



Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report –

Universal Periodic Review:

2nd Cycle, 23rd Session

THE SULTANATE OF OMAN

I. BACKGROUND INFORMATION

The Sultanate of Oman (“Oman”) is not a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Oman is neither a State party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) nor to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

The overall protection environment remains perilous and the authorities continue to impose visa restrictions on most countries, except for nationals of the Gulf Cooperation Council (GCC) and Europe, the Americas and Australia, who can obtain visas upon their arrival.

There are no specific national laws or administrative regulations governing the status of asylum-seekers or refugees. All non-citizens in Oman fall under national immigration laws (also referred to as expatriate law), including refugees and asylum-seekers who register with UNHCR. As per these laws, like other GCC countries, securing a sponsorship through work, investment, or family link is a prerequisite to obtaining legal residence in Oman.

However, Oman’s *Foreign Residency Law* encompasses some provisions on political refugees’ rights and obligations. Under Chapter 7 (Articles 24 - 27), political refugee status shall be granted by the Sultan’s royal decree. The political refugee will then be given an ID showing his/her data and obligations (Article 25). The political refugee is prohibited from performing any political activity during his/her residency in Oman (Article 26). Lastly, the Sultanate enjoys discretionary power to withdraw the right of political asylum and deport him/her at any time (Article 27).

In the absence of a national asylum system in Oman, UNHCR carries out all asylum-related activities and refugee status determination under its mandate. Naturalization and local

integration prospects for refugees (under UNHCR's mandate) are extremely limited. The potential for voluntary repatriation is also limited, in view of the fact that the situation in countries of origin is not usually conducive to safe return (most asylum-seekers in Oman originate from Iraq). Refugees are only allowed to stay and work (if they are in the country based on a work visa, which is the case for the majority) in the country temporarily, pending the identification of a suitable durable solution, such as voluntary repatriation or resettlement. Resettlement is used strategically as a protection tool by UNHCR, mainly for persons who have been identified as having serious protection risks in Oman or who are at imminent risk of deportation. However, the resettlement process can often be lengthy and leaves refugees in a difficult situation while awaiting the processing of their resettlement case.

To grant a permit for refugees to remain in Oman beyond the legal residence period requires a special action through diplomatic communication and an official request from UNHCR. Such a permit is temporary, pending the finalization of resettlement procedures to a third country. Selection missions by resettlement countries are facilitated to examine cases in Oman. The departure of accepted refugees to resettlement countries is conducted through close collaboration between the Ministry of Foreign Affairs, the Ministry of Interior, IOM, ICMC and UNHCR.

As of 31 December 2014, Oman hosted a caseload of 231 individual asylum-seekers and 151 refugees, who originate primarily from Iraq.

Refugees and asylum-seekers in Oman live mainly in urban areas and the vast majority of them possess valid residence permits, meaning they have secured a sponsorship through work, investment, or a family link.

UNHCR continues to issue refugee and asylum-seeker certificates based on protection needs, including to those refugees who also possess a valid Omani residence permit. Refugees and asylum-seekers with a legal presence in the country enjoy access to various types of documentation issued by the Government.

To date, no case of a known stateless person in Oman has come to the attention of UNHCR. While the nationality law of Oman has some safeguards to prevent statelessness, recent legislative changes may increase the risk of statelessness for certain groups (see Issue 2 below).

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Although Oman is not party to the *1951 Convention* and does not have a national framework regulating issues related to asylum, Article 36 of the *Constitution* prohibits *refoulement* and the authorities generally refrain from the deportation of persons in need of international protection to territories where their safety or health would be at risk.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Refugee Convention and establishment of a national asylum framework

Accession to the *1951 Convention* and the establishment of a national legal and institutional framework would provide a clearer basis for the Government to provide refugees with international protection and ensure the quality of the asylum process.

UNHCR does not have any formalized MoU with the Government of Oman. Thus, all persons in need of international protection fall under the *Foreign Residency Law* and there are no exceptions made for them, particularly those who have failed to secure a residence permit. For this reason, such individuals are denied access to public services and face the risk of deportation. Furthermore with the implementation of the Omani job nationalization policy (“Omanization”), many non-Omanis (including persons in need of international protection) are losing their jobs and will be targeted for forceful deportation.

Accession to the *1951 Refugee Convention* and its *1967 Protocol* would greatly improve protection for refugees and asylum-seekers.

Recommendations:

UNHCR recommends that the Government of Oman:

- Accede to the *1951 Convention* and its *1967 Protocol*;¹
- Adopt national asylum legislation; and
- Ensure full respect of the principle of *non-refoulement*.

