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Gender Justice & The Law

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Oman

Gender Justice

Assessment of laws affecting gender equality and protection against gender-based violence

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ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee	UN Committee on the Elimination of Discrimination against Women
ESCWA	Economic and Social Commission for West Asia
FGM/C	female genital mutilation / cutting
GBV	Gender-based violence
ILO	International Labour Organization
IOM	International Organization for Migration
NGO	Non-government organization
OECD	Organisation for Economic Co-operation and Development
SDGs	Sustainable Development Goals
UNDP	United Nations Development Programme
UNESCWA	United Nations Economic and Social Commission for West Asia
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees (UN Refugee Agency)
UNICEF	United Nations Children's Fund
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WHO	World Health Organization
Arabic terms	
fatwa	Ruling or pronouncement on a point of Islamic law
'idda	The period a woman must observe after the death of her spouse or after a divorce during which she may not remarry
khalwa	Social mingling of men and women who are unrelated
khul'a	Divorce process initiated by the wife requiring return of her mahr
mahr	Mandatory payment by the groom or his father to the bride which then becomes her property
talaq	Repudiation; divorce process whereby the husband repudiates his wife
'urf	Custom
wali	Guardian
wilaya	Guardianship
zina	Unlawful sex, including adultery and sex between two persons neither of whom are married

INTRODUCTION

Scope

UNDP, in partnership with UN Women, UNFPA, and ESCWA, has conducted a study on Gender Justice and the Law to provide a comprehensive assessment of laws and policies affecting gender equality and protection against gender-based violence in the Arab states region.

The study is composed of an introductory piece that describes the background, rationale, analytical framework and methodology, and a total of 18 country profiles. Each country profile maps the country's key legislative and policy developments regarding gender justice.

This country profile presents the findings of the study relating to Oman. It provides an analysis of whether the country's laws and policies promote or impede equality between women and men before the law, and whether they provide protection against gender-based violence.

This country profile includes analysis of the following areas of the law:

- Constitutional guarantees of gender equality and constitutional protections against gender-based violence
- Status of penal codes and whether the country has domestic violence laws that address gender-based violence
- Status of personal status codes and how they impact gender equality
- Status of nationality laws and whether they ensure that women and men enjoy equal rights in relation to citizenship
- Status of labour laws and whether they provide protection from discrimination and gender-based violence in the workplace

Methodology and acknowledgements

The study was conducted in two phases:

1. A literature review was conducted between January 2016 and June 2017 of the various laws, regulations, policies, and law enforcement practices related to gender justice in each of the 18 countries, which then formed the basis of draft country profiles.
2. Realizing the limitations of desk-based literature reviews, country validation processes for each of the draft country profiles were led by UN Country Teams and national consultants. Country validation processes took place between September 2017 and August 2018 to ensure the accuracy of each country profile. These sought the views of government partners and other key national stakeholders.

The validation of the Oman country profile was led by Ahmed Al M. al Mukhaini (Consultant). Consultations with civil society organizations were conducted in Oman in 2017 to verify findings of the desk review. Participants in the validation process included members of the Oman Women's Association (Muscat), Oman Human Rights Commission, National Committee for Follow-up of the Implementation of CEDAW, as well as a public health professional, a lawyer, and several survivors of gender-based violence.

The literature reviews that formed the basis of the country assessment were authored by consultants John Godwin and Nadya Khalife. They also edited the final drafts for publication after feedback from national counterparts. Their insights and hard work are recognized with gratitude. Nadya Khalife and Amr Khairy translated the outputs of the study into Arabic and English. Gratitude is also extended to John Tessitore for assistance with copyediting in English.

OMAN



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Oman acceded to CEDAW in 2006, subject to a general reservation to provisions not in accordance with Sharia. It maintains reservations to Article 9(2) (nationality), Article 16(a), (c), (f) (family life), and Article 29(1)(arbitration).

Constitution

Article 17 of the Basic Law of the State provides that all citizens are equal before the law, and they are equal in public rights and duties. There shall be no discrimination between them, including on the grounds of gender.

NATIONALITY LAW

NATIONALITY

Women do not have the same rights as men to pass citizenship to their children or a foreign spouse.

CRIMINAL LAWS

Domestic violence

Oman has no domestic violence legislation.

Abortion for rape survivors

Abortion is prohibited by Articles 315–318 of the Penal Code, including for women who have been raped.

Female Genital Mutilation / Cutting (FGM/C)

There is no legal prohibition. A policy directive prohibits FGM/C in government institutions.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Although there is no specific sexual harassment offence, indecent acts or gestures against women and girls are criminalized by Article 266 of the Penal Code.

