

”معًا لإحداث ممارسة أفضل لحقوق الإنسان“
“ Together to create a better practice of Human Rights ”

المؤسسة الوطنية لحقوق الإنسان
National Institution for Human Rights



*Parallel Report submitted by
the National Institution for Human Rights
on
The Initial Report of the Kingdom of Bahrain
regarding the progress made
in the implementation of the provisions of
the International Covenant on Civil and Political Rights*

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Introduction

1. The National Institution for Human Rights (NIHR) of the Kingdom of Bahrain submits its parallel report on the Initial Report of the Kingdom of Bahrain regarding the progress made in the implementation of the provisions of the International Covenant on Civil and Political Rights (ICCPR), which the Kingdom acceded to under Law No. (56) of 2006.
2. The NIHR appreciates the efforts made by the Kingdom to submit its initial report to the Human Rights Committee - although it was submitted late - believing in the significance and effectiveness of this international mechanism toward promoting and protecting human rights at the national level, and meeting its international obligations under the ratification or accession to the core international human rights instruments.
3. In 2016, the NIHR received a letter from the Ministry of Foreign Affairs requesting the Institution's observations on the draft initial report of the Kingdom of Bahrain on the International Covenant on Civil and Political Rights. The NIHR provided its detailed observations on the draft initial report (introductory) with regard to both structure and substance.¹
4. The NIHR submits its parallel report on the progress made in the implementation of the provisions of the International Covenant on Civil and Political Rights, referring to the issues listed in the initial report of the

¹ Attached NIHR preliminary observations on the draft initial report of the Kingdom of Bahrain on the International Covenant on Civil and Political Rights.

Kingdom of Bahrain contained in document No. (CCPR/C/BHR/Q/1) in the methodology used for preparing this report. In its parallel report, the NIHR addresses the most imperative rights and freedoms recognized by the provisions of the International Covenant, which the NIHR believes it has cast a shadow over the practical reality and the situation of human rights over the past years, down to making a number of recommendations that it deems appropriate for the advancement of human rights in the Kingdom of Bahrain.

The progress made in the implementation of the provisions of the International Covenant on Civil and Political Rights

1. The constitutional and legal framework for the implementation of the Covenant: Article No. (2)

- 1.1 The Kingdom of Bahrain is committed to observe its voluntary pledges made to the Human Rights Council during the Universal Periodic Review in April 2008, including that the Kingdom " is committed to establishing a national human rights institution at the earliest opportunity, bearing in mind the relevant United Nations resolutions and, in particular, the Paris Principles. In fact, in November 2007, the Cabinet issued a decision on the establishment of a national human rights institution.²
- 1.2 The Royal Order No. (46) of 2009 was issued to establish the National Institution for Human Rights (NIHR) as a beacon of human rights awareness and a house of expertise and advice. The Royal Order

² Initial National Report of the Kingdom of Bahrain submitted to the Working Group on the Universal Periodic Review at the Human Rights Council during the First Session, 7-18 April 2008- Document No.(A/HRC/WG.6/1/BHR/1)

included fifteen articles as well as the preamble, which addressed the establishment of an independent institution called the National Institution for Human Rights, which conducts its mandates freely, neutrally, and independently.

- 1.3 To ensure that the work of the NIHR is in par with the Paris Principles relating to the status of national institutions in the promotion and protection of human rights, Royal Order No. (28) of 2012 was issued amending certain provisions of the Royal Order No. (46) of 2009 establishing the National Institution for Human Rights. In the amendment the number of members of the NIHR was reduced to be no more than fifteen, including the Chairperson and Vice Chairperson. In addition, the amendment granted the NIHR the mandate to contribute in Human Rights capacity building, including technical provision and training of employees in the Kingdom's institutions who work in fields related to public liberties, political, cultural, social, and economic rights, and law enforcement in order to raise their competencies in human rights. The amendment also granted the authority liberty of appointing the Secretary General to a resolution of the Chairperson after the agreement of the majority of members.
- 1.4 However, in recognition of the State commitment to fully support the work of the NIHR being the independent and main body in the Kingdom of Bahrain with regard to promotion and protection of human rights, a new law should be issued to ensure genuine safeguards to the independence of the NIHR, together with granting it

additional authority in par with "Paris Principles" on the status of national institutions in the promotion and protection of human rights.

- 1.5 In accordance with the constitutional procedures in this regard, His Majesty the King issued on 24 July 2014 Law No. (26) of 2014 for the establishment of the National Institution for Human Rights, which was approved by the Shura Council and the Council of Representatives to create a real legal guarantee and provide full independence to the NIHR as well as granting it additional competencies and powers in line with the Paris Principles relating to the status of national human rights institutions for the promotion and protection of human rights. This Law came into effect after its publication in the Official Gazette in the supplement issue No. (3168) dated 7 August 2014.
- 1.6 On that basis, the NIHR planned to gain permanent and active membership in the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (GANHRI), through which the NIHR can actively participate in the sessions of the Human Rights Council, meetings of treaty bodies, special procedures, and subcommittees, groups, and task forces, and to speak in its capacity as an independent human rights oversight body in the Kingdom to promote and protect human rights.
- 1.7 On 16 July 2015, the NIHR formally submitted an application for accreditation to the Global Alliance's Sub-Committee on Accreditation (SCA), which is concerned with receiving requests for accreditation from national institutions. On 25 November 2015, the NIHR

application was officially accepted and the date to consider it was set on 9 May 2016 during the formal session of the Sub-Committee, which requested the NIHR to submit a report entitled "Statement of Compliance with the Paris Principles on National Human Rights Institutions", containing a number of points centred on establishment, independence, structure, organizational infrastructure, work methods, competencies, general responsibilities, and the relationship with human rights bodies and authorities.

- 1.8 The NIHR sent the Statement of Compliance with the Paris Principles to the Committee four months prior to the set date for consideration according to the requirements for submitting the accreditation application. The Committee issued a summary report of the Compliance Statement in which it identified a number of issues that need focusing on and the importance of incorporating them in the applicable law in line with the accreditation requirements. The Sub-Committee communicated over via telephone with the NIHR's Council of Commissioners on the day scheduled for consideration of the application for accreditation in May 2016 to clarify a number of points.
- 1.9 In the light of the information provided by the NIHR and the discussions between the Council of Commissioners and the Sub-Committee, the latter issued its final report, which was formally issued

on 2 August 2016, containing its recommendations, under which the NIHR was accredited (B status).³

- 1.10 On the basis that its current law, as compared to the other laws on the establishment of institutions, is significantly advanced, the eagerness to present a model law is a further prominent step to confirm the status of human rights in the Kingdom of Bahrain and its outstanding leadership. The proposed amendments were delivered to the competent authorities, in line with the essence of the reform led by His Majesty King Hamad bin Isa Al Khalifa, who affirms that the Kingdom of Bahrain is moving forward to provide all resources to protect and promote the status of human rights by supporting the NIHR to assume its position among its counterparts in the international community.
- 1.11 The core of the recommendations made by the Sub-Committee on Accreditation, adopted by the Global Alliance of National Institutions for the Promotion and Protection of Human Rights, on the basis of which the NIHR was granted B status accreditation, was founded on incorporating a provision in the establishment law on adjusting the building to be accessible for people with disabilities, in addition to requiring that the members of the legislative authority do not constitute the majority, or that their membership affect the independence of the NIHR to avoid conflict of interest between their positions in the legislative authority and their work in the NIHR.

