



GULF CENTER
FOR HUMAN RIGHTS



The Sultanate of Oman

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Submission by CIVICUS: World Alliance for Citizen Participation,
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And

Gulf Center for Human Rights

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1. (A) Introduction

- 1.1** CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizens' freedom of association are threatened.
- 1.2** Gulf Center for Human Rights (GCHR) is an independent, non-profit and non-governmental organization that works to provide support and protection to human rights defenders (including independent journalists, bloggers and lawyers) in the Gulf region and neighboring countries by promoting freedom of expression, association and peaceful assembly.
- 1.3** In this document, CIVICUS and GCHR outline concerns related to the environment in which civil society activists and human rights defenders operate in Oman and discuss threats faced by them in the exercise of freedoms of expression, association and assembly.
- 1.4** CIVICUS and GCHR are gravely concerned by legislative and extra-legal measures taken by the Sultanate of Oman which curb civil society activities and threaten the freedoms of expression, association and peaceful assembly.
- 1.5** CIVICUS and GCHR are extremely concerned by the lack of space for human rights defenders and their organizations to conduct legitimate and peaceful advocacy work which continues to be impeded by security forces.
- 1.6** CIVICUS and GCHR are concerned by the ongoing legal and policy restrictions on the right to freedom of peaceful assembly as well as use of excessive force and the practice of carrying out arbitrary arrests to disperse and discourage nonviolent demonstrations.
- In section B, CIVICUS and GCHR highlight concerns related to the freedom of association and restrictions on civil society activities.
 - In section C, CIVICUS and GCHR highlight concerns involving harassment and arbitrary detention of human rights defenders.
 - In section D, CIVICUS and GCHR highlight concerns relating to the freedom of expression.
 - In section E, CIVICUS and GCHR highlight concerns regarding the freedom of assembly.
 - In section F, CIVICUS and GCHR make a number of recommendations to address the concerns listed.

2. (B) Restrictions on freedom of association and impediments to civil society activities

- 2.1** Oman is not a party to the International Covenant on Civil and Political Rights (ICCPR). Article 134 of the Penal Code of the Sultanate of Oman bans “the formation of association, parties and organizations which are against the Sultanate’s statues or social and economic systems.” This makes it practically impossible to establish independent civil society organizations (CSOs) in the country. Although the Sultanate of Oman pledged to amend the Law on Associations during its initial Universal Periodic Review in January 2011, Omani authorities have not carried out reforms in this regard.
- 2.2** A number of aspects of the Law on Associations are particularly problematic. These include Article 5 of the Law on Associations which prohibits Omani CSOs from engaging in political activities thereby providing a convenient tool to the authorities to prevent human rights advocacy.
- 2.3** Further, Article 6 of the Law on Associations continues to impose a series of cumbersome bureaucratic requirements for establishing CSOs. The Ministry of Social Development, which is responsible for registering associations, requires a minimum of 40 members to constitute an organization before its application can be considered. According to Article 23 of the Law, associations must provide notification to the Ministry of Social Affairs of any planned meeting at least 15 days in advance and the meetings’ minutes. Such requirements are highly intrusive and impede the independence of the civil society sector. The Law also stipulates that government representatives can attend such meetings.
- 2.4** Control over CSOs is further reinforced through Article 42 of the Law on Associations which prohibits them from receiving funds from an international donor without prior approval from the Ministry of Social Affairs. Individuals who breach the law can be jailed up to six months and receive a pecuniary fine of 500 Omani Rials (approximately USD\$1,300).
- 2.5** Article 11 of the Law on Association gives the Ministry of Social Affairs the power to shut down a CSO based on overly broad and vague provisions such as a lack of “need of its services or in case there are other associations fulfilling the needs of the society with regard to the requested activity of the association”. In 28 September 2014, Omani security officials shut down the Elixir Cultural Saloon in Sohar, which was composed of a group of men and women engaged in book club activities and debates on current events including the political situation in the country. Since Oman’s initial cycle UPR review, the Omani authorities have also shut down the Reading, Light and Insight Saloon, Samail Cultural Saloon and Saham Cultural Saloon.
- 2.6** In May 2012, human rights activist Ismail Al-Muqbal and others officially applied to both the Ministry of Social Development and the National Human Rights Commission

to register the Omani Group for Human Rights, but received no response from either organization. Earlier in 2011, Al-Muqbali and other activists had also applied to the Ministry of Social Development to register the pro-reform group, the Reform Association, but received no official response.

