

Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates

Australian Council of Trade Unions (ACTU) submission to the
Joint Standing Committee on Treaties

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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. They have over 1.6 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

Australia-UAE Comprehensive Economic Partnership Agreement (CEPA)

The Australian Union movement strongly opposes the Australian Government ratifying a bilateral trade agreement with the United Arab Emirates (UAE), and we have consistently raised our deep concerns since the negotiations were announced in December 2023.

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 Australian Government to not ratify this agreement unless and until the UAE takes concrete steps to safeguard workers' rights.

The UAE would be the most repressive country an Australian Government - Labor or Coalition - has ever done a bilateral trade agreement with:

- Trade unions, political organisations and political parties are illegal
- Workers are prohibited from collectively organising, bargaining or striking
- Migrant workers, who make up 80% of the population and 90% of the UAE's workforce, are effectively modern day slaves under the kafala system.

The Australian Union movement is deeply concerned that ratifying a trade agreement with the UAE sends the signal of Australia legitimising and incentivising continued violations of labour and human rights. These concerns are also shared by broader civil society: human rights organisations, women's organisations, environmental groups, and faith groups have also raised their opposition

to this agreement.¹ In our view it is unacceptable that a Labor Government, which has 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 Labor Party 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.

The National Interest Analysis notes that consultations with trade unions showed strong opposition to CEPA due to the UAE's issues with human and labour rights and concerns around environment, gender equality and LGBTQI+ rights, and goes on to state that: 'While not all these concerns could be addressed through CEPA, these stakeholder views were taken into account by negotiators in pursuing the best possible outcomes for Australia in this area.'² Unions have been clear throughout however that even the most carefully worded labour chapter will not resolve the core problem here: there can be no sound basis to build a dialogue on labour issues when dealing with an authoritarian regime that does not respect fundamental labour rights or recognise independent trade unions.

The Joint Standing Committee on Treaties is considering two agreements which were signed together and form part of the Comprehensive Economic Partnership Agreement package: the *Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates* ("CEPA"), and the *Agreement between the United Arab Emirates and Australia on the Promotion and Protection of Investments*. This is due to the UAE's request for the investment provisions to be contained in a separate agreement as per their usual practice, rather than as an investment chapter in the CEPA. The ACTU strongly opposes ratification of both treaties for the reasons outlined in this submission.

Recommendations

Recommendation 1: The Committee opposes the ratification of the *Comprehensive Economic Partnership Agreement between Australia and the United Arab Emirates (CEPA)* and the

¹ See <https://aftinet.org.au/sites/default/files/2024-07/240625%20UAE%20civil%20society%20letter%20final%20logos%20with%20signature.pdf>

² National Interest Analysis, https://www.aph.gov.au/-/media/Committees/Joint/Treaties/November_2024/Economic/0001a_National_Interest_Analysis_Australia-UAE_CEPA.pdf?la=en&hash=71788CF230F252E97269841382325A7F1794106B p. 21.

Agreement between the United Arab Emirates and Australia on the Promotion and Protection of Investments.

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 Index³, 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, exorbitant recruitment fees, withholding of passports, discrimination, and excessive overtime are widespread. Migrant workers who attempt to organise in response to unfair working conditions are terminated and deported: in 2022, hundreds of Pakistani delivery drivers who called for increased delivery fees to match the rising cost of fuel were sent back to their home country.⁴ Migrant workers work in sectors such as construction, delivery, 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 issues⁵:

³ International Trade Union Confederation, 'Global Rights Index 2024', https://www.ituc-csi.org/IMG/pdf/2024_ituc_global_rights_index_en.pdf

⁴ Equidem (2023), 'Unjust Transitions: Climate Migration, Heat Stress, and Labour Exploitation in the United Arab Emirates', https://www.equidem.org/assets/downloads/Equidem_-_PDF_Report_.pdf p. 17.

⁵ 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>

- There is no national minimum wage and the law does not include the right to organise or bargain collectively nor the right to form or join unions.
- The fundamental architecture of the kafala system remains: 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. Workers must complete their contract or provide advance notice to avoid an employment ban, and may be required to compensate their employer if they 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".⁶

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 UAE is an absolute monarchy with no elected parliament and no guarantees of basic civil liberties. The authorities block and censor online content they perceive to be critical of the UAE's rulers; 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.⁷ The Government also criminalises dissent and actions to defend human rights – at

⁶ US Department of State (2023), p. 38.

⁷ Amnesty International, 'United Arab Emirates 2022', <https://www.amnesty.org/en/location/middle-east-and-north-africa/united-arab-emirates/report-united-arab-emirates/>

least 64 Emirati citizens remain unlawfully imprisoned because of actual or perceived political dissent.⁸

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 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 criminalises acts that 'offend modesty and public morals' enabling authorities to arrest people for a wide range of behaviours including gender non-conforming expression, public displays of affection, and campaigns promoting the rights of 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.⁹ The UAE has been criticised¹⁰ 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.

⁸ 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/>

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

¹⁰ 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>

CEPA Trade and Labour chapter

The CEPA contains a labour chapter, which the National Interest Analysis notes is a first for the UAE. The chapter contains a number of non-binding provisions affirming Australia and the UAE's commitment as members of the ILO to respect and advance labour rights. The commitments are weak, however, utilising language such as 'endeavour to', and the chapters are unenforceable – the state-to-state dispute process which applies to other chapters in the agreement does not apply here.

The chapter establishes a dialogue on labour (article 20.14) to advance labour rights in the Parties' trade and investment relationship, and allows for the engagement with relevant stakeholders and social partners. While we recognise the intention of the Australian Government in negotiating this article, the fundamental issue remains – genuine trade unions are not able to freely operate in the UAE, and workers who collectively organise are faced with severe consequences. Under these circumstances, it is difficult to see how this dialogue could operate, and what stakeholders or social partners the UAE will engage in such a dialogue.

Conclusion

The Australian Government should not proceed with ratifying the CEPA or the Investment 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
- provide remedy to migrant workers who have worked under conditions of modern slavery
- protect all workers from extreme heat and other hazards.

We urge the Joint Standing Committee on Treaties to oppose the ratification of the these agreements.

address

ACTU
Level 4 / 365 Queen Street
Melbourne VIC 3000

phone

1300 486 466

web

actu.org.au
australianunions.org.au