



# **Universal Periodic Review: Oman**

**Third Cycle**

**Submission to the Stakeholders' Summary**

**Alkarama Foundation, 8 July 2020**

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1. The present contribution comes within the framework of the third cycle of the Universal Periodic Review (UPR) pertaining to the general human rights situation in Oman and takes into consideration the recommendations made in January 2016.

## **1. Background and framework**

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2. When Saudi Arabia joined forces with the United Arab Emirates, Bahrain and Egypt to boycott Qatar, the Sultanate guarded its neutral position. The principle of neutrality and arbitration between parties has equally been the guiding line for Oman's policies towards conflicting parties in the Yemeni civil war. In January 2020 there has been a shift at the top of the executive. Haitham bin Tarek al-Said ascended to the throne after the decease of Sultan Qaboos who had been ruling Oman for the past 40 years.

3. In 2018 a new Penal Code has been introduced criminalizing various new circumstances and raising the minimal sentences of imprisonment.

### **1.1 Scope of international obligations**

4. Despite recommendations to this effect, Oman has not ratified the International Covenant on Civil and Political Rights (ICCPR), the International Convention for the Protection of all Persons from Enforced Disappearance (CED) or the Convention against Torture (CAT). At the second UPR, it accepted recommendations on the ratification of the CAT and the CED, but, despite its commitments, the Sultanate Oman has not ratified either of the conventions. Concerning the ICCPR, the State party merely noted the recommendations on its ratification. This appears indicative of the authorities' blatant unwillingness to accede to these essential human rights instruments.

#### **5. Recommendation:**

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

### **1.2 Constitutional and legislative framework**

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

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

### **1.3 Institutional and human rights infrastructure**

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

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

10. **Recommendation:**

a) Bring the NHRC in conformity with the Paris Principles.

## **2. Cooperation with human rights mechanisms**

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11. The Omani authorities refuse to fully cooperate with the UN's human rights protection mechanisms. A number of urgent appeals and allegation letters sent by the Special Procedures remain uncommented. Furthermore, a visit request issued by the special rapporteur on racism in February 2018 remains unanswered to this day.

12. **Recommendation:**

a) Cooperate fully with the Special Procedures and international Human Rights mechanisms.

## **3. Implementation of international human rights obligations**

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### **3.1 Right to life, liberty and security of the person**

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

#### *3.1.1 Torture and other cruel, inhuman or degrading treatment*

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

15. **Recommendation:**

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

#### *3.1.2 Interdiction of peaceful demonstrations*

16. Peaceful gatherings continue to be systematically oppressed in Oman and in consequence the right to peaceful assembly continues to be violated.

17. **Recommendations:**

a) Guarantee the right to peaceful assembly and implement demonstration control procedures in line with internationally accepted standards.

## **3.2 Right to a fair trial**

### *3.2.1 Draconian domestic laws*

18. Article 19 of the Royal Decree No 12/2011 issuing the Cyber Crime Law criminalizes activities on the internet that may undermine the public order. The article continues to be used to silence human rights activists, bloggers and further criticism of the government.

19. Amongst many worrying developments with the establishment of the new Penal Code in 2018, Alkarama is particularly concerned about article 116. The article basically gives authorities free hand to selectively and severely punish people and organizations up to an imprisonment of ten years who "intend to oppose" the principles of the state.

### *3.2.2 Arbitrary, secret and incommunicado detention*

20. Article 24 of the Constitution prohibits arbitrary arrest and detention. However, this provision was frequently violated in recent years. The intelligence services operate outside any legal framework, habitually arresting persons and detaining them incommunicado.

21. An illustrative example for the habit of arbitrary detention in Oman is the case of former al-Zaman editor Yousuf al-Haj who has been prosecuted and sentenced (25.9.2016) as a result of exercising his fundamental right to freedom of expression. Due to the fact that Mr. al-Haj has been prosecuted for the execution of his rights guaranteed by the Universal Declaration of Human Rights under article 17, 19, 20 and 23 and in view of the violations to fair trial guarantees that occurred during his trial, his deprivation of liberty was clearly arbitrary.

22. Moreover, despite the constitutional guarantees, there is a clear pattern of arbitrary and incommunicado detention in Oman. Following protest in spring 2018, waves of arbitrary arrests were executed. Although many were released the same day, four men of the al-Shuhuh tribe and an Emirati citizen were detained incommunicado for several months.

#### **23. Recommendation:**

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

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

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

#### **25. Recommendation:**

a) Ensure full independence of the judiciary, including the establishment of an independent Supreme Judicial Council.

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

26. During the second UPR cycle, Oman accepted recommendations calling on the authorities to reinforce freedom of expression, publication and assembly.

27. These freedoms, restricted by law, have been increasingly limited with the introduction of the new Penal Code in 2018. Having further restricted the establishment of new political parties, organisations and associations, the right of political participation is rendered meaningless.

28. The authorities have justified numerous exceptions to these fundamental rights and freedoms on the basis of "public order" and "national security".

#### *3.4.1 Right to freedom of opinion and expression*

29. As discussed above, Oman accepted in the previous UPR session recommendations to reinforce freedom of expression. However Oman merely "noted" the one calling for its establishment in line with international standards.

30. Whilst enshrined in the Constitution, freedom of expression is still limited by law, and communications are closely monitored. Various human rights defenders or journalists have been summoned by the intelligent services following any interaction with human rights organisations.

31. Article 97 of the new Penal Code criminalises criticism against the Sultan or members of the government, with the penalty of up to seven years' imprisonment. It is commonly against human rights defenders or others critics of the Sultan or Executive's decisions, leading to a generalized climate of fear and paralysing any constructive political debate.

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

33. These provisions are routinely used to oppress journalists, writers and activists: Apart from the case of Yousuf al-Haj there is the case of Mansour Bin Nasser al-Mahrazi who, although released on the same day on bail, has been sentenced to three years of imprisonment for writing a book. A further example to illustrate the habit is the case of the former diplomat and online activist Hassan al-Basham who was sentenced to three years prison on charge of "using the internet in what might be prejudicial to religious values" and "insulting the Sultan". Mr. al-Basham died under shady circumstances while in custody.

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

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

36. **Recommendation:**

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

### *3.4.2 Right to peaceful assembly*

37. The Constitution recognises citizens' rights to assembly "within the limits of the law". Those limits are often used to oppress peaceful demonstrations. In practice, any meeting between a plurality of persons in a public space is prohibited and considered an "unlawful assembly".

38. As discussed above, various citizens have been arrested for peacefully demonstrating against a variety of social issues.

39. **Recommendation:**

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

### *3.4.3 Freedom of association*

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

41. The accreditation process is controlled by the Ministry of Social Development, which receives and reviews applications, and monitors existing associations by directly supervising general meetings. The Civil Associations Law prohibits political and religious associations, including political parties.

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

43. **Recommendation:**

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

## **3.5 Situation of human rights defenders and political activists**

44. Alkarama regularly documents cases of reprisals against human rights defenders or political activists; taking the form of arbitrary arrests, travel bans, confiscation of identity documents, and inappropriate summons by the intelligence services. Following their arbitrary arrest, victims are routinely held incommunicado for periods ranging from one week to several months.

45. The testimonies describe detention conditions as inhuman and degrading. The right to have access to a lawyer or one's relatives is rarely respected and interrogations always concern the activities of human rights defenders, their links with international organisations, including the UN, and the nature of information communicated.

46. **Recommendation:**

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

### **3.6 Human rights and counter-terrorism**

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

48. **Recommendation:**

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

### **3.7 Nationality Law**

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

50. **Recommendation:**

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