



## **Qatar: National Human Rights Committee**

**The Qatar's National Human Rights Institution before the  
International Coordinating Committee of NHRIs**

**Alkarama Foundation – 13 July 2015**

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## 2. Introduction

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The National Human Rights Committee (hereinafter NHRC) of Qatar, founded in 2002, was accredited to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) in 2006 with a "B" Status<sup>1</sup>. It was reaccredited in March 2009<sup>2</sup>, March 2010<sup>3</sup> and October 2010<sup>4</sup> with an "A" Status. The NHRC served as head of the "Accreditation Committee" of the ICC, for a period of three years from 2012 to 2014<sup>5</sup>. It will be reaccredited by the Subcommittee on Accreditation (SCA) at its next session in November 2015.

The Alkarama Foundation would like to provide information that may serve to assist in the evaluation of the compliance of Qatar's national human rights institution (NHRI) with the Paris Principles in both legal and practical terms. Alkarama would like to thank the NHRC for its supportive collaboration in providing us with information concerning the NHRC and its working methods.

In this report, we have attempted to make a formal and substantive evaluation of the NHRC of Qatar and its role in the promotion and protection of human rights in the country.

Despite a very active role in the country and a collaborative spirit, it cannot be maintained that the NHRC is in total compliance with the Paris principles, due to the way it was constituted and the appointment procedures of its members.

## 3. Background

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Under the rule of the Al Thani family for almost 150 years, Qatar was a British protectorate until 1971, when it declared its independence, refusing to join the United Arab Emirates. Since then, from a poor governorate, Qatar substantively strengthened its economy thanks to significant oil and natural gas revenues and turned into a wealthy country.

On 3 June 2013, Sheikh Tamim Bin Hamad Al Thani became Emir, following the abdication of his father – a unique case in the Arab world. Despite some first attempts of political reform, the political and institutional configuration of Qatar remained unchanged: state powers are concentrated in the ruling family, who is not accountable to its subjects. Hence, there is a strong contrast between a particularly active role the country plays on the international stage and the lack of participation of the population in domestic political life. In addition, the elections of 30 out of 45 seats of the Consultative Assembly, scheduled to take place in the second half of 2013, were again pushed back to 2016.

For more than a decade, Qatar has implemented important reforms in the field of human rights in order to comply with international law standards. Nevertheless, the current state of civil and political freedoms and the independence of the justice system remain areas of concern. In addition, as in all the countries of the Gulf Cooperation Council, the situation of migrant workers' rights and the discrimination they face is of overriding concern, and relates to all the other issues raised.

Alkarama therefore puts forward that a truly independent and effective national human rights institution is essential in order to ensure a culture of human rights is promoted and human rights are enjoyed by everybody in Qatar.

## 4. Essential requirements for the National Human Rights Institution

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The Paris principles set out minimum conditions a NHRI should fulfil in order to effectively carry out its mandate of protection and promotion of human rights. Most importantly, these requirements are

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<sup>1</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, 18<sup>th</sup> Session, Santa Cruz, 27<sup>th</sup> October 2006, para. 3.8.

<sup>2</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 16-30 March 2009, para. 3.1.

<sup>3</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 29 March -1 April 2010, para. 4.2.

<sup>4</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 11-15 October 2010, para. 5.6.

<sup>5</sup> NHRC, *Regional and International Partnerships*, <http://www.nhrc-qa.org/en/international-cooperation/regional-and-international-partnerships/> (accessed on 13 July 2015).

set to ensure its independence from the executive and the representation of the different sectors of society.

We are going to assess the compliance NHRC with these essential requirements or lack thereof in the following paragraphs.

#### **4.1 Establishment by Law or Constitution**

According to the Paris Principles, the founding text of the NHRI, i.e. the text setting forth its mandate, for instance, should be of a constitutional or legislative nature<sup>6</sup>. This is in fact the most secure way to guarantee its independence from the other public powers and its legitimacy before the citizens.

Qatar's NHRC was established by Emir Decree No. 38 of 2002 and was re-organised in 2010 according to Decree law No.17 of 2010 issued by the Deputy Emir of the State of Qatar.

