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**U.S. DEPARTMENT OF LABOR  
BUREAU OF INTERNATIONAL LABOR AFFAIRS**

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## I. Introduction

This report on labor rights in Oman has been prepared pursuant to section 2102(c)(8) of the Trade Act of 2002 (“Trade Act”) (Pub. L. No. 107-210). Section 2102(c)(8) provides that the President shall:

[i]n connection with any trade negotiations entered into under this Act, submit to the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating.

The President, by Executive Order 13277 (67 Fed. Reg. 70305 (Nov. 21, 2002)), assigned his responsibilities under section 2102(c)(8) of the Trade Act to the Secretary of Labor and provided that they be carried out in consultation with the Secretary of State and the U.S. Trade Representative. The Secretary of Labor subsequently provided that such responsibilities would be carried out by the Secretary of State, the U.S. Trade Representative and the Secretary of Labor (67 Fed. Reg. 77812 (Dec. 19, 2002)).

The report first describes the national legal framework. It then describes the administration of labor law, labor institutions, and the system of labor justice. With regard to each of the defined labor rights, the report describes the relevant legal framework (national laws and international conventions) and practice. A companion report mandated by section 2102(c)(9) of the Trade Act provides additional information on the extent to which Oman has laws in effect governing exploitative child labor.

The report relies on information obtained from the U.S. Department of State, including from the U.S. Embassy in Oman, and from other U.S. government reports. It also relies upon a wide variety of reports and materials from Oman, international organizations, and non-governmental organizations (NGOs). In particular, this report makes use of observations and recommendations of the International Labor Organization’s Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR) and its Committee on Freedom of Association (ILO CFA).<sup>1</sup> In addition, U.S. Department of Labor officials consulted with Omani government officials and representatives of workers’ and employers’ organizations.<sup>2</sup> Officials from the Office of the U.S. Trade Representative and the U.S. Department of State joined in these consultations. Finally, the report makes use of information submitted in response to a U.S.

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<sup>1</sup> The International Labor Organization (ILO) has several standing and ad hoc bodies that review, either on an ongoing or complaint basis, the manner in which member states implement international labor standards. This report refers to findings by the independent ILO Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR) and the ILO Governing Body Committee on Freedom of Association (ILO CFA). The independent ILO CEACR performs regular monitoring of ratified conventions and annually undertakes a general survey of the global situation with respect to a convention or a group of conventions. This report refers to the ILO CEACR’s 1994 general survey on freedom of association and collective bargaining. The ILO CFA reviews complaints of violations of freedom of association whether or not the country has ratified the relevant conventions. This report refers to the ILO CFA’s 1996 digest of decisions and principles on freedom of association. Both committees make recommendations for amending labor law and practice.

<sup>2</sup> The consultations were held March 15-18, 2005. Section 2102(c)(7) of the Trade Act requires the U.S. Secretary of Labor to consult with any country seeking a trade agreement with the United States concerning that country’s labor laws and provide technical assistance if needed.

Department of Labor request for public comment published in the *Federal Register* on January 14, 2005.<sup>3</sup>

## II. Labor Rights

This report examines the labor rights situation in Oman. The labor rights taken into consideration include those rights defined as “core labor standards” by section 2113 of the Trade Act:

The right of association;

The right to organize and bargain collectively;

A prohibition on the use of any form of forced or compulsory labor;

A minimum age for the employment of children; and

Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Because of the emphasis in the Trade Act on the elimination of the worst forms of child labor,<sup>4</sup> this report has broadened the discussion to include not only minimum age for employment of children but also the effective elimination of the worst forms of child labor.

## III. Legal Framework for Labor Rights

Labor rights in Oman are set forth in the Basic Law (i.e., Oman’s Constitution), the Labour Law, and various ministerial decisions. Oman’s Basic Law, adopted in 1996, guarantees citizens the right to assemble within the limits of its law, and to form associations for legitimate objectives in a manner consistent with the provisions and aims of the Basic Law and under conditions defined by its law.<sup>5</sup> Oman’s Basic Law also guarantees citizens the right to work; generally prohibits compulsory labor and discrimination between citizens; and addresses labor relations.<sup>6</sup>

The Labour Law governs specific labor and employment issues, including:

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<sup>3</sup> U.S. Department of Labor, “Request for Information Concerning Labor Rights in Oman and its Laws Governing Exploitative Child Labor,” 70 Fed. Reg. 2657-2658 (Jan. 14, 2005). The Department received comments from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) on February 28, 2005, in response to the notice.

<sup>4</sup> Section 2102(a) sets out overall trade negotiating objectives of the United States, including section 2102(a)(9), which requires the United States “to promote universal ratification and full compliance with ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.” Section 2102(b) sets out principal negotiating objectives of the United States, including section 2102(b)(17), which states that “[t]he principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor.”

<sup>5</sup> *The White Book: The Basic Law of the Sultanate of Oman*, November 6, 1996, Articles 32-33; available at <[http://www.oefre.unibe.ch/law/icl/mu00000\\_.html](http://www.oefre.unibe.ch/law/icl/mu00000_.html)> (hereinafter *The Basic Law of the Sultanate of Oman*).

<sup>6</sup> *The Basic Law of the Sultanate of Oman*, Articles 12 and 17. Article 12 prohibits compulsory labor, except in accordance with the law, for the performance of public service, and for a fair wage.

Employment contracts and employment termination and dismissal;  
The regulation of employment for national workers and foreigners;  
Conditions of work, including wages, hours of work, and industrial safety;  
The regulation of employment for, and protections afforded to, women<sup>7</sup> and children;  
Provisions for labor disputes; and  
The role of representative committees.<sup>8</sup>

The Labour Law covers both national and foreign workers<sup>9</sup> although exclusions apply. The Labour Law does not apply to civil servants, military personnel, the police, employees who are their employer's dependents, and domestic service workers.<sup>10</sup> Civil servants are covered by the Civil Service Law, military and police personnel by the Military Service Law, and domestic service workers by Ministerial Decree No. 189/2004.<sup>11</sup>

#### **IV. Administration of Labor Law**

##### **A. Ministry of Manpower**

The Ministry of Manpower is the principal labor authority in Oman. It is responsible for (1) proposing and implementing the country's general policy on manpower that is consistent with the State's economic and social objectives; (2) developing draft laws and royal decrees on labor matters and issuing enforcement bylaws; (3) setting up a national workforce register; (4) developing technical education and vocational training; (5) organizing private sector needs for foreign labor and determining the rules and regulations for the optimization of entry for these workers; (6) executing employment programs; and (7) representing Oman at local, regional, and

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<sup>7</sup> The Labour Law generally prohibits employing women between the hours of 6 p.m. and 6 a.m., employing women to perform "hard labour", or in work which is harmful to their health; guarantees women the right to take maternity leave; and prohibits employers from dismissing female workers on account of sickness associated with pregnancy. *Oman Labour Law*, 2003, promulgated by Royal Decree No. 35/2003 (hereinafter *Oman Labour Law*), Articles 80-86. Ministerial Decision No. 128/2005 specifies occupations and situations where night work for women is permitted. Ministry of Manpower, *Ministerial Decision 128/2005 Regarding Situations, Works, and Occasions in which it is allowed to Employ Women in the Evening, and the Conditions of Employment*.

<sup>8</sup> *Oman Labour Law*.

<sup>9</sup> Specifically, the law states that "[s]ave in cases where it is specifically provided for, the provisions of this Law shall apply to all employers and employees...". *Oman Labour Law*, Article 4. Article 35 of the Basic Law also provides that "Every foreigner who is legally resident in the Sultanate shall have the right to protection of his person and his property in accordance with the Law." *The Basic Law of the Sultanate of Oman*, Article 35.

<sup>10</sup> *Oman Labour Law*, Article 2.

<sup>11</sup> The Civil Service Law of Royal Decree No. 27/75 outlines the rights and duties of civil servants. This law has been amended by Royal Decree Nos. 17/88 and 89/98. See Ministry of Information, *Oman 2003-2004*, [online] [cited November 7, 2005]; available at <<http://www.omanet.om/english/oman2004/STATE%20INSTITUTIONS.asp>>; see also Ministry of Manpower, *Ministerial Decree 189/2004 Stipulating Rules and Condition of Domestic Employees*, June 16, 2004.

international meetings concerning labor.<sup>12</sup> The Ministry of Manpower is composed of seven major divisions, described below.

The Employment Directorate is charged with identifying training needs and job requirements, as well as implementing employment programs nationwide. It is also responsible for employment in “distinguished companies,” defined as companies that meet “Omanization” targets in their field.<sup>13</sup> Additionally, the Employment Directorate is tasked with granting labor clearances to employers seeking to hire expatriate labor and with granting Residency/Labor cards to foreign workers who seek to work in Oman. Every individual in Oman, whether expatriate or Omani, must carry a Residency/Labor card. The Employment Directorate uses the central database/workforce register compiled by the Directorate of Planning (see below) to match jobs to people and determine the training needs of individuals.

The Labor Care Directorate is responsible for the enforcement of, and compliance with, workplace laws and regulations. Its responsibilities include: occupational safety and health (OSH), labor inspections, dispute settlement, overseeing the operations of representative committees, female employment, issues related to child labor and forced labor, and resolution of individual and collective labor disputes, including issues of pay and dismissal.<sup>14</sup> The Labor Care Directorate sets OSH regulations and conducts OSH inspections, and conducts general labor inspections concerning contract compliance, accommodations, and compliance with wage and hour regulations. The Ministry of Manpower employed approximately 82 labor inspectors in 2005.<sup>15</sup> There are specialist inspectors for occupational safety and health, and others for general labor matters such as wages and hours and employment contracts. Back wages have been the biggest source of complaints brought before the Labor Care Directorate.<sup>16</sup>

In 2004, the Ministry of Manpower conducted 4,405 workplace inspections. Of these, 4,148 were regular inspections, and 257 were re-inspections.<sup>17</sup> A regular inspection assesses compliance with wage and hour regulations, and whether employment contracts meet legal requirements. Inspections are both random and complaint-driven. The Ministry of Manpower maintains a 24-hour hotline for complaints. Re-inspections occur automatically if a company has received a violation and entail revisiting an establishment to ascertain whether it has corrected the violation. If violations are found, the Ministry of Manpower will assess penalties or give establishments a “warning.” “Warnings” are seen as the most serious action since they result in the immediate revocation of a company’s operating license and labor clearances. The five Regional Directorates of Manpower are tasked with administering employment programs and

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<sup>12</sup> *Royal Decree 76/2004 Defining the Jurisdictions of the Ministry of Manpower and Approving its Organizational Structure*, July 13, 2004.

<sup>13</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006. “Omanization” refers to the replacement of foreign workers with Omani nationals. The program, initiated by Sultan Qaboos, entails promoting the employment of nationals in the labor market and in ownership and management positions through a national human resource strategy that focuses on furthering the development of Oman’s education and training systems.

