

# Joint Submission

## to the Human Rights Council

### at the 37<sup>th</sup> Session

### of the Universal Periodic Review.

Oman

#### Introduction

1. The Omani Association for Human Rights, the Global Campaign for Equal Nationality Rights and the Institute on Statelessness and Inclusion, make this joint submission to the Universal Periodic Review (UPR), on the right to a nationality and human rights challenges pertaining to statelessness in Oman.
2. The **Omani Association For Human Rights** is a non-profit Organisation. The consolidation of freedom of the press and that of expression, the promotion of women's rights and exposing society to the issue of gender equality are the basic principles of this organisation. The main objective is to view human rights from different perspectives through the strengthening of intercultural solidarity and therefore to promote their establishment in society.
3. The **Global Campaign for Equal Nationality Rights (GCENR)**<sup>1</sup> mobilises international action for the removal of gender-discriminatory provisions from all nationality laws, through its coalition of national, regional and international organizations and activists, including steering committee members Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, Women's Learning Partnership, and Women's Refugee Commission.
4. **The Institute on Statelessness and Inclusion (ISI)**<sup>2</sup> is an independent non-profit organisation dedicated to promoting an integrated, human rights-based response to the injustice of statelessness and exclusion. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. The Institute has made nearly 70 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23<sup>rd</sup> to the 36<sup>th</sup> UPR Sessions.
5. This submission focuses on:
  - a. Gender-based discrimination regarding the transmission of nationality
  - b. Children's right to a nationality

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<sup>1</sup> For more information about the Global Campaign for Equal Nationality Rights, see: [www.equalnationalityrights.org](http://www.equalnationalityrights.org).

<sup>2</sup> For more information about the Institute on Statelessness and Inclusion, see: [www.institutesi.org](http://www.institutesi.org).

- c. Deprivation of nationality resulting in statelessness

## **Previous UPR of Oman under the First and Second Cycle**

6. Oman was previously reviewed under the 17<sup>th</sup> session<sup>3</sup> in 2011 (First Cycle) and under the 31<sup>st</sup> session<sup>4</sup> in 2016 (second Cycle).

### **The First Cycle**

7. During the First Cycle, Oman received a total of eleven recommendations relating to the right to nationality and statelessness. Eight recommendations focused on gender discriminatory relating to the right to nationality and more in general. Two recommendations by the USA and France focused on eradicating discrimination against women by amending its Nationality Law to enable women to transmit Omani citizenship to their children. Canada and Slovakia recommended that Oman review its Personal Status Law and Labour Law and eliminate gender discriminatory provisions. Oman noted all four of these recommendations. Argentina, Bahrain, Spain and Sweden recommended that Oman take additional measures to eliminate all forms of gender discrimination in general. Oman accepted the recommendations made by Argentina and Bahrain, while recommendations made by Spain and Sweden were noted.
8. Slovakia issued a recommendation regarding the ratification of the Convention relating to the Status of Stateless Persons, which was noted. Brazil and Italy recommended Oman to withdraw its reservations from CEDAW. The withdrawal of the reservation on article 9(2) of the Convention which requires States Parties to recognise women's equal rights with men with respect to the nationality of their children, is particularly relevant to statelessness.

### **The Second Cycle**

9. During the second cycle, Oman received a total of nineteen recommendations in relation to nationality and statelessness, specifically on recognising Omani women's equal rights with men with regard to transmission of their nationality to their children (11). None of the recommendations were accepted, they were all noted by Oman.
10. France recommended that Oman amend the Nationality Code to eliminate the possibility of deprivation of nationality resulting in statelessness.
11. Sierra Leone recommended that Oman revise its Nationality Law and include safeguards to guarantee Omani citizenship for children born to non-Omani fathers.
12. Several States recommended ratifying UN treaties, including the Convention relating to the Status of Stateless Persons (France), and the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (The Philippines, Nigeria and Honduras).

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<sup>3</sup> United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review Oman, 17<sup>th</sup> sess*, UN Doc A/HRC/17/7 (24 March 2011).

<sup>4</sup> United Nations Human Rights Council, *Report of the Working Group on the Universal Periodic Review Oman, 31<sup>st</sup> sess*, UN Doc A/HRC/31/11 (6 January 2016).