We can therefore conclude that this principle has not been formally respected, as the founding text is of executive, rather than legislative nature. We note however that according to Article 67.2 of the Permanent Constitution of the State of Qatar, ratification and promulgation of the laws is one of the Emir's prerogatives, as "no law may be issued unless ratified by the Emir." Indeed, it would be difficult to obtain full compliance with the Paris principles requirement of establishment by law or Constitution without a major change in the functioning of the State of Qatar and its Constitution, a subject which obviously goes well beyond the topic we are discussing here.

#### **4.2 Appointment procedure**

The Paris Principles require that "the composition of the national human rights institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the societal forces"<sup>7</sup>.

For this reason, appointment procedures should be open and transparent and appointment methods such as nomination by civil society organisations or appointment by Parliament shall be preferred. On the contrary, as recalled by the SCA General Observations "the creation of a National Institution in other ways, such as by a decision of the Executive (through a decree, regulation, motion, or administrative action) and not by the legislature raises concerns regarding permanency, independence from government and the ability to exercise its mandate in an unfettered manner."<sup>8</sup> If this was the case, in fact, the executive may decide to change the mandate or the functions of the NHRI without any legislative scrutiny.

According to Article 5 of Decree Law 17 of 2010, each of the authorities whose members are represented within the NHRC shall nominate its representative. As for the selection of the members from the civil society, the law does not provide for a specific mechanism of selection. It is however reported that the members of the NHRC were nominated by members of the NHRC representing civil society in accordance with the applicable regulations for nomination and selection, the last time being on 15 June 2015. All NHRC members are then appointed by Amiri decree, as provided by Article 5 of the law.

We also note that the members of the NHRI enjoy immunity as per Decree Law No. 12 of 2015 and that the conditions for the expiration of their membership are clearly set in Article 10 of Decree Law No. 17 of 2010, which, in this case as well, provides that the termination of membership be proposed by the NHRC and approved by the Emir.

<sup>6</sup> Paris Principles, "Competence and Responsibilities", para.2.

<sup>7</sup> Paris Principles, "Composition and guarantees of independence and pluralism", para. B.1

<sup>8</sup> International Council on Human Rights Policies, *Assessing the Effectiveness of National Human Rights Institutions*, 2005, p.14.

During the past accreditation and the re-accreditation sessions, the SCA has in all instances insisted that the legislative establishes a clear and transparent nomination and appointment procedure. For instance, in 2009, the SCA recommended that “the existing legislation should establish a clear, transparent and pluralistic nomination process”<sup>9</sup>, followed in March 2010 by a request “to address the absence in the draft law on provisions detailing the nomination, selection, appointment and dismissal processes of Committee members”<sup>10</sup> and in October 2010, despite the new Decree Law No. 17 of 2010, that “internal procedures for the selection, appointment and dismissal of members are in writing, and requests a copy be transmitted to it once finalised”<sup>11</sup>.

To conclude, as we notice that the nomination and appointment procedure as well as the termination of the mandate as provided by the current Decree Law, do not fulfill the Paris principle’s requirements due to the need of the requirement of the Emir’s last word concerning these decisions. According to United Nations Development Programme (UNDP) “this committee does not comply with Paris criteria as a result of its heavy governmental component”<sup>12</sup>, a component that, according to us is to be found in the lack of independence from the government.

### 4.3 Composition of the NHRC and criteria for membership

The Paris Principles require that the composition of a NHRI shall be established “in order to ensure the pluralist representation of the social forces (of civilian society)”<sup>13</sup>, and encourages the inclusion of members of non-governmental organisations, trade unions and professional organisations, while government departments should participate only in advisory capacity. For instance, the SCA guidelines note that “consideration must be given to ensuring pluralism in the context of gender, ethnicity or minority status”<sup>14</sup>.

According to Article 5 of Decree Law No. 17 of 2010, the NHRC shall be comprised of at least seven members of the civil society in addition to one representative for each of the following authorities: the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Labour, the Ministry of Social Affairs, the Supreme Council for Family Affairs, who shall attend the meetings but do not have the right to vote.

Alkarama welcomes the fact that the civil society component of the NHRC shall be preponderant over the governmental one, also considering that the representatives of the government do not have the right to vote, thus rectifying a previous shortcoming and implementing the recommendation issued by the SCA at the NHRC’s accreditation<sup>15</sup>.

