove her husband inflicted physical or moral harm upon her. Physical abuse claims require medical reports and two male witnesses. Judges have discretion to consider women as full witnesses or half witnesses.¹⁴

Exploitation of women domestic workers

Multiple human rights organisations have documented the exploitation of women domestic workers in the UAE. The 2022 labour laws do not apply to domestic workers, so they have even less protections than other workers and are at risk of labour abuses, forced labour, and human trafficking because of the *kafala* system.

According to the ITUC, there are approximately 236,545 domestic workers in the UAE, comprising more than 12% of the total workforce and 42% of the female workforce.¹⁵ Despite the scale of the domestic workforce, the labour law specifically excludes domestic workers from its scope, depriving them of even the few protections guaranteed to other workers.

The 2017 UAE Domestic Labour Law¹⁶ introduced protections like a weekly day of rest and paid leave. However, Human Rights Watch criticises this law because it contains fewer and weaker protections

¹² Ibid., p 40

¹³ Human Rights Watch (2021) Submission to the Committee on the Elimination of Discrimination against Women on the United Arab Emirates, March 4, <https://www.hrw.org/news/2021/03/04/human-rights-watch-submission-committee-elimination-discrimination-against-women>

¹⁴ US Department of State (2023) op. cit., p.31.

¹⁵ International Trade Union Confederation (2017) Facilitating Exploitation: A Review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries, https://www.ituc-csi.org/IMG/pdf/migrant_domestic_workers_in_gulf_final-2.pdf

¹⁶ The United Arab Emirates Government Portal (2022) The UAE's policy on domestic helpers, 30 March, <https://u.ae/en/information-and-services/jobs/domestic-workers/uae-policy-on-domestic-helpers>

than the main labour law and falls short of international standards.¹⁷ Women domestic workers remain at acute risk of labour abuses, forced labour, and human trafficking because of the *kafala* system. These conditions are confirmed in the US State Department 2023 report.¹⁸

Criminalisation of homosexuality and transgender expression

The UAE criminalises homosexuality and gender expression of transgender people.¹⁹

These and other restrictions on LGBTQI+ and transgender people are confirmed in the US State department report:

“The law does not extend antidiscrimination protections to LGBTQI+ individuals based on their sexual orientation, gender identity or expression, or sex characteristics. There were no government efforts to address potential discrimination. LGBTQI+ persons are provided no protection based on their sexual or gender identity and could face arrest, since homosexual activities are illegal”.²⁰

UAE slow action on climate change and conflict of interest at COP 28 meeting

With 30% of Gross Domestic Product (GDP) based directly in oil and gas exports,²¹ the UAE has been widely criticised by environmental defenders for its record on climate action and environmental sustainability.

According to the Climate Action Tracker (CAT) – an independent scientific analysis that tracks government climate action and measures it against the Paris Agreement – the climate targets and policies of the UAE are “Highly insufficient”.²²

The CAT’s “Highly insufficient” rating indicates that the UAE’s climate policies and commitments are not consistent with the Paris Agreement’s 1.5°C temperature limit, and lead to *rising* rather than *decreasing* emissions, even taking into account the recently announced net-zero ambitions of the UAE.²³

When the UAE hosted the 2024 COP 28 climate summit, the summit President was both chief executive of the UAE national oil company ADNOC and the UAE’s climate envoy. In the lead up to the summit, leaked briefing documents were revealed for meetings with summit participants to increase ADNOC’s exports of oil and gas.²⁴

This has attracted widespread criticism about conflict of interest. Manuel Polgar-Vidal, former COP 20 president said

¹⁷ Human Rights Watch (2021) UAE: Greater Progress Needed on Women's Rights, March 4, <https://www.hrw.org/news/2021/03/04/uae-greater-progress-needed-womens-rights>

¹⁸ US Department of State (2023), op. cit., pp. 41-42.

¹⁹ Human Dignity Trust (2020) UAE: Types of Criminalisation of homosexuality, London <https://www.humandignitytrust.org/country-profile/united-arab-emirates/>

²⁰ US Department of State (2023) op. cit, p. 35.

²¹ OPEC (2021) UAE facts and figures, https://www.opec.org/opec_web/en/about_us/170.htm

²² Climate Action Tracker (2021) Country summary: UAE, November 9, <https://climateactiontracker.org/countries/uae/>

²³ Ibid.

²⁴ Rowlett, J., (2024) UAE plan to use cop 28 climate talks to make oil deals, *BBC News*, November 27, <https://www.bbc.com/news/science-environment-67508331>

“As COP president you should not represent any national or commercial interest, it is your job to lead the world.”²⁵

Analysis of the outcomes on COP 28 has noted that this conflict of interest from the UAE and resistance from other fossil fuel producing countries contributed to the relatively weak wording of the summit statement on phasing out fossil fuels, described by Al Gore as “an important milestone... but the bare minimum of what we need and is long overdue”.²⁶

The UAE also placed harsh limitations on protesters at the summit, consistent with the UAE’s lack of protections for freedom of expression. Associated Press reported that the UAE placed “sharp restrictions on what demonstrators could say, where they could walk and what their signs could portray.”²⁷

Conclusion and recommendations

The Australian Government has a policy supporting enforceable labour rights and environmental standards based on UN and ILO conventions in trade agreements, and has included such standards in its recent agreement with the United Kingdom and in negotiations with the European Union.

The UAE has not ratified relevant UN and ILO human rights and labour rights conventions, and has a record of violations of human rights and labour rights, and of lack of action to meet the Paris agreement targets for reduction of carbon emissions.

This submission has presented evidence from a recent US State Department report, and from human rights organisations that recent changes to domestic discrimination laws, labour laws and the domestic workers’ law have not been effective in preventing serious violations. The UAE measures to reduce carbon emissions have also been rated “highly insufficient” by independent scientific analysis.

The Australian government should not proceed with preferential trade negotiations with the UAE unless the UAE can demonstrate concrete steps to

- **ratify relevant UN and ILO conventions and amend its domestic laws to safeguard human rights, including workers’ rights, women’s rights, and the rights of LGBTQIA+ people**
- **demonstrate implementation of improved measures to meet the Paris agreement targets for reducing carbon emissions.**

²⁵ Ibid.

²⁶ O'Malley, N., (2023) What cop 28 achieved and what it failed to do, Sydney Morning Herald, December 14, <https://www.smh.com.au/environment/climate-change/what-cop28-achieved-and-what-it-failed-to-do-20231214-p5erd8.html>

²⁷ Gambrell, J., (2024) Protesters COP 28 restricted by shocking level of censorship in host country UAE, *Associated Press*, December 9, <https://www.pbs.org/newshour/world/protests-at-cop28-restricted-by-shocking-level-of-censorship-in-host-country-uae>