³ For more information, please review the Report of the Subcommittee on Accreditation (SCA) of the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (GANHRI) – May 2016, Human Rights Section: National Institutions for Human Rights. (www.nihr.org.bh)

- 1.12 In addition, the recommendations of the Sub-Committee on Accreditation noted that the consultation and appointment process in the NIHR must be broad and transparent and include clear and standardized criteria for assessing the eligibility of all qualified candidates. The Sub-Committee emphasizes that the selection and appointment process of the decision-making body at the NIHR must be formalized.
- 1.13 The Sub-Committee on Accreditation, in its recommendations, also stressed that the NIHR Establishment Law need to stipulate that full-time members must be among the members of its decision-making body as this would help enforce the independence of the national institution without actual or perceived conflict of interests. In addition, this would achieve stability during the terms of the members and regular and appropriate guidance of its employees, as well as continuous and effective implementation of the functions of the NIHR.
- 1.14 With regard to the competence of the NIHR in the area of the promotion and protection of human rights, the Sub-Committee on Accreditation (SCA) recommended that the NIHR's Establishment Law should include conducting unannounced field visits to detention centres or any other similar place in order to monitor, investigate, and report human rights situation effectively and in a timely manner, as well as to undertake regular follow-up activities.
- 1.15 The Sub-Committee also recommended that the NIHR should formalize the relationship with the civil society organizations through regular and constructive interaction with all relevant stakeholders; the

Sub-Committee valued the efforts and interaction of the NIHR in this regard.

- 1.16 On the other hand, the Sub-Committee's recommendations pointed out the lack in the existing NIHR's Establishment Law of provisions that deal effectively with the relevant ministries and the pertinent parliamentary committees. In addition, the Law did not clarify the process of submitting and approving the NIHR's budget, noting the need to establish a financial control system so as not to prejudice its independence. With regard to the annual reports of the NIHR, the Sub-Committee's recommendations called for including a statement on human rights situation in the Kingdom in the reports, which has a direct impact on the promotion and protection of human rights in the State's system.
- 1.17 Recognizing the importance of promoting and protecting human rights, His Majesty the King issued on 6 October 2016 Decree-Law No. (20) of 2016 amending certain provisions of the Law Establishing the National Institution for Human Rights No. (26) of 2014,⁴ in accordance with the recommendations of the Subcommittee on Accreditation (SCA), adopted by the Global Alliance of National Institutions for the Promotion and Protection of Human Rights (GANHRI), with the intent of granting it more powers to achieve the objectives for which the NIHR was established, reflecting the Kingdom's commitment to the protection of human rights.

⁴ Attached Law No. (26) of 2014 on Establishing the National Institution for Human rights amended by Decree-Law No. (20) of 2016.

- 1.18 The amendments made in Decree-Law No. (20) of 2016 amending certain provisions of Law No. (26) of 2014 Establishing the National Institution for Human Rights included the provision of Article (3/b) regarding the selection of the members of the Council of Commissioners from members of the legislative bodies provided they do not form a majority in the Council of Commissioners and that they can participate in the discussion but as non-voting members. The same Article in para (c) also ruled that a Royal decree shall be issued to determine the mechanisms, procedures, and the selection process of the members of the Council of Commissioners to enhance the transparency of consultations and appointments.
- 1.19 Regarding the full-time/part-time membership of the members of the Council of Commissioners to perform their duties, Article (5) of the Law stipulates that the Royal Decree appointing the members of the Council of Commissioners requires identifying the full-time members, who work full-time to fulfill their mandate in the Institution and are not committed to work in other professions while performing NIHR tasks, and the part-time members, who are fulfilling their mandate in the Institution besides performing a work in any other profession, provided that the Chairperson and the Vice Chairperson are among the full-time members.
- 1.20 The amendments in Article (12/g) of the Law grant the NIHR the mandate to carry out announced and unannounced field visits to monitor human rights situation in correctional institutions, detention centres, labor calls gathering, health and education centres, or any

other similar public place. The same Article in para (j) entitles the NIHR to hold meetings and joint activities, coordinate and consult with the relevant civil society and non-governmental organizations and various other groups and human rights defenders, and communicate directly with those claiming exposure to any form of abuse, and to report back to the Council of Commissioners.

- 1.21 Article (14/a) of the Law grants the NIHR the power to request any information, reports, or documents which it considers necessary for the attainment of its goals or the performance of its functions from the ministries and relevant bodies in the Kingdom. The Article obligates the ministries and bodies to cooperate with the NIHR in the pursuit of its tasks and facilitate the conduct of its competency and provide it with what it requests, and to prepare the responses and comments on the recommendations contained in the reports of the NIHR, in accordance with the in force laws and regulations in those entities.
- 1.22 With respect to conflict of interest, Article (5 bis) of the Law stipulates that, with the exception of the rights and benefits allocated to a member of the Council of Commissioners in this law, the member is prohibited from receiving any financial fee for performing any service or work - as a member - for the benefit of the institution, followed by Article (10) which stipulates that the members of the Council of Commissioners may not be displaced and that their membership will terminate only in cases and in accordance with the procedures set forth in the Law.