We note, nevertheless, that that no mention is given to gender balance, which translates, in fact, into the presence of only one woman among all the NHRC members<sup>16</sup>. In addition, if we consider that Article 5 of Decree Law No. 17 of 2010 requires that NHRC members must be a Qatari national while Qatar’s population is composed by approximately 88% of “foreign workers”<sup>17</sup> of different national and ethnic origin, it emerges that actually the NHRC membership does not reflect the ethnical balance of the population in the country. We would therefore conclude that due to this shortcoming, the NHRC membership does not ensure the pluralist representation of the social forces of Qatar.

In addition, in order to ensure the effectiveness of the NHRC work, it is important that its members be selected on the basis of merit<sup>18</sup>.

<sup>9</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 16-30 March 2009, para. 3.1.

<sup>10</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation* – March-April 2010, para. 4.2.

<sup>11</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 11-15 October 2010, para. 5.6.

<sup>12</sup> UNDP, *Arab Human Rights Index*, <http://www.arabhumanrights.org/en/countries/country.aspx?cid=15> (accessed on 7 July 2015).

<sup>13</sup> Paris Principles, “Composition and guarantees of independence and pluralism”, para. B.1.

<sup>14</sup> ICC, *General Observations of the Sub-Committee on Accreditation*, May 2013, G.O. 1.7.

<sup>15</sup> ICC, *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 16-30 March 2009, para. 3.1

<sup>16</sup> NHRC, Members, <http://www.nhrc-qa.org/en/about-nhrc/members/> (accessed on 13 July 2015).

<sup>17</sup> *Report of the Special Rapporteur on the human rights of migrants, François Crépeau*, 23 April 2014 A/HRC/26/35/Add.1, para. 6.

<sup>18</sup> International Council on Human Rights Policy and OHCHR, *Assessing the effectiveness of National Human Rights Institutions*, 2005, p. 15.

As recognised by Article 6.5 of Decree Law No. 17 of 2010, members of the NHRC shall be “experienced in the field of human rights”, without however giving further details into the qualifications needed for this post.

Alkarama would therefore put forward that specifying the qualifications needed for the post by law or in the internal regulations would enhance a merit-based selection and ensure further guarantees of effectiveness for the work of the NHCR. We welcome, however, the several initiatives undertaken by the NHRC concerning the training of its members, such as the training received by the United Nations Centre for Training and Documentation in the field of Human Rights in South-West Asia and the Arab region<sup>19</sup> and several other trainings<sup>20</sup>.

#### 4.4 Financial Independence

The Paris principles provide that the NHRI “shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding”<sup>21</sup>, to be able to hire its own staff and premises independently from the government.

Decree Law No. 17 of 2010 states that the NHRC shall have its independent budget which, according to Article 17 of the same Decree Law, shall include both funds allocated by the State as well as subsidies, donations, grants and bequests made to it from other bodies. Article 19 of Decree Law No. 17 of 2010 states that the NHRC shall prepare its annual budget estimates and final accounts in accordance with the rules set by its financial regulation, to be issued by a NHRC chairman’s resolution as set out in article 21 of the same Decree Law. According to information received from the NHRC, the financial and administrative affairs Department proposes the budget, which is later adopted by the Chairman of the Committee, and refers to the Council of Ministries for disbursement. This process is followed by discussions between a representative of the Committee and the Presidency of the Council of Ministers in which the Committee's needs are introduced in accordance with the strategy and action plan. It therefore emerges that, out of this process, it is the executive which has the final say into the approval of expenses by the executive.

Alkarama notes that, in addition to the fact that currently the NHRC is totally and solely financed by the State of Qatar, the executive retains the power to both allocate the funds to the Qatar NHRC as well as to decide on its expenses, therefore not ensuring its independence. We would therefore encourage the NHRC to seek to diversify its sources of income.

#### 4.5 Accountability

The criterion of independence from the government, the cornerstone of the Paris principles, demands that the NHRI be free from the interference of the government in its activities. As any public institution, NHRIs shall also be accountable. In order to protect their independence from pressure from the government, it is recognised that NHRIs shall be answerable to the legislature, rather than the executive<sup>22</sup>.

Decree Law No. 17 of 2010 does not specify to which authority the NHRC shall be accountable. However, according to information Alkarama was able to gather from the NHRC, the NHRC is currently reporting to the Majlis Al-Shura – Qatar’s Parliament – which has the right to inquire its activities.

