



# Oman

## Universal Periodic Review

*Report submitted to the United Nations Human Rights Council in the context of the third periodic review of Oman*

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# 1 Scope of international obligations and cooperation with international human rights mechanisms and bodies

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## 1.1 Scope of international obligations

Article 76 of the Basic Law on Oman (Basic Law)<sup>1</sup> provides that international treaties become national law upon ratification and are enforceable domestically.

However, Oman has not ratified (i) the International Covenant on Civil and Political Rights (ICCPR), (ii) the First and Second Optional Protocols to the International Covenant on Civil and Political Rights (ICCPR-OP1 and ICCPR-OP2), (iii) the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OPICESCR), (iv) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OPCEDAW), (v) the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), (vi) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW), (vii) the International Labour Organization's (ILO) Domestic Workers Convention (No. 189), or (viii) the Rome Statute of the International Criminal Court (ICC).

In January 2019 Oman withdrew the reservation from paragraph 4 of article 15 CEDAW, thereby implementing recommendations received during the second cycle of the UPR.<sup>2</sup> However, Oman is yet to withdraw its remaining reservations, which are essential for ensuring gender equality.<sup>3</sup> Furthermore, in ratifying the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention for the Protection of All

<sup>1</sup> Available at: [https://menarights.org/sites/default/files/2016-11/OMN\\_Constitution\\_ENG.pdf](https://menarights.org/sites/default/files/2016-11/OMN_Constitution_ENG.pdf).

<sup>2</sup> Supported: recommendations No. 129.37 (Djibouti); 129.38 (Burundi).

<sup>3</sup> Oman retains the following reservations: (i) all provisions of the Convention not in accordance with the provisions of the Islamic sharia and legislation in force in the Sultanate of Oman; (ii) article 9 (2), which provides that States Parties shall grant women equal rights with men with respect to the nationality of their children; (iii) article 16, regarding the equality of men and women, and in particular subparagraphs (a), (c), and (f) (regarding adoption); and (iv) article 29(1), regarding arbitration and the referral to the International Court of Justice of any dispute between two or more States which is not settled by negotiation.

Persons from Enforced Disappearance, and the International Covenant on Economic, Social and Cultural Rights, Oman has made several reservations,<sup>4</sup> including the right of the Committees to visit and report on allegations, the right to arbitration.

### Recommendations:

- Ratify all outstanding human rights treaties and their optional protocols, namely the ICCPR, the ICCPR-OP1 and ICCPR-OP2, the OPICESCR, the OPCEDAW, the OPCAT, the CRMW, ILO Convention No. 189 and the Rome Statute.
- Remove all reservations to ratified treaties, and ensure that international human rights standards take precedent in the event of any conflict with domestic legislation.

## 1.2 Cooperation with international human rights mechanisms and bodies

During the second cycle of the UPR, Oman submitted a report to the CEDAW. However, it is noted that whilst Oman's report to the CEDAW was due 1 October 2015, it was not submitted until 10 March 2016. Furthermore, in 2016 the Secretary General noted that Oman had not responded to a communication dated 9 January 2015 regarding the case of Said Ali Said Jadad, who experienced intimidation and reprisals after meeting with the Special Rapporteur on the rights to freedom of peaceful assembly and of association.<sup>5</sup>

Oman is yet to issue a standing invitation to all special procedures mandate holders. Since the second cycle of the UPR, no Special Procedure mandate holder undertook a mission to Oman.

### Recommendation:

- Issue a standing invitation to all Special Procedures mandate holders and ensure full cooperation with UN human rights mechanisms.

## 2 National human rights framework

The Oman Human Rights Commission (OHRC) was established in 2008, pursuant to the 2008 Law on the National Human Rights Commission<sup>6</sup> and it appears as though there has been limited development since 2013.<sup>7</sup>The OHRC has only been awarded B status by the Sub-

<sup>4</sup> "HM the Sultan Issues Five Royal Decrees", Oman News Agency, 7 April 2020, <https://omannews.gov.om/NewsDescription/ArtMID/392/ArticleID/11268/HM-the-Sultan-Issues-Five-Royal-Decrees>.

<sup>5</sup> Human Rights Council, Report of the Secretary General, A/HRC/33/19, 16 August 2016, para. 43. <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session33/Pages/ListReports.aspx>

<sup>6</sup> Royal Decree 124/2008 is available at: [https://menarights.org/sites/default/files/2016-12/OMN\\_Decree124-2008\\_NHDI\\_AR.pdf](https://menarights.org/sites/default/files/2016-12/OMN_Decree124-2008_NHDI_AR.pdf).

