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Oman's Legal Framework of Migration

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EXPLANATORY NOTE

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Oman's Legal Framework of Migration

Maysa Zahra

Abstract: This overview of Oman's regulatory framework of migration is intended to serve as a guide for researchers looking to navigate the set of laws and implementing regulations covering a broad range of migration-related issues from entry and exit conditions to rights and settlement, citizenship, and asylum.

Keywords: Oman; Laws and Regulations; Irregularity; Migration; Citizenship; Trafficking; Sponsorship; Labour Rights.

Introduction

The most recent law enacted by Oman in 2018 relates to the issue of absconding workers. Ministerial Decision No. 270 sets up a mechanism for reporting non-Omani workers who leave their work unlawfully. Pursuant to this decision, if an establishment reports five or more cases of absconding workers in one month or ten or more cases in a year, then it must be referred to inspection to determine its level of commitment to the provisions of the Labour Law and the Code for Occupational Safety and Health Regulations. If it is found to be incompliant with either, services provided to the establishment will be halted for a period of one year (Art. 4). Workers are granted the right to object to an employer's report of absconsion, which may be submitted within sixty days from the date of the report's approval by the Ministry (Art. 11). The consequences of the report being approved include losing the right to end of service indemnity and the right to work in the country and transfer services to another employer as well as prohibition to enter the country.

The Basic Law of Oman, which was last amended in 2011, is citizen-centric in terms of rights and duties. Little mention is made of foreigners or residents who are only explicitly mentioned in article

* This is a revised and updated version of "Oman's Legal Framework of Migration," Explanatory Note No. 8/2015, available here: http://cadmus.eui.eu/bitstream/handle/1814/37399/GLMM_ExpNote_08_2015.pdf

11(4) relating to the duty to preserve public property. The legislation, however, does guarantee the right to litigation to all people in the country.

Much like other countries of the Gulf Cooperation Council (GCC), the Sultanate relies on the sponsorship system for the regulation of the entry and stay of foreigners. The most salient features of this system are the requirement of obtaining a non-objection certificate from the current sponsor before transferring to another employer and the imposition of a two-year ban on workers who leave their employer without a non-objection certificate. The ban was introduced by article 11 of the Foreigner’s Residence Law, which was enacted in 1995.

The Omani Labour Law was last amended by Decision No. 113 of 2011. The changes introduced include the inclusion of all allowances into the calculation of the gross salary and the reduction of working hours from 48 to 45 hours per week. Annual leave was also increased from 15 days in the first year to 30 days and payable on the basis of gross salary.

In 2009, the Sultanate enacted the Anti-Human Trafficking Law, which defines the acts deemed to amount to trafficking and imposes both monetary and imprisonment penalties on convicted offenders..

Ministerial Decision No. 189 was enacted in 2004 regarding the rules and conditions for the employment of domestic workers. The most pertinent provision stipulates that permits for the recruitment of domestic workers, their labour cards, their medical examinations, and transfer of their sponsorship shall be subject to the same terms as non-Omani workers provided it does not contravene the provisions of this decision (Art. 3). The decision further requires that employment contracts be written in Arabic and include all the rights and obligations of the parties to the contract as well as the work conditions (Art. 4).

Legal Framework	Outward Migration	Inward Migration
<p>General Legal References</p>	<ul style="list-style-type: none"> • 2014, Sultan’s Decree No. 38 of 2014 issuing the Omani Citizenship Law¹ • 2008, Royal Decree No. 126 of 2008 Issuing the Anti-Trafficking Law² 	<ul style="list-style-type: none"> • 1991, Sultan’s Decree No. 72 of 1991 Issuing the Social Insurance Law³ • 1995, Foreigners’ Residence Law⁴ • 1996, Royal Decree No. 101/96 Promulgating the Basic Statute of the State⁵ • 2000, Sultan’s Decree No. 4 of 2000 Issuing the Extradition of Criminals Law⁶ • 2008, Royal Decree No. 126 of 2008 Issuing the Anti-Trafficking Law⁷

Legal Framework	Outward Migration	Inward Migration
		<ul style="list-style-type: none"> • 2014, Sultan’s Decree No. 38 of 2014 issuing the Omani Citizenship Law⁸ • 2014, Decision No. 137 of 2014 Amending Provisions of the Executive Regulations of the Foreigners’ Residence Law No. 63 of 1996⁹
<p>Entry and Exit</p>	<p style="text-align: center;">Visas</p> <p>Omani citizens do not need a visa to enter other Gulf Cooperation Council (GCC) countries.</p>	<p style="text-align: center;">Visas</p> <p>Entry into and exit from Oman is only permitted for foreigners holding a valid passport or travel document issued by the appropriate authorities in his country. The foreigner must also have a valid entry visa issued by the competent Omani authority, embassy or consulate [Art. 5, Foreigners’ Residence Law, 1995].</p> <p>Citizens of the Gulf Cooperation Council are not subject to the provisions of the Foreigners’ Residence Law [Art. 4].</p> <p>Every foreigner entering the Sultanate must present himself to the competent authority within seven days of his entry for visitors and within thirty days for residents in order to register his residence. [Art. 12, Foreigners’ Residence Law, 1995].</p>
<p>Irregular Migration</p>		<p>A foreigner who has entered the country illegally shall be deported at his own expense or the expense of those who facilitated his entry or employed him [Art. 29, Foreigners’ Residence Law, 1995].</p> <p>A foreigner who has been deported may not be issued another entry visa until two years have lapsed and with a special permission from the Inspector General [Art. 34, Foreigners’ Residence Law, 1995]</p>

