

1. The present contribution comes within the framework of the second cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Oman and takes into consideration the recommendations made in January 2011.

1. Background and framework

2. Since the demand for more social justice and greater participation in the country's political life during the peaceful demonstrations of 2011, the political situation has severely deteriorated in Oman, a country in which the separation of powers is non-existent. Systematic repression has created a climate of fear, progressively imposed by the Sultanate.

3. In September 2014, after visiting the country, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr Maina Kiai, vocalised his "distinct impression of a pervasive culture of silence and fear affecting anyone who wants to speak and work for reforms in Oman".¹

1.1 Scope of international obligations

4. Despite recommendations to this effect, Oman has ratified neither the International Covenant on Civil and Political Rights (ICCPR) nor the Convention against Torture (CAT). At the first UPR, it merely "noted" recommendations on their ratification,² favouring those inviting to adopt a "positive perspective" thereof.³ This appears indicative of the authorities' unwillingness to accede to these essential human rights instruments.

5. Recommendation:

a) Ratify the ICCPR and CAT, as well as the Protocols thereto.

1.2 Constitutional and legislative framework

6. The Sultan has combined the executive and legislative powers and exercises strict control over the judiciary. He appoints and dismisses members of the government and Advisory Committee of the Shura – who represent the legislature – as well as senior judges, rendering the separation of powers illusory. The Committee's competences are limited to economic and social domains; able solely to propose laws without promulgating them, a role reserved for the executive. Since his hospitalisation, close advisors who exercise their prerogatives in the absence of any opposition have replaced the Sultan.

7. The 1996 Constitution affirms the fundamental rights and freedoms of all people, whilst subjecting them to the application of laws and decrees. In practice, however, an extremely restrictive legal framework and the lack of an independent judiciary have rendered these rights meaningless.⁴

1.3 Institutional and human rights infrastructure

8. The National Human Rights Commission (NHRC) does not enjoy the necessary autonomy vis-à-vis the executive, owing particularly to its limited mandate and the mode of its members' appointment. Established by a royal decree in 2008,⁵ its legal basis contradicts the Paris Principles and deprives it of the independence required to ensure an effective role in the promotion and protection of human rights.

¹ Statement By the United Nations Special Rapporteur On the Rights to Freedom Of Peaceful Assembly And Of Association At the Conclusion Of His Visit To The Sultanate of Oman, 13 September 2014, <http://freeassembly.net/rapporteurpressnews/statement-oman/> (accessed 27 February 2015).

² Recommendations n.90.1 (United Kingdom); n.90.5 (Chad); n.90.7 (Italy); n.90.8 (France); n.90.9 and n.90.11 (Slovenia); 90.12 (Spain); n.90.13 (Slovakia).

³ Recommendations n.89.1 (Algeria); n.89.2 (Turkey); n.89.3 (Morocco); n.89.4 (Egypt).

⁴ During the previous UPR, Oman merely "noted" recommendation n.90.40 (Canada).

⁵ Royal Decree No. 124/2008 of 15 November 2008.

9. Local civil society perceives the NHRC as a state institution, operating directly under the Sultan. This perception is reinforced by the notable inaction in the face of repeated human rights violations and the lack of recommendations or reform proposals to improve the situation, including at the requests of victims. During the last UPR, Oman simply noted the recommendations requesting it to bring the NHRC in compliance with the Paris Principle, demonstrating a lack any real commitment to overcome these numerous shortcomings.⁶

10. **Recommendation:**

- a) Review the establishment, method of appointment, and mandate of the NHRC to bring it in conformity with the Paris Principles.

2. Cooperation with human rights mechanisms

11. The Omani authorities refuse to cooperate with the UN's human rights protection mechanisms. Numerous urgent appeals and allegation letters sent by the Special Procedures remain unanswered.

12. In this regard, the cases of Saïd Jadad and Talib Al Ma'amari⁷ are revealing. The latter, a parliamentarian detained since October 2013 for having participated in peaceful demonstrations against the pollution of the petrochemical industries in Liwa, remains imprisoned, despite the Working Group on Arbitrary Detention (WGAD) describing his detention as arbitrary and requesting his immediate release.⁸ During his visit in September 2014, the authorities denied Mr Kiai's request to visit him in prison.