<sup>7</sup> "Oman: National Human Rights Commission", Alkarama, 2 September 2013. [https://www.alkarama.org/sites/default/files/2017-08/ALK\\_Oman\\_NHRI\\_02092013\\_EN\\_Final.pdf](https://www.alkarama.org/sites/default/files/2017-08/ALK_Oman_NHRI_02092013_EN_Final.pdf).

Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI).<sup>8</sup>The SCA emphasised its concerns that the 2008 Law on the National Human Rights Commission does not align with international standards, including provisions regarding the composition, selection and appointment of the Commission, which illustrate a lack of independence from the executive.<sup>9</sup> Furthermore, it is clear from a review of their own website that there is little transparency regarding the activities of the OHRC. Annual reports (in Arabic) for 2014, 2016 and 2017 have not been published whilst the annual reports which are available online fail to detail meaningful activities and findings in relation to the state of human rights in Oman.<sup>10</sup>

### Recommendation:

- Ensure that the OHRC is in full compliance with the Paris Principles by amending the 2008 Law on the National Human Rights Commission<sup>11</sup> to guarantee full independence from the executive.

## 3 Implementation of international human rights obligations

### 3.1 Fundamental freedoms

#### 3.1.1 Right to freedom of opinion and expression

Despite supporting recommendations in 2015 to progress and uphold freedom of opinion and expression,<sup>12</sup> during the reporting period there has been a rise on the arrests of peaceful

<sup>8</sup> "Chart of the Status of National Institutions: Accreditation as of 27 November 2019," *GANHRI*, 27 November 2019, page 11, <https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20-%20Chart%20%28%2027%20November%202019.doc%29.pdf>.

<sup>9</sup> Members are appointed by royal decree and only three of the fourteen members represent civil society. For more information, see: "CC Sub-Committee on Accreditation Report," *Sub-Committee on Accreditation*, November 2013, page 12, <https://nhri.ohchr.org/EN/AboutUs/GANHRIAccreditation/Documents/SCA%20NOVEMBER%202013%20FINAL%20REPORT%20ENGLISH.pdf>.

<sup>10</sup> "Publications," Oman Human Rights Commission, accessed 29 January 2020, <https://www.ohrc.om/%d8%a7%d9%84%d9%85%d8%b1%d9%83%d8%b2-%d8%a7%d9%84%d8%a5%d8%b9%d9%84%d8%a7%d9%85%d9%8a/%d8%a7%d9%84%d9%83%d8%aa%d8%a8/>.

<sup>11</sup> The content of the articles are as follows: (i) article 1 determines the members of the Commission, (ii) article 2 establishes that the Commission members shall be appointed by royal decree, (iii) article 6 establishes that the Commission's by-laws must be approved by the Council.

<sup>12</sup> Supported: 129.156 (France) and 129.90 (Sweden).

<sup>13</sup> "Oman court jails journalists, closes down newspaper," *Reuters*, 26 September 2016, <https://www.reuters.com/article/us-oman-newspaper-trial-idUSKCN11W104>

<sup>14</sup> "News updates on human rights issues in Oman," OCHR, 22 August 2017, <https://ochroman.org/eng/2017/08/lastupdates/>.

critics, including journalists,<sup>13</sup> writers<sup>14</sup> and activists.<sup>15</sup>

Legislation has become increasingly repressive, with the 2018 amendments to Oman's Penal Code (the "Penal Code")<sup>16</sup> containing several overly broad provisions which enable the institutional violation of the right to freedom of opinion and expression, particularly in relation to activists, human rights defenders and journalists. These include the criminalisation of (i) criticism of the Sultan,<sup>17</sup> (ii) impacting the integrity of the State,<sup>18</sup> (iii) criticism of any foreign head of state in / visiting Oman,<sup>19</sup> and (iv) the broadcasting, publication, or possession of information deemed by the state to be false or tendentious liable to harm the prestige of, or financial confidence in, the State.<sup>20</sup>

In addition, Article 118 of the Penal Code criminalises any access, possession, and distribution of information relating to any associations considered to be anti-state. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has expressed serious concerns, asserting that this provision "constitutes a major threat to the work of human rights defenders, online and offline activists and journalists" and "clearly violates the right to freedom of opinion and expression."<sup>21</sup> The legal framework moreover contributes to creating a chilling effect and self-censorship.<sup>22</sup> The Penal Code also criminalises the receipt of funding or resources in relation to such offences, as well as solicitation of a foreign state or its agents for the purpose of committing an act harmful to the national interest.<sup>23</sup> This allows the authorities to directly target journalists and activists who engage with foreign or national organisations in the course of exercising freedom of opinion and expression.