Sweden and Namibia recommended withdrawing reservations from CEDAW (

13. In both cycles, Oman did not submit any mid-term reports to update on the status of implementation of recommendations.

## **Oman's International obligations**

14. Oman has international obligations to uphold the right to a nationality without discrimination and protect the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include:
  - a. the Convention on the Rights of the Child (CRC), Articles 2, 3, 7 and 8;
  - b. the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Article 9;
  - c. the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5(d)(iii); and
  - d. the Convention on the Rights of Persons with Disabilities (CRPD), Article 18.
  - e. The Universal Declaration of Human Rights (UDHR), Article 15.
  - f. The International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 24 (3).
15. Oman has made reservations under several of the abovementioned UN treaties. Notably, under the CRC, Oman declares that the provisions of the CRC should be applied within the limits imposed by the material resources available, and Oman holds that the state is not committed to the contents of Article 14 of the CRC, which gives the child the right to freedom of religion until they reach the age of maturity.<sup>5</sup>
16. In respect of the CEDAW, Oman has made a number of reservations, including against the provisions of the CEDAW that are not in accordance with legislation in force in Oman. Oman made a reservation against Article 9(2), which provides that the parties to CEDAW shall recognise women's equal rights with men with respect to the nationality of their children. The co-submitting organisations consider the state's reservation to CEDAW Article 9 to be contrary to the object and purpose of the Convention. We further believe that nationality law provisions that deny women equal rights with men to confer nationality on their children and spouses, contravene the general obligation to eliminate all forms of discrimination against women which arises under CEDAW Article 2.
17. Further, Oman made a reservation in relation to CEDAW Article 16 regarding the equality of men and women and in particular subparagraphs (a), (c) and (f) regarding marriage, dissolution of marriage and adoption.<sup>6</sup> These articles are integral to the purpose of the Convention. The CEDAW Committee has stated that reservations to article 16 of the Convention, irrespective of the reasons for which such reservations are lodged, are "incompatible with the Convention and therefore impermissible."<sup>7</sup>

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<sup>5</sup> See: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11&chapter=4&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en#EndDec).

<sup>6</sup> See: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en#EndDec](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en#EndDec).

<sup>7</sup> <https://www.unicef.org/gender/files/Lebanon-Gender-Equality-Profile-2011.pdf>

18. On 6 February 2019, Oman withdrew its previous reservation to paragraph 4 of Article 15 which provides that members to the CEDAW shall recognise women's equal rights with regard to the movement of persons and the freedom to choose residence and domicile.<sup>8</sup> Importantly, women's inability to confer nationality on children and spouses on an equal basis with men in fact impacts Omani women's freedom to choose a residence, due to the precarious status of spouses and children who may even lack the right to reside in the state due to the law's discrimination against women. In such circumstances, Omani women are often posed the impossible choice of family separation or leaving their homeland.
19. Under the CRC, the Committee on the Rights of the Child recommended, in its concluding observations (14 March 2016),<sup>9</sup> that Oman amend its national laws to grant Omani women equal rights with Omani men with regard to the transmission of their nationality to their children and that it provide adequate safeguards to ensure the conferral of citizenship on children who would otherwise be stateless. The Committee also recommended that Oman strengthen efforts to ensure that all births in Oman are registered, including, in cooperation with the states concerned, those of children of migrant workers, and that it provide statistics so that this issue can be assessed in the next periodic report. It further recommended that Oman become party to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
20. The CEDAW Committee, in its concluding observations (22 November 2017),<sup>10</sup> expressed its concern that Oman's updated Nationality Law places strict conditions on an Omani mother married to a foreigner who wishes to transmit her nationality to her children, and includes discriminatory provisions with regard to the naturalisation of foreign spouses of Omani women, who are currently required to be married for at least 15 years in order to obtain Omani citizenship, while a foreign wife requires only 10 years of marriage. It was also concerned by the fact that Oman may revoke the citizenship of Omanis if they engage in a group, a party or an organisation that adopts principles or doctrines that can harm its interests. The Committee recommended that Oman amend the Nationality Law to ensure equality between women and men with regard to the acquisition, change and retention of nationality and to enable Omani women to transmit their nationality to their foreign spouses and their children on an equal basis with men. It also recommended that Oman prohibit the revocation of citizenship rights of women and men who exercise their fundamental rights including the right to freedom of expression, assembly and association, with a view to preventing statelessness. It further recommended that Oman consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
21. Under the ICERD, the Committee on the Elimination of Racial Discrimination expressed its concern in a concluding observations report dated 6 June 2016<sup>11</sup> that the updated Nationality Law (as defined below in paragraph 27) while providing for children born out of wedlock to unidentified parents to be entitled to Omani nationality, only allows Omani women married to non-Omani men to transmit their nationality to their children under strict conditions.<sup>12</sup> The Committee was also concerned that, according to the Nationality Law, the State may revoke the citizenship of Omanis if they engage in a group, a party or an organization that adopts

