



Mauritania: National Human Rights Institution's request for 'A' status

**Report submitted to the Sub-Committee on Accreditation in
view of the review of Mauritania's national human rights
institution**

21 January 2011

About Alkarama

Alkarama (Dignity) is a registered Swiss Foundation. It was founded in 2004 by a team of volunteer human rights lawyers and human rights defenders working on human rights in the Arab world. We have offices and representatives in Geneva (which is our head office), Lebanon (Beirut), Qatar (Doha) and Yemen (Sana'a). Alkarama participates in the United Nations human rights mechanisms including submission of communications and reports to the Special Procedures and Treaty Bodies as well as the newly established Universal Periodic Review (UPR).

The aim of Alkarama is to work in a constructive dialogue with all actors – including States, the Office of the High Commissioner for Human Rights, National Human Rights Institutions and all members of civil society – to respect and promote human rights in the Arab world. We base our work primarily on principles of international human rights and humanitarian law.

Due to the magnitude of work, Alkarama concentrates on the following four violations of human rights in particular: enforced disappearances, extrajudicial executions, torture and arbitrary detention. In 2010, Alkarama submitted 587 communications to the United Nations Special Procedures relating to the cases of 422 individuals whose human rights had been violated. These communications concerned cases from 17 Arab countries. Additionally, Alkarama prepares reports on the human rights situation submitted to international human rights mechanism, such as the UPR (for 14 of the 17 Arab states reviewed to date) and to the relevant UN human rights treaty bodies.

In addition to its core activity of legal work within the UN human rights protection mechanisms, Alkarama engages in complementary work including organising seminars and campaign work to raise awareness of human rights issues in the Arab world. Cooperation between Alkarama and organizations with similar objectives is something not only desired, but a position that is actively sought.

1. Table of Contents

1. TABLE OF CONTENTS 3

2. INTRODUCTION 4

3. MANDATE AND POWERS 5

4. THE COMMISSION’S ACTIVITIES 6

5. CONCLUSION 8

2. Introduction

The Mauritanian national human rights institution (NHRI), created in 2006, was granted 'B' status following its review by the Sub-Committee on Accreditation of the International Coordinating Committee of NHRIs (ICC) in November 2009.¹ At the time, the following recommendations were made to the Mauritanian NHRI, the National Commission for Human Rights (NCHR):

The SCA takes note that the enabling legislation of the NHRC is currently being reviewed.

The SCA notes the following:

1. The NHRC is established by an Executive Order. The Paris Principles and the ICC General Observations indicate that an NHRI must be established in a constitutional or legal text, given that creation by an instrument of the Executive is not adequate to ensure permanency and independence. The SCA refers to General Observation 1.1 "Establishment of national institutions."
2. The NHRC is placed under the Office of the Prime Minister (article 1 of the Executive Order) and it reports annually to the Head of State (article 6 of the Executive Order). This does not guarantee the independence and autonomy of an NHRI. The SCA refers to General Observation 2.10 "Administrative regulation."
3. The selection and appointment process is not established in the Executive Order and is not transparent, consultative and pluralistic. The SCA refers to General Observation 2.2 "Selection and appointment of the governing body."
4. Article 27 of the Executive Order stipulates that the Government provides the NHRC with the necessary administrative staff. This impairs the ability of the NHRC to hire its own staff. The Secretary General is appointed by the President of the Republic. The SCA refers to General Observation 2.4 "Staffing by secondment" and 2.7 "Staff of an NHRI".
5. The budget of the NHRC is insufficient to allow it to effectively carry out its mandate. This includes the hiring of an adequate number of staff. The SCA refers to General Observation 2.6 "Adequate Funding".

The SCA will consider whether these issues have been effectively dealt with through amendments to the legislation.

The SCA also encourages the NHRC to continue to interact actively with the international human rights system (UN Human Rights Treaty Bodies, Special Procedures Mandate Holders and Human Rights Council, including the UPR), providing information independently of the Government and later ensuring follow up action to recommendations resulting from that system².