<sup>13</sup> "Oman court jails journalists, closes down newspaper," *Reuters*, 26 September 2016, <https://www.reuters.com/article/us-oman-newspaper-trial-idUSKCN11W104>

<sup>14</sup> "News updates on human rights issues in Oman," OCHR, 22 August 2017, <https://ochroman.org/eng/2017/08/lastupdates/>.

<sup>15</sup> For more information, see: "Draconian sentences passed on Musandam activists!," OCHR, 9 October 2018, <https://ochroman.org/eng/2018/10/musandam/> and "Yousef Al-Arimi's detention," OCHR, 17 April 2018, <https://ochroman.org/eng/2018/04/youssefarimis/>.

<sup>16</sup> Royal Decree 7/2018 is available at: [https://menarights.org/sites/default/files/2020-01/OMN\\_Royal%20DecreeNo7\\_PenalCode\\_2018\\_AR.pdf](https://menarights.org/sites/default/files/2020-01/OMN_Royal%20DecreeNo7_PenalCode_2018_AR.pdf).

<sup>17</sup> Article 97 of the Penal Code establishes that "the punishment for anyone who either openly or by means of publication commits slander against the Sultan and his authority, or denigrates him personally, shall be imprisonment for a term of not less than three years and not more than seven years." Previously, the sentence for this offence ranged from six months to three years under article 126 of the Omani Penal Code (as promulgated by Royal Decree 7/74).

<sup>18</sup> Article 125 of the Penal Code provides that "any person who intentionally commits an act which prejudices the independence, unity or territorial integrity of the country shall be punished with death or life imprisonment".

<sup>19</sup> Article 102 of the Penal Code.

<sup>20</sup> Article 115 of the Penal Code.

<sup>21</sup> Special Rapporteur on the right to freedom of opinion and expression, *Opinion*, OL OMN 1/2018, Page 3. [https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL\\_OMN\\_26.03.18.pdf](https://www.ohchr.org/Documents/Issues/Opinion/Legislation/OL_OMN_26.03.18.pdf).

<sup>22</sup> *Ibidem*.

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23722>.

<sup>23</sup> Articles 119 and 120 of the Penal Code.

Recent cases include an arrest in relation to an unpublished book,<sup>24</sup> and imprisonment for articles criticising the judiciary and exposing government corruption.<sup>25</sup> Additional legislation being used to restrict freedom of expression include the 2002 Telecommunications Act<sup>26</sup> and the 2011 Cybercrime Law,<sup>27</sup> which have been used to target newspapers and arrest and imprison activists. These laws contain vague terms and impose prison sentences on those deemed to violate public order, public morals, or religious values. Charges include “misuse of social media”<sup>28</sup> and, further to the outbreak of COVID-19, the Government Communication Centre has warned that the spreading of rumours or fake news is a criminal offence.<sup>29</sup> Most recently, on 3 June 2020, Awadh al-Sawafi was summoned by the Public Prosecution office for questioning over comments he had posted on Twitter.<sup>30</sup> On 9 June, his first trial session was held and he was charged with “using information technology to publish material prejudicial to public order”, under the Cybercrime Law. He was subsequently released on bail. On 16 June, the Ibri Court of First Instance issued a one-year suspended prison sentence against him.

In addition to the introduction of repressive legislation, the authorities increasingly utilise other measures to silence peaceful criticism, including the withdrawal or banning of books,

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<sup>24</sup> Omani writer Musallam Masoud al Mashani was arrested on 14 November 2019 in connection with his as yet unpublished new book. For more information, see:

“Omani writer arrested over book on tribes,” OCHR, 19 November 2019, <https://ochroman.org/eng/2019/11/musallammashani/>.

<sup>25</sup> In 2017, the Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders transmitted UA OMN 1/2017 in relation to the case of Mr Yusuf Al Balouchi, who was arrested after publishing an article critical of the judiciary and a series of articles on governmental corruption. Mr Al Balouchi was subsequently charged and sentenced on the grounds of “undermining the status and the prestige of the state”, “publishing what might be prejudicial to public security”, “contempt for the judiciary”, and “breaching the Ministry of Information’s order prohibiting publicising the arrest of Al Zaman’s editor-in-chief Ibrahim Al-Maamari.” For more information, see: Special Rapporteur on freedom of expression and opinion and Special Rapporteur on the situation of human rights defenders, Communication, UA OMN 1/2017, 29 March 2017 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23047>.

