



Australia-UAE Comprehensive Economic Partnership Agreement (CEPA)

Australian Council of Trade Unions (ACTU) submission to
Department of Foreign Affairs and Trade (DFAT) stakeholder
consultation process

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Introduction

About the ACTU

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

UAE trade agreement

The Australian Union movement is deeply concerned at the announcement by Minister Farrell on 13 December 2023 that the Australian Government will commence negotiations with the United Arab Emirates (UAE) for a trade agreement (Comprehensive Economic Partnership Agreement).

The ACTU supports fair trade as a vehicle for economic growth, job creation, tackling inequality and raising living standards. The most important objective of trade policy should be to deliver benefits to workers, the community and the economy by increasing opportunities for local businesses, creating quality local jobs, and protecting public services. The benefits of trade must be shared among our community, and promote equitable development abroad.

The Australian Union movement strongly believes the Government should not give preferential market access to countries with poor labour rights practices. Given the UAE's notorious record on human rights - including workers' rights - we call on the Albanese Government to not proceed with these negotiations unless and until the UAE takes concrete steps to safeguard workers' rights.

Most recently there has been a global focus on the UAE with the holding of the United Nations Climate Change Conference (COP28) in December 2023; yet in the lead up to COP28, despite the whole world watching, the Government refused to undertake any meaningful reforms. Indeed, the site where COP28 was held was built and staffed by workers who were abused and subject to forced labour.

We note that the UAE would be the most repressive country an Australian Government - Labor or Coalition - has ever done a bilateral trade agreement with. The Australian Union movement is deeply concerned that negotiating a trade agreement with the UAE sends the signal of Australia legitimising and incentivising continued violations of labour and human rights. In our view it is unacceptable that a Labor Government, which has recently introduced industrial relations reforms to better protect the rights of Australian workers, reforms to the migration system to protect

migrant workers, and reforms to combat modern slavery throughout global supply chains, would contemplate closer economic ties with a country that does not even enable independent trade unions to operate. The ALP platform makes the commitment for Australia's trade agreements to be consistent with Australia's social and economic values and provide for minimum and enforceable labour standards. It is our view that respect for workers' rights and human rights must be a precondition of a preferential trading relationship.

Workers' rights violations

The UAE ranks among the worst countries in the world for working people, according to the International Trade Union Confederation's (ITUC) annual Global Rights Index¹, with no guarantee of rights for workers. The Emirati Government imposes severe restrictions on the rights to freedom of expression, association and peaceful assembly, and prohibits workers from collectively organising, bargaining or striking.

Migrant workers form approximately 90 percent of the UAE's workforce and face widespread abuses tantamount to modern slavery. The UAE operates the kafala system of labour sponsorship, which bonds migrant workers to their employer and gives companies and private citizens almost total control over migrant workers' employment and immigration status. Under the kafala system, any attempt at leaving an employer is punishable by law: escaped workers are imprisoned, deported, and face significant financial costs, including paying back their employer's sponsorship fees without receiving their salaries. Wage theft and exorbitant recruitment fees are widespread. Migrant workers work in sectors such as construction, cleaning, agriculture and security and expose them to the UAE's extreme heat with little protection. There is no minimum wage in the private sector, and domestic workers can be legally made to work for up to 72 hours a week.

The new labour law introduced in 2022 fails to address these issues²:

- There is no national minimum wage and the law does not include the right to organise or bargain collectively nor the right form or join unions.

¹ International Trade Union Confederation, 'Global Rights Index 2023', <https://www.globalrightsindex.org/en/2023/countries/are>

² 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%20governments>

- Workers experience nonpayment of wages, unpaid overtime, failure to grant legally required time off, withholding of passports, threats, including threats of deportation, 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.
- The new law does not apply to domestic workers, who comprise more than 12% of the total workforce and 42% of the female workforce, so they have even less protections than other workers, experiencing labour abuses, forced labour, sexual abuse and human trafficking, and can be legally made to work for up to 72 hours a week.
- The main change in the 2022 labour law is that migrant workers have the right to file labour-related grievances with the Human Resources Ministry. However, as a 2023 US State Department report on the human rights practices in the UAE notes, "the threat of deportation discouraged noncitizens from expressing work-related grievances".³

Human rights violations

In addition to widespread abuses of workers' rights, there is widespread abuse of human rights, including systemic discrimination against women in the UAE, and the criminalisation of homosexuality and transgender expression, and the criminalisation of political dissent. The Code of Crimes and Punishments criminalises free expression and assembly, and the Law on Combating Rumours and Cybercrimes which came into effect in 2022 imposes up to three years imprisonment on anyone who uses the internet to encourage a demonstration without prior permission from the government.⁴ The Government also criminalises dissent and actions to defend human rights – at least 64 Emirati citizens remain unlawfully imprisoned because of actual or perceived political dissent.⁵

Women's rights

The UAE enforces a system of discrimination and male control over Emirati women. 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 cannot have more than one husband. To obtain a divorce with a financial settlement, a woman must prove her husband inflicted harm on her. Physical abuse claims require

³ US Department of State (2023), p. 38.

⁴ Amnesty International, 'United Arab Emirates 2022', <https://www.amnesty.org/en/location/middle-east-and-north-africa/united-arab-emirates/report-united-arab-emirates/>

⁵ Amnesty International, 'UAE authorities reject civil society's calls for human rights as climate conference looms, 23 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/uae-authorities-reject-civil-societys-calls-for-human-rights-as-climate-conference-looms/>

medical reports and two male witnesses, and judges have discretion to consider women as full witnesses or half witnesses. UAE law also discriminates based on gender in the transmission of citizenship from parent to child: all children born to an Emirati father become Emirati nationals from the moment of birth, while children born to an Emirati mother but a non-Emirati father can only be granted Emirati nationality by special permission from the government.

LGBTQIA+ rights

The UAE criminalises consensual same-sex relations between adults and discriminates against LGBTQIA+ people. The law does not extend anti-discrimination protections to LGBTQIA+ individuals based on their sexual orientation, gender identity or expression, or sex characteristics; LGBTQIA+ persons have faced arrest, since homosexual activities are illegal.

Inaction on climate change

The UAE has been widely criticised for its poor record of climate action. 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.⁶ The UAE has been criticised⁷ for 'externalising climate risks to migrant workers', who are disproportionately exposed to extreme heat and inadequate protection, by sending chronically ill workers to their home country without remedy – shifting the care burden onto developing countries.

Conclusion and recommendations

The Albanese Government should not proceed with negotiations for a trade agreement with the UAE unless and until it can demonstrate concrete steps to safeguard workers' and human rights, which must include:

- ratifying and implementing fundamental ILO Conventions, including ILO Convention no. 87 *Freedom of Association and Protection of the Right to Organise* and ILO Convention no. 98 *Right to Organise and Collective Bargaining*
- allowing independent trade unions to operate
- abolishing the kafala system of labour migration

⁶ Climate Action Tracker (2021) Country summary: UAE, November 9, <https://climateactiontracker.org/countries/uae/>

⁷ Human Rights Watch, 'UAE's COP28 promises on climate, health ignored at home', 6 December 2023, <https://www.hrw.org/news/2023/12/06/uaes-cop28-promises-climate-health-ignored-home>

- pay reparations to migrant workers who have worked under conditions of modern slavery
- protect all workers from extreme heat and other hazards.

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