

**BEFORE THE UNITED STATES
TRADE REPRESENTATIVE**

**PETITION TO REMOVE OMAN
FROM THE LIST OF BENEFICIARY DEVELOPING COUNTRIES
UNDER THE GENERALIZED SYSTEM OF PREFERENCES ("GSP")**

**SUBMITTED BY:
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL
ORGANIZATIONS (AFL-CIO)**

June 15, 2005

Information Required Under 15 CFR part 2007

1. Petitioner: AFL-CIO
2. Country: Oman
3. Section of Law Warranting Review: 19U.S.C. §2462(b)(2)(g) and 19 U.S.C. §2462 (c)(7)
4. Reason for Filing: The Government of Oman has not been and is not taking steps to afford internationally recognized worker rights

Introduction

Omani law and practice do not afford the internationally recognized workers' rights designated by Congress as eligibility requirements for GSP designation. Workers suffer unjust treatment and dangerous conditions, often with no legal recourse.

Omani and foreign workers alike are severely restricted in their right to associate freely and as such are subject to exploitation and violations of their internationally recognized worker rights. Abuse of foreign workers, including forced labor, non-payment of minimum wage, and even physical and sexual violence committed against domestic workers are known occurrences in Oman and yet the Government has not adequately enforced its own laws forbidding such practices.

Oman does not meet Congressional requirements for designation as a beneficiary developing country under the GSP.

Labor rights denied in Oman

Oman systematically denies workers' freedom of association. The Omani government is in violation of ILO conventions and universally accepted international practice.

A review of Oman's current Labor Law, issued by decree in 2003,¹ reveals a pattern of exceptions to the very standards it proclaims as law, from the exclusion of foreign domestic workers and civil servants from the rights of workers, to loopholes that allow for a wide variety of interpretations of basic rights. This leaves workers dependent not upon the law, but upon the discretion of powerful vested interest groups that form the core of a semi-authoritarian regime. The absence of adequate legal protections in the Omani Labor Code to ensure compliance with ILO standards is just the tip of the iceberg of Oman's egregious worker rights environment. The absence of adequate enforcement mechanisms across the board for the rights that are covered in Oman's 2003 Labor Law is indicative of the nature of the regime and status quo affecting citizens and non citizens, in which decisions are made behind closed doors by a government that is not accountable to its citizens and where the law is haphazardly applied. In addition, the various elements

¹ *Omani Labour Code of 26 April 2003*

Ministry of Information

The New Labour Code was issued by Royal Decree No. 35 of 2003, and abrogates the previous Labor Law issued by Royal Decree Nov. 34 of 1973.

www.omanet.om/arabic/government/gov20.asp?cat=gov

of the state apparatus – including the security forces - are given blanket authority to violate rights and freedoms of both Omani citizens and non-citizens.

There is no freedom of association in Oman, as defined by ILO Conventions 87 and 98. The Omani Labor Code categorically denies Omani workers the right to organize and join unions of their own choosing. Under certain subscribed circumstances, workers in Oman are entitled to representation on "labor-management committees." The International Confederation of Free Trade Unions (ICFTU) annual report on workers rights for 2004 and Department of State 2004 country report on human rights practices both report that only 15 such committees have in fact been established, and where they exist they are by law "not authorized to discuss wages, hours, or conditions of employment." ²

Ministry of Manpower Decrees 135 and 136, issued in 2004, outline stringent government oversight parameters for both worksite level committees and a national committee intended to serve as a national representative body.³ Although the workplace level committees allow for a semblance of rank and file participation through the General Assembly, workers may not join the assembly until they have completed one year of employment. The Minister of Manpower is directly responsible for ratifying the election results for both the workplace and national committees, and may object to any nominee to the administrative bodies who does not meet a set of stringent conditions, including fluency in Arabic language, a condition which would disqualify most foreigners from leadership positions.

