



Submission to the Universal Periodic Review of Oman

Human Rights Watch

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Freedom of Expression

1. Oman's Basic Law guarantees freedom of expression, but restricts this right based on "the conditions and circumstances defined by the Law," and prohibits any publication that "leads to public discord, violates the security of the State or abuses a person's dignity and his rights" (article 31). Authorizing blanket prohibitions on these vague grounds goes beyond the restrictions permitted under international human right law.
2. During its 2015 UPR, Oman accepted a recommendation to "[s]afeguard the right to opinion and speech, as prescribed by Article 29 of the Omani Basic Statute of the State, by reviewing current legislation and working towards specifying its limits and boundaries in a clear and consistent manner."¹ Yet Oman revised its penal code in January 2018, increasing punishments for offenses that relate to the peaceful exercise of freedom of expression. The punishment for committing slander against the sultan and his authority increased from between six months and three years in prison to between three and seven years in prison under article 97. Under article 269, the penalty for committing blasphemy or insulting Islam increased from between 10 days and 3 years to between 3 and 10 years in prison.
3. Security agencies, particularly the Internal Security Service, continued to target pro-reform activists, often for views they expressed on social media platforms like Facebook and Twitter. Courts sentenced activists to prison terms using vaguely defined laws that limit free speech, including crimes such as "insulting the Sultan" and "undermining the prestige of the state." On October 5, 2017, Oman's Supreme Court issued its final ruling that the pro-reform Azamn newspaper must permanently close.
4. On June 3, 2020, Omani police arrested an activist and blogger Awadh al-Sawafi and held him in detention until June 9, after which he was released on bail for 100 Omani Rials (USD\$260) by the Ibri Court of First Instance. His arrest related to Tweets in which he criticized government agencies that threaten citizens. On June 16, the court sentenced Awadh al-Sawafi to a suspended one year prison sentence and a ban on using social media for one year for violating the Cyber Crime Law by publishing information harming public order. Awadh was among those detained in 2012 in the so-called "lèse-majesté" case, in which he was sentenced to a year in prison for defamation against the former Sultan.
5. Similarly, on June 10, 2020, the Court of First Instance in Muscat sentenced former Shura Council member Salem al-Awfi and journalist Adel al-Kasbi to one year in prison each for "using information technology to spread harm to public order." Their charges relate to tweets that criticized corruption and called for justice.
6. *The Government of Oman should:*
 - Amend the penal code and other laws, including the Press and Publications Law, Telecommunications Act of 2002, Cyber Crimes Law, and Civil Societies Law so as not to infringe upon internationally guaranteed rights of free speech, assembly, and association. Release all people and quash convictions related to peaceful exercise of freedoms of expression, association, and assembly.

Women's Rights

7. Despite Oman accepting several UPR recommendations on women's rights, Oman continued to discriminate against women.
8. Oman does not allow women to transmit nationality to their children on an equal basis with men. Oman noted a number of recommendations in 2015 in relation to the citizenship issue but has taken no steps to halt this discrimination. Article 18 of the new Omani Nationality Law allows an Omani woman to

¹ Universal Periodic Review, Second Review, Session 23, Reviewed 5 November 2015, Adopted 16 March 2016, "Oman – Responses and Recommendations & Voluntary Pledges," available at: https://www.upr-info.org/sites/default/files/document/oman/session_23_-_november_2015/recommendations_and_pledges_oman_2016.pdf

transmit nationality to her children from a marriage to a foreign man only upon becoming widowed, divorced, or when her husband has been absent or abandoned them for at least 10 consecutive years.² Moreover, their marriage should have obtained approval from the ministry of interior before it took place, and the child should live with her.³ Omani men can transmit Omani nationality to their children automatically, regardless of whether they are married to an Omani or non-Omani woman.