Human trafficking

Oman adopted a comprehensive Anti-Trafficking Law in 2008.

Rape (other than of a spouse)

Article 257 of the Penal Code criminalizes rape, which is defined as “sexual intercourse with a male or female outside marriage without consent,” and is punishable by imprisonment from ten to 15 years.

Honour crimes: Mitigation of penalty

There is no specific provision in the Penal Code allowing for reduction in penalty for perpetrators of ‘honour’ crimes. The Article allowing for reduced penalties was annulled by Royal Decree No. 72/2001.

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 255–256 of the Penal Code.

Exoneration by marriage

There is no marry-your-rapist law in Oman.

Adultery

Adultery is an offence under Article 259 of the Penal Code.

Sexual orientation

Homosexual conduct between consenting adults is criminalized by Articles 261–262 of the Penal Code.

PERSONAL STATUS LAWS

Minimum age of marriage

The minimum age for marriage is 18 for males and females under Article 7 of the Personal Status Law. Marriage of persons aged less than 18 may be approved by a judge after verifying that the marriage would be beneficial.

Guardianship of children

Fathers are the sole guardians of children.

Male guardianship over women

Permission of a marriage guardian (wali) is required for a woman to marry. The guardian is required to conclude the marriage with her consent. Royal Decree 55/2010 prevents a guardian from obstructing a woman’s decision to marry her choice of husband and empowers the state to act as a guardian.

Custody of children

After divorce or separation, the mother retains custody of her son until he is seven and her daughter until she reaches puberty.

Marriage and divorce

The Personal Status Law requires the husband to maintain the wife. The wife owes obedience to the husband. A husband can divorce by repudiation (talaq). A wife has the right to divorce on specified grounds. She can also apply for a khul’a divorce without grounds if she forgoes financial rights.

Inheritance

The Personal Status Law defines the rules of inheritance, which follow Sharia principles. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is permitted by the Personal Status Law.

LABOUR LAWS

Right to equal pay for the same work as men

Article 80 of the Labour Law requires that women and men must be paid equal wages for the same work.

Domestic workers

Domestic workers are not covered by the protections of the Labour Law. Ministerial Decision No. 189/2004 issued by the Minister of Manpower addresses employment of domestic workers. Ministerial Decision No. 1/2011 regulates the agencies involved in the recruitment of domestic workers.

Dismissal for pregnancy

Employers are prohibited from dismissing women because of pregnancy by Article 84 of the Labour Law.

Paid maternity leave

Under the Labour Law, women are entitled to 50 days of maternity leave, which is paid by the employer. This is less than the ILO standard of 14 weeks.

Legal restrictions on women’s work

Regulations issued under the Labour Law impose legal restrictions on women’s employment in some occupations considered arduous or hazardous. Women are also prohibited from night work except in roles specified by the Minister.

OVERVIEW

Legal framework

International law

Oman has a monist legal system under which international treaties become national law upon ratification and are enforceable domestically (Article 76 of the Basic Law of the State).

Oman acceded to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2006, subject to reservations. Oman entered a general reservation to all CEDAW provisions that are not in accordance with Sharia. Oman maintains reservations to Article 9(2) (equal rights with regard to nationality), Article 15(4) (movement of persons and freedom to choose residence and domicile), Article 16(a), (c), (f) (equality in marriage and family life), and Article 29(1) (administration of the convention; arbitration in the event of a dispute). These reservations are periodically reviewed. Oman has agreed to lift its reservation on Article 15(4), and the decision is currently being implemented through the procedures required by the Basic Law of the State.

Domestic law

The main laws relevant to gender justice are:

- Civil Pension Fund Law, Royal Decree 26/86
- Social Insurance Law, Royal Decree 72/91
- Basic Law of the State, Royal Decree 101/96
- Personal Status Law, Royal Decree 32/97
- Criminal Procedures Law, Royal Decree 97/99
- Civil and Commercial Procedures Law, Royal Decree 29/2002
- Labour Law, Royal Decree 35/2003
- Civil Service Law, Royal Decree 120/2004
- Mediation and Reconciliation Law, Royal Decree 98/2005
- Law on Combating Trafficking in Persons, Royal Decree 126/2008
- Civil Transaction Law, Royal Decree 29/2013
- Child Law, Royal Decree 22/2014
- Nationality Law, Royal Decree 38/2014
- Penal Code, Royal Decree 7/2018

Constitution (Basic Law of the State)

Article 2 of the Basic Law of the State provides that Islam is the religion of the State and Sharia is the basis of all legislation.

