



Cornell Law School
Cornell Center on the Death Penalty Worldwide



**Oman's Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

The World Coalition Against the Death Penalty

and

The Cornell Center on the Death Penalty Worldwide

for the

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

The Cornell Center on the Death Penalty Worldwide is a US-based research, advocacy, and training center focused on capital punishment and international law. It publishes reports and manuals on death penalty issues, provides transparent data on death penalty laws and practices around the world, trains capital lawyers in best practices, and engages in targeted advocacy and litigation. Its staff and faculty advisors have collectively spent more than eight decades representing hundreds of prisoners facing the death penalty. In 2019 it was awarded the World Justice Challenge Award in recognition for its work on behalf of death-sentenced prisoners in Malawi.

EXECUTIVE SUMMARY

1. This report suggests questions that the Committee on the Elimination of Discrimination against Women should pose to the government of Oman in its List of Issues, particularly with respect to the death penalty. While the Omani Government insists that it imposes the death penalty for only the “most serious crimes,” Oman’s 2018 Penal Code contains over 20 articles in which the death sentence is listed as punishment, and due to the Omani Government’s practice of secrecy, no reliable information on death penalty practices in Oman is available.
2. This report addresses Oman’s laws and policies with respect to the death penalty in general, and illustrates how those laws and policies elevate the risk that women in conflict with the law will face discrimination when they are charged with capital offenses. The report addresses the risk of gender stereotypes influencing sentencing decisions and the intersectional discrimination that women in conflict with the law often face when they are charged with capital crimes. The report also examines the heightened risk that migrant domestic workers face with respect to the death penalty, as well as restrictions on civil society that may preclude a free and open discussion of reasons for Oman to abolish the death penalty.

Oman fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women

3. Oman is a retentionist state with regard to the death penalty,¹ and it does not limit the death penalty to the most serious crimes. Oman’s 2018 Penal Code contains over 20 articles in which the death sentence is an available punishment.² Capital offenses include murder, drug trafficking, arson, piracy, terrorism, kidnapping, recidivism of aggravated offenses punishable by life imprisonment, leading an armed group that engages in spreading disorder, espionage, treason, and perjury causing wrongful execution.³ Many capital offenses, including drug-related offenses, do not meet the threshold of “most serious crimes.”⁴
4. Oman recently expanded its penal code to subject a wider range of drug crimes to the death penalty, and courts continue to issue death sentences for such offenses. In October 2015, Oman amended Law 17 of 1999 on Combatting Drugs and Narcotics, authorizing the death penalty for a wider range of drug-related crimes.⁵ Omani courts convicted and sentenced to death two people for drug-related offenses in 2019.⁶ The Court of Cassation commuted their sentences

¹ Amnesty International, *Death Sentences and Executions 2021*, (May 24, 2022), 63. Available online at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

² Omani Penal Code 2018, arts. 94-99, 101, 106, 107, 109-111, 113, 117, 125-130, 133, 142, 156, 164, 167, 224, 260 & 302.

³ Omani Penal Code 2018, arts. 94-99, 101, 106, 107, 109-111, 113, 117, 125-130, 133, 142, 156, 164, 167, 224, 260 & 302.

⁴ Amnesty International, *Is the death penalty the answer to drug crime?*, (Oct. 9, 2015). Available online at <https://www.amnesty.org/en/latest/campaigns/2015/10/is-the-death-penalty-the-answer-to-drug-crime/>.

⁵ Amnesty International, *Oman: Human Rights Violations Persist*, (Jan. 2021), 8. Available online at <https://www.amnesty.org/en/wp-content/uploads/2021/05/MDE2020272020ENGLISH.pdf>.

⁶ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 43. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

in July 2020,⁷ but the case illustrates that Omani courts continue to issue death sentences for drug-related crimes.