9. Women continue to face discrimination in relation to marriage and family. Oman's Personal Status Law requires a woman's male guardian, usually a father, to contract her into marriage, a condition not imposed on men, and recognizes a husband as the head of a household.⁴ A husband can divorce his wife without cause, whereas women who seek divorce must apply to the courts on limited grounds or pay compensation for her husband's consent to the divorce (*khula* divorce).⁵ Women are also discriminated against in obtaining guardianship over their children. The law recognizes fathers as the legal guardians of the children, regardless of whether a court has ordered that the children should live with the mother.⁶ Even where the child is living with the mother, the law provides that she cannot travel abroad with her child without the approval of the guardian.⁷ In matters of inheritance, women inherit half as much as male heirs.⁸
10. Oman has failed to implement recommendations that it accepted on violence against women such as recommendation 129.81 "Adopt legislation to prevent and combat violence against women and domestic violence" (Italy). Oman has no legislation to combat domestic violence. Article 37 of the Personal Status Law stipulates that a wife has the right not to be physically or mentally abused by her husband. While the general penal code provisions could apply to physical forms of domestic violence, there is no publicly available information on how many successful prosecutions have taken place using these provisions in cases of domestic violence.
11. While the Ministry of Social Development opened a shelter for domestic violence survivors in 2015, it is reported by local press to be limited to Omani women and girls, and expatriate women married to Omani nationals.⁹
12. Women who report rape can find themselves at risk of prosecution. If authorities do not believe that a woman has been raped, the authorities may consider the reporting of rape itself as a confession of sexual relations outside of marriage prompting charges against the rape victim.
13. *The Government of Oman should:*
 - End all forms of discrimination in law and practice against women and girls, including intersecting forms of discrimination based on gender identity, in accordance with the Convention on the Elimination of All Forms of Discrimination Against Women.

Migrant Domestic Workers

14. Oman has done little to protect migrant domestic workers rights despite noting recommendations and accepting one (recommendation 129.204), which stated: "Review the kafala system, and study possible alternatives in managing foreign labour, with a view to strengthening protection for domestic workers, including from violence and abuse, and to provide effective avenues for redress."

² Omani Nationality Law, promulgated by Royal Decree No. 38/2014, article 18, <http://gulfmigration.eu/oman-sultans-decree-no-38-of-2014-issuing-the-omani-citizenship-law-2/> (accessed January 23, 2017).

³ Omani Nationality Law, art. 18 also provides that the child should also have resided in Oman for at least 10 continuous years, possess sound conduct and character; shall not have been convicted of any crime or offence in breach of trust, unless rehabilitated; and the minor's guardian, if any, shall express in writing his non-objection of the child acquiring Omani citizenship.

⁴ Personal Status Law, Royal Decree No. 32 of 1997, arts.19-20 and 38.

⁵ Personal Status Law (No. 32 of 1997), arts. 95 and 98-114.

⁶ Personal Status Law (No. 32 of 1997), arts. 158-169.

⁷ Personal Status Law (No. 32 of 1997), art. 134.

⁸ Personal Status Law (No. 32 of 1997), arts. 243, 244, 245, 246 and 254.

⁹ "Shelter from the storm of abuse for women in Oman," *Times of Oman*, January 7, 2015, <http://timesofoman.com/article/45953/Oman/Shelter-from-the-storm-of-abuse-for-women-in-Oman> (accessed January 23, 2017).