The following articles of the Basic Law are relevant to protection from gender-based violence (GBV):

- The 'Social Principles' of the Constitution are justice, equality, and equal opportunities (Article 12).
- The family is the basis of society, and the Law regulates the means of protecting the family, safeguarding its legal structure, reinforcing its ties and values, providing care for its members, and creating suitable conditions for the development of their aptitudes and capabilities (Article 12).
- All citizens are equal before the law, and they are equal in public rights and duties. There shall be no discrimination between them on the grounds of gender, origin, colour, language, religion, sect, domicile, or social status (Article 17).

Policy framework

The National Committee for Family Affairs was established in 2007 to develop programmes and strategies concerning the family. Oman does not have a specific national strategy or plan to address GBV despite legal provisions that punish men in the event of "abuse" against women. The Ministry of Social Development has developed a draft national strategy for the advancement of women (2015–2040), which seeks to increase women's participation in decision-making and the economy. The draft strategy has not yet been adopted by the Cabinet.

The Ministry provides support to the Omani Women's Associations, which aim to improve the status of women in society. The government has also formed a committee to monitor the country's compliance with CEDAW. The National Committee to Combat Human Trafficking is responsible for developing a plan to combat human trafficking. The Omani Commission for Human Rights has adopted a position towards combating GBV.

There is a need for additional legal and policy measures to mitigate GBV. Field work conducted as part of the country validation process suggested a need for greater clarity regarding laws and policies on GBV and to enhance the gender responsiveness of law enforcement agencies. GBV needs to be recognized as a social issue and a violation of human rights, and the need to combat GBV should be reflected appropriately in planning.

Legal and support services

In 2012, Oman established the Family Protection Unit and a shelter to protect women, children, and trafficking survivors from abuse and to provide them with counselling and other services. However, women affected by GBV cannot access the shelter and support services directly. Access to the shelter is only possible through the office of the Prosecutor General or other law enforcement agencies. The protection is provided as a social security service. Oman has also operated hotlines for survivors of abuse since 2009.¹

Mediation and Reconciliation Committees (MRCs) are intended to provide a family-friendly approach and greater access to justice for family disputes. However, to date all members of the MRCs have been males, despite the fact that the majority of cases presented to the MRCs are disputes caused by domestic violence or abuse perpetrated by males. Unfortunately, due to difficulties in proving the violence and abuse in domestic settings compounded by the modus operandi of the MRCs, abused women are often forced to concede to traditional norms and family pressure.

Many rape survivors do not report incidents because of cultural factors. Some migrant domestic workers report abuses perpetrated by their sponsors. In 2012, police charged 223 people with rape or attempted rape.

The government operates a shelter for trafficking survivors that provides basic lodging, psychological counselling, legal services, and medical care.² While there is no officially published data on the number of cases currently hosted at this shelter, interviews indicated that there were up to 120 women and children using the shelter as of September 2017. Fieldwork suggests that these services are not sufficient. In addition, some embassies provide legal support to their expatriate workers who experience exploitation or violence.

Women are underrepresented in the justice sector workforce and currently there are no female judges. However, there are no legal prohibitions or restrictions on women's participation in the judiciary. The difficulties faced by women in obtaining justice could be reduced if there were female judges who were more responsive and sensitive to their needs. The 2009 national seminar on women and national debates during CEDAW awareness sessions called for the appointment of women judges and the provision of specialized family courts and judges. As an interim measure, the Ministry of Social Development has sought to provide female social workers at the personal status circuit (primary court level) as well as to the MRCs.

The government has taken some measures to improve access to justice for women. Legal aid is provided free of charge to all those who cannot afford professional legal services and is provided irrespective of gender, nationality, or ethnicity. Translation to and from Arabic is also provided free of charge for non-Arabic speakers to facilitate access to justice. In 2008, the evidence law was reformed to stipulate that the legal testimony of men and women is of equal weight.³ However, fieldwork indicates that Notary Publics do not treat men and women equally in assigning power of attorney or witnessing such powers of attorney. Women who have been discriminated against can seek damages from the Administrative Adjudication Court.

During the period 2010 to 2015, several organizations, including the former Ministry of National Economy (replaced by the National Centre for Statistics and Information), Ministry of Social Development, and Omani Women's Association (Seeb) issued booklets and CDs outlining laws of specific concern to women. During the same period, the Omani ALWANE Initiative (Active Leaders for Women's Advancement in the Near East) brought to the attention of the Ministry of Social Development the importance of launching a national gender policy and women's strategy. However, a lack of legal knowledge among women remains a significant obstacle to access to justice.⁴ While lack of legal knowledge is experienced by both men and women, women tend to suffer more legal disadvantage due to the lack of redress mechanisms that are responsive to females.

