



Oman: National Human Rights Commission

**Oman's national human rights institution before the
International Coordinating Committee of NHRIs**

Alkarama, 2 September 2013

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1. Introduction

The National Human Rights Commission of Oman, which was founded in 2008, has applied for accreditation to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), seeking an "A" status.

Alkarama, a non-governmental organization working for the promotion and protection of human rights in the Arab world, would like to provide information that may serve to assist in the evaluation of the compliance of the Omani national human rights institution (NHRI) with the Paris Principles in both legal and practical terms.

In this report, we have attempted to make a brief formal and substantive evaluation of the National Human Rights Commission of the Sultanate of Oman (hereinafter NHRC) and its role in the promotion and protection of human rights in the country.

We note that we have had great difficulty gathering information about this institution, as it has published very limited documentation. Furthermore, despite repeated attempts to contact its members through various means (email, fax and telephone), no response has been forthcoming. Furthermore, in our email, we received an automated response informing us that the NHRC's inbox was full and could not receive any new messages.

Our local sources, which have provided some of the information presented below, are therefore largely constituted of Omani human rights defenders as well as academics interested in the promotion of public freedoms in the country.

2. Background

Oman has a population of 3 million, consisting of individuals of Arabic and Baluchi ethnicities, as well as immigrants from South Asia and East Africa. The majority of the population is of Muslim Ibadhi faith. In contrast with other Arab countries where it remains a minority religion, some 75% of the Omani population follows the Ibadism branch of Islam.

The rest of the population is composed of Sunnis, Shiites and Hindus. The official state language is Arabic but English, Balochi and Urdu are also spoken.

Given its geography, which consists largely of desert (80%), Omani society is organised along tribal lines. However, the population, which is generally of nomadic origin, is gradually becoming more sedentary. This transition has necessitated the establishment of a management system for the country's scarce water resources, leading to a system of irrigation and an equitable distribution process.¹

Dominated for centuries by various foreign powers, Oman has been influenced by many different cultures. However, the country has been ruled by sultans since the seventeenth century. The current sultan's dynasty, Banu Said, has been in power since 1744.

The current sultan, Qaboos bin Said, replaced his father, Sultan Said ibn Taymour, in 1970. After coming to power, Sultan Qaboos introduced reforms in different sectors and the country has advanced significantly in many areas including economically and politically. In 2010, the Sultanate was listed by the United Nations as being one of the top ten states in terms of growth over the past four decades.²

¹ Droit des pays arabes (in French only - Legislation of Arab Countries), *Oman : La Loi fondamentale de 1996 (Oman Basic Law of 1996)*; 30 March 2013, <http://paysarabesdroit.wordpress.com/2013/03/30/oman-la-loi-fondamentale-de-1996/> (accessed 15 August 2013).

² United Nations Development Programme, *Five Arab countries among top leaders in long-terms development gains*, le 4 novembre 2010, <http://hdr.undp.org/en/mediacentre/news/announcements/title,21573,en.html> (accessed 15 August 2013).

The Sultan has also reformed the legal system. The first Omani constitution was drafted under his rule and promulgated by royal decree in 1996. This Basic Law contains numerous human rights provisions and sets out the State's guiding principles.

However, despite the progress made by the monarch, he retain sovereignty. In addition to being both the head of the state and the government, under the Constitution, he is also the minister of defence and foreign affairs.

"His Majesty the Sultan is the Head of State and the Supreme Commander of the Armed Forces, his person is inviolable, respect of him is a duty, and his command is obeyed. He is the symbol of national unity and the guardian of the preservation and the protection thereof."³

The Sultan thus holds both the executive and legislative powers and exercises strict control over the justice system. He appoints and dismisses the members of the government and parliament as well as senior judges.⁴ The separation of powers is therefore non-existent.

It must be noted, however, that there has been an evolution in the role played by different state bodies. During the 1990s, Sultan Qaboos established an Advisory Council, *Majlis Ash-Shura* and endowed it with certain powers, which remained very limited. In 1996, he also established the Council of State, *Majliss Ad Dawla*, the upper house of parliament also known as the "Council of Oman."

