

**INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)**

# **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN THE UNITED ARAB EMIRATES**

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE  
TRADE POLICIES OF THE UNITED ARAB EMIRATES  
(Geneva, 27 and 29 March, 2012)**

## **EXECUTIVE SUMMARY**

The United Arab Emirates (UAE) have ratified six core ILO labour Conventions. In view of restrictions on the trade union rights of workers, discrimination, child labour, and forced labour, determined measures are needed to comply with the commitments the UAE accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO's Declaration on Fundamental Principles and Rights at Work and its 2008 Social Justice Declaration.

The law does not provide the right to organise, collective bargaining and strike. The government has used its powers to limit unwanted action by professional associations. Reports show grave problems of workers' abuses and exploitation by employers.

The law contains discriminatory provisions against women, homosexual persons and persons living with HIV/AIDS. In practice, women face significantly higher unemployment rates, a considerable pay gap and lower participation in senior positions and in the workforce in general.

The law regulates child labour but is not in conformity with Conventions No. 138 and No. 182. Child labour occurs.

The sponsorship system makes migrant workers vulnerable to various forms of forced labour and exploitation. Especially in domestic services and in construction, there are many workers who are not free to leave their jobs. They are obliged to work for long hours under harsh conditions, suffer abuses and are sometimes unpaid for months.

## **INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN THE UNITED ARAB EMIRATES**

### **Introduction**

This report on the respect of internationally recognised core labour standards in the United Arab Emirates (UAE) is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

There are no trade unions in the UAE and hence the ITUC has no affiliate there.

### **I. Freedom of Association and the Right to Collective Bargaining**

The UAE have not ratified ILO Convention No. 87 (1948), the Freedom of Association and Protection of the Right to Organise Convention nor ILO Convention No. 98 (1949), the Right to Organise and Collective Bargaining Convention.

The current Labour Law, also known as the Federal Act No. 8 of 1980, does not permit the formation of trade unions. The Law on Associations allows workers to form associations under the strict control of the Ministry of Labour, which has broad powers to interfere in activities, board members' appointment and other areas. Professional associations including teachers, jurists, engineers, medical professionals and social workers are also permitted. Although foreign workers may belong to these associations, they do not have the right to vote and be elected. In order to get recognition, professional associations need an approved charter, 20 founding members and permission from the Ministry of Labour. The associations also need the Ministry's permission in order to affiliate to international structures.

Likewise, the rights to collectively bargain and strike are not provided under UAE law. On the other hand, strikes are not explicitly prohibited. Wages are fixed in individual contracts that are reviewed by the Ministry of Labour and Social Affairs. The government may grant some professional associations limited freedom to raise work-related concerns, to ask the government for redress and to file grievances with the government. In cases of disputes, workers' representatives may file complaints to the Ministry of Labour and if the Ministry is unable to mediate a solution within ten days, the dispute is processed by a joint Conciliation Committee chaired by the Ministry.

As there is no legal provision that protects workers from anti-union discrimination, striking workers can be fired. Foreign workers who fail to appear at work for seven days without a valid reason are subject to deportation. In the UAE, participating in a strike does not count as a valid reason for not showing up at work. For instance, in January 2011, about 3,000 workers of the Arabtec construction company struck for an increase in monthly salaries. The authorities accused 70 Bangladeshi workers of instigating the strike, arrested them and deported them. This practice is particularly problematic in a country where 70 per cent of the population are migrants and only 825,000 of the 4.1 million people living in the country are UAE citizens.

Public employees are covered by the Civil Service law which governs labour relations in the public sector. The law gives special power to the Ministry of Labour to intervene to stop a strike or action and send the workers back to work.

Domestic workers, who are usually migrants and women, have their wages set by the Immigration Ministry. Domestic services are not governed by any law, hence any benefits for workers depend on the employer's goodwill.

Workers in agriculture are also not covered by any law.

The government has made use of its powers to interfere in associations. The Labour Minister signed a decree in May 2011 that dismissed the Jurist Association's and Teachers Association's boards and replaced their members with state appointees for interfering "in politics or in matters that impair state security and its ruling regime."

The Export Processing Zones (EPZs) use special labour rules applied by the management board of each Zone. Unions are not allowed in EPZs and collective bargaining never takes place. The Ministry of Labour does not have power to regulate free trade zones.

With no laws to protect workers, employers are readily able to exploit migrant workers. Reports show that many foreign workers are exploited, abused or work in conditions akin to slavery. In a recent case, in April 2011 about 150 drivers of Saferdriver Company sought unpaid wages of three months in a complaint to the Ministry of Labour. The drivers had been working for three years for an average of 14 hours a day. The company moved to lay off the workers and achieve their deportation while offering them end of service benefits that accounted for only one sixth of the law's prescription.