1 Ministry of Social Development, National Report on the Implementation and Results of the 23rd Special Session of the General Committee on the 20th Anniversary of the Beijing World Conference, Platform and Plan, (2014), p. 26, https://www.unescwa.org/sites/www.unescwa.org/files/page_attachments/omanar.pdf.

2 United States Department of State, Trafficking in Persons Report, Oman (2015), <http://go.usa.gov/37Pu9>.

3 Evidence Law for Civil and Commercial Transactions, Royal Decree No. 68 of 2008.

4 Freedom House, Women's Rights in the Middle East and North Africa, Oman, (2010), https://freedomhouse.org/sites/default/files/inline_images/Oman.pdf.

PROTECTION FROM DOMESTIC VIOLENCE AND SEXUAL VIOLENCE

The Penal Code includes provisions related to rape and assaults of different severity.⁵ However, marital rape is not specifically criminalized in the Penal Code. There is no specific legislation on domestic violence, but perpetrators may be subject to prosecution for the offence of harming a woman.

Although there is no specific sexual harassment offence, indecent acts against women and girls are criminalized. A male who commits an indecent act or makes an indecent gesture against a female is punished by one month to one year of imprisonment and/or a fine between 100 and 300 Omani Riyals.⁶

Rape is defined by the Penal Code as “sexual intercourse with a male or female without her consent” and is punishable by imprisonment for 10–15 years.⁷ The penalty is life in prison for anyone who has sexual intercourse with a person under the age of 15 or who is physically or mentally disabled, even if the act is committed without coercion, threat, or deception.⁸

There are no laws that require or force rape survivors to marry their rapists. Such practice is deemed unlawful according to Sharia. Fieldwork and research suggest that this position will remain in the foreseeable future.

HONOUR CRIMES

Honour crimes are not considered to be prevalent in Oman. However, there are some cases reported where daughters have been killed by family members after discovering involvement in extramarital relationships.

There is no specific provision in the Penal Code allowing for reduction in penalty for perpetrators of honour crimes. The Article allowing for reduced penalties for honour crimes was annulled by Royal Decree no. 72/2001.

If a woman kills her out-of-wedlock baby immediately after birth to avoid stigmatization or being killed herself, the court would deem such a case as mitigating circumstances warranting attenuation.

ADULTERY AND SEX OUTSIDE OF MARRIAGE

The Penal Code makes a distinction among molestation, rape, and adultery or *zina*. In the first two cases, only the aggressor (usually a male perpetrator) is prosecuted. In the case of adultery or *zina*, both parties to the act are prosecuted.

Survivors of sexual violence may be reluctant to report cases of rape or sexual assault for fear of being prosecuted for fornication or adultery. A man or woman who has sexual intercourse without an authenticated marriage deed commits an offence punishable by at least six months and not more than three years' imprisonment. The punishment of each of them shall not be less than two years if one of them is married. A criminal case shall not be brought against the perpetrator, whether male or female, except on the basis of the husband's complaint.⁹

There are no laws in Oman that require or force people who have extra-marital sex to marry the person with whom they committed an extra-marital act. Such practice is deemed unlawful according to Sharia.

The new Penal Code does not use the term “adultery” to avoid any complications arising from Sharia jurisprudence. Instead, the phrase “sexual intercourse with a female with her consent, but without a marriage contract” is used.

⁵ Penal Code, Chapter 7, Section 2, Arts. 265–266.

⁶ Ibid., Art. 266.

⁷ Ibid., Art. 257.

⁸ Ibid.

⁹ Ibid., Art. 259.

ABORTION FOR RAPE SURVIVORS

Physicians are prohibited from terminating a pregnancy, and there is no exception for rape survivors.

The Penal Code provides the following penalties of imprisonment for abortion offences:

- At least six months and up to three years for a woman who aborts herself through any means or consents to an abortion.¹⁰
- At least ten days and up to three months for a woman who aborts herself due to family honour.¹¹
- At least six months and up to three years for anyone who aborts a woman with her consent.¹²
- At least three years and up to five years if the person performing the abortion is a member of any medical profession.¹³
- At least three years and up to seven years for any person who performs an abortion with the woman's consent that leads to her death.¹⁴
- At least five years and up to ten years if the person performing the abortion with the woman's consent that leads to her death is a member of any medical profession.¹⁵
- At least three years and up to five years if the abortion is performed without the woman's consent.¹⁶
- At least five years and up to seven years if the person performing abortion without consent is a member of a medical profession.¹⁷
- At least five years and up to ten years if the abortion is carried out without the woman's consent and leads to her death.¹⁸
- At least seven years and up to 15 years if the abortion leads to the woman's death and is carried out by a member of a medical profession.¹⁹

FEMALE GENITAL MUTILATION/CUTTING (FGM/C)

There is no legislation specifically prohibiting FGM/C. A policy directive prohibits FGM/C in government institutions,²⁰ but violators of this directive are not subject to disciplinary proceedings or any form of professional, civil, or criminal penalties.