13. Jadad, a prominent human rights defender, has been the victim of reprisals since meeting with Mr Kiai and has been detained *incommunicado* since 21 January 2015. He has been sentenced to three years of imprisonment for "undermining the prestige of the state", despite calls for his immediate release and the cessation of retaliations against him by several UN experts.⁹

14. **Recommendation:**

- a) Cooperate fully with the Special Procedures and implement their decisions and recommendations.

3. Implementation of international human rights obligations

3.1 Right to life, liberty and security of the person

15. The Constitution guarantees "individual freedom" subject to the exceptions provided for by law. The provisions described below have effectively limit those rights.

3.1.1 Torture and other cruel, inhuman or degrading treatment

16. If the Constitution prohibits torture, its definition is not consistent with that of the CAT, which is considered customary. Moreover, the practice of torture remains widespread in times of detention and is used as a means of suppressing any criticism or dissent.

17. **Recommendation:**

- a) Establish a definition of torture in accordance with international law.

3.1.2 Excessive use of force to suppress peaceful demonstrations

⁶ Recommendations n.90.20 (Spain); n.90.21 (Indonesia); n.90.22 (Malaysia); n.90.23 (Chile); n.90.24 (Nigeria); n.90.25 (Germany).

⁷ Alkarama, *Oman experts recognise arbitrary nature of MP Talib Al Ma'amari's detention and call for immediate release*, 30 January 2015, <http://en.alkarama.org/oman/1603-oman-un-experts-recognise-arbitrary-nature-of-mp-talib-al-ma-amari-s-detention-and-call-for-immediate-release> (accessed 27 February 2015).

⁸ Opinion of the WGAD No.53/2014 adopted on 21 November 2014.

⁹ OHCHR, *Oman: UN experts call for the immediate release of prominent rights activist, as reprisals continue unchecked*, 30 January 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15525&LangID=E> (accessed 27 February 2015).

18. Peaceful gatherings are systematically repressed in Oman. In 2011, during the protests before the Advisory Council in Sohar and Mascate, Alkarama identified a disproportionate and unjustified use of force to violently disperse demonstrators. The security forces fired live bullets at demonstrators, causing several deaths and numerous injuries. Many arrests were issued over the following months, particularly among human rights defenders.¹⁰

19. **Recommendations:**

- a) Guarantee the right to peaceful assembly and implement demonstration control procedures in line with internationally accepted standards;
- b) Fight against the impunity of state officials responsible for serious human rights violations and provide victims with adequate compensation.

3.2 Right to a fair trial

3.2.1 Draconian domestic laws

20. In 2001, Decree No. 96/2011 amended the Code of Criminal Procedure to include article 54, which allows the period of police custody to be extended indefinitely.¹¹

3.2.2 Arbitrary, secret and *incommunicado* detention

21. Article 24 of the Constitution prohibits arbitrary arrest and detention. However, this provision was frequently violated in recent years. The Sultan's Special Services (Intelligence Services) operate outside any legal framework, habitually arresting persons and detaining them *incommunicado*. In May 2011, 107 persons were arrested during their participation in peaceful demonstrations, with some subsequently detained in this manner.¹²

22. The aforementioned cases of Talib Al Ma'amari and Saïd Jadad are illustrative of a systematic practice of *incommunicado* detention to counter any criticism against Oman's civil and political rights situation. Mr Noah Al Saadi, a human rights defender, was himself detained *incommunicado* for 26 days for denouncing such practice.¹³ Similarly, Mr Abdulrahman Ali Salem Mohamed, a Yemeni citizen, was abducted by the security forces on 27 December 2013, and secretly detained for over six months.¹⁴

23. Moreover, despite the constitutional guarantees, those arrested are systematically detained *incommunicado*, are not informed of the reasons for their arrest, and cannot contact their relatives and/or lawyers. The case of Talib Al Ma'amari above is indicative of such practice, as confirmed by the WGAD.¹⁵

24. **Recommendation:**

- a) Put an end to arbitrary arrests and detention, in particular when secret and *incommunicado*, and establish a legal framework in accordance with the principles guaranteeing respect for fundamental rights and freedoms.

