

Criminal Safeguards for Persons with Disabilities in Oman and Beyond: An Analytical Study of the Omani Penal Code, International Conventions, and Comparative Legislation

Juma'a Bin Musallam Alazri^{ORCID}

College of Law, Sultan Qaboos University, Muscat, Oman

Email: j.alazri@squ.edu.om

How to cite this paper: Alazri, J. M. (2025). Criminal Safeguards for Persons with Disabilities in Oman and Beyond: An Analytical Study of the Omani Penal Code, International Conventions, and Comparative Legislation. *Beijing Law Review*, 16, 2378-2395. <https://doi.org/10.4236/blr.2025.164121>

Received: September 8, 2025

Accepted: December 2, 2025

Published: December 5, 2025

Copyright © 2025 by author(s) and Scientific Research Publishing Inc. This work is licensed under the Creative Commons Attribution International License (CC BY 4.0).

<http://creativecommons.org/licenses/by/4.0/>



Open Access

Abstract

This study addresses the inadequacy of substantive criminal protection afforded to the rights and freedoms of persons with disabilities, particularly when they are victims of crimes, under the Omani Penal Code and in several comparative legal systems. The central research question is: To what extent is criminal protection sufficient for the rights of persons with disabilities under Omani legislation and in comparative legal frameworks? The study aims to highlight the importance of providing substantive criminal safeguards for this segment of society, especially when their rights are subject to violation or threat. Although many rights and freedoms of persons with disabilities—such as the right to life, physical and sexual integrity, human dignity, survival, and reproduction—are recognized and guaranteed under international conventions and national laws, a significant number of these rights lack adequate criminal protection when violated. This gap undermines the actual enjoyment of such rights by persons with disabilities. To achieve its objectives, the study employs both descriptive and critical analytical methodologies to examine relevant provisions of Omani legislation, supported by statistics and related studies. Additionally, a comparative approach is adopted by analyzing pertinent legal texts, particularly Egypt's Law No. 10 of 2018 on the Rights of Persons with Disabilities, Jordan's Law No. 20 of 2017, and other international conventions and national laws where relevant. The study concludes with a call to amend the Omani legal framework, as well as several comparative legislations, to ensure effective criminal protection for the rights of persons with disabilities—especially the rights to life, physical and sexual integrity, human dignity,

survival, and reproduction.

Keywords

Persons with Disabilities, Rights and Freedoms, Penal Code, Substantive Criminal Protection

1. Introduction

While crime may be committed against or by any societal group, certain groups possess special characteristics imposed by their age, gender, or health status, rendering them more vulnerable than others in society, such as children, women, and persons with disabilities. These special characteristics necessitate that modern criminal policies afford these groups specific protection in terms of criminalisation and punishment of any violation or threat to their rights and freedoms. Such protection should be proportionate to the circumstances they endure as victims (William et al., 2022).

Despite the legislative policy adopted by the Omani legislator, which imposes stricter penalties on certain criminal acts when the victim is a person with a disability, and criminalises certain acts that constitute an infringement or threat to some of their rights and freedoms, this criminal legislative policy remains unclear regarding the consideration of the special status of these individuals when they are victims of other acts infringing on their fundamental rights and freedoms. Such acts may not fall under the scope of criminalisation and punishment, or lack specific provisions for increased penalties, as long as the victim belongs to this vulnerable group.

Therefore, the central issue explored in this research is: How sufficient is the substantive criminal protection afforded to individuals with disabilities under Omani law, as well as within international conventions and legal frameworks across the globe?

1.1. Significance of the Study

The significance of this study lies in its discussion and exploration of various issues raised by the subject of substantive criminal protection for persons with disabilities under Omani legislation. Notably, this group represents a considerable proportion of the general population in the Sultanate of Oman and globally. According to the 2020 Electronic Census data, the number of Omani persons with disabilities reached 42,304, constituting 1.55% of the total Omani population in the same year (NCSI, 2024), and according to the United Nations, approximately 15% of the global population—around one billion individuals—live with some form of disability. Furthermore, 80% of them reside in developing countries. The same reports indicate that children with disabilities are four times more likely to be subjected to violence than their non-disabled peers (United Nations, Human

Rights Office of the High Commissioner, 2024a).

Although national crime statistics in the Sultanate of Oman do not provide a detailed classification of victims based on health status, gender, or age—a challenge that remains among the most prominent obstacles faced by researchers in the Sultanate—numerous judicial rulings issued within Oman affirm that persons with disabilities are among the victims of such crimes. Moreover, certain offenses are committed against them specifically because of the nature of their disability, as is evident in cases involving bullying, exploitation through begging, and similar acts (Omani High Court, 2025).

Therefore, highlighting the adequacy of criminal provisions in accommodating their specific circumstances when dealing with them as victims is essential to ascertain the extent to which their national and international rights are guaranteed through such substantive criminal protection.