The Child Law of 2014 prohibits harmful traditional practices. The draft Executive Regulations of the Child Law include a provision prohibiting some forms of FGM/C as well as penalties.²¹ CEDAW provisions against FGM/C are often ignored and are not translated into executive regulations or administrative measures.

A 2010 Ministry of Health study on FGM/C found that men and women across all ages broadly accepted FGM/C practices, especially in rural areas, where it was reported to be a common occurrence. In the Dhofar region, FGM/C is performed on newborns and involves a partial or total clitoridectomy (Type I as defined by the World Health Organization). Throughout the rest of the country, FGM/C usually consists of a minor cut made on the clitoris (Type IV).²²

10 Ibid., Art. 315.

11 Ibid., Art. 315.

12 Ibid., Art. 316.

13 Ibid., Art. 316.

14 Ibid., Art. 317.

15 Ibid., Art. 317.

16 Ibid., Art. 318.

17 Ibid., Art. 318.

18 Ibid., Art. 318.

19 Ibid., Art. 318.

20 United Nations Children's Fund, Oman, Gender Equality Profile (2011), <http://www.unicef.org/gender/files/Oman-Gender-Equality-Profile-2011.pdf>.

21 Child Law, Art. 20; "harmful traditional practices" are to be defined by the Implementing Regulations.

22 United States Department of State, Country Reports on Human Rights Practices for 2014, Oman.



FAMILY MATTERS

The Personal Status Law governs matters relating to family life. There are no specialist family courts, and personal status circuits are dominated by male judges. In many parts of the country, tribal laws and customs are still used to adjudicate disputes related to marriage and family relations.²³ MRCs provide an alternative mechanism for resolution of family disputes that is family-friendly and accessible as well as being in line with social norms and customs. Access to MRCs is free of charge and requires the consent of both parties. Resorting to MRCs does not preclude disputing parties from recourse to court litigation.

Marriage

Marriage is a legal contract between a husband and wife.²⁴ The minimum age for marriage is 18 for both males and females.²⁵ Marriage of persons aged less than 18 is prohibited, except if approved by a judge after verifying that the marriage would be beneficial.²⁶

²³ Musawah, Musawah's Thematic Report on Article 16, Kuwait and Oman (Musawah, 2011), http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/MusawahThematicReportonArticle16_Kuwait50.pdf.

²⁴ Personal Status Law, Art. 4.

²⁵ *Ibid.*, Art. 7.

²⁶ *Ibid.*, Art. 10.



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Despite the legal prohibition on underage marriages, marriage of girls under the age of 18 still occurs in some communities,²⁷ especially among rural, religious, or poor families. However, the 2003 and 2010 general censuses suggest that child marriage is not significant statistically (less than 0.10 per cent of children). Recently, the age at first marriage has increased to 28 years for males and 26 years for females.

Permission of a woman's male guardian (*wali*) is generally required for her to marry.²⁸ The woman's guardian is required to conclude the marriage with her consent.²⁹ Royal Decree 55/2010 prevents a guardian from obstructing a woman's decision to marry her choice of husband and empowers the state to act as a guardian.³⁰

A husband is responsible for the home and has the right to receive the attention and obedience of his wife.³¹ A wife has the right not to be harmed financially, materially, or morally by her husband.³² The Personal Status Law provides that the wife may seek divorce in a case of harm (*dharar*) being inflicted upon her.³³ This is a very generic and all-encompassing term. The law does not articulate, however, whether this term includes bodily harm, though court interpretation has taken it to include physical abuse.

27 United Nations, CEDAW Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women: Oman (4 November 2012).

28 Personal Status Law, Art. 11.

29 Ibid., Art. 19.

30 Royal Decree 55/2010 amended the Civil and Commercial Procedures Code provision relating to 'udhl, whereby parents could withhold permission to marriage.

31 Personal Status Law., Art. 38.

32 Ibid., Art. 37.

33 Ibid., Art. 101.

Dowry (*mahr*) is paid to the woman in exchange for her consent to be married. High dowries are common despite a Royal Order stipulating the maximum dowry to not exceed USD7,800. This can result in some women being forced into marriages by parents seeking high dowry payments.³⁴ It is known that some parents refuse to give consent to marriage because of a low dowry. No statistics or estimates of dowry payments are available.