Following this decision, the National Commission for Human Rights re-applied for 'A' status, which will be determined by the ICC's Sub-Committee on Accreditation, scheduled to meet from 23 to 27 May 2011. In view of the review, NGOs have been requested to present information on the NCHR by 22 January 2011.

The aim of this report is to present a number of observations to the Sub-Committee on Accreditation in the context of the re-examination of the National Commission for Human Rights. Our report will focus on the Commission's activities, especially as one of the Sub-Committee's recommendations

1 International Coordinating Committee of National Human Rights Institutions, Sub-Committee on Accreditation, *Report and Recommendations of the Sub-Committee on Accreditation session – November 2009*, page 4
http://www.asiapacificforum.net/services/international-regional/icc/sub-committee-on-accreditation/downloads/sca-reports/SCA_Report_November_2009.pdf (accessed 21 January 2011).

2 International Coordinating Committee of National Human Rights Institutions, Sub-Committee on Accreditation, *Report and Recommendations of the Sub-Committee on Accreditation session – November 2009*, page 4
http://www.asiapacificforum.net/services/international-regional/icc/sub-committee-on-accreditation/downloads/sca-reports/SCA_Report_November_2009.pdf (accessed 21 January 2011).

focused on the improvement of cooperation between the NCHR and the UN – namely the Treaty Bodies and the Human Rights Council – by contributing information to the Universal Periodic Review of Mauritania.

3. Mandate and Powers

The National Commission for Human Rights (NCHR) was created on 12 July 2006 by the Military Council for Justice and Democracy with the enactment of Ordonnance No. 2006-015. In order to bring it into conformity with the Paris Principles, on 20 July 2010, law No. 2010 – 031³ repealed and replaced the initial Ordonnance, placing the NCHR under the authority of the Prime Minister. The law also encourages cooperation with the “international human rights system” as well as with regional and non-governmental organisations (art. 4).

“The Commission’s President and members are designated by decree issued by the Head of State on the suggestion of concerned administrations, institutions, professional associations and civil society” (article 12 of the Law). Mr Bamariam Koïta was named head of the Commission by the Presidency. It should be noted that the NCHR’s current President works as a civil servant - as an advisor to the Mauritania national social security fund – which does not guarantee his independence vis-à-vis the Executive. In addition, Mr Koïta managed the office for information and propaganda for Mr Mohamed Ould Abd el Aziz - the current President of Mauritania – during Mr el Aziz’s election campaign in the summer of 2009.

The membership of the Commission was most recently confirmed by decree on 23 March 2010. The nomination process was criticised by several NGOs. The *Forum des Organisations Nationales de Droits Humains* (FONADH) denounced the lack of transparency and the fact that only 16 out of 33 organisations which comprised the Commission were invited to participate in the discussions leading up to the decision. The FONADH also criticised the fact that there existed “disagreements between different mandate-holders who claimed to present the same organisations”. These disagreements happened during the meetings held before the NCHR’s General Assembly of 8 March 2010. The FONADH therefore refused to participate in the renewal of the NCHR, alongside 10 other human rights organisations considered as being amongst the most active nationally, including the oldest human rights organisations in the country⁴: the AMDH (*Association mauritanienne pour les droits humains* - Mauritanian Association for Human Rights) whose president, Ms Fatima M’baye is a lawyer at the Court and vice-President of the FIDH (*Federation internationale des droits de l’homme* - International Federation for Human Rights); *SOS-Esclaves* (SOS-Slaves), whose President, Mr Boubacar Ould Messaoud recently received awards in London and Paris, the LMDH, or *Ligue mauritanienne des droits de l’homme* (Mauritanian League for Human Rights), the oldest of human rights organisation of Mauritania run by lawyer Mine Ould Abdoullah; the *Association Mauritanienne pour les Femmes chefs de familles* (Mauritanian Association for Women Heads of Households) or AMFCF; the GERDES-Mauritania (*Groupe d’études et la recherché sur la démocratie et le développement économique et social*) (Think-tank on Democracy, and Social and Economical Development), the Mauritanian branch of a west-African organisation run by lawyer and international consultant, former Minister Diabira Maroufa; the Committee for Solidarity, and finally FONADH or the Forum for National Human Rights Organisations headed by the engineer Sarr Mamadou Mokhtar.