2.7 Article 20 of the newly enacted Law on Nationality, enacted on 12 August 2014 under Royal Decree No. 2014/38 states that Omani nationals may lose their citizenship if they are involved in a CSO that is regarded as working against the national interests of Oman.¹ This is a further disincentive to participate in civil society activities in Oman especially as local courts have been denied jurisdiction to monitor the implementation of the Law on Nationality. Any dispute arising from the implementation of the law must be resolved by the Ministry of Interior in breach of well-established legal principles.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders and civil society activists

3.1 Article 12 of the UN Declaration on Human Rights Defenders mandates States to take the necessary measures to ensure protection to human rights defenders. Unfortunately, Omani authorities continue to intimidate and harass human rights defenders engaged in legitimate and peaceful advocacy calling for reform and holding the government to account with regards to grave human rights violations. Article 50 of the Penal Code of Oman which authorizes a judicial officer to detain a person for 15 days and extend the detention by the public prosecutor's order is routinely invoked to judicially harass peaceful human rights activists. There have also been several cases where human rights defenders have been subjected to arbitrary detention and politically motivated prosecutions.

3.2 On 8 March 2015, the Court of First Instance in Muscat sentenced human rights defender Saed Jadad to three years in prison and heavy pecuniary fines based on alleged charges of "undermining the prestige of the state, engaging in an "illegal gathering" and "using information networks to disseminate news that would prejudice public order."²

3.3 On 26 August 2012, the Court of First Instance in Muscat sentenced seven human rights defenders to prison sentences based on alleged charges of insulting the Sultan and violating provisions of the Information and Technology Law. Ms. Maymona Rashid Al-Badi was handed out a suspended prison sentence of one year although her sentence

¹ Oman: Serious concerns about use of new citizenship law to target human rights defenders and activists, Gulf Center for Human Rights, 03.03.2015 <http://www.gc4hr.org/news/view/928>

² Oman: Prominent human rights defender Saed Jadad sentenced to three years in prison , Gulf Center for Human Rights, 9.3.2015, <http://www.gc4hr.org/news/view/935>

was reduced to 20 days in prison and a bail of 1500 Rials (3900 USD). Mr. Mukhtar Mohamed Al-Hinaei, Mr. Khaled Saleh Al-Nawfali, Mr. Hatem Al-Maliki, Mr. Sultan Al-Sa'adi, and Mr. Isaac Al-Agbary, were released on bail of 2500 Rials (6500 US\$) while Mr. Mohammad Khalifa Al-Fazari was released on bail of 3000 Rials (7800 US\$) in what points to politically motivated judicial harassment.³

3.4 In May 2012 police detained human rights activists Ismail Al-Muqbal, Habiba al-Hanai, and Yaqoub Al-Khorousi, founders of the unregistered Omani Group for Human Rights, upon their travel to the Fahud oil field to interview striking oil workers. The activists were denied access to their families and their lawyers were not provided access to their case file for several days.

3.5 Authorities targeted Al-Muqbal in particular and transferred him to a secret prison where he was held for 61 days in solitary confinement and later charged with insulting the Sultan, violating the Cybercrime Law, forming a political party outside Oman, incitement, and attending illegal gatherings. A 30 month prison sentence was imposed for "insulting the Sultan" under Oman's Penal Code which was later annulled due to a state pardon. Although Al-Meqbali was released, he was summoned and harassed by the police on a number of occasions due to his online critique of government policies.

