



UNIVERSAL PERIODIC REVIEW SUBMISSION FOR OMAN NGO Submission

14 July 2020

Prepared and submitted by:
The Omani Centre for Human Rights

ABOUT OCHR-Oman

1. The Omani Centre for Human Rights (OCHR) is a non-governmental, non-profit organization that monitors and documents human rights issues in Oman. The Centre is based in the United Kingdom, because in Oman it is a crime to form a party or association active in politics or human rights, per Article 134 of the Omani Penal Code and Royal Decree 38/2014.

INTRODUCTION

2. This submission was prepared OCHR, for the Universal Periodic Review (UPR) of Oman. In this submission, OCHR evaluates Oman's implementation of recommendations made during its previous UPR, as it relates to the current human rights situation in the country, which is characterized by systematic, widespread, and gross violations of human rights, including: the ongoing curtailment of the freedom of expression, information, association, and assembly, the use of the death penalty, gender violence and discrimination, and discrimination based on sexual orientation.

FREEDOM OF EXPRESSION, ASSOCIATION, AND ASSEMBLY

3. Many recommendations from the 2015 UPR for Oman related to the safeguarding of the right to freedom of expression and association

Freedom of expression

4. Article 97 of Oman's Penal Code.
5. This provision can only be characterized as a "Lèse Majesté" ("to do wrong to majesty") law, recognized by multiple States and UN bodies as being in violation of the right to freedom of expression, as recognized by Article 19 of the UDHR.ⁱ
6. This provision has been used to silence individuals who have differing opinions to the government or have criticized the government's performance. The article is overbroad, allowing extensive discretion on the part of the Public Prosecutor to take targeted action to silence individuals as they see fit.
7. On November 14, 2019, an Omani writer, Musallam Masoud al-Mashani, was arrested in connection with his new book. He was arrested at a border post on the Yemen-Oman border after having secured a publishing deal with a Yemeni publisher regarding his new book on the Hakli tribal confederation.ⁱⁱ While al-Mashani was eventually released on November 25, his arrest indicates the willingness of Oman to take action to silence individuals who seek to express views that do not align with the State and/or the Sultan.
8. 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.ⁱⁱⁱ

9. Article 115 of Oman's Penal Code.
10. This article is in clear violation of the right to freedom of expression. It has been used to target bloggers, writers, and activists who seek to critique the government or expose corruption. Similar provisions in Article 19 of the Cyber Crime Law were previously used to shut down the newspaper Azamn^{iv} in 2016, and to harass the online newspaper Al Balad.^v
11. On December 16, 2019, Mukhtar al-Hanai, a journalist who worked for Atheer, an online newspaper was detained as the paper had allegedly published information about the State Financial and Administrative Audit Institution and violations within a government initiative. The next day, the editor-in-chief of the newspaper was also detained.^{vi}
12. Article 108 of Oman's Penal Code.
13. This provision violates Omani individuals' rights to freedom of expression on religious issues and sectarian issues in Oman. It has been used to target academic writings and research which draw critically on historic events and/or scientific research.
14. The provision has also been used to target peaceful assembly (*see infra Freedom of assembly*). An example of this occurred in August 2019, during which time arrests were made in Dhofar, in southern Oman, arising from protests regarding the date set by the government for Eid al-Adha and Eid prayers.^{vii}
15. Other reported examples of the State of Oman violating Omanis' rights to freedom of expression, particularly through the use of criminal law, include:
 - a. the detention of Hassan al-Basham, a former diplomat and an online activist, on May 3, 2016 for various charges including insulting God and Sultan Qaboos bin Said al Said. al-Basham had been a prominent activist who wrote posts online in support of prisoners of conscience. He died

while still in custody in May 2018, due to the sudden deterioration of his health;^{viii}