Polygamy is permitted, although not prevalent. The 2003 General Census showed that Omanis in monogamous relationships represented around 93.5 per cent of married men; those married to two co-wives represented just over 5 per cent. No updated official statistics exist. It is not customary to seek consent of the first wife prior to marrying the second, although a woman can request such a condition in her marriage contract. Non-adherence to this condition will not, however, render the second marriage null and void. It will only provide her with a breach of contract justification to seek divorce.

Marriage to foreigners is strictly circumscribed and different rules apply to men and women. A foreign woman marrying an Omani man must be a resident of Oman for at least 10 years. A foreign man marrying an Omani woman must be resident for at least 20 years or have been married to an Omani woman for 15 years.³⁵

Divorce

The husband has the right to *talaq* (unilateral divorce without any requirement to show grounds).³⁶ Prior to marriage, a woman may request to have the right to divorce herself without petition to court.

Furthermore, a woman may petition for divorce for specific reasons, including harm causing suffering that makes it impossible to continue a normal matrimonial life.³⁷ However, proof of such claims is often complicated or not possible, which may lead the court to downgrade the petition into a *tafreeq*, i.e., a separation without rights. In such a case, the woman would lose her alimony rights and would have to return the dowry to the husband.

A wife may petition for no-fault divorce through *khul'a*,³⁸ which is usually offered together with a consideration paid by the wife. If the wife offers to relinquish custody of children as a consideration for *khul'a*, this will render the process null and void and the case becomes a divorce case.

Cases involving women seeking divorce or separation are often long in duration and typically run for a minimum of one year up to four years.

Guardianship and custody of children

The father is the legal guardian of children of the marriage.³⁹ However, this does not mean that the father has sole custody of the children in the case of divorce or separation. In such a case, the mother retains custody of her son until he is seven and of her daughter until she reaches puberty. The judge may use discretion to extend this period based on the judge's assessment of the best interests of the child.⁴⁰

INHERITANCE

The Personal Status Law defines the rules of inheritance, which follow Sharia principles. Women have the right to inherit, but in general a woman inherits half the share that a man receives who has the same relationship to the deceased.⁴¹ The Land Law was amended in 2008 to give women the same rights as men to own residential land.⁴²

34 Musawah, Musawah's Thematic Report on Article 16, Kuwait and Oman.

35 Nationality Law, Royal Decree No. 38 of 2014, Arts. 15 and 16.

36 Personal Status Law, Art. 82.

37 Ibid., Art. 101.

38 Ibid., Art. 94.

39 Ibid., Art. 159.

40 Ibid., Arts. 129 and 132.

41 Ibid., Arts. 241-277.

42 Women Living Under Muslim Laws, "Oman women get equal rights to own land" (24 November 2008), <http://www.wluml.org/node/4923>.

NATIONALITY

According to the Nationality Law, Omani men can automatically confer nationality on their children. However, an Omani mother can only confer nationality on her children if the father was Omani but became stateless, or if the father is unknown. Women are also denied the right to confer their nationality to foreign spouses on an equal basis with men, as their spouse must wait 15 years to be naturalized while the foreign spouse of an Omani man must wait only ten years.⁴³ In both the case of an Omani woman marrying a foreign spouse and an Omani man marrying a foreign spouse, the woman must give birth to a child in order that the spouse can qualify for citizenship.⁴⁴ Women and men do not have a right of appeal against a decision of the Ministry of Interior in a court of justice. Instead, they can appeal directly to the Minister, whose decision is deemed final.

LABOUR LAWS

Entering employment

Article 12 (Social Principles) of the Basic Law of the State provides equal rights for men and women to choose their work freely and prohibits forced labour or servitude. This is echoed by the Civil Service Law, which provides for equal treatment and rights for men and women in applying for jobs, as well as regarding remuneration and benefits.⁴⁵

Article 80 of the Labour Law⁴⁶ provides that all provisions regulating the employment of workers apply to women workers without discrimination between employees in the same work. This provision in effect prohibits discrimination against women on the grounds of sex or gender in recruitment or hiring. Job advertisements cannot specify gender. Advertisements that have specified gender as a requirement have been considered by the Administrative Adjudication Court to be illegal.