5. In 2021, Oman underwent its third cycle Universal Periodic Review, and Oman noted all recommendations related to the death penalty.⁸ The government delegation asserted that “the death penalty is imposed under Omani law only for the most serious crimes” and “is accompanied by numerous safeguards, which ensure that the scope of its application remains as narrow as possible and that all judicial guarantees are made available prior to its confirmation, including a mandatory appeal procedure before the Supreme Court.”⁹
6. Oman voted against the UN General Assembly resolution calling for a global moratorium on the death penalty in 2007, 2012, 2014, 2016, 2018, 2020, and 2022, abstaining from voting in 2008 and 2010.¹⁰
7. In 2018, an Omani court sentenced a woman to death for killing her husband. According to the prosecutor, the woman and her lover had plotted to kill her husband. One report said that she “confessed to the crime after intense police interrogations.”¹¹ The lover shot and killed the husband but the court sentenced both of them to death.¹² The couple were two of four people sentenced to death in 2018.¹³
8. In October 2020, His Majesty Sultan Haitham bin Tarik issued Royal Decree No. 120/2020 on the amendment of some provisions of the Law on Penal Procedures, providing that: “The Criminal Court shall not issue a verdict for a death sentence except upon full consensus/unanimity of views. Prior to issuing such a verdict, the Criminal Court must send the related documents to a committee to be formed by orders of His Majesty the Sultan under the chairmanship of the Grand Mufti of the Sultanate or his assistant, along with the membership of two persons of expertise to be nominated by the Chairman of the Committee to offer their opinion from a Sharia-based perspective. If the Committee’s opinion does not reach the said Court within the subsequent 60 days, the Court shall issue a verdict on the case.

⁷ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 43. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

⁸ Harm Reduction International, *The Death Penalty for Drug Offences: Global Overview 2021*, (2021), 38. Available online at https://www.hri.global/files/2022/03/09/HRI_Global_Overview_2021_Final.pdf.

⁹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Oman*, (June 3, 2021), 3. Available online at <https://undocs.org/A/HRC/47/11/Add.1>.

¹⁰ ECPM Together Against the Death Penalty, *The Process of Abolishing the Death Penalty in Member States of the Organisation of Islamic Cooperation*, (2021), 7. Available online at <https://www.ecpm.org/app/uploads/2022/12/OCI-8pages-GB-281022-MD.pdf>.

¹¹ Fahad Al Mukrashi, *Omani woman sentenced to death for killing husband*, Gulf News, (Jul. 4, 2018). Available online at <https://gulfnews.com/world/gulf/oman/omani-woman-sentenced-to-death-for-killing-husband-1.2246348>; *Oman: Woman, Lover Sentenced to Death For Husband’s Murder*, Hands Off Cain, (Jul. 3, 2018). Available online at http://www.handsoffcain.info/archivio_news/201807.php?iddocumento=40307172&mover=3.

¹² Fahad Al Mukrashi, *Omani woman sentenced to death for killing husband*, Gulf News, (Jul. 4, 2018). Available online at <https://gulfnews.com/world/gulf/oman/omani-woman-sentenced-to-death-for-killing-husband-1.2246348>.

¹³ *Oman responds to UN member states’ recommendations issued during the country’s last universal periodic review*, MENA Rights Group, (Jul. 9, 2021). Available online at <https://menarights.org/en/articles/oman-responds-un-member-states-recommendations-issued-during-countrys-last-universal-0>.

If no consensus is reached for a capital/death sentence, it shall be replaced with a life sentence (life imprisonment).”¹⁴

9. In 2020, Oman resumed executions, carrying out its first known executions since 2015.¹⁵ In 2020, Oman executed at least one woman¹⁶ and at least three other people.¹⁷ The Omani Government informed Amnesty International that authorities executed these four people on December 30, 2020 for premeditated murder.¹⁸ It is not clear whether the woman who was executed was the woman sentenced to death in 2018, or another woman. No pardons were granted in 2020.¹⁹ Oman did not report whether courts had imposed death sentences in 2020.²⁰ Secrecy practices in Oman prevented Amnesty International from determining the number of people known to be under sentence of death at the end of 2020.²¹
10. In 2021, secrecy practices in Oman prevented Amnesty International from determining the number of executions, death sentences, and persons under sentence of death. Nonetheless, Amnesty International has confirmed that Oman continues to carry out executions and sentence people to death.²² It is unknown, however, how many people are currently under sentence of death sentence in Oman, and how many of them are women.²³

¹⁴ *His Majesty Sultan Haitham Bin Tarik Issues two Royal Decrees*, Times of Oman (Oct. 12, 2020). Available online at: <https://timesofoman.com/article/92119-his-majesty-sultan-haitham-bin-tarik-issues-two-royal-decrees>.