### *Summary*

*The law does not provide the right to organise, collective bargaining and strike. The government has used its powers to limit unwanted action by professional associations. Reports show grave problems of workers' abuses and exploitation by employers.*

## **II. Discrimination and Equal Remuneration**

The United Arab Emirates ratified ILO Convention No. 100 (1951), Equal Remuneration in 1997 and ILO Convention No. 111 (1958), Discrimination (Employment and Occupation) in 2001.

The Constitution stipulates that every citizen is free to choose an occupation, trade or profession and that all citizens have equal access to public office. A provision in the Federal Act No. 8 of 1980 provides for equality of remuneration between men and women for the same work. However this is not in line with the ILO Convention which requires the Government to promote and ensure the principle of equal remuneration not only with respect to the same type of work, but also in respect to work of equal value. The Federal Act includes discriminatory provisions against women as it prohibits night work for them except for some cases laid out in two Ministerial Orders of 1980. The Federal Act also states that “no woman shall be employed on any job that is dangerous, arduous or detrimental to health and moral.” The Act prohibits sexual harassment at the workplace but provides only limited means of redress for victims. Any protection offered in the Act is not extended to domestic workers, who are mostly women, and other workers are explicitly excluded by the law’s scope of application.

Women represent only 13 per cent of the employed population and are concentrated in occupations such as clerks, saleswomen and service workers. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) finds a concentration of women in services, especially private households (41.1 per cent), and in education, healthcare services and wholesale and retail sectors. Women face a gender pay gap of 26 per cent. Women are underrepresented in senior and managerial positions - only 10 per cent of these positions are taken by women. The unemployment rate for women is 12 per cent, while for men it is only 2 per cent.

The law prohibits discrimination against persons with disabilities and mandates access to buildings for such persons. The government has put in place preferential hiring provisions for persons with disabilities in the federal employment sector (1 per cent) and the Abu Dhabi local government (2 per cent). The Community Development Authority of Dubai offers assistance for hiring persons with disabilities, in cooperation with private sector enterprises.

Homosexuality is punished by the death penalty. It is clear that homosexual persons need to hide their sexual orientation not only to avoid discrimination in employment but in order to protect their lives.

There is no law protecting persons living with HIV/AIDS from discrimination. On the contrary, the government openly discriminates against migrant workers who live with HIV/AIDS by deporting them on entry or if discovered inside the country, while refusing to treat the disease. An HIV test is obligatory for all migrants in the UAE.

### *Summary*

*The law contains discriminatory provisions against women, homosexual persons and persons living with HIV/AIDS. In practice, women face significantly higher unemployment rates, a considerable pay gap and lower participation in senior positions and in the workforce in general.*

### **III. Child Labour**

The United Arab Emirates ratified ILO Convention No. 138 (1973), the Minimum Age Convention in 1998 and Convention No. 182 (1999), the Worst Forms of Child Labour Convention in 2001.

The Labour Code prohibits employment of persons under the age of 15. Children up to 17 years of age are not allowed to perform hazardous work. Hazardous work is defined in a Ministerial Order that was issued in 1981 which lists operations that are dangerous or detrimental to health and morals. For many years the CEACR has been asking the government to amend this Order in order to set the minimum age for hazardous work at 18 years of age. For a number of years the government has replied that it is preparing an amendment, but it has not been adopted up to this day.

The Labour Code requires the employer to keep a register of underage workers. Offenders are subject to a minimum fine of 10,000 dirhams and imprisonment.

The exclusion of domestic workers and employees engaged in agriculture or grazing of animals from the Labour Code leaves underage workers in these occupations unprotected. Such workers' employment relations are governed by Federal Act No. 5 of 1985 on civil relations. The CEACR has asked the government to indicate the minimum age provisions of this law however no information has been provided yet. Instead, the government answered that it does not issue work permits for foreign workers under the age of 18.

The CEACR also found that the prohibition of use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs needs to be further elaborated in law.

Compulsory education lasts until the age of 13 which is below the minimum age of employment of 15 years of age. Children between 13 and 15 that choose not to continue school are forced to remain idle or start informal work that makes them vulnerable to some of the worst forms of child labour.

Child labour occurs in the UAE. In the past there have been allegations that 2,000 children, some as young as 5 years old, from South Asia and Mauritania were taken to UAE to work as camel jockeys. In 2005 the government prohibited the use of children and trafficking for the purpose of camel jockeying and established a special office to

monitor the application. The law stipulates penalties of three years' imprisonment or a minimum fine of 50,000 dirhams or both. However, there are reports that certain camps still used children as jockeys.

The International Organisation for Migration (IOM) reports that girls from Eastern Europe, Caucasus and Russia are trafficked for sexual exploitation.