<sup>14</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>15</sup> *Ibid*; see also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>16</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>17</sup> Ministry of Manpower, “Table (2-1-A): Geographical Distribution of Periodical Inspections Conducted by the Directorate of Labor During 2004,” as provided in U.S. Embassy-Muscat, electronic communication, attachment 3, June 25, 2005.

resolving labor disputes in the regions, conducting labor inspections, handling health and safety matters, and developing and implementing technical and vocational training in the regions.<sup>18</sup>

The Directorate of Planning is responsible for planning, research, and evaluation. It is responsible for statistics and information technology within the Ministry of Manpower, and handles labor registration for Omani nationals.<sup>19</sup> All Omanis must register with the Ministry of Manpower as either unemployed, a job seeker, or employed. The Directorate of Planning keeps the central database/workforce register of these entries for employment and statistics purposes.

The Technical Education Directorate is charged with the responsibility of overseeing the six Higher Colleges of Technology (HCTs) in Oman, which offer university level degrees.<sup>20</sup> The Directorate assumes total responsibility for the HCTs, including academic and financial matters, curriculum development, and establishment of criteria for receiving degrees.

The Vocational Training Directorate provides vocational guidance and on-the-job training, and is responsible for the Government of Oman's vocational training institutes. These institutes offer post-high school certificates, but not university level degrees.<sup>21</sup> The Government Vocational Center provides certificates and basic skills for semi-skilled jobs.

The Directorate of Vocational Criteria and Development develops curriculum and vocational criteria for the Government of Oman's vocational training institutes, and conducts in-service training.<sup>22</sup>

## **B. The Labor Court System**

The Labour Law requires every employer with 50 or more workers to have and display a procedure for dealing with employee complaints and grievances.<sup>23</sup> The Law provides that a worker with a grievance concerning work or working conditions shall have the right to submit his complaint to his or her employer or representative.<sup>24</sup> For complaints or grievances not related to dismissal, the Labour Law requires that the worker first raise his or her complaint with the employer; however, where no procedures at the company level have been determined, or if the worker's complaint is not redressed, then the worker may apply to the regional office of the Ministry of Manpower's Labor Care Directorate to resolve the labor dispute.<sup>25</sup> A worker who has been dismissed may submit a complaint concerning that dismissal directly to the regional office of the Ministry of Manpower's Labor Care Directorate within 15 days of dismissal.<sup>26</sup> The

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<sup>18</sup> U.S. Embassy-Muscat, facsimile, March 1, 2005.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> *Oman Labour Law*, Article 105.

<sup>24</sup> Ibid.

<sup>25</sup> The same provisions apply for individual labor disputes and collective disputes concerning one or more employers and all their workers or a group thereof. See *Oman Labour Law*, Articles 104, 106, and 107. See also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>26</sup> *Oman Labour Law*, Article 106.

42 member staff of the Labor Disputes Settlement Division of the Labor Care Directorate handles worker complaints.<sup>27</sup>

In cases of employee dismissal, the division staff must try to settle the labor dispute amicably. Once settlement is reached, the Division must record it and pursue its implementation. If an employer refuses to implement a settlement, it is required to pay an amount equivalent to the worker's wage from the date of the settlement until the date of implementation.<sup>28</sup> If a settlement cannot be reached within two weeks, or if one of the parties refuses to implement the settlement, the Labor Care Directorate must refer the labor dispute to the court system, presenting the court with a memorandum documenting the labor dispute and summarizing the parties' arguments.<sup>29</sup>

The independence of the judiciary is provided for in the Basic Law.<sup>30</sup> Since 1999, all civil, criminal, and commercial cases are heard in the Courts of First Instance, one of which is established in each of the 40 provinces.

With respect to cases of employee dismissal, the President of the Court of First Instance must schedule a hearing within two weeks from the date of referral, notifying the worker, employer, and the Labor Care Directorate, and providing all with a copy of the submitted memorandum.<sup>31</sup> The court must rule on any request for a stay of execution of dismissal, if applicable, within two weeks following the first hearing, and its judgment on this matter is final. If the court orders a stay of execution of dismissal, then the employer must reinstate the worker and pay him or her an amount equal to his or her wage until the dispute is finally adjudicated.<sup>32</sup> The court must render a judgment on the labor dispute within one month of ordering a stay of execution of dismissal. If the court determines that the action of the employer was arbitrary or in violation of the law, the court may order the reinstatement of the worker or require the employer to pay fair compensation, in addition to (1) the end of service gratuity and other benefits prescribed by law or the employment contract, whichever is greater, and (2) the basic wage and other benefits for the notice period provided for by law, or the employment contract, whichever is greater. Any monetary amount awarded to the worker due to the stay of execution of the dismissal must be deducted from the amount of compensation awarded to him or her.<sup>33</sup>

Final decisions of the Court of First Instance may be appealed to the Courts of Appeal, which exist in six circuits in Oman. The Courts of Appeal are composed of three judges (*Qadis*).<sup>34</sup> The Supreme Court serves as the final court of appeal, whose verdict is irrevocable.<sup>35</sup> The Sultan cannot overrule decisions taken by the Supreme Court.<sup>36</sup>

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<sup>27</sup> Ministry of Manpower, table on employees at the Settlement of Labor Disputes Section, as provided in U.S. Embassy-Muscat, electronic communication, attachment 2, June 25, 2005.

<sup>28</sup> *Oman Labour Law*, Article 106.

<sup>29</sup> *Oman Labour Law*, Article 106; see U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>30</sup> *The Basic Law of the Sultanate of Oman*, Articles 60-61.

<sup>31</sup> *Oman Labour Law*, Article 106.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>35</sup> *Ibid.*

<sup>36</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.



In 2004, 5,289 complaints were brought before the Labor Care Directorate of the Ministry of Manpower.<sup>37</sup> Of these, 3,159 labor disputes were heard by the Labor Care Directorate, while 1,811 complaints were referred to the Courts.<sup>38</sup> Of the 3,159 disputes heard by the Labor Care Directorate, 2,611 concerned general worker complaints, 543 concerned an employee's dismissal, and five concerned compensation.<sup>39</sup> Due to recordkeeping limitations, further information on the nature of these complaints and the remedies ordered is not available.<sup>40</sup> Of the 1,811 labor disputes referred to the Courts of First Instance, 1,599 were general worker complaints, and 212 concerned dismissals. At the end of 2004, 319 complaints remained pending.<sup>41</sup> In 2004, there were 63 collective complaints, representing 1,125 people.<sup>42</sup> The Ministry of Manpower opens a single case file for each individual involved in a dispute, including in instances of collective complaints.

## **V. Labor Rights and Their Application**

### **A. Freedom of Association**

#### **1. Workers' Organizations**

Oman's Basic Law recognizes the right of association. Specifically, the Basic Law states that "[t]he freedom to form associations on a national basis for legitimate objectives and in a proper manner, in a way that does not conflict with the stipulations and aims in this Basic Law, is guaranteed under the conditions and in the circumstances defined by the Law."<sup>43</sup> The Basic Law bans associations whose activities are detrimental to social order, are secret, or are of a military nature, and prohibits requiring individuals to join an association.<sup>44</sup>

#### Overview of the New System of Representative Committees

Oman's Labour Law allows workers in an establishment to form a "representative committee" to protect their interests, defend their rights as decreed by law, and represent them in all matters related to their affairs.<sup>45</sup> The main functions of these committees are: to protect workers' rights and improve conditions of employment, including occupational safety and health; to develop the skills of workers by providing training opportunities to bolster productivity and organizing seminars to keep workers abreast of technological developments; and to support Omanization efforts.<sup>46</sup>

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<sup>37</sup> Ministry of Manpower, "Table (1-1): Labor Disputes for the period January-December/2004 by Region," as provided in U.S. Embassy-Muscat, electronic communication, attachment 5, June 25, 2005.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>41</sup> Ministry of Manpower, "Table (1-1): Labor Disputes for the period January-December/2004 by Region," as provided in U.S. Embassy-Muscat, electronic communication, attachment 5, June 25, 2005.

<sup>42</sup> None of these complaints were brought by representative committees, which in 2004, were in the early stages of being established. U.S. Embassy-Muscat, electronic communication, February 21, 2006.

<sup>43</sup> *The Basic Law of the Sultanate of Oman*, Article 33.

<sup>44</sup> Ibid.

<sup>45</sup> *Oman Labour Law*, Article 108.

<sup>46</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1308*, July 30, 2004.; *see* Government of Oman communication, January 4, 2006; *see also* Dr. Mahmoud Salama, "Manifestations of development and modernness in Omani Labour Law:

The new system of representative committees is an important step forward in Oman. Before the passage of the revised Labour Law in 2003, the Government of Oman banned all workers' organizations. In practice and principally due to the newness of freedom of association in Oman, all the representative committees currently in existence have been established at the initiative of the Ministry of Manpower, which suggests to employers that a representative committee should be formed in his or her enterprise. The Ministry of Manpower has promoted the establishment of representative committees by approaching companies and explaining to employees their rights under the Labour Law, and by disseminating information to the public on the Labour Law through newspaper articles and community outreach.<sup>47</sup> As of March 2006, there were 25 registered representative committees operating in the country.<sup>48</sup>

### Representative Committees: Legal Framework and Current Practice

Per Article 110 of the Labour Law, the Ministry of Manpower has promulgated three Ministerial Decisions regulating the formation and functioning of representative committees in Oman. Ministerial Decision No. 135/2004 details the requirements for establishing a representative committee at the enterprise level, including criteria for membership, criteria for electing the administrative body of the representative committee, and other requirements pertaining to the committee's charter and scope of permissible activities.<sup>49</sup> Ministerial Decision No. 136/2004 details the analogous requirements for the formation and function of the "Main Representative Committee", whose membership consists of all the members of administrative bodies of representative committees, and which is the central entity that can represent Omani workers in international organizations, subject to Ministry of Manpower approval.<sup>50</sup> Ministerial Decision No. 190/2005 specifies the required content for the articles of association for representative committees and the Main Representative Committee, including their respective objectives, their organizational structure, the requirements for holding meetings and conventions, their jurisdictional scope, and duties of elected officers.<sup>51</sup> The specific provisions of these Ministerial Decisions are discussed below.

Workers who have been employed for a year at an establishment may form a representative committee. They must provide the Labor Care Directorate of the Ministry of Manpower with a list detailing the full names of the committee members; the title, age, and position of each; their educational qualifications; and their places of residence.<sup>52</sup> Employees wishing to be represented by a representative committee must fill out an application and pay dues;<sup>53</sup> however, the

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Part V: The Establishment's Representation Committee is the basic unit that represents labourers in Oman," *Observer*, September 20, 2004.

<sup>47</sup> *Ibid.*

<sup>48</sup> U.S. Department of State, *Country Reports on Human Rights Practices-2005:Oman*, Section 6a, Washington, D.C., March 8, 2006, available at < <http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm>>.

<sup>49</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004 on Principles of Formation and Work of Representative Committee in Establishments*, issued May 11, 2004.