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	<p style="text-align: center;">Human Trafficking</p> <p>Penalizations: Whoever commits a human trafficking crime shall be punished by imprisonment for three to seven years and a fine of 5,000 to 100,000 Riyals. In a number of cases, the punishment is increased to imprisonment for seven to fifteen years and a fine of 10,000 to 100,000 Riyals. These include cases where the victim is a minor, or more than one person commits the crime (Articles 8 & 9, Royal Decree No. 126 of 2008).</p>	
	<p style="text-align: center;">International Agreements Regarding Irregular Migration</p> <ul style="list-style-type: none"> ● United Nations Convention against Transnational Organized Crime (acceded to on May 13, 2005) ● Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons (acceded to on May 13, 2005) ● Palermo Protocol against the Smuggling of Migrants by Land, Sea and Air (acceded to on May 13, 2005) 	
<p>Rights and Settlement</p>	<p>Equality and Non-discrimination: The Omani Constitution guarantees equality before the Law for citizens who shall share the same public rights and duties and shall not be discriminated against on the basis of gender, origin, colour, language, religion, sect, domicile, or social status. The constitution does not use the term residents or people [Art. 17].</p> <p>The Right to Litigation is accorded to all people in the Sultanate [Art. 25 of the Constitution]</p> <p>Protection for their Person and Property is granted to all foreigners legally residing in the country [Art. 35 of the Constitution].</p> <p>Residence: A residence visa granted to a married foreigner includes his/her spouse and children under the age of twenty-one. The residence duration shall not exceed two years and may be renewed by submitting a request for renewal fifteen days prior to</p>	

Legal Framework	Outward Migration	Inward Migration
Rights and Settlement		<p>its expiry. The request for residence or its renewal may be denied without giving any reasons as to why [Art. 14, Foreigners’ Residence Law, 1995]. A foreigner shall lose his right to residence if he resided outside the Sultanate without a valid reason for six continuous months or eight non-continuous months in a year or for eighteen months within a three-year period. This shall not apply to his dependents so long as his residence is valid [Art. 18 of Act cited previously in this para].</p> <p>Participation in Social Insurance Schemes is available to Omani citizens employed in the private sector. It also applies to foreigners who become naturalised citizens (Articles 3 & 22 bis, Sultan’s Decree No. 72, 1991).</p> <p>Family Reunification: To obtain a reunification visa, the local sponsor must request it for the wife/husband and children (aged no more than twenty-one) of a foreign employee. They shall be under the sponsor’s responsibility. This type of visa may also be granted to the foreign wife of an Omani citizen upon his request and presentation of proof of marriage. The visa must be used within three months of its issuance. [Art. 10, Decision No. 137 of 2014].</p> <p>Access to Healthcare: There is no legal requirement for the provision of medical insurance to foreign employees.</p> <p>Freedom of Movement: The Constitution protects the right of persons to move freely and without restrictions except within the limits of the law [Article 18, of the Constitution].</p>

Legal Framework	Outward Migration	Inward Migration
Labour	<p style="text-align: center;">Agreements regarding Labour Migration</p> <p>Bilateral Agreements: Memorandum of Understanding between the Ministry of Overseas Indian Affairs in the Republic of India and the Ministry of Manpower in the Sultanate of Oman in the field of Manpower (November 08, 2008); Memorandum of Understanding (MoU) between Oman and Sri Lanka in the fields of employment and training (June 22, 2014); Memorandum of Understanding between the Sultanate of Oman and Bangladesh on Manpower Cooperation (May 10, 2008).</p> <p>International Agreements: 4 ILO Conventions ratified¹⁰</p>	
Citizenship	<p>A person may not hold Omani citizenship along with the citizenship of another country unless a Sultan's Decree authorizes it. Omani citizens may not renounce their nationality in favour of another until they have fulfilled their obligations and commitments towards the Sultanate. Underage children shall not lose their Omani nationality following their parent's renunciation unless he has requested it and his new citizenship is granted to them as well [Articles 5 & 6, Sultan's Decree No. 38, 2014].</p> <p>Omanis may not be deported or exiled from the Sultanate or prevented from returning to it [Art. 16, of the Constitution].</p> <p>Omani nationality is regulated by law. It is not permissible to denaturalise a person or revoke his/her nationality except within the limits of the law [Art. 15, of the Constitution].</p>	<p>Naturalisation: Cases that lead to withdrawal of Omani nationality from persons who acquired it through naturalisation include the acquisition of citizenship through deception, being found guilty in more than one case within five years of acquiring citizenship; being sentenced for a crime related to state security; residing outside Oman for more than six months at a time, during the ten years following the acquisition of citizenship without obtaining the proper authorization or having justification [Art. 20, Sultan's Decree No 38, 2014].</p> <p>Acquisition of Omani Citizenship: A foreigner who meets the following requirements may apply for Omani citizenship: legally residing in Oman for at least 20 consecutive years (15 years if married to an Omani woman provided that the marriage took place with the approval of the Ministry of Interior and that the couple has a male child); possessing sound conduct and character; fluency in Arabic; not been convicted of any crime or offence in breach of trust or honour; being disease free; and providing written consent to relinquish current nationality and proof of such [Art. 15, Sultan's Decree No. 38, 2014].</p>