#### *Summary*

*The law regulates child labour but is not in conformity with Conventions No. 138 and No. 182. Child labour occurs.*

### **IV. Forced Labour**

The United Arab Emirates ratified ILO Convention No. 29 (1930), the Forced Labour Convention in 1982 and ILO Convention No. 105 (1957), the Abolition of Forced Labour Convention in 1997.

The law prohibits forced or compulsory labour for both adults and children. The Federal Act No. 51 of 2006 on Combating Human Trafficking Crimes prohibits trafficking in human beings. This Act provides for a penalty of life imprisonment if the victim is a child, defined as any person under the age of 18 years.

The Penal Code prescribes penalties of imprisonment involving compulsory labour in cases where at least three public officials abandon or voluntarily abstain from work, as in the case of a strike.

The CEACR has found that the limitations imposed by Federal Law No. 15 of 1980 on individual rights and freedoms are formulated in such wide and general terms that they may lead to the imposition of penalties involving compulsory labour as punishment for the expression of political views or views ideologically opposed to the established political, social and economic system.

In the UAE, there are about 3.3 million migrant workers, accounting for more than 70 per cent of the population. Most males are employed in the construction sector and most females as domestic workers. Employment agents frequently bring foreign workers into the UAE with false promises of a well-paid job. In most of the cases the workers are recruited by individuals or agencies in South and South-East Asian countries. The migrant workers find a different reality on the ground with much lower wages than promised, excessively long hours, bad working conditions and often abuses and exploitation. Sometimes unskilled workers are victims of contract switching which occurs when a worker is offered a certain position, usually as a secretary, but after obtaining a visa and labour card receives another, for instance in domestic service..

The law prohibits the withholding of employees' passports by employers. However, inconsistent enforcement allows this practice to be widespread. Moreover, many employers withhold workers' wages until the end of the contract or refuse to pay them for months.

The situation is more severe for domestic workers because they work in private homes and often face limitations to their mobility. Many domestic workers report that they fall victims of verbal and physical violence and sexual exploitation by employers. However, the legal procedure for leaving a job deters abused workers from filing complaints.

The immigration sponsorship laws grant employers extended control over the affairs of migrant workers and entail heavy dependency of the workers on the employer. The law stipulates a six months break from employment for migrants who wish to terminate their employment, which is only avoidable if they acquire a 'non-objection certification' from their employer.

Some categories of employees of higher education have been exempt from some of these rules since 2011 when the sponsorship system was partly reformed. The new rules made it slightly easier for unskilled and low-skilled workers to change jobs but in practice the changes have not made a significant difference for these categories of workers.

The procedure to initiate a court case against an employer is time consuming and proving physical or sexual abuse in the UAE court system is not easy. Reports show that the courts have failed to enforce the laws in a number of cases. Moreover, if the initiated case is not successful the employee needs to take a 6-month or year-long break from employment, depending to the court decision. The Immigration Department can also extend the employment break to one year if the contract is deemed breached by the employee.

Most migrant workers need to remit some of their income or pay off debts they accumulated to pay for getting recruited and travelling to the Emirates. Hence, many abused migrants are deterred from filing complaints because of the long employment breaks that cost them significant amounts of money. Others are unaware of their rights or the procedures to pursue their rights. Employers' threats also play a deterring role.

In 2007, the government introduced a standard contract for foreign domestic workers that abolished commission fees by recruitment agencies and provided for decent living and working conditions. However, this measure is reported to be poorly enforced and it has had little impact on the realities faced by domestic workers.

After Dubai's economic crisis in late 2009 many construction companies fled the country leaving immense debts, unfinished buildings and unpaid wages behind. Many construction workers found themselves without housing trapped in construction camps

with no running water or facilities because they could not even pay for a ticket to return home.

In June 2009, the UAE government set compulsory minimum housing standards with which employers have five years to comply. In 2008, the government and the central bank established the Wage Protection System, enabling the direct deposit of wages. In 2009 half a million workers were enrolled and in 2010 another 1.8 million workers.