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<sup>8</sup> *ibid.* at footnote 82

<sup>9</sup> See: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/OMN/CO/3-4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/OMN/CO/3-4&Lang=En).

<sup>10</sup> See: [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>11</sup> See: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/OMN/CO/2-5&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/OMN/CO/2-5&Lang=En).

<sup>12</sup> Royal Decree No.38/2014, Article 18

principles or doctrines that can harm the interests of Oman<sup>13</sup>. The Committee recommended that Oman revise the Nationality Law by removing all gender-based discriminatory provisions and ensuring that the Oman government could not revoke citizenship rights of persons who exercise their fundamental rights including the right to freedom of expression, assembly and association, with a view to preventing statelessness. The Committee also recommended that Oman consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

22. Oman is not party to the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.

## Statelessness in Oman – A snapshot

23. There is no statistical information on the scope or extent of statelessness in Oman. The lack of statistical information in itself points to a deeper failure of the state to prioritise and address the issue of the right to nationality and the rights of stateless persons in the country. This is particularly so, when considering the various legal provisions which undermine the right to nationality, thereby increasing the likelihood of statelessness being generated and perpetuated. This submission addresses some of these challenges, namely: gender discrimination in Oman's nationality law; challenges related to the child's right to nationality and birth registration and the lack of safeguards against statelessness; and provisions which allow for the deprivation of nationality.
24. Stateless persons face wide-ranging human rights violations and hardships, including obstacles to accessing education, healthcare social services, formal employment, property rights, inheritance, freedom of movement, and identity documentation. Stateless persons are also at a greater risk of human trafficking, early and forced marriage, arbitrary detention, and lack of access to justice.
25. Noncitizen children of Omani mothers, including those born and raised in the country, are denied access to government scholarships for higher education and are forced to leave the country upon reaching the age of majority – unless an Omani company sponsors their visa – often resulting in family separation.

## National Law

26. Omani nationality is primarily governed by the Omani Nationality Law, which was promulgated by Royal Decree No. 38/2014 by The Sultan of Oman on 12 August 2014 and came into force on 12 March 2015 (the "**Nationality Law**").<sup>14</sup> The Nationality Law acknowledges the idea of statelessness but fails to provide a definition for statelessness or incorporate any procedure to identify and protect stateless persons.
27. The Nationality Law provides that the Minister of Interior shall issue regulations required for

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<sup>13</sup> Ibid, Article 20(1) and see below for further circumstances in which the government may withdraw Omani nationality

<sup>14</sup> The Sultanate of Oman, Submission by the United Nations High Commissioner for Refugees – For the Office of the High Commissioner for Human Rights' Compilation Report – Universal Period Review, 2nd Cycle, 23 rd Session ("UNHCR Oman UPR 2nd Cycle"), page 3.

the implementation of the provisions of the Nationality Law.<sup>15</sup> The Omani Minister of Interior issued the executive regulations of the Omani Nationality Law (Ministerial decision 92/2019) on 2 June 2019 (the "**Executive Regulations**"). The Executive Regulations set out the detailed procedures and documents required in relation to an application to recognise, retrieve, waive or acquire Omani nationality pursuant to the Nationality Law.