3.6 The Gulf Center for Human Rights has documented routine and widespread use of torture in Oman's secret detention centers involving mock executions, beatings, hooding, subjection to extreme temperatures and constant noise, abuse and humiliation for perceived political opponents. In addition, several human rights defenders have been subjected to stigmatization through false rumours.⁴ For instance, Basima Al-Rahji, presenter of the popular national radio programme "Don't Turn the Page" was kidnapped and beaten by security forces, and was continuously judicially harassed for participating in pro reform protests in 2012.

3.7 The routine use of Article 50 of the Criminal Procedure Code has been used in almost all cases of arrest of human rights defenders, including Mohammed Al-Fazari, Noah Al-Saadi, Sultan Al-Saadi, Ismail Al-Muqbal and Saed Jadad and remains a matter of serious concern. This provision authorizes the police to detain a person for 15 days at a time. Further detention can be carried out on the orders of a public prosecutor.

³ Oman- Human rights defenders and activists sentenced, trials continue, 29.08.2012 Gulf Center for Human Rights, <http://www.gc4hr.org/news/view/227>

⁴ Torture in Oman, 29.01.2014, Gulf Center for Human Rights <http://www.gc4hr.org/report/view/20>

4 (D) Concerns regarding freedom of expression and access to information

- 4.1** The legal framework for exercising the freedom of expression and accessing information in the public interest is highly disabling in Oman. Civil society activists working to expand democratic freedoms or highlight human rights violations operate under extreme vulnerability.
- 4.2** Article 31 of the Oman's Basic Law guarantees freedom of expression, but restricts this right on "the conditions and circumstances defined by the law," and forbids any publication that "leads to public discord, violates the security of the state or abuses a person's dignity and his rights". The law provides arbitrary and unwarranted justifications to unwarrantedly persecute activists merely for peaceful dissent.
- 4.3** Article 126 of the Penal Code of Oman prohibits publicly insulting or defaming the "Sultan's rights or authority" and imposes a prison sentence of up to three years and a pecuniary fine of up to 500 Rials (US\$1,300). The law provides legal justification to persecute pro-reform and pro-democracy activists. Article 135 of the Penal Code of Oman imposes a series of unwarranted restrictions on freedom of expression by penalizing any statement that is considered to undermine the status of the state. Article 173 of the Penal Code of Oman outlaws "publicly or by publication, and by speech or gestures" disrespecting a public official on duty and prescribes a prison sentence of up to six months in prison. This law provides overly broad powers to Omani authorities to persecute HRDs critical of government officials.
- 4.4** Oman's Press and Publications Law, Telecommunications Act of 2002, and Cyber Crimes Law place a series of unjustifiable restrictions on freedom of expression exercised in print or online form. Article 19 of the Press and Publications Law prohibits "publishing any item that could prejudice the behaviors and general ethics and divine religions," placing overly broad restrictions on freedom of expression. Article 61 of the Telecommunications Act allows for a prison sentence of up to one year and a fine of 1,000 Rials (USD 2,600) for "any person who sends, by means of telecommunications system, a message that violates public order or public morals".
- 4.5** Saed Al-Darodi, author, online activist, cartoonist and founder of the "Dhofar Cynical Art Group", was brought to the Special Division of the Omani Police in Salalah on 10 October 2014 and was held in incommunicado detention for over three weeks in a blatant attack on his freedom of speech. Al-Darodi was denied access to his family and lawyer. Al-Darodi was released on 05 November 2014. On 18 March 2015, the Court of First Instance in Salalah Al-Darodi sentenced Al-Darodi in absentia to one year in prison on charges of disturbing public order and another six months on charges of allegedly creating discord and hatred, with a fine of 1000 Omani Rials (approx. USD 2600). Al-Darodi's arbitrary detention is a clear attempt to subvert his peaceful human rights

advocacy.⁵

4.6 Mohammed Al-Fazari, prominent online activist and editor-in-chief of the “Mowatin” (“Citizen”) Magazine, was stopped at Muscat International airport on 22 December 2014 and was told he must immediately appear before the Special Division of the Omani Police in Muscat for an investigation, where he was arrested. After being held in incommunicado detention, Al-Fazari was released the same day. Al-Fazari was previously harassed by the security forces in Oman on 30 August 2014, where he was detained incommunicado at the Special Division of the Oman Police in Muscat until 4 September 2014. He was released without charge although his passport continues to be withheld at the time of the writing of this submission.⁶