<sup>26</sup> Article 61 of Royal Decree 30/2002 does not align with international standards, stating: “Any person who sends, by means of telecommunications system, a message that violates public order or public morals, or is not true and he is aware of, or it aims to disturb others, shall be punished with imprisonment for a period not exceeding one year, and with a fine not exceeding one thousand Omani Riyals, or with one of these two penalties.” Royal Decree 30/2002 is available at: <http://www.ituarabic.org/coe/2005/Interconnection-05/Documents/Additional-2b.pdf>.

<sup>27</sup> Article 19 of Royal Decree 12/2011 does not align with international standards, stating: “the penalty with imprisonment for a period not less than one month and not exceeding three years and a fine not less than OMR one thousand and not exceeding OMR three thousands or by either penalty, shall be applied to any person who uses the informational network or the information technology facilities to produce or publish or distribute or purchase or possess whatsoever that might prejudice the public order or religious values.” Royal Decree 12/2011 is available at: <https://menarights.org/sites/default/files/2019-01/OmanCyberCrimeLaw.pdf>.

<sup>28</sup> “Oman: Freedom of Expression continues to be targeted”, The Gulf Centre for Human Rights, 17 June 2020, <https://www.gc4hr.org/news/view/2412>.

<sup>29</sup> “Spreading rumours in Oman will attract legal measures”, Oman Times, 21 March 2020, <https://timesofoman.com/article/2947242/oman/government/spreading-rumours-in-oman-will-attract-legal-measures>.

<sup>30</sup> “News updates on human rights issues in Oman,” OCHR, 10 June 2020, <https://ochroman.org/eng/2020/06/update/>.

the withdrawal of journalist accreditation,<sup>31</sup> travel bans, the public identification of suspects,<sup>32</sup> and the suppression of an independent media through obstructive press licence requirements.<sup>33</sup>

Critics also report widespread surveillance and several newspapers have been closed down or blocked, including *Azamn* and *Mowatin* (online).<sup>34</sup> Oman is currently ranked 135 / 180 for freedom of the press by Reporters Without Borders,<sup>35</sup> dropping eight places since 2015.<sup>36</sup> One emblematic case is that of activist Mr Hassan Al Basham, who died in prison in April 2018, as a result of medical neglect, having been sentenced in 2016 for using “the Internet in what might be prejudicial to religious values” and “insulting the Sultan.”<sup>37</sup>

It is also of concern that on 22 March 2020, in response to the outbreak of COVID-19, Oman issued a decree suspending the print and distribution of newspapers, as well as prohibited the sale and circulation of newspapers, magazines, and publications imported into the country.<sup>38</sup>

### 3.1.2 Right to peaceful assembly and association

On 13 September 2014, the Special Rapporteur on the right to peaceful assembly and association issued a statement following his country visit, asserting that he “got the distinct impression of a pervasive culture of silence and fear affecting anyone who wants to speak and work for reforms in Oman”, noting that civil society, victims and activists “are afraid to speak their minds, afraid to speak on the telephone, afraid to meet.”<sup>39</sup> Reports suggest that during the reporting period this culture of silence and fear has deepened further, the right to peaceful assembly and association continues to be severely restricted in both law and practice.

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<sup>31</sup> On January 12, 2017, the Ministry of Information cancelled journalist Fatma Al Araimi’s accreditation as a correspondent for Reuters News Agency, after the agency published a news report about Oman requesting a deposit of billions of dollars from the Gulf Arab states. For more information, see: “The Annual Report (2017), OCHR, 2 January 2018, <https://ochroman.org/eng/2018/01/annual2017/>.

<sup>32</sup> “Extended Report on ‘Torture in Oman’”, The Gulf Centre for Human Rights, 29 January 2014, Intro, para.4, <http://www.gc4hr.org/report/view/20>.

<sup>33</sup> Articles 4 and 38 of the Press and Publications Law requires newspapers, magazines and other publications to obtain an official licence to publish, with a capital requirement of at least OR250,000 (\$650,000) for magazines and OR500,000 (\$1.3 million) for newspapers.

<sup>34</sup> “Oman: A Year On, Editor Remains in Prison,” Human Rights Watch, 9 August 2017, <https://www.hrw.org/news/2017/08/09/oman-year-editor-remains-prison>

<sup>35</sup> “2020 World Freedom Press Index”, Reporters without Borders, accessed 18 June 2020 <https://rsf.org/en/ranking>.

<sup>36</sup> “Omani authorities persecute online activists,” Reporters Without Borders, 8 April 2015, <https://www.refworld.org/docid/5527ab104.html>.

<sup>37</sup> Working Group on Arbitrary Detention et al., *Communication*, AL OMN 2/2016, 15 September 2016.