1.2. Research Methodology

To address the research questions, a descriptive and critical analytical methodology has been adopted. This approach entails identifying the core legal issue under examination—namely, the insufficiency of substantive criminal protection afforded to the rights of persons with disabilities—through a critical analysis of relevant Omani legislation, supported by statistical data and scholarly studies pertinent to the research topic, in pursuit of its academic objectives. Additionally, a comparative legal methodology has been employed by examining the provisions of international conventions and comparative legislative frameworks, and assessing the extent to which Omani legislation aligns with these instruments. Particular reference is made to the United Nations Convention on the Rights of Persons with Disabilities (2008), the Egyptian Law No. 10 of 2018 concerning the Rights of Persons with Disabilities, and the Jordanian Law No. 20 of 2017 on the Rights of Persons with Disabilities, among other relevant legislative texts as necessitated by the scope of the study.”

2. Concept of Persons with Disabilities

According to Article 1 of the 2008 United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the term “persons with disabilities” includes “those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others.” This clarifies that the international approach to defining persons with disabilities encompasses those whose impairments affect their body, mental or intellectual capacities, and that such impairments must be long-term rather than temporary, resulting in an obstacle that prevents the individual from normally performing their social functions.

Many comparative legislations have aligned with this international definition. For instance, the Egyptian legislator defines persons with disabilities in Article 2 of Law No. 10 of 2018 on the Rights of Persons with Disabilities as “any person

who has a total or partial deficiency or impairment, whether physical, mental, intellectual or sensory, provided that such deficiency or impairment is stable, which prevents them, when interacting with various barriers, from fully and effectively participating in society on an equal basis with others.” Similarly, Article 3(a) of the Jordanian Law No. 20 of 2017 on the Rights of Persons with Disabilities defines a person with a disability as “any person with a long-term impairment in physical, sensory, intellectual, psychological, or neurological functions that, due to its interaction with physical obstacles and behavioral barriers, prevents the person from performing one of the main life activities, exercising a right, or enjoying a fundamental freedom independently”. The United Kingdom Equality Act 2010 defines persons with disabilities in Section 6 (1) as following “A person (P) has a disability if—(a) P has a physical or mental impairment, and (b) the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities”.

Article 1(c) of the Omani Law No. 63 of 2008 on the Care and Rehabilitation of Persons with Disabilities defines a person with a disability as “a person who suffers from a deficiency in some of their sensory, physical, or mental capacities, either congenitally or due to a hereditary factor, illness, or accident, which limits their ability to perform their natural role in life compared to others of the same age, necessitating care and rehabilitation for them to fulfill their role in life.” This definition is similarly reflected in Article 1(c) of the Omani Child Law No. 22 of 2014, which defines a child with a disability as “a child who suffers from a deficiency in some of their sensory, physical, or mental capacities, either congenitally or due to a hereditary factor, illness, or accident, limiting their ability to perform their natural role in life and to participate fully and effectively in society on an equal basis with others.”

It is notable that the Omani legislator has identified three types of disabilities: sensory disabilities, represented by the loss or deficiency of one of the senses, such as hearing, speech, or sight; intellectual disabilities, such as insanity and similar conditions; and physical disabilities, such as loss of function of a limb like a hand or foot or other bodily impairments. The legislator does not require the disability to be total; rather, partial deficiencies in sensory, intellectual, or physical capacities are sufficient. Moreover, the legislator enumerates examples of causes that may lead to such disabilities, including congenital defects, diseases, heredity, or accidents of any type. Thus, it can be inferred that this definition accommodates any other cause resulting in disability, such as those caused by personal faults or negligence in treatment, even if intentional. The critical consideration here is the actual occurrence of disability, not the cause leading to it. In contrast, for instance, British law defines disability narrowly, limiting it to physical and mental impairments while excluding sensory disabilities. This definition stands at odds with the international convention, which recognizes three distinct categories of disability.

Furthermore, the definition establishes the criterion for considering a person disabled: that the physical, sensory, or intellectual impairment constitutes an obstacle preventing the individual from living a normal life compared to others in the same age group. Undoubtedly, this assessment must be conducted by compe-

tent professionals such as medical experts.

Finally, the legislator emphasizes the consequences of the person's disability and the corresponding duty of the state and society towards them, namely, their right to care and rehabilitation. Accordingly, it is apparent that the Omani legislator has aligned with the international convention in defining persons with disabilities, and that the national definition is even more comprehensive and detailed, thus providing a commendable legal framework.

3. Integrating International Disability Norms into Omani Law

In 2008, pursuant to Royal Decree No. 121/2008, the Sultanate of Oman ratified the International Convention on the Rights of Persons with Disabilities (UNCRPD). The fact that Oman ratified this international convention merely six months after its entry into force reflects the Sultanate's commitment to upholding international standards that guarantee the minimum rights and freedoms of this vital segment of society.

By virtue of this international legal obligation, and in accordance with Article 4 of the Convention, Oman is required to align its national legislation and public policies concerning persons with disabilities with the provisions of the Convention. This includes, but is not limited to:

- Ensuring their right to equality in enjoying the same rights and freedoms as their able-bodied peers, to the extent permitted by their health condition (Article 1).
- Guaranteeing their right to access and obtain reasonable accommodations to facilitate their social life and enjoyment of public facilities on an equal basis with others (Article 2).
- Ensuring respect for the general principles outlined in the Convention regarding the rights of persons with disabilities, such as respect for their inherent human dignity, non-discrimination, and equal opportunities (Article 3).

