



WHO WILL BE LEFT TO DEFEND HUMAN RIGHTS?

PERSECUTION OF ONLINE
EXPRESSION IN THE GULF
AND NEIGHBOURING COUNTRIES



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THE GULF CENTRE FOR HUMAN RIGHTS

The Gulf Centre for Human Rights (GCHR) is an independent, non-profit NGO that provides support and protection to human rights defenders (HRDs) in order to promote human rights, including but not limited to freedom of expression, association and peaceful assembly. GCHR is based in Lebanon and documents the environment for HRDs in the Gulf region and neighbouring countries, specifically Bahrain, Kuwait, Iran, Iraq, Jordan, Oman, Qatar, Saudi Arabia, Syria, the United Arab Emirates and Yemen. GCHR was founded in 2011.

INTERNATIONAL HUMAN RIGHTS LAW CLINIC

The International Human Rights Law Clinic (IHRLC) designs and implements innovative human rights projects to advance the struggle for justice on behalf of individuals and marginalized communities through advocacy, research, and policy development. The IHRLC employs an interdisciplinary model that leverages the intellectual capital of the university to provide innovative solutions to emerging human rights issues. The IHRLC develops collaborative partnerships with researchers, scholars, and human rights activists worldwide. Students are integral to all phases of the IHRLC's work and acquire unparalleled experience generating knowledge and employing strategies to address the most urgent human rights issues of our day.



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Gulf Centre for Human Rights

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DEDICATION

To human rights defenders in the Gulf states and neighbouring countries who, in the face of enormous obstacles, continue to struggle for human rights, and for a more just and equitable world.

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OMAN



OMAN SCORECARD

Targeted Activism or Expression



Criticism of Government*



Expression re Minority/
Migrants' Rights



Journalists



Women's Rights and WHRDs

Human Rights Violations



Privacy & Surveillance



Arbitrary Detention



Incommunicado Detention



Enforced Disappearance



Torture



Fair Trial

Problematic Legal Provisions and Institutions



Criminal Defamation



Cybercrime Law



Public Order



Specialised Law Enforcement Units

16

Number of incidents that fit the inclusion criteria of this study

*Including criticism of foreign government

INTRODUCTION

Between 01 May 2018 and 31 October 2020, there were sixteen reported violations of the rights of human rights defenders (HRDs) to freedom of expression online in Oman that fit this study's inclusion criteria.¹ Oman is a constitutional monarchy, with a sultan who serves as head of State as well as prime minister, and two advisory bodies: the Council of Ministers and the Consultative Council.²

These incidents suggest that the government heavily polices online expression in the country, with authorities using anti-cybercrime and penal laws to crack down on human rights activists. HRDs are often arrested and detained without facing any formal charges or receiving adequate due process. Authorities sentenced several activists to life imprisonment for exercising their international rights to online freedom of expression. Based on this research there is credible evidence that the government has violated its obligation to respect online freedom of expression and additional associated rights of HRDs. These violations also constitute breaches of the duty of the State, pursuant to the UN Charter, "as the main duty-bearer" to ensure "defenders enjoy a safe and enabling environment" and that government institutions and processes "are aligned with their safety and the aim of their activities."³

The Omani government has used article 19 of the Cyber Crime Law, which penalises a wide array of content, to prosecute HRDs for their protected online expression.⁴ On at least one occasion, the government also utilised article 125 of the Omani Penal Law, which concerns national security offenses and carries harsh penalties of death and life imprisonment, against tribal activists calling for reforms to government policies affecting their communities.⁵ Both provisions include impermissibly vague definitions of prohibited content and enable arbitrary enforcement.⁶ In particular, the government has targeted HRDs for online expression about Palestinian rights and public corruption. There is not as much available information about women human rights defenders (WHRDs) as about men. However, available information suggests that WHRDs are often subjected to severe harassment and threats at the hands of government authorities.

In other cases, reports suggest that the government did not formally press charges but used other means to intimidate or sanction HRDs for online expression, such as incommunicado detention or harassment. Reported incidents suggest the Omani government often engaged in surveillance methods that international human rights law prohibits. Moreover, the recent creation of the Cyber Defence Centre suggests that the government intends to further strengthen its control over online expression.

The incidents documented below suggest that the government most often targeted expression defenders shared on Facebook and Twitter. As of January 2021, there were approximately 4.14 million social media users, out of Oman's total population of 5.16 million.⁷ Facebook estimates that it has a domestic audience of 1.5 million people in Oman, while Twitter estimates that its audience is 700,000.⁸

Oman is party to a number of international and regional treaties protecting the right to freedom of expression.⁹ Although Oman is not a party to the International Covenant on Civil and Political Rights (ICCPR), as a member of the United Nations it is bound by the UN Charter, and as such has committed to upholding fundamental human rights, including human rights principles contained in the Universal Declaration of Human Rights (UDHR).¹⁰ The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (SR on FOE) has explained that, even though Oman has not acceded to the ICCPR, "the content of article 19 of the ICCPR should inform Oman's obligations" under the human rights treaties to which it is a party.¹¹ Yet, the trends described in this report indicate that Oman is in violation of its international human rights obligations to respect freedom of expression and associated rights.

LEGAL ENVIRONMENT FOR ONLINE EXPRESSION IN OMAN

The primary laws that the Omani government utilises to penalise online expression of human rights activists are the Cyber Crime Law and the Penal Law. The new Cyber Defence Centre, established in 2020, has implications for the implementation of these substantive regulations on online expression.

2011 Cyber Crime Law

The Sultan of Oman issued Royal Decree No. 12/2011, which contains the country's Cyber Crime Law, on 6 February 2011.¹² Article 19 of the decree criminalises the use of information technology to "prejudice the public order or religious values."¹³ As written, article 19 of the Cyber Crime Law is overbroad and vague, in violation of international standards. Under both article 19 of the ICCPR and the UDHR, criminal laws that restrict freedom of expression must be sufficiently precise so as to enable individuals to determine how to comply with the law and to limit the discretion conferred on authorities enforcing it.¹⁴ Vaguely and broadly worded provisions have been found by UN Special Procedures mandate holders to violate this requirement, allowing authorities to use their excessive discretion to target protected speech, and encouraging individuals to engage in self-censorship.¹⁵ The SR on FOE has found laws like these to be too broad and vague to meet the requirement of "provided by law" under article 19 of the ICCPR.¹⁶ Terms like "public order" need to be sufficiently defined to provide the public with guidance on how to abide by the law, as international standards mandate for any restriction on freedom of expression.¹⁷

2018 Penal Law

In 2018, the Omani government issued an amended version of its Penal Law, as promulgated in Royal Decree 7/2018.¹⁸ In a public communication, the

SR on FOE raised concerns about three provisions of the decree: articles 116, 118, and 125. Article 116 states that "any person who establishes, organises, administers or finances an association, party, body, organisation" whose mission is to counter the State's political, economic, security, or social principles shall face imprisonment between three and ten years.¹⁹ According to the SR on FOE, this provision "is overly broad and fails to include any safeguards for the protection of rights to freedom of expression, the right to freedom of association, and many other fundamental rights."²⁰ The UN Human Rights Council has stipulated four types of expression that should never be subject to restriction: "[d]iscussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups...."²¹ These provisions of the penal code criminalise protected expression of HRDs.