<sup>38</sup> “Jordan, Oman, Morocco, and Yemen suspend newspaper production, citing COVID-19 fears”, Committee to Protect Journalists, 25 March 2020, <https://cpj.org/2020/03/jordan-oman-morocco-and-yemen-suspend-newspaper-pr/>.

<sup>39</sup> 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, para. 11 (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15028&LangID=E>).

During the second cycle of the UPR, several countries made recommendations that Oman guarantee freedom of assembly and association in law,<sup>40</sup> all of which were simply noted. Instead of endeavouring to align Oman's legislation with international human rights standards, the 2018 Oman Penal Code was promulgated, which contributes to a shrinking civil space in Oman. Severe sentences are applicable to individuals convicted under article 116 in relation to associations considered to have the objective of combating the political, economic, social or security principles of the State, or the existing social hierarchy.<sup>41</sup>

The Penal Code criminalises association with groups which are considered to contest or harm Islam, or promote another religion.<sup>42</sup> In granting broad powers to authorities to punish any individual or group of individuals for conducting essentially any activities or joining any group, the Special Rapporteur on the right to freedom of opinion and expression has determined that article 116 of the Penal Code is, amongst others, a clear violation of international human rights law.<sup>43</sup> Furthermore, freedom of association is tightly controlled insofar as the executive has total authority over who can form and operate an association and on what issues associations can focus. Associations deemed to duplicate the activities of existing associations are denied registration, even when the associations have distinctly different objectives. In addition, the Penal Code states that a public gathering of ten individuals or more can be deemed liable to cause a breach of security or public order.<sup>44</sup>

### Recommendations:

- Amend the Penal Code, ensuring that the provisions of the law are clear and specific, as well as in line with international standards on the right to freedom of opinion and expression;
- Amend the 2002 Telecommunications Act and the 2011 Cybercrime Law to bring them into line with international standards on the right to freedom of opinion and expression;
- Amend the provisions of the Penal Code which restrict the right to peaceful assembly and association which conflict with international standards;

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<sup>40</sup> Noted: recommendations No. 129.154 (United Kingdom); 129.155 (Canada); 129.160 (Chile); 129.164 (Estonia); 129.166 (Iceland).

<sup>41</sup> Under article 116 of the Penal Code, it is a crime to establish, organise, administer or finance an association, party, body, organisation, centre or similar, which is aimed at combating the political, economic, social or security principles of the State, or the existing social hierarchy. Sentences range from between three and ten years imprisonment. Likewise, it is a punishable offence to join, participate in, promote or wish to join such a group.

<sup>42</sup> Article 270 of the Penal Code provides that where a group is deemed to "contest or harm the foundations on which the Islamic religion is based, or promoting or making propaganda for another religion," punishment ranges from three to seven years imprisonment for those involved in establishing, organising, or administering such a group, and those who participate in, or assist, such a group face imprisonment for between six months and three years.

<sup>43</sup> Special Rapporteur on the right to freedom of opinion and expression, *Opinion*, OL OMN 1/2018, page 2. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23722>.

<sup>44</sup> Under Article 121 of the Penal Code, a public gathering of ten individuals or more can be deemed liable to cause a breach of security or public order under. Participants could face imprisonment for up to one year and a fine up to OR500 (US\$1,300). In the event that such a gathering is deemed to have turned violent, participants are at risk up to three years of imprisonment and a fine up to OR1,000 (\$2,600).

- Update the registration process for associations to remove onerous procedures and ensure that new associations can form, regardless of any overlapping objectives.

## 3.2 Right to life, liberty and security

### 3.2.1 Torture and ill-treatment

Despite the prohibition of torture and ill-treatment by law, allegations continue to arise, with reports of systematic beatings and exposure to extreme temperatures.<sup>45</sup> In 2019 it was reported that six members of the Shuhuh tribe were subjected to torture.<sup>46</sup> Al Basham, convicted in 2015 in relation to the legitimate exercise of the right to freedom of religion or belief and expression,<sup>47</sup> died on 28 April 2018 as a result of a failure to provide him with appropriate food and medication.<sup>48</sup>

Article 20 of the Constitution sets out that “no person shall be subjected to physical or psychological torture, enticement or humiliating treatment.” However, Oman’s national law fails to impose penalties which are consistent and reflect the gravity of the crime of torture. Under current legislation, torture conducted in the course of committing murder is grounds for the application of the death penalty,<sup>49</sup> whilst under article 204 of the Penal Code, the penalty for torture, committed by a public official upon an accused person, is between six months and three years.