There are some legal restrictions on the employment of women in some professions or industries that are deemed to be harmful. Women cannot be employed in night work except in cases specified by the Minister of Manpower.⁴⁷ It is prohibited to employ women to perform work deemed arduous or hazardous to health as specified by the Minister.⁴⁸

Remaining in employment

Article 11 of the Labour Law requires employers to ensure the equality of all workers when the nature and conditions of their work are similar. Article 80 of the Labour Law requires that women and men must be paid equal wages for the same work. Under the Labour Law, women are entitled to 50 days maternity leave, which is paid by the employer. This entitlement is limited to three occasions of maternity leave during employment.⁴⁹ It is unlawful to dismiss a woman because of her pregnancy.⁵⁰

Workplace sexual harassment

The Labour Law guarantees workers' rights to terminate their employment contract without prior notice if the employer or person who represents the employer assaults the worker or if the employer engages in immoral behaviour against the worker.⁵¹ However, this provision does not address verbal abuse and does not impose a penalty on the employer or provide compensation rights to the worker. However, if such abuse occurs in public, the employer is then liable under the Penal Code. Field work suggests that women who experience sexual harassment might refrain from pursuing a criminal prosecution due to fear of stigmatization and other cultural reasons.

43 Nationality Law, Royal Decree No. 38 of 2014; see also Global Campaign for Equal Nationality Rights, Human Rights Violations Resulting from Gender Discrimination in Oman's Nationality Law, <http://equalnationalityrights.org/component/content/article?id=44:upr-oman-gender-discrimination-nationality>.

44 Ibid., Arts. 15 and 16.

45 See Civil Service Law, Article 103.

46 Labour Law, Royal Decree 35/2003; As amended by Royal Decree 113/2011.

47 Ibid., Art. 81.

48 Ibid., Art. 82.

49 Ibid., Art. 83.

50 Ibid., Art. 84.

51 Ibid., Art. 41.

Domestic workers

Domestic workers are not covered by the protections of the Labour Law. A Ministry of Manpower circular prohibits employers from withholding migrant workers' passports, but does not specify penalties for non-compliance.⁵² Ministerial Decision No. 189/2004 issued by the Minister of Manpower addresses employment of domestic workers. Ministerial Decision No. 1/2011 regulates the agencies involved in the recruitment of domestic workers, which are monitored by the Ministry of Manpower.

Migrant workers are typically employed in domestic work or as workers in the agriculture and service sectors. Some domestic workers experience excessive working hours and their passports might be confiscated. Migrant women working in Oman as domestic workers who originate from countries without a diplomatic presence in Oman may be vulnerable to exploitation.⁵³

The government requires migrant workers to be bound to the terms of their employment contract or leave Oman for a minimum of two years. This can result in situations where workers are subjected to exploitation or abuse, which they endure rather than returning jobless to their home countries.⁵⁴

SEX WORK AND ANTI-PROSTITUTION LAWS

Engaging in prostitution is punishable by imprisonment for a minimum of one year and a maximum of three years.⁵⁵ It is an offence to:

- a) Prepare or operate a place for prostitution or immorality, or assist in any way in the preparation or administration of prostitution;
- b) Own or rent premises knowing that it is used for prostitution or immorality;
- c) Knowingly work or reside in a place intended for prostitution or immorality;
- d) Depend on the financial earnings of a person engaging in prostitution.

Punishment for these offences is imprisonment for between one and three years, and a fine of between 500 and 1,000 Omani Riyals.⁵⁶

Anyone who in a public space incites someone into prostitution through words, gestures, or other means is punished by at least six months and up to one year in prison.⁵⁷

The penalty for inciting, exploiting, or assisting a person through any means into prostitution is at least three years and up to seven years' imprisonment.⁵⁸

HUMAN TRAFFICKING

Oman adopted a comprehensive Anti-Trafficking Law in 2008.⁵⁹ There is a special judicial department at the appeals court in Muscat to handle trafficking cases.⁶⁰ The Law provides financial compensation for trafficking survivors and legal fees may be waived.⁶¹

A person found guilty of human trafficking will be punished by imprisonment for three to seven years and a fine of 5,000 to 100,000 Omani Riyals.⁶² An increased penalty of imprisonment for seven to 15 years and a fine of 10,000 to 100,000 Omani Riyals applies if the victim is a minor.⁶³

52 Ministry of Manpower Circular No. 2/2006.

53 US Department of State, Trafficking in Persons Report: Oman.

54 Ibid.

55 Penal Code, Art. 256.

56 Ibid., Art. 255.

57 Ibid., Art. 253.

58 Ibid., Art. 254.

59 Royal Decree No. 126/2008, Anti Trafficking Law.

60 US Department of State, Trafficking in Persons Report: Oman.

61 Ministry of Social Development, National Report on the Implementation and Results of the 23rd Special Session of the General Committee on the 20th Anniversary of the Beijing World Conference, Platform and Plan, (May 2014), p. 24.

