



Americans for Democracy and Human Rights in Bahrain

Contribution to the 24th session of the Working Group of the Universal Periodic Review
Submission on Oman

**Concerning Systematic Restrictions on the Right to Freedom of Expression
in the Sultanate of Oman**

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I. Introduction

1. Americans for Democracy & Human Rights in Bahrain (ADHRB) fosters awareness of, and support for, democracy and human rights in Bahrain and the Middle East. ADHRB was formed in 2002, formally incorporated in 2008, and received its IRS tax-exempt status in 2009.
2. ADHRB welcomes the opportunity to appraise the Sultanate of Oman's implementation of its 2nd Cycle Universal Periodic Review (UPR) recommendations and to evaluate Oman's implementation of recommendations concerning:
 - i. Primary legislation used to restrict freedom of expression;
 - ii. Freedom of association and assembly; and
 - iii. Detention of human rights defenders, journalists, etc.

II. Executive summary

1. Oman's 2nd cycle UPR review concluded in May 2015. However, the government has not addressed many of the concerns raised at that time. Among these unaddressed concerns are restrictions on the rights to free expression, free assembly, and free association, as well as the detentions of human rights defenders, journalists, and other critics. Instead, the Omani government continues to unduly restrict these rights, harass activists, and confiscate books and newspapers critical of the government.¹ As a result, the comments made by the Special Rapporteur on the right to free assembly and association after his visit to the country in September 2014 remain relevant:

In my meetings with the Government, I observed a consistent focus on maintaining peace, order and stability in Oman, often used as the rationale for limiting assembly and association rights. Stability is certainly important. But it is crucial to emphasize that the enjoyment of civil and political rights on one hand, and stability on the other, are not mutually exclusive. In fact, human rights are the foundation for true and sustainable stability. Stability flows organically through involvement and consensus, through a social contract in which everyone freely participates. The rights to freedom of peaceful assembly and of association, in particular, foster Government accountability, ethnic equity, cultural diversity, tolerance, participation and good governance, which in turn promote stability.

From my meetings with civil society, victims and activists, I got the distinct impression of a pervasive culture of silence and fear affecting anyone who wants to speak and work for reforms in Oman. They are afraid to speak their minds, afraid to speak on the telephone, afraid to meet. Ubiquitous communications technologies that the rest of the world takes for granted, such as Skype, are unavailable in Oman.²

¹ "World Report 2019: Oman," Human Rights Watch, 2019, <https://www.hrw.org/world-report/2019/country-chapters/oman>.

² "Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Sultanate of Oman," United Nations Office of the High Commissioner for Human Rights, 2014 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15028&LangID=E>.

2. We concur with the Rapporteur's comments, concerning restrictions to the rights to free assembly and association, as well as regarding Oman's relation to core universal human rights instruments. Oman has not acceded to the International Covenant on Civil and Political Rights (ICCPR), ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, or ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. These treaties are the legal foundation of the rights of freedom of expression, opinion, peaceful assembly and association.³

III. Restrictions on the Right to Freedom of Expression and Opinion

1. At the conclusion of Oman's 2nd UPR cycle in May 2015, states offered 233 recommendations which, if implemented would help bring Oman's laws and practices in line with international standards. Several recommendations call on the government to promote and protect the right to freedom of expression, including:

129.90 Safeguard 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 (Sweden);

129.92 Revise its Law to Counter Information Technology Crimes to protect online expression and allow internet access without blocking content (United States of America);

129.156 Guarantee that the law on media and publications enables full exercise of freedom of expression, in particular on the Internet (France);

129.158 Demonstrate the Government's commitment to uphold international human rights standards by ensuring full respect for the rights of citizens to freedom of speech and peaceful assembly (Ghana); and

129.173 Allow for a more open expression of individual opinions, allow civil society organisations to develop and allow public expression of popular demands (Norway);

Oman accepted recommendations **129.90**, **129.156**, and **129.158**, and noted recommendations **129.92** and **129.173**.

2. Article 29 of Oman's constitution enshrines the right to freedom of expression but within the limits of the law. As a result, the government has effectively criminalized the creation or dissemination of material deemed to provoke public discord or to be critical of the State is punishable. Oman's penal code and its 1984 Press and Publications Law further restrict free expression. The penal code outlines punishment for slandering the sultan and committing blasphemy or insulting Islam, while the Press and Publications Law, empowers authorities to censor publications deemed culturally, sexually, or politically offensive.⁴