- 1.23 Regarding the financial resources of the NIHR, Article (20) of the Law stipulates that the NIHR shall have sufficient financial resources to enable it to undertake its mandates and the tasks assigned to it to the best of its ability; and that these resources shall be allocated to NIHR in a separate ledger on the general state budget that is issued by law. The Article also stipulates that the NIHR shall manage and control its financial resources with complete independence and that its financial accounts shall be subject to the supervision of the National Audit Office.
- 1.24 Article (21) of the Law was amended stipulating that the Council of Commissioners shall produce an annual report on the efforts, activities and work streams of the NIHR, which includes a section explaining the level of progress on the human rights situation in the Kingdom, as well as any observations and comments within its competency, identifying any obstacles to the NIHR's performance and the solutions adopted to circumvent them. The Council of Commissioners shall present the report to the King, the Prime Minister, the Nuwwab Council, and the Shura Council. The report shall be presented to the public in parallel.
- 1.25 The provisions of Law No. (26) of 2014 Establishing the National Institution for Human Rights, amended by Decree-Law No. (20) of 2016, confirm the NIHR's role in the field of promoting human rights. Article (12) of the Law stipulates a number of NIHR's mandates to fulfill its objectives in this area, namely, to participate in the production and implementation of a national plan for the promotion

of human rights in the Kingdom; to examine human rights legislation and regulations enforced in the Kingdom and recommend amendments as it deems fit, particularly in connection with the consistency of such regulations with the Kingdom's international obligations in the human rights field; and to recommend enacting new legislation related to human rights.

1.26 Furthermore, the provisions of the Law grant the NIHR the competence to consider the conformity of legislative and regulatory provisions with regional and international treaties related to human rights issues, including submitting recommendations to accession to regional and international conventions and treaties concerned with human rights; submit parallel reports; participate in the drafting and discussion of the reports which the Kingdom is obliged to submit periodically for the implementation of regional and international conventions concerning human rights, make remarks thereon, and publish such reports in the media outlets; cooperate with national bodies and regional and international organizations, as well as relevant institutions in other countries that are concerned with the promotion of human rights.

1.27 In addition, the provisions of the Law gave the NIHR the power to host conferences and organize training and educational events in the field of human rights, conduct research and studies in this regard, participate in national and international forums, as well as in meetings of regional and international bodies, and issue newsletters,

publications, data, and special reports, and upload them on the NIHR website.

- 1.28 The provisions of the Law also reflect the role of the NIHR in the field of human rights protection through receiving complaints related to human rights and conducting field visits to monitor the situation of human rights in detention centres.
- 1.29 Article (12) of the same Law states in paragraph (e) that the NIHR is entitled to “monitor violation of human rights instances, conduct the necessary investigation, draw the attention of the competent authorities and provide them with proposals on initiatives to put an end to such violations and, where necessary, to express an opinion on the reactions and positions of the competent authorities”. Moreover, paragraph (f) stipulates NIHR’s authority to “receive, examine, and consider complaints related to human rights, refer the complaints, which NIHR deems necessary, to the relevant authorities, follow-up the complaints effectively, or inform those concerned of the procedures that should be applied, help them take such procedures, or assist in the settlement of complaints with the relevant authorities”.
- 1.30 With regard to field visits as one of the means of monitoring granted to the NIHR, Article (12), paragraph (g), stipulates its mandate to “perform announced and unannounced field visits to monitor human rights situation in correction institutions, detention centres, labor calls gathering, health and education centres, or any other public place in which it is suspected that human rights violations are taking place”.

Such mandates collectively contribute to the role undertaken by the NIHR in the field of the protection of human rights.

- 1.31 That provision emphasizes the need to enlarge the competence in the field of protection of human rights in a manner consistent with international decisions in this regard. Moreover, the required protection should not only be limited receiving complaints, but also expand to include follow-up and monitoring of the situation of the human rights situation as well as documentation in various ways and means. Monitoring is necessary to ascertain the degree and extent to which the State honors its legal or international obligations relating to human rights.
- 1.32 Whereas Article (21) of the Law Establishing the NIHR stipulates that: “The Council of Commissioners shall produce an annual report on the efforts, activities and work streams of the Institution. It shall include a section explaining the level of progress on the human rights situation in the Kingdom, as well as any observations and comments within its competency, identifying any obstacles to the Institutions performance and the solutions adopted to circumvent them. The Council of Commissioners shall present the report to the King, the Prime Minister, the Nuwwab Council, and the Shura Council. The report shall be presented to the public in parallel.”
- 1.33 Accordingly, the NIHR, during the years (2013-2017), undertook to issue and submit its annual reports⁵ to His Majesty the King and to the constitutional authorities. The reports included an independent chapter presenting the activities carried out by the NIHR during the

⁵ For more information, please visit Annual Reports Section, (www.nihr.org.bh).

time frame of the report in the area of the promotion and protection of human rights in particular. It also included a separate chapter dealing with some of the key human rights issues that dominated during the reporting period, as well as the advisory opinions of the NIHR submitted to the constitutional authorities and its compatibility with the international human rights instruments.

- 1.34 Accordingly, the NIHR refers the statement of the activities it has undertaken since 2013, including the number of complaints received, the legal aid provided, and its role in the monitoring of the human rights situation, to the annual reports published during the past years, being more detailed and explanatory, to answer the questions raised by the Committee in this regard.
- 1.35 Since its inception, the NIHR has played a very active role in the promotion of human rights owing to Law Establishing the Institution, which granted the NIHR several competencies, the most prominent of which is disseminating a culture and awareness of human rights through a number of available means, including issuing educational newsletters and publications, organizing a number of workshops and lectures, and concluding a number of memorandums of understanding with civil society institutions, specifically in the field of civil and political rights.
- 1.36 In the area of issuing publications and newsletters, the NIHR printed a number of international and regional documents related to human rights in both Arabic and English languages to raise public awareness of the rights and freedoms contained therein, thus promoting and

protecting human rights, instilling its values, disseminating awareness, and guaranteeing the exercise and enjoyment of human rights.⁶

- 1.37 To enrich the scientific and knowledge aspects of human rights issues, the NIHR has complemented its efforts by launching the “Human Rights Culture” series in cooperation with the Centre for Constitutional and Legal Studies at the University of Bahrain as well as other researchers and interested individuals in this field from within the Kingdom and abroad, aiming at issuing a number of academic legal literature relevant to human rights. These books and studies dealt with various topics related to civil and political rights, such as: "The Death Penalty in National Legislation, International Covenants and Islamic Shari'a - Comparative Study", "Human Rights in the Code of Criminal Procedure”, and “Guarantees of Fair Trial According to the International Human Rights Standards”.⁷
- 1.38 This diverse legal series reflects the active role played by the NIHR in the promotion and dissemination of human rights culture, highlighting the most fundamental rights and freedoms set out in the International Covenant on Civil and Political Rights and the status of domestic legislation, as well as its conformity with the international standards. In addition, this series is accessible to all individuals, including those working in the law enforcement, to help them identify, and effectively exercise and enjoy such rights and freedoms.

⁶ Fore more information, please visit NIHR’s publications section (www.nihr.org.bh).

⁷ Fore more information, please visit NIHR’s publications section (www.nihr.org.bh).

