

# Oman's new Penal Code:

## A bonfire of human rights



The Omani Centre for Human Rights  
2018

## **Oman's new Penal Code: A bonfire of human rights**

Frequent recourse to the death penalty and indictment of free speech, religion and peaceful demonstrations

The revised Omani Penal Code issued on January 14, 2018 contained a number of unpleasant shocks in terms of human rights. The Omani Centre for Human Rights here assesses the new law, highlighting the key areas for concern and identifying the main threats to human rights.

First published in 2018

® all rights reserved for The Omani Centre for Human Rights 2018

Printed by The Omani Centre for Human Rights

## Contents

Introduction	4
The death penalty	5
Freedom of opinion and expression	5
Freedom of religion and belief	10
Freedom of assembly (peaceful demonstrations)	12
Personal liberties	13

## Introduction

The new Omani Penal Code is in several ways even more draconian than the law it has replaced. There are many Articles where the prison terms laid down as punishment for various crimes have been dramatically increased, for example from between six months and three years to between three years and seven. Certain crimes now take on a religious dimension, raising concerns for religious, sectarian and intellectual freedoms in the future. And the new code, chillingly, makes frequent references to the death penalty.

There are also several notable omissions in the new Law, such as the absence of any enforcement or protection of women's rights, and the precedence given to men over women with regard to their personal or general affairs. The Law is silent on the matter of rape by a husband of his wife or his coercing her to have sexual intercourse against her wishes. There is no Article in the Law criminalising female genital mutilation.

The new Code also fails to provide safeguards to prevent domestic violence and control the behaviour of violent parents or guardians toward their children. In a section dealing with "Exclusion of Criminal Responsibility", Article 44 (Enjoyment of right) states:

An action committed in good faith in enjoyment of a lawful right or in performance of a lawful duty shall not be deemed a crime. It shall be deemed enjoyment of a right when:

(a) parents and those in loco parentis chastise under-age children within the limits recognised by Sharia or statute law.

4

Furthermore, there are no safeguards to protect gay people and atheists; in fact the revised Law introduces Articles to punish rather than protect them. The lack of protection in the Law for these and other personal freedoms will make it dangerous to express one's individuality within society and may well lead to higher rates of emigration.



## The death penalty

The new Omani Penal Code makes the death penalty a standard punishment in a number of cases. Although Omani legislators have long denied the existence in practice of the “penalty” of execution, the new law is quite open, clear and specific about endorsing it. The word “execution” is mentioned as a punishment more than 20 times in more than 20 different Articles:

94, 95, 106, 107, 109, 110, 111, 113, 117, 125, 126, 127, 128, 129, 130, 133, 156, 164, 167, 260 and 302.



## Freedom of opinion and expression

Article 97 states:

The punishment for anyone who either openly or by means of publication commits slander against the Sultan and his authority, or denigrates him personally, shall be imprisonment for a term of not less than three years and not more than seven years.

Under the previous Law (in Article 126) the punishment for this ranged from six months to three years; the new penalty is much more severe. Article 126 has commonly been used to silence people whose opinions are at odds with the government line, or who have criticised the government's performance, since Sultan Qaboos bin Saeed, the current ruler of Oman, is both head of state and head of government, as well as directly managing a number of ministerial portfolios. The Article is overly broad, and it is usually left to the Public Prosecutor's discretion to accommodate the wishes of the security services in defining the charges brought. It is also used to suppress freedom of expression, and to take revenge on those who condemn the administrative failings of government bodies and rampant corruption at the highest levels. This is part of a systematic campaign of oppression that has been waged by the Internal Security Service in partnership with the Public Prosecution and Royal Oman Police ever since 2011. The effect has been to eliminate virtually all human rights activity critical of the government and government officials, chief among them Sultan Qaboos.

Article 102 states:

The punishment for anyone who openly commits slander against or personally denigrates a foreign head of state while he is visiting Oman, or a foreign state's accredited representative to Oman, shall be imprisonment for a term of not less than three months and not more than three years.