In light of the above information, it appears the Commission is cut off from a large part of the country’s civil society. This lack of confidence by civil society does not give a very positive perspective for future cooperation necessary to ensure its harmonious functioning.

Like his predecessor Mr Mohamed Said Ould Hamody, Mr Bamariam Baba Koïta has several advisors, including Mr Biram Ould Dah Ould Abeid who is the President of the *Initiative de resurgence du mouvement abolitionniste en Mauritanie* (Initiative for the Resurgence of Abolitionism in Mauritania - or IRA) and also working for *SOS-Esclaves*. However, on 31 March 2010 the current President of the

3 Law 2010 – 031 of 20 July creating the NCHR and cancelling Ordonnance 2006 – 015 of 12 July 2006, available from http://www.cndh.mr/ar/index.php?option=com_content&task=view&id=27&Itemid=13 (in Arabic, accessed 20 January 2011).

4 FONADH, declaration of 9 May 2010, available on <http://kassataya.com/afrique/cndh-le-fonadh-proteste> (in French, accessed 20 January 2011).

NCHR – who had only been in office for 8 days – removed him from his functions without giving any explanation.⁵

According to the *Organisation contre les violations des droits humains* (Organisation Against Human Rights Violations), “Mr Koïta summoned Biram to share his regrets that he was obliged to remove him from office, but that the decision had come from above and it was perfectly normal given Biram’s refusal to cooperate with the Generals in power and adopt a softer stance on certain national issues”.⁶ Biram’s dismissal, which took place shortly after the Commission’s new composition was adopted, was not officially announced by the Commission.

Since his dismissal, Mr Biram Ould Dah Ould Abeid has suffered from harassment. This cumulated in his brutal arrest on 13 December 2010, followed by his trial alongside five other anti-slavery activists on 6 January 2011 for “belonging to an unauthorised organisation”, “inflicting blows and injuries against law enforcement officials” and “unlawful assembly”. The prosecution requested three years imprisonment.⁷ Mr Biram Ould Dah Ould Abeid is well-known in the region for his commitment to human rights, and numerous organisations protested against these false allegations.⁸ Regardless, on 6 January 2011, he was declared guilty of “assault and violence against law enforcement officials” and sentenced to one year, of which six months were to be spent in detention. He was also fined 500 000 ouguiya (equivalent to approximately 1366 Euros).⁹ The Commission did not speak out about the treatment afflicted to their former advisor nor to his colleagues during their detention and pre-trial detention, nor when he and his colleagues were found guilty.

4. The Commission’s activities

According to the law which regulates it, the Commission is required to present an annual report to the President of the Republic, who, according to article 6 of Law 2010 – 31, should render it public. Since its nominal creation in 2006, its founding by decree on 21 May 2007 and its establishment in September 2007, the NCHR has published two annual reports and several mission reports. The last annual report covers the period from 2008-2009 and was finalised in August 2009 by the Commission’s former membership.¹⁰ The third annual report (2009-2010) should have been presented in August 2010.

Two mission reports have been published since Mr Bamariam Baba Koïta was nominated, concerning two different regions of the country: Dakhlet Nouadhibou¹¹ and “the Valley”¹². These missions on the ground allowed the Commission’s members to meet with local political leaders and Police to sensitise

5 FONADH, declaration of 12 April 2010, available on <http://www.emjad.net/fr/spip.php?article152> (in French, accessed 20 January 2011).

6 OCVIDH, *Premières représailles des autorités mauritaniennes contre Biram Ould Dah Ould Abeid dès son retour à Nouakchott* (in French only – First reprisals against Biram Ould Dah Ould Abeid by the Mauritanian authorities upon his return to Nouakchott), 3 April 2010, available on <http://www.ocvidh.org/article.php?sid=712> (accessed 20 January 2011).