Article 118 provides for imprisonment between six months and three years for anyone who possesses, creates, or disseminates publications which constitute "promotion" of any entity or mission counter to State security.²² The SR on FOE warned that this provision "constitutes a major threat to the work of human rights defenders, online and offline activists and journalists," and "clearly violates the right to freedom of opinion and expression."²³ Lastly, article 125 states 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."²⁴ The SR on FOE noted that, "[b]y not defining the scope of the term 'prejudices,' 'unity' or 'territorial integrity,' the Decree

grants vast discretion to the authorities to punish individuals for any action, even those protected by international human rights law.”²⁵

2020 Cyber Defence Centre

The Sultan of Oman issued Royal Decree No. 64/2020 on 10 June 2020, establishing a new Cyber Defence Centre.²⁶ While reported incidents do not explicitly reference this law, the creation of this agency indicates the government is strengthening its control over cyberspace. Of particular concern is the law’s designation of the Internal Security Service (ISS), a notorious human rights violator, as the State authority in charge of the Cyber Defence Centre.²⁷ Article 6 describes the role of the new Cyber Defence Centre to include “taking whatever measures are necessary to deal with various types of cyber threats, whether from within or outside the Sultanate.”²⁸ Among the roles which article 6 gives the Cyber Defence Centre is: “[e]stablishing. . . functional standards, or technical specification of any cyber security-related devices or systems, and approving their use, import, or circulation in the Sultanate.”²⁹ As the Gulf Centre for Human Rights (GCHR) has noted, this provision effectively grants the Cyber Defence Centre, and thus the ISS, the power “to import advanced hardware and software that blocks websites or closely monitors human rights activists on the Internet.”³⁰ This suggests the possibility of further enhanced surveillance of HRDs (see section III(c)(i) on Surveillance).

Royal Decree No. 64/2020 represents a broad delegation of authority, signalling the possibility of an even more vigilant crackdown on dissent, with the ISS exercising seemingly unchecked power over internet users, including dissidents.³¹ The Special Rapporteur on the rights to freedom of peaceful assembly and of association (SR on FPAA), who visited Oman in 2014, stated that the ISS “is primarily responsible for the reported harassment, abduction, unlawful detention and torture of peaceful protestors.”³² Additionally, the SR on FPAA noted “the opaqueness with which the agency operates,” with even government officials telling the SR “that the

agency is a secret intelligence unit with an unknown configuration and budget that reports directly to the Sultan.”³³

Internet Access in Oman

As UNESCO reported during Oman’s 2021 Universal Periodic Review (UPR), the only internet provider in Oman is Omantel³⁴ (shorthand for Oman Telecommunications Company).³⁵ The Sultan of Oman is a majority shareholder in Omantel.³⁶ To utilise Omantel, users must sign the Internet Services Manual, which sets forth guidelines for what can and cannot be published online.³⁷ According to UNESCO, this situation is concerning, because it “allow[s] the Government to control Internet content.”³⁸

TRENDS EMERGING FROM INCIDENTS OF REPRESSION OF ONLINE EXPRESSION IN OMAN

As the Human Rights Committee has stated, the development of electronic modes of communication gives States a responsibility to foster the independence of electronic media and ensure that individuals have access to it.³⁹ Moreover, governments have an obligation to respect, protect, and fulfil the rights of HRDs.⁴⁰ The UN Human Rights Council has emphasised that States have the obligation to respect and protect the rights to freedom of assembly and association both offline and online,⁴¹ which are integral to civil society defence of human rights. The UN Human Rights Committee has underscored that the protection of activities associated with the right to peaceful assembly, including information dissemination, communication between participants, and broadcasting, is crucial to exercise that right.⁴² Yet, the Omani government has created a highly restrictive, intensely surveilled, digital environment and has used technology to crack down on any dissent.

Available information suggests that many HRDs who are subjected to violations of their right to freedom of expression are never formally charged. Rather, they are arrested, detained and released, sometimes months after the initial arrest. When the authorities did press charges against HRDs for online expression, they often relied on article 19 of the Cyber Crime Law and occasionally employed article 125 of the Penal Law as well, especially in prosecuting tribal activists. Article 125 carries a penalty of life imprisonment or death.⁴³ Omani authorities often penalised online expression related to the rights of tribes in Oman's Musandam region, Palestinian rights, and women's rights. In connection with violations of HRDs' right to freedom of expression, Omani authorities perpetrated additional rights violations, such as arbitrary detention, enforced disappearance, and torture.

Cases Charged Under Article 19 of the Cyber Crime Law

The Omani government has used article 19 of the Cyber Crime Law to sanction internet activists and journalists. For instance, authorities arrested TV and radio presenter Adel Al-Kasbi on 25 February 2020, after he posted about rampant corruption within the Omani government on Twitter, a subject that he frequently addressed on social media.⁴⁴ Authorities charged him with "using information technology to spread harm to public order,"⁴⁵ which appears to correspond to article 19 of the Cyber Crime Law.⁴⁶ Al-Kasbi was convicted on 10 June 2020 and sentenced to one year in prison.⁴⁷ The charges against Abdel Al-Kasbi are also noteworthy because of his status as a journalist.⁴⁸ According to the UN Secretary-General, attacks on journalism and journalists are "fundamentally at odds" with protection of the freedom of opinion and expression.⁴⁹

Authorities arrested four individuals for re-tweeting Al-Kasbi's tweet on corruption, including former Shura Council member Salem Al-Awfi.⁵⁰ Also known as the Consultative Council, the Shura Council is an 84-member advisory body elected by universal suffrage that has "limited powers to propose legislation."⁵¹ Al-Awfi made other negative statements on Twitter about the government, including on the issue of tyranny.⁵² As with Al-Kasbi, the government charged Al-Awfi with "using information technology to spread harm to public order."⁵³ He was convicted on 10 June 2020 and sentenced to one year in prison.⁵⁴

Another relevant case is that of Awad Al-Sawafi, a prominent HRD who has spoken in favour of women's rights and against racism.⁵⁵ On 03 June

2020, Al-Sawafi was arrested for posting a tweet criticising Omani government mistreatment of residents.⁵⁶ On 09 June, the Ibri Court of First Instance released him on bail.⁵⁷ Authorities charged Al-Sawafi with “incitement” and “misuse of social media.”⁵⁸ The charge of “misuse of social media” appears to be under article 19 of the Cyber Crime Law.⁵⁹ On 16 June 2020, Al-Sawafi received a one-year suspended sentence and a ban on using social media.⁶⁰

Article 19 of the Cyber Crime Law on its face and as applied in these cases violates international standards on the freedom of expression. The text of the law is overly broad and is susceptible to arbitrary application in violation of international law.⁶¹ Furthermore, a law which restricts speech to shield the government from criticism is incompatible with article 19 of the ICCPR and the UDHR.⁶² In addition, the Human Rights Council has condemned laws restricting discussion of “government activities and corruption in government,” which the Council considers inconsistent with article 19 of the ICCPR.⁶³

The specific legal basis for the incitement charge against Al-Sawafi is unclear. However, the circumstances of Al-Sawafi’s case suggests that Oman’s incitement law is impermissibly vague and overbroad.⁶⁴ The UN Secretary-General has explained that an incitement charge based on speech or expression requires demonstration of a “close link between the expression and the resulting risk of discrimination, hostility or violence.”⁶⁵ The charge reportedly does not specify what Al-Sawafi was allegedly inciting others to do or what link the alleged actions had to any discrimination, hostility or violence in Oman.