This Article effectively criminalises any criticism of the head of any Arab or non-Arab foreign state as well as criticism of any official or representative of a foreign state.

Article 108 states:

The punishment for anyone who seeks to stir up religious or sectarian unrest or discord, or fosters feelings of resentment, hatred or disunity among the population, or incites others to do so, shall be imprisonment for a term of not less than three years and not more than ten years.

The same punishment shall apply to anyone who holds or knowingly takes part in a meeting, seminar or conference for the purposes set out in the previous paragraph. An aggravating circumstance would be for the crime to occur in a house of worship, official establishment, or public place or function, or be committed by a public employee during or in the course of his work, or by someone in a position of religious authority.

Articles like these are used to ban academic writings that draw critically on the evidence of historic events. This Article narrows the scope for any academic study or research, and removes the basis for doing any independent scientific research or free academic work that espouses academic integrity, with its critical methods and standards of evaluation.

6

Article 115 states:

The punishment shall be imprisonment for a term of not less than three months and not more than three years for anyone who:

- (a) deliberately instigates, broadcasts or publishes at home or abroad false or tendentious news, information or rumours or spreads provocative propaganda that is liable to harm the prestige of the State or undermine confidence in its financial markets or its economic and financial standing;
- (b) obtains, holds or transfers written or printed materials or recordings

containing anything specified in the previous paragraph, if they are intended for distribution or for others to read; or

(c) obtains, holds or transfers any means of printing, recording or publication made available, even temporarily, for the printing, recording or broadcasting of any of the above.

The penalty shall be imprisonment for a term of not less than three years and not more than ten years if the crime occurs during a state of emergency or time of war or natural disaster.

The three sub-clauses of this Article serve to target bloggers, activists and writers if they write anything that exposes corruption in the government. The same provisions, found in Article 19 of the Cyber Crime Law, were used in 2016 to close down Azamn newspaper and harass the online newspaper Al Balad until the editorial team decided to close it down for fear of retribution against team members. The security authorities also used these provisions in 2017 to withdraw the accreditation of a journalist because of a news story she wrote for Reuters news agency, as well as to block the website of online magazine Mowatin.

Article 116 states:

The punishment for anyone who establishes, founds, organises, administers or finances an association, party, body, organisation, centre or the like, by whatever name or in whatever form, or any branch thereof, seeking to contest the political, economic, social or security principles of the State, or the domination or elimination of one social class by another, shall be imprisonment for a term of not less than three years and not more than ten years.



The punishment for anyone who joins one of these associations, parties, bodies or organisations or a branch thereof, participates in it in any form, promotes it or wishes to join it, even if it is based abroad, shall be imprisonment for a term of not less than one year and not more than three years. In all cases it shall be dissolved, the premises where it conducts its operations shall be closed, and the funds, papers, publications and other objects used or intended for use in the crime shall be confiscated.

This Article is similar to Article 134 of the old Law, which has been used to stamp out any peaceful civic action, whether political, intellectual or to do with human rights. The law has in the past helped the security services to eliminate a number of cultural movements and enterprises, and to threaten, persecute and arrest their founders.

Article 118 states:

The punishment for anyone who obtains or holds written or printed materials favourable to or promoting anything specified in Article 116 of this Law, if they are intended for distribution or for others to read, and likewise anyone who obtains or holds any means of printing, recording or publication made available, even temporarily, for the printing, recording or broadcasting of appeals or propaganda for any of the entities specified in Article 116 of this Law seeking any of the purposes mentioned in that Article, shall be imprisonment for a term of not less than six months and not more than three years.

This Article complements Article 116 and makes it easier for the security services to make arrests, even if the activities of any cultural or intellectual enterprise take place in cyberspace.

Articles 119 and 120 state:

(Art. 119) The punishment for anyone who at any time directly or indirectly in any way receives or accepts funding or resources from a person or entity inside or outside the country or a foreign state in the interests of committing crimes specified in this Part of the Law, or for the purpose of promoting them, shall be imprisonment for a term of not less than three years and not more than seven years. In all cases those funds shall be confiscated.