¹⁵ Amnesty International, *Death Penalty in 2020: Facts and Figures*, (Apr. 21, 2021). Available online at <https://www.amnesty.org/en/latest/press-release/2021/04/death-penalty-in-2020-facts-and-figures/>; Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 43. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

¹⁶ Amnesty International, *Death Penalty in 2020: Facts and Figures*, (Apr. 21, 2021), 10. Available online at <https://www.amnesty.org/en/latest/press-release/2021/04/death-penalty-in-2020-facts-and-figures/>.

¹⁷ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 55. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

¹⁸ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 43. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

¹⁹ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 43. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

²⁰ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 37. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

²¹ Amnesty International, *Death Sentences and Executions 2020*, (Apr. 21, 2021), 36. Available online at <https://www.amnesty.de/sites/default/files/2021-04/Amnesty-Bericht-Todesstrafe-2020-April-Englische-Version.pdf>.

²² Amnesty International, *Death Sentences and Executions 2021*, (May 24, 2022), 6. Available online at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

²³ Amnesty International, *Death Sentences and Executions 2021*, (May 24, 2022), 6. Available online at <https://www.amnesty.org/en/documents/act50/5418/2022/en/>.

I. Oman has failed to ensure access to justice for women in conflict with the law, and judicial system personnel require additional capacity-building and training regarding trying and sentencing women accused of capital offenses (Concluding Observations paragraph 14(b)-(c)).

11. In its 2018 Concluding Observations, the Committee recommended that Oman institutionalize legal aid systems “that are accessible, sustainable and responsive to the needs of women and ensure that such services are provided in a timely, continuous and effective manner.”²⁴ The Committee further recommended immediate “capacity-building and training programmes on the Convention and women’s rights, for justice system personnel.”²⁵
12. Oman’s Fourth Periodic Report states that “article 28 [of the Basic Law of the State] provides that the accused shall have the right to appoint a person capable of conducting his/her defence during the trial; that the law shall specify the circumstances in which the presence of the accused’s attorney shall be required; and that the law shall ensure, for those who do not have financial resources, the means to seek judicial redress and defend their rights.”²⁶ Nothing in the report makes specific reference to legal aid for women in conflict with the law or women charged with capital crimes. And while the report makes reference to training for judicial officials regarding the Convention in general,²⁷ it does not state whether judges and other judicial officials receive training regarding gender stereotypes or gender-based violence or how it may affect a woman’s culpability for a capital offense.
13. In a groundbreaking 2018 study, the Cornell Center on the Death Penalty Worldwide found that, in the global context, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence²⁸ and manipulative or coercive relationships with male co-defendants.²⁹ Cornell’s data indicate that most women under sentence of death have been sentenced to death for the crime of murder.³⁰ These women have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.³¹ In many cases, the abuse has occurred repeatedly. Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.³² At a global level, sentencing courts typically fail to take into account a defendant’s experience as a survivor of gender-based violence or a

²⁴ Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined second and third periodic reports of Oman*, (Nov. 22, 2017), U.N. Doc. CEDAW/C/OMN/CO/2-3, ¶ 14(b).

²⁵ *Id.* at ¶ 14(c).

²⁶ Committee on the Elimination of Discrimination against Women, *Fourth periodic report submitted by Oman under article 18 of the Convention, due in 2021*, (Aug. 10, 2022), U.N. Doc. CEDAW/C/OMN/4, ¶ 27.

²⁷ *Id.* ¶ 29.

²⁸ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

²⁹ Cornell Center on the Death Penalty Worldwide, *“No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 6. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

³⁰ *Id.* at 11.

³¹ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 4. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³² *Id.*

victim of a manipulative or coercive relationship (for example in cases where women are pressured or tricked into transporting drugs) as mitigating factors during sentencing.³³ Research also indicates that courts also fail to account for power dynamics and tactics of coercive control that may affect a woman's involvement in and culpability for a crime.