- 1.39 In order to promote and disseminate the right to a fair trial guarantee culture, the NIHR has issued and published practical form related to attending trial hearings to monitor and verify fair trial guarantees⁸ as a reference and guided tool for researchers, stakeholders, civil society organizations, and human rights defenders. This form includes the basic pillars of those guarantees during the trial, as approved by national, regional, and international human rights standards.
- 1.40 The NIHR has also organized several workshops, seminars, lectures and training sessions and published newspaper articles in relation to the rights contained in the International Covenant on Civil and Political Rights over the period (2013-2017), to familiarize the general public and all those concerned about civil and political rights contained in the International Covenant.⁹

⁸ Attached form related to attending trial hearings to verify fair trial guarantees.

⁹ Attached illustrative table on the NIHR's activities during the period 2013-2017.

2. **Non-discrimination, equality between men and women and minority rights: Articles (2, 3, 18, 23, 26 and 27)**¹⁰

- 2.1. The right to equality and non-discrimination is an integral part of the foundations of the principle of the rule of law, which is a basic element of the democratic system. All individuals within the State are entitled to enjoy the rights and freedoms set forth in the legal system on equal basis, without discrimination on any ground such as race, sex, language, religion, creed, political difference, or otherwise.
- 2.2. Article (18) of the Constitution of the Kingdom of Bahrain stipulates that: “People are equal in human dignity, and citizens are equal before the law in public rights and duties. There shall be no discrimination among them on the basis of sex, origin, language, religion or creed.”
- 2.3. The NIHR took note of the steps taken by the Kingdom in order to ensure *de facto* equality in the enjoyment of all rights and freedoms without discrimination. The most prominent of these steps is the introduction of the principle of equal opportunities by issuing the Civil Service Directive No. (4) of 2014 on the establishment of Equal Opportunities Committee (EOC) in government entities; an approach adopted by a number of independent official bodies as well as the private sector in several private companies and establishments.
- 2.4. The Equal Opportunity Committee is a standing committee aims at integrating women’s needs in the framework of equal opportunities in

¹⁰ For more information, please review NIHR’s third annual report, 2015, Chapter IV: Section Three: The right to equality and non-discrimination in the enjoyment of rights, (www.nihr.org.bh).

all work areas in government agencies and seeks to realize this principle among all employees, beneficiaries and the services provided by such agencies in cooperation and coordination with the Supreme Council for Women. The Committee expresses its opinion on issues related to the integration of women's needs in the framework of equal opportunities to increase their participation across vital and influential fields and sectors.

2.5. NIHR also stresses the importance of the Royal Order of His Majesty King Hamad bin Isa Al Khalifa, King of the Kingdom of Bahrain, to establish Her Royal Highness Princess Sabeeka bint Ibrahim Al Khalifa Award for the Empowerment of Bahraini Women, which reflects the seriousness of the Kingdom of Bahrain to be on women empowerment. The process subject to deliberate planning and follow-up and evaluation to measure Bahraini women's progress as a partner with equal opportunities in public life. The award also reflects the importance of the national initiatives in the field of empowering women and establishing scientific, objective and measurable standards that support the efforts of public and private sector institutions to achieve equal opportunities at the level of sustainable national development.

2.6. However, the principle of non-discrimination is not based on the ground of gender only; thus, the Kingdom of Bahrain must ensure that every person within its jurisdiction is entitled to the enjoyment of the fundamental human rights and freedoms without discrimination on the basis of race, color, language, religious belief, opinion, thought, national or social origin, wealth, birth, or physical or mental disability.

- 2.7. The NIHR received a number of requests for assistance to follow-up on issuing travel documents for newborns for reasons related to the father being detained or sentenced. The NIHR notes that to issue such a necessary document requires direct administrative procedures.
- 2.8. The NIHR values the promulgation of Law No. (17) of 2015 concerning Protection Against Domestic Violence, as it constitutes an important legal framework for the protection of the rights of the child and the family. The law regards any act of abuse and victimization occurring in the family by one of its members against another as domestic violence, whether physical, psychological, sexual, or economic.
- 2.9. The NIHR appreciates the issuing of the Royal Directions forming a Sharia Committee to review the draft Family Law. The ten members of the Committee included scholars from the Sunni and Ja'afari jurisprudences. The Committee is responsible for studying the draft Family Law and reviewing its provisions to ensure their compliance with the provisions of the Islamic Sharia. The Committee submits to the Royal Court a report including the results of its work and recommendations on the draft Family Law. The work of the Committee shall end once the Family Law is promulgated in accordance with the observed constitutional procedures.
- 2.10. The NIHR ensures the importance of Law No. (19) of 2017 on issuing the Family Law, as it fills the existing legal loopholes of Law No. (19) of 2009 issuing Family Provisions Law (Section One,) which applies only to Sunni individuals and does not extend to individuals subject to the Ja'afari jurisprudence. Thus, the legal status among individuals

shall be equal to ensure the protection of the family in the society, the rules of justice, and equity.

2.11. The initiative to establish the Family Court Complex, was in response to a Royal Order issued by His Majesty the King and upon the recommendation of Her Royal Highness the President of the Supreme Council for Women. The initiative aims to establish an independent building to ensure the privacy of the litigant couples and keep their children at a distance from courts hallways, allow greater privacy to the parties to a case, contribute to social stability, and take into account the psychological conditions surrounding personal status issues.

2.12. **Recommendation:**

- To expand the establishment of Equal Opportunities Units in the ministries, government agencies, which have not done in order to pursue motivating the national model for integrating women's needs in the development.

3. **Prohibition of torture and other cruel, inhuman or degrading treatment or punishment: Articles (7 and 9)**¹¹

3.1 Article (19) paragraph (d) of the Constitution of the Kingdom of Bahrain provides for safeguarding the right to physical and moral integrity as follows: “No person shall be subjected to physical or mental torture, or inducement, or undignified treatment, and the penalty for so doing shall be specified by law. Any statement or confession proved to have been made under torture, inducement, or such treatment, or the threat thereof, shall be null and void”.

3.2 The Penal Code promulgated by Decree-Law No. (15) of 1976 and its amendments, includes provisions that provide legal coverage for the protection of the human right to life and the right to physical and moral integrity. On this basis, Law No. (52) of 2012 was issued amending certain provisions of the Penal Code, by amending the provisions of Articles (208) and (232).

3.3 Under the previous amended provisions, it is noted that:¹²

- The circle of incrimination was broadened in two aspects: the first is based on the purpose of the act; thus, "coerced confession" or "punishing a person for any act he/she has committed" has become a prohibited act, which may lead to suspicion of committing an act of torture. The second is based on the definition of the victim. The limitation that provides that the

¹¹ For more information, please review the First Annual Report of the NIHR, 2013, Chapter Two: First: The right to life and the right to physical and moral integrity (www.nihr.org.bh).