The main role of this institution is to advise the government on economic and social affairs.⁵ Members were initially elected through censitary suffrage. In 2003, universal suffrage was introduced for the election of the Advisory Council. The right to vote is limited to Omani citizens over 21 years of age, including women. The Sultanate was also, in 1994, the first Gulf state to grant women the right to vote and the eligibility to stand for election.⁶

3. 2011 Popular Uprising

Oman did not escape the popular protests that shook the Arab world in 2011. In early 2011, peaceful demonstrations began to organize under the direction of young activists demanding reform of the political system to ensure greater social justice and citizen participation in the public life of the country. One of the first anti-corruption protests, called the "Green March", demanding the revaluation of wages, took place in Muscat on 18 January 2011.

The following month, a second "Green March" took place and with it began a wave of other peaceful protests based mainly in Muscat, Sohar and Salalah. Two sit-ins were held respectively in Sohar and in front of the Advisory Council in Muscat. Very early on, the police used live ammunition against the protestors, killing two people. While they were held simultaneously, the demands made at the Muscat sit-in were political while in Sohar, claims were primarily of an economic and social nature.

The intensity of the protests amplified during the following months, and demands grew to include the freedom to exercise certain fundamental political rights such as freedom of expression and peaceful assembly, and to denounce State corruption.

In response to these demands, the authorities of the Sultanate announced a reassessment of the minimum wage for Omanis as well as the creation of an unemployment allowance.

Two ministerial changes were also made approximately ten days apart, but were closely followed by the nomination of other people close to the Sultan, which provoked negative reactions. Constitutional

³ Article 41 of the 1996 Basic law of the Sultanate of Oman (modified by Royal Decree No. 99/2011).

⁴ Article 42 of the Basic Law.

⁵ Inter-Parliamentary Union, *Oman: Majles A'Shura (Consultative Council)*, http://www.ipu.org/parline-f/reports/1378_E.htm (accessed 20 August 2013).

⁶ *Idem*.

reforms were also announced that would expand the powers of the Council of State, in particular by giving it real legislative powers.

However, these announcements were deemed insufficient by the civil society, and facing the persistence of protests, the authorities reacted in a brutal manner. The sit-ins were violently dispersed, causing the death of a third person. Numerous arrests also took place during the months of protests, especially of human rights defenders.

It is important to note that the demands made by protestors were essentially for social, economic and political reforms without the authority of the Sultan or the principle of monarchy being contested.

Despite the peaceful nature and limited demands of the demonstrators, they were violently repressed and several were arrested. Among those arrested were human rights activists, journalists and other civil society activists. We can cite in particular Saïd Sultan Al Hashimi, Bassima Al Rajhi and Badr Al Jabri. The youngest person arrested, Mo'men Al Rashidi, was 14 years old at the time of his arrest.

The repression of human rights defenders did not stop after these incidents and continued in diverse fashion, including with several more arrests. This was the case, for example, with Said Jadad, an activist and blogger who was again arrested several times at the end of August 2013 due to his online activities.

4. The Commission's Lack of Independence

4.1 Founding Text of the National Human Rights Commission

A royal decree⁷ by the Sultan established the NHRC in 2008. The text also defines how members of the Commission are appointed.

This decree was in fact only implemented two years later, when the Committee members were appointed by a decree of the Sultan on 24 January 2010.

The creation of the Omani NHRC through royal decree, a unilateral decision issued by the monarch, grants little legitimacy to the NHRI and does not guarantee an autonomous existence nor independent functioning.⁸

The essential characteristic of a NHRI that ensures its proper functioning is the independence it has in relation to the executive power. The founding text, of either legislative or constitutional nature⁹, must guarantee the independence of the institution and clearly define its powers so as to ensure its stability and independence. It therefore seems clear that due to its creation by an act of the executive, the Omani NHRC cannot operate in a sustainable and independent manner and does not comply with the Paris Principles.

Several important factors also affect the independence of the Commission, including how it nominates its members and the relationship between the NHRC and various State bodies.

4.2 Nomination Procedure and Composition

The Commission's appointment procedure is defined in articles 1 and 2 of the annex to the 2008 royal decree. Article 1 of the annex sets out the various different categories among which members of the NHRC must be selected.

The Commission is composed of 14 members including a representative from the Council of State, a representative from the Advisory Council and six representatives from various other ministries. Only

⁷ Royal decree No. 124/2008 of 15 November 2008.