¹⁰ Amongst those arrested are human rights activists, journalists, and other civil society members. We can cite in particular, Saïd Sultan Al Hashimi, Bassima Al Rajhi and Badr Al Jabri.

¹¹ **Article 54:** A preventive detention order can be issued by the Public Prosecutor for a period of seven days with a possibility for its renewal for a maximum period of thirty days, and the prosecution can in cases of financial crimes and drugs and psychotropic substances related crimes issue a preventive detention order for periods not exceeding in total forty five days. If the Public prosecutor decides to extend the period of preventive detention after this period, he must ask the correctional court to issue an order to prolong the detention for a maximum period of fifty days renewable up to six months. If in the meantime the accused is brought to court, the Prosecution can extend his preventive detention for another period not exceeding forty-five days renewable; otherwise it shall release the accused in all events. (Translation by Alkarama)

¹² Alkarama, *Oman: Dozens still arbitrarily detained after peaceful demonstrations*, 1 June 2011, <http://en.alkarama.org/oman/press-releases/750-oman-dozens-still-arbitrarily-detained-after-peaceful-demonstrations> (accessed 27 February 2015).

¹³ Alkarama, *Oman: Human Rights Defender Noah Al Saadi freed today after 26 days of secret detention*, 7 August 2014, <http://en.alkarama.org/component/content/article/30-oman/communiqu/1266-oman-human-rights-defender-noah-al-saadi-freed-today-after-26-days-of-secret-detention> (accessed 5 February 2015).

¹⁴ Alkarama, *Oman: Enforced disappearance of a Yemeni citizen, Abdulrahman Ali Salem Mohammed, for more than six months*, 14 June 2014, <http://en.alkarama.org/oman/press-releases/1239-oman-enforced-disappearance-of-a-yemeni-citizen-abdulrahman-ali-salem-mohammed-for-more-than-six-months> (accessed 4 February 2015).

¹⁵ Opinion of the WGAD No.53/2014 adopted on 21 November 2014, §46.

3.3 Administration of justice, including impunity, and the rule of law

25. The absence of an independent judiciary, controlled instead by the executive and increasingly instrumental in quelling any dissent, undermines the rule of law.

26. **Recommendation:**

- a) Ensure full independence of the judiciary, including the establishment of a Supreme Judicial Council, impartial to the executive.

3.4 Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

27. During the first UPR, Oman accepted a recommendation calling on the authorities to reinforce freedom of expression, opinion and assembly.¹⁶

28. These freedoms, restricted by law, have been increasingly limited since 2011. Having prohibited the establishment of new political parties and associations, the right of political participation is rendered meaningless. During the 2011 protests, a group of young activists tried to create an association "change and reform", for the purpose of proposing government reforms. The Department of Social Development has nevertheless refused their accreditation request.

29. The authorities have justified numerous exceptions to these fundamental rights and freedoms on the basis of "public order" and "national security"; broadly interpreted to include any peaceful action or protest.

3.4.1 Right to freedom of opinion and expression

30. Following the last UPR, Oman accepted to take measures to guarantee freedom of expression in conformity with international standards,¹⁷ but merely "noted" those concretely asking for, among other things, an amendment to the provisions in its Penal Code that criminalise the exercise of these freedoms by journalists.¹⁸

31. Whilst enshrined in the Constitution, freedom of expression is still limited by law,¹⁹ and communications are closely monitored. Many human rights defenders or journalists have been summoned by the Sultan's Special Services following any interaction with human rights organisations.

32. Article 126 of the Penal Code criminalises criticism against the Sultan or members of the government, with the penalty of up to three years' imprisonment.²⁰ It is commonly against human rights defenders or others critics of the Sultan or Executive's decisions, leading to a generalised climate of fear and paralysing any constructive political debate.