Ultimately, these reported incidents indicate that authorities apply article 19 of the Cyber Crime Law arbitrarily, to penalise HRDs for political expression protected under international human rights standards.

Targeting of Specific Human Rights Defender Groups

Human rights defenders in Musandam

The government also has restricted online expression to punish critics of its controversial policies in the Musandam province. The province comprises the Musandam Peninsula, the northernmost part of Oman, which extends into the Strait of Hormuz, “one of the world’s most important oil choke points,”⁶⁶ and of strategic importance to the government. Musandam’s population includes members of the indigenous Shuhuh tribe.⁶⁷ According to Amnesty International, “[t]here have been waves of arbitrary detentions of Musandam residents championing the region’s local history and culture since 2015, and reliable reports of arbitrary detention of Shuhuh tribe members in Musandam dating back at least to 1991.”⁶⁸ The government has repeatedly demolished residents’ homes, under the guise of building code violations, and subsequently expropriated the lands for other purposes.⁶⁹

The Omani government’s response to nonviolent tribal activism in Musandam has been harsh. For example, authorities arrested Mohammed Abdullah Al-Shahi, a member of the Shuhuh tribe.⁷⁰ He wrote articles for a now defunct website, khalejeat.net, which criticised the government’s policies in Musandam.⁷¹ He also exchanged WhatsApp messages with other arrested HRDs about human rights conditions in Musandam.⁷² Omani authorities also alleged that Al-Shahi was in contact with foreign NGOs, including Amnesty International, about conditions in Musandam.⁷³ For these acts, authorities charged Al-Shahi with violating article 125 of the Penal Law, for “intentionally committing an act which leads to the infringement of the country’s independence or unity or the sanctity of its territory” and article 19 of the Cyber Crime Law, for “infringing on religious values or public order.”⁷⁴

During the first court hearing, officials questioned Al-Shahi without his attorney present.⁷⁵ Authorities did not inform him of his right to an attorney until after forcing him to answer questions.⁷⁶ Al-

Shahi's attorney was only present at one subsequent hearing.⁷⁷ According to Amnesty International, court documents indicate that he confessed to the alleged crimes, but other prisoners' accounts suggest that authorities may have subjected Al-Shahi to torture, in order to obtain the confession.⁷⁸ Sometime between August and November 2018, Al-Shahi was convicted on both counts and sentenced to life in prison, which is one of two possible punishments under article 125, the other being the death penalty.⁷⁹

Al-Shahi's arrest and conviction coincided with a wave of government repression directed against activists in Musandam. In May 2018, authorities arrested Mohamed Abdullah Ahmad Al-Shehhi and Mohamed bin Sulaiman Bin Mazyoud Al-Shehhi after the two disseminated content online calling for reforms to government policy in the province.⁸⁰ On 24 September 2018, officials convicted both of prejudicing the security and unity of the country and its territories by using information technology.⁸¹ They each received a sentence of life in prison, indicating that authorities charged them under article 125 of the Penal Law and article 19 of the Cyber Crime Law.⁸²

In order to impose a penalty for expression, a government cannot rely on a law that uses terms that lack specific meaning, such as "unity" and "territorial integrity," as one cannot discern what conduct is prohibited.⁸³ Likewise, the Special Rapporteur on the situation of human rights defenders (SR on HRDs) has condemned laws which "criminalize the publication of articles or photos that could harm national security, public order, public health or interest."⁸⁴ Thus, the charges against Al-Shahi under article 125 of the Penal Law, and the possible charges against Ahmad Al-Shehhi and Bin Mazyoud Al-Shehhi under the same laws, contravene international standards.

The charges against HRDs in Musandam under article 125 of the Penal Law indicate the disproportionality of the two possible punishments under the law—life imprisonment and the death penalty. Any "restrictive measures" imposed on speech must be the "least intrusive instrument" of all options to protect the chosen interest.⁸⁵ With regard

to the death penalty option in article 125, ICCPR's provision on the right to life, article 6, restricts the death penalty to the "most serious crimes."⁸⁶ The UN Human Rights Committee has interpreted this article as permitting States to impose the death penalty as a punishment only for individuals convicted of crimes involving "intentional killing."⁸⁷

Officials have arrested and detained some HRDs in Musandam but then released them without charge, raising the question of whether the government may be arbitrarily targeting activists to deter legitimate online expression. In May 2018, agents arrested Mohamed Salem Ahmad Al-Shehhi and detained him for one week for engaging in online activism calling for reforms in Musandam.⁸⁸ Authorities arrested Ali Sa'id Al-Hamoudi Al-Shehhi in July 2018, and detained him until August 2018, for the same reason.⁸⁹ Such restrictions on free expression, which are not based in any law or necessary to achieve a legitimate government aim, violate international standards.⁹⁰

Palestinian rights advocacy

The reported incidents indicate that the government arrested several HRDs for social media posts about Palestinian rights from October to December 2018, coinciding with Israeli Prime Minister Benjamin Netanyahu's visit to the country that October.⁹¹ The government generally did not prosecute supporters of Palestinian human rights for violating any specific law but detained HRDs for lengthy periods of time. For instance, agents arrested Obeid bin Hashl Al-Hinai on 30 December 2018, after he posted content online critical of Oman's relations with Israel and in support of Palestinian civil and humanitarian rights.⁹² Authorities released him on 10 January 2019.⁹³ Officials arrested Bader Al-Arimi on 19 December 2018, after he posted on social media in support of Palestinian rights and about unemployment in Oman.⁹⁴ The government released Al-Arimi on 17 January 2019.⁹⁵ In addition, on 07 November 2018, ISS agents arrested Uday Al-Omairi due to Facebook posts in support of Palestinian rights and opposing Oman's normalisation of relations with Israel.⁹⁶

Officials released him on 06 December 2018.⁹⁷

The targeting of online speech of HRDs who advocate for Palestinian rights violates international standards on freedom of expression. The government targeted defenders for their criticism of Omani foreign policy in contravention of international protection of online “[d]iscussion of government policies and political debate.”⁹⁸