(Art. 120) The punishment for anyone who solicits for himself or others, or who even indirectly accepts or takes from a foreign state or one of its agents, a gift or benefit, or promise of such, for the purpose of committing an act harmful to the national interest, shall be imprisonment for a term of not less than five years and not more than ten years. The same penalty shall apply to anyone who gives, promises or offers any of the above even if the gift, promise or offer is not accepted, and even if he is only an intermediary. The penalty shall be imprisonment for an indefinite period if the perpetrator is a public employee or if the crime is committed in wartime. In all cases the funds shall be confiscated.

8

The Omani Centre for Human Rights believes that these two Articles will be used to target any writer or activist who publishes his or her writings or reports in the press or through foreign or even domestic human rights organisations. The Centre likewise fears that these Articles will be used as an excuse to monitor any contact made by any activist or writer with foreign media or human rights organisations.



Article 248 states:

The punishment for anyone who openly fails to show the judiciary due respect in a way that casts doubt on its integrity or its adherence to the provisions of the law shall be imprisonment for a term of not less than six months and not more than three years.

Criminalising anyone who criticises the judiciary and punishing them with imprisonment renders the judiciary totally immune to criticism. According to this Article any kind of criticism will be interpreted as a crime.





ture and refusing to treat their authors as sacrosanct, especially now that their influence is proving to be an obstacle to progress in social thinking. The OCHR believes that clauses (b), (c) and (d) of Article 269 are deliberately intended to cut off any intellectual debate or constructively critical propositions.

Article 270 states:

The punishment for anyone who establishes, founds, organises or administers a group, association, body, organisation or branch thereof seeking to contest or harm the foundations on which the Islamic religion is based, or promoting or making propaganda for another religion, shall be imprisonment for a term of not less than three years and not more than seven years.

The punishment for anyone who joins, participates in or in any way assists one of those entities knowing their purposes shall be imprisonment for a term of not less than six months and not more than three years.

This is similar to Article 116 of the new Law, but here given a religious slant. Unfortunately the OCHR fears that this Article – and similarly Articles 271, 272 and 273 – will be used to seize on any sectarian differences or critical intellectual studies looking at Islamic history or sects. The Law will have the effect of abolishing whatever scope there might have been previously for academic or intellectual activity.

Article 277 states:

The punishment for anyone who openly consumes food or drink or other substances subject to fasting in a public place during daytime in Ramadan shall be imprisonment for a term of not less than ten days and not more than three months.

The Law here fails to respect the principle of there being different religions, or even the freedom of the individual not to fast, which it makes punishable by between ten days and three months in prison!

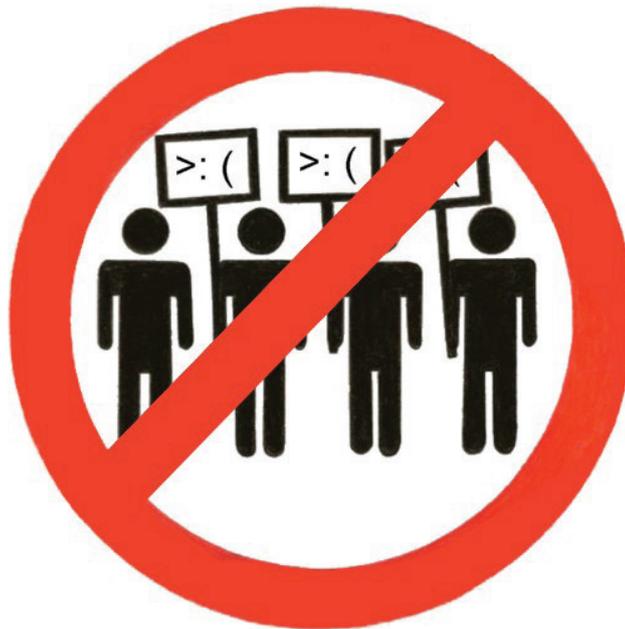
## Freedom of assembly (peaceful demonstrations)