14. Cases documented by the Cornell Center have shown violations of women's right to a fair trial. A 2021 follow-up study demonstrated that "fair trial principles dictate that courts should consider all relevant mitigating circumstances before imposing a sentence. In practice, however, many courts neglect gender-specific mitigation, and in states that impose a mandatory death penalty," "courts may not consider any mitigating circumstances at all."³⁴
15. Global trends show that women sentenced to death face intersectional discrimination. According to Cornell's 2018 report, most women on death row come from backgrounds of severe socio-economic deprivation and many are illiterate, which can reinforce unequal access to effective legal representation.³⁵ These women are more likely to be illiterate and unaware of their legal rights.³⁶ Illiteracy and lack of education among poor women leave them more vulnerable to discrimination, coercion, and exploitation.³⁷ This intersectional discrimination exacerbates the risk that a woman charged with a capital crime will be subjected to an unfair trial.
16. The 2018 case of the woman sentenced to death described in paragraph 7 above illustrates how gender stereotypes can influence sentencing. According to the Cornell Center, women are more likely to receive a death sentence when the adjudicating authority perceives that they are violating entrenched gender norms, being cast as the "female fatale" or the "witch." Women are often put on trial not only for acts they performed but also for allegedly being "a bad wife, a bad mother, and a bad woman."³⁸ The 2018 case might also illustrate a woman being sentenced to death for conduct that arose out of a manipulative or coercive relationship. There is no indication that the Omani court that sentenced her to death considered the nature of her relationship with her husband or lover, whether she was a survivor of gender-based violence, or whether she was a victim of a manipulative or coercive relationship with her lover and co-

³³ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 6. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

³⁴ Cornell Center on the Death Penalty Worldwide, *"No One Believed Me": A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 6. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

³⁵ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 3. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³⁶ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 18. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³⁷ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 18. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

³⁸ *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Cornell Center on the Death Penalty Worldwide, (Sept. 2018), 4. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

defendant. Moreover, available facts demonstrate that she herself did not kill her husband, and therefore her crime should not be considered among the “most serious.”

17. Oman’s authorization of the death penalty for drug-related offenses also places women at heightened risk. The Executive Director of Harm Reduction International has observed that “[p]eople on death row for drug offences tend to be involved at the lowest level of the drug trade, and are generally marginalized in society. Gender, socio-economic position, ethnicity and foreign status in a country add intersectional vulnerability to this context.”³⁹ She explains that although “some women engage in the drug trade through their own volition, for others, a narrower range of choices, along with poverty, coercion, violence, manipulation, and the survival needs of a family play a significant factor in their involvement.”⁴⁰ Research from the Cornell Center illustrates “the alarming extent to which women sentenced to death for drug offences experienced gender bias in criminal proceedings and violations of their right to a fair trial.”⁴¹
18. The Cornell Center’s research has found that foreign nationals are over-represented among women sentenced to death for drug-related offenses.⁴² Rule 66 of the Bangkok Rules specifically addresses the need to take measures to avoid secondary victimization of many foreign-national women.⁴³ This case may also illustrate another finding in the Cornell Center’s research: in many cases, women become involved with the drug trade under the influence or pressure of a male partner, and that partner typically suffers fewer criminal consequences than the woman.⁴⁴

II. Oman has not sufficiently strengthened regulations to protect migrant domestic workers, who are at heightened risk of being sentenced to death (Concluding Observations paragraphs 30(h), 40).

19. In its 2018 Concluding Observations, the Committee recommended that Oman “[s]trengthen the regulation of labour recruitment agencies and employment of foreign workers and review the de facto *kafalah* system, which often operates against vulnerable migrant workers, including women.”⁴⁵ The Committee also recommended that Oman “adopt a specific law regulating domestic employment, with adequate sanctions for employers engaging in abusive

³⁹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁴⁰ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁴¹ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁴² Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 6. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁴³ Bangkok Rules, Rule 66. Available at: <https://cdn.penalreform.org/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf> (last visited Sept. 29, 2022).