Women human rights defenders

Article 3 of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), to which Oman is a party, obligates State Parties to enact measures “for the purpose of guaranteeing [women] the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”⁹⁹ However, international human rights bodies have found the Omani government has failed to protect the rights of WHRDs, including their online freedom of expression. During its periodic review of Oman in November 2017, the CEDAW Committee noted that “women human rights defenders and their relatives have allegedly been subjected to various forms of harassment, violence and intimidation.”¹⁰⁰ Committee members urged the government to “[r]efrain from any reprisals against women human rights defenders and their relatives.”¹⁰¹ The SR on FOE has written about “online and offline intimidation” and “harassment” as practices which interfere with the right to freedom of opinion.¹⁰²

Yet, recent incidents illustrate that the Omani government’s harassment of WHRDs is ongoing. The human rights lawyer Basma Al-Keumy wrote about this pattern in a piece she published online on 09 January 2020, entitled: “I write in defense of my right!”¹⁰³ She described the government’s years-long harassment of her as a consequence of her work.¹⁰⁴ On 09 February 2020, an anonymous WHRD announced on Twitter that the Omani Feminists Twitter account was suspended due to “circumstances beyond our control.”¹⁰⁵ GCHR and the Omani Association for Human Rights (OAHR) reported that this suspension was due to threats by the Special Division, the executive arm of the ISS, as a reprisal for Omani Feminists’ advocacy for the defence and

promotion of the rights of women in the country.¹⁰⁶ This includes Omani Feminists’ tweet: “#Omani women demand that permits that restrict the movement of female university students in internal housing be cancelled.”¹⁰⁷

Additional Human Rights Violations

The violation of the right to freedom of expression online also implicates other human rights. The most evident of these associated rights which Omani authorities have violated are related to State surveillance, arbitrary detention, due process, and the prohibition against torture and ill-treatment.

Surveillance

According to the SR on FPAA, the Omani government targets HRDs for surveillance. Surveillance of HRDs impacts a number of interrelated human rights, including their rights to freedom of expression and opinion, to peaceful assembly and association, to religion or belief, and to privacy.¹⁰⁸ The SR has noted that the Omani government’s surveillance of its citizens has the effect of “infringing the right to privacy and ‘chilling’ social interaction and political activity.”¹⁰⁹ This in turn has a chilling effect on expression and association.¹¹⁰

After a 2014 country visit, the SR gave an account of “hacked email and social media accounts and of civil society activists who were repeatedly summonsed to meet with intelligence officers, who had detailed knowledge of their movements and activities.”¹¹¹ The SR on FOE has identified “targeted surveillance” specifically as a State practice which impedes freedom of opinion.¹¹² According to the UN General Assembly, the right to privacy can be better realised through an “open, secure, stable, accessible and peaceful information and communications technology environment.”¹¹³

Such an environment clearly does not exist in Oman. Despite international criticism, the Omani government continues to engage in impermissible surveillance, as illustrated by its surveillance of

Mohammed Abdullah Al-Shahi's WhatsApp messages. In 2018, Citizen Lab at the University of Toronto found suspected infections in Oman of a spyware program for mobile phones named Pegasus.¹¹⁴ The Omani government's ongoing practice of surveillance, including the use of spyware technologies, makes the broad delegation of power to the new Cyber Defence Centre, under the auspices of the ISS, all the more concerning.¹¹⁵

Arbitrary and incommunicado detention

Arbitrary deprivation of liberty is prohibited under customary international law and is a *jus cogens* norm.¹¹⁶ A deprivation is arbitrary including when it is without a legal basis as well as when it results from the exercise of freedom of expression.¹¹⁷ As the UN Working Group on Arbitrary Detention has reiterated, any measure depriving an individual of liberty must meet strict standards of lawfulness, necessity and proportionality to avoid arbitrariness.¹¹⁸ Deprivations may be arbitrary when they are based on discriminatory grounds against HRDs and activists, violating the right to equality before the law.¹¹⁹ The laws under which the government detains HRDs, including article 19 of the Cyber Crime Law and article 125 of the Penal Law, contain impermissibly vague and thus arbitrary definitions of prohibited content. Therefore, detention under these laws also is arbitrary and illegal under international law.¹²⁰

While in law enforcement custody, authorities often did not allow HRDs to have outside contact. For instance, on 23 October 2018, a few days before Israeli Prime Minister Netanyahu was to visit, Sultan Al-Maktoumi was summoned by the Special Division of Sohar Police Quarters, which is the executive arm of the ISS, and detained upon arrival.¹²¹ Al-Maktoumi is an Internet activist who writes for the newspaper *Al-Raya* and the magazine *Al-Shabab Al-Toufahim*.¹²² He has authored articles supporting democracy and Palestinian rights.¹²³ While detained, he was not allowed to communicate with family or lawyers.¹²⁴ Authorities released him on 07 November 2018.¹²⁵ Incommunicado detention "places an individual outside the protection of the law,"¹²⁶ in

violation of article 6 of the UDHR protecting the right to be recognised as a person before the law.¹²⁷ The Special Rapporteur on torture has observed that torture is "most frequently practiced during incommunicado detention,"¹²⁸ and it is outlawed by international law.¹²⁹ The UN Working Group on Arbitrary Detention considers incommunicado detention a form of arbitrary detention.¹³⁰

In addition, authorities arrested Salem Al-Arimi without a warrant on 27 October 2018.¹³¹ He was held by the Special Division of the Omani Police Command in Muscat, after being summoned for his writings calling for reform in Oman and opposing normalisation of Oman-Israel relations.¹³² During his detention, he was not allowed to speak with family members or a lawyer.¹³³ He was released on 19 November 2018.¹³⁴

Another activist who was held incommunicado is Ghazi Al-Awlaki. He was summoned on 19 June 2020 by the ISS to a police station, where authorities subsequently held him until his release on 07 September 2020.¹³⁵ Al-Awlaki is an internet activist who has posted statements on Facebook and Twitter that were critical of the government.¹³⁶ He was not allowed to talk to a lawyer or his family while detained.¹³⁷ Additionally, on 14 November 2019, the ISS arrested prominent writer and civil society activist Musallam Al-Ma'ashani when he crossed the border from Yemen, to return home to Oman.¹³⁸ The precise reason for his arrest is unclear. He was held until his trial was indefinitely postponed, due to COVID-19. He was released on 25 April 2020, on bail for OMR 3,000 (USD 7,800).¹³⁹ While detained, he was prevented from seeing a lawyer, denied medical treatment for allergies, and went on hunger strike.¹⁴⁰

The Special Rapporteur on torture recommends that States be required to inform a relative of the arrest and place of detention of a detainee within 18 hours, for detention to not be considered enforced disappearance.¹⁴¹ Therefore, Omani authorities' incommunicado detention of HRDs violates the relevant international legal standards on enforced disappearance.