<sup>50</sup> Ministry of Manpower, *Ministerial Decision No. 136/2004 on Principles of Formation and Work of the Main Representative Committee*, issued May 11, 2004.

<sup>51</sup> Ministry of Manpower, *Ministerial Decision No. 190/2005, Articles of Association for Private Sector Labor Representative Committees and Articles of Association of the Main Representative Committee*, issued July 18, 2005.

<sup>52</sup> Ministry of Manpower, *Ministerial Decision No.135/2004*, Article 2. Educational qualifications are required by the Ministry of Manpower to record the educational level of representative committee members; however, according to the U.S. Embassy-Muscat, the Ministry of Manpower cannot disallow membership on the basis of educational qualifications.

<sup>53</sup> *Ibid.*, Article 1.

committees are not yet collecting dues. The Ministry of Manpower must approve the establishment of the representative committee.<sup>54</sup> Within one month of receiving Ministerial approval for its formation, the general assembly of the representative committee must elect its administrative body. The representative committee's administrative body serves as its leadership. Per Ministerial Decision No. 135/2004, representative committees of workers in enterprises having 500 workers or less must have an administrative body consisting of five members, and this number is increased to seven with respect to companies employing 501 to 1,500 workers. Nine administrative leaders are required for committees representing workers in enterprises employing over 1,500 workers.<sup>55</sup> According to general comments by the ILO CFA, the number of leaders of an organization should be decided by the workers' organizations themselves.<sup>56</sup>

Workers who are members of the representative committee and who have paid their dues<sup>57</sup> are allowed to vote in the leadership election, and the vote must be by direct secret ballot. Article 2 of Ministerial Decision 135/2004 states that the employer should "facilitate workers' selection of their representatives in the committee and support of its role." Employers may offer assistance, such as providing meeting space, employee breaks, and food and beverages.<sup>58</sup> Ministry of Manpower representatives attend the elections to answer any questions that members may have regarding how to conduct a vote, counting votes, or any other procedural matters related to representative committees.<sup>59</sup> The Minister of Manpower ratifies the election results.<sup>60</sup> While no election results have been disapproved to date, it is unclear what criteria are considered by the Ministry of Manpower in ratifying results. While Ministry officials have stressed that the Ministry does not supervise the elections process,<sup>61</sup> the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR) has stated that legal provisions that call for supervision of the election process, including acceptance or approval of election results by the administrative authorities, are contrary to the principles of freedom of association, noting that, if supervision is deemed necessary, it should be exercised by the judiciary.<sup>62</sup> Ministerial Decision No. 135/2004 also sets the term of office for elected officials in a representative committee at two years;<sup>63</sup> however, the ILO CFA has determined that it should be the workers' organization that sets the period of the term of office.<sup>64</sup>

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<sup>54</sup> Ibid, Article 2.

<sup>55</sup> Ibid, Article 3. There are only 55 companies employing more than 500 workers in Oman, of which 19 employ more than 1,000 workers. Government of Oman, communication, January 4, 2006.

<sup>56</sup> ILO, Freedom of Association: *Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO*, Geneva, 4<sup>th</sup> (revised) ed, 1996, para. 364.

<sup>57</sup> Although workers are not yet paying dues, there is no indication they have been barred from voting in representative committee elections.

<sup>58</sup> U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>59</sup> Ibid.

<sup>60</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 4.

<sup>61</sup> Labor consultations between Ministry of Manpower officials and U.S. Government officials, March 15-18, 2005.

<sup>62</sup> International Labor Conference, 81<sup>st</sup> session, 1994, Report III (Part 4B), *Freedom of Association and Collective Bargaining*, para. 115.

<sup>63</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 4. This restriction also applies to administrative body officials of the Main Representative Committee. Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 2.

<sup>64</sup> ILO, *Digest of Decisions of the Freedom of Association Committee*, 1996, para. 359.

Candidates for administrative body positions in representative committees must meet the following qualifications: (1) be a permanent employee of the enterprise; (2) be mature and fully qualified; (3) be able to write and speak Arabic well; (4) have never been convicted of a crime that conflicts with honor (a crime which is classified in the Omani Penal Code as a felony, such as, murder, rape, and theft); (5) have never been suspended from work for grave misconduct; (6) cannot be a member of another representative committee; (7) cannot be seconded (i.e., cannot be an individual who is not a direct hire by the establishment); and (8) cannot have committed an act or expressed views that are viewed as a breach of Oman's security, national unity, or the Sultanate's interest.<sup>65</sup> The first and third requirements, specifying that candidates for leadership positions must be "permanent worker[s] of the establishment," and "be able to write and speak Arabic well," may make it difficult for foreign workers to assume leadership positions in representative committees. For example, of the 334 current members of representative committee administrative bodies, only two are expatriates.<sup>66</sup> With respect to the first requirement that representative committee candidates be permanent employees of the enterprise, the ILO CEACR has stated that requiring all candidates for leadership positions to belong to their respective enterprise is contrary to ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, as this deprives workers' organizations of the benefit of experience of certain officers when they are unable to provide enough qualified individuals from among their own ranks.<sup>67</sup> With respect to the eighth requirement for candidacy enumerated above, the ILO CEACR has noted that legislation prohibiting the exercise of trade union functions on the basis of political belief is not compatible with the right of workers' organizations to elect their representatives in full freedom. According to the ILO CEACR, this includes legal provisions concerning a worker's ineligibility to hold office because of activities of an allegedly subversive nature.<sup>68</sup>

The Ministry of Manpower has the authority to deny a candidacy on the basis that the individual does not meet the established legal qualifications.<sup>69</sup> Representative committee members have indicated that to date, the Ministry has not denied candidacy to any applicant.<sup>70</sup> If the Ministry of Manpower were to deny candidacy to an individual, he or she would have 15 days to present a written grievance to the Minister of Manpower, who would have 15 days to address the grievance.<sup>71</sup> If the grievance is denied, a worker has further recourse to the courts.<sup>72</sup> With respect to the ability of public authorities to approve or deny candidacy for positions in workers' organizations, the ILO CEACR and ILO CFA have determined that the autonomy of workers' organizations is dependent on their members having the right to elect their representatives in full freedom. They have stated that public authorities should refrain from any interference that might

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<sup>65</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 7.

<sup>66</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>67</sup> International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 117.

<sup>68</sup> *Ibid.*, para. 119.

<sup>69</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 8.

<sup>70</sup> U.S. Embassy-Muscat, electronic communication, March 5, 2006.

<sup>71</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 8. This requirement also applies to candidates for elected office of the Main Representative Committee. Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 6.

<sup>72</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

restrict the exercise of this right, including with respect to conditions of eligibility of representatives.<sup>73</sup>

Actions taken by a representative committee's administrative body must be in the interest of the company and the public interest.<sup>74</sup> An officer's membership on an administrative body terminates (1) if he/she no longer meet the eight conditions for holding office; (2) he/she violate the provisions of the Labour Law and ministerial decisions related to representative committees or their basic charters; (3) in instances where the representative committee's basic charter so requires; or (4) if he/she commits an act that causes material or moral harm to the representative committee, the enterprise or its workers, or the public interest.<sup>75</sup> This latter provision may give the Government of Oman broad leverage to dismiss representative committee officials, although grievances are subject to appeal in the courts. To date, the Ministry of Manpower has not removed any administrative body leaders from office.<sup>76</sup>

Within one month after electing its administrative body, the representative committee must officially register with the Ministry of Manpower.<sup>77</sup> As part of this process, the chairman of the committee must provide to the Ministry of Manpower two signed copies of its basic charter and two lists specifying the full names of the members of the administrative body and their titles, ages, positions, educational qualifications, and places of residence.<sup>78</sup> No representative committee has been denied registration.<sup>79</sup>

Oman's Labour Law allows only one representative committee to be recognized per establishment.<sup>80</sup> The ILO CFA considers that measures providing for the certification of the most representative union in a given unit as the exclusive bargaining agent for that unit are not necessarily incompatible with the Convention, provided certain conditions are met.<sup>81</sup> However, the ILO CFA also opines that "[t]he right of workers to establish organizations of their own choosing implies, in particular, the effective possibility to create – if the workers so choose – more than one workers' organization per enterprise."<sup>82</sup> While the ILO CEACR has acknowledged that it is generally to workers' advantage to avoid a proliferation of competing

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<sup>73</sup> International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 112; see ILO, *Digest of Decisions of the Freedom of Association Committee*, para 353.

<sup>74</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 9. This requirement also applies to the administrative body of the Main Representative Committee. See Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 7.

<sup>75</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 14. This requirement also applies to the administrative body of the Main Representative Committee. See Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 12.

<sup>76</sup> U.S. Embassy-Muscat, electronic communication, March 5, 2006.

<sup>77</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 13.

<sup>78</sup> *Ibid*, Articles 2, 13, and 18. Similar requirements apply for the Main Representative Committee. See Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 11.

<sup>79</sup> U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>80</sup> *Oman Labour Law*, Article 108. See also Ministry of Manpower, *Ministerial Decision No. 135/2004*, Articles 1-2 and Government of Oman communication, January 4, 2006.

<sup>81</sup> *Digest of Decisions and Principles of the Freedom of Association Committee*, 1985, para. 237.

<sup>82</sup> International Labor Organization, *Committee on Freedom of Association, Report 295 (November, 1994), Case 1751*, para. 373

trade unions, the Committee noted that a trade union monopoly imposed by law is counter to ILO freedom of association principles.<sup>83</sup>

Representative committees must inform the Ministry of Manpower of all general assembly meetings one month in advance by providing a copy of the invitation letter, agenda, and all documents and papers relating to the issues to be discussed. The Ministry of Manpower may delegate staff to attend these meetings.<sup>84</sup> In accordance with ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organize, workers' organizations should have the right to organize their administration and activities and to formulate their program without any interference on the part of the public authorities, which would restrict this right or impede the lawful exercise thereof.<sup>85</sup>

The Labour Law does not provide specific protections for members of representative committees, nor does it specify any penalties for companies that violate the provisions of the law dealing with representative committees.<sup>86</sup>

There are a total of 334 elected representative committee administrative body members; half of these are active board members and half are reserve members. Of the 167 active members, 16 are women, and two are expatriates.<sup>87</sup> Most of the administrative body members come from the ranks of management.<sup>88</sup>

#### The Main Representative Committee: Legal Framework and Current Practice

Ministerial Decision No. 136/2004 establishes a Main Representative Committee for the workers of Oman. The responsibilities of the Main Representative Committee include caring for the interests of workers in Oman, defending their rights under the law, and representing them at local, regional, and international meetings and conferences.<sup>89</sup> In addition, the Main Representative Committee is given authority to resolve labor issues, to support Omanization efforts, to develop and implement training plans, and to monitor company-level representative committees.<sup>90</sup> The ILO CFA has stated that national law should not institutionalize a *de facto* monopoly by expressly mentioning or sanctioning a particular trade union confederation, but

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<sup>83</sup> International Labor Conference, 81<sup>st</sup> session, 1994, Report III (Part 4B), *Freedom of Association and Collective Bargaining*, para. 91.

