



MENA
Rights
Group



To :

Global Alliance of National Human Rights Institutions
UNOG
CH-1211 Geneva 10
Switzerland

18 March 2024

Subject: Information regarding the Omani Human Rights Commission

Dear members of the Sub-Committee on Accreditation (SCA),

In November 2013, the Omani Human Rights Commission (OHRC) was accredited with B status to mark its partial compliance with the Paris Principles.¹ In March 2024, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) will decide on re-accreditation of the Omani Institution based on the evaluation of the progress made since 2013.

Ahead of this examination, MENA Rights Group and the Omani Centre for Human Rights and Democracy (OCHRD) would like to provide information that may serve to assist in the evaluation of the compliance of the OHRC with the Paris Principles in both legal and practical terms.

According to section A.2 of the Paris Principles, the mandate of a national human rights institution (NHRI) should be set forth in a constitutional or legislative text. The OHRC was created by a Royal Decree No. 124/2008. This act was amended by Royal Decree No. 40/2021 and later by Royal Decree No. 57/2022, with a view to change the rules on the organisation and membership of the Commission. These texts are directly enacted by the Sultan as he has the sole legislative authority in Oman according to the Basic Law. This is clearly contrary to section A.2 of the Paris Principles.

The establishment of the OHRC by a unilateral decree issued by the monarch is undeniably undermining its independence and existence as an autonomous institution. The OHRC must be established under the principle of the separation of powers to ensure minimal interference from the executive. To be in compliance with the Paris Principles, the mandate of the OHRC,

¹ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 18-22 November 2013, available at: https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/SCA_NOVEMBER_2013_FINAL_REPORT_ENGLISH.pdf (accessed 18 March 2024).



MENA
Rights
Group



composition and sphere of competence must be transposed in a legislative act, issued by an institution other than the Sultan.

Regarding the membership of the OHRC, the Paris Principles require a NHRI to be independent of government in its composition and operation. We are pleased to see that the Sultan has amended the rules on membership of the OHRC in June 2022 through Royal Decree No. 57/2022, by expanding the composition to 14 members and limiting the voting rights of members who hold governmental position. We would like however to point out that members are still appointed by Royal Decree, which means that the Sultan, who is vested with executive and legislative powers, has the sole power to name the members, without any external oversight.

The amendment, as it is currently formulated, does not ensure that the selection is carried out on the basis of clarity and transparency, because they do not specify the “merits” to be considered, respectively which criteria should be taken into account when selecting a member of the Commission. It is simply mentioned that “the members should be from among those who are experienced and interested in human rights besides representatives of a number of government agencies engaged in human rights issues.” It does not set objective criteria, level of expertise and educational qualifications as was required by the SCA in its recommendations. In any case, it is unclear whether any of the current members do have previous experience in human rights.

We therefore hold that the appointment mechanism should be amended to bring legal clarity regarding the selection of the members and to install a procedure that would ensure the independence and impartiality of the selected members. According to Omani civil society actors, none have ever been consulted or approached regarding the appointment of members, nor at any stage of the OHRC’s human rights activities.

Moreover, out of the current members, we have information about five of them having held previous governmental position and having been involved in activities that directly conflict with their current position in the OHRC. The current Chairman, Mr Rashed Bin Hamad al-Baloushi, has previously worked for the Omani Police and Prosecution. The Deputy Chairman, Mr Saud Saleh Ahmed al-Maawali has served as a former attorney general in the Prosecution Office and was identified as being the investigator in a case against human rights defenders in 2012. Moreover, Dr Yahya Mohamed Zaher al-Hinai used to work as a Director General of Family Development and is the current Chairman of the Child Protection Committee in the Governorate of Muscat; Mr Mohammed Al Khamis al-Marzouqi worked previously as an Assistant Prosecutor for the Prosecution and Ms Labiba Mohamed Hamed al-Maawali worked as an Expert in Women’s Affairs at the Ministry of Social Development and has held various positions within this Ministry, as well as serving as a member of the Municipal Council for the Governorate of Muscat.



MENA
Rights
Group



This considerably undermines their independence and ability to hold the government accountable. Although the Royal Decree limit the voting rights of such members, this is unfortunately not a strong enough guarantee that they will not inappropriately influence the discussions and decision-making process. The participation of such representatives is not even restricted to those whose roles and functions are of direct relevance to the mandate of the OHRC.