Due process violations

Fundamental principles of fair trials are protected under international law at all times.¹⁴² Individuals have universal rights to seek competent, independent, impartial judicial review of the arbitrariness and lawfulness of deprivations of liberty and to obtain without delay adequate and appropriate remedies.¹⁴³ Those detained enjoy a number of procedural safeguards of their rights including the right to be informed of rights, the right to initiate court proceedings without delay, and the right to legal assistance of counsel of their choice from the moment of apprehension.¹⁴⁴ In a 2017 communication to the Omani government, the SRs on FOE and on the Situation of HRDs noted that, under articles 10 and 11 of the UDHR, “everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.”¹⁴⁵ As the incidents discussed above indicate, many HRDs did not always receive fair trials. For instance, Mohammed Abdullah Al-Shahi was deprived of this right, because he was not given access to an attorney until close to the end of his proceedings.¹⁴⁶ Thus, the Omani government has violated international human rights standards on the right to a fair trial.

Torture and ill treatment

The prohibition against torture is absolute, non-derogable, and a *jus cogens* norm of international law.¹⁴⁷ Much is unknown about conditions of confinement while HRDs are detained in Oman, especially since Omani authorities often hold HRDs incommunicado. The UN General Assembly has noted that “prolonged incommunicado detention ... can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.”¹⁴⁸ This is especially pertinent given that Omani authorities seem to frequently hold individuals incommunicado for lengthy periods of time.¹⁴⁹

GCHR and OCHR reported that during more than five months in detention, Musallam Al-Ma’ashani was denied medical treatment and went on hunger strike.¹⁵⁰ The Special Rapporteur on torture has

noted that torture and ill treatment can include denial of medical treatment, as well as denial of family contacts, which numerous detainees who were held incommunicado experienced.¹⁵¹ Additionally, Amnesty International reported, based on the accounts of other detainees in the same prison as Mohammed Abdullah Al-Shahi, that authorities may have tortured Al-Shahi, in order to obtain a confession.¹⁵² Therefore, during the reporting period there is credible evidence that Oman has violated its legal obligations under international law, with regards to torture and ill treatment.

CONCLUSION AND RECOMMENDATIONS

Oman's anti-cybercrime and penal law provisions which restrict online expression are overbroad and vague as written, in violation of international standards on freedom of expression. Omani authorities have also violated these standards in the implementation of these laws by reportedly punishing peaceful online expression about government policy and human rights. Credible reports indicate the Omani government has further repressed free expression by arresting and detaining HRDs without charging them, evidencing an arbitrary practice of harassment to deter online expression. In carrying out punishments for free expression, credible evidence suggests the Omani government has violated international human rights law on surveillance, arbitrary detention, the right to a fair trial, enforced disappearance, and torture and ill treatment. Thus, authorities have utilised their powers to violate Oman's international human rights obligations and create a climate of repression.

To address these concerns, we offer the following general recommendations and country-specific recommendations.

General Recommendations

To Governments of Gulf States and Neighbouring Countries:

- ♦ Eliminate laws and articles in national legal frameworks that criminalise online freedom of expression protected under international human rights law, specifically:
 - All laws including anti-cybercrime, anti-terrorism, communications, media, penal, and technology laws that restrict online or offline expression through provisions to protect public order, national security, or the national economy; insults laws; and laws that criminalise fake news, that do not conform to international human rights standards and satisfy the principles of legality, legitimacy, necessity and proportionality;
 - Decriminalise the offense of defamation;
 - Revise anti-cybercrime laws to include affirmative protection for the legitimate online expression of HRDs, including journalists.
- ^a Cease using deportation and travel bans as tools for targeting HRDs for their online human rights advocacy, and refrain from infringing on their right to freedom of movement.
- ♦ Reform legal institutions, including the criminal legal system, to promote the independence and autonomy necessary for:
 - Investigating human rights violations committed against HRDs by law enforcement, such as engaging in unlawful surveillance of HRDs, enforced disappearances, holding HRDs in unlawful detention, incommunicado, and subjecting them to ill-treatment and torture;
 - Ensuring that HRDs', citizens', and residents' right to freedom of movement is not violated;
 - Ensuring the judiciary upholds international standards guaranteeing the right to fair trial.

To the UN Human Rights Council:

- ♦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study of the transnational cooperation among governments to affect the apprehension and rendering of foreign HRDs to their countries of origin for prosecution of online expression that is protected under international law.
- ♦ Instruct the UN Office of the High Commissioner for Human Rights to undertake a study to identify and track developments in the surveillance regimes in each State in the region. The governments in question should cooperate in this study. The

study should identify third party actors including business enterprises and other States that contribute to advancing the surveillance infrastructure in each State concerned. State and non-State actors complicit in illegal surveillance of HRDs by governments should be held accountable.

To All States:

- ♦ Implement an immediate moratorium on the use, acquisition, sale and transfer of surveillance technology. This moratorium should extend until adequate global controls and safeguards against abuse are in place.

Country Recommendations

In addition to the above recommendations, States should revise their domestic laws and institutions to ensure compliance with international human rights standards regarding online freedom of expression as indicated below.

We call on the government of Oman to create a safe and enabling environment for HRDs including by taking the following steps:

- ♦ Eliminate laws and articles in Oman’s legal frameworks that criminalise online freedom of expression protected under international human rights law, or that are inconsistent with the right to due process and a fair trial, including:
 - 2011 Cyber Crime Law, article 19;
 - 2018 Penal Law, articles 116, 118, 125;
 - Royal Decree No. 64/2020, article 6.