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<p>International Protection</p>		<p>The extradition of political refugees is prohibited under article 36 of the Constitution. Foreigners who were granted the right of political asylum before a request for extradition is received may not be extradited for as long as the asylum continues to be in effect. Moreover, a foreigner may not be extradited if he is accused of a political crime or if extradition is requested for political reasons [Art. 3, Sultan’s Decree No. 4 of 2000].</p> <p>International agreements Related to International Protection: Oman has not acceded to the 1951 Convention Relating to the Status of Refugees.</p>

Endnotes

1. Sultan's Decree No. 38 of 2014 issuing the Omani Citizenship Law, Official Journal Issue No. 1066 (August 17, 2014), Ministry of Legal Affairs, <http://www.mola.gov.om/officalgazette.aspx> (accessed November 01, 2014).
2. Royal Decree No. 126 of 2008 Issuing the Anti-Trafficking Law, The National Committee for Anti-Trafficking in Persons, <http://www.ncchtoman.gov.om/arabic/rules.asp> (accessed October 08, 2014).
3. Sultan's Decree No. 72 of 1991 Issuing the Social Insurance Law, Official Journal Issue No. 1032, Said Al Shahry Legal Training Centre.
4. Foreigners' Residence Law, Sultanate of Oman Royal Oman Police, <http://www.rop.gov.om/english/roplaws.asp> (accessed October 12, 2014).
5. Royal Decree No. 101/96 Promulgating the Basic Statute of the State, World Intellectual Property Organization (WIPO), <http://www.wipo.int/edocs/lexdocs/laws/ar/om/om016ar.pdf> (accessed June 26, 2014).
6. Sultan's Decree No. 4 of 2000 Issuing the Extradition of Criminals Law, Ministry of Legal Affairs, Sultanate of Oman, <http://www.mola.gov.om/mainlaws.aspx> (accessed: March 9, 2015).
7. Royal Decree No. 126 of 2008 Issuing the Anti-Trafficking Law, The National Committee for Anti-Trafficking in Persons, <http://www.ncchtoman.gov.om/arabic/rules.asp> (accessed October 08, 2014).
8. Sultan's Decree No. 38 of 2014 issuing the Omani Citizenship Law, Official Journal Issue No. 1066 (August 17, 2014), Ministry of Legal Affairs, <http://www.mola.gov.om/officalgazette.aspx> (accessed November 01, 2014).
9. Decision No. 137 of 2014 Amending Provisions of the Executive Regulations of the Foreigners' Residence Law No. 63 of 1996, Sultanate of Oman, Ministry of Legal Affairs, <http://www.mola.gov.om/TempRoyalDecree.aspx?Id=81&ctype=D> (accessed November 01, 2014).
10. The following Conventions have been ratified by Oman: Forced Labour Convention (No. 29), Abolition of Forced Labour Convention (No. 105), Minimum Age Convention (No. 138), and Worst Forms of Child Labour Convention (No. 182).

About the Author



Maysa Zahra holds a Master's degree in the Theory & Practice of Human Rights from the University of Essex (Human Rights Centre) in the United Kingdom. She previously studied International Relations at the Hebrew University of Jerusalem.

She worked as a legal researcher with the MATTIN Group, a voluntary human rights-based partnership in Palestine, researching provisions of third state and European Union legislation that create obligations corresponding to those that result from the customary international law on third state responsibility. She also participated in several lobbying interventions with the European Union aimed at promoting greater consistency between its contractual relations with Israel on the one hand and its human rights obligations on the other.

Publication Reference : Citations and quotations should always include either the long or the short reference provided here. Generally the long reference should be used but in exceptional cases (e.g. not enough room), the short reference may be used.

Long Reference: Maysa Zahra, "Oman's Legal Framework of Migration," Explanatory Note No. 2/2019, Gulf Labour Markets, Migration and Population (GLMM) programme of the Migration Policy Center (MPC) and the Gulf Research Center (GRC), <http://gulfmigration.org>.

Short Reference: M. Zahra, "Oman's Legal Framework of Migration," Explanatory Note No. 2/2019, GLMM, <http://gulfmigration.org>.

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