¹² For more information, please review the NIHR's Parallel report to the Committee against Torture, March 2017 (www.nihr.org.bh).

accused, witness, or experts are the only categories that may be victims of this crime is removed.

- There is no time limitation for prosecutions of perpetrators of acts of torture, as this amendment exempted these crimes from the statutory limitation period for crimes of torture. The previous law provided that the crime of torture was subject to a statute of limitations of ten years after it was committed.
- The offenses against the right to physical and moral integrity are considered as felonies rather than misdemeanors. In addition, stricter penalties are imposed in line with the provisions of Article (4), Paragraph (2) of the Convention against Torture. Amendments to the Penal Code ensure that adequate penalties are imposed for the committed crime, which can sometimes reach life imprisonment.

3.4 Law No. (18) of 2014 issuing the Reform and Rehabilitation Institutions Law was issued in response to the recommendation of the NIHR in its First Annual Report of 2013. It recommended expediting the enactment of an integrated legislation for reform, rehabilitation, and custody centres in accordance with the international standards on the treatment of prisoners and detainees.

3.5 In July 2014, Law No. (25) of 2014 was issued amending article (363) of the Penal Code promulgated by Decree-Law No. (15) of 1976, replacing the last paragraph of Article (363) with criminalizing any act which includes threatening any person with committing a crime in whatever manner. An aggravating circumstance has been added to this offense

when the threat is accompanied by a request or instruction to carry out something, including deterring the person or influencing his/her testimony or statement in the proceedings before the investigating authority or the court. It would follow implicitly from the provision of this article that the Bahraini legislature prohibits the use of statements extracted under torture or threat as evidence in any judicial proceedings.

3.6 In October 2012, the Code of Civil Procedure was amended in accordance with Law No. (50) of 2012 amending certain provisions of the Code of Criminal Procedure promulgated by Decree-Law No. (46) of 2002. The amendment entitles those claiming to be subjected to reprisal on account of having previously alleged that he/she was subjected to torture or other forms of cruel, inhuman, or degrading treatment or punishment, to bring a civil claim against the accused person during the evidence-gathering or investigation stages, or before the court hearing the criminal case at any stage up until the closure of pleadings. Such claims are inadmissible before the appeal courts unless the reprisal constitutes an offence. The amendment further stipulated that the provisions of the Chapter on "Arrest of the Accused" shall be in force during the declaration of the state of national safety, in line with the provisions of Article (2), Paragraph (2) of the Convention against Torture.

3.7 The same Law has also been amended pursuant to the Decree-Law No. (53) of 2012 amending certain provisions of the Code of Criminal Procedure promulgated by Decree-Law No. (46) of 2002 to provide

guarantees for the safety of victims, who submit complaints, of any form of reprisals, as well as witnesses and the participating experts.

- 3.8 The Code of Criminal Procedure, promulgated by Decree-Law No. (46) of 2002 and its amendments, includes a set of procedures and controls that form an integrated legal framework for protecting the human right to enjoy the guarantees of a fair trial, starting from the arrest and evidence-gathering stage up to the preliminary investigation and trial stage.
- 3.9 In October 2012, Law No. (49) was issued amending Article (81) of the Public Security Forces Law issued by Decree-Law No. (3) of 1981, under which crimes related to cases of allegations of torture, inhuman or degrading treatment, or death connected with that, were excluded from military crimes and the jurisdiction of military courts. Consequently, these offenses are subjected to ordinary jurisdiction, which is a legislative approach in line with the Convention against Torture.
- 3.10 The NIHR points out that in accordance with Article (12), Paragraph (b) of the provisions of its Establishment Law, it has submitted its advisory opinion on the draft law amending certain provisions of the Code of Criminal Procedure promulgated by Decree Law No. (46) of 2002 to the Shura Council. The advisory opinion was limited to the provisions that the NIHR considers as having an impact on human rights and freedoms, namely articles (57), (63), (64) and (77), the first paragraph of Article (84), the first paragraph of Article (86), (141) and (149), and the first paragraph of Article (294), (297) and (142 bis) of the draft law. The

provisions of the draft decree-law stipulated to reduce the time limit for law enforcement officers and public prosecutors upon the arrest or interrogation of the accused. It also stated the need for periodic and regular judicial oversight over reform and rehabilitation institutions. The draft law also states that, when necessary, bailiffs shall use the military force conditional on the authorization of the office of the competent prosecutor, and that the prosecutor must specify the date, time, and place where the investigation proceedings are conducted. In addition, it granted the accused the right to appeal against detention orders. In principle, the NIHR expressed its support to these amendments as they are meant to protect the rights of detainees, and it provided its detailed observations in this regard. The Shura Council's decision was in line with the decision of the Council of Representatives, rejecting the draft law in principle, although the NIHR, in its opinion on the draft law, considered that there are some aspects of the draft law that can be amended to provide legal guarantees corresponding to the provisions of the Constitution and the related conventions.

3.11 Article (36) of Law No. (18) of 2014 issuing the Reform and Rehabilitation Institutions Law stated that it is necessary to conduct judicial inspections of the institutions. The Article stipulated that:"The President of the Court of Cassation, the Attorney General, the President of the Supreme Court of Appeal, the President of the Supreme Criminal Court, the President of the Supreme Civil Court, the sentence enforcement judge, and the Attorney-General's deputies within their jurisdiction, are entitled to visit and inspect the correctional and

rehabilitation centres, check their records, ensure that there are no prisoners being held unlawfully, receive complaints and grievances from any inmate or detainee and hear his/her complaint, and make sure that all the orders of the public prosecution, investigating judge, and judicial decisions are being implemented in the manner specified.”