Regarding the activities of the OHRC, the Paris Principles state that a NHRI can be vested with the power to recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures. Scanning through the Annual Reports of the OHRC, it is clear that the Commission only expresses views in line with the government and does not take sufficient initiative to examine and recommend changes to existing laws and regulations themselves.² Since 2013, the OHRC has not made any substantial recommendation on draft laws. Importantly, Oman still has a very stringent legislation with regards to civil and political rights, imposing criminal penalties for criticism and dissent. We regret that the OHRC has not commented on the legislation currently in force. In fact, the legislation has become increasingly repressive, especially since the 2018 amendments to the Omani Penal Code promulgated through Royal Decree No. 7/2018 and later amended by Royal Decree No. 68/2022. Freedom of association is tightly controlled insofar as the executive has total authority over who can form and operate an association and on what issues associations can focus.

The OHRC has never addressed the Internal Security Law of 2020, which gives unconstrained powers to the Omani security services to arrest and detain anyone for acts that fall under the legitimate exercise of freedom of expression. Importantly, it has never addressed the creation of the Cyber Defense, under the supervision of the Internal Security Service, which gives them the right to access all electronic devices without judicial oversight.

The OHRC has also made a recommendation to work towards the abolishment of the Kafala sponsorship system that facilitates abuses of migrant workers.³ These promises have turned out to be null and void to this day as the kafala system is still in place, and there has been no push for Oman to become party to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

² The Annual Reports of the OHRC are all publicly available on their website, at : <https://ohrc.om/%d8%a5%d8%b5%d8%af%d8%a7%d8%b1%d8%a7%d8%aa/>.

³ See, Shadow report of the Omani Human Rights Commission around the “National Report of the Sultanate of Oman regarding the CEDAW convention”, 2011, available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=Z2evgg/KQitPmEcSGMucoLWEZg65brzXWfNXIKIGbdKa8Um72IMCj3553vRTfKmA4zohBC6oQA71DbovknPgg==. (accessed 18 March 2024).



Similarly, Oman has recently adopted a widely anticipated Royal Decree 53/2023 reforming the Labour Law which brings significant changes to the previous regime. However, it was never pointed out by the OHRC that this new law does not apply to migrant domestic workers, leaving them all the more vulnerable.

We welcome the OHRC's efforts advocating for the ratification of crucial international conventions, such as the International Convention on the Protection of All Persons from Enforced Disappearance, the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment, and the International Covenant on Economic, Social and Cultural Rights. However, the SCA should note that none of these conventions have been implemented and the OHRC has not held the government accountable for the lack of implementation. Oman has yet to submit its national reports in order to be reviewed by the corresponding treaty bodies.

Regarding its response to individual cases of human rights violations, the OHCR has put in place an individual complaint procedure. The NGOs and human rights defenders we have consulted with are very critical of the OHRC's complaint mechanism and pointed to its lack of effectiveness and claim to have no trust in this institution. Civil society organizations have reportedly tried to file complaints on behalf of victims, including migrant domestic workers who have been subjected to dire conditions of living that could amount to torture. They have been met with no response from the OHRC. After MENA Rights Group submitted to the Committee on Enforced Disappearances the case of a migrant domestic worker who disappeared in Oman, we have been informed that the OHRC was consulted as part of an investigation that the authorities claim to have carried out to clarify her fate and whereabouts.

In its annual report, the OHRC has reported on human rights conditions to the Sultan through the State Council, and investigated claims of abuse, conducted prison and detention center site visits. The law (article 11) does not specify whether visits may be unannounced. However, most cases of human rights abuses that have been reported by civil society actors are not mentioned in their annual reports nor in their activities.

In particular, several human rights defenders, journalists and citizens have been targeted by authorities, especially by the Internal Security Service. In March 2022, Moukhtar al-Hinai was arrested and charged under article 294 of the Omani Penal Code for tweeting about a corruption case involving government officials.⁴

The cybercrime legal framework, issued in Royal Decree No. 12/2011 continues to be used to target newspaper and arrest and imprison activists, with no substantial recommendation made by the OHRC.⁵ In June 2020, activist and blogger Awadh al-Sawafi was arrested for tweets

⁴ MENA Rights Group, *Mukhtar Al Hinai, Omani Journalist subject to judicial harrasment, acquitted of all charges*, 2022, available at: <https://menarights.org/en/case/mukhtar-al-hinai> (accessed 18 March 2024).