⁴⁴ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 6. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁴⁵ Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined second and third periodic reports of Oman*, (Nov. 22, 2017), U.N. Doc. CEDAW/C/OMN/CO/2-3, ¶ 30(h).

practices,” and “ensure that women migrant domestic workers have effective access to justice.”⁴⁶

20. The Fourth Periodic Report outlines various measures designed to ensure respect for workers’ rights, including the work of women migrant domestic workers.⁴⁷ It states, for example, that “Ministerial Decision No. 18/2004 concerning domestic workers also sets forth rules and special conditions of work. Those rules take into account the specific nature of this type of work and allow this category of workers to file complaints with the relevant agencies and courts.”⁴⁸
21. Migrant domestic workers are particularly vulnerable, and it is unclear whether courts would take into account their precarious circumstances when assessing culpability in capital cases. Domestic workers in Oman, who are mostly women, are at risk of being sentenced to death. According to Amnesty International, Migrant workers in Oman “face abuse and exploitation due to insufficient protection, including poor living conditions, forced labour and human trafficking.”⁴⁹ Domestic workers face “long working days, home confinement and unpaid wages.”⁵⁰ The 2018 Cornell study referenced above observed that in other countries in the region, many women on death row are migrant domestic workers.⁵¹ In many cases, the female domestic worker was accused of killing her employer, suggesting a “pattern of female migrant domestic workers sentenced to death in . . . Middle Eastern countries, who suffer from intersecting forms of oppression based on class, foreign nationality, precarious immigration status, and gender.”⁵²
22. The Cornell Center’s study highlighted another gender disparity of particular relevance to women migrant domestic workers: “Because of disparities in socioeconomic status and educational attainment, women struggle more than men to access an interpreter or retain skilled legal counsel.”⁵³ Foreign nationals can face other disadvantages, such as not speaking the language of police or the courts, having “little local support in navigating the criminal system,” being far away from family members who might be able to assist with defense investigations, and often being denied their right to consular notification under the Vienna Convention.⁵⁴

⁴⁶ *Id.* at ¶ 40(b)-(c).

⁴⁷ Committee on the Elimination of Discrimination against Women, *Fourth periodic report submitted by Oman under article 18 of the Convention, due in 2021*, (Aug. 10, 2022), U.N. Doc. CEDAW/C/OMN/4, ¶¶ 102-108.

⁴⁸ *Id.* ¶ 105.

⁴⁹ Amnesty International, *Oman 2021*, <https://www.amnesty.org/en/location/middle-east-and-north-africa/oman/report-oman/>.

⁵⁰ Amnesty International, *Oman 2021*, <https://www.amnesty.org/en/location/middle-east-and-north-africa/oman/report-oman/>.

⁵¹ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 17-18. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵² Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 2018), 28. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵³ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 7. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

⁵⁴ Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 2021), 16. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

23. There is no information to suggest that courts in Bahrain take these multifaceted forms of oppression, including sexual harassment and gender-based violence, into account in capital cases against foreign domestic workers. Although research did not uncover any capital cases against migrant women in Bahrain, country conditions expose migrant women to a disproportionate risk of violation of their due process rights in capital cases.

III. Oman has not opened civil society space to allow women’s NGOs and human rights defenders to advocate for abolition of the death penalty (Concluding Observations paragraph 20).

24. In 2018, the Committee recommended that Oman adopt specific measures “to create and ensure an enabling environment in which civil society organizations and women’s rights groups may be established and may freely conduct their activities.”⁵⁵

25. The Fourth Periodic Report asserts that “[t]he Government has simplified the procedures for registering and announcing [civil society] associations, in order to encourage the growth of a civil society that plays an active role in development and human rights programmes.”⁵⁶

26. Omani law permits domestic and international actors to request permission to engage in human rights work, but no human rights organizations made such a request in 2021 because, according to the U.S. Department of State, “they believed the government was not likely to grant permission.”⁵⁷

IV. Suggested recommendations relating to women and death penalty:

27. The coauthors of this report suggest the following questions for the Government of Oman:

- What steps has Oman taken to abolish the death penalty and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards?
- Please provide data about the number of women charged with capital crimes, sentenced to death, under sentence of death, or executed in Oman since 2017, disaggregated by age, race, nationality, crime of conviction, date of conviction, relationship to the victim (if any), number and age of minor children (if any), status of any appeals or petitions for mercy, current sentence, and current location.
- What standards do courts apply regarding the immediacy and intensity of the threat in order for a defendant charged with murder to successfully plead self-defense? Are those standards subjective (belief of the defendant at that point in time) or objective (belief of a reasonable person in similar circumstances)?
- To what extent do law enforcement, prosecutors, or defense counsel in capital cases receive training on gender sensitivity as it relates to criminal procedure and sentencing outcomes?
- How do authorities ensure that all women accused of capital crimes have access to free and effective legal representation by attorneys who specialize in death penalty cases, ensure access to counsel at all times, from the start of the investigation

⁵⁵ Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined second and third periodic reports of Oman*, (Nov. 22, 2017), U.N. Doc. CEDAW/C/OMN/CO/2-3, ¶ 20(b).