Similarly, the Convention affirms their rights to life, equality before the law, access to justice, protection from exploitation, torture, inhuman or degrading treatment, and violence. It also guarantees their right to live freely and independently, freedom of expression and access to information, respect for privacy, home, and family—particularly their right to marry and have children—as well as their rights to education, employment, health, social protection, political and public participation, social inclusion, and cultural and entertaining rights.

To implement these international obligations, the Sultanate of Oman has undertaken several administrative and legislative measures to safeguard many of the rights and freedoms enshrined in the Convention. These measures include the enactment of a dedicated law for persons with disabilities, which regulates and guarantees numerous rights and freedoms stipulated in the Convention. Additionally, a specialized department for persons with disabilities was established within the Ministry of Social Development, through which various civil society organizations and rehabilitation centers have been created to serve this group.

Moreover, several Omani laws have provided protection for certain internationally guaranteed rights and freedoms of persons with disabilities, such as the right to work under the Labor Law No. 35/2023, the right to education under Law No. 31/2023, and the right to social protection under Law No. 52/2023.

Despite the significance of these steps in fulfilling Oman's obligations under the Convention and in safeguarding many rights of persons with disabilities at the national level, they remain insufficient in fully meeting those obligations. This is due to the limited protection afforded to many of these rights, particularly substantive criminal protection, which will be discussed in this study. Furthermore, some rights are not adequately provided for—such as the right to education, which is guaranteed under the School Education Law, yet lacks legislation ensuring access to higher education for persons with disabilities. In contrast, the British Equality Act of 2010 was explicit and comprehensive in safeguarding the right to higher education for persons with disabilities, as stipulated in Chapter 2 “Further and Higher Education”. Additionally, certain rights stipulated in the Convention have not been specifically regulated under Omani law, such as the rights to health, survival, family formation, marriage, and reproduction.

4. The Scope of Criminal Law Protection for Persons with Disabilities: Oman in Context

4.1. Concept of Substantive Criminal Protection

Substantive criminal protection refers to the legal provisions that criminalise and punish violations of the rights and freedoms of individuals (Ubaid, 2023). On the other hand, criminal procedural protection consists in the provision of safeguards for the rights and freedoms of individuals—whether defendants, victims, witnesses, or others—throughout the course of criminal proceedings, ensuring that such rights are not violated by officials without lawful justification. These safeguards include respect for human dignity, the right to legal defense, and the prohibition of infringements upon personal privacy or freedom of movement except within the limits prescribed by law. They also encompass protection against arbitrary detention and any physical or psychological coercion intended to compel individuals to provide statements that contradict the truth.

While the legislator's general intent in providing substantive criminal protection is to safeguard the rights and freedoms of all persons without discrimination (Behnam, 1997), certain groups are more vulnerable to the risk of crime than others due to factors such as their age—as in the case of children and the elderly—gender, such as women, or health conditions, such as persons with disabilities. This has sometimes necessitated the enactment of specific provisions criminalising assaults on their rights and freedoms or, in many other instances, merely imposing harsher penalties if the victim belongs to one of these vulnerable groups.

Some scholars attribute the need for additional substantive criminal protection for persons with disabilities to three main reasons:

- 1) The intellectual, sensory, or physical impairments of these individuals render

them unable to prevent assaults against them or seek assistance;

2) The offender's criminal propensity is revealed by their lack of deterrence from attacking this vulnerable group despite their disabilities;

3) Criminal equality in criminalisation and punishment, as criminal justice requires differentiated penalties between offences committed against a healthy person and those committed against a person with a disability (Al-Hamad & Al-Malki, 2018).

To achieve substantive criminal protection, the Penal Code may, on one hand, adopt a policy of criminalisation and punishment as a means to protect individual rights and freedoms and social interests by criminalising all unlawful assaults on them. On the other hand, it may establish legal permissions (justifications) for rights and freedoms exercised within legal limits, whether these rights enjoy constitutional and legal protection or only one of these. Such permissions fall outside the scope of criminal provisions. In cases of conflict between protected rights and freedoms, criminal law prioritises the rights and freedoms most deserving of protection to achieve social goals of criminalisation and punishment (Sorour, 2002). Examples of such exceptions to criminal liability include the exercise of rights, the performance of duties, legal authorisation, and lawful self-defence.

Moreover, criminal law, in pursuit of this latter form of substantive protection, may decide not to punish an act if the offender's circumstances or the circumstances of committing the crime warrant it in the interest of social welfare (Walsh & Jorgensen, 2020). For example, the Omani legislator stipulated in Article 279 of the Penal Code an exemption from punishment for a beggar if it is proven that they are incapable of earning a living and have no other source of income. One possible cause of such incapacity may be physical, mental, or sensory disability suffered by the perpetrator.

Regarding substantive criminal protection through criminalisation and punishment, it is evident that the Penal Code provides two types of protection for persons with disabilities: either provisions that criminalise and punish acts of assault and abuse specifically committed against them, or provisions that impose aggravated penalties on offenders when the victim belongs to these more vulnerable groups.