28. In general, Oman does not recognise dual nationalities. An Omani will lose their Omani nationality if they acquire another nationality without obtaining authorisation by a royal decree.<sup>16</sup> However, in practice, authorities turn a blind eye if a male citizen acquires another nationality, for instance through marriage with a foreign wife. Omani men and their children keep their Omani nationality, while Omani women cannot keep their Oman nationality upon acquisition of a foreign nationality. All citizenship applications are submitted to and reviewed by the Ministry of Interior (the "**Ministry**") and the Ministry reserves the right to reject any application without providing any reason whatsoever<sup>17</sup> The Nationality Law further provides that the courts are not the competent authority to deliberate on citizenship issues and conflicts relating thereto.<sup>18</sup>

### **Legislation relating to acquisition of nationality – child's right to a nationality**

29. Pursuant to Article 11 of the Nationality Law, a person shall be deemed an Omani national in the following cases:
- ' 1. If he is born in Oman or abroad and his father, at the time of birth, was an Omani national.
  - 2. If he is born in Oman or abroad and his mother, at the time of birth, was an Omani national and his father was Omani and became stateless.
  - 3. If he is born in Oman or abroad and his mother, at the time of birth, was an alien and his father was Omani and became stateless, provided that the marriage of the parents was previously approved by the Ministry.
  - 4. If he is born in Oman or abroad and his mother, at the time of birth, was an Omani national and the paternity was not confirmed.
  - 5. If he was born in Oman to unknown parents.'
30. Pursuant to Article 18 of the Nationality Law, a minor child born to an Omani mother and a foreign father may be granted Omani citizenship, if the child meets the following conditions:
- ' 1. The mother shall be widowed, divorced or abandoned by her husband [...].
  - 2. The marriage of the parents should have taken place after obtaining the prior approval from the Ministry [...]
  - 4. He should have been residing in Oman for at least ten (10) legitimate continuous years; It shall be noted that the continuous residency period shall not be interrupted if he is travelling outside of Oman for a period that does not exceed sixty (60) days in one year.
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<sup>15</sup> Nationality Law, Article 2.

<sup>16</sup> Nationality Law, Articles 19 and 8.

<sup>17</sup> Nationality Law, Article 3.

<sup>18</sup> Nationality Law, Article 4.

## **Legislation relating to naturalisation of foreign spouses and the dissolution of marriage**

31. According to Article (15), an alien has the right to apply for Omani citizenship if he meets the following conditions:
- ‘ 1. A person should have resided in Oman for at least twenty (20) continuous years or fifteen (15) years if married to an Omani woman provided that their marriage shall have taken place after obtaining approval of the Ministry and he shall have a son from his Omani wife.  
[...]
32. According to Article (16), the foreign wife of an Omani citizen may apply for Omani nationality if she meets the following conditions:
- ‘1. Her marriage should have taken place after obtaining the prior approval from the Ministry;  
[...]  
2. She shall have a son from her Omani husband.  
3. She should have been married to her Omani husband and resided with him in Oman for at least ten (10) legitimate continuous years;  
[...]
33. According to Article (17), the widowed or divorced foreign wife of an Omani citizen may apply for Omani nationality if she meets the following conditions: [...]
- ‘2. She shall have a son from her Omani husband.  
3. She should have been married to her Omani husband and resided with him in Oman for at least fifteen (15) legitimate continuous years;  
[...]

## **Withdrawal of nationality**

34. Pursuant to Article 19 of the Nationality Law, an Omani will lose his or her Omani nationality if he or she acquires another nationality without obtaining authorisation by a royal decree.<sup>19</sup>
35. Pursuant to Articles 20 and 21 of the Nationality Law, Omani citizenship shall be withdrawn if a person joins a group or party or organisation supporting principles or beliefs that harm the interests of Oman. Further, the Nationality Law provides that Omani citizenship shall be withdrawn if a person works for a foreign country in any capacity whatsoever, whether inside or outside Oman, and failed to leave such position at the request of the Omani Government within the specified deadline, or if they work for an enemy country that operates against the interests of Oman.<sup>20</sup>
36. The Nationality Law further provides that Omani citizenship shall be withdrawn if a person has acquired Omani citizenship illegally (and the same applies to any person whose Omani nationality has been conferred via the person who initially acquired citizenship illegally) or who has been convicted of any crime against the security of the country or sentenced with an

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<sup>19</sup> Nationality Law, Articles 19 and 8.