<sup>84</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 5. See also U.S. Embassy-Muscat, *sensitive but unclassified telegram no. 981*, unclassified para. 6. This requirement also applies to general assembly meetings of the Main Representative Committee. See Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 4.

<sup>85</sup> ILO Convention No. 87, *Freedom of Association and Protection of the Right to Organize Convention*. See also ILO, *Digest of Decisions of the Freedom of Association Committee*, para. 423.

<sup>86</sup> *Oman Labour Law*, Articles 108-110. See also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>87</sup> U.S. Embassy-Muscat, electronic communications, January 25, 2006 and January 3, 2006.

<sup>88</sup> There are no precise figures on the percentage of representative committee leaders which come from the ranks of management; estimates range between 70-75 percent of leadership positions. U.S. Embassy-Muscat, electronic communication, January 3, 2006 and labor consultations between Ministry of Manpower officials and U.S. Government officials, March 15-18, 2005.

<sup>89</sup> Ministry of Manpower, *Ministerial Decision No.136/2004*, Articles 2 and 7.

<sup>90</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1308*. See also Government of Oman, communication , January 4, 2006.

rather should allow workers the freedom to establish labor organizations outside the established structures if they so choose.<sup>91</sup>

The general assembly of the Main Representative Committee consists of all elected officers of company-level representative committees, with 11 members having been selected to serve in positions of leadership.<sup>92</sup> Candidates for positions on the Main Representative Committee's administrative body, which serves as its leadership, must be at least 25 years of age and be a member of an administrative body of a company-level representative committee.<sup>93</sup> Article 2 of Ministerial Decision No.136/2004 states that the administrative body of the Main Representative Committee shall be selected by the general assembly by means of a secret ballot. Article 3 of this Ministerial Decision provides that for the formation of the first Main Representative Committee, the Ministry of Manpower will issue a decision to form a committee to supervise the selection of the Main Representative Committee's administrative body. This committee must establish regulations for the future selection of members of the Main Representative Committee's administrative body from the administrative bodies of representative committees that have been ratified by the Ministry.<sup>94</sup>

The first administrative body of the Main Representative Committee was selected on May 4, 2005 and was approved by the Ministry of Manpower with Ministerial Declaration No. 98/2005.<sup>95</sup> The Main Representative Committee was chosen after 19 representative committees had already been established. The Ministry of Manpower designated a selection committee of four individuals from the administrative bodies of these 19 representative committees, which in turn selected 11 individuals to serve in the administrative body of the Main Representative Committee. The Government of Oman stated that it was unable to organize elections for the Main Representative Committee as planned due to the time pressure involved in choosing a delegation to send to the ILO's annual International Labor Conference in June 2005. Instead the Ministry of Manpower selected a delegation of six individuals that it considered the most competent from the leadership of the 19 representative committees in existence at that time, and who had had some previous ILO experience. The Main Representative Committee administrative body now consists of those six individuals selected by the Ministry of Manpower plus an additional five selected by the four-member selection committee.<sup>96</sup> One member of the Main Representative Committee administrative body is the CEO of a company, two are human resource managers, and the remaining leaders occupy a variety of mid-level positions within their respective companies.<sup>97</sup> The ILO CEACR and ILO CFA have emphasized that public authorities should refrain from any interference which might restrict the exercise of the right to elect representatives of workers' organizations in full freedom.<sup>98</sup> The administrative body of the

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<sup>91</sup> International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 296.

<sup>92</sup> Ministry of Manpower, *Ministerial Decision No. 136/2004*, Articles 2 and 4. See also Dr. Mahmoud Salama, "Manifestations of development and modernness in Omani Law: Part V: The Establishment's Representation Committee is the basic unit that represents labourers in Oman."

<sup>93</sup> Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 6.

<sup>94</sup> *Ibid.*, Article 3.

<sup>95</sup> Government of Oman communication, January 4, 2006.

<sup>96</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>97</sup> U.S. Embassy-Muscat, electronic communication, February 21, 2006.

<sup>98</sup> International Labor Conference, *Freedom of Association and Collective Bargaining*, para. 112. See also ILO, *Digest of Decisions of the Freedom of Association Committee*, para 353.

current Main Representative Committee has a term of two years.<sup>99</sup> The Ministry of Manpower expects that the next Main Representative Committee will be elected, but has expressed that it first wishes to ensure that the representative committees are educated and organized in order to properly fill their representational duties if elected to the Main Representative Committee.<sup>100</sup>

With approval from the Minister of Manpower, the Main Representative Committee may join regional or international trade union organizations and may send delegations outside the country or receive delegations.<sup>101</sup> However, company-level representative committees are prohibited from joining any organization with headquarters outside of Oman, and are prohibited from sending or receiving delegations outside of the country.<sup>102</sup> Under international standards, trade unions should have the right to establish and join federations and confederations of their own choosing without previous authorization.<sup>103</sup> The Main Representative Committee participated in the 2005 ILO annual conference.

The Main Representative Committee and company-level representative committees must receive prior approval before holding public festivities, such as national celebrations and festivals, or presenting public lectures.<sup>104</sup>

## 2. Right to Strike

The 2003 Labour Law repealed the strike prohibition in Article 100 of the 1973 Labour Law. However, there is no provision that expressly states that strikes are legal. According to the Ministry of Manpower, the absence of a strike prohibition allows representative committees to have lawful strikes in which strikers would bear no civil or criminal responsibility.<sup>105</sup> While Article 108 of the 2003 Labour Law and Ministerial Decisions Nos. 135 and 136 of 2004 grant the Main Representative Committee and company-level representative committees the ability to defend the legally-prescribed rights of their members, the laws are silent on whether this covers strikes.<sup>106</sup>

In practice, workers have conducted strikes in Oman. In 2004, 33 strikes occurred, involving roughly 6,000 workers. Of these, 17 strikes were in construction, nine in services, four in tailoring, and three in other industrial activities. All strikes concluded with agreements reached through mediation conducted by the Ministry of Manpower. No strike lasted more than seven days. The most common reason for strikes were disputes over back wages and split shifts.

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<sup>99</sup> Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 2, and Ministry of Manpower, *Ministerial Decision No. 98/2005*, Article 2.

<sup>100</sup> U.S. Embassy-Muscat, electronic communication, January 25, 2006.

<sup>101</sup> Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 13.

<sup>102</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 15 (6) and Article 15 (7).

<sup>103</sup> ILO, *ILO Declaration on Fundamental Principles and Rights at Work*. See also ILO, Convention No. 87, Freedom of Association and Protection of the Right to Organize Convention. See also ILO, Convention No. 98, The Right to Organize and Collective Bargaining Convention.

<sup>104</sup> See Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 13.

<sup>105</sup> Government of Oman Communication, January 4, 2006. See also International Confederation of Free Trade Unions (ICFTU), *Annual Survey of Violations of Trade Union Rights, 2004*, Brussels, 2004, 287; available at <<http://www.icftu.org/www/pdf/Survey04-EN.pdf>>.

<sup>106</sup> *Oman Labour Law*, Article 108. See also Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 9; Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 7. See also U.S. Embassy-Muscat, *sensitive but unclassified telegram no. 981*, unclassified para. 7, June 7, 2004.



There were four reported strikes during 2005.<sup>107</sup> In December 2005 a strike apparently spurred by management's decision to fire the head of the workers' representative committee closed Salalah Port, Oman's largest seaport, for two days.<sup>108</sup> The Ministry of Manpower mediated the dispute with the assistance of the Main Representative Committee, which resulted in the reinstatement of the fired representative committee leader.<sup>109</sup> There are no reports of any instances where workers attempting to strike have faced reprisals.<sup>110</sup> In the event an employer tried to fire someone for involvement in a strike, the employee could file a case with the Labor Care Directorate, and if no resolution is reached, then with the courts.<sup>111</sup>

## **B. Right to Organize and Bargain Collectively**

### **1. Right to Organize**

Oman's labor law does not specifically address the issue of anti-union discrimination. If an employer terminates a worker's employment contract for cause other than those legally prescribed,<sup>112</sup> then the employer is liable to reinstate the worker or pay him or her fair compensation, in addition to (1) the end of service gratuity and other benefits prescribed by law or the employment contract, whichever is greater, and (2) the basic wage and other benefits provided by law or the employment contract, whichever is greater, for the period pending resolution of the dispute.<sup>113</sup> Similar protections are afforded a worker suspended after being wrongfully accused of having committed a crime. If the competent authority decides against prosecution, takes no action before the suspension expires, or the worker is acquitted, then the worker must be reinstated and provided back pay for the period of the suspension, or it will be considered an unjustified dismissal.<sup>114</sup>

There is, however, no specific provision in Oman's labor law prohibiting employer reprisal against workers for their activities in representative committees. The absence of such legal protection for employees could enable employers to terminate workers for engaging in representative committee activities by using other pretexts for terminating employment contracts. Employers or employees may terminate an employment contract as long as prior written notice is given, and the employer observes end-of-service gratuity provisions.<sup>115</sup> The Labour Law allows for dismissal without cause with respect to contracts of unlimited duration, whereby the employer may end the employment contract after providing written notification 30 days in advance to workers paid on a monthly basis and 15 days in advance for other workers.<sup>116</sup>

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<sup>107</sup> U.S. Department of State, *Country Reports on Human Rights Practices-2005: Oman*, Section 6b, Washington, D.C., March 8, 2006; available at <<http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm>>.

<sup>108</sup> U.S. Embassy-Muscat, *unclassified telegram no. 48*, January 8, 2006.

<sup>109</sup> U.S. Embassy-Muscat, *unclassified telegram no.1874*, December 17, 2005.

<sup>110</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Oman Labour Law*, Article 40. Article 40 identifies various grounds on which an employer may dismiss an employee without notice or end-of-service gratuity. It does not identify striking or representative committee activities as one of these grounds.

<sup>113</sup> *Oman Labour Law*, Article 106; see also *Ibid*, Article 43.

<sup>114</sup> *Ibid*, Article 32.

<sup>115</sup> *Ibid*, Articles 37 and 39.

<sup>116</sup> *Ibid*, Article 37. This provision also applies to employees such that an employee may terminate an employment contract by providing 30-days advance written notice to his/her employer if the employee is paid on a monthly basis and 15-days advance written notice if the employee is otherwise paid.