- 3.12 By reviewing the information on the legislative measures taken by the Kingdom of Bahrain, the NIHR commends the Government's response in implementing several recommendations of the Committee against Torture, in particular those relating to the prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, and holding the perpetrators accountable.¹³
- 3.13 In accordance with the power granted to the NIHR pursuant to Article (12) of its Establishment Law, the NIHR, during 2017, received 19 complaints concerning allegations of torture and other ill-treatment. The NIHR communicated with the relevant bodies and found out that in some cases the allegations were inaccurate, whereas for the other cases, the required legal proceedings were taken by referring them to Special Investigation Unit at the Public Prosecutor Office.
- 3.14 Given that the NIHR, pursuant to its Establishment Law and its amendments, is entitled to carry out announced and unannounced field visits to monitor the human rights situation in correctional institutions, places of detention, labor gatherings, health and education institutions, or any other public place suspected of being a site of human rights violations, the NIHR, during 2017, visited reform institutions, detention and remand centres, and other places suspected of human rights

¹³ For more information, please review NIHR’s Parallel report to the Committee against Torture, March 2017 (www.nihr.org.bh)

violations. The National Institution conducted unannounced visits to the Women's Reform and Rehabilitation Centre in Isa Town with a view to monitor the situation of those whose freedom is restricted, and the compatibility of the centre with regional and international human rights conventions and other relevant standards, particularly those related to the capacity of the Centre, and the extent of the right of the prisoners and detainees to communicate with the outside world, their access of healthcare, their rehabilitation, the quality of food, their physical health, and exercise opportunities.

3.15 The National Institution also undertook an unannounced visit to the Juveniles Care Centre established in 1973 as a centre for reforming and rehabilitating juveniles. The NIHR team monitored the public and private facilities of the Centre, and met most of the juveniles in the Centre males and females separately.

3.16 The NIHR made sure during the process of the availability of a suitable environment which achieves the dignity of male or female detainee, in a manner guaranteeing to them the maximum level of legal protection in accordance with the national, regional and international human rights standards. The NIHR team observed the services offered at the Centre, and the process of placement, including primary medical examinations services, and it also followed the statements which showed that the capacity of the buildings will not exceed 450 male and female detainees.

3.17 **Recommendations:**

- a. To provide comprehensive training programs to law enforcement officers using training modules that focus on observing human rights.
- b. Increase the capacity of Men Reform and Rehabilitation Centres and detention and remand Centres.
- c. Increase the rehabilitation programs for the sentenced and implement law No. (18) of 2017 on sanctions and alternative measures.

4. Access to Justice and Independence of the Judiciary: Articles (2) and (14)

- 4.1 Article (20) of the Constitution of the Kingdom of Bahrain guarantees the right to a fair trial, which refers to a series of legal guarantees, such as the principle of legitimacy, to the effect that no crime or punishment may be established except under a law, and no punishment may be imposed except for acts committed after the relevant law comes into force. It further provides that penalty is personal and that the accused person shall be presumed innocent until proven guilty in a legal trial in which the necessary guarantees of a fair trial are ensured.
- 4.2 The Code of Criminal Procedure, promulgated by Decree-Law No. (46) of 2002 and its amendments, includes a set of procedures and controls that form an integrated legal framework for protecting the human right to enjoy the guarantees of a fair trial, starting from the arrest and evidence-gathering stage up to the preliminary investigation and trial stage.
- 4.3 On the other hand, the NIHR commends the promulgation of Law No. (53) of 2012 amending certain provisions of the Code of Criminal Procedure to provide more legal guarantees to a group with special legal status such as witnesses, experts, and those accused in allegations of torture, inhuman, or degrading treatment, who are at risk on account of their given testimony or information, by taking the necessary measures to protect them.
- 4.4 The NIHR appreciates the promulgation of Law No. (39) of 2014 amending the Code of Criminal Procedure reducing the duration of custody and granting the accused the right to appeal the decision

against him, since this procedure directly affects the right to freedom. On this issue, the NIHR expressed its views confirming the importance of reducing the period of custody and granting the accused the right to an effective remedy, judicial appeal remedy which must be in the form of a hierarchical grievance so as not to grant exclusive power to issue such a decision to a single authority and avoid arbitrary decisions.

- 4.5 The NIHR commends the promulgation of Law No. (18) of 2017 on Penalties and Alternative Measures, which includes the penalties and alternative measures in criminal matters. It defines such penalties and measures, their implementation conditions, and the competent authorities, as this Law constitutes a qualitative leap in criminal policy toward deterring perpetrators and reintegrating them as useful members of the society, in addition to providing them with psychological, moral and social rehabilitation.
- 4.6 In view of the powers granted to the NIHR to monitor and fulfill out field visits to observe the status of human rights, it attended a number of trial sessions for entities and individuals. In this regard, the NIHR confirms that attending the trial sessions is for the purpose of reviewing and verifying the judicial procedures and achieving justice in the trial of the accused. The NIHR, in the cases that were attended, considers that the proceedings of the competent court and its handling of the trial proceedings took into account the fundamental principles of human rights and the prescribed legal controls, in addition to activating the guarantees of fair trial, taking into consideration the principle of the presumption of innocence, and that the accused is innocent until

proven guilty in a legal trial in which he is guaranteed the necessary guarantees to exercise the right of defense at all stages of the investigation and trial in accordance with the law.

4.7 Consequently, the NIHR views the right to a fair trial as a standard of the International Human Rights Law aimed at protecting people from the impairment of their rights with regard to their legal status before judicial bodies. In addition, NIHR views the right to a fair trial as a fundamental pillar of the fair trial provided for in international instruments starting with the Universal Declaration of Human Rights. Article (11/1) of the Declaration states that "... he (the adversary) has had all the guarantees necessary for his defense", followed by the International Covenant on Civil and Political Rights, Article (14/3-b), which stipulates that "...to have adequate time and facilities for the preparation of his defense ...". The right of defense is further affirmed in Article (20/c) of the Constitution stating that "... in which he is assured of the necessary guarantees to exercise the right of defense...". Noting that assessing the rulings handed down by the judiciary is outside the competence of the NIHR because there are other legal means through which these provisions can be challenged.

4.8 In accordance with the mandate granted to the NIHR pursuant to Article (12) of its Establishment Law, NIHR, during the year 2017, received a number of complaints and requests for legal assistance and advice regarding the right to fair trial guarantees. There were (6) complaints that were archived since the desired results were reached, (32) requests for legal assistance and advice, (27) requests are still under

consideration pending the response by the competent authorities, and (5) requests were filed because the desired results were achieved.

4.9 The NIHR also attended the trial sessions in Case No. (1 / Terrorism / 2017) regarding the formation of a terrorist cell and the assassination attempt of the Commander-in-Chief of the Bahrain Defense Force, which was before the Supreme Military Justice in the Military Court in October 2017 until the issuance of the sentence in the 25 December 2017. NIHR also attended the hearing held on 21 February 2018, in which the Supreme Military Court of Appeal handed down its ruling on the appeals against the preliminary judgment issued in case No. (1 / Terrorism / 2017), which decided to reject the appeal and to support of the verdict against the convicts. NIHR monitored the proceedings to ensure their conformity with national, regional and international fair trial standards.