### 3.2.2 Death penalty and summary executions

The death penalty remains in use in Oman and in 2015, two individuals were executed.<sup>50</sup> During the second cycle of the UPR, Oman received numerous recommendations to establish a moratorium on the application of the death penalty with a view to its abolition in law.<sup>51</sup> However, these were simply noted. As aforementioned, in 2018 the Penal Code was

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<sup>45</sup> “Oman Human Rights Report”, *Country Reports on Human Rights Practices for 2018*, Bureau of Democracy, Human Rights and Labour, United States, March 2019, page 2, <https://www.state.gov/wp-content/uploads/2019/03/OMAN-2018.pdf>.

<sup>46</sup> Members of the tribe had been charged under article 125 of the Penal Code and article 25 of the 2011 Cybercrime Law. For more information, see: “Urgent Action: National Security Trial ends in Life Sentences,” Amnesty International, 12 March 2019, <https://www.amnesty.org/download/Documents/MDE2099712019ENGLISH.pdf>.

<sup>47</sup> In 2016, the Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on freedom of religion or belief transmitted UA OMN 2/2016 regarding the conviction of Mr Al Basham in relation to the legitimate exercise of the right to freedom of religion or belief and expression as enshrined in articles 18 and 19 of Universal Declaration of Human Rights (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3340>).

<sup>48</sup> “Oman: Death in custody of Mr. Hassan Al-Basham,” International Federation for Human Rights, 15 May 2018, <https://www.fidh.org/en/issues/human-rights-defenders/oman-death-in-custody-of-mr-hassan-al-basham>.

<sup>49</sup> Article 302 of the Penal Code applies the death penalty where “the killing took place using torture or a toxic or explosive material”.

<sup>50</sup> “Death Penalty Database,” Cornell, last updated 10 June 2020, <https://www.deathpenaltyworldwide.org/>.

<sup>51</sup> Noted: recommendations No.129.132 (Mexico); 129.133 (Costa Rica); 129.134 (France); 129.135 (Italy); 129.136 (Portugal); 129.137 (Slovenia); 129.139 (Switzerland).

adopted, whereby execution is listed as a punishment in over 20 articles. In 2018, for the first time since 2009, there were four cases of individuals sentenced to death in 2018.<sup>52</sup>

### Recommendations:

- Enshrine the absolute prohibition of torture in national legislation and ratify the UNCAT;
- Ensure that all torture allegations are independently investigated and that the minimum penalty for acts of torture and ill-treatment reflect their gravity;
- Legally abolish corporal punishment as a sentence for a crime;
- Establish a moratorium on executions and commute death sentences to prison sentences, with a view to abolish the death penalty. In the meantime, ensure that the death penalty is only imposed for those crimes that fall within the category of the “most serious crimes” and after trials that fully comply with international fair trial standards.

## 3.3 Independence of the judiciary

Under the 2012 Law on Judicial Affairs,<sup>53</sup> which regulates judicial matters, the judiciary was made independent of departments within the executive which had formerly managed its administrative affairs. However, the Sultan remains empowered to appoint and remove senior judges and also chairs the Supreme Judicial Council, which nominates judges and oversees the judicial system. As a result, the Special rapporteur on freedom of association has described the judiciary as “nominally independent” and “strongly influenced by the executive”.<sup>54</sup>

### Recommendation:

- Guarantee the independence of the judiciary, including the amendment of 2012 Law on Judicial Affairs to ensure that the sultan does not exercise control over the appointment and dismissal of judges.

## 3.4 Citizenship

### 3.4.1 Arbitrary deprivation of nationality

Under Oman’s 2014 Nationality Law,<sup>55</sup> the State has the power to strip Omani nationals of their citizenship if they “engage in a group, a party or an organisation that adopts principles or doctrines that can harm the interests of Oman” or “worked for a foreign country in any way whatsoever [...] and failed to fulfil the Omani government’s order to abandon such a

<sup>52</sup> “Death Penalty in Oman,” World Data, <https://www.worlddata.info/asia/oman/deathpenalty.php>.

<sup>53</sup> Royal Decree 10/2012 is available at: <https://qanoon.om/p/2012/rd2012010/>.

<sup>54</sup> Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Report*, A/HRC/29/25/Add.1, 27 April 2015, para. 9.

<sup>55</sup> Royal Decree 38/2014 is available at: <https://www.refworld.org/pdfid/58dcfe444.pdf>.

work within a specified time.”<sup>56</sup>

The law further establishes that Omani nationals who have been stripped of their citizenship do not have the right to appeal this decision. Such provisions constitute a means by which critics of the state can be threatened into silence, contributing to a climate of fear and self-censorship.

### 3.4.2 Gender discrimination

Whilst citizenship is automatically passed from an Omani man to his children, an Omani woman can only ensure Omani citizenship for her children after the lapse of 15 years.