⁸ International Council for Human Rights Policy and OHCHR, *Assessing the Effectiveness of National Human Rights Institutions*, 2005, p.16.

⁹ Paris Principles, Para. A-1

three of these members represent civil society. There are no criteria in the decree as to the human rights expertise required of members.

In the absence of a procedure designed to ensure the pluralist representation of various social forces (i.e. civil society) involved in the protection and promotion of human rights, as required by the Paris Principles, all members the Omani NHRI are appointed by royal decree¹⁰ from the categories listed in article 1 of the annex to the decree. No third parties or civil society representatives are consulted in view of appointments.

In addition, the procedure for the nomination of candidates to become members is neither public nor transparent. The selection process is unknown and the vacancies to be filled were not advertised. In addition, because of the privileges of the sultan, it does not appear the Commission was able to select and appoint its own staff.

The first appointment decree was enacted on 24 January 2010.¹¹ The president of the Commission, appointed by the Sultan, is a retired senior police officer, Mr Muhammad Al Riyami, who led the department for criminal investigations for 22 years. The vice-president is also a representative of the police.

Due to its composition, the Commission is totally subordinate to, and dependent on, the executive power.

In the absence of an appropriate procedure for the appointment of members, with the necessary guarantees to ensure the pluralist representation of civil society working for the protection and promotion of human rights,¹² Oman's National Commission cannot be considered a truly independent and pluralistic institution.

4.3 Relation with the Council of State

In accordance with the Paris Principles, NHRIs may be held accountable to a state authority provided that it is separate from the executive authority.¹³ Under article I of the royal decree, it is stated that the Commission is independent but is "affiliated" with the Council of State, one of the two houses of parliament.

The NHRC is required to present an annual report to the Council of State, which in turn, transmits it to the Sultan. It is not clear whether the Council endorses the report and what its role is in its review.

5. The NHRC in Practice

At present, the Omani NHRC is perceived by the local civil society and public opinion as being a state institution run directly by the Sultan.¹⁴ This perception is reinforced by the total lack of reaction or initiative to counteract the repeated human rights violations being committed by the authorities.

For example, during the 2011 protests and the violent repression that ensued, the national institution remained silent and did not respond in any way. Despite the fact that the demonstrations were the scene of gross human rights violations, it did not take any steps to stop these.

Since its inception, the NHRC has not made any recommendations or proposals for reforms to improve the situation of human rights in the country to authorities. Its members are content to perform activities cautioned by the authorities, such as prison visits.

¹⁰ Article 2 of Decree No. 124/2008.

¹¹ Royal Decree No. 10/2010 of 24 January 2010.

¹² Paris Principles, para. B-1

¹³ International Council for Human Rights Policy and OHCHR, *Assessing the Effectiveness of National Human Rights Institutions*, 2005, p.14.

¹⁴ Said Jadad, ناشطون عمانيون يبدئون الفريق العماني لحقوق الانسان, (Omani activists create the Omani Group for Human Rights), May 2012, http://jadad2009.blogspot.ch/2012/05/blog-post_24.html (accessed 22 August 2013).

For example, following complaints made by inmates in Samael prison who had started a hunger strike in protest at the abuse they suffered from prison officials, several committee members visited the site and concluded, as a result of their visit, that there was no cause for concern except that "some prisoners were not satisfied with their diet."

Many witnesses and several human rights defenders have reported that the management of the prison was particularly harsh, that prisoners were indeed being abused, and confirmed that many of the prisoners had started hunger strikes.

5.1 Lack of Information on the Commission's Activities

Under the Paris Principles, NHRIs must directly address the public, or use the intermediary of the media, particularly in order to publicize its opinions and recommendations.

It is clear that the NHRC prefers to keep its activities confidential and only mediates superficial and ceremonial activities such as official visits that have been pre-arranged with State authorities.

The Commission is only visible to the public when its spokesperson issues one of its rare public statements. It does not have its own channels for the dissemination of information except on its website, which is particularly limited and rarely updated. It provides very little information the Commission's activities.

The Commission does not issue press releases or written statements, nor does it publish studies made about subjects falling under its jurisdiction.