33. Freedom of the Press is limited by several legal restrictions, particularly in cases of "violations of State security".²¹ Article 26 of the Law on Press and Publication²² restricts the freedom to collect and organise debates in virtual public spaces, e.g. blogs.

¹⁶ Recommendation n.89.56 (Brazil).

¹⁷ Recommendations n.89.57 (Poland); n.89.58. (France); n.89.59 (Slovakia);

¹⁸ Recommendations n. 90.19 (Canada); n.90.44 (Sweden); n.90.45 and n.90.46 (Norway); n.90.47 (Italy); n.90.48 (Poland); n.90.49 (Australia).

¹⁹ Basic Law of Oman of 1996, Article 29 [Expression]: "Freedom of opinion and expression, whether spoken, written or in other forms, is guaranteed within the limits of the Law". Article 30 [Communication]: "Freedom of postal, telegraphic, telephonic and other forms of communication is sacrosanct and their confidentiality is guaranteed. Hence, it is not permitted to monitor or inspect them, reveal their contents, or delay or confiscate them except in circumstances defined by the Law and in accordance with the procedures laid down therein". (Translation by Alkarama)

²⁰ Article 126 Penal Code (Chapter II Breach of the internal security of the State; assault against His Majesty the Sultan): "Any person who commits, publicly or by publication, libel against the Sultan's rights or authority or criticizes his person shall be sentenced to imprisonment from three months to three years and fine from twenty five to five hundred Omani Rials, or only one of these two sentences". (Translation by Alkarama)

²¹ Basic Law of Oman, Article 31 [Press]: "Freedom of the press, printing and publication is guaranteed in accordance with the conditions and circumstances defined by the Law. It is prohibited to print or publish material that leads to public discord, violates the security of the State or abuses a person's dignity and his rights". (Translation by Alkarama)

²² Article 26 of the Law on Press and Publication prohibits "any publication that might prejudice the safety of the State or its domestic and international security and all publication related to military and security institutions as well as their regulations and internal rules and any document, information, news, communications – in the sense of information

34. These provisions are routinely used to suppress journalists: Mohamed Al Fazari, Editor in Chief of the Al Muwatin newspaper, has been arbitrarily arrested and detained *incommunicado* because of his articles.²³ Moreover, journalists are strictly monitored and subject to regular police summons or criminal prosecution.

35. Offences such as the "incitement to civil war", to "religious or sectarian dissent" or the "spreading of hatred among the population" are used to suppress freedom of expression and prosecute opposition.²⁴

36. Finally, the criminalisation of "undermining the prestige of the State", recently introduced in the Penal Code²⁵ is systematically used to silence and punish any criticism of the authorities, including in cases where such persons have denounced corruption within the government.

37. **Recommendation:**

- a) Ensure freedom of opinion and expression in accordance with international standards and decriminalise free expression and peaceful protest against the government.

3.4.2 Right to peaceful assembly

38. The Constitution recognises citizens' rights to assembly "within the limits of the law".²⁶ Under article 137 of the Penal Code, persons participating in a gathering of over ten persons may be sentenced for up to one year in prison for "disturbing public order". It is often used to suppress peaceful demonstrations. In practice, any meeting between a plurality of persons in a public space is prohibited and considered an "unlawful assembly".

39. In October 2013, Alkarama documented the case of ten citizens who were arrested in Liwa for having participated in a peaceful demonstration against the pollution caused by petrochemical plants.²⁷

40. **Recommendation:**

- a) Guarantee an effective right to peaceful assembly by repealing the legal provisions outlined above.

3.4.3 Freedom of association

41. Article 33 of the Constitution establishes the right to form associations, but limits this to those having "legitimate objectives";²⁸ activities considered "contrary to social order" are thus prohibited.

exchanges – whether the latter are official or confidential and whether it is published through visual or audio-visual media or through information networks or other information technology, without the permission of the competent authorities". (Translation by Alkarama)

²³ Alkarama, *Oman: Release of Journalist Mohammed Al Fazari After 5 days of Incommunicado Detention*, 5 September 2014, <http://en.alkarama.org/oman/press-releases/1498-oman-release-of-journalist-mohammed-al-fazari-after-5-days-of-incommunicado-detention> (accessed 27 February 2015).