Issue 2: Prevention of statelessness and protection of stateless persons

The nationality law of Oman provides some safeguards against statelessness. However, Oman has recently issued a new Omani *Nationality Law Royal Decree* (RD 38/14) that could have a significant impact on access to citizenship for children born to mixed parents. This law has already been adopted and announced on 12 August 2014, and will come into force after six months from its announcement, i.e. on 12 March 2015. However, to date, there has been no official information to confirm if this has been effected. Under this new law, mothers can confer nationality to their children born either in their home countries or abroad if the fathers are unknown or are former Omani nationals.²

Law No 38/14 has also introduced the following new requirements for non-Omani women married to Omani citizens to apply for citizenship:³

- Her marriage should have taken place after obtaining approval from the Ministry;

¹ Accession to the *1961 Convention* and its *1967 Protocol* was also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, para. 90.13 (recommended by Slovakia), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

² UNHCR Background Note on *Gender Equality, Nationality and Statelessness 2014*, available at: <http://www.unhcr.org/4f5886306.html>.

³ *The new Omani Nationality Law: How big is the departure from the old law?* Oman Law Blog, 13 October 2014, available at: <http://omanlawblog.curtis.com/2014/10/the-new-omani-nationality-law-how-big.html>.

- She shall have a son from her Omani husband;
- She should have been married to her Omani husband and resided with him in Oman for at least 10 continuous years;
- She must be able to communicate in the Arabic language; and
- She must possess sound conduct and character and should not have been convicted of any crime or offence in breach of trust, unless she has been rehabilitated.

Omani fathers will not be entitled to confer their nationality on their children unless they have obtained prior approval of their marriages with non-Omani women from the Minister of Interior. Taking into consideration increased international mobility and the resulting mixed marriages, this will put many children at risk of statelessness.

Accession by Oman to the international statelessness instruments would establish a stronger framework to resolve existing and/or any future cases of statelessness, prevent and reduce statelessness, and avoid the detrimental effects of statelessness on individuals and society by ensuring a minimum standard of treatment for stateless persons.

The *1954 Convention* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. The *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This instrument is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to these two *Conventions* is essential to strengthening international efforts to prevent and reduce statelessness and to ensuring full enjoyment of a number of these rights.

Oman is not a State party to the *International Covenant on Economic, Social and Cultural Rights (ICESCR)* nor to the *International Covenant on Civil and Political Rights (ICCPR)*. Both of these instruments contain important provisions that would enhance the enjoyment of fundamental human rights by stateless persons and persons in need of international protection. Oman acceded to the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* in 2006, with a general reservation to all *CEDAW* provisions that are not in accordance with Shari'a and the legislation in force in the country. Oman also maintains reservations to *CEDAW* Articles 9 (2),⁴ 15 (4),⁵ 16 (a), (c), and (f),⁶ 29 (1).⁷ Several of these Articles contain provisions that are central to the purpose of the *Convention* and the *CEDAW* Committee has indicated that: "The Committee is of the opinion that a general reservation, as well as the reservation to article 16 are contrary to the

⁴ "States Parties shall grant women equal rights with men with respect to the nationality of their children."

⁵ "States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile."

⁶ "States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women: (a) The same right to enter into marriage;... (c) The same rights and responsibilities during marriage and at its dissolution;... (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount"

⁷ Related to the administration of the *Convention* and arbitration in the event of a dispute.

object and purpose of the Convention and are thus impermissible under article 28 of the Convention.”⁸

Recommendations:

UNHCR recommends that the Government of Oman:

- Accede to the *ICESCR*;⁹
- Accede to the *ICCPR*;¹⁰
- Accede to the *1954 and 1961 Statelessness Conventions*;¹¹
- Amend the newly issued *Nationality Law* by removing all gender-related discriminatory provisions;¹²
- Remove the reservations to the above-mentioned articles of the *CEDAW*, particularly those relating to the equal rights of women with respect to passing on their nationality to their children;¹³ and
- Ensure issuance of legal documents for stateless persons.

Issue 3: Human Trafficking¹⁴

Oman is a destination and transit country for men and women, primarily from India, Pakistan, Bangladesh, Sri Lanka, the Philippines and Indonesia, who are subjected to conditions of forced labour and, to a lesser extent, forced prostitution. Most migrants travel willingly and legally to Oman with the expectation of employment in domestic service or as low-skilled workers in the country’s construction, agriculture or service sectors. Some subsequently face conditions of forced labour, such as the withholding of passports and other restrictions on movement, non-payment of wages, long working hours without food or rest, threats and physical or sexual abuse. Government sources note that runaway domestic workers are also susceptible to coercion into forced prostitution. Unscrupulous labour recruitment agencies

⁸ UN Committee on the Elimination of Discrimination against Women Concluding Observation, CEDAW/C/OMN/CO/1, para. 15 November 2011, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=5.