Expatriate employees are on one-year contracts that may be renewed annually; employers are required to give 30 days notice if they do not intend to renew the contract.<sup>117</sup> In addition, an employer may simply not renew a contract for any reason upon its expiration.<sup>118</sup>

Officials at the Ministry of Manpower have stated that no acts of discrimination for organizing representative committee activities have been reported to the Ministry of Manpower.<sup>119</sup> However, representative committees have expressed the need for protection from employer retribution for workplace organizing, and have raised the issue with the Ministry of Manpower.<sup>120</sup> The selection committee for the Main Representative Committee also discussed the need to set up a mechanism to provide protection to members of representative committees against employer retaliation.<sup>121</sup> Any allegation that an employer improperly dismissed a worker for forming a workers' organization, may be reported through a complaint to the Ministry of Manpower's Labor Care Directorate, just as other allegations of wrongful dismissal may be.<sup>122</sup> As with other claims of wrongful dismissal, the Directorate must summon the employer and attempt to mediate. An employer who refuses to implement a settlement achieved through mediation is punishable by a fine between 50 and 100 Omani Rials (OR) (US\$130 to US\$260),<sup>123</sup> with the fine being multiplied by the number of affected employees.<sup>124</sup> If no agreement is reached within two weeks from the date of the filing of the complaint or if one of the parties refuses to implement an agreement, the Ministry of Manpower is obliged to refer the case to the Court of First Instance, presenting the court with a memorandum documenting the labor dispute and summarizing the parties' arguments. The Court of First Instance has the authority to order a stay of execution of a dismissal and require the employer to reinstate the worker or pay compensation.<sup>125</sup> Worker representatives acknowledge that the Ministry of Manpower and the labor courts are fair, often ruling in favor of the worker, when warranted.<sup>126</sup>

## 2. Right to Bargain Collectively

Several articles in Oman's labor law support the general right of employees to consult with employers over terms and conditions of employment; however, there are no provisions in the law expressly authorizing collective bargaining. Article 108 of the Labour Law, as well as Ministerial Decisions Nos. 135 and 136 of 2004, define the function of representative committees and of the Main Representative Committee as that of protecting the interests of members, defending their legally prescribed rights, and representing them in all matters related to their affairs.<sup>127</sup> Ministerial Decision No. 190/2005 further delineates the function of

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<sup>117</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>118</sup> *Oman Labour Law*, Article 43(1). This provision states that an employment contract may expire upon expiry of its stated period or by the completion of the work agreed upon.

<sup>119</sup> U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>120</sup> *Ibid*; see also Labor Consultations between representative committee members and U.S. Government officials, March 15-18, 2005.

<sup>121</sup> Ministry of Manpower, *Ministerial Decision 98/2005*, Minutes of the Meeting of the Preparatory Committee for the Main Committee, May 4, 2005.

<sup>122</sup> Government of Oman communication, January 4, 2006.

<sup>123</sup> As of November 10, 2005, US\$1.00=0.39 OR.

<sup>124</sup> *Oman Labour Law*, Article 120.

<sup>125</sup> *Ibid*, Article 106. See also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>126</sup> Labor consultations between representative committee members and U.S. Government officials, March 15-18, 2005.

<sup>127</sup> *Oman Labour Law*, Article 108. See also Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 9. See also Ministry of Manpower, *Ministerial Decision No. 136/2004*, Article 7.

representative committees as that of protecting workers' rights and improving conditions of employment.<sup>128</sup> Article 17 of Ministerial Decision No. 135/2004 states that the administrative body of a representative committee "consults with the establishment on issues relating to the interest of its work, and the establishment may express its opinion on them."<sup>129</sup> Article 6 of the Labour Law allows employers to conclude agreements with workers, providing more generous conditions than those prescribed in the Labour Law.<sup>130</sup> As discussed previously, Article 105 of the Oman Labour Law specifies that an employer with 50 or more workers must establish a complaint or grievance procedure, to be approved by the Labor Care Directorate, which enables a worker to raise his or her complaint to the employer or the representative committee.<sup>131</sup> However, representative committees have not yet been regularly involved in the complaint process within enterprises.<sup>132</sup> Article 105 does not require that the complaints or grievance procedure be established in consultation with employees or their representative committees, or that the employer establish consultation procedures in the event of collective complaints by a group of employees. To date, no collective bargaining agreements have been negotiated in Oman. In 2004, there were 1,125 workers involved in 63 collective complaints brought before the Ministry of Manpower, none of which involved representative committees.<sup>133</sup> The Main Representative Committee did play a role in settling the strike at Salalah Port Services in December 2005.<sup>134</sup>

### C. Prohibition of Forced or Compulsory Labor

The Government of Oman ratified ILO Convention No. 29 on Forced Labor in October 1998 and ILO Convention No. 105 on Abolition of Forced Labor in July 2005.<sup>135</sup>

Oman's Basic Law prohibits compulsory labor, except in accordance with the law, for the performance of public service, and for a fair wage.<sup>136</sup> Oman's Penal Code prohibits enslavement or placing an individual in a state similar to slavery, with the penalty being imprisonment between five to 15 years.<sup>137</sup> Persons who sell, receive, possess, acquire, or maintain another person in a state of slavery face a penalty of imprisonment for three to five years.<sup>138</sup> The Penal Code sets a penalty of imprisonment for six months to two years for persons that deprive an individual of his/her personal freedom by abduction or other means or who knowingly conceal an abducted person.<sup>139</sup> If the abduction occurred by force, coercion, or deceitful means, or if the abductee was tortured, raped, or forced to practice prostitution, the punishment increases to imprisonment for not less than 15 years.<sup>140</sup> The Penal Code prohibits using duress, threats, or

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<sup>128</sup> Ministry of Manpower, *Ministerial Decision No. 190/2005*, Article 6.

<sup>129</sup> Ministry of Manpower, *Ministerial Decision No. 135/2004*, Article 17.

<sup>130</sup> *Oman Labour Law*, Article 6.

<sup>131</sup> *Oman Labour Law*, Article 105.

<sup>132</sup> U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>133</sup> U.S. Embassy-Muscat, electronic communications, January 3 and January 25, 2006.

<sup>134</sup> *Ibid.* See also U.S. Embassy-Muscat, *unclassified telegram no. 1874*, December 17, 2005.

<sup>135</sup> ILO, *Ratifications by Country*, in ILOLEX, [online database] [cited November 22, 2005]; available at <<http://www.ilo.org/ilolex/english/newratframe.htm>>.

<sup>136</sup> *The Basic Law of the Sultanate of Oman*, Article 12.

<sup>137</sup> *Omani Penal Code*, Article 260, February 16, 1974.

<sup>138</sup> *Omani Penal Code*, Article 261.

<sup>139</sup> *Omani Penal Code*, Article 256.

<sup>140</sup> *Ibid.*, Article 258. See also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

deceit to procure a person for prostitution. The penalty is imprisonment for three to five years, with the maximum penalty being applied if the act is committed against a minor under age 18.<sup>141</sup>

Some employers have reportedly held the passports of foreign workers, a practice which may deny them the ability to extract themselves from dangerous or cruel working conditions.<sup>142</sup> However, there is no law in Oman that permits the employer to hold the passport of the employee. Many foreign workers were not aware of their right to take disputes regarding the withholding of passports to Oman's Labor Care Directorate.<sup>143</sup> In most cases, where such a dispute has been brought before the Labor Care Directorate, the Directorate resolved the dispute by ordering the release of the worker from service and payment of compensation without deportation.<sup>144</sup> In addition to reimbursing the worker's back wages, guilty employers were subject to fines.<sup>145</sup> Foreign workers may be reluctant to file complaints against their employers for fear of retribution.

**Trafficking in Persons.** There is no specific legal provision prohibiting trafficking in persons; however, trafficking crimes are prosecuted under the criminal code and those convicted face three to five years in prison.<sup>146</sup> While there have been some isolated and unsubstantiated claims that trafficking occurs, this does not appear to be a significant problem.<sup>147</sup> To prevent trafficking, the Government of Oman monitors its borders and immigration patterns. Although Omani law enforcement officials actively apprehend and detain suspected illegal migrants, the Government of Oman does not have a systematic screening process to identify trafficking victims from among the thousands of illegal migrants detained and deported each year.<sup>148</sup> The Government of Oman has instituted a special visa regime for Russia and China which requires that females arriving from these countries be in groups and register ahead of time with a travel agent in Oman. The institution of this visa regime was a response to an influx of Chinese and Russian prostitutes from Dubai, United Arab Emirates (UAE), which occurred after Oman liberalized its visa regime with the UAE in 2003, granting joint visas with that country to spur tourism.<sup>149</sup> In late 2003 and early 2004, the Omanis amended the visa regime with the UAE in several ways, including the requirement noted above for Russian and Chinese women, and a prohibition on granting a work visa to anyone under age 21.<sup>150</sup> The Government of Oman also cooperates with source countries for trafficked persons, providing assistance and participating in information sharing. In 2005, the members of the Royal Oman Police traveled to Pakistan to work with the anti-trafficking unit of Pakistan's Federal Investigation Agency.<sup>151</sup>

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<sup>141</sup> *Omani Penal Code*, Article 220.

<sup>142</sup> AFL-CIO, *Oman: Labor Rights and Child Labor Reports Pursuant to the Trade Act of 2002, Section 2102(c)(8)-(9)*, submitted on February 28, 2005, by the AFL-CIO in response to U.S. Department of Labor, "Request for Information Concerning Labor Rights in Oman and its Laws Governing Exploitative Child Labor," 70 Fed. Reg. 2657-2658 (Jan. 14, 2005).

<sup>143</sup> U.S. Department of State, *Country Reports on Human Rights Practices-2005: Oman*, Section 6c, Washington, D.C., March 8, 2006; available at <<http://www.state.gov/g/drl/rls/hrrpt/2005/61696.htm>>.

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.*

<sup>146</sup> U.S. Department of State, *Country Reports-2004: Oman*, Section 5. See also U.S. Department of State, *Trafficking in Persons Report- 2005: Oman*, Washington, D.C., June 3, 2005.

<sup>147</sup> U.S. Department of State, *Country Reports-2005: Oman*, Section 5.

<sup>148</sup> U.S. Department of State, *unclassified telegram no. 276*, February 26, 2006.

<sup>149</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>150</sup> *Ibid.*

<sup>151</sup> *Ibid.*

The Labor Care Directorate handles complaints of forced labor and trafficking.<sup>152</sup> Domestic service workers may legally terminate their contracts if abused by their employer or by one of his/her family members.<sup>153</sup> The Government of Oman also operates a 24-hour complaint hotline and works with the embassies of foreign workers and with charitable organizations to assist abused workers, including with repatriation if necessary.<sup>154</sup> The complaint line is for use by any worker in Oman, expatriate or Omani.