²⁴ Article 131 was modified in 2001 by the Sultani Decree No. 2001/72 which added Article 130 *bis* (*in Criminal Code's Chapter II Assault against the State's Internal Security; d) Provocation of Civil War*). Originally Article 130 of the Criminal Code stated that: "Any person committing an act aiming at provoking a civil war shall be sentenced to life imprisonment". In 2011, Decree No. 2001/72 that went unnoticed by Omani Civil Society added a *bis* paragraph which states that: "Will be punished by imprisonment for a period not exceeding ten years, anyone who promotes religious or sectarian dissension, or stirs up feelings of hatred among the country's population".

²⁵ Royal Decree No. 96/2011 amended article 135 of the Penal Code which criminalises all publications of information deemed by the authorities to be "false" or "hurting the prestige of the State: "Shall be sentenced to imprisonment from one month to three years and fine from twenty five to five hundred Omani Rials, or either of the two sentences only, any person who deliberately incites through publication, to diffuse fake information or data or untrue allegations with a intention to harm the prestige of the state or to shake the trust in the state's financial status". (Translation by Alkarama)

²⁶ Basic Law of Oman, [Article 32 \[Assembly\]](#): "Citizens have the right of assembly within the limits of the Law". (Translation by Alkarama)

²⁷ Alkarama, *Oman: Ten Human Rights Activists on Trial for Protesting Peacefully*, 8 October 2013, <http://ar.alkarama.org/oman/press-releases/item/4733-2014-08-03-16-04-57> (accessed 27 February 2015).

²⁸ Basic Law of Oman, [Article 33 \[Association\]](#): "The 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 of this Basic Law, is guaranteed under the conditions and in the circumstances defined by the Law. It is forbidden to establish associations whose activities are inimical to social order, or are secret, or of a military nature. It is not permitted to force anyone to join any association". (Translation by Alkarama)

42. Special Rapporteur Maina Kiai emphasised that freedom of association was “virtually non-existent”.²⁹ The Civil Associations Law³⁰ prohibits political and religious associations, including political parties.³¹ The accreditation process is controlled by the Ministry of Social Development, which receives and reviews applications, and monitors existing associations by directly supervising general meetings.³²

43. The law forbids associations from having relations with foreign countries, providing assistance to others, or organising festivities without prior permission from the administration.³³ The Ministry may oppose the establishment of an association if it believes that “Omani society does not need it, if there is a similar association, or the object stated in the articles of association is contrary to the interest of national security or for any other reason that the Minister considers relevant”.³⁴ Such refusal cannot be challenged by judicial proceedings.³⁵

44. **Recommendation:**

- a) Ensure freedom of association, including for political purposes, without interference by the Executive, and in accordance with international standards.

3.5 Situation of human rights defenders and political activists

45. Alkarama regularly documents cases of reprisals against human rights defenders or political activists; taking the form of arbitrary arrests, travel bans – as in the case of Saïd Jadad after meeting the Special Rapporteur during his visit³⁶ –, confiscation of identity documents, and inappropriate summons by the Sultan’s Special Services. Following their arbitrary arrest, victims are routinely held incommunicado for periods ranging from one week to several months.

46. The testimonies describe detention conditions as inhuman and degrading. The right to have access to a lawyer or one’s relatives is never respected and interrogations always concern the activities of human rights defenders, their links with international organisations, including the UN, and the nature of information communicated.

47. Human rights defenders who met with Mr Maina Kiai’s suffered severe reprisals following his visit.³⁷

48. **Recommendation:**

- a) End reprisals against human rights defenders and peaceful activists; lift all travel bans, cease confiscation of identity documents, and release all those detained for participating in peaceful activities.