Being accountable to the Parliament and not to the government ensures that the NHRC has at least partial independence in its activities from the executive, as this cannot totally be a remedy to the

<sup>19</sup> NHRC, *Cooperation with Human Rights Councils*, <http://www.nhrc-qa.org/en/international-cooperation/cooperation-with-human-rights-councils/> (accessed on 13 July 2015).

<sup>20</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee’s work during 2013*, p. 47-48.

<sup>21</sup> Paris Principles, “Composition and guarantees of independence and pluralism”, para.B.2.

<sup>22</sup> *Ibid.*, p.12.

shortcomings due to the its establishment and the appointment procedures of its members. Alkarama suggests, however, that this prerogative be clearly established in law, in order to better ensure that the executive does not have any power of oversight over its activities.

In addition, for the purposes of auditing, Article 19 requires that the "NHRC shall have an auditor to be appointed by the NHRC Chairman for auditing the NHRC's accounts and to report thereon to the Chairman within a period not exceeding two months from the end of the fiscal year". It is reported that the NHRC has contracted with Ernst & Young Law firm to audit the accounts of the NHRC and submit report thereon.

## **5. Mandate of Qatar's NHRC and methods of operation**

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The Paris Principles state that "a national human rights institution shall be vested with competence to promote and protect human rights"<sup>23</sup> and shall possess "as broad a mandate as possible"<sup>24</sup>. The SCA intends the term "promotion" as encompassing all those functions which seek to create a society where human rights are more broadly understood and respected. Such functions may include education, training, advising, public outreach and advocacy, while it interprets "protect" as those activities aimed at addressing and preventing actual human rights violations through, for instance, monitoring, inquiring, investigating and reporting on human rights violations, and may include individual complaint handling<sup>25</sup>. The envisaged functions the NHRC shall exercise are detailed in Paris principles "Competence and responsibilities", paragraph 3. Furthermore, additional Principles apply to NHRIs with a quasi-judicial competence, giving those NHRIs competence to hear and consider individual complaints of violations.

As far as Qatar's NHRC is concerned, we notice that Article 3 of Decree Law No. 17 of 2010 establishes the NHRC's mandate and lists all its prerogatives, which reflect the ones foreseen by the Paris principles. In addition, Article 3.3 of Decree Law No. 17 of 2010 mandates the NHRC "to consider any abuses or violations of human rights, to get involved in the settlement of the complaints reported", with therefore a quasi-judicial function, in accordance to the additional principles concerning the status of commissions with quasi-judicial competence.

In the following paragraphs, we are going to assess the practical implementation of the NHRC mandate, according to each function it is required to carry out.

### **5.1 Commenting on existing and draft laws**

The Paris Principles mandate NHRIs to "examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights"<sup>26</sup> and shall, if necessary, be endowed with the power to "recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures"<sup>27</sup>.

Article 3.4 of Decree Law No. 17 of 2010, for instance, provides the NHRC with the mandate to make the necessary suggestions as far as the current legislation and proposed draft laws are concerned, in particular in relations to the international conventions to which the state of Qatar has become party. It has the power as well to examine these laws of its own initiative<sup>28</sup>.

<sup>23</sup> Paris Principles, "Competence and Responsibilities", para.1.

<sup>24</sup> Paris Principles, "Competence and Responsibilities", para. 2.

<sup>25</sup> SCA general observations, General Observation 1.2, p. 7.

<sup>26</sup> Paris Principles, "Competence and responsibilities", para. 3.a.i

<sup>27</sup> *Ibidem*.

<sup>28</sup> Information provided by the NHRC.

Indeed, in 2013, the NHRC reviewed several laws from its own initiative, as pointed out in the NHRC's annual report which mentions the several pieces of legislation that the NHRC considers necessary to be amended or regulated, such as the Human Resources Management Act<sup>29</sup>.

## 5.2 Monitoring domestic human rights situations

The main role of a NHRI is to monitor the situation of domestic human rights, and therefore they shall have powers to gather information and evidence to fulfill this function effectively<sup>30</sup>.