⁵⁶ Committee on the Elimination of Discrimination against Women, *Fourth periodic report submitted by Oman under article 18 of the Convention, due in 2021*, (Aug. 10, 2022), U.N. Doc. CEDAW/C/OMN/4, ¶ 43.

⁵⁷ U.S. Department of State, *2021 Country Reports on Human Rights Practices: Oman*, (2021), 16. Available online at <https://www.state.gov/wp-content/uploads/2022/03/OMAN-2021-HUMAN-RIGHTS-REPORT.pdf>.

through any appeals, and ensure that the defense team has sufficient funding to conduct a thorough investigation and to secure relevant expert witnesses, particularly regarding gender-specific defenses?

- What training does the Government provide to defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate?
- What steps, if any, has the State Party taken to codify gender-specific defenses and mitigation in capital cases, encompassing women's experiences of trauma, poverty, and gender-based violence?
- What measures has the government implemented to ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, domestic violence, and tactics of coercive control that may influence or prompt a woman to commit a death-eligible offense?
- Many incarcerated women are the primary caretakers in their family. How does the State Party protect the best interests of dependent children when women are sentenced to death?
- How does the prison service ensure that people under sentence of death are not held in solitary confinement in violation of Rule 45(1) of the Nelson Mandela Rules?
- How does the prison service ensure compliance with the Bangkok Rules?
- What mechanisms are in place to ensure that women in police custody are free from coercion, sexual harassment, and gender-based violence, and how are perpetrators held accountable?
- What remedies are available to women who allege that they experienced gender-based violence while in police custody and/or during the investigation stage of criminal proceedings?
- What measures are in place to ensure that any woman charged with a capital crime fully understands the charges against her and is able to participate actively and meaningfully in preparing her defense? How does the criminal legal system accommodate female defendants who do not understand Arabic or women with psycho-social or intellectual disabilities?
- How do courts ensure that no woman is sentenced to death for a crime she allegedly committed while under the age of 18, regardless of marital status?
- How does the State Party ensure that judges, prosecutors, defense counsel, police, and other individuals in positions of power within the criminal legal system are knowledgeable about gender-based discrimination, domestic violence, and tactics of coercive control that may lead women to commit death-eligible offenses? Specifically, what training programs are available for judges and other actors within the criminal legal system?
- Do the women facing the death penalty have access to qualified legal counsel? Are adequate resources available?
- What training is available to judges and other judicial officers presiding over criminal proceedings, particularly in capital cases, to educate them about the importance of considering gender-specific defenses and gender-specific mitigation in capital trials, including trauma, gender-based violence, economic pressures, and family caretaking responsibilities? What training is available for judges and other judicial officers presiding over criminal proceedings, particularly in capital cases,

regarding gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses? Does the State Party provide funding for expert witnesses on these topics if they are relevant to a woman's defense?

- What measures are being taken to facilitate the employment of women in the judiciary?
- What policies are in place to ensure that women under sentence of death have timely and free access to general and female-specific healthcare and counseling, including psycho-social care and menstrual health (e.g., access to sanitary products, soap, etc.)?
- To what extent does the criminal legal system accommodate the language needs of foreign nationals charged with capital offenses, including, for example, interpreters, reading materials in their first language, access to case documents in their first language, and the ability to make additional telephone calls with family members living in other countries?
- Please describe the procedures in place to ensure compliance with the Vienna Convention on Consular Relations when women are suspected of committing capital offenses.
- What efforts has the State Party undertaken to engage civil society in discussions around abolition of the death penalty and alternatives to the death penalty? Please describe any measures taken to eliminate intersecting forms of discrimination in the criminal legal system against women with disabilities, migrant and refugee women, women from disadvantaged socio-economic backgrounds, and women belonging to minority groups.