According to the Ministry of Manpower, there were 56 complaints lodged by domestic workers in 2004.<sup>155</sup> Ministry of Manpower does not track how many of these complaints involved abuse. Twenty-one complaints were settled amicably between the two parties; 21 complaints were dropped by the complainant; and eight complaints were referred to the courts. The disposition of the remaining six cases is unclear.<sup>156</sup> In addition to criminal remedies, the Government of Oman assists workers, including domestic service workers, to settle claims against employers through mediation.<sup>157</sup>

#### **D. Minimum Age for Employment of Children and Effective Elimination of the Worst Forms of Child Labor**

The Government of Oman ratified ILO Convention 138 on the Minimum Age for Admission to Employment on July 21, 2005 and ILO Convention 182 on the Worst Forms of Child Labor on June 11, 2001.<sup>158</sup>

The Oman Labour Law establishes the minimum age for employment at 15 years, while minors ages 15 to 18 years are not permitted to work between the hours of 6 p.m. and 6 a.m.<sup>159</sup> Minors are prohibited from working overtime or in certain hazardous occupations.<sup>160</sup> Employers are prohibited from requiring minors to work on official days of rest or holidays or for more than six hours per day.<sup>161</sup> Workplaces that employ minors are required to post certain items for display, including: a copy of the rules regulating the employment of children; an updated log with the names of minors employed in the workplace with their ages and dates of employment; and a work schedule showing work hours, rest periods, and weekly holidays.<sup>162</sup>

The worst forms of child labor may be prosecuted under different statutes in Oman. Forced or compulsory labor by children is generally prohibited by law.<sup>163</sup> Under Article 220 of the Penal

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<sup>152</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>153</sup> Ministry of Manpower, *Ministerial Decision 189/2004*, Article 8.

<sup>154</sup> U.S. Department of State, *Trafficking in Persons Report – 2005: Oman*.

<sup>155</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>156</sup> *Ibid.*

<sup>157</sup> U.S. Department of State, *Trafficking in Persons Report-2005: Oman*. See also Oman Labour Law, Articles 104 and 106; see also Ministry of Manpower, *Ministerial Decision 189/2004*, Article 10.

<sup>158</sup> ILO, *Ratifications by Country*, in ILOLEX, [online database] [cited December 21, 2005]; available at <<http://www.ilo.org/ilolex/english/newcountryframeE.htm>>.

<sup>159</sup> *Oman Labour Law*, Articles 75-76.

<sup>160</sup> *Ibid.*, Article 77. See also U.S. Embassy-Muscat, *unclassified telegram no. 1449*, August 23, 2004.

<sup>161</sup> *Oman Labour Law*, Articles 76-77.

<sup>162</sup> *Oman Labour Law*, Article 78.

<sup>163</sup> *The Basic Law of the Sultanate of Oman*, Article 12. See also U.S. Department of State, *Country Reports - 2005: Oman*, Section 6c.

Code, the enticement of a minor into an act of prostitution is a crime punishable by not less than five years imprisonment.<sup>164</sup> Although Oman is required to submit a list or an equivalent document identifying hazardous forms of work prohibited to minors under ILO Convention 182 or ILO Convention 138, the Government of Oman has not yet done so.<sup>165</sup>

The Labor Care Directorate of the Ministry of Manpower is responsible for the enforcement of child labor laws.<sup>166</sup> The Ministry conducted over 4,000 labor inspections in 2004; however, the statistics do not specify whether children were among workers at any of the inspected establishments.<sup>167</sup> While restrictions on the employment of youth are generally followed, enforcement does not always extend to the agriculture and fishing sectors.<sup>168</sup> In addition, workers who are the dependents of their employers are not covered by the Labour Law, such that children who work for their parents, for example, do not qualify for Labour Law protections.<sup>169</sup> Employers who violate the child labor provisions of the Oman Labour Law are subject to a fine of 100 OR (approximately US\$260).<sup>170</sup> A second violation within a year can result in imprisonment for one week.<sup>171</sup> In practice, most employers will ask prospective employees for a certificate indicating that he or she has completed basic education.<sup>172</sup> Considering that children usually begin their basic education at age six, this means that workers, in most cases, will be at least 16 years old when they begin work.<sup>173</sup>

Education is free for all children ages six to 18 years,<sup>174</sup> but is not compulsory.<sup>175</sup> In order to achieve the goal of education for all, the Government of Oman provides free transportation to and from school and free textbooks and learning materials to every student.<sup>176</sup> Additionally, the Government and private sector provide assistance to low income families, such as purchasing school uniforms.<sup>177</sup> In 2002, the gross primary school enrollment rate was 81 percent and the net primary school enrollment rate was 72 percent.<sup>178</sup> Gross and net enrollment ratios are based on the number of students formally registered in primary school and therefore do not necessarily

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<sup>164</sup> *Article 220 of the Penal Code*; available at <<http://www.interpol.int/public/Children/SexualAbuse/NationalLaws/csaOman.asp>>.

<sup>165</sup> ILO-IPEC official, e-mail communication to USDOL official, November 14, 2005.

<sup>166</sup> U.S. Embassy-Muscat, *unclassified telegram no. 276*, February 26, 2006.

<sup>167</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1289*, August 21, 2005.

<sup>168</sup> U.S. Department of State, *Country Reports-2005: Oman*, Section 6d.

<sup>169</sup> *Oman Labour Law*, Article 2.2.

<sup>170</sup> *Oman Labour Law*, Article 118.

<sup>171</sup> *Ibid.*

<sup>172</sup> U.S. Embassy-Muscat, *reporting*, August 21, 2005.

<sup>173</sup> U.S. Embassy-Muscat, *reporting*, August 23, 2004.

<sup>174</sup> UNESCO, *Education for All 2000 Assessment: Country Reports - Oman*, prepared by Ministry of Education, pursuant to UN General Assembly Resolution 52/84, 1999; available at <<http://www2.unesco.org/wef/countryreports/oman/contents.html>>. See also U.S. Department of State, *Country Reports - 2004: Oman*.

<sup>175</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1289*, August 21, 2005. See also U.S. Embassy-Muscat official, email communication, March 1, 2004.

<sup>176</sup> UNESCO, *EFA Country Report: Oman*, Section II.3.2.1.

<sup>177</sup> Ministry of Education Sultanate of Oman, *National Report on Quality Education in Oman*, Muscat, 2004, 41.

<sup>178</sup> Gross enrollment ratio is the ratio of total enrollment, regardless of age, to the population of the age group that officially corresponds to the level of education shown. Net enrollment ratio is the ratio of the number of children of official school age (as defined by the national education system) who are enrolled in school to the population of the corresponding official school age. Primary education provides children with basic reading, writing, and mathematics skills along with an elementary understanding of such subjects as history, geography, natural science, social science, art, and music. Based on the International Standard Classification of Education, 1976 (ISCED76) and 1997 (ISCED97).

reflect actual school attendance. Recent primary school attendance statistics are not available for Oman. As of 2001, 98 percent of children who started primary school were likely to reach grade 5.<sup>179</sup>

Statistics on the number of working children under age 15 in Oman are unavailable.<sup>180</sup> However, children are known to work in the informal, subsistence agriculture and fishery, and family business sectors of the economy.<sup>181</sup> The minimum age for voluntary military recruitment is 18 years, and there does not appear to be evidence that children under that age are serving in the armed forces.<sup>182</sup> There have been reports in the past of underage boys employed as camel jockeys; however, there have been no substantiated reports of the trafficking of foreign children to work as camel jockeys.<sup>183</sup> Camel racing in Oman appears to be an ingrained part of the country's cultural heritage. According to the Government of Oman, racing takes place during festivals and officially designated times, and, while there are monetary awards, the children who race the camels are from local Omani families and are not subject to abuse.<sup>184</sup> The Government of Oman, the ILO, and UNICEF do not consider the use of underage jockeys, as practiced in Oman, to be a significant problem.<sup>185</sup> Nevertheless, in response to international concerns, in August 2005, the Ministry of Sports issued a decree to raise the minimum age of camel jockeys annually by one year until it reaches 18 in 2009.<sup>186</sup> In May 2005, the Ministry of Sports took over the Oman Equestrian and Camel Association in an effort to bring camel racing under more formal supervision and regulatory control. Later that year, a separate federation was formed for camel racing.<sup>187</sup> As of January 1, 2006, all camel riders are required to register with the Camel Racing Federation using original identity documentation.<sup>188</sup>

The Ministry of Social Development is responsible for overseeing government programs devoted to the welfare of children.<sup>189</sup> The Government of Oman has entered into a Country Program of Cooperation with UNICEF for the years 2004-2006.<sup>190</sup> This program features a joint strategy that focuses on improving the well-being of children and families, promoting quality education, child protection, and the development of life-skills and healthy lifestyles among adolescents.<sup>191</sup>

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<sup>179</sup> UNESCO Institute for Statistics; available at <<http://stats.uis.unesco.org/TableViewer/tableView.aspx?ReportID=51>> (Gross and Net Enrolment Ratios, Primary; accessed December 2005).

<sup>180</sup> The Government of Oman does not collect data pertaining to the number of children engaged in child labor, the nature of extent of child work, or the number of sanctions applied to employers in violation of child labor laws.

<sup>181</sup> U.S. Department of State, *Country Reports on Human Rights Practices - 2005: Oman*, Washington, D.C., February 28, 2005, Sections 5 and 6d; available at <<http://www.state.gov/g/drl/rls/hrrpt/2004/41729.htm>>.

<sup>182</sup> Coalition to End the Use of Child Soldiers, *Global Report 2004 - Oman*, London, November 17, 2004; available at <[http://www.child-soldiers.org/document\\_get.php?id=949](http://www.child-soldiers.org/document_get.php?id=949)>.

<sup>183</sup> U.S. Embassy-Muscat, *unclassified telegram no. 276*, February 26, 2006.

<sup>184</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1449*, August 23, 2004. See also U.S. Embassy-Muscat, *unclassified telegram no. 164*, January 31, 2005 and U.S. Embassy-Muscat, *unclassified telegram no. 209*, February 8, 2005.

<sup>185</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1289*, August 21, 2005. See also U.S. Department of State, *Country Reports - 2004: Oman*. See also U.S. Embassy-Muscat, *unclassified telegram no. 276*, February 26, 2006.

<sup>186</sup> *Ibid.*

<sup>187</sup> *Ibid.*

<sup>187</sup> Oman Camel Racing Federation, Abstract [cited March 3, 2006]; available at <<http://www.omancrf.org/eng/index.asp>>. See also U.S. Embassy-Muscat, *reporting*, August 8, 2005.

<sup>188</sup> U.S. Embassy-Muscat, *unclassified telegram no. 276*, February 26, 2006.

<sup>189</sup> U.S. Embassy-Muscat, *unclassified telegram no. 276*, February 26, 2006.

<sup>190</sup> UNICEF Executive Board, *Recommendation for funding*; available at <<http://www.unicef.org/about/execboard/files/03-PL17.pdf>>.

<sup>191</sup> U.S. Embassy-Muscat, *unclassified telegram no. 1289*, August 21, 2005.