As for information gathering, Article 16 of Decree Law No. 17 of 2010 requires that ministries, government departments and public institutions shall cooperate with the NHRC in performing its duties and shall provide the NHRC with the information needed. Alkarama welcomes reports that the NHRC has the power to conduct unannounced visits to labour camps<sup>31</sup>, hospitals, detention places and that has the power to monitor the implementation of recommendations issued in these cases<sup>32</sup>. In addition, we welcome the fact that the NHRC has the power to monitor compliance by both private and public bodies as well as to initiate public inquiries on specific human rights violations, to hear witness during those inquiries and to publish the results of its inquiries<sup>33</sup>.

We can therefore conclude that the working methods of which the NHRC is endowed enable it to effectively gather the information needed and to implement effectively its mandate.

Alkarama also notes that the annual report of the NHRC covers issues of civil and political as well as economic, social and cultural rights. In this regard, and in focusing in particular on the areas of interest for Alkarama, we wish to add some further considerations regarding the position of the NHRC on some specific issues.

As for the right to fair trial, the NHRC reported in its 2013 annual report that "the judiciary on its different levels is considered to be the most prominent national guarantee and one of the most important reliable mechanisms that ensure respect for human rights and essential freedoms in the State in general"<sup>34</sup>. Alkarama notes however that the independence of the judiciary – in a system where the judicial body is made up of a large part of non-nationals who are not appointed but are given a fixed-term contract – is not currently ensured, as pointed out by the Special Rapporteur on the Independence of Judges and Lawyers following her visit to the country<sup>35</sup>.

With reference to freedom of expression, there is mention in the NHRC annual report of the first Cultural Twitter Forum held in June 2013 which included a discussion on an Arab initiative for ethics in dealing with Twitter, in order to take advantage of this means within the framework of the values of an Arab society<sup>36</sup>. We note that, instead of reaffirming clear principles of freedom of expression with regards to the use of social media, this nebulous reference to ethics and values of an Arab society may be as well a reference to possible ways to circumvent or restrict it, in line with recent developments in this sense in the country. We recall in fact that the government censors online content and blocks access to websites that are considered politically sensitive and that in September 2014, Qatar's government passed a cybercrimes law with greater restrictions on content posted on

<sup>29</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p.3.

<sup>30</sup> International Council on Human Rights Policy and OHCHR, *Assessing the effectiveness of National Human Rights Institutions*, 2005, p. 18.

<sup>31</sup> *Report of the Special Rapporteur on the Human Rights of migrants, François Crépeau*, 23 April 2014, A/HRC/26/35, para.66.

<sup>32</sup> Information provided by the NHCR.

<sup>33</sup> *Ibidem*.

<sup>34</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p.12.

<sup>35</sup> *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul*, 31 March 2015, A/HRC/29/26/Add.1.

<sup>36</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p.15.



social media and news websites<sup>37</sup>. Other laws capable of jeopardizing civil and political liberties are the Law on the Protection of Society, the Anti-Terrorism Law and the Law on State Security.

However, none of these laws is mentioned in the Annual report of the NHRC as potentially dangerous for the full respect of the rights and freedoms in the country. The NHRC reports not having received complaints concerning violations of the right and freedom of expression. However, following Alkarama's inquiries with the NHRI, it emerges that, for instance, the NHRC has attended all the court sessions concerning the case of Mr Mohamed Al Ajami, who was sentenced to 15 years imprisonment in October 2013 for having published a poem critical of the authorities, as documented by Alkarama<sup>38</sup> and hence urged the government to issue a new law regulating the media in conformity with international human rights standards<sup>39</sup>.

Noticing that in these areas no criticism of the current situation in the country has been raised makes us conclude that, if the NHRC does not endorse the government's policies, at least that it cannot address those issues publicly because of their political sensitivity and because of the NHRC's lack of independence from the executive.

### 5.3 Monitoring and advising on compliance with international standards

The Paris Principles mandate NHRIs to "promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is party" as well as to encourage their ratification<sup>40</sup>.

Article 3.1 of Decree Law No. 17 of 2010, in line with this requirement, gives the NHRC the mandate to promote and pursue the objectives stipulated by international conventions and instruments on human rights to which Qatar is party as well as to recommend the State's accession to other international instruments of this kind.