4.2. Penal Framework Addressing Violence and Abuse against Persons with Disabilities

The (UNCRC) emphasises the importance of taking appropriate measures by State Parties to protect this group from acts of violence, exploitation, and abuse, as stipulated in Article 16. Numerous studies indicate that persons with disabilities are among the most vulnerable groups in society to crimes of violence. These studies also reveal that approximately 38% of such crimes go unreported, with persons with intellectual disabilities being the most exposed to violence (Harrell, 2021).

The Omani Law on the Care and Rehabilitation of Persons with Disabilities does not provide a definition of acts of violence, abuse, or exploitation that may be committed against this segment of society. However, Article 1 of the Child Law

defines these acts when committed against children under the age of eighteen as follows: “*Violence: the intentional use of physical force or power, threatened or actual, by an individual or group against a child, that either results in or has the potential to result in harm to the child’s health, survival, development, or dignity. Exploitation: the use of the child or their body parts for illegal purposes such as prostitution and other forms of sexual exploitation, forced labour, slavery, practices similar to slavery and servitude, and organ removal. Abuse: the deliberate physical, psychological, or sexual harm or torture of a child, or the neglect by the guardian that leads to conditions and circumstances impeding the child’s physical, psychological, or social development.*”

4.2.1. Instances of Substantive Criminal Protection for Persons with Disabilities against Violence and Abuse

A review of the provisions of Penal Law No. 7/2018 reveals that the Omani criminal legislator has criminalised many forms of violence, abuse, or exploitation when the victim is a person with disabilities. For example, Article 278 punishes any person entrusted with the care of an individual incapable of caring for themselves due to their physical, mental, or psychological condition, who neglects, fails, or is remiss in such care. It is noteworthy that this article imposes a penalty of imprisonment not exceeding six months and/or a fine not exceeding five hundred rials based on the mere commission of the conduct, regardless of the result achieved or to be achieved—this is known in criminal jurisprudence as a crime of conduct or a formal offence (Ubaid, 2023). Additionally, the legislator equates the penalty for both forms of mens rea, namely intent and unintentional fault arising from neglect or omission. Whether the failure to provide care to the disabled person is deliberate or due to negligence or omission, the penalty remains the same.

In contrast, the Egyptian legislator, under Article 50 of Law No. 10 of 2018 on the Rights of Persons with Disabilities, makes the result of such omission or neglect a reason for aggravating the penalty. While mere omission or neglect is punishable by imprisonment not exceeding one year and/or a fine not exceeding ten thousand Egyptian pounds, the penalty becomes imprisonment if this conduct results in injury or harm to the person with a disability, and imprisonment up to ten years if it results in the death of the person with a disability.

Article 284 of the Omani Law prescribes imprisonment of up to two years for anyone who intentionally endangers a person incapable of protecting themselves due to their physical, mental, or psychological condition, with the penalty increasing to three years if the vulnerable person is left in a deserted place. If the perpetrator is a relative or legally obliged to care for the individual, the penalty may be doubled. The punishment further increases to imprisonment for up to ten years if the act causes serious bodily harm to the vulnerable person, and up to fifteen years if it results in death.

It is noted that the above provision requires the presence of criminal intent in committing the offence, meaning it does not cover unintentional acts. The Omani legislator did not specify the nature or forms of danger to which a person with a

disability may be exposed that would warrant punishment, which implies the provision applies regardless of the form of danger, whether it affects the physical or psychological safety of the disabled person.

By contrast, Article 46 of the Egyptian Law defines the types of danger that may expose a person with a disability to punishment and does not require that the offence be committed intentionally. Additionally, it does not vary the punishment according to the consequences resulting from the act, unlike the Omani legislator.

In this regard, despite the broad range of danger scenarios provided by the Egyptian legislator, which arguably encompass most foreseeable situations, we believe that the Omani legislator's decision not to enumerate specific types of danger is commendable. This approach avoids restricting the judge's authority to impose punishment for newly arising forms of danger to the physical or psychological well-being of the disabled person, without resorting to expansive interpretation or violating the principle of legality in criminalisation and punishment.

Moreover, the Omani legislator rightly linked the severity of the penalty to the consequence of the act, whether resulting in harm or death of the victim, applying the principle of proportionality between the gravity of the offence revealed by its outcome and the severity of the punishment imposed.

However, the requirement of criminal intent by the Omani legislator for the commission of this offence may lead to some negligent or reckless behaviours escaping punishment, even though they cause the same outcome of endangering the physical or psychological safety of the disabled person.

4.2.2. Review of Criminal Law Measures Addressing Violence and Abuse against People with Disability

Despite the significance of the criminal protection provisions contained in the Omani Penal Code as indicated above, we believe that such protection remains insufficient. For example, but not limited to:

A) The Omani legislator, in Article 298, penalises anyone who uses a minor or hands them over to another with the intent of begging, and increases the penalty in the second paragraph of the same article if the perpetrator is a guardian, custodian, or responsible for observing or caring for the minor. Although the rationale behind this provision applies equally to persons with disabilities, and international reports confirm that this group is among the most vulnerable to poverty and social marginalisation ([United Nations, Human Rights Office of the High Commissioner, 2024b](#)), the Omani legislator has not extended this criminal protection to them. Furthermore, this article does not include disability as a factor for aggravating the penalty in its second paragraph. Although the international convention does not provide a specific definition of abuse of persons with disabilities, it is beyond doubt that the degrading use of such persons to obtain money constitutes a form of abuse prohibited internationally, making the omission by the Omani legislator a deficiency and inconsistent with the international standards set for such protection.