²⁹ In his communication, the Special Rapporteur stated that: “The Basic Law of Oman also establishes the right to form associations, but based on my observations this right is virtually non-existent”, <http://freeassembly.net/rapporteurpressnews/statement-oman/> (accessed 27 February 2015). Royal Decree No. 14/2000 of 13 February 2000 on civil associations.

³⁰ Royal Decree No. 14/2000 of 13 February 2000 on civil associations.

³¹ Article 5 of the Law on Civil Associations sets out the conditions of existence for associations in Oman and provides that: “It is forbidden for associations to engage in matters related to politics; or to form itself as a political party; or to interfere in religious matters; or to be formed on a tribal basis (i.e. to represent a tribe). (Translation by Alkarama)

³² Civil Associations Law, Article 23: “the Ministry shall be informed of all the reunions of the associations members at least 15 days prior to the scheduled reunion with a copy of the invitation letters sent to the attendees, explaining the agenda and enclosing all the documents related to the meeting. The ministry appoints an emissary in order to attend the reunion”.

Article 31: the Minister can send a delegation to attend the executive board meetings in order to present the Ministry’s point of view regarding a particular issue that it considers of public utility and that should be examined by the board of directors. The delegates can participate to the debates without having the right to vote on the issue.

Article 32: a copy of all the reunion’s minutes must be sent to the Ministry within 15 days. (Translation by Alkarama)

³³ Civil Associations Law, Article 5.

³⁴ Civil Associations Law, Article 11.

³⁵ Civil Associations Law, Article 12.

³⁶ Alkarama, *Oman: Saïd Jadad, human rights defender, victim of reprisals after his meeting with UN Special Rapporteur*, 5 November 2014, <http://en.alkarama.org/oman/press-releases/1545-oman-said-jadad-human-rights-defender-victim-of-reprisals-after-his-meeting-with-un-special-rapporteur> (accessed 5 March 2015).

³⁷ Alkarama, *Oman: Salah Human Rights Defender Detained Incommunicado after meeting with UN Special Rapporteur*, 15 December 2014, <http://en.alkarama.org/component/k2/1570-oman-salah-human-rights-defender-detained-incommunicado-after-meeting-with-un-special-rapporteur?Itemid> (accessed 27 February 2015); Alkarama, *Oman: Release of Journalist Mohammed Al Fazari After 5 days of Incommunicado Detention*, 5 September 2014, <http://en.alkarama.org/component/k2/1498-oman-release-of-journalist-mohammed-al-fazari-after-5-days-of-incommunicado-detention?Itemid> (accessed 27 February 2015).

3.6 Human rights and counter-terrorism

49. Alkarama is concerned by the anti-terrorism legislation being used to suppress persons peacefully exercising their universally recognised fundamental rights, as well as the prosecutions of those seeking to create a political party, prohibited in the country.

50. **Recommendation:**

- a) Amend the anti-terrorism law to bring it in conformity with the guarantees and fundamental freedoms of a fair trial.

3.7 Nationality Law

51. The 2014 amendments,³⁸ relating to the Nationality Law introduced provisions authorising the forfeiture of Omani nationality of any citizen who damages the State's image abroad, including through collaboration with "international organisations". Omani civil society fears that these provisions may be used by the authorities in retaliation against human rights defenders working or communicating with NGOs or the UN.

52. **Recommendation:**

- a) Repeal the aforementioned provisions to the Nationality Law and end the practice of depriving nationality to muzzle any form of criticism.

³⁸ Law of 11 August 2014 amending the Law on Nationality. Article 20 reads as follow:

"The Omani born citizen will lose his citizenship if it is proved that he:

- Belongs to a group, party or organisation that embraces principles or doctrine that are hurting the interest of Oman
- If he works for a foreign country in any capacity and regardless of whether the work was done inside or outside the country and if he does not meet the demand of the government to leave his position before the deadline given to him (i.e. by the Omani authorities) works in favour of a hostile state which is working against the interest of Oman.

The Omani national can have his nationality back if he stops the above mentioned activities". (Translation by Alkarama)