From its annual report, it emerges that the NHRC recommended the accession to the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights<sup>41</sup>, the International Convention for the protection of the Rights of All Migrant Workers and Members of their Families<sup>42</sup> and other international conventions on the rights of workers<sup>43</sup>. It is however regrettable to note that no mention is made of any recommendation to ratify other international human rights instruments of great relevance for Qatar, such as the two International Covenants and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as International Convention for the Protection of All Persons from Enforced Disappearance.

### 5.4 Co-operating with regional and international bodies

"To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights" is as another task included in the mandate of NHRI, according to the Paris Principles<sup>44</sup>.

<sup>37</sup> Freedom House, *Qatar*, <https://freedomhouse.org/report/freedom-world/2015/qatar#.VZ04QFKzIqc> (accessed on 8 July 2014).

<sup>38</sup> Alkarama, *Qatar: Release Poet Jailed for Exercising Right to Free Expression*, 29 October 2013, <http://en.alkarama.org/qatar/1162-qatar-release-poet-jailed-for-exercising-right-to-free-expression> (accessed on 13 July 2015)

<sup>39</sup> Information provided by the NHRC.

<sup>40</sup> Paris Principles, "Competence and responsibilities", para.3.b and c.

<sup>41</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p. 58

<sup>42</sup> *Ibid.*, p. 11.

<sup>43</sup> *Ibid.*, p. 43.

<sup>44</sup> Paris Principles, "Competences and responsibilities", A.3.e.

According to website page of the NHRC, the institution collaborates with several UN bodies, including the Human Rights Council as well as UN human rights treaty bodies<sup>45</sup>. We also note and welcome the institution of partnerships with regional organisations such as the Asia Pacific Forum (APF) of National Institutions for Human Rights and the Arab Network For Human rights Institutions (ANHRIs)<sup>46</sup>.

As for the collaboration with the United Nations mechanisms, we wish to point out that the NHRC submitted its independent report to the Committee against Torture at the occasion of Qatar's second periodic review by this treaty body<sup>47</sup>. Having a careful look into its content, however, shows that the NHRC's report only praises the government's efforts to put national law in line with CAT. In fact, the many setbacks still existing are, in the report, ignored.

The fact that such a serious issue was overlooked raises doubts about the effective independence of the NHRC from the executive, but indicates instead in this respect that the NHRC simply supports and promotes governmental policies.

## 5.5 Educating and informing in the field of human rights

The Paris Principles also foresee that NHRIs publicise human rights by increasing public awareness, especially through information and education and through the press<sup>48</sup>. Activities to be considered within this framework are, for example, public awareness campaigns, training courses for officials and human rights trainings<sup>49</sup>.

Decree Law No. 17 of 2010 mandates the NHRC to raise awareness on human rights and freedoms (Article 5.9) and to organise conferences, symposiums, courses and debates on human rights issues (Article 5.12).

For instance, the NHRC has several agreements for cooperation with public authorities, according to which the NHRC can conduct training courses<sup>50</sup>. We recall here the Qatar's NHRC has organised specific trainings for inspectors of the Ministry of Labour<sup>51</sup> as well as for future judges and prosecutors<sup>52</sup>. Their 2013 Annual report also mentions that courses were given on issues touching upon migrant workers' rights and human trafficking<sup>53</sup>.

It is also reported that media campaigns relating to workers' rights have been organised. In this regard, we recall that NHRC signed a Memorandum of Understanding with the Ministry of Communications and Information Technology, and helped develop "The Better Connection Program", part of which is aimed to inform the workers of their rights through multimedia content in several languages<sup>54</sup>.

As for publications, brochures have been issued concerning migrant workers rights<sup>55</sup> in several languages<sup>56</sup>, as well as guidelines on human rights standards in places of detention. We also wish to

<sup>45</sup> NHRC, *Cooperation with human rights councils*, <http://www.nhrc-qa.org/en/international-cooperation/cooperation-with-human-rights-councils/> (accessed on 13 July 2015).

<sup>46</sup> NHRC, *Regional and international partnerships*, <http://www.nhrc-qa.org/en/international-cooperation/regional-and-international-partnerships/> (accessed on 13 July 2015).