The Government of Oman, through the Ministry of Education, is working to increase net enrollment of children and improve the education curriculum. The basic education initiative aims to replace the existing three-level general education system with a unified, child-centered system that covers the first ten years of schooling. This initiative involves curriculum reform in math, science, and life skills for grades one through 10 and will provide teacher training to support the process.<sup>192</sup> This program has expanded from 17 public schools in 1998 to 352 for the 2003-2004 school year.<sup>193</sup> The Government of Oman plans to expand the program by about 40 schools per year until all of the country's approximately 1,020 public schools are covered.<sup>194</sup>

## **E. Acceptable Conditions of Work**

### **1. Minimum Wage**

Oman's Labour Law designates the Council of Ministers as the government entity responsible for determining minimum wages. Article 50 of the Labour Law states that the Council of Ministers will determine the minimum wage "as necessitated by the economic circumstances," and grants the Council the discretion to set minimum wages for specific occupations or professions.<sup>195</sup> To date, the Council has only determined minimum wages for Omani workers in the private sector, as set out in Ministerial Decision No. 222/98.<sup>196</sup> Foreign workers are thus excluded from current minimum wage regulations. As with the Labour Law in general, the minimum wage regulations do not apply to members of the armed forces, public security institutions, state employees, all domestic workers who serve inside and outside households (e.g., chauffeurs, housemaids, cooks), and to dependent family members working in a family enterprise.<sup>197</sup>

The Ministry of Manpower issues minimum wage regulations, and the current minimum wage for most citizens in the private sector is 100 OR (US\$260) per month, plus 20 OR (US\$52) per month for transportation and housing.<sup>198</sup> For covered workers, the Ministry of Manpower will not validate contracts that do not comply with the minimum wage, and it regularly inspects wage records during site inspections. Some source countries for foreign workers may set minimum wage requirements to be included in those workers' individual employment contracts, and will not issue travel documents unless the contract meets minimum requirements.<sup>199</sup> These minimum wages typically fall in the range of 50-75 OR per month (US\$129-195),<sup>200</sup> as compared to the minimum wage for Omanis of 120 OR (US\$312). The terms of these individual employment

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<sup>192</sup> Sultanate of Oman, *National Report*, 25-28.

<sup>193</sup> *Ibid*, 16.

<sup>194</sup> U.S. Embassy-Muscat, electronic communication, March 1, 2004.

<sup>195</sup> *Oman Labour Law*, Article 50. "Economic circumstances" refers to addressing the economic circumstances faced by unskilled Omani workers who perform low-level jobs. See U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>196</sup> Ministry of Social Affairs, Labor and Vocational Training, Minister's Office, *Ministerial Decision 222/98 Regarding Setting the Minimum Wage for Omani Workers in the Private Sector*, issued July 1, 1998.

<sup>197</sup> *Oman Labour Law*, Article 2. See also U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>198</sup> Ministry of Manpower, *Ministerial Decision No. 222/1998*, Articles 1 and 2.

<sup>199</sup> U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>200</sup> *Ibid*.



contracts for foreign workers are enforceable in Omani courts.<sup>201</sup> In practice, however, this means that most workers in sectors where expatriates are heavily represented, such as hospitality and construction, are not covered by a minimum wage law.

Besides conducting site inspections, the Ministry of Manpower enforces the minimum wage payment through regular and random inspections of contracts and complaints. Employees who have not been properly paid may file a claim with the Labor Care Directorate.<sup>202</sup> According to the Ministry of Manpower, there were only five cases of compensation disputes in 2004.<sup>203</sup> There are no further statistics on the number of cases of improper wage payment. If an employer is found guilty of having illegally withheld salaries, its operating license can be suspended and applications for labor permits may be denied.<sup>204</sup>

## 2. Hours of Work

The Labour Law establishes rules on hours of work and on overtime pay. Workers may work a maximum of nine hours per day up to 48 hours per week, excluding rest and food breaks, except during the month of Ramadan, when work shall not exceed six hours per day and 36 hours per week.<sup>205</sup> Workers are entitled to one day of rest after six consecutive days of work and to annual paid vacations of 15 days after one year of service, which increases to 30 days thereafter.<sup>206</sup> Employers must display a schedule stating the hours of work, break periods, and the weekly rest days on the main doors used by the employees to enter work and in other prominent positions in their establishments.<sup>207</sup>

In general, overtime work must be paid at a rate of at least 25 percent above the normal wage, or the employer may grant the worker leave in lieu of the hours worked, provided that the employee agrees to such an arrangement.<sup>208</sup> Employers and workers in seaports or airports or on vessels or airplanes may agree to a fixed allowance to be paid in lieu of overtime pay, subject to approval by the Ministry of Manpower.<sup>209</sup> In the following circumstances, the employer may establish mandatory overtime: (1) at the time of annual inventory, preparation of the balance sheet, liquidation, closing of accounts, and preparation for discount sales;<sup>210</sup> (2) if the work is aimed at preventing an accident, repairing the results of an accident, or avoiding an imminent loss of perishable materials; (3) if the work is intended to meet an extraordinary pressure; and (4) holidays, other occasions, and seasonal duties, as determined by the Ministry of Manpower.<sup>211</sup> In these cases, workers will receive a rate of 25 percent above the normal wage for additional daytime working hours and 50 percent for night work. If the work falls on a rest day or holiday,

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<sup>201</sup> Ibid. There are no data on the number of cases, if any, which have come before Omani courts for enforcement. See U.S. Embassy-Muscat, electronic communication, February 21, 2006.

<sup>202</sup> U.S. Department of State, *Country Report - 2005: Oman*, Section 6e.

<sup>203</sup> Ministry of Manpower, *Table (1-1), Labor Disputes for the Period January-December 2004 By Region*, sent by U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>204</sup> U.S. Department of State, *Country Report - 2005: Oman*, Section 6e.

<sup>205</sup> *Oman Labour Law*, Article 68.

<sup>206</sup> Ibid, Articles 61 and 71.

<sup>207</sup> Ibid, Article 74.

<sup>208</sup> *Oman Labour Law*, Article 70.

<sup>209</sup> Ibid, Article 70.

<sup>210</sup> The number of working days during which the worker is supposed to work more than the normal working hours should not be more than 15 days in a year, unless the Ministry approves a longer period. See *Oman Labour Law*, Article 72.

<sup>211</sup> *Oman Labour Law*, Article 72.

workers are entitled to receive double-time or must be given an extra day of rest the following week.<sup>212</sup>

Employers who violate hours of work and overtime provisions under Omani law are subject to a penalty of 100 OR (US\$260), which is to be multiplied by the number of workers affected, and doubled in the case of repetition.<sup>213</sup> Overtime hours are reviewed during inspections.<sup>214</sup> The Labor Care Directorate of the Ministry of Manpower is responsible for settling disputes concerning hours of work and overtime pay.<sup>215</sup> There is limited information on enforcement of hours of work.

### 3. Occupational Safety and Health

The Labour Law requires employers to take all necessary precautions to protect the health and safety of workers, including acquainting workers during the hiring process with the hazards of work and means of protection against those hazards.<sup>216</sup> Employers must ensure that adequate safety and hygienic conditions prevail in the workplace and that appropriate means are offered to workers so that they may carry out their duties. Employers also must ensure that their workplaces are clean and satisfy conditions of comfort, safety, and health, and they must make certain that machinery, equipment, and tools are installed and maintained in the best safety conditions. Employers are prohibited from deducting the cost of any safety and health protections from workers' wages.<sup>217</sup>

Article 89 of the Labour Law gives the Minister of Manpower the authority to set OSH regulations, including for lighting, ventilation, air circulation, drinking water, bathrooms, workers' lodging, and fire prevention. Ministerial Decision No. 19/1982 establishes regulations that cover these areas in private sector enterprises.<sup>218</sup> These regulations require that each establishment in the private sector with 100 or more employees assign industrial safety operations to one or more supervisors in the establishment. The supervisor is responsible for: establishing procedures to safeguard against work-related hazards; inspecting the workplace to make sure that it is free from work-related illnesses; recording accidents that occur; and forwarding statistics on accidents to the Labor Care Directorate every three months.<sup>219</sup> Ministerial Decision No. 19/1982 also sets requirements for certain safety equipment and measures for specific categories of labor: construction work, excavation and demolition, machines and equipment for hoisting and hauling, and work in mines and quarries.<sup>220</sup> Royal Decree No. 40/1976 is the current law in force that governs compensation for occupational injuries and illnesses.<sup>221</sup> This law does not apply to members of the military or police; civil servants; casual employees (temporary workers whose work is unrelated to the normal business

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<sup>212</sup> Ibid, Article 73.

<sup>213</sup> Ibid, Article 118.

<sup>214</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>215</sup> U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>216</sup> *Oman Labour Law*, Article 87.

<sup>217</sup> Ibid.

<sup>218</sup> Ministry of Social Affairs and Labour, Directorate of Labor Affairs, Labor Care Department, *Ministerial Decision No. 19/1982, Occupational Health and Industrial Safety Precautions*, June 5, 1982.

<sup>219</sup> Ibid, Article 5.

<sup>220</sup> Ibid, Articles 9 through 12.

<sup>221</sup> *Royal Decree 40-1976, Law Governing Compensation for Occupational Injuries and Illnesses*, 1976.

of the employer or who work less than three months); external employees (workers who are given items for cleaning, washing, alteration, decoration, finishing, repair, or preparation for sale and who carry out this work in their homes or other places not under the supervision of the employer); employees who are dependent members of the employer's family living with him or her; domestic servants; agricultural workers; employees of small businesses employing less than 10 workers who are not dependent family members; workers benefiting from a special arrangement that has equal or greater advantages than those laid down in the law; and any group that the Government of Oman may decide to exempt.<sup>222</sup> Workers in the first three categories (military and police, civil servants, and casual workers) are covered under separate laws.<sup>223</sup>

Employees must abide by safety and health regulations and must not prevent orders safeguarding the health and safety of workers from being carried out, or misuse, cause damage to, or destroy workplace safety equipment.<sup>224</sup> Employers may legally dismiss workers who do not abide by safety regulations after they have been given one written warning, provided that the regulations are conspicuously displayed in the workplace and that their violation could cause serious harm to workers or serious damage to the workplace.<sup>225</sup> If there is a serious hazard threatening the safety or health of workers, then workers may leave their jobs before the expiration of their employment contracts and still preserve their rights, on condition that the employer was aware of the danger and did not implement the necessary measures prescribed by the relevant authorities.<sup>226</sup>

Employers must provide a first-aid kit at each worksite. If a facility has 100 to 500 employees, then the employer must hire a qualified nurse to provide first aid, designate a doctor for outpatient treatment, and provide free medicine to its workers. If the number of workers employed exceeds 500, the employer must provide free medical treatment, including surgeries and specialist consultations, with the exception of dentistry, ophthalmic, and maternity costs.<sup>227</sup>

An employee injured on the job must notify his or her employer of the accident as soon as his or her condition permits and no later than 30 days afterwards.<sup>228</sup> If notified of an injury, the employer is required to provide first aid even if the injury does not prevent the worker from carrying out his or her duties, and the employer also may ask the injured worker to be examined by a doctor.<sup>229</sup> The employer must inform the Ministry of Manpower and police within 24 hours of being notified of an occupational injury and must "send along either the injured worker or a

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<sup>222</sup> *Law Governing Compensation for Occupational Injuries and Illnesses*, Article 2.