15. Oman reported hosting 233,046 migrant domestic workers in February 2020.¹⁰ Most are from the Philippines, Indonesia, India, Bangladesh, Sri Lanka, Uganda, and Tanzania.
16. Human Rights Watch research found in 2016 and 2017 that domestic workers faced multiple forms of abuse and exploitation at the hands of their employers or recruitment agents in Oman. Most said that their employers confiscated their passports, making it harder to leave them if their employers are abusive. Many said their employers did not pay them their full salaries, forced them to work excessively long hours without breaks or days off, or denied them adequate food and living conditions. Some said their employers physically or sexually abused them.¹¹
17. In some cases, workers described abuses that amounted to forced labor or trafficking. They said they applied for jobs in the United Arab Emirates (UAE), but after arriving there, recruitment agents or employers forced or coerced them into crossing the porous border into Oman with employers who exploited and abused them. Employers typically pay fees to recruitment agencies to secure domestic workers' services, and several workers said that their employers told them they had "bought" them.
18. Such abuses are facilitated by Oman's restrictive *kafala* (sponsorship) immigrant labor system and lack of labor law protections for domestic workers. The *kafala* system ties migrant domestic workers' visas to their employers. They cannot work for a new employer without the current employer's permission in the form of a "no-objection certificate" or "release", even if they complete their contract or their employer is abusive. Domestic workers who escape their employers can be reported as "absconded," an administrative offense that can result in deportation and a ban on future employment, or even a criminal complaint against them.
19. Human Rights Watch interviewed workers who said they had to forego their salaries as a condition for their "release," or work for a new employer who repaid recruitment costs to the initial employer. In some instances, the police and Ministry of Manpower officials helped enforce this practice.
20. Oman is now the only Gulf Cooperation Council (GCC) state without any legal protections for domestic workers rights. Oman's labor law explicitly excludes domestic workers, and regulations issued in 2004 on domestic workers provide only basic protection.¹² The regulations do not establish standards for working hours, weekly rest days, annual vacation, or overtime compensation. The regulations do not stipulate any penalties for employers' breaches of its provisions.
21. Domestic workers who said they escaped abusive situations have few options. Some said they sought help from recruitment agents, but that the agents confined them to their offices, beat them, and then forced them to work for new families. Some domestic workers who turned to the police for help said officers dismissed their claims out of hand and returned them to employers or recruitment agencies. In several cases, workers said that employers beat them after the police returned them.
22. The Omani labor dispute-resolution mechanism at the Ministry of Manpower has no power to force employers or agents to attend dispute-resolution sessions. Workers told Human Rights Watch that either agents did not turn up to dispute resolution sessions, or officials did not believe their stories of abuse and sided with employers. Many workers return home unpaid and without justice, and some must even pay their employers to be able to leave.
23. *The Government of Oman should:*

¹⁰ Oman National Centre for Statistics and Information, "Monthly Statistical Bulletin," March 2020, https://www.ncsi.gov.om/Elibrary/LibraryContentDoc/bar_March%202020_0f7a0628-f2e1-42f2-8ed1-ca22b5bc72c3.pdf p.21, (accessed March 20, 2020).

¹¹ See Human Rights Watch, "*I Was Sold*": Abuse and Exploitation of Migrant Domestic Workers in Oman, July 2016, <https://www.hrw.org/report/2016/07/13/i-was-sold/abuse-and-exploitation-migrant-domestic-workers-oman> and "*Working Like a Robot*": Abuse of Tanzanian Domestic Workers in Oman and the United Arab Emirates, November 2017, <https://www.hrw.org/report/2017/11/14/working-robot/abuse-tanzanian-domestic-workers-oman-and-united-arab-emirates>

¹² Labour Law, issued by Royal Decree no.35/2003, 2012, art. 2(3), https://www.manpower.gov.om/Portal/Englishpdf/Service/toc_en.pdf (accessed June 21, 2016), and Ministerial Decision no. 189/2004 on labor rules and conditions for domestic employees, issued on June 16, 2004, available in Arabic at <http://www.omanlegal.net/vb/showthread.php?t=14362> (accessed January 23, 2017), and <http://www.s-oman.net/avb/showthread.php?t=701180> (accessed January 23, 2017).

- Abolish the kafala (sponsorship) system and allow migrant workers to change or leave their employers without permission from their employer.
- Reform the labor law to include domestic workers and ensure that domestic workers have effective access to justice.