- b. the arrest and sentencing of writer and researcher Mansour Bin Nasser al-Mahrazi to three years' imprisonment for his book entitled, *Oman in the Square of Corruption*. Al-Mahrazi had reportedly removed the book from the market but this did not stop him being sentenced to prison for three years;^{ix}
- c. the arrest and detention of internet activist Yousif Sultan Al-Arimi by the Special Division of the Omani Police Headquarters in Muscat on April 18, 2018 due to his writings and views expressed on Twitter;^x
- d. the arrest of activist Bader Al-Arimi on December 19, 2018 with regard to his publications, including his defence of the Palestinian cause;^{xi}
- e. the arrest of religious leader and activist Obeid bin Hashl Al-Hinai on December 30, 2018 for supporting the rights of the Palestinian people;^{xii}
- f. the detention of broadcaster Adel Al-Kasbi on February 26, 2020 following his posts on Twitter containing an image that referred to corruption by Omani ministers and the subsequent detention of a former Shura member, Salim Alufi, after having posted the same image. Salim remains in custody to date; and
- g. the confiscation and banning of approximately 50 book titles from the Muscat International Book Fair during February and March 2020 due to the contents of those books being political, religious or sexual in nature.^{xiii}

Freedom of association

16. Articles 116, 117 and 118 of Oman's Penal Code.

17. Despite Oman's commitment to Article 20(1) of the UDHR and constitutional guarantees of the right to form associations, these provisions of the Penal Code make clear that this right does not extend to those associations that are deemed to be in opposition to any State activities or policies. This necessarily also prevents

the exercise of political freedoms and the existence of free and fair elections. Article 118 also inherently interferes with the right to freedom of expression (*see supra Freedom of expression*).

Freedom of peaceful assembly

18. Articles 121 and 123 of Oman's Penal Code.

19. Both of these articles violate the right to freedom of peaceful assembly, as outlined under Article 20 of the UDHR. OCHR understands that the provisions are routinely used when peaceful gatherings and demonstrations take place.

20. In mid-January 2018, protesters gathered in Muscat to urge the Omani government to take steps to address Oman's unemployment levels. On January 29, 2018, Omani security forces arrested a number of these protesters in relation to their protesting.^{xiv}

FREEDOM OF RELIGION

21. Article 269 of Oman's Penal Code.

22. In clear violation of Oman's commitment to respect the rights outlined in Articles 18 and 19 of the UDHR, the provisions in this Article reflect Oman's policy and practice of persecuting atheists, those who do not adhere to the religion of Islam and the freedom of expression rights of those who wish to engage in intellectual

activity, which may be considered to critique aspects of religion. In light of OCHR's past experience, it is almost certain that the provisions in (b), (c) and (d) are likely to be, and have been, used to crackdown on academic activity in the area of religion. In particular, the authors of activist writings that highlight the State's hegemony over religious institutions and the use of these institutions by the State to influence public opinion have been threatened and imprisoned, as have authors who seek to question ideas found in religious literature.^{xv}

23. As previously noted, Hassan al-Basham, a former diplomat and an online activist, was detained on May 3, 2016 for various charges including for blasphemy and disturbing religious values in his online social media posts. Al-Basham was a prominent activist and passed away while still in custody in May 2018 due to a sudden deterioration of his health.^{xvi}

24. Article 270 of Oman's Penal Code.

25. Again, it is likely that this article will be and has been used to target those with sectarian differences or those who seek to critique Islamic scripture and/or practice a different religion. All religious organizations are required to register with the Omani government, but these groups have reported various issues due to an opaque and unclear process in place, arguably interfering with their rights to freely practice their religions.^{xvii}

26. Article 277 of Oman's Penal Code.

27. This article violates the right to freedom of religion by requiring that all individuals in Oman follow the practices relating to Ramadhan, with possible imprisonment of up to three months. For example, on May 30, 2019, the OCHR condemned the arrest by Oman of two Omani citizens who did not fast during Ramadhan.^{xviii}

THE DEATH PENALTY

28. A number of States recommended in the 2015 UPR that Oman Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty. Several other States recommended that Oman take the necessary measures to eliminate the death penalty or adopt a moratorium on the death penalty with a view to abolishing its use.
29. Several UN General Assembly resolutions have called for the eventual abolition of the death penalty by Member States, urging States to progressively restrict its use and to reduce the number of offences for which the death penalty serves as punishment.^{xix}
30. Despite this, the Oman's new Penal Code makes the death penalty a routine punishment for a number of crimes. The death sentence is prescribed as punishment or noted as a potential punishment for the crimes in Articles 94, 95, 106, 107, 109, 110, 111, 113, 117, 125, 126, 127, 128, 129, 130, 133, 156, 164, 167, 260, and 302.
31. Oman has continued to impose the death sentence in cases decided since the 2015 UPR. For example, in July 2018, an Omani woman, and the man that she had an affair with, were sentenced to death for the murder of the woman's husband.^{xx}