³ Ibidem

⁴ ONI OMAN

3. The Omani government violates the right to freedom of expression, harassing and jailing individuals and journalists for comments and writings deemed to slander or insult the government, blaspheme, cause discord, or that is deemed offensive. For example, since 2013, the government has repeatedly harassed activist Said Jaddad. In March 2016, the Court of Appeal in Salalah ruled that Jaddad incited others “to break national unity and spread discord within society through a blog he wrote about Oman’s 2011 protests.”⁵
4. In 2018, authorities with Oman’s Internal Security Service (ISS) detained journalist Sultan Al-Maktoumi to “control his criticism ahead of Israel’s Prime Minister’s visit to Oman a few days later.” ISS agents detained online activist Salem Al-Arimi on 27 October 2018 for similar reasons.⁶
5. Article 19 of the Universal Declaration of Human Rights (UDHR) enshrines the right to freedom of expression and opinion. This right has been further included in other international human rights treaties, including the ICCPR, Article 19 of which provides that “everyone shall have the right to hold opinions without interference and [...] everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information [...] either orally, in writing or in print, [...]”⁷ Article 19 of the ICCPR also informs the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Rights of the Child (CRC). Oman acceded to CEDAW on 7 February 2006, ICERD on 2 January 2003, and the CRC on 9 December 1996.
6. Recent changes to the Omani Penal Code have raised concerns about Oman’s fidelity to its obligations to protect and promote the right to freedom of expression.
7. Article 116 of the Penal Code⁸ does not include safeguards for the protection of free expression. Article 118 constitutes a direct violation of the right to freedom of expression and opinion, by criminalizing access to, possession of, and distribution of information, without specifying the content of this material. It thus undermines the work of journalists, writers, and other individuals who print, record or broadcast information.
8. Article 125 provides that “any person who intentionally commits an act which prejudices the independence, unity or territorial integrity of the country shall be punished with death or life imprisonment.”⁹ It is not clear what the government means nor who this would apply to. Without specification, this article may apply to writers who criticize the government as much as to more violent groups and

⁵ “World Report 2016: Oman,” Human Rights Watch, 2017, <https://www.hrw.org/world-report/2016/country-chapters/oman>.

⁶ “Oman Detains Two Activists as Sultanate Continues to Silence Critics,” Americans for Democracy & Human Rights in Bahrain, 2018, <https://www.adhrb.org/2018/11/oman-detains-two-activists-as-sultanate-continues-to-silence-critics/>.

⁷ “International Covenant on Civil and Political Rights,” United Nations General Assembly, March 1976, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁸ “Penal Law promulgated by Royal Decree 7/2018,” Ministry of Legal Affairs Oman, 2018, <http://www.mola.gov.om/eng/penallaw.aspx>.

⁹ Ibidem.

individuals. The vague nature of this article grants authorities vast discretion to target and imprison peaceful dissidents and critics and could also lead to further violations of fundamental freedoms.

IV. Restrictions on the Right to Peaceful Assembly

1. Oman received seven recommendations regarding the right to freedom of peaceful assembly. It accepted recommendations **129.158** and **129.161** and noted the rest.

129.158 Demonstrate the Government's commitment to uphold international human rights standards by ensuring full respect for the rights of citizens to freedom of speech and peaceful assembly (Ghana);

129.160 Guarantee in legislation and in practice the right to peaceful assembly for all, without exceptions, regardless of nationality (Chile);

129.161 Take steps to guarantee the right to peaceful assembly for its citizens (Namibia);

129.168 Fully and effectively implement the recommendations by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, following his mission to Oman in September 2014 (Republic of Korea);

129.169 Implement the recommendation of the Special Rapporteur to extend the guarantee of peaceful assembly to non-Omani citizens (Sierra Leone); and

129.170 Review its legislative measures and practices in relation to freedom of peaceful assembly and association, with regard to the report of the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association following his mission in September 2014 (Australia).

2. Article 32 of Oman's Basic Law enshrines the right to freedom of assembly but "within the limits of the law."¹⁰ This broad wording empowers the government to broadly interpret what can be deemed offensive. As a result, the government's restrictions effectively prohibit individuals from enjoying the right to peacefully assemble. Oman's Penal Code outlines punishment for gatherings of over 10 people under the pretense that such gatherings "disturb public order,"¹¹ thus effectively banning any kind of large meetings in public spaces.
3. In 2017, authorities arrested Imad al-Farsi outside the United States embassy in Muscat as he demonstrated against the US' decision to recognise Jerusalem as the capital of Israel.¹²

¹⁰ "Statement by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Sultanate of Oman," 2014.

¹¹ "Summary of Office of the UN High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21," Human Rights Council, 2015, http://ap.ohchr.org/documents/alldocs.aspx?doc_id=24780.

¹² "The Annual Report," The Omani Center for Human Rights, 2018 <https://ochroman.org/eng/annual2017/>.

V. Restrictions on the Right to Peaceful Association

1. Oman received seven recommendations regarding the right to freedom of association. All the recommendations hereof were noted, whereas none of them were accepted.