<sup>223</sup> Civil servants are covered by the Civil Service Law, military and police personnel by the Military Service Law, and domestic service workers by Ministerial Decree No. 189 of 2004. The Civil Service Law of Royal Decree No. 27/75 outlines the rights and duties of civil servants. This law has been amended by *Royal Decree Nos. 17/88 and No. 89/98*. See Ministry of Information, *Oman 2003-2004*, [online] [cited November 7, 2005]; available at <<http://www.omanet.om/english/oman2004/STATE%20INSTITUTIONS.asp>>. See also Ministry of Manpower, *Ministerial Decree 189/2004 Stipulating Rules and Condition of Domestic Employees*.

<sup>224</sup> *Oman Labour Law*, Articles 27(7) and 88.

<sup>225</sup> *Ibid*, Article 40(3). Employers having 15 or more workers are required to display in a conspicuous place in the enterprise a notice of the standing work instructions, which include the rights and obligations of the worker and the employer. See *Oman Labour Law*, Article 28.

<sup>226</sup> *Oman Labour Law*, Article 41.

<sup>227</sup> *Ibid*, Article 33.

<sup>228</sup> *Law Governing Compensation for Occupational Injuries and Illnesses*, Article 11, promulgated by *Royal Decree No. 40/76*, Article 2.

<sup>229</sup> *Law Governing Compensation for Occupational Injuries and Illnesses*, Articles 15-16.

copy of the notification,” which must include a summary of the accident, the type of injury, and where the worker was treated.<sup>230</sup> An investigation must be conducted, resulting in a report that provides a detailed explanation of the accident; includes statements of the employee (if his or her condition permits), the employer, and witnesses; and clearly states whether or not the accident was the result of grievous and willful misconduct on the part of the worker.<sup>231</sup> The employer must pay compensation for occupational accidents and illnesses of his or her employees.<sup>232</sup>

The Department of Health and Safety within the Labor Care Directorate conducts occupational safety and health inspections and investigates occupational accidents and injuries.<sup>233</sup> Inspectors have the authority to enter the workplace, inspect employer records, question any individual they deem relevant, and make records of these inspections. If the labor inspector concludes that an employer is in violation of safety and health regulations, the employer is sent a written warning with instructions to come into compliance within a specified period of time. If the labor inspector determines that the safety and health of workers are in danger, the Ministry of Manpower has the authority to shut down facilities, wholly or partially, until the hazard is eliminated. The Ministry may request the assistance of the Royal Oman Police (ROP) if needed.<sup>234</sup> In 2004, the Ministry of Manpower conducted 2,210 occupational safety and health inspections, of which 840 were first inspections and 1,370 were follow-up inspections. Some 608 establishments were determined to be fulfilling Oman’s occupational safety and health regulations; another 1,095 were graced (given an initial warning, and an opportunity to correct violations), and 507 were summoned, which implies legal action.<sup>235</sup> Two-hundred and fifty eight companies were “banned,” which means that they were prevented from obtaining labor clearances, and their commercial rights were frozen.<sup>236</sup> In 2004, the Ministry of Manpower reported 10 work injuries in the country, including one fatal accident. No occupational diseases were reported for that year.<sup>237</sup> The U.S. Embassy in Muscat was unable to obtain further clarification on the numbers and types of accidents and/or deaths, and as to why the number of injuries and deaths reported was significantly lower than the number of companies found in non-compliance or violation of safety and health laws (1,860 total), including those 258 banned companies whose operating licenses were suspended.

In 2004, the Ministry of Manpower established a national Occupational Safety and Health Committee, which serves as an advisory body on occupational safety and health matters. The primary responsibility of the committee is to formulate the National Plan on Occupational Safety and Health. The national plan includes general safety and health policies to be implemented in private sector enterprises in accordance with the Labour Law and ministerial decrees, as well as a

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<sup>230</sup> Ibid, Article 12.

<sup>231</sup> Ibid, Article 13.

<sup>232</sup> Ibid, Articles 14, 21, and 34.

<sup>233</sup> *Oman Labour Law*, Article 90. See also *Law Governing Compensation for Occupational Injuries and Illnesses*, Article 13.

<sup>234</sup> *Oman Labour Law*, Article 90.

<sup>235</sup> U.S. Embassy-Muscat, electronic communication, February 13, 2006.

<sup>236</sup> Freezing commercial rights entails non-renewal of licenses, a prohibition on importing expatriate labor, and a prohibition on being upgraded to distinguished company status. U.S. Embassy-Muscat, electronic communications, January 3 and 25, 2006.

<sup>237</sup> Ministry of Manpower, “Table (1-4): Occupational Safety and Health Activities, January – December 2004,” as provided in U.S. Embassy-Muscat, electronic communication, attachment 3, June 25, 2005.

media policy that calls for preventive awareness materials to be disseminated among employers and their workers.<sup>238</sup>

## VI. Foreign Workers

In 2003, approximately 424,178 foreign workers were employed in Oman, representing 58 percent of the employed workforce.<sup>239</sup>

All foreign workers are covered by the Labour Law,<sup>240</sup> although the Labour Law does not apply to certain categories of workers, including domestic service workers. Domestic service workers, who are predominantly foreign, are covered by Ministerial Decree No.189/2004, which stipulates the rules and conditions governing their employment.<sup>241</sup> Employers must obtain a work permit from the Ministry of Manpower for each foreign worker, proving in each case that (1) there are no Omanis qualified for the position, (2) the enterprise has met its quota for Omanization, and (3) the fees for the worker have been paid.<sup>242</sup> Work permits are valid for two years and are renewable. In addition to the work permit, foreign workers must have a labor card before they are eligible to work in Oman. To obtain a labor card, a foreign worker must prove that (1) he or she has skills or qualifications needed by the country; (2) the employer has obtained a work permit for him or her; (3) he or she has entered the country lawfully and satisfies the conditions of the Foreigners Residence Law; (4) he or she is medically fit and free from infectious and chronic diseases as determined by the Ministry of Health; (5) he or she has a work contract with an employer who is registered with the Ministry of Commerce and Industry, if that worker will be working in an establishment; and (6) all fees have been paid.<sup>243</sup> Labor Cards have now been consolidated as the two-in-one “Residence/Labor Card” issued by the Royal Oman Police.<sup>244</sup> Only licensed employment brokers may supply foreign workers to employers. Neither employers nor employment brokers may charge foreign workers fees in consideration of their employment.<sup>245</sup>

Foreign workers are protected by law against abuse by their employers and may terminate their employment contracts *inter alia* if they are assaulted by their employer.<sup>246</sup> Employment for the worker in an alternative job within Oman is subject to the prevailing residence and immigration rules. If the employer is found guilty of abuse, the employer is responsible for repatriating the worker back to his or her country of origin, unless the worker expresses their intention to transfer to another employer. If the employer fails to repatriate the worker, the Ministry of Manpower will cover the expense and then charge the employer for reimbursement.<sup>247</sup> Article 6 of Ministerial Decree 89/2004 states that the employee is entitled to a ticket to his country if the

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<sup>238</sup> Ministry of Manpower, *Ministerial Decree on Occupational Safety and Health Committee*, May 24, 2004.

<sup>239</sup> 2003 is the most recent year for which Omani census data are available. See Ministry of National Economy, “Table 18-2: No. & Percentage Distribution of Expatriate Employed by Occupation & Sex” and “Table 19-2: No. & Percentage Distribution of Persons Employed by Industry & Sex,” in *Statistical Yearbook*, October 2004; available at <<http://www.moneoman.gov.om/123/population.htm>>.

<sup>240</sup> *Oman Labour Law*, Article 4.

<sup>241</sup> Ministry of Manpower, *Ministerial Decree 189/2004*.

<sup>242</sup> *Oman Labour Law*, Article 18. See also Ministry of Manpower, *Ministerial Decree 189/2004*, Article 3.

<sup>243</sup> *Ibid.* See also Ministry of Manpower, *Ministerial Decree 189/2004*, Articles 2-3.

<sup>244</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>245</sup> *Oman Labour Law*, Article 20.

<sup>246</sup> *Ibid.*, Article 41. See also Ministry of Manpower, *Ministerial Decree 189/2004*, Article 8.

<sup>247</sup> U.S. Embassy-Muscat, electronic communication, June 25, 2005.

employer ends the contract, or at the time of its expiration. As with other workers, foreign workers may apply to the Labor Care Directorate to resolve labor disputes with their employers.<sup>248</sup> In instances where the case is being adjudicated in the courts, a foreign worker may remain in the country without a contract until the conclusion of the proceedings and the issuance of an award, provided that the worker requested a stay of execution of residency cancellation when he or she filed the original complaint with the Ministry of Manpower.<sup>249</sup>

There have been reports of abuse of foreign workers in Oman, although no hard data tracking the type or frequency of abuse are available. Reports of abuse often concern domestic service workers.<sup>250</sup> The most common complaint is non-payment/back payment of wages.<sup>251</sup> Foreign women employed in the domestic service sector have alleged that employers have withheld their salaries and that government officials were unresponsive to their grievances, due to investigative procedures that disadvantaged the victim.<sup>252</sup> There have been no reports of employment brokers being party to an illegal activity, such as abuse; if such occurred, the brokers would be banned from bringing in domestic workers.<sup>253</sup> There have been instances of domestic workers being returned to employers who have abused them, though no data are available on the magnitude of this problem.<sup>254</sup>

Workers can report problems through a 24-hour government complaint line or to their Embassy representatives, who then work in conjunction with the Royal Oman Police<sup>255</sup> – the entity responsible for investigating complaints of abuse. Of the 56 complaints raised in 2004, eight were referred to the courts.<sup>256</sup>

The Government of Oman feels it has limited resources and relies on source countries to educate their workers before arriving in the Sultanate.<sup>257</sup> For example, the Philippines Embassy mandates a culture familiarization course in the Philippines before it will allow a citizen to take a job in Oman and performs regular outreach to Filipinos in Oman.<sup>258</sup> In addition, embassies often provide shelter to abused workers from their countries, and many South Asian governments also provide repatriation for their nationals.<sup>259</sup> The Philippines, for example, runs a shelter for domestic service workers who are pursuing complaints against their employers or subject to abuse.<sup>260</sup>

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<sup>248</sup> *Oman Labour Law*, Articles 104, 106, and 107. See also U.S. Embassy-Muscat, electronic communication, June 25, 2005.

<sup>249</sup> Government of Oman communication, January 4, 2006.

<sup>250</sup> See U.S. Department of State, *Trafficking in Persons Report – 2005: Oman*; see also U.S. Department of State, *Country Reports – 2004: Oman*, Section 6e.

<sup>251</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>252</sup> U.S. Department of State, *Trafficking in Persons Report – 2005: Oman*.

<sup>253</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>254</sup> U.S. Embassy-Muscat, electronic communication, March 5, 2006.

<sup>255</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.

<sup>256</sup> *Ibid.*

<sup>257</sup> *Ibid.*

<sup>258</sup> *Ibid.*

<sup>259</sup> U.S. Department of State, *Country Reports – 2004: Oman*, Section 6e.

<sup>260</sup> U.S. Embassy-Muscat, electronic communication, January 3, 2006.