GENDER VIOLENCE AND DISCRIMINATION

32. While Oman is already a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), multiple UN Member States recommended that Oman take necessary measures to achieve gender equality and protect women, in particular from gender-specific violence. This included recommendations that:
- a. Omani legislation be amended to incorporate an explicit prohibition on discrimination against women;
 - b. policies and legal frameworks be put into place for the development and empowerment of women, including participation in political life and political representation in the government;
 - c. Oman take efforts to eradicate violence against women and make efforts to eliminate female genital mutilation.
 - d. measures be taken to guarantee citizenship for children based on the status of their mothers, including to children who are born to non-Omani fathers, such that women had the same right as men to transfer nationality to their children.
33. In relation to Articles 7,16 and 23 of the UDHR, and Article 17 of Oman's Basic Law.
34. Despite these guarantees and recommendations by States for amendments to legislation and practices, there still exist several issues in Oman regarding gender discrimination and violence. For example:^{xxi}
- a. Under Article 10 of the Personal Status Law, underage girls are able to be married if this is deemed to be in their best interests by a judge.
 - b. The Personal Status Law permits a man to marry up to 4 women at the same time and states that a woman's duties include obeying her husband.
 - c. Men can divorce their wives without needing to provide a reason but women must provide justification for divorce.
 - d. The new Omani Penal Code does not enforce or protect women's rights. Men are given preference with regard to personal or general affairs. Furthermore, the law does not address the situation where a woman is

raped by her husband.

- e. The Penal Code also does not provide safeguards against domestic violence, including against children.
 - f. The practice of female genital mutilation remains prevalent throughout Oman and has not been outlawed in the new Penal Code, though has recently been prohibited by executive regulation of the Children's Act.
35. On February 9, 2019, a group of female individuals who had established a twitter account with the purpose of spreading awareness about women's rights in Oman were summoned by the Internal Security Service. The Internal Security Service forced the group to cease activities on the twitter account and made threats that they would be punished if they continued advocating for women's rights.
36. Furthermore, individual freedoms of both women and men are restricted by Article 259 of the Penal Code.

HOMOSEXUALITY

37. Many 2015 UPR recommendations related to the repeal of legislation criminalizing homosexuality and taking efforts to combat discrimination on the basis of sexual orientation.
38. In relation to the Article 7 of the UDHR and Article 17 of Oman's Basic Law.
39. However, there still remains no safeguard to protect persons based on their sexual orientation. The revised Oman Penal Code contains articles that punish persons who identify as homosexual or who engage in homosexual acts, in violation of international law and in violation of the Oman Constitution's guarantee of citizen equality before the law.
40. In particular, this is evidenced through Articles 261 and 262 of the Oman Penal Code, which state:
41. Sources contacted for this UPR submission feared that by revealing themselves, their safety would be jeopardized, which is indicative in and of itself of the repression individuals in the LGBTQ+ community face.

RECOMMENDATIONS

42. OCHR calls on Oman's government to:

- a) Protect the rights of all individuals to freedom of expression, peaceful assembly, association, and religion, including through the repeal of provisions of the Penal Code which interfere with these rights;
- b) Continue promoting, without reserve, the rights to freedom of expression and association, and ensure that activists, journalists, and opposition groups can operate peacefully within Oman without fear of retribution in the form of censorship, harassment, arbitrary detention, and extrajudicial killings, among others;
- c) Abolish the use of the death penalty as a sentence for all crimes;
- d) Strengthen its commitment to gender equality, including by:
 - i) withdrawing its reservations to CEDAW;
 - ii) removing requirements in the Personal Status Law relating to a woman's duties in a marriage;
 - iii) preventing the ability of judges to permit the marriage of underage girls;
 - iv) equalizing the ability of both men and women to obtain divorces;
 - v) preventing domestic violence, particularly against women and children, by including relevant provisions in the Penal Code;
 - vi) criminalizing female genital mutilation in the Penal Code; and
 - vii) explicitly recognizing marital rape as a crime in its Penal Code;
- e) Decriminalize same-sex relations and sexual activity;
- f) Cooperate with regional and international human rights mechanisms by allowing the special procedure mandate holders to carry out an independent assessment of the human rights situation in Oman and advise the government accordingly; and
- g) Engage in constructive national dialogue with all religious, political, and social groups — particularly opposition groups — in Oman in order to generate a sustainable solution to ensuring peace and protecting of human rights within the

country.