NOTES

- 1 The initial case identification of reported incidents of violations of online freedom of expression resulted from searching for cases in Oman between May 2018 and October 2020, from the following international media outlets and human rights organisations that document human rights violations: Amnesty International, Al Jazeera, ARTICLE 19, British Broadcasting Corporation, Committee to Project Journalists, Front Line Defenders, Gulf Centre for Human Rights and Human Rights Watch. Researchers also searched for communications from special procedures mandate holders regarding incidents alleging violations of freedom of expression in Oman in the UN database of Communications. Researchers supplemented international research by consulting the following domestic media outlets and human rights reporting: *Oman Daily Observer*, *Times of Oman*, *Muscat Daily*, and the Omani Association for Human Rights and used the embedded search functions to retrieve news updates using these keywords: freedom of expression, digital expression, digital, online, post, tweet, Twitter, Facebook, arrest, expression, and human rights defender during the relevant period of study. After finding cases using the international sources, researchers conducted additional searches using the Google search engine of the victim's name (with various English spellings) to find additional case information as well as consulted online information posted on the CIVCUS website. See methodology section for more information.
- 2 Jill Ann Crystal et al., *Oman: Government and Society*, BRITANNICA (June 25, 2021). This characterisation of the political system of the country is offered for descriptive purposes; a normative evaluation of the political system as such is beyond the scope of this chapter.
- 3 Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, ¶ 77, U.N. Doc. A/HRC/31/55 (Feb. 1, 2016) [hereinafter *SRHRD Report of Feb. 2016*]; Civil Society Space, Human Rights Council Res. 27/31, U.N. Doc. A/HRC/RES/27/31, ¶ 3 (Oct. 3, 2014); Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, G.A. Res. 53/144, U.N. Doc. A/RES/53/144 (Mar. 8, 1999).
- 4 Royal Decree No. 12/2011 Issuing the Cyber Crime Law, art. 19 [hereinafter *Cyber Crime Law*] (Oman) (official English translation).
- 5 Public Statement, Amnesty Int'l, Oman: Life Sentence for Prisoner of Conscience 1 (2019) [hereinafter *Amnesty Int'l Public Statement*].
- 6 *Cyber Crime Law*, *supra* note 4, at art. 19; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Communication to Oman, 1-3, Ref. No. OL OMN 1/2018 (Mar. 26, 2018) [hereinafter *Mar. 2018 Communication to Oman*] (expressing concern about Oman's amended Penal Law, in particular the vague and overbroad provisions that could be used to criminalise peaceful expression).
- 7 Simon Kemp, *Digital 2021: Oman*, DATAREPORTAL (Feb. 12, 2021).
- 8 *Id.*
- 9 *UN Treaty Body Database: Ratification Status for Oman*, OHCHR.ORG. Oman acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 2003, to the Convention on the Elimination of All Forms of Discrimination Against Women in 2006, and to the International Covenant on Economic, Social and Cultural Rights in 2020. *Id.* In 2015, the Omani government indicated that the ICCPR was "currently being evaluated and studied by the relevant authorities." Hum. Rts. Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Oman*, ¶ 96, U.N. Doc. A/HRC/WG.6/23/OMN/1 (Sept. 8, 2015).
- 10 World Conference on Human Rights, *Vienna Declaration and Programme of Action*, pmbl. at 20-21, §§ I(1), I(3), I(8), U.N. Doc. A/CONF.157/24 (Part 1) (Oct. 13, 1993); Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at art. 19 (Dec. 10, 1948) [hereinafter *UDHR*].
- 11 Mar. 2018 Communication to Oman, *supra* note 6, at 1.
- 12 *Cyber Crime Law*, *supra* note 4, at pmbl.

- 13 *Id.* at art. 19. The law stipulates a penalty of “imprisonment for . . . not less than one month and not exceeding three years and a fine not less than OMR one thousand and not exceeding OMR three thousands [sic]....” *Id.*
- 14 Hum. Rts. Comm., *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, ¶ 25, U.N. Doc. CCPR/C/GC/34 (Sept. 12, 2011) [hereinafter *HRC General Comment No. 34*]; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 7, U.N. Doc. A/HRC/32/38 (May 11, 2016) [hereinafter *SRFOE Report of May 2016*]; Working Grp. on Arbitrary Det., *Opinion No. 71/2019 Concerning Issa al-Nukhefi, Abdulaziz Youssef Mohamed al-Shubaili and Issa Hamid al-Hamid (Saudi Arabia)*, ¶ 73, U.N. Doc. A/HRC/WGAD/2019/71 (Feb. 14, 2020) (“vaguely and broadly worded provisions . . . which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11 (2) of the Universal Declaration of Human Rights”); UDHR, *supra* note 10, at arts. 11, 19; International Covenant on Civil and Political Rights art. 19, *opened for signature* Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter *ICCPR*].
- 15 *SRFOE Report of May 2016*, *supra* note 14, ¶ 39; Frank LaRue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, Frank La Rue, ¶ 34, U.N. Doc. A/HRC/17/27 (May 16, 2011).
- 16 *SRFOE Report of May 2016*, *supra* note 14, ¶ 39.
- 17 *Id.* ¶ 7.
- 18 Mar. 2018 Communication to Oman, *supra* note 6, at 1.
- 19 *Id.* at 2.
- 20 *Id.*
- 21 Freedom of Opinion and Expression, Human Rights Council Res. 12/16, U.N. Doc. A/HRC/RES/12/16, ¶ 5(p)(i) (Oct. 12, 2009) [hereinafter *H.R.C. Res. 12/16*].
- 22 Mar. 2018 Communication to Oman, *supra* note 6, at 2.
- 23 *Id.*
- 24 *Id.* at 3. Kaye observes that the provision of the death penalty and life in imprisonment violate article 19(3) because “the penalties provided by the penal code do not meet the proportionality requirement of article 19(3), as the penalties far outweigh the activities they are designed to sanction,” *id.* at 3. ICCPR article 6(2) restricts the death penalty to the most serious of crimes, which the Human Rights Committee interprets as including only “intentional killings.” Hum. Rts. Comm., *General Comment No. 36: Article 6: Right to Life*, ¶ 35, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019) [hereinafter *HRC General Comment No. 36*].
- 25 Mar. 2018 Communication to Oman, *supra* note 6, at 3.
- 26 Royal Decree No. 64/2020 Establishing the Cyber Defence Centre and Promulgating Its System pmb. (2020) [hereinafter *Cyber Defence Centre Statute*] (Oman) (unofficial English translation on file with the author).
- 27 Khalid Ibrahim, *A New ‘Cyber Defence’ System in Oman Raises Human Rights Concerns*, GLOB. VOICES (Sept. 18, 2020).
- 28 *Cyber Defence Centre Statute*, *supra* note 27, at art. 6(8).
- 29 *Id.* at art. 6(5).
- 30 *Oman: Internal Security Service Establishes New Mechanism of Control over the Internet*, GCHR (July 13, 2020).
- 31 Ibrahim, *supra* note 28.
- 32 Maina Kiai (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), *Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association*, Maina Kiai: *Addendum—Mission to Oman*, ¶ 35, U.N. Doc. A/HRC/29/25/Add.1 (Apr. 27, 2015) [hereinafter *SRFPAA Report of Apr. 2015*].
- 33 *Id.* ¶ 35; see also Hum. Rts. Watch, *Human Rights Watch Submission to the Universal Periodic Review of Oman* ¶ 3 (July 2020) [hereinafter *Hum. Rts. Watch Submission on Oman to the UPR*] (noting that the ISS engages in operations which “target pro-reform activists, often for views they expressed on social media platforms like Facebook and Twitter”).
- 34 U.N. Off. of the High Comm’r for Hum. Rts., *Compilation on Oman: Report of the Office of the United Nations High Commissioner for Human Rights*, ¶ 25, U.N. Doc. A/HRC/WG.6/37/OMN/2 (Nov. 16, 2020) [hereinafter *OHCHR Report of Nov. 2020*].
- 35 *Government Stake in Omantel Transfers to OIF*, OMAN DAILY OBSERVER (Dec. 17, 2016).