7 Points Chauds, Online, *Le Parquet requiert une peine de 3 ans de prison contre six militants antiesclavagistes* (in French only – the Prosecution requests a 3-year sentence for 6 anti-slavery activists), 6 January 2011, <http://www.pointschauds.info/fr/modules.php?name=News&file=article&sid=4329> (accessed 20 January 2011).

8 Mr Biram Ould Dah Ould Abeid accompanied two young girls who were being held in slavery, along with their supervisor, to the Police station on the orders of the Prefect. The police Commissioner refused to allow Mr Ould Dah into his office, and when the latter protested, he was beaten by police officers and forcibly transferred to the hospital where he was placed under surveillance and held in the Police station of Arafat 1 with a dozen other supporters of IRA. Mr Ould Dah states that he was beaten and not given medical treatment during his custody. Amnesty International considers him to be a prisoner of conscience. See Amnesty International, *Anti-slavery activists jailed in Mauritania*, 7 January 2011, <http://www.amnesty.org/en/news-and-updates/anti-slavery-activists-jailed-mauritania-2011-01-07> (accessed 20 January 2011).

9 FIDH and OMCT, *Mauritania: President of IRA and five of its members convicted because of their abolitionist activities*, 10 January 2011, <http://www.omct.org/human-rights-defenders/urgent-interventions/mauritania/2011/01/d21020/> (accessed 20 January 2011).

10 NCHR, *Rapport annuel 2008-2009* (in French - Annual Report 2008-2009), Nouakchott, August 2009, http://www.cndh.mr/images/stories/Doc/RAP_CNDH_2008_2009.pdf (accessed 20 January 2011).

11 NCHR, *Rapport de mission à Dakhlet Nouadhibou* (in French and Arabic only – Report of Mission to Dakhlet Nouadhibou, not dated), <http://www.cndh.mr/images/stories/Doc/rapport%20de%20mission%20E0%20dakhlet%20nouadhibou.pdf> (accessed 20 January 2011).

12 NCHR, *Rapport de mission dans la Vallée* (in French – Report of Mission to the Valley, not dated), <http://www.cndh.mr/images/stories/Doc/rapport%20de%20mission%20dans%20la%20vall%20E9e.pdf> (accessed 20 January 2011).

them to the promotion and protection of human rights as well as the need to undertake actions to implement these notions. The delegation visited several places of detention, and particularly prisons, noting deplorable conditions of detention. While these mission reports do list a certain number of problems, only one of the two offers any concrete recommendations. It remains unknown whether the President of the Commission offered any opinions or suggestions to public officials on the basis of these reports. We are also unaware of whether any follow up by the Commission to improve the situation at either the local or national levels is planned.

Amongst other commitments, the Committee is mandated to interact with UN mechanisms and to provide assistance to the State with regards its obligations under international human rights conventions to which it has acceded. However, it must be stated that Mauritania has not presented its initial report to the Human Rights Committee (which was due in 2006), nor to the Committee Against Torture (due in 2004). Despite this delay, the NCHR has not spoken out about the need to submit either of these reports.

We did not find that the Commission publicly encourages the Mauritanian Government to ratify international conventions, for example the Optional Protocol to the Convention Against Torture (OP-CAT). During Mauritania's Universal Periodic Review¹³, the State replied that its current priority was implementation of the Convention Against Torture, starting with presenting its initial report. In addition, it committed itself to investigating cases of torture and to prosecute those responsible.¹⁴ The Commission could play an important role in acting as an interface between those who lay complaints and the government, but we do not know if the Commission treats individual complaints. This function is not explicitly established in the 2010 law.

The President of the Commission, Mr Bamariam Baba Koïta, was present during Mauritania's Universal Periodic Review (UPR). He presented some information alongside Senator and member of the Commission, Mr Boubacar Mohamed Ghadour. The NCHR's website published their statements, as well as the report presented by the Commission to the Human Rights Council as well as the report of the UPR Working Group which lists the recommendations made by States to the Mauritanian authorities. However, it should be noted that the NCHR's report is not available on the official UPR website and was, as a consequence, not taken into account for the preparation of the Summary of NGO and NHRI information prepared by the Office of the High Commissioner for Human Rights for the UPR.¹⁵ The NCHR has stated that it contributed to the preparation of the national report presented for the UPR.