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- ⁱ See, e.g., U.S. Department of State, Overseas Security Advisory Council, *Lèse Majesté: Watching what you say (and type) abroad* (August 29, 2019), available at <https://www.osac.gov/Content/Report/e48a9599-9258-483c-9cd4-169f9c8946f5>.
- ⁱⁱ The Omani Centre for Human Rights, *Omani writer arrested over book on tribes* (November 19, 2019), available at <https://ochroman.org/eng/2019/11/musallammashani/>.
- ⁱⁱⁱ “News updates on human rights issues in Oman,” OCHR, 10 June 2020, <https://ochroman.org/eng/2020/06/update/>.
- ^{iv} See, e.g., Human Rights Watch, *Oman: Newspaper Shuttered, Editor Held* (August 13, 2016), available at <https://www.hrw.org/news/2016/08/13/oman-newspaper-shuttered-editor-held>.
- ^v GCHR, *Oman: “Al-Balad” says farewell to readers and stops publishing* (October 31, 2016), available at <https://www.gc4hr.org/news/view/1413>.
- ^{vi} The Omani Centre for Human Rights, *The Annual Report of Human Rights Violations in Oman – 2019* (January 1, 2020), available at <https://ochroman.org/eng/2020/01/annualreport2019/>.
- ^{vii} The Omani Centre for Human Rights, *The Annual Report of Human Rights Violations in Oman – 2019* (January 1, 2020), available at <https://ochroman.org/eng/2020/01/annualreport2019/>.
- ^{viii} *Human Rights Watch World Report 2018 - Oman Events of 2017*, HUMAN RIGHTS WATCH (2018), available at <https://www.hrw.org/world-report/2018/country-chapters/oman>; International Federation for Human Rights, *Oman: Death in custody of Mr. Hassan al-Basham* (May 15, 2018), available at <https://www.fidh.org/en/issues/human-rights-defenders/oman-death-in-custody-of-mr-hassan-al-basham>.
- ^{ix} *Human Rights Watch World Report*, *supra* note xiii.
- ^x *Human Rights Watch World Report 2019 - Oman Events of 2018*, HUMAN RIGHTS WATCH (2019), available at <https://www.hrw.org/world-report/2019/country-chapters/oman>.
- ^{xi} CIVICUS, *supra* note vii.
- ^{xii} *Ibid.*
- ^{xiii} The Omani Centre for Human Rights, *Censorship continues under Oman’s new Sultan at Muscat International Book Fair 2020* (March 2, 2020), available at <http://ochroman.org/eng/2020/03/bookfair2020/>.
- ^{xiv} *Human Rights Watch World Report 2019*, *supra* note xv.
- ^{xv} *Oman’s New Penal Code*, *supra* note v.
- ^{xvi} *Human Rights Watch World Report; Death in custody*, *supra* note xiii.

^{xvii} United States Department of State, *Oman 2018 International Religious Freedom Report* (2018), available at

<https://www.state.gov/wp-content/uploads/2019/05/OMAN-2018-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>.

^{xviii} *The Annual Report of Human Rights Violations in Oman*, *supra* note x.

^{xix} See United Nations General Assembly, *Resolution adopted by the General Assembly on 18 December 2007*, U.N. Doc. A/RES/62/149 (26 February 2008); United Nations General Assembly, *Resolution adopted by the General Assembly on 18 December 2008*, U.N. Doc. A/RES/63/168 (13 February 2009); United Nations General Assembly, *Resolution adopted by the General Assembly on 21 December 2010*, U.N. Doc. A/RES/65/206 (28 March 2011); United Nations General Assembly, *Resolution adopted by the General Assembly on 20 December 2012*, U.N. Doc. A/RES/67/176 (20 March 2013).

^{xx} Gulf News, *Omani woman sentenced to death for killing husband* (July 4, 2018), available at <https://gulfnews.com/world/gulf/oman/omani-woman-sentenced-to-death-for-killing-husband-1.2246348>.

^{xxi} The Omani Centre for Human Rights, *Women in Oman still held back by unequal rights* (November 24, 2019), available at <https://ochroman.org/eng/2019/11/womenrights/>.