Omani law similarly denies workers the right to organize and bargain collectively:

The right to collective bargaining is still not recognized under the new, 2003 law. Pay and working conditions are generally defined by individual contracts in accordance with government minimum wage guidelines, which for most citizens is a mere \$260 per month. Many foreigners work in occupations that are exempt from the minimum wage guidelines, which is "insufficient to provide a decent standard of living for a worker and family." Temporary workers are not covered by law. Enterprises with more than 50 employees must set up a joint labor-management committee as a communications forum. They may not discuss pay or working conditions.⁴

² 2004 Department of State Country Reports on Human Rights Practices, <http://www.state.gov/g/drl/rls/hrrpt/2004/41729.htm>

³ Sultanate of Oman, Ministry of Manpower, "Ministerial Decision No. (135/2004), "On Principles of Formation and work of Representative Committees in Establishments," and Ministerial Decision No. (136/2004) –"On Principles of Formation and Work of the Main Representative Committee." May 11, 2004, Translated by POLE: Ahmed Al-Sawei.

⁴ICFTU 2004 Annual Report on trade Union Rights
<http://www.icftu.org/displaydocument.asp?Index=991219477&Language=EN>

While all workers in Oman are denied basic labor rights, the large foreign workforce, who constitute the majority of workers in Oman, are especially vulnerable to abuse and exploitation. Foreign workers have the right to remain in the country for the duration of their work contracts; but employers are known to hold the passports of guest workers, and in the worst cases of abuse, even deny individuals the ability to extract themselves from dangerous or cruel work conditions. Laws protecting workers from forced labor are not enforced:

The Government did not investigate or enforce the law effectively. Foreign workers at times were placed in situations amounting to forced labor. Employers have withheld documents that release workers from employment contracts and allow them to change employers. Without such a letter, a foreign worker must continue to work for his current employer or become technically unemployed, which was sufficient grounds for deportation.⁵

Oman has an equally deplorable record on trafficking in persons, according to the State Department's 2004 Trafficking in Persons Report:

Oman is a destination country for women and men who migrate legally and willingly from South Asia –primarily from India, Bangladesh, Pakistan, Sri Lanka, and the Philippines—for work as domestic workers and laborers but are subsequently trafficked into conditions of involuntary servitude. Some of these workers suffer from physical and sexual abuse or withholding of ages or travel documents. ..According to a noted human rights activist, several dozen foreign children trafficked for the purpose of exploitation as camel jockeys were reportedly seen near the border with the United Arab Emirates.⁶

The Omani legal environment does not guarantee acceptable conditions of work as required by GSP, especially with respect to minimum wages, hours of work, and occupational safety and health. Workers have no legal right to remove themselves from unsafe work conditions and maintain their jobs, and laws protecting a workers' right not to work beyond the maximum hours defined by law are not enforced. There is no minimum wage for several categories of work. These jobs are among those most commonly held by foreign workers:

Minimum wage guidelines did not apply to a variety of occupational categories, including small businesses that employed fewer than five persons, the self-employed, domestic servants, dependent family members working for a family firm, and some categories of manual labor. Many foreigners worked in

⁵ COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2004
<http://www.state.gov/g/drl/rls/hrrpt/2004/41729.htm>

⁶ TRAFFICKING IN PERSONS REPORT – Released by the Office to Monitor and Combat Trafficking in Persons, June 3, 2005:
<http://www.state.gov/g/tip/rls/tiprpt/2005/46614.htm>

occupations that were exempt from the minimum wage law, and the Government was lax in enforcing minimum wage guidelines, where applicable, for foreign workers employed in menial jobs.⁷

Conclusion

Worker rights are regulated by stringent oversight controls afforded to the Ministry of Manpower and Ministry of the Interior in the 2003 Labor Code and 2004 Ministerial Decrees. Under current law, Omani and guest workers are subject to exploitation and violations of their internationally recognized worker rights every day. There is no right to freely organize and bargain collectively; workers do not have the right to association; and conditions of work do not meet the standard of acceptable as required for GSP designation.

Oman has not taken steps to afford workers internationally recognized worker rights. The establishment of workplace committees and a national representative committee do not substitute for the overhaul in Omani law necessary to bring it closer in line with ILO standards. Despite commitments dating back to the mid-1990s to reform Omani labor laws to make them consistent with the core labor standards of the ILO, this has not yet happened.

Oman should not be extended the benefits of GSP designation as a beneficiary developing country by the USTR.

⁷ COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2004
<http://www.state.gov/g/drl/rls/hrrpt/2004/41729.htm>