B) Similarly, Article 351 punishes anyone who abuses a minor's desire, need, or

lack of experience to obtain movable property, a debt document, or a discharge from them to their detriment or the detriment of another, or to annul, destroy, or amend such a document. The penalty is increased if the offender is a guardian, custodian, trustee of the victim, or responsible for their affairs by law, court order, agreement, or authority. If the rationale behind criminalising and punishing such conduct is—as explicitly stated—to prevent abuse of the victim’s desire, need for money, or lack of experience in managing their financial affairs, this rationale undoubtedly applies to persons with physical, sensory, or intellectual disabilities who are unable to manage their affairs independently. This raises the question of why this criminal protection does not extend to this vulnerable group despite the rationale for criminalisation and punishment being fulfilled.

From the foregoing examples of acts constituting assault or abuse of persons with disabilities that are not covered by criminalisation and punishment provisions, we may conclude that these provisions are inadequate to provide substantive criminal protection to this vulnerable group within society. This calls for the Omani legislator to consider extending such criminal protection to persons with disabilities in order to realise the Sultanate’s vision of empowering them socially, economically, and culturally—an objective that cannot be achieved without criminal protection for their rights and freedoms guaranteed internationally, constitutionally, and legally.

This legislative discrepancy in providing protection for minors while failing to extend the same safeguards to persons with disabilities may be attributed to the absence of an explicit legal provision within the Law on the Care and Rehabilitation of Persons with Disabilities. This law does not impose a clear obligation on the State to protect individuals with disabilities from exploitation and inhumane treatment, such as abuses or begging. In contrast, the Child Law No. 22 of 2014 establishes a direct and unequivocal obligation upon the State, as articulated in Article 7, which states: “Every child has the right to protection from violence, exploitation, and abuse, and to be treated with dignity and humanity in a manner that safeguards their honor, reputation, and self-worth. The State is obligated to ensure the full enjoyment of this right through all available means.” Similarly, Article 44 of the same Law states: “It is prohibited to exploit a child or to hand them over to others for the purpose of begging. Begging includes soliciting donations or charity from others, offering trivial goods, performing showmanship acts, or engaging in other activities that do not constitute a viable means of livelihood.” In spite of the absence of a specific legal provision prohibiting such practices against persons with disabilities, the Sultanate remains bound to prohibit and criminalize such acts by virtue of its international commitments, particularly its ratification of the relevant international convention, which has become an integral part of Omani national legislation.

4.3. Criminal Protection through Aggravation of Penalties for Certain Crimes Committed against Persons with Disabilities

In certain forms of criminal protection for persons with disabilities, the Omani

legislator has established such protection by imposing aggravated penalties on the offender when the victim belongs to this group. It is indisputable that this approach provides a special or additional layer of criminal protection for them, in addition to the general criminal protection afforded to all persons under the relevant legal provisions.

4.3.1. Examples of Substantive Criminal Protection through Aggravation of Penalties

The Omani criminal legislator, in Articles 83 and 84 of the Penal Code, established a general principle that one of the reasons for aggravating penalties for crimes in general is when the offence is committed by exploiting the victim's inability to resist, under circumstances preventing others from defending them. The court is granted discretionary power to increase the fine up to double the prescribed amount and to extend the prison sentence up to the maximum legal limit, provided it does not exceed half of that limit.

Accordingly, if the victim is a person with a disability and their disability is exploited to prevent them from resisting the offence or seeking assistance, this shall be grounds for imposing an aggravated penalty on the offender as described above.

The Omani legislator is commendable for including these general reasons, which apply to all types of crimes. These reasons are diverse, unlike some other legislations that limit them to a single cause, such as the Egyptian legislator who restricts them in Articles 49 to 54 of the Penal Code No. 58 of 1937 to the circumstance of recidivism. These aggravating factors include those related to the offender, such as committing the crime for dishonorable motives, indicating disregard for others' rights on grounds of moral depravity, those related to the victim, such as being incapable of resistance or assistance, and those related to the circumstances of the crime, such as the use of cruel methods or distortion of the victim. However, it should be noted that the application of these general aggravating factors is discretionary for the trial judge and not mandatory, pursuant to Article 84 of the same law.

While Article 257 of the Penal Code criminalises the act of rape committed by coercion and without consent against both males and females, prescribing imprisonment between ten and fifteen years (Al-Aani, 2021), if this act is committed against a person with a physical or mental disability that incapacitates them from resisting, the penalty is life imprisonment. Similarly, Article 258 punishes the crime of sexual assault that infringes on the right to sexual freedom by severely violating the victim's modesty without reaching the stage of intercourse. If the victim has a physical or mental disability rendering them unable to resist, the penalty ranges from five to seven years' imprisonment instead of one to three years if the crime occurs without aggravating circumstances.