<sup>20</sup> Nationality Law, Article 20.

effective penalty in more than one crime within five years following the acquisition of Omani citizenship. Omani citizenship shall also be withdrawn if a person resides outside Oman for more than 6 continuous months within the 10 years following the acquisition of Omani citizenship without a valid justification or authorisation.<sup>21</sup>

37. Omani citizenship can be granted or reacquired by virtue of a Royal Decree without abiding by the conditions and provisions provided for in the Nationality Law.<sup>22</sup> Also, applying for Omani citizenship as set out in National does not meet due process standards, for instance there is no specific period for the relevant authority to respond to the request. In many cases it takes many years of waiting, an applicant does not have the right to a lawyer and there is no possibility to file a complaint.<sup>23</sup>

## **Issue 1 – Gender Discrimination in the Nationality Law affecting child’s right to a Nationality**

38. Omani women face gender discrimination in relation to the transmission of Omani nationality to their children. Omani women married to non-Omani men may only transmit their nationality to their children under strict conditions and in extremely rare circumstances. The law lacks adequate safeguards in the Nationality Law to ensure conferral of citizenship on children who would otherwise be stateless.
39. Gender-discriminatory nationality laws are based on stereotypes, such as the idea that a child “belongs” to a father rather than a mother, that citizenship “naturally” derives from the father, and that a woman “follows” her spouse. Gender discrimination in Oman’s nationality law further undermines women’s ability to freely choose a spouse and threatens family unity, due to women’s inability to confer nationality on spouses and children on the same basis as men. Gender discrimination in Oman’s Nationality Law fundamentally undermines women’s status as equal citizens and equality within the family.
40. Pursuant to the Nationality Law, the male line in paternity is the primary source for nationality by birth in Oman. A child of an Omani father (born in Oman or abroad) is Omani.<sup>24</sup> If a child (born in Oman or abroad) has an Omani mother and a father who was Omani but became stateless, the child is still deemed to be an Omani national.<sup>25</sup>

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<sup>21</sup> Nationality Law, Article 21.

<sup>22</sup> Nationality Law, Article 8

<sup>23</sup> <https://www.moi.gov.om/ar-om/services/nationality>, <https://www.omandaily.om/?p=707522>

<sup>24</sup> Nationality Law, Article 11(1).

<sup>25</sup> Nationality Law, Article 11(2).



41. If the child's mother is a foreigner, and the father was Omani but became stateless, the child, whether born in Oman or abroad, is only an Omani if the mixed-nationality marriage of the parents was previously approved by the Ministry.<sup>26</sup> However, there is no equivalent provision where the child's father is a foreigner and the mother was Omani but became stateless.
42. If the child, born in Oman or abroad has an Omani mother but not an Omani father (or not a father who used to be an Omani national but became stateless), the child is considered to be Omani by birth only if the paternity was not confirmed.<sup>27</sup> A person shall also be deemed to be an Omani national if they are born in Oman to unknown parents<sup>28</sup>.
43. A minor born to an Omani mother and a foreign father may be granted Omani nationality only if the eight strict conditions set out in Article 18 of the Nationality Law are met, including that the Omani mother shall be widowed, divorced or abandoned by the foreign husband to an unknown destination for at least 10 continuous years (the abandonment being supported by a legal judgment), and the minor must have been resident in Oman for at least ten legitimate continuous years.<sup>29</sup> In order to demonstrate these requirements, a copy of the minor's valid residence visa in Oman and a copy of the death certificate, divorce or court ruling issued in the absence of the foreign father, or his abandonment of the wife must be attached with the application for Omani nationality.<sup>30</sup> Another requirement not stated in the Nationality Law but included in the list of documents set out in the Executive Regulations, is that the Omani mother must also provide a copy of the court ruling proving that she has custody of the minor.<sup>31</sup> In practice, this means it is essentially impossible for an Omani woman to confer nationality on her child except in the rarest of circumstances, and still then only at the discretion of the state.

## Issue 2 – Gender Discrimination in Nationality Law affecting Naturalisation

### Foreign Spouses

44. There is also gender inequality in relation to Omani women's and Omani men's ability to transmit their Omani nationality to a foreign spouse. With regard to the naturalisation of foreign spouses, under Article 15 of the Nationality Law, the foreign spouse of an Omani woman is required to have been married and resided in Oman for at least 15 continuous years in order to be granted Omani citizenship,<sup>32</sup> while under Article 16 of the Nationality Law, a foreign wife of an Omani citizen is required to have been married and resident with her Omani husband in Oman only for at least 10 years in order to be granted Omani citizenship.<sup>33</sup> In both cases, the marriage must have been approved by the Ministry (although note that in the case of a foreign wife applying for Omani nationality, this condition does not apply where the

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<sup>26</sup> Nationality Law, Article 11(3).