⁵ An Arabic version of Royal Decree No. 12/2011 promulgating the cybercrime law is available at:



that are critical of the government and was sentenced to one year for violating the cybercrime law.⁶ Other cases include arrest in relation to an unpublished book,⁷ and imprisonment for articles criticising the judiciary and exposing government corruption.⁸ Critics also report widespread surveillance and several newspapers have been closed down or blocked, including Azam and Mowatin (online).⁹

The OHRC regularly claims that it conducted visits to prisons and detention centres in Oman to ensure that human rights standards are upheld. However, despite the prohibition of torture and ill-treatment by law, allegations continue to arise, with reports of systematic beatings and acts of ill-treatments. One emblematic case is that of activist Mr Hassan al-Basham, who died in prison in April 2018, as a result of medical neglect, having been sentenced in 2016 for using “the Internet in what might be prejudicial to religious values” and “insulting the Sultan.”¹⁰ In 2019, it was reported that six members of the Shuhuh tribe were subjected to torture while in prison.¹¹

The OHRC has never commented on these cases which shows a clear lack of effective action on various cases related to freedom of expression, and a large margin of discretion to decide which complaint should be followed up on. Therefore, the OHRC clearly does not constitute an effective remedy for victims of human rights abuses in Oman.

In order to comply with the Paris Principles, the OHRC should demonstrate real independence in the exercise of its mandate and ensure that it remains neutral and impartial in all circumstances in order to benefit from the confidence of citizens and civil society as a whole.

<https://qanoon.om/p/2011/rd2011012/> (accessed 18 March 2024).

⁶ Human Rights Watch, *Oman: Events of 2020*, available at: <https://www.hrw.org/world-report/2021/country-chapters/oman> (accessed 18 March 2024)

⁷ Omani writer Musallam Masoud al Mashani was arrested on 14 November 2019 in connection with his as yet unpublished new book. For more information, see: “Omani writer arrested over book on tribes,” OCHR, 19 November 2019, <https://ochroman.org/eng/2019/11/musallammashani/>.

⁸ In 2017, the Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders transmitted UA OMN 1/2017 in relation to the case of Mr Yusuf Al Balouchi, who was arrested after publishing an article critical of the judiciary and a series of articles on governmental corruption. Mr Al Balouchi was subsequently charged and sentenced on the grounds of “undermining the status and the prestige of the state”, “publishing what might be prejudicial to public security”, “contempt for the judiciary”, and “breaching the Ministry of Information’s order prohibiting publicising the arrest of Al Zaman’s editor-in-chief Ibrahim Al-Maamari.” For more information, see: Special Rapporteur on freedom of expression and opinion and Special Rapporteur on the situation of human rights defenders, Communication, UA OMN 1/2017, 29 March 2017 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=23047> (accessed 18 March 2024)

⁹ Human Rights Watch, *Oman: A Year On, Editor Remains in Prison*, 9 August 2017, <https://www.hrw.org/news/2017/08/09/oman-year-editor-remains-prison> (accessed 18 March 2024).

¹⁰ Working Group on Arbitrary Detention et al., Communication, AL OMN 2/2016, 15 September 2016.

¹¹ Amnesty International, *Urgent Action: National Security Trial ends in Life Sentences*, 12 March 2019, available at: <https://www.amnesty.org/download/Documents/MDE2099712019ENGLISH.pdf> (accessed 18 March 2024).



MENA
Rights
Group



The OHRC has been operating in a context of continued violations of human rights and where civic space is severely restricted. As a result, we ask the SCA to address the following recommendations to the OHRC and refrain from upgrading the status of the OHRC to status A:

A) Effectiveness of the mandate and independence from other branches

1. Ensure that changes in the law that restrict fundamental freedoms, be addressed by the OHRC.
2. Review and propose amendments with regards to the Penal Code, the Internal Security Law and any other framework that may result in a violation of fundamental rights by the Omani government.
3. Ensure that complaints are dealt with fairly, transparently, efficiently, expeditiously and with consistency.
4. Encourage the OHRC to call on the Omani authorities to submit its UN periodic reports in due time to the UN treaty bodies.

B) Membership

1. Put in place a merit-based selection process.
2. Introduce legislative reforms so that the appointment process is no longer controlled by the Sultan;
3. Ensure that the nomination process includes requirements for broad consultation and participation of civil society representatives in the screening and selection process.
4. Establish an independent and credible body responsible of the appointment process.
5. Restrict the participation of individuals who are simultaneously sitting parliamentarians, by at least ensuring that they do not participate in important discussions.

Kindly yours,

MENA Rights Group and the Omani Centre for Human Rights and Democracy.