- 65 *Id.* ¶ 28. RES/73/175, at 2 (Jan. 23, 2019).
- 66 Gino Caspari et al., *Remote Sensing and Citizen Science for Assessing Land Use in the Musandam (Oman)*, 171 J. ARID ENV'TS 1, 1 (2019). 88 *Draconian Sentences Passed on Musandam Activists*, *supra* note 81.
- 67 Ali S. M. Al-Issa, *The Language Planning Situation in the Sultanate of Oman*, 21 CURRENT ISSUES LANGUAGE PLAN. 347, 362 (2020). See also John D. Battenberg, *The Status of Kumzari and Its Speakers: A Local Language of the Musandam Peninsula of Oman*, 37 LANGUAGE PROBS. & LANGUAGE PLAN. 18, 21 (2013). 89 *Id.*
- 68 Amnesty Int'l Public Statement, *supra* note 5, at 1. 90 SRFOE Report of May 2016, *supra* note 14, ¶ 7.
- 69 *Id.* 91 See Isabel Kershner, *Israeli Prime Minister Visits Oman, Offering a Possible Back Channel to Iran*, N.Y. TIMES (Oct. 26, 2018) (providing an account of the visit and theorising that the Israeli government hopes that the Omani government may facilitate communication with regional adversaries). Oman and Israel do not have formal diplomatic relations. Oman's government closed Israel's trade office in Oman in 2000 during the second Palestinian uprising. This was the first visit by an Israeli Prime Minister to Oman in twenty-two years.
- 70 *Id.* 92 Amnesty Int'l, *Oman: Human Rights Violations Persist: Amnesty International Submission to the UN Universal Periodic Review, 37th Session of the UPR Working Group, January 2021*, at 9 (Aug. 2020) [hereinafter *Amnesty Int'l Submission on Oman to the UPR*]; *Authorities Continue to Harass Human Rights Defenders and Impose Restrictions on Internet Activists*, *supra* note 50.
- 71 *Id.* 93 *Authorities Continue to Harass Human Rights Defenders and Impose Restrictions on Internet Activists*, *supra* note 50.
- 72 *Id.* 94 *Amnesty Int'l Submission on Oman to the UPR*, *supra* note 93, at 9; *Authorities Continue to Harass Human Rights Defenders and Impose Restrictions on Internet Activists*, *supra* note 50.
- 73 AMNESTY INT'L, URGENT ACTION: "NATIONAL SECURITY" TRIALS END IN LIFE SENTENCES (2019). 95 *Authorities Continue to Harass Human Rights Defenders and Impose Restrictions on Internet Activists*, *supra* note 50.
- 74 Amnesty Int'l Public Statement, *supra* note 5, at 1. 96 *Oman: Cycle Continues as Another Online Activist Detained, and Two Other Activists Released*, GCHR (Dec. 10, 2018).
- 75 *Id.* 97 *Id.*
- 76 *Id.* 98 H.R.C. Res. 12/16, *supra* note 22, ¶ 5(p)(i).
- 77 *Id.* at 1-2. 99 Convention on the Elimination of all Forms of Discrimination against Women art. 3, *opened for signature* Dec. 18, 1979, 1249 U.N.T.S. 13.
- 78 *Id.* at 2. 100 Comm. on the Elimination of Discrimination against Women, *Concluding Observations on the Combined Second and Third Periodic Reports of Oman*, ¶ 19, U.N. Doc. CEDAW/C/OMN/CO/2-3 (Nov. 22, 2017).
- 79 *Id.* at 1. 101 *Id.* ¶ 20.
- 80 *Draconian Sentences Passed on Musandam Activists*, OMANI CTR. FOR HUM. RTS. (Oct. 9, 2018). 102 David Kaye (Special Rapporteur on the Promotion
- 81 *Id.*
- 82 *Id.*
- 83 SRFOE Report of May 2016, *supra* note 14, ¶ 7; Mar. 2018 Communication to Oman, *supra* note 6, at 3.
- 84 Margaret Sekaggya (Special Rapporteur on the Situation of Human Rights Defenders), *Situation of Human Rights Defenders*, ¶ 24, U.N. Doc. A/67/292 (Aug. 10, 2012).
- 85 SRFOE Report of May 2016, *supra* note 14, ¶ 7.
- 86 ICCPR, *supra* note 14, at art. 6.
- 87 HRC General Comment No. 36, *supra* note 25, ¶ 35. The General Assembly has also expressed "deep concern" about states imposing capital punishment on "persons exercising their human rights." Moratorium on the Use of the Death Penalty, G.A. Res. 73/175, U.N. Doc. A/

- and Protection of the Right to Freedom of Opinion and Expression), *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, David Kaye, ¶ 20, U.N. Doc. A/HRC/29/32 (May 22, 2015) [hereinafter *SRFOE Report of May 2015*].
- 103 *Authorities Continue to Harass Human Rights Defenders and Impose Restrictions on Internet Activists*, *supra* note 50.
- 104 *Id.*
- 105 *Oman: Artistic Censorship and Harassment of Online Activists Continues*, CIVICUS (June 11, 2020).
- 106 *Oman: Government Must Stop Confiscating Books and Arresting Online Activists*, *supra* note 51.
- 107 *Id.*
- 108 Special Rapporteur on the Right to Privacy, *Report of the Special Rapporteur on the Right to Privacy*, ¶ 28, U.N. Doc. A/HRC/40/63 (Oct. 16, 2019); Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, *Surveillance and Human Rights: Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression*, ¶ 21, U.N. Doc. A/HRC/41/35 (May 28, 2019) [hereinafter *SRFOE Report of May 2019*]; Hum. Rts. Comm., *Concluding Observations on the Sixth Periodic Report of Italy*, ¶ 36, U.N. Doc. CCPR/C/ITA/CO/6 (May 1, 2017); Privacy in the Digital Age, G.A. Res. 73/179, U.N. Doc. A/RES/73/179, at 3, (Jan. 21, 2019) [hereinafter G.A. Res. 73/179]; UDHR, *supra* note 10, at arts. 12, 18-20; ICCPR, *supra* note 14, at arts. 17-19, 21-22.
- 109 *SRFPAA Report of Apr. 2015*, *supra* note 33, ¶ 19(d).
- 110 *SRFOE Report of May 2019*, *supra* note 109, ¶ 21.
- 111 *SRFPAA Report of Apr. 2015*, *supra* note 33, ¶ 19(d).
- 112 *SRFOE Report of May 2015*, *supra* note 103, ¶ 20.
- 113 G.A. Res. 73/179, *supra* note 109, ¶ 34.
- 114 The Pegasus program was created by a company called the NSO Group. Citizen Lab's report details the findings of a study that "fingerprinted the behaviour of the exploit link and [command and control] servers in the sample sent to" a UAE-based HRD Ahmed Mansoor, an individual targeted with the spyware, who received this link in a text message. Researchers then "scanned the Internet for other matching front-end servers," finding 237. After researchers disclosed the exploits to Apple, the company "issued a patch blocking the Pegasus spyware," after which all Pegasus servers that researchers detected were shut down, apart from those in the sample Mansoor received. NSO Group modified its server code, and "[a]fter studying the behavior of several suspected new Pegasus servers," the researchers developed new fingerprints and a technique called Athena, to group fingerprint matches into 36 clusters. Researchers "believe that each cluster represents an operator of NSO Pegasus spyware." Researchers "then performed DNS cache probing to generate a list of countries in which there are Possible Infections associated with the operator." Researchers found suspected infections for one operator in the autonomous system number (ASN) ASN for the Omani Telecommunications Company and the Omani Qatari Telecommunications Company, both in Oman. Bill Marczak et al., *Hide and Seek: Tracking NSO Group's Pegasus Spyware to Operations in 45 Countries*, CITIZEN LAB (Sept. 18, 2018). In August 2020, the newspaper *Haaretz* reported that the NSO Group had signed contracts for the purchase of spyware with countries in the Gulf region, including Oman. Chaim Levinson, *With Israel's Encouragement, NSO Sold Spyware to UAE and Other Gulf States*, HAARETZ (Aug. 25, 2020). In 2018, the SR on FOE referenced Pegasus in a reporting on a mission to Mexico, noting that the spyware's targets "have included, among others, politicians, journalists, human rights defenders, lawyers, public health and anti-corruption experts, and even the international body established to investigate the mass disappearances of students in Iguala in 2014." Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression on His Mission to Mexico*, ¶ 52, U.N. Doc. A/HRC/38/35/Add.2 (Nov. 13, 2018).
- 115 See Ibrahim, *supra* note 28.
- 116 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention: United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court*, ¶ 11, U.N. Doc. A/HRC/30/37 (July 6, 2015) [hereinafter *WGAD Report of July 2015*]; Hum. Rts. Comm., *General Comment No. 35: Article 9 (Liberty and Security of Person)*, ¶¶ 17, 22-23, 53, U.N. Doc. CCPR/C/GC/35 (Dec. 16, 2014).
- 117 *WGAD Report of July 2015*, *supra* note 117, ¶ 10; UDHR, *supra* note 10, at art. 19; ICCPR, *supra* note 14, at art. 19.
- 118 *WGAD Report of July 2015*, *supra* note 117, ¶ 11.
- 119 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 46, U.N. Doc. A/