### *Summary*

*The sponsorship system makes migrant workers vulnerable to various forms of forced labour and exploitation. Especially in domestic services and in construction, there are many workers who are not free to leave their jobs. They are obliged to work for long hours under harsh conditions, suffer abuses and are sometimes unpaid for months.*

## Recommendations

1. The government must ratify ILO Convention No. 87 (1948), the Freedom of Association and Protection of the Right to Organise Convention and ILO Convention No. 98 (1949), the Right to Organise and Collective Bargaining Convention.
2. The law must allow the right to form and join a union for all workers without discrimination.
3. Likewise, the rights to collectively bargain and strike need to be provided by law. The government should promote free collective bargaining as the main process for settling industrial disputes and to govern industrial relations both in the public and the private sector.
4. The law's scope of application should be extended to workers in agriculture and domestic work and such workers should be granted full rights to organise, bargain collectively and strike.
5. The law should include provisions that protect workers from anti-union discrimination and provide for the reinstatement and compensation of unfairly dismissed workers.
6. The special powers of the Ministry of Labour to intervene to stop a strike should be repealed as should the government's special powers of interference.
7. The EPZs should not use special labour rules. Organising and collective bargaining in the EPZs should be protected by national law.
8. The government should amend the law in order to comply with ILO Convention No. 100 (1951) on Equal Remuneration and legally provide for 'equal remuneration between men and women for work of equal value'.
9. The Federal Act should repeal the discriminatory provisions against women that prohibit night work.
10. The government needs to take measures to reduce the gender pay gap and the underrepresentation of women in senior and management positions.
11. A complaints mechanism needs to be established for cases of sexual harassment at the workplace.
12. Lesbian, gay, bisexual and transgendered persons' rights should be protected and respected.
13. Legal provisions should establish protection from discrimination for persons living with HIV/AIDS. The government must stop deporting migrant workers who live with HIV/AIDS. Moreover, it should encourage workplace programmes for persons living with HIV/AIDS.
14. The law should be amended in order to require that all children up to 18 years of age are not allowed to perform hazardous work.
15. Legal provisions should prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs.

16. Compulsory education should be extended for two more years so as to coincide with the minimum age of employment of 15 years of age.
17. The government should start investigations and achieve the prosecution and conviction of persons using children for camel jockeying. Likewise, investigations should urgently start on allegations of girls from Eastern Europe, Caucasus and Russia being trafficked for sexual exploitation.
18. The Penal Code should be amended in order to repeal the provisions that prescribe penalties of imprisonment involving compulsory labour in cases of strike.
19. The sponsorship system should be abolished and replaced with immigration procedures that comply with international standards with regards to the freedom of the employees to leave their job without unnecessary employment bans and breaks.
20. The application of the provision of a standard contract for foreign domestic workers should be closely observed by the authorities in order to ensure its enforcement.
21. A complaints mechanism with high protection standards and shelters should be established urgently for migrant workers whose rights are abused. Complaints processes should provide for investigations and prosecution procedures.
22. Investigations into cases of forced labour of domestic servants and construction workers should be initiated urgently.
23. The WTO should draw the attention of the United Arab Emirates authorities to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the Government of United Arab Emirates in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

## References

Amnesty International, *Amnesty International Annual Report 2011 - United Arab Emirates*, 13 May 2011, available at: <http://www.unhcr.org/refworld/docid/4dce153269.html>

International Trade Union Confederation, *2011 Annual Survey of violations of trade union rights - United Arab Emirates*, 8 June 2011, available at: <http://survey.ituc-csi.org/United-Arab-Emirates.html>

ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Reports, Individual Observations, general Observations and Direct Requests, 2010-2012

ILO, Ratification of Core Labour Standards

Human Rights Watch, *Returned to Risk, Deportation of HIV-Positive Migrants*, September 2009, available at: <http://www.hrw.org/reports/2009/09/24/returned-risk-0>

Human Rights Watch, *Slow Reform, Protection of Migrant Domestic Workers in Asia and the Middle East*, April 2010, available at: <http://www.hrw.org/reports/2010/04/28/slow-reform-0>

Human Rights Watch, *“The Island of Happiness”, Exploitation of Migrant Workers on Saadiyat Island, Abu Dhabi*, May 2009, available at: <http://www.hrw.org/reports/2009/05/18/island-happiness>

Human Rights Watch, *World Report 2012 - United Arab Emirates*, 22 January 2012, available at: <http://www.unhcr.org/refworld/docid/4f2007bc64.html>

United Nations Office on Drugs and Crime (UNODC), *A Global Report on Trafficking in Persons*, February 2009, available at: <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

ITUC Union View #21, *Hidden faces of the Gulf Miracle*, May 2011, available at: [http://www.ituc-csi.org/IMG/pdf/VS\\_QatarEN\\_final.pdf](http://www.ituc-csi.org/IMG/pdf/VS_QatarEN_final.pdf)

United States Department of State, *2010 Country Reports on Human Rights Practices - United Arab Emirates*, 8 April 2011, available at: <http://www.unhcr.org/refworld/docid/4da56d789b.html>

United States Department of State, *2011 Trafficking in Persons Report - United Arab Emirates*, 27 June 2011, available at: <http://www.unhcr.org/refworld/docid/4e12ee3a46.html>

World Economic Forum, *Global Gender Gap Report*, 2011 available at: <http://www.weforum.org/issues/global-gender-gap>