<sup>27</sup> Nationality Law, Article 11(4).

<sup>28</sup> Nationality Law, Article 11(5)

<sup>29</sup> Nationality Law, Article 18.

<sup>30</sup> Executive Regulations, Articles 19 (1) and (5).

<sup>31</sup> Executive Regulations, Article 19(6).

<sup>32</sup> Ibid, Article 15(1)

<sup>33</sup> Ibid, Article 16(3)

marriage took place before the acquirement of the Omani citizenship by her husband<sup>34</sup>) and the foreign spouse applying for Omani citizenship must have a son from his Omani wife or from her Omani husband.<sup>35</sup> In addition, the conditions for the foreign husband of an Omani citizen to be granted Omani nationality under Article 15 of the Nationality Law are stricter, for example he must be fluent in reading and writing the Arabic language<sup>36</sup> (whereas a foreign wife of an Omani citizen is only required to be able to verbally communicate in Arabic<sup>37</sup>) and he is also required to be medically fit and not suffering from contagious diseases and to have a legitimate source of income enough to provide for himself and his dependents<sup>38</sup> These conditions do not apply in order for the foreign wife of an Omani citizen to be granted Omani nationality<sup>39</sup>.

45. The widowed or divorced foreign wife of an Omani citizen may also be granted Omani nationality if she meets a number of conditions, including that she must have been married to and resided with her Omani husband in Oman for at least 15 continuous years, the marriage must have been approved by the Ministry (unless it took place before her husband acquired the Omani citizenship) and she must have a son from her Omani husband<sup>40</sup> There is no equivalent provision for the grant of Omani nationality to the widowed or divorced foreign husband of an Omani citizen.
  
46. Alternatively a person may also apply for Omani citizenship under Article 15 of the Nationality Law if they have been resident in Oman for at least twenty continuous years and meet the other conditions set out in that Article (for example the requirements to be medically fit and to have a legitimate source of income). The twenty-year residence requirement would apply for example in the case of a foreign husband of an Omani citizen applying for Omani nationality where there are no children or only daughters from the marriage. It is not clear however that this Article would apply in the case of a foreign wife of an Omani citizen applying for Omani nationality where the conditions in Article 16 are not met (for example where there are no children or only daughters from the marriage).<sup>41</sup>

### Issue 3 - Withdrawal of Nationality and Proxy Measures

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<sup>34</sup> Ibid, Article 16(1)

<sup>35</sup> Ibid. Article 15(1) and 16 (3).

<sup>36</sup> Ibid, Article 15(2)

<sup>37</sup> Ibid, Article 16(4)

<sup>38</sup> Ibid, Articles 15(5) and 15(6)

<sup>39</sup> Ibid, Article 16

<sup>40</sup> Nationality Law, Articles 17(2) and (3).

<sup>41</sup> Nationality Law, Article 15(1).

<sup>42</sup> Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at:

<https://files.institutesi.org/PRINCIPLES.pdf>. The Principles were drafted by the Institute on Statelessness and Inclusion in collaboration with the Open Society Justice Initiative and with support from the Asser Institute and Ashurst LLP. They were developed over a 30-month research and consultation period, with input from more than 60 leading experts in the fields of human rights, nationality and statelessness, counter-terrorism, refugee protection, child rights, migration and other related areas. At the time of submission, they have been endorsed by over 100 individual experts and organisations, including leading academics, UN Special Rapporteurs and Treaty Body members, litigators, judges, parliamentarians and diplomats. The Principles restate or reflect international law and legal standards under the UN Charter, treaty law, customary international law, general principles of law, judicial decisions and legal scholarship, regional and national law and practice. They articulate the international law obligations of States and apply to all situations in which States take or consider taking steps to deprive a person of nationality as a national security measure. More information is available here: <https://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality>