⁹ Also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, paras. 90.1 – 90.9, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

¹⁰ Also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, paras. 90.1 – 90.9, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

¹¹ Also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, para. 90.13 (recommended by Slovakia), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

¹² Also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, para. 90.34 and 91.2 (recommended by United States of America and France, respectively), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

¹³ Also recommended during the 1st cycle UPR examination of Oman, but has not yet been implemented. See: Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, paras. 90.16 and 90.17 (recommended by Brazil and Italy, respectively), available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

¹⁴ Various recommendations on trafficking were made to Oman during the 1st cycle UPR, See Report of the Working Group of the Universal Periodic Review: Oman, A/HRC/17/7, 24 March 2011, paras. 89.48 – 89.53, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/123/65/PDF/G1112365.pdf>.

and their sub-agents in migrants' countries of origin in South Asia, as well as labour brokers in the United Arab Emirates, Oman and Iran may deceive workers into accepting work.¹⁵

We wish to note that victims of trafficking or persons at risk of being trafficking may have a well-founded fear of persecution in their country of origin or, due to the situation they have experienced, may be unable to return to their country of origin because their lives or physical integrity would be at risk. Therefore, victims of trafficking who may be in need of international protection must be promptly identified in order to protect them from *refoulement*.

Recommendations:

UNHCR recommends that the Government of Oman:

- Significantly increase efforts to investigate and prosecute trafficking offenses, and sentence convicted traffickers to imprisonment;
- Make greater efforts to investigate and prosecute forced labour offenses, including those perpetrated by recruitment agents and employers;
- Establish a formal mechanism for cooperation between the IOM and the Public Prosecution to investigate and prosecute cases of labour trafficking;
- Institute formal procedures for identifying trafficking victims among all vulnerable populations, such as migrant workers and people in prostitution;
- Amend the restrictions on victim referrals to allow broader victim access to shelter care;
- Ensure that unidentified victims of trafficking are not punished for acts committed as a direct result of being subjected to human trafficking, such as immigration violations or prostitution;
- Enact and enforce strict penalties for employers who withhold their employees' passports, including Government officials; and
- Increase and enforce legal protections for domestic workers;
- Continue training Government officials to recognize and respond appropriately to human trafficking crimes; and
- Implement public awareness campaigns and other prevention programmes to reduce the demand for forced labour and commercial sex acts.

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UNHCR
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¹⁵ 2014 *Trafficking in Persons Report*, U.S Department of State/ Office to Monitor and Combat Trafficking in Persons, available at: <http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>.

Excerpts of Concluding Observations from UN Treaty Bodies

OMAN

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations (in this case Committee on the Elimination of Discrimination against Women) relating to issues of interest and persons of concern to UNHCR with regards to Oman.

Committee on the Elimination of Discrimination against Women
[Concluding observations \(2011\) CEDAW/C/OMN/CO/1](#)

Trafficking in persons and exploitation of prostitution

29. Despite the promulgation of the Human Trafficking Act by Royal Decree No. 126/2008 and the establishment of the National Committee to Combat Human Trafficking, which is formulating a plan to combat human trafficking, the Committee is concerned about full implementation of this legislation and functioning of this institution to protect the rights of trafficked persons. In this context, it is particularly concerned at the lack of a mechanism that could provide for the early identification of victims. The Committee is also concerned about the lack of protection of the rights of trafficked women engaged in prostitution.

30. The Committee calls upon the State party to:

- (a) Ensure that victims of trafficking, including those women engaging in prostitution, are always considered and treated as victims, and are free from prosecution and deportation and are provided with necessary assistance and victim protection; and**
- (b) Increase efforts to detect, investigate, prosecute and punish cases of trafficking through national measures as well as with international, regional and bilateral cooperation with countries of origin and transit, including through the involvement of non-governmental organizations, to prevent trafficking through information sharing and mutual assistance.**

Nationality

33. The Committee is deeply concerned that women and men do not enjoy equal rights to nationality in the State party. The Committee notes with concern that Omani women's legal inability to transfer their nationality to their children if and when the fathers are non-nationals, whereas Omani men are able to do so for their children born of foreign mothers, constitutes a clear violation of women's equal rights under the Convention. The Committee takes note of the State party's assurances that this situation does not lead to statelessness of children and/or their being deprived of social and economic benefits, but the Committee reiterates its views that this situation constitutes discrimination of Omani women vis-à-vis Omani men in regard to nationality and citizenship rights. The Committee is also concerned about the discrimination against women with regard to naturalization of their foreign spouses as the conditions for naturalization of foreign spouses are different for men and women under Omani law.

34. The Committee calls upon the State party to withdraw its reservation to article 9 of the Convention and to amend its domestic laws to grant Omani women equal rights

with men in regard to transmission of their nationality to their children who have foreign fathers and to their foreign husbands.