It is noteworthy, however, that these two articles limit the aggravated penalty to cases where the victim's disability is physical or mental and do not include sensory disabilities, even though the rationale for aggravation—as explicitly stated—

is the victim's inability to resist, which equally applies to those with sensory impairments such as loss of speech, sight, or hearing.

According to Article 349, anyone who commits fraud by unlawfully obtaining a benefit for themselves or others through fraudulent methods, or by using a false name or incorrect status, is punishable by imprisonment for up to two years and/or a fine not exceeding three hundred rials. However, the penalty shall be aggravated to double the prescribed penalties if the victim is under eighteen years of age—regardless of their mental condition—or an adult lacking full mental capacity. Likewise, Article 350 increases the penalty for anyone who deals with movable or immovable property they know is not theirs or has previously dealt or contracted over, causing harm to others, if the victim is a minor or considered as such. This latter category includes adults whose mental faculties are not fully developed to the extent that they cannot exercise legal acts in their financial rights.

Although the above provisions limit the special criminal protection by aggravating penalties to offences committed against those with intellectual disabilities rather than physical or sensory ones, this approach is justified. The rationale for aggravation is the abuse of incomplete mental faculties of minors or those with intellectual disabilities, which may not necessarily apply to adults with physical or sensory disabilities.

4.3.2. Assessment of Enhanced Criminal Protection via Penalty Aggravation

The differentiation between types of disability in extending criminal protection through aggravated penalties lacks reasonable justification in certain provisions of the Omani Penal Code; an example, but not limited to, is as follows:

A) Article 322 increases the penalty for kidnapping, arresting, detaining, or depriving a person of liberty by any unlawful means, if the victim is a female, a minor, a person of unsound mind, an imbecile, or incapacitated.

Undoubtedly, the rationale for aggravating the penalty in this case is the perpetrator's abuse of the victim's weakness and inability to resist or seek assistance, reasons that are equally applicable to persons with physical or sensory disabilities. Nevertheless, the Omani criminal legislator did not extend this additional criminal protection to them. Although this situation permits the application of the general aggravation provisions stipulated in Articles 83 and 84 mentioned above, the penalties prescribed therein are less severe, thus providing weaker protection compared to those stipulated in Article 322. According to the general aggravation text, the penalty cannot exceed the maximum penalty prescribed for the offence, which means that in the case of unlawful deprivation of liberty, the penalty shall not exceed three years, and for kidnapping, not more than seven years. However, under the aggravation stipulated in Article 322, the penalty ranges from no less than seven years up to fifteen years.

Moreover, the aggravation imposed by Article 322 is mandatory and not subject to the discretionary power of the judge, unlike the provisions of Articles 83 and 84.

Hence, it is clear that the general aggravation provisions in these two articles of the Penal Code are insufficient to provide the additional criminal protection required for persons with physical or sensory disabilities against violations of their right to freedom of movement (Al-Hamad & Al-Maliki, 2018).

B) The criminal legislator excluded all types of disabilities from this additional criminal protection—in terms of penalty aggravation—in certain cases, despite the presence of the rationale underlying the situations covered by such protection. For example, Article 254 of the Penal Code aggravates the penalty for anyone who incites, entices, lures, seduces, or assists a person by any means to engage in prostitution or debauchery, and this results in the commission of the act when the act was committed through coercion, threat, or deceit, or if the victim was under eighteen years of age, or if the perpetrator was the victim's ascendant, guardian, caregiver, or held authority over them. The rationale for the penalty aggravation when the victim is a minor is the abuse by the perpetrator of the minor's incomplete mental faculties or physical weakness that incapacitates resistance. All these reasons may equally apply to a person with a physical, mental, or sensory disability. Therefore, excluding them from the scope of this additional criminal protection results in perpetrators escaping these deterrent and just penalties, while simultaneously weakening the scope of criminal protection that the Sultanate seeks to provide to this vulnerable segment of society.

C) In other cases, the disability suffered by these individuals may itself be the motive for committing the crime against them, intending to deprive them of their constitutional right to life and family formation. This is exemplified when the perpetrator commits acts aimed at preventing their procreation, such as sterilization or abortion of females, or castration of males. This reprehensible motive for committing crimes against them undoubtedly falls under the general aggravation provisions set forth by the legislator in Articles 83 and 84 of the Penal Code. However, what we observe about these penalties is that they are insufficient to provide substantive criminal protection for this fundamental right of this group when these crimes are committed against them solely because they are persons with disabilities. The legislator criminalized abortion in its various forms in Articles 315 to 320 of the Penal Code and aggravated penalties in some instances; however, it did not include aggravation in cases where the act was directed at a woman with a disability, and the motive for the abortion was her disability. This is despite the justifications mentioned earlier, including the inability of such a woman to resist due to her disability and the criminally dangerous personality of the perpetrator who directed his conduct toward her despite her health condition, motivated by depriving her of the right to life and family formation. In contrast, the Egyptian legislator in Article 48 of Law on the Rights of Persons with Disabilities imposed severe prison sentences for those committing such acts against persons with disabilities. The failure of the Omani legislator to criminalize these acts against the rights of persons with disabilities to life and family formation constitutes a breach of its international obligations under numerous provisions of the (UNCPRD), in-

cluding Article 6 concerning the rights of women with disabilities, Article 10 concerning the right to life, and Article 23 regarding the right to marriage, family formation, procreation, and maintaining fertility.