Public debates and other events organized to sensitize the Omani population to the issue of human rights are virtually nonexistent.

To date, the Commission has published two annual reports, which downplay the violations committed during the events of 2011, by attributing them to protesters themselves, even though all observers described the protests as peaceful. The report confirms the official line and does not express any criticism of the authorities' reaction.

Although it is reported that 124 complaints were received in a year,¹⁵ the first report issued in 2010 states that a large part of these concerned final judgments, for which the possibility of appeal are exhausted. These cases therefore fall outside the jurisdiction of the Commission. The reports also states that four cases submitted were addressed and resolved in a satisfactory manner with the assistance of the authorities.

The second report published in 2011 describes the events that led to dozens of casualties, including the killing of three people. It attributes full responsibility for the violence to protestors. The commission said it had "become aware of legal infringements by protestors such as the destruction of public property" and concluded that "these people were arrested and punished justly."

Even though the NHRC has adopted the narrative put forward by officials following the harsh repression of peaceful demonstrations, it says in its report that "freedom of expression and assembly are fundamental freedoms guaranteed by the State and they are rigorously respected."

Most of those arrested during the protests were human rights activists who have been influential to public opinion. Thus, the writer and researcher Said Sultan Al Hashimi and journalist Bassima Al Rajhi,¹⁶ two prominent human rights in the country who played a key role in organizing

¹⁵ National Commission for Human Rights, *First annual report of the NHRC regarding the human rights situation in the Sultanate of Oman in 2010 (in Arabic only)*, published on 22 January 2011, http://www.nhrc.om/arb/events.aspx?page_index=1&id=3 (accessed 16 August 2013).

¹⁶ Arabic Network for Human Rights, *Oman: Dozens of arrests*, 13 June 2012, <http://allafrica.com/stories/201206140199.html> (accessed 16 August 2013).

demonstrations in 2011, were abducted by security forces while heading to a protest. They were violently attacked and abandoned in the desert after being threatened they would be killed if they continued to participate in demonstrations.

Since then, Mr Al Hashimi suffered consistent harassment. The authorities have repeatedly pressured him in various ways to get him to abandon his human rights work. He was finally arrested in June 2012 during a peaceful demonstration supporting other political prisoners who had been arrested arbitrarily. On 27 December 2012, Alkarama submitted his case to the United Nations Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights defenders.

On 19 June 2012, the NHRC issued a statement condemning the authors of publications critical of State authorities. The Commission justified the arrests and repression of peaceful activists as they had "abused the freedom of expression".

One of the members of the Commission appointed in 2010, Ms Dina Al Asfour, expressed her total disagreement with the press release by resigning, confirming that her decision was due to an accumulation of inappropriate actions by the NHRC.¹⁷

To believe the Commission's statement, bloggers and writers writing on the internet express themselves in an unnecessarily offensive and provocative manner, and it is therefore legitimate to sanction them for this. The Commission seems to hold a very limited view of what the freedom of expression constitutes, despite it being one of the most fundamental freedoms for a State that respects the rule of law, and protects both the expression of ideas deemed "acceptable" as well as shocking or offensive statements. The restriction of this fundamental right should be an exception rather than the rule, and can only be done under certain conditions.

For example, in the case of Said Jadad, an activist and blogger arrested several times for publishing his writings online, he simply called for "His Majesty the Sultan" to take into account the population's calls for reform in order to improve the situation of Omani citizens.

Following the promises of reform made by Sultan Qaboos during the protests of 2011, Jadad published an article¹⁸ in which he thanked the sultan for his generosity and the promises he has made, and calls for a return to normal and for his fellow citizens get on with their lives and help their sovereign in the performance of his duties. Despite the constructive attitude he showed, he has been constantly persecuted and repeatedly arrested.

5.2 Limited Accessibility for Victims

It must also be noted that the NHRC is not easily accessible to victims of violations as should be the case for an effective NHRI, especially one that has the jurisdiction to receive complaints.¹⁹ While this competence is not clearly listed under article 7 of the Annex to Royal Decree of 2008, it is expressly mentioned in the two annual reports of the Commission.

The Commission's only office is in Muscat, which is distant to many potential victims. Moreover, the only means of contact available to people in more remote locations do not appear to work very well. We have in fact tried to contact members of the Commission by the various means presented on their website (phone, fax, email), without success.