Furthermore, whilst Omani citizenship is available for a woman married to an Omani man, the foreign husband of an Omani woman can only obtain Omani citizenship in the event that (i) the husband obtained the consent of the Omani authorities prior to the marriage, (ii) the couple have children from the marriage, (iii) fifteen years have passed since the marriage, of which no more than 60 days a year were spent outside of Oman, and (iv) the authorities agree to grant citizenship.

Omani authorities have indicated no intention to rectify this discrimination by responded to concerns raised by the Committee on the Elimination of Discrimination against Women, with the assertion that “this requirement is intended to ensure the stability of the marital relationship to thereby protect Omani women from being used by her husband merely as a means to obtain Omani nationality.”<sup>57</sup>

#### Recommendations:

- Amend Oman’s Nationality Law in order to guarantee that Omani citizens will not be stripped of their nationality;
- Ensure that all necessary steps are taken to amend Oman’s Nationality Law to enable Omani women to transfer nationality to their children and spouses without restriction, on an equal basis with men, in accordance with international standards.

## 3.5 Women’s rights

### 3.5.1 Discrimination

Article 17 of the Basic Law only prohibits discrimination against citizens on the basis of sex and is still not in line with article 1 of the CEDAW, which prohibits direct and indirect discrimination in the public and private spheres. Furthermore, Oman’s national laws continue to entrench discrimination. The Personal Status Law discriminates against women on matters

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<sup>56</sup> Marc Valerie, “Simmering Unrest and Succession Challenges in Oman,” Carnegie Endowment for International Peace, 28 January 2015, <https://carnegieendowment.org/2015/01/28/simmering-unrest-and-succession-challenges-in-oman-pub-58843>.

<sup>57</sup> Replies of Oman, CEDAW/C/OMN/Q/2-3/Add.1, 18 July 2017, Qu 15, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fOMN%2fQ%2f2-3%2fAdd.1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fOMN%2fQ%2f2-3%2fAdd.1&Lang=en).

such as divorce, inheritance, child custody, and legal guardianship,<sup>58</sup> whilst the Labour Law continues to limit the types and hours of work women can undertake.<sup>59</sup>

In 2017, the United Nations Committee on the Elimination of Discrimination Against Women noted the persistent inequality and expressed concerns at “the use of the sharia as an explanation for the lack of progress on family law reform and the continued application of discriminatory provisions in the Personal Status Law.”<sup>60</sup>

### 3.5.2 Violence

In the second cycle of the UPR, Oman supported Italy’s recommendation to adopt legislation to prevent and combat violence against women and domestic violence, to enact legislation which prohibits the practice of female genital mutilation (FGM), and to adopt a National Action Plan to increase awareness among women of the harmful consequences of the practice of FGM.<sup>61</sup> The State also supported Sweden’s recommendation to formally and explicitly encode the prohibition of FGM into the Child Law, accompanied by a public information campaign. In September 2019, a change in law was announced outlawing the practice of FGM, however, this has not been complemented by a public information campaign and the prohibition of FGM is not being enforced in practice.

Furthermore, Oman continues to lack mechanisms to protect victims of domestic violence, sexual assault. The Penal Code contains no provisions explicitly prohibiting domestic violence and marital rape. Cases can only be brought under general provisions that criminalise assault.

### 3.5.3 Consensual relations

Under article 259 of the Penal Code, consensual intercourse outside of marriage (deemed to be fornication or adultery) is punishable by imprisonment.<sup>62</sup> The criminalisation of such offenses is disproportionately to the detriment of women, as pregnancy can be accepted as evidence of the offence. Furthermore, the criminalisation of such relations means that victims of rape and sexual assault are at risk of prosecution in the event that they cannot prove that there was no consent.

### Recommendations:

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<sup>58</sup> For instance, a woman can lose child custody if (i) she re-marries, (ii) is of a different religion to her former husband, (iii) and once her son is over 7 and her daughter has reached the age of majority, under articles 127, 128 and 129 of the Personal Status Law.

<sup>59</sup> “Oman: Gender Justice & the Law,” *United Nations Development Programme*, 2018, page 9.

<sup>60</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on Oman, CEDAW/C/OMN/CO/2-3, 22 November 2017, page 17. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/OMN/CO/2-3&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/OMN/CO/2-3&Lang=En).

<sup>61</sup> Although there are no nationwide statistics, studies have suggested that between 20% and 95% of women in Oman are subjected to FGM. For more information see “Oman,” The Orchid Project, last accessed 17 February 2020, <https://www.orchidproject.org/about-fgc/where-does-fgc-happen/oman/>.