The Paris Principles make note of the importance of cooperation between national human rights institutions and NGOs. The NCHR has in the past carried out missions conjointly with, for example, the *Association mauritanienne des droits de l'homme* (the Mauritanian Association for Human Rights). In January 2008, these two organisations organised a visit to a Mauritanian refugee camp in Senegal.¹⁶ Approximately 5 missions carried out in 2007 and 2008 deal with cases of slavery. It is interesting to note that Mr Biram Ould Dahl Ould Abeid, acting as advisor to the previous Commission President, participated. These visits took place at the 'Retention Centre' for migrants in Nouadhibou, as well as to central prisons, gendarmerie quarters and police stations of 5 of the 13 regional capitals in the country in 2008. The current Commission carried out the two missions mentioned above to Bakhlet Nouadhibou and the "Valley". However, these missions were not carried out in cooperation with other members of civil society and the reports do not indicate in any detail which NGOs or civil society experts the delegations met with on the ground.

13 See the website of the Universal Periodic Review of Mauritania, <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CMRSession9.aspx> (accessed 20 January 2011).

14 Human Rights Council, *Draft report of the Working Group on the Universal Periodic Review, A/HRC/WG.6/9/L.15*, 15 November 2010, para. 44-45.

15 Working Group on the Universal Periodic Review, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/ (A/HRC/WG.6/9/MRT/3 1)*, 9th session, 1-12 November 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/session9/MR/A_HRC_WG.6_9_MRT_3_E.pdf (accessed on 20 January 2011).

16 NCHR, *Rapport de mission dans les camps des déportés mauritaniens au Sénégal* (in French - Report of Mission to the Senegalese Camps of those Deported from Mauritania), Nouakchott, 20 January 2008, http://www.cndh.mr/images/stories/Doc/rapport_mission_senegal_camps_des_refugies_1.pdf (accessed on 20 January 2011).

Due to the lack of annual reports for 2009 and 2010 and other documents, it is difficult to precisely assess the work carried out by the NCHR. It seems that the work carried out by the Commission was more varied and in depth in the years shortly following its establishment. The two annual reports published by the former Commission were particularly pertinent in its treatment of human rights violations. In particular, the Commission denounced acts of torture and ongoing arbitrary detention while also deploring the lack of follow up to violations by the authorities. These last few months, we have not been able to identify such denunciations made by the Commission despite a general decline in the human rights situation.

5. Conclusion

We fear that the changes made by the authorities in order to achieve an 'A' status for the NCHR are purely 'technical', and would submit that the role of an NHRI cannot be defined solely by its legal status. It is Alkarama's view that the information available does not demonstrate that the Commission is fully meeting its commitments or satisfying the Paris Principles.

1. The fact that the current President of the NCHR is a civil servant and that he was publicly active alongside the Head of State during his electoral campaign, in contradiction with article 15 of the law governing the National Commission for Human Rights.
2. The NCHR is committed to preparing and publishing its annual reports. However, in 2010, no annual report was presented to the President of the Republic.
3. It is unknown whether the Commission has called upon the Government to respect its obligations vis-à-vis treaty bodies and in particular the Human Rights Committee and the Committee Against Torture.
4. The treatment of Mr Ould Dah, advisor to the Commission President, was opaque and the reasons for this treatment remain unknown. In addition, the Commission did not react at the time when he and his colleagues (who were also working to abolish slavery) were arrested, nor did the Commission intervene when they suffered mistreatment and were sentenced following an unfair trial. No Commission representatives were even present during their trial.
5. Despite the degradation in the human rights situation, the Commission has not intervened to call on the authorities to respect human rights. Finally a large section of civil society, represented by local NGOs which are widely recognised as being very active, does not consider it to be independent of the Executive.