47. The Principles on Deprivation of Nationality as a National Security Measure,<sup>42</sup> and the UNHCR Guidelines on Statelessness No 5: Loss and Deprivation of Nationality<sup>43</sup> provide important guidance on the question of deprivation of nationality; the former, from a wider international law perspective, and the latter, more specifically in relation to the 1961 Convention on the Reduction of Statelessness. Accordingly, state discretion in this area is subject to the individual right to a nationality,<sup>44</sup> the prohibition of arbitrary deprivation of nationality,<sup>45</sup> the prohibition of discrimination<sup>46</sup> and the obligation not to render a person stateless.<sup>47</sup> Further, the impact of nationality deprivation on the enjoyment of other human rights, humanitarian and refugee law obligations and standards must be taken into consideration when assessing the legality of citizenship deprivation. These include, the right to enter and remain in one's own country, the prohibition of *refoulement*, the prohibition of torture and cruel, inhuman or degrading treatment or punishment, the liberty and security of the person, the right to private and family life, legal personhood, and the rights of the child.<sup>48</sup> Any measures to deprive nationality must also comply with due process safeguards and the right to a fair trial.<sup>49</sup>
48. When assessed against the Principles, it is evident that Omani law, policy and practice related to citizenship deprivation fails to comply with international standards; it is arbitrary, discriminatory, and consequently unlawful. Pursuant to Articles 20 and 21 of the Nationality Law, Omani citizenship shall be withdrawn if a person joins a group or party or organisation supporting principles or beliefs that harm the interests of Oman. Further, the Nationality Law provides that Omani citizenship shall be withdrawn if a person works for a foreign country in any capacity whatsoever, whether inside or outside Oman, and failed to leave such position at the request of the Omani Government within the specified deadline, or if they work for an enemy country that operates against the interests of Oman.<sup>50</sup>

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<sup>42</sup> Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>. The Principles were drafted by the Institute on Statelessness and Inclusion in collaboration with the Open Society Justice Initiative and with support from the Asser Institute and Ashurst LLP. They were developed over a 30-month research and consultation period, with input from more than 60 leading experts in the fields of human rights, nationality and statelessness, counter-terrorism, refugee protection, child rights, migration and other related areas. At the time of submission, they have been endorsed by over 100 individual experts and organisations, including leading academics, UN Special Rapporteurs and Treaty Body members, litigators, judges, parliamentarians and diplomats. The Principles restate or reflect international law and legal standards under the UN Charter, treaty law, customary international law, general principles of law, judicial decisions and legal scholarship, regional and national law and practice. They articulate the international law obligations of States and apply to all situations in which States take or consider taking steps to deprive a person of nationality as a national security measure. More information is available here: <https://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality>

<sup>43</sup> UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, May 2020, HCR/GS/20/05, available at: <https://www.refworld.org/docid/5ec5640c4.html>. The Guidelines provide guidance on the interpretation of Articles 5 – 9 of the 1961 Convention on the Reduction of Statelessness. They draw on the Summary Conclusions of the Expert Meeting on Interpreting the 1961 Statelessness Convention and Avoiding Statelessness Resulting from Loss and Deprivation held in Tunis, Tunisia on 31 October-1 November 2013 (“Tunis Conclusions”) and the Expert Meeting on Developments related to Deprivation of Nationality held in Geneva, Switzerland on 5-6 December 2019.

<sup>44</sup> *Human Rights Council Resolution 7/10, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/7/10 (27 March 2008); *Human Rights Council Resolution 10/13, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/10/13 (26 March 2009); *Human Rights Council Resolution 13/2, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/13/2 (24 April 2010); *Human Rights Council Resolution 20/4, The right to a nationality: women and children*, UN Doc A/HRC/RES/20/4 (16 July 2012); *Human Rights Council Resolution 20/5, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/20/5 (16 July 2012); *Human Rights Council Resolution 26/14, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/26/14 (11 July 2014); *Human Rights Council Resolution 32/5, Human rights and arbitrary deprivation of nationality*, UN Doc A/HRC/RES/32/5 (15 July 2016).

<sup>45</sup> Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>, Principle 7. See also, the Draft Commentary to the Principles, [https://files.institutesi.org/PRINCIPLES\\_Draft\\_Commentary.pdf](https://files.institutesi.org/PRINCIPLES_Draft_Commentary.pdf).

<sup>46</sup> *Ibid.*, Principle 6.

<sup>47</sup> *Ibid.*, Principle 5.

<sup>48</sup> *Ibid.*, Principle 9.

<sup>49</sup> *Ibid.*, Principle 8.

<sup>50</sup> Nationality Law, Article 20.