- HRC/36/37 (July 19, 2017); UDHR, *supra* note 10, at art. 7.
- 120 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶¶ 38, 63, U.N. Doc. A/HRC/22/44 (Dec. 24, 2012) (stating that legislation may be arbitrary if it provides no limit or justification for detention).
- 121 *Two Internet Activists Arrested Due to Their Writings*, GCHR (Nov. 6, 2018).
- 122 *Id.*
- 123 *Id.*
- 124 *One Internet Activist Released and Another Detained, Leaving Many in Detention*, GCHR (Nov. 13, 2018).
- 125 *Id.*
- 126 Working Grp. on Arbitrary Det., *Report of the Working Group on Arbitrary Detention*, ¶ 60, U.N. Doc. A/HRC/39/45 (July 2, 2018) [hereinafter *WGAD Report of July 2018*].
- 127 UDHR, *supra* note 10, at art. 6; ICCPR, *supra* note 14, at art. 16.
- 128 Theo van Boven (Special Rapporteur on Torture), *Report of the Special Rapporteur on the Question of Torture Submitted in Accordance with Commission Resolution 2002/38*, ¶ 26(g), U.N. Doc. E/CN.4/2003/68 (Dec. 17, 2002) [hereinafter *SRT Report of Dec. 2002*].
- 129 Manfred Nowak (Special Rapporteur on Torture), *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Addendum—Study on the Phenomena of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in the World, Including an Assessment of Conditions of Detention*, ¶ 156, U.N. Doc. A/HRC/13/39/Add.5 (Feb. 5, 2010) (international law and standards prohibit “all secret and incommunicado detention”); see *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, G.A. Res. 72/163, U.N. Doc. A/RES/72/163, ¶ 16 (Dec. 19, 2017) [hereinafter *G.A. Res. 72/163*].
- 130 *WGAD Report of July 2018*, *supra* note 127, ¶ 60.
- 131 *One Internet Activist Released and Another Detained, Leaving Many in Detention*, *supra* note 125.
- 132 *Id.*
- 133 *Id.*
- 134 *Oman: Cycle Continues as Another Online Activist Detained, and Two Other Activists Released*, *supra* note 97. The HRD Hatem A-Maliki was similarly detained on 06 December 2018 by an arm of the ISS for Facebook and Twitter posts critical of Oman’s relations with Israel and in support of Palestinian rights. He was held incommunicado and not released until 10 December 2018. *Id.*
- 135 *Oman: Internet Activist Ghazi Al-Awlaki Must Be Freed*, GCHR (Sept. 8, 2020).
- 136 *Id.*
- 137 *Id.*
- 138 *Oman: Trial of Writer and Civil Society Activist Musallam Al-Ma’ashani Postponed Indefinitely*, GCHR (June 2, 2020).
- 139 *Id.*
- 140 *Id.*
- 141 *SRT Report of Dec. 2002*, *supra* note 129, ¶ 26(g).
- 142 Hum. Rts. Comm., *General Comment No. 32: Article 14: Right to Equality Before Courts and Tribunals and to Fair Trial*, ¶ 6, U.N. Doc. CCPR/C/GC/32 (Aug. 23, 2007) [hereinafter *HRC General Comment No. 32*].
- 143 *WGAD Report of July 2015*, *supra* note 117, at annex, princ. 1; *HRC General Comment No. 32*, *supra* note 143, ¶¶ 15, 19, 31-34, 38; ICCPR, *supra* note 14, at art. 14.
- 144 *WGAD Report of July 2015*, *supra* note 117, at annex, princs. 7-9; *HRC General Comment No. 32*, *supra* note 143, ¶ 10.
- 145 David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression) & Michel Forst (Special Rapporteur on the Situation of Human Rights Defenders), *Communication to Oman*, 3, Ref. No. UA OMN 1/2017 (Mar. 29, 2017).
- 146 Amnesty Int’l Public Statement, *supra* note 5, at 1-2.
- 147 *Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, 2012 I.C.J., ¶ 99 (July 20); *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 2*, opened for signature Dec. 10, 1984, 1465 U.N.T.S. 85; Dire Tladi (Special Rapporteur), *Fourth Report on Peremptory Norms of General International Law (Jus Cogens) by Dire Tladi, Special Rapporteur*, ¶ 69, U.N. Doc. A/CN.4/727 (Jan. 31, 2019).
- 148 G.A. Res. 72/163, *supra* note 130, ¶ 28.

NOTES

- 149 See SRFCAA Report of Apr. 2015, *supra* note 33, ¶¶ 20-21 (corroborating accounts of torture and ill treatment in Omani prisons).
- 150 *Oman: Trial of Writer and Civil Society Activist Musallam Al-Ma'ashani Postponed Indefinitely*, *supra* note 139.
- 151 Special Rapporteur, *Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Report of the Special Rapporteur*, ¶ 18, U.N. Doc. A/HRC/40/59 (Jan. 16, 2019).
- 152 Amnesty Int'l Public Statement, *supra* note 5, at 1.

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