<sup>62</sup> Under article 259 of the Penal Code, the punishment is between six months to three years’ imprisonment and at least two years if either person is married.

- Amend Oman’s national laws, in particular the Personal Status Law and Labour Law, to bring them in line with international standards with regard to gender equality;
- Remove all reservations to the CEDAW;
- Amend the Penal Code to explicitly prohibiting domestic violence and marital rape and end the criminalisation of consensual relations.

### 3.6 LGBTI+ rights and gender identities

The Penal Code further reduces the rights and freedoms of LGBTI+ individuals in Oman. Whilst the previous penal code punished same-sex relations in the event of a “public scandal,” article 261 of the Penal Code punishes any consensual sexual intercourse between men with a prison sentence between six months and three years. In addition, any “lewd act” between people of the same sex can result in a prison sentence in the event that a spouse or guardian of the individual submits a complaint.<sup>63</sup>

Furthermore, legislation regulating gender expression has been introduced under the Penal Code, whereby any man who “appears dressed in women’s clothing” could be subject to a prison sentence, a fine, or both under article 266.<sup>64</sup>

#### Recommendation:

- Decriminalise same-sex relations and end the regulation of gender expression by amending the Penal Code.

### 3.7 Migrant rights

Migrant workers in Oman remain vulnerable to a variety of abuses, including unpaid wages, being subjected to excessive working hours, inadequate food and living conditions, beatings and sexual abuse.<sup>65</sup> Despite supporting the recommendation to abolish the sponsorship (*kafala*) system during the second round of the UPR,<sup>66</sup> it is clear that a *de facto kafala* system continues to exist in practice, as migrant workers are prohibited from leaving or changing jobs without their employer’s agreement. Workers who attempt to leave their roles without the permission of their employer, even in cases of abuse and exploitation, are at risk of imprisonment or deportation for the crime of ‘absconding’.<sup>67</sup> In 2021 the requirement for a current employer’s agreement to obtain new employment, in instances where the initial contract has ended, will be abolished. However, this does not benefit individuals seeking new

<sup>63</sup> Article 262 of the Penal Code provides for a prison sentence of between six months and three years.

<sup>64</sup> Article 26 of the Penal Code provides for punishment amounting to a prison sentence between one month and one year, a fine between 100 and 300 riyals (US\$260-780), or both.

<sup>65</sup> For examples, see: “Working like a Robot: Abuse of Tanzanian domestic workers in Oman and the United Arab Emirates”, Human Rights Watch, 14 November 2017, <https://www.hrw.org/report/2017/11/14/working-robot/abuse-tanzanian-domestic-workers-oman-and-united-arab-emirates> and “I was sold: Abuse and exploitation of migrant domestic workers in Oman,” Human Rights Watch, 13 July 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman>.

<sup>66</sup> Supported: recommendation No. 129.201 (Czechia).

<sup>67</sup> “I was sold: Abuse and exploitation of migrant domestic workers in Oman,” Human Rights Watch, 13 July 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman>.

employment before their existing contract has terminated.<sup>68</sup>

Domestic workers are not covered by the protections of the Labour Law<sup>69</sup> and, whilst a Ministry of Manpower's circular prohibits employers from withholding migrant workers' passports and other employment violations, it does not specify penalties for non-compliance.<sup>70</sup> Furthermore, workers accounts illustrate how, in many instances where the workers attempted to report abuse with the authorities, they were simply returned to their employers.<sup>71</sup>

### Recommendations:

- Abolish the existing employment system and replace it with a system of residency permits for all foreign workers which allow workers to obtain new employment without the permission of their existing employers;
- Amend the Labour Law to ensure that domestic workers receive full and equal protection to other workers;
- Ensure that the prohibition on the withholding of migrant workers' passports is implemented and introduce specific penalties for non-compliance;
- Enforce the right of migrant workers to make criminal complaints to the authorities and ensure that such migrant workers receive all necessary protection.

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<sup>68</sup> "Expats can change jobs after contract expiry", Oman Times, 16 June 2020,

<https://timesofoman.com/article/3016062/oman/government/expats-can-change-jobs-after-contract-expiry>.

<sup>69</sup> Article 2 (3) of Royal Decree 35/2003 provides that the provisions of the law do not apply to "domestic servants working inside houses or outside houses such as a driver, maid and a cook and those with similar jobs. "Royal Decree 35/2003 is available at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/67540/84139/F1719028671/OMN67540.pdf>.

<sup>70</sup> Ministry of Manpower Circular No. 2/2006.

<sup>71</sup> "I was sold: Abuse and exploitation of migrant domestic workers in Oman," Human Rights Watch, 13 July 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman>.

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