Article 121 states:

The punishment for anyone who takes part in a public gathering of ten persons or more where this is liable to cause a breach of security or public order, or who remains at the scene after the competent authorities have issued an order to disperse or withdraw, shall be imprisonment for a term of not less than three months and not more than one year and/or a fine of not less than OR100 (\$260) and not more than OR500 (\$1,300). If those who have assembled turn to violence, each person who incited or took part in it shall be punished by imprisonment for a term of not less than six months and not more than three year, and/or a fine of not less than OR300 (\$780) and not more than OR 1,000 (\$2,600).

This Article is similar to Article 137 of the former Penal Code, which is routinely used against any peaceful gathering or demonstration. The issue here is not whether the number of people is greater or fewer than ten, but the basic right to the peaceful expression of opinions.

Article 123 takes the same line as Article 121, targeting any person calling for a demonstration or peaceful gathering.



## Personal liberties

Article 259 states:

The punishment for anyone who has consensual intercourse with a female without there being a marriage contract between them shall be imprisonment for a term of not less than six months and not more than three years, and the penalty for the female shall be the same.

The penalty for each of them shall be no less than two years if one of them is married; knowledge of their married status shall be presumed unless there is evidence to the contrary.

Criminal proceedings shall be brought against the perpetrator, whether man or woman, only on the basis of a complaint from the spouse or guardian. If the perpetrator has no spouse or guardian in Oman, the Public Prosecutor may bring proceedings or expel him from the country. In all cases the spouse or guardian may drop the case; if a complainant drops the case there shall be a stay of proceedings and suspension of the punishment.

The new law criminalises individual personal freedoms for both men and women!

Article 261 and 262 constitute an attack on the rights of gay people, confirming that there is no place for them in Oman. This makes their lives precarious not only in Omani law but even within society.

Article 261 states:

The punishment for any male who has consensual intercourse with a male shall be imprisonment for a term of not less than one year and not more than three years, and the same penalty shall apply to the passive male partner.

Article 262 states:

The punishment for anyone who commits lewd acts with a person of the same sex shall be imprisonment for a term of not less than six months and not more than three years.

Criminal proceedings shall be brought against the perpetrator, whether man or woman, only on the basis of a complaint from the spouse or guardian. If the perpetrator has no spouse or guardian in Oman, the Public Prosecutor may bring proceedings or expel him from the country.

In all cases the spouse or guardian may drop the case; if a complainant drops the case, there shall be a stay of proceedings and suspension of the punishment.

In a section of the revised Omani Penal Code entitled "Shameful Acts",

Article 267 states:

The punishment for anyone who makes, distributes, publishes or displays, even if not in public, a book, publication, drawings, photographs, films or images etc. of an indecent nature or harmful to public morality shall be imprisonment for a term of not less than ten days and not more than one year and/or a fine of not less than OR100 (\$260) and not more than OR300 (\$780).

This constitutes interference in the private lives of individuals and establishes the concept of "censorship". This Article is also very broad and could easily be used as a cover for the suppression of bloggers and social media activists.

Article 268 states:

The punishment for anyone who uses wired or wireless communication devices or electronic media or text, pictures, programmes or any other means to transmit text, pictures or programmes contrary to public decency and morals shall be imprisonment for a term of not less than ten days and not more than one month and/or a fine of not less than OR100 (\$260) and not more than OR300 (\$780).

There are fears concerning the way in which this Article, as well as the previous Article, may be applied.



YOUR RIGHTS ARE NOT CRIME, THE CRIME IS WHEN YOU  
ARE PREVENTED FROM EXERCISING YOUR RIGHTS.



Website: <https://ochroman.org>  
Email: [centreoman@gmail.com](mailto:centreoman@gmail.com)

Suite 193, 42 Watford Way  
Hendon, London NW4 3AL  
United Kingdom



The Omani Centre for Human Rights  
**2018**