D) The Omani Penal Code, due to its failure to provide adequate additional criminal protection for persons with disabilities in some cases, has contradicted the general provisions contained therein. For example, Article 304 of this Code penalizes anyone who incites or assists a person lacking capacity or free will to commit suicide, considering them as an assistant pursuant to the wording of Article 38 of the same Code. However, according to the general rules, incitement must be directed at a person criminally responsible such that it influences the perpetrator's will and leads them to commit the crime. There is no dispute that the legislator, in Article 50 of the same Code, considers a person lacking capacity or free will to be criminally non-responsible. Accordingly, anyone who directs such conduct towards a person lacking capacity or free will is a facilitator, not an inciter. According to Article 37 of the same Code, the facilitator is considered a principal offender, not an assistant. Thus, their conduct in this crime should be classified as intentional killing and not incitement to suicide, which warrants punishment under Article 301 of the Penal Code rather than Article 304 cited above. Some comparative legislations have adopted this approach; for instance, the Lebanese legislator in Article 553 of Penal Code No. 340 of 1943, and the Iraqi legislator in Article 408 of Penal Code No. 111 of 1969 consider that anyone who incites a person lacking capacity or free will to take their life is deemed to have committed intentional murder if the result is achieved, or an accessory to murder if the intended criminal result is not realized.

5. Conclusion: Advancing Substantive Criminal Safeguards for Persons with Disabilities

This research discussed the substantive criminal protection of persons with disabilities in Omani legislation through the description and analysis of relevant Omani legislative texts, and by comparing them with some international conventions and comparative legislations. It reached several conclusions and put forward some recommendations.

5.1. Key Findings

- The category of persons with disabilities in the Sultanate of Oman has received increased and notable attention since the advent of the modern Renaissance era in Oman in 1970, resulting in positive changes in their status and enabling them socially, economically, and culturally.
- Disability may result from deficiencies in sensory, physical, or mental capacities either congenitally or due to hereditary factors, disease, or accident, which limit a person's ability to perform their natural role in life compared to others of the same age, necessitating care and rehabilitation to fulfil their role in life.
- The substantive criminal protection for persons with disabilities in Oman has

been addressed by several legislations, taking two main approaches: first, by criminalising and punishing violations and threats of danger to certain rights and freedoms specific to them; and second, by imposing aggravated penalties when the victim is a person with a disability.

- However, the substantive criminal protection provisions found in Omani legislation are insufficient in many respects, weakening the level of protection required for this vulnerable social category. Certain forms of assault have not been criminalised and punished, while in other cases, no additional criminal protection has been provided for persons with disabilities by way of aggravated penalties on offenders when the victim belongs to this group.

5.2. Recommendations

- This study recommends the importance of amending the Care and Rehabilitation of Disabled Persons Law issued by Royal Decree No. 63/2008, to include a broader scope of fundamental rights, such as the right to life, physical and psychological integrity, humane treatment, participation in political life, and others, as well as emerging rights like digital rights. Additionally, it recommends providing sufficient substantive criminal protection for those rights and freedoms.
- This study further recommends criminalising and penalising certain acts that constitute violations or threats to the rights and freedoms of persons with disabilities, which are currently not covered by criminal protection, or for which additional criminal protection through aggravated penalties when the victim is a person with a disability is not provided. With regard to the Penal Code No. 7/2018, the following amendments are recommended:
 - **Article (254):** ... and the penalty shall be imprisonment for up to ten (10) years if the crime was committed through coercion, threat, or deceit, or if the victim has not reached the age of eighteen (18), or is a person with a physical, sensory, or mental disability, or if the perpetrator is a guardian, custodian, or has authority over them.
 - **Article (257):** ... and the penalty shall be life imprisonment if the victim is under fifteen (15) years of age or suffers from a physical, mental, or sensory disability rendering them incapable of resistance, ...
 - **Article (258):** ... and the penalty shall be not less than five (5) years and not more than seven (7) years if the victim suffers from a physical, mental, or sensory disability that renders them incapable of resistance, ...
 - **Article (298):** Whoever uses or hands over a juvenile or a person with a physical, mental, or sensory disability to others for the purpose of begging shall be punished by imprisonment of not less than three (3) months and not more than three (3) years, and a fine of not less than fifty (50) Omani Rials and not exceeding one hundred (100) Omani Rials, or by either of these penalties.
 - **Article (304):** ... and if the person committing suicide lacks choice or awareness, the perpetrator shall be punished by the penalty of intentional murder as stipulated in Article (301) of this law.