Sexual Orientation and Gender Identity

24. Oman's revised 2018 penal code increased penalties for consensual intercourse outside of marriage. Article 259 punishes consensual intercourse outside marriage with between six months to three years' imprisonment (previously three months to one year imprisonment), and at least two years if either person is married (previously one to three years' imprisonment).¹³ For a prosecution to proceed, the spouse or the guardian of the accused must file an official complaint, or if there is no guardian found, a prosecutor can still file a case.
25. While the previous penal code punished same-sex relations only if they led to a "public scandal," article 261 of the amended penal code punishes any consensual sexual intercourse between men with six months to three years in prison.
26. The 2018 penal code criminalizes non-normative gender expression for the first time. Article 266 provides for a prison sentence of one month to one year, a fine of 100 to 300 riyals (US\$260-780), or both, for any man who "appears dressed in women's clothing."
27. In doing so, Oman is one of the few countries in the world that directly criminalizes gender expression, effectively making transgender people's very identities illegal. Such regressive laws violate the right to freedom of expression and infringe upon transgender peoples' rights to privacy, non-discrimination, and freedom of movement.
28. On January 27, 2018, the Royal Oman Police announced that they had arrested "a number of men in women's clothing" in the town of Salalah, in Dhofar Governate, following the circulation of images from a private party on social media.¹⁴ The police, who apparently determined that some partygoers were dressed in clothing not corresponding to their assigned sex, arrested four of them.
29. On February 15, 2018, a court in Salalah convicted the four on charges of immoral conduct under article 265 of the penal code; "imitating the opposite sex" under article 266(d) of the penal code; producing or distributing material that violates "public ethics" under article 17 of the Cyber Crime Law of 2011; and "assisting" in the production or distribution of such material under article 31 of the Cyber Crime Law, according to two Omani activists familiar with the case. The activists told Human Rights Watch that the court sentenced each of the four people to three years in prison, a fine of 3,000 Omani riyals (about US \$7,800), and a month of street cleaning for four hours a day, and that the court also confiscated one defendant's mobile phone and suspended his social media accounts as part of the sentence.
30. In another case reported in the Times of Oman on March 11, 2018, the Royal Oman Police stated that "Police in Al Buraimi managed to arrest an [expat of] Asian nationality in Al Buraimi park, dressed in women's clothing, which was a 'women's only day' at the park." According to the police statement, the person arrested wore an abaya, niqab, and headscarf.
31. During its 2015 UPR, Oman pledged to "[t]ake new measures to eliminate all forms of discrimination against women."¹⁵ Article 17 of the Basic Law states that all citizens are equal and prohibits gender-based discrimination. As a party to the Convention on the Elimination of All Forms of Discrimination

¹³ Oman Penal Code, promulgated by Royal Decree No. 8/2018, art. 259. The criminalization of adult consensual sexual relations violates international human rights law including the rights to privacy, nondiscrimination, physical autonomy, and health.

¹⁴ @RoyalOmanPolice. "توضح الشرطة بأنه تم القبض على . بالاشارة إلى المقاطع المتداولة عبر وسائل التواصل الاجتماعي يظهر فيها عدد من الرجال بالملابس النسائية في محافظة ظفار". Twitter, 27 January, 2018, 11:36am EST. Available at: <https://twitter.com/RoyalOmanPolice/status/957291204747710466>

¹⁵ Universal Periodic Review, Second Review, Session 23, Reviewed 5 November 2015, Adopted 16 March 2016, "Oman – Responses and Recommendations & Voluntary Pledges," available at: https://www.upr-info.org/sites/default/files/document/oman/session_23_-_november_2015/recommendations_and_pledges_oman_2016.pdf

against Women (CEDAW), Oman is obligated to pursue policies to eliminate intersecting forms of discrimination, including discrimination based on gender identity.¹⁶ The cases outlined above are in clear violation of these obligations.

32. *The Government of Oman should:*

- Pass comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sex or gender and includes effective measures to identify and address such discrimination and gives victims of discrimination an effective remedy.
- Repeal articles 259, 261, 262, 266(d) and other vague morality laws, which relate to consensual acts in private life and can be used in a discriminatory manner to target people based on their gender identity or sexual orientation. Implement a moratorium on arrests under such articles.

Treaties and Cooperation with Human Rights Mechanisms

33. Oman has yet to become party to key international human rights treaties, notably the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), although the Omani government is currently discussing ratification of some of these instruments in line with its pledge to do so during its previous UPR. Oman has also yet to ratify the International Labour Organization (ILO) 2011 Domestic Workers Convention and the 2019 ILO Violence and Harassment Convention.

34. *The Government of Oman should:*

- Accede to major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic and the Social and Cultural Rights (ICESCR) as well as their optional protocols.
- Ratify the ILO Domestic Workers Convention and the ILO Violence and Harassment Convention.

¹⁶ UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 10 July 2020]