As we mentioned earlier, it was in fact impossible to send emails due, as set out in the error response, "to the inbox of the Commission being full." This also demonstrates that the

¹⁷ Al Balad Oman Electronic Journal, اللجنة الوطنية لحقوق الإنسان (Dina Al Asfour presents her resignation to the National Commission for Human Rights), <http://albaladoman.com/?p=3378> (accessed 14 August 2013).

¹⁸ Said Jadad, *The People's Demands and the Wisdom of their Leader*, 23 March 2012, <http://jadad2009.blogspot.ch/search/label/%D9%85%D9%82%D8%A7%D9%84%D8%A7%D8%AA> (accessed 15 August 2013).

¹⁹ International Council for Human Rights Policy and OHCHR, *Assessing the Effectiveness of National Human Rights Institutions*, 2005, p. 20.

correspondence sent to them this way does not appear to be consulted. After several attempts to call during a two-week period, we also found that the members of the institution were not available by phone. Communication by fax did not appear to work either, as we did not obtain a response to our fax from the national institution.

5.3 Interference with the Activities of Human Rights NGOs

The existence of the National Human Rights Commission has *de facto* hampered the work of civil society organizations working for the promotion and protection of human rights in Oman. Organisations that seek to register themselves with the authorities have met with the response that the work of the Commission is sufficient to ensure and guarantee the respect of human rights and consequently there was no need for civil society create other associations.

Even worse, *the Omani Group for Human Rights*, which had formally requested registration has suffered reprisals, and its members were arrested and forced to sign statements which they promised to refrain from "doing it again [to make such requests]".

Civil society is thus excluded from undertaking any legal action for the protection and promotion of human rights, and the only organ accepted as being representative of civil society is the NHRC, a state-controlled institution. Restrictions on the establishment of associations that promote and protect human rights in an independent manner is obviously a violation of the principle of freedom of peaceful assembly and association.²⁰

This practice of the authorities to prevent non-governmental organizations from doing their work is in total contradiction with the Paris Principles which state that such organizations play a fundamental role that is complementary to the work of national institutions.²¹

6. Conclusion and Recommendations

6.1 Conclusion

The Sultanate of Oman is currently witnessing serious violations of the freedoms of opinion, expression and peaceful association, as well numerous arbitrary arrests following peaceful demonstrations or the exercise of other fundamental rights protected by the Universal Declaration of Human Rights.

The role of NHRIs in the promotion and protection of human rights is essential.

However, the lack of independence of the Omani institution, be it due to the way it came into existence, its operation its composition combined with its lack of initiative in the face of serious and repeated human rights violations, and even its public statements to defend official positions, clearly illustrate its lack of compliance with the Paris Principles.

It is also important to note that this institution is perceived by public opinion and civil society in particular as a state institution and therefore cannot be seen to be representing citizens' human rights interests.

6.2 Recommendations

6.2.1 To the Subcommittee on Accreditation

The National Human Rights Commission of Oman, has not, to date, played the role expected of an A-status institution. Its lack of independence both in terms of the way it was created, its composition and official activities do not allow it to ensure an effective and efficient role in promoting and protecting human rights in the country.

²⁰ Guaranteed *inter alia* by article 20 of the Universal Declaration of Human Rights

²¹ Paris Principles, para. C-7

For these reasons, we suggest that the Sub-Committee on Accreditation recommend to the International Committee of National Human Rights Institutions grant a B status to the Omani institution be, due to its lack of compliance with the Paris Principles.

6.2.2 To the National Human Rights Commission

To enter into conformity with the Paris Principles and therefore obtain an A status, the National Human Rights Commission should ensure a real independence from State authorities in both its discourse and actions, and undertake concrete actions to ensure the promotion and protection of victims of human rights violations. This would ensure that it effectively contributes to improving the situation of human rights in the country.

This should include:

1. Genuine consultation of civil society when shortlisting individuals who may be considered for membership of the Commission.
2. Adoption and submission of relevant recommendations to the government. These recommendations should reflect the real human rights situation on the ground, and if necessary, be accompanied by criticism of government positions, even when relative to sensitive issues.
3. Ensure an effective review mechanism for individual complaints.