- Addition of **Article (318 bis)**: *Whoever intentionally aborts a woman with a disability without her consent, and the motive for abortion is her physical, sensory, or mental disability, shall be punished by imprisonment of not less than five (5) years and not more than seven (7) years. The penalty shall be imprisonment of not less than seven (7) years and not more than ten (10) years if the perpetrator is a medical professional. If the abortion without consent results in her death, the penalty shall be imprisonment of not less than seven (7) years and not more than ten (10) years, and if the perpetrator is a medical professional, the penalty shall be imprisonment of not less than ten (10) years and not more than fifteen (15) years.*
- **Article (322)**: *... and the penalty shall be imprisonment of not less than seven (7) years and not more than fifteen (15) years if the kidnapping, detention, or deprivation of liberty is committed under any of the following circumstances. ... (g) if the victim is female, a juvenile, a person with a physical, sensory, or mental disability, or lacking awareness.*
- **Article (351)**: *Whoever exploits the desire, need, or lack of experience of a minor or a person with a disability and thereby obtains—to the detriment of their interest or that of others—movable property, a debt instrument, or a release deed, or causes its cancellation, destruction, or amendment, shall be punished by imprisonment of not less than three (3) months and not more than three (3) years.*

5.3. Potential Challenges

- **Public Awareness Deficit:** The general public in the Sultanate of Oman remains largely unaware of the need and the importance of protecting the rights of disabled persons and integrating them into social life. This could lead to confusion, especially regarding rights, protection, and procedures. Therefore, raising public awareness regarding the rights of persons with disabilities and the significance of their social inclusion is essential. Equally important is the expansion of initiatives designed to advance this goal, alongside ensuring the active participation of persons with disabilities in the formulation of relevant policies.
- **Legislative Amendment Procedures:** Legislative amendments are characteristically protracted and complex, often progressing through numerous stages that demand extensive periods of time. Such procedural delays risk intensifying infringements upon the rights and freedoms of persons with disabilities, especially where substantive criminal safeguards are absent. Consequently, it is essential that in the Omani legal framework, proposed reforms be pursued through accelerated parliamentary mechanisms so as to minimise procedural delays and limit the scope of potential violations.
- **Supervisory Mechanisms:** Enacting legislation to safeguard the rights of persons with disabilities is of limited value if it is not accompanied by clear and well-defined monitoring frameworks to ensure compliance with and protection of those rights and freedoms. Equally significant is the need for an appro-

appropriate geographical distribution of the competent institutions, avoiding excessive centralisation so as to guarantee that persons with disabilities can readily access them.

- **Financial and Technical Challenges:** Although Oman is an oil-producing state, it has nevertheless experienced significant economic difficulties, largely as a result of the global financial crisis and the socio-economic repercussions of the COVID-19 pandemic. Persistent fluctuations in oil prices, global economic instability, and the rise in unemployment have collectively contributed to these strains, placing the Sultanate in a position similar to many other countries. Within this context, allocating sufficient financial resources to secure the arrangements necessary for facilitating the social inclusion of persons with disabilities may face considerable fiscal constraints. Moreover, the development of the digital infrastructure—indispensable for improving the daily lives of this important social group—requires substantial financial investment. Accordingly, the attainment of these objectives must be pursued gradually through carefully designed policies and well-defined strategies, in conjunction with active engagement of the private sector and civil society institutions, particularly in mobilising financial support for such programmes and initiatives.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Al-Aani, A. A. I. (2021). *Explanation of the Omani Penal Code—Special Part—Crimes against Persons and Property*. Al-Batina Printing Company and Modern Technological Library.
- Al-Hamad, H. H. H., & Al-Malki, A. T. J. N. (2018). Criminal Protection for Persons with Special Needs at the Penalty Level (a Comparative Study). *Basra Studies Journal*, 28, 133-178.
- Behnam, R. (1997). *The General Theory of Criminal Law* (3rd ed.). Manshat al-Maaref.
- Harrell, E. (2021). *Crime against Persons with Disabilities, 2009-2019—Statistical Tables* (pp. 1-17). U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- National Centre for Statistics and Information (NCSI), Sultanate of Oman, Media Portal (2024). <https://www.omaninfo.om/topics/85/show/410648>
- Omani High Court (2025). *Appeal No. 31/2025, Supreme Criminal Court*.
- Sorour, A. F. (2002). *Constitutional Criminal Law: Constitutional Legitimacy in the Penal Code—Constitutional Legitimacy in the Criminal Procedures Law*. 2nd Edition, Dar Al-Shorouk.
- Ubaid, M. J. (2023). *The Intermediary in Explaining the Omani Penal Code—General Part*. Dar Al-Thaqafa for Publishing and Distribution.
- United Nations, Human Rights Office of the High Commissioner (2024a). *Report of the Special Rapporteur on the Rights of Persons with Disabilities—Note by the Secretariat (A/HRC/37/56)*. Presented to the Human Rights Council at Its 40th Session. <https://www.ohchr.org/en/documents/thematic-reports>

United Nations, Human Rights Office of the High Commissioner (2024b). *Report of the Special Rapporteur on the Rights of Persons with Disabilities (A/70/297)*. Presented to the General Assembly at Its 70th Session.

<https://www.ohchr.org/en/documents/thematic-reports>

Walsh, A., & Jorgensen, C. (2020). *The Essentials Criminology* (4th ed.). Sage Publications.

William, I. et al. (2022). Disability, Human Rights Violations, and Crimes against Humanity. *American Journal of International Law*, 116, 58-95.