4.7 On 13 July 2014, Noah Saadi, human rights advocate known for his online activism on his Facebook page “Almohib Al-Saadi,” was arrested and detained in solitary confinement for 21 days until 7 August 2014 and released without charge. This was the fourth arrest of Al-Saadi by Omani Internal Security since 2011 for his active involvement in the demonstrations of 2011 and other online activism.⁷

4.8 In June 2012, activist and blogger, Khalfan Al-Bidwawi was arrested for insulting the Sultan he was detained for 97 days including 56 days in solitary confinement. On 7 November 2013 he was arrested again after refusing to report to the police station regarding his summons for comments online critical of the government. Al-Badwawi was held in incommunicado for approximately one week, during which Omani authorities did not provide any information on where he was detained to his family.⁸

4.9 Further, CIVICUS’ contacts in Oman report that Skype, and other sources of online communication have been blocked in Oman since early 2014. On 22 May 2014, a Muscat Court issued an order putting a ban on publishing information on corruption charges of former or current government officials. On 28 May 2014, the Administrative Court in Muscat ordered the confiscation of all available copies of a book entitled “Salt” by Badriya Al Ismaili for allegedly offending the customs of the Omani society.

5 (E) Concerns regarding freedom of assembly

5.1 Freedom of assembly remains seriously imperiled in Oman through both restrictive legislation and its arbitrary application. Article 37 of the Penal Code of Oman criminalizes

⁵ Oman: Writer and online activist Saed Al-Darodi held incommunicado, 20.10.2014, Gulf Center for Human Rights, <http://www.gc4hr.org/news/view/786>

⁶ Oman: Blogger Mohammed Al-Fazari arrested, 23.12.2014, Gulf Center for Human Rights, <http://www.gc4hr.org/news/view/856>

⁷ Oman: Human rights defender Noah Al-Saadi held incommunicado for over a week 23.07.2014, Gulf Center for Human Rights, <http://www.gc4hr.org/news/view/704>

⁸ Oman- Arbitrary arrest and detention of human rights defender Khalfan Al-Badwawi, 11.08.2013, the Gulf Center for Human Rights, <http://www.gc4hr.org/news/view/524>

public protests of dissent as it prescribes up to three years in prison and a fine of 200 Rials [US\$520] for participating “in a private gathering including at least 9 individuals with a view to commit a riot or a breach of public order”.

5.2 In contradiction of international human rights law which prescribes simple prior notification to government offices for public protests, Article 137 of the Penal Code of Oman necessitates a government approval for all public gatherings.

5.3 Dr. Talib Al-Maamari, former member of the Oman’s Shura Council, was sentenced to four years in prison and a fine of 600 Omani Rials (approximately USD\$1,500) by an appeals court in Muscat based on Article 135 and 137 of Oman’s Penal Code for “illegal gathering” over protests against environmental degradation.⁹ Dr Al-Maamari’s apparent crime was to highlight through public protest on 22 August 2013 health risks arising from the pollution of Liwa port’s industrial zone. He was subsequently arrested on 24 August 2013. The UN Special Rapporteur on the rights to freedom of peaceful assembly and association was not permitted to meet with the Al-Maamari during his official visit from 8-13 September 2014.

5.4 Hundreds of peaceful protestors were also harassed and detained in response to the wave of social-reform protests in 2011 and 2012. Omani police responded to the largely peaceful protests with excessive and brutal police force, in blatant disregard of international norms governing freedom of assembly. Many of the detained protestors reported torture in detention facilities as well as extended periods of solitary confinement.

6 (F) Recommendations to the Government of the Sultanate of Oman

CIVICUS and GCHR call on the Sultanate of Oman to immediately ratify the International Covenant on Civil and Political Rights as a first step towards creating an enabling environment for civil society. The Sultanate of Oman should ensure that the treatment of human rights defenders in the country is in accordance with the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be ensured: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to seek and secure funding and the state’s duty to protect. In light of this, the following specific recommendations are made.