129.165 Guarantee the full exercise of freedom of association, promote and facilitate the activities of all non-governmental organizations (France);

129.166 Amend article 134 of the Penal Code of Oman and any other legislation that disproportionately restricts the right to freedom of association (Iceland);

129.167 Implement the recommendations of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (Netherlands);

129.168 Fully and effectively implement the recommendations by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, following his mission to Oman in September 2014 (Republic of Korea);

129.169 Implement the recommendation of the Special Rapporteur on the rights to freedom of peaceful assembly and of association to extend the guarantee of peaceful assembly to non-Omani citizens (Sierra Leone);

129.170 Review its legislative measures and practices in relation to freedom of peaceful assembly and association, concerning the report of the Special Rapporteur following his mission in September 2014 (Australia); and

129.173 Allow for a more open expression of individual opinions, allow civil society organisations to develop and allow public expression of popular demands (Norway).

2. Oman's constitution enshrines the right to freedom of association. However, the 1972 Law on Association limits the types of associations that may be established, and anyone seeking to form an association must first secure permission from the Omani authorities. The law grants the Ministry of Social Development the power to approve or deny applications for "any [...] reason the Minister deems relevant."¹³ The law further states that once an organization has been approved, it must register with the government. Even then, it is illegal to form associations that engage with politics and human rights groups.¹⁴
3. Article 134 of Oman's penal code and Article 5 of the Law on Associations ban associations deemed to contradict the Sultanate's social or economic systems. Furthermore, no association can receive foreign funding without government

¹³ Ibidem.

¹⁴ Human Rights Council, Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, 2015
http://ap.ohchr.org/documents/alldocs.aspx?doc_id=24780.

approval.¹⁵ According to Oman's Law on Nationality, any Omani citizen found to belong to an association that embraces principles deemed to conflict with Oman's interests or that works for a foreign country, will lose their citizenship.¹⁶

4. The rights to freedom of peaceful assembly and association find expression at the global level in Article 20 of the Universal Declaration of Human Rights which provides that "everyone has the right to freedom of peaceful assembly and association" and that "no one may be compelled to belong to an association."¹⁷ This right is also protected under more than 10 international covenants, such as Article 8 of the International Covenant on Economic, Social, and Cultural Rights, which Oman accepted during the second review of the 23rd session of the UPR.¹⁸
5. The Article 5 of ICERD provides that "[...] States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone [...] in the enjoyment of [...]: economic, social and cultural rights, in particular the right to form and join trade unions."¹⁹
6. There are no positive provisions within the national law that explicitly declare and promote the right to peaceful assembly, but there are many laws which impose limits to this right.²⁰ For instance, in contradiction of international human rights law which prescribes simple prior notification to government offices for public protests, Article 137 necessitates a government approval for all public gatherings.
7. The Special Rapporteur noted that the legal framework itself lends to criminalize the exercise of many fundamental freedoms.
8. The other major legislative trend affecting this right is the narrowing of an enabling environment for civil society through the adoption of restrictive laws regulating civic space and to crack down on dissent.
9. Laws and practices that Oman adopted not only infringed its obligations concerning the right of peaceful assembly and association but also to shut down social interaction and political activity.²¹

¹⁵ International Service for Human Rights, The Situation of Human Rights defenders in Oman, 2011, https://www.upr.info/sites/default/files/document/oman/session_23_november_2015/ishr_upr23_omn_e_main.pdf.

¹⁶ CIVICUS and Gulf Centre for Human Rights (2015): The Sultanate of Oman NGO Submission on the UPR. https://www.civicus.org/images/Joint_Oman_UPR_Submission_-_CIVICUS_GCHR_-_23rd_Session.pdf.

¹⁷ UN General Assembly, Universal Declaration of Human Rights, 1948, https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf.

¹⁸ UN General Assembly, International Covenant on Economic, Social and Cultural Rights, January 1976, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

¹⁹ General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, January 1969, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

²⁰ Supra 2.

²¹ Human Rights Council, "Human Rights Council discusses freedom of opinion and expression and of peaceful assembly and of association", 2015, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16095&LangID=E>.

I. Recommendations

Oman is failing to abide by its international commitments to protect human rights, in particular the rights to freedom of expression, freedom of assembly and association. We therefore call on the Sultanate of Oman to:

- Amend Article 29 of the Constitution to allow for freedom of expression online and offline in line with Article 19 of the ICCPR and the Universal Declaration of Human Rights.
- Ensure that its Law to Counter Information Technology Crimes highlights the importance of the Internet as a tool for exercising and developing human rights.
- Ratify the International Covenant on Civil and Political Rights without reservations.
- Ease restrictions on public gatherings, to allow for spontaneous peaceful assemblies, and to allow for peaceful protests and demonstrations of all sizes.
- Foster online expression without blocking content in accordance with international human rights standards.
- Abolish any restrictions placed on the exercise of the right to peaceful assembly and association.
- Reinstate Azamn and other banned and closed news outlets and release journalists and activists who have been unjustly detained for exercising their right to free expression.