62 Anti-Trafficking Law, Art. 8.

63 Ibid., Art. 9.

The Child Law prohibits child slavery or child sexual exploitation.⁶⁴ The Penal Code imposes a maximum penalty of up to ten years imprisonment for incitement into prostitution through force, threats, or deception; if the victim is less than 18; or if the perpetrator is a relative or has authority over the victim.⁶⁵

SEXUAL ORIENTATION, GENDER IDENTITY, AND RELATED ISSUES

The Penal Code criminalizes a male who has sexual intercourse with another male with consent to at least one year and up to three years in prison.⁶⁶ The Penal Code also criminalizes anyone who commits erotic acts with a person of the same sex, punishment for which is imprisonment from six months to three years.⁶⁷ A penalty of at least ten days and up to one month imprisonment and/or a fine of 100--300 Omani Riyals applies if immoral photos, gestures, or programmes are transmitted through electronic or other media.⁶⁸ Eighteen prosecutions of men for same-sex conduct occurred in 2012.

There is no legal provision that prohibits same-sex marriage, although the Personal Status Law defines marriage as between a man and a woman.

There are no specific laws protecting LGBT people from hate crimes or discrimination. There are no legal protections for, or recognition of, transgender people. Public slandering of LGBT rights or individuals is not prosecuted and goes uncorrected. Social norms reinforce discrimination against LGBT persons, and social stigma and intimidation may prevent LGBT persons from reporting incidents of violence or abuse.⁶⁹

There is no legal provision *per se* that prohibits or criminalizes sex change or gender reassignment surgery. However, no legal support is provided to transgender persons to correct civil status records unless a medical report is issued testifying that the sex change or gender reassignment occurred due to biological, physiological, or medical conditions. Such a report must be then attested by the National Biological Ethics and Legal Committee, headed by the Assistant Grand Mufti.

OMAN: KEY RESOURCES

Legislation

Omani laws can be retrieved from the Ministry of Legal Affairs website: www.mola.gov.om.

Basic Law of the State, Royal Decree No. 101 of 1996, as amended in 2011. Available from <http://www.wipo.int/edocs/lexdocs/laws/en/om/om019en.pdf>.

Penal Code (Arabic). Available from [http://www.mola.gov.om/PDF/molhaq-marsom7-2018\(5\).pdf](http://www.mola.gov.om/PDF/molhaq-marsom7-2018(5).pdf).

Anti-Trafficking Law. Available from http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=81766.

Personal Status Law. Available from http://odaa.oregon.gov/events/personal_status_law_english_sharia_law.pdf.

Labour Law, Royal Decree No. 35 of 2003. Available from <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/67540/84139/F1719028671/OMN67540.pdf>.

References

Al-Talei, R., "Oman," in Sanja Kelly and Julia Breslin (eds.), *Women's Rights in the Middle East and North Africa: Oman* (New York:

64 Child Law No. 22 of 2014, Art. 1.

65 Penal Code, Art. 254.

66 *Ibid.*, Art. 261.

67 *Ibid.*, Art. 262.

68 *Ibid.*, Art. 268.

69 US Department of State, Country Reports on Human Rights Practices for 2014, Oman.

Freedom House, 2010). Available from https://freedomhouse.org/sites/default/files/inline_images/Oman.pdf.

Musawah, *Musawah's Thematic Report on Article 16, Kuwait and Oman*. Available from http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/MusawahThematicReportonArticle16_Kuwait50.pdf.

Organization for Economic Cooperation and Development, *Social Institutions and Gender Index Oman* (2014). Available from <http://genderindex.org/country/oman>.

Protection Project, *A Human Rights Report on Trafficking in Persons, Especially Women and Children, Oman* (2010) Available from <http://www.protectionproject.org/wp-content/uploads/2010/09/Oman.pdf>.

United Nations, CEDAW Committee, *Concluding observations of the Committee on the Elimination of Discrimination against Women, Oman* (2011), CEDAW/C/OMN/CO/1. Available from http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fOMN%2fCO%2f1&Lang=en.

United Nations Children's Fund, *Oman, MENA Gender Equality Profile* (2011). Available from <http://www.unicef.org/gender/files/Oman-Gender-Eqaulity-Profile-2011.pdf>.

United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), *Spring Forward for Women Programme* (2014). Available from <http://spring-forward.unwomen.org/en/countries/oman>.

United Nations Human Rights Council, *Report of the Special Rapporteur on trafficking in persons, especially women and children, Sigma Huda, Mission to Bahrain, Oman and Qatar* (25 April 2007). Available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/124/75/PDF/G0712475.pdf?OpenElement>.



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