6.1 Regarding restrictions on freedom of association:

- National legislation should be amended to enable the establishment of civil society organizations through transparent, accessible, non-discriminatory, expeditious and inexpensive means set forth in Human Rights Council resolution

⁹ Oman parliament member sentenced to four years, 16.12.2013, Gulf News, <http://gulfnews.com/news/gulf/oman/oman-parliament-member-sentenced-to-four-years-1.1267768>

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- Article 134 of the Penal Code of the Sultanate of Oman should be amended or repealed to allow for the establishment of independent civil society organizations.
- Article 20 of the Law on Associations which places cumbersome bureaucratic requirements for the establishment of civil society organisations should be amended or repealed.
- Article 42 of the Law of Associations should be amended or repealed to remove unwarranted barriers for receipt of international funding for civil society organizations.
- The National Human Rights Commission of Oman should urgently address its credibility deficit through ensuring impartial and transparent mechanisms to receive and address complaints on infringements on the right to freedom of association.
- The Ministry of Social Development and the National Human Rights Commission should support registration applications of civil society organizations and enable them to be registered in accordance with natural justice and due process principles.

6.2 Regarding the arbitrary detention and harassment of civil society activists:

- Omani authorities should adopt a holistic state policy to provide a conducive environment for human rights defenders and to ensure their security as outlined in recommendations set forth by the UPR mechanism, Special Procedures and the Treaty Bodies.
- All human rights defenders and civil society activists detained for exercising their freedom of assembly, association, or expression should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- All detainees should be informed immediately about the reasons for their detention and their access to a lawyer of their choice and to their families must be ensured.
- The absolute prohibition of torture and ill-treatment must be ensured both in law and in practice and the treatment of all detainees and prisoners should be brought in line with Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national law standards

6.3 Regarding restrictions on freedom of expression and access to information, and intimidation, harassment and attacks on journalists:

- National legislation should be revised to ensure freedom of expression and access to information is guaranteed in accordance with the ICCPR.
- Unfettered access to online information resources as well as online communication tools such as Skype should be allowed by removing restrictions on access.

- Article 31 of the Oman's Basic Law should be amended or repealed to remove unwarranted restrictions on freedom of expression.
- Article 126 of the Penal Code of Oman should be amended or repealed to remove legal grounds for persecuting activists for defaming the Sultan.
- Article 173 of the Penal Code of Oman should be amended or repealed to ensure that no activist is persecuted for disrespecting public officials.
- Oman's Press and Publications Law, Telecommunications Act of 2002, and Cyber Crimes Law should be amended or repealed to ensure that no arbitrary restrictions on publicizing and expressing content in print and online form are imposed.
- The Sultanate of Oman should cease intimidating activists through arbitrary detention and solitary confinement in incommunicado for merely exercising their right to freedom of expression.

6.4 Regarding restrictions on freedom of assembly:

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble. Accordingly, Article 137 of the Penal Code of Oman should be suitably amended or repealed.
- Article 37 of the Penal Code of Oman should be amended or repealed to ensure that peaceful expression of public dissent and protests are not criminalized.
- An impartial and independent complaint mechanism should be established to combat excessive state violence against peaceful protestors. All activists imprisoned for taking part in peaceful protests should be immediately and unconditionally released.
- Recourse for judicial review and effective remedy should be provided, including compensation, in cases of unlawful denial of the right to freedom of assembly by state authorities.
- Security forces in charge of crowd control should be equipped with non-lethal weapons and provided training on humane means of crowd control as well as on the UN Basic Principles on the Use of Force and Firearms.
- The capacity of the National Human Rights Commission to work with civil society and to monitor and provide remedy for human rights violations should be strengthened.

6.5 Regarding access to UN Special Procedures mandate holders:

- A standing invitation should be extended to all UN Special Procedures, particularly to the Special Rapporteur on Freedom of Expression and the Special Rapporteur on the Situation of Human Rights Defenders.