49. Various cases have shown the wide variety of activities that are judged to be contrary to the state's interests, which can result into statelessness if safeguards are not in place. For example, in May 2009 the former Vice President of Yemen, Ali Salem Al Beidh, who had been granted asylum in Oman in 1994, and subsequently gained Omani citizenship, had his citizenship revoked following an announcement that he planned to resume his political career.<sup>51</sup>
50. Further, the relevant authority has unduly broad discretionary power to arbitrarily deprive Omani nationality. For example, all public gatherings require official approval in advance and the authorities arrest and prosecute participants of unapproved gatherings. Some private gatherings are also prohibited under article 137 of the penal code, which prescribes a punishment of up to three years in prison and a fine for anyone who "participates in a private gathering including at least 10 individuals with a view to commit a riot or a breach of public order."<sup>52</sup>
51. Omani citizens engaged in the organisation of pro-democracy protests in 2011 onwards, have been subjected to proxy measures that amount to stripping of their citizenship. According to the Omani Centre for Human Rights, Oman withdraws people's identity documents such as passports and identity cards. Some have been without identity documents and unable to prove their nationality for the past ten years, thus rendering them vulnerable to arbitrary detention and numerous other rights violations. Many peaceful protesters were stripped of their right to legal personhood: having no right to travel or work, they were not eligible for benefits, and their reputations were destroyed through the publishing of their pictures in state media, along with well-coordinated defamatory remarks. These sorts of systematic social, cultural, and political deprivations have resulted in a form of civil death.<sup>53</sup>
52. Further, with Nationality Law Royal Decree No. 38/2014, the Minister of Interior has full power to withdraw nationality of Omani citizens without the related duty to inform the individual and without the obligation to provide the person concerned the right of legal recourse.<sup>54</sup> There are an increasing number of undocumented persons, as human rights activists are being stripped of identity documents. This includes social media activists and activists that are in touch with human rights organisations. While this is not synonymous with deprivation of nationality, the consequences are similar, and are addressed in the Principles on Deprivation of Nationality as 'proxy measures' which should be subject to the same restrictions and safeguards as citizenship deprivation measures:

*States must not subject persons to proxy measures, which do not amount to deprivation of nationality, but which have a similar impact and implications on human rights, without subjecting such decisions to the same tests and standards set out in these Principles. Such measures may include the*

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<sup>51</sup> Oman strips Yemeni dissident of citizenship for returning to politics, Gulf News, 22 May 2009 [United Arab Emirates]; Oman revokes citizenship of former Yemen Vice President, Yemen Post, 22 May 2009

<sup>52</sup> <https://ochroman.org/eng/2017/12/statelessness1/>.

<sup>53</sup> Ibid.

<sup>54</sup> <https://ochroman.org/eng/2019/08/statelessness-2/>.

*withdrawal or refusal to renew passports or other travel documents and the imposition of travel or entry bans.*<sup>55</sup>

## Recommendations

53. Based on the above information, the co-submitting organisations urge reviewing States to make the following recommendations to Oman:
- I. Amend the Nationality Law to ensure gender equality with regard to the acquisition, change and retention of nationality and to enable Omani women to transmit their nationality to their foreign spouses and their children on an equal basis with men;
  - II. Protect every child's right to acquire and preserve a nationality, without discrimination in relation to the child or the child's parents or guardians, and ensure comprehensive safeguards against statelessness.
  - III. Protect everyone's right to a nationality, and ensure that national laws comply with international obligations that prohibit arbitrary deprivation of nationality and discrimination, while ensuring the avoidance of statelessness.
  - IV. Amend the Nationality Law to ensure that the government cannot revoke the citizenship rights of persons who exercise their fundamental rights including the right to freedom of expression, assembly and association, with a view to preventing statelessness;
  - V. Amend the Nationality Law to prevent broad discretionary power of the Minister of Interior to adopt proxy measures including the revocation of identity documents as an alternative for citizenship revocation;
  - VI. Withdraw reservations to the CEDAW, particularly the reservation to Paragraph 2 of Article 9 relating to the equal rights of women with respect to passing their nationality to their children];
  - VII. Withdraw reservations to the CRC and its Optional Protocols;
  - VIII. Accede to the 1954 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and the International Covenant on Civil and Political Rights.

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<sup>55</sup> Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>. Principle 10.2.