5. Abolition of Slavery and Serfdom: Article (8)¹⁴

5.1 The Constitution of the Kingdom of Bahrain does not explicitly refer to the prohibition of slavery and trafficking in persons in all its forms except as provided for in Article No. (13) in paragraph (c) stating that “No forced labor shall be imposed on anyone except in the circumstances specified by the law for national emergency and with just remuneration, or as an implementation of a judicial decision”.

5.2 Law No. (1) of 2008 on Combating Trafficking in Persons addresses in Article (1) the concept of the crime of trafficking in persons, the legal

¹⁴ For more information, please review the Second Annual Report of the NIHR, 2014, Chapter III: Section 1: Combating Trafficking in Persons, (www.nihr.org.bh).

elements constituting the crime, and forms of the crime. Articles (2) and (3) followed to set out the sanctions against the perpetrators of this crime; whereas Article (4) indicates the aggravated punishment for this crime. Articles (5) and (6) identify the necessary actions to be taken in this type of crime at the investigation and trial stages, as one of the legal safeguards that need to be enjoyed by the victim.

- 5.3 It should be noted that the above-mentioned law was not the first to address the crime of trafficking in persons, as it was preceded by other legislation represented by the provisions of the Penal Code promulgated by Decree-Law No. (15) of 1976, as amended. Articles (198) and (302 bis) referred to some forms of this crime, such as the case of using workers to perform a certain work for the State, or a government or public agency, or detaining their wages, in whole or in part, without justification, whether by a public official, an officer assigned with public service, or any other individual.
- 5.4 The provisions of Law No. (19) of 2006 on the Regulation of the Labor Market, as amended, did not overlook the crime of trafficking in persons, as the Law organizes the relationship between foreign workers and employers to ensure the recognition of the rights of the workers and not to exploit them. Law No.(5) of 2007 on Combating Begging and Homelessness defines the two terms and the actions taken against them. In certain circumstances, begging is considered a form of trafficking in persons through using a juvenile or handing him to others for begging purposes, inciting a person to beg or forcing him into homelessness. Law No. (37) of 2012 promulgating the Law of the

Child includes provisions to protect children from falling victims to this organized crime as a result any form of exploitation.

- 5.5 The NIHR believes that, despite the fact that Law No. (1) of 2008 on Combating Trafficking in Persons has introduced provisions criminalizing trafficking in persons, it has overlooked to provide definitions of the terms stated therein, in order to disambiguate the terms, for example: "Sexual Exploitation Practices, practices similar to slavery, and criminal groups" along the lines of comparable legislation in some Arab countries.
- 5.6 In addition, the Law, in demonstrating the cases of aggravated punishment for the crime of trafficking in Persons by a criminal group, does not explain the concept of this group, the significant number of the members of this group, whether it conducts its criminal activity within the territorial borders of the Kingdom or abroad, and the means of exercising its activities, such as managing of commercial activity to hide the crime, or administration of websites. Moreover, in enumerating the cases of aggravated punishment, the Law does not state the case in which a victim is the spouse of the offender, a child, or a person with disability and does not mention the scope of the application of its provisions. In addition, the Law does not independently address the mandate or jurisdiction for its application; taking the circumstances surrounding the crime into account.
- 5.7 With regard to efforts made to combat the crime of trafficking in persons, the NIHR considers that the National Committee to Combat Trafficking in Persons established under Article No. (8) of the Law, is a

national committee represented by official government bodies and civil society organizations and, therefore, it is obliged, to develop a national strategy to combat trafficking in persons. The NIHR forwarded a proposed strategy to the Committee for guidance.¹⁵

- 5.8 The NIHR, convinced that the expatriate workers must have full rights and that this will not be achieved without providing them with more protection, has opened a branch at the Expat Protection and Assistance Centre, affiliated with the National Anti-Trafficking in Persons Committee.
- 5.9 The NIHR's branch concerned with expatriate workers is the first of its kind in the Asia-Pacific region focusing on a high priority group and the fight against trafficking in persons and new slavery, as well as the protection of freedom of movement and the rights of migrant workers.
- 5.10 Through the complaints it received, the NIHR has identified a number of cases of suspected trafficking in persons of (167) cases since 2013-2018 pertaining to workers of different nationalities, most of which were complaints regarding not getting paid for their work, confiscation of their passports by the employers, or forcing them to work for additional hours in jobs different from what was agreed upon in the contracts. The NIHR coordinated these complaints with the competent bodies as a preliminary step toward obtaining the complainants' demands and entitlements in full.
- 5.11 Within the framework to develop the mechanisms of communication with citizens and residents in order to reach the maximum level of

¹⁵ For more information, please review the Second Annual Report of the NIHR, 2014, Chapter III: Section 1: Combating Trafficking in Persons (www.nihr.org.bh).

protection and promotion of human rights, the NIHR launched a Call Centre service toll free number (80001144) to receive complaints, requests for legal assistance and any inquiries related to its mandate. Citizens and residents can communicate with the national institution, whether by personal presence, through its website, through its official accounts on social media or through mobile phone application (NIHR Bahrain).

5.12 **Recommendations:**

- a. Make the necessary amendments to Law No. (1) of 2008 on Combating Trafficking in Persons to ensure its inclusion and consistency with the relevant international and regional instruments, starting from prevention to treatment, up to punishing the perpetrators.
- b. Develop a National Strategy to Combat Trafficking in Persons by the relevant bodies -addressed in the provisions of Law No. (1) of 2008 on Combating Trafficking in Persons - in cooperation with the NIHR.
- c. Form a national fund to support the human trafficking victims during court procedures.

6. Freedom of Movement: Article (12)

- 6.1 The Constitution of the Kingdom of Bahrain stipulated in Article (17), Paragraph (b) that “It is prohibited to banish a citizen from Bahrain or prevent him from returning to it”, followed by Article (19) Paragraph (b) stating that “A person cannot be arrested, detained, imprisoned or searched, or his place of residence specified or his freedom of residence or movement restricted, except under the provisions of the law and under judicial supervision.”
- 6.2 The Civil and Commercial Procedures Law promulgated by Decree-Law No. (12) of 1971 and its amendments states in Article (178) that " The plaintiff may seek an order from the court forbidding the defendant to travel, if the following two conditions are met: 1- if serious grounds for supposing that the defendant's absconding from the litigation is likely; 2- if the request is based on a verified debt, due and confirmed in writing, or the claim is likely to be right from the appearance of the documents. The plaintiff or the person who has issued a travel ban must inform the person who is banned from travel of the order if it is issued in his/her absence, within eight days from the date of issuance in writing by registered mail.
- 6.3 Article (179), Paragraph (b) as amended, of the same Law states that: “A ban on travel shall cease in any of the following cases: 1-If the applicant or the person issuing the order does not inform the person against whom the travel ban order is issued pursuant to the provisions of the second paragraph of Article (178) of this Law. 2- If any of the two conditions necessary for the order to ban travel fails. 3- If the

defendant provided a surety acceptable to the court or bail in cash to the value determined by the court to guarantee the execution of any judgment that may be passed against him/her in the case. 4- If a period of sixty days lapsed since the ruling is issued and becomes final in the claim for settling the debt for which a travel ban is issued, without the creditor advancing to the execution court to request to enforce the sentence.”