<sup>47</sup> Human Rights Committee of the State of Qatar, *Shadow report: About Implementing the Against-Torture Convention and Other Forms of Treatment or Cruel, Inhuman or Humiliating Punishment*, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2f1FN%2fQAT%2f12999&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2f1FN%2fQAT%2f12999&Lang=en) (accessed on 13 July 2015).

<sup>48</sup> Paris Principles, "Competence and Responsibilities", para A.g.

<sup>49</sup> International Council on Human Rights Policies, *Assessing the Effectiveness of National Human Rights Institutions*, 2005, p.20.

<sup>50</sup> Information provided by the NHRC.

<sup>51</sup> *Ibidem*.

<sup>52</sup> *Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaut*, 31 March 2015 A/HRC/29/26/Add.1, para. 85.

<sup>53</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p. 58.

<sup>54</sup> Information from the NHRC.

<sup>55</sup> *Ibid.*, p. 48.

<sup>56</sup> NHRC publications, <http://www.nhrc-qa.org/en/publications/nhrc-publications/> (accessed on 13 July 2015).

point out that the NHRC has its own website<sup>57</sup> which includes information on its mandate, activities and publications.

We nevertheless notice that in the “news” page of the website, the news reported refer mainly of meetings of the NHRC’s Chairman with different foreign authorities, leaving aside public statements assessing the human rights situation in the country. On the contrary, it would be important to find there news about the NHRC’s public stand on sensitive issues.

## 5.6 Relations with victims and civil society

According to the methods of operations indicated in the Paris principles, it is provided that NHRIs develop relations with civil society organisations, including non-governmental organisations. This prerogative is endorsed in Decree Law No. 17 of 2010 in its Article 3.8.

From the website, we acknowledge that the Qatari NHRI has established partnerships with some international human rights organisations and has signed partnerships with international NGOs, including on the issue of migrant workers’ rights<sup>58</sup>. However, no reference is made to any partnership with local organisations. On its part, Alkarama has contacted the NHRC demanding for information pertaining to the drafting of the current report and is pleased to refer that we enjoyed full collaboration from the NHRC.

## 5.7 Receiving individual complaints

The Additional Principles concerning the status of commissions with quasi-judicial competence address those NHRIs authorised to receive and hear complaints from victims of violations and detail their prerogatives. According to them, NHRIs may hear and consider complaints, seek an amicable settlement through reconciliation or through binding decisions or transmit them to the competent authorities, informing the party of his/her rights, making recommendations to the competent authorities.

Article 3.3 of Decree Law No. 17 of 2010 expressly mandates the NHRC to consider individual complaints.

The NHRC therefore created a permanent and structured mechanism for receiving and handling complaints from citizens and residents, including from third parties with the consent of the victim. Complaints can be received through different channels: personally at the offices of the NHRC, by phone through a free hotline or electronically through the NHRC website<sup>59</sup>. It is here relevant to note that the central premises of the NHRC now host a help desk office for migrant workers, staffed by representatives from those communities, in particular from Nepal, Philippines, India and Egypt who are considered the biggest foreign communities in Qatar, and who can provide for a translation service. Its function is to work as a facilitator between the NHRC and expatriates seeking help and collecting cases of violations<sup>60</sup>. We recognise that this is a positive step to enhance accessibility for victims, which is of particular importance for the most vulnerable sections of society, who would otherwise encounter particular difficulties in bringing attention to any violation of their human rights<sup>61</sup>.

The Committee has also developed its procedures for processing the complaints: it examines complaints and petitions, attempting to resolve some of them on a friendly basis or addresses the competent authorities to investigate them and take the legally required actions. In addition, the committee also provides free legal advice service, either personally or over the phone.

<sup>57</sup> <http://www.nhrc-qa.org/en/> (accessed on 13 July 2015).

<sup>58</sup> NHRC, *Memorandums of Understanding*, <http://www.nhrc-qa.org/en/international-cooperation/memorandums-of-understanding/> (accessed on 13 July 2013).

<sup>59</sup> .NHRC, *Submit a complaint*, <http://www.nhrc-qa.org/en/submit-a-complaint/> (accessed on 14 July 2015).

<sup>60</sup> Asia Pacific Forum, *Qatar: NHRC opens help desks for foreign workers*, <http://www.asiapacificforum.net/news/qatar-nhrc-opens-help-desks-for-foreign-workers> (accessed on 13 July 2015).

