

**INTERNATIONAL COORDINATING COMMITTEE OF NATIONAL INSTITUTIONS
FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Report and Recommendations of the Session of the Sub-Committee on
Accreditation (SCA)**

Geneva, 23 – 27 May 2011

On the information available, the SCA is unable to determine the veracity of the allegations raised above, however it is clear that there is at least a perception that there are significant delays, as well as ongoing concerns about the use of former police to investigate complaints, including those against the police. The SCA encourages the NHRCI to address these concerns.

5. Annual Report

The SCA notes that the most recent Annual Report available to it is for 2007-2008. An Annual Report cannot be made public until it is tabled in Parliament by the government, and this is not done until the government has prepared a response for follow up to the recommendations made by the NHRC in its Annual Report. The SCA acknowledges that it has been advised by the NHRC that Annual Reports for 2008-2009 and 2009-2010 have been submitted to the government, but as the government has not developed its responses to the recommendations in those reports, it has not yet tabled the reports in Parliament.

The SCA notes that Annual Reports serve to highlight key developments in the human rights situation in a country and provide a public account, and therefore public scrutiny, of the effectiveness of an NHRI.

The SCA refers to General Observation 6.1 NHRI on “Annual Report”..

The SCA therefore encourages the NHRCI to seek such solutions as it considers would appropriately allow it to report on a more timely basis. The SCA refers to General Observation 1.6 “Recommendations by NHRIs”

3.6 Mauritania: Commission Nationale des Droits de l’Homme (CNDH)

Recommendation: The SCA recommends the CNDH be reaccredited **A status**.

The SCA notes with appreciation the efforts undertaken by the CNDH in implementing the recommendations made at the SCA November 2009 session, including and in particular, that the 2006 Presidential Decree establishing the CNDH was replaced in 2010 by an Act of Parliament.

The SCA notes:

1. Appointment and Selection

Article 11 of the Act stipulates the appointment of 4 members by the President of the Republic, on the basis of their competence and experience in the field of human rights. The Act is silent on the selection and appointment procedures for these 4 members. The SCA notes the Paris Principles requirement for a clear, transparent and participatory selection process that promotes the independence of, and public confidence in, the senior leadership of a national human rights institution. It encourages the CNDH to advocate for the formalisation of selection criteria in relevant laws, regulations or administrative guidelines as appropriate.

The SCA refers to Paris Principle B.1 and to its General Observation 2.2 ‘Selection and appointment of the governing body’

2. Government representatives on the Commission

The SCA notes that the CNDH membership includes representatives from the National Assembly and the Senate. It refers to its General Observation 2.3 on 'Government representatives on National Institutions'

3) Staffing by secondment

Article 27 of the Act provides that the CNDH can recruit its own staff, however, the Secretary General and the Accountant are on secondment. The SCA refers to General Observation 2.4 'Staffing by Secondment.'

3.7 Namibia: Office of the Ombudsman of Namibia (Ombudsman)

The SCA recommends that the Ombudsman be reaccredited **A status**.

The SCA notes with appreciation the work undertaken by the Ombudsman in pursuing its mandate to protect human rights in Namibia. It also notes with appreciation the activities it performs to promote human rights, while continuing to improve the strength and capacity of its office and regional offices.

The SCA notes:

1. Mandate

The SCA notes that the Ombudsman mandate refers to the protection of constitutional rights and freedoms. These include some, but not all recognised civil, political, economic, social and cultural rights. Furthermore, the SCA notes that the enabling legislation refers to protection of human rights, but not to promotion. Similar concerns have been expressed by specific treaty bodies. The CERD (CERD/C/NAM/CO/12 22 September 2008) recommended that the State party take all necessary steps to strengthen the legislative mandate and the capacity of the Ombudsman, so that it effectively fulfils its mandate. The ICCPR (CCPR/CO/81/NAM) recommended strengthening the legislative mandate of the institution of the Ombudsman and providing it with adequate resources.

The SCA refers to Paris Principles A.1, A.2 and to General Observation 1.2 on 'Human rights mandate'.

The SCA recommends that the Ombudsman advocate for a wider mandate to both protect and promote all rights set out in relevant international, regional and domestic human rights instruments.

2. Grounds and Process for Dismissal

The term of the Ombudsman is not limited in the enabling law. The Constitution stipulates that the Ombudsman shall hold office until the age of 65 but the President may extend the retiring age of the Ombudsman to 70, (Article 90(2) of the Constitution). While the provision provides for security of tenure, the SCA refers to General Observation 2.9 'Guarantee of tenure for members of governing bodies

3. Staffing

The enabling legislation does not specifically empower the Ombudsman to recruit its own staff. The SCA refers to General Observation 2.7 'Staff of an NHRI.'

4. Budget

The SCA notes that there is no defined legislative provision indicating from where the budget of the Ombudsman Office is allocated. Section 9 of the Ombudsman Act stipulates the expenditure in connection with the office of the Ombudsman and the