<sup>61</sup> International Coordinating Committee on National Institutions for the Promotion and Protection of Human Rights (ICC), *General Observations of the Sub-Committee on Accreditation*, May 2013, p. 27.

The 2013 Annual report mentions that 1944 complaints<sup>62</sup> were received and they concerned several issues that include alleged violations of migrant workers' rights such as recruitment related requests, visa related requests, exit permits, complaints relating to arbitrariness by sponsors as well as other issues referring to citizenship, medical error and marriage. However, no disaggregated data is provided about the number of cases that reached an amicable settlement, of those submitted to the authorities as well as of the solved and pending cases. This is an example of lack of accountability: the public is kept unaware of the actual performance of the Committee and of the rationale behind its decisions. On the contrary, publicity in all the aspects of the work of NHRIs is both embedded in the mandate of promotion of the activity of the institution itself and responds as well to the principle of public accountability.

In addition, it is reported that this mechanism does not seem to be particularly efficient, at least as far as cases of violations of migrant workers' rights are concerned. As it is referred by the Special Rapporteur on the human rights of migrants, "the National Human Rights Committee has limited means and cannot take any decisions, only transfer the complaint to the relevant ministry. The Ministry of Labour can only mediate and if the employer does not agree, the worker has to file a case with the court. Migrants find the division of competencies between the Committee and the Ministries of Labour and Interior confusing."<sup>63</sup> In such cases, it would be more effective if the NHRC was able to take binding decisions, as the Additional principles allow, or, at least, we would suggest that cases of violations of human rights be referred to the Public Prosecutor for investigation and, when appropriate, prosecution of those responsible.

## 6. Conclusions and Recommendations

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### 6.1 Conclusions

Despite the reforms in the field of human rights taken by Qatar in order to comply with international law standards, the actual state of civil and political freedoms, the independence of the justice system as well as the situation of migrant worker's rights remain areas of concern. In such a situation, an effective national human rights institution would be fundamental in order to ensure a culture of human rights is promoted and human rights are enjoyed by everybody in Qatar.

Despite recognising that the NHRC has a very active role in the country and is endowed with working methods that permit it to effectively carry out its mandate, still, its lack of independence, be it due to its establishment or the appointment of its members through Amiri decree clearly illustrate its lack of compliance with the Paris Principles. This greatly impacts on its capacity to publicly and freely address human rights issues of political sensitivity.

### 6.2 Recommendations

#### 6.2.1 To the Subcommittee on Accreditation

For these reasons, we argue that the NHRC of Qatar only partly complies with the Paris Principles, and therefore we suggest that the Sub-Committee on Accreditation recommend that the Qatar NHRC **be accredited with B status**.

#### 6.2.2 To the HCHR

To comply with the Paris Principles, the NHRC should ensure a real independence from the executive, and take concrete actions to ensure it can take a public stand against violations and effectively

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<sup>62</sup> NHRC, *Report of the National Human Rights Committee of Qatar on the Human Rights Situation in the State and the Outcomes of the Committee's work during 2013*, p. 44.

<sup>63</sup> *Report of the Special Rapporteur on the human rights of migrants, François Crépeau, 23 April 2014, A/HRC/26/35/Add.1, para. 52.*

promote a human rights culture and protect victims of violations. This would ensure that it effectively contributes to improving the situation of human rights in the country.

We thus recommend the HCHR to:

1. Demand that the existing legislation establish a clear, transparent and pluralistic nomination process, to ensure the pluralist representation of the social forces, including non-Qatari citizens and with a particular regard to ensuring gender balance;
2. Ensure a merit-based selection, specifying the qualifications needed as a condition for membership by law or in its internal regulations;
3. Demand that the actual prerogative of being answerable to the Parliament be clearly established by law in order to better ensure that the executive does not have any power of oversight over its activities;
4. Seek to diversify its sources of income, to ensure full independence in its funding;
5. Publicly report on the entire spectrum of its activities and its budget in a transparent and timely manner;
6. Take a public stand on all the issues of concern and be able to issue its recommendations freely and publicly;
7. With regards to the complaint mechanism, the NHRC should call to be allowed to take binding decisions, as the Additional principles allow, or, at least, to be able to refer cases to the Public Prosecutor for investigation and, when appropriate, prosecution of those responsible.