- 6.4 With regard to the citizens right to freedom of movement in the context of the decision of the Government of Bahrain to cut diplomatic ties with the State of Qatar and the measures taken against it, the NIHR appreciates the Royal Directive by His Majesty the King on 11 June 2017, considering the humanitarian cases of the joint Bahraini-Qatari families, in recognition of the people of Qatar, who represent a natural and genuine extension of the people of the Kingdom of Bahrain, and the subsequent allocation of a hotline to deal with these humanitarian situations and facilitate their affairs to preserve the family ties.
- 6.5 Regarding the right of residents to leave the Kingdom, the NIHR has monitored, through the complaints received from foreign detainees of different nationalities, five complaints from foreign nationals who alleged to be detained despite the fact that they have satisfied their criminal penalties and that the competent authority represented by the Ministry of the Interior (Citizenship, Passports, and Residency Affairs) has failed to implement the penalty of their deportation from the Kingdom. The NIHR, upon receipt of these complaints, addressed the

Ministry of the Interior, which reported that there are judicial orders issued by the civil courts against them pertaining to financial claims that prevented the Ministry from implementing the deportation of the complainants. The Ministry also stated that it had contacted the Supreme Judicial Council to consider the possibility of implementing the deportation order.

6.6 The NIHR, in its follow-up efforts in this regard, addressed the Supreme Council of the Judiciary to consider these judicial orders. It found out that considering whether the possibility of implementing the deportation order or not falls within the jurisdiction of the penalty enforcement judge. However, the NIHR considers that the continuation of the situation as is conflicts with Article No. (11) of the International Covenant on Civil and Political Rights, which states that: “No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation”, since the decision to ban travel is the result of failure to meet this financial obligation.

6.7 The NIHR notes the Ministry of Interior has efforts to resolve this issue, and affirms the need for the Supreme Judicial Council to deal with this matter, in a way that does not conflict with the rights of residents and the interests of national stakeholders, in accordance with the relevant international treaties, conventions and instruments.

7. **Freedom of conscience and religious belief: Articles (2), (18) and (26)**

7.1 Article (22) of the Constitution of the Kingdom of Bahrain guarantees the right to freedom of conscience and religious belief, which stipulates that, "Freedom of conscience is absolute. The State guarantees the inviolability of worship, and the freedom to perform religious rites and hold religious parades and meetings in accordance with the customs observed in the country."

7.2 In compliance with the recommendation of the Bahrain Independent Commission of Inquiry No. (1723 / B-2), which states: "To follow-up to the statement of His Majesty King Hamad bin Isa Al-Khalifa on the reconstruction of some religious establishments by the Government's in accordance with administrative regulations at the expense of the State. The Commission welcomes considering this matter by the Government as soon as possible." The Government has implemented the Royal directives in this regard, starting with the construction of places of worship and correcting the conditions of the violating establishments in accordance with the legal framework that preserves the sanctity and status of these places. Moreover, the Government directed the competent bodies to allocate a special budget for the completion of this portfolio. The formal procedures for all the projects have been completed in accordance with the timetable established in this regard.

7.3 The NIHR appreciates the Royal Order issued by His Majesty King Hamad bin Isa Al Khalifa on the establishment of the King Hamad International Centre for Peaceful Coexistence, which will reflect a

global message on Bahraini experience in promoting peaceful coexistence among various religions and sects. The history of the Kingdom of Bahrain has always been characterized by religious coexistence in harmony, where all residents practice their faiths, religions, and beliefs freely. In 2017, the Kingdom of Bahrain held unique events in order to familiarize the world with Bahrain's model of religious freedom and peaceful coexistence throughout the centuries; “King Hamad's Global Centre for Interfaith Dialogue and Peaceful Co-existence” was launched in Los Angeles; and the “King Hamad Chair in Inter-Faith Dialogue and Peaceful Co-existence.” was launched at the Sapienza University in Rome.

- 7.4 The Kingdom of Bahrain is firmly committed to the protection of religious freedoms and respect for pluralism in its intellectual, cultural, and religious diversity, as an ideal means of preserving the specificity and status of the Kingdom of Bahrain as the home of love and peace. To this end, the “Cathedral of Our Lady of Arabia”, the largest church in the Arabian Peninsula, is being constructed on a land donated by His Majesty the King and will be erected next to a new mosque. This is a clear evidence of the Kingdom's desire to retain its status and to expand it as a leading source of religious freedom and peaceful coexistence in the region.
- 7.5 The NIHR calls for the need to rationalize the religious discourse - whatever its source is - and to refrain from advocating the hateful poison of sectarianism, or what can be interpreted as incitement to encourage violence, and to direct it towards nurturing the spirit of

tolerance, harmony, and brotherhood that is founded on the respect for others, rejecting and condemning violence, and dealing with it responsibly, as urged by our Islamic religion.

8. Freedom of opinion, expression, peaceful assembly, and freedom of association: Articles (19), (21), (22), (25) and (26)

- 8.1 The Constitution of the Kingdom of Bahrain guarantees the right to freedom of opinion and expression in Article No. (23), stipulating that: “Freedom of opinion and scientific research is guaranteed. Everyone has the right to express his opinion and publish it by word of mouth, in writing or otherwise under the rules and conditions laid down by law, provided that the fundamental beliefs of Islamic doctrine are not infringed, the unity of the people is not prejudiced, and discord or sectarianism is not aroused”. In addition, the Constitution, in Article No. (26) guarantees the enjoyment of the right to confidentiality.
- 8.2 Decree-Law No. (47) of 2002 on the Regulation of Press, Printing and Publishing deals with provisions related to printing, publishing, and regulation of the press; but, to date, no amendment has been issued on its provisions.
- 8.3 Law No. (51) of 2012 amending certain provisions of the Penal Code promulgated by Decree-Law No. (15) of 1976, revoked Article No. (134 bis), which criminalizes the broadcast of false news, statements or rumors abroad about the domestic conditions in the country. It further revoked Article No. (174) which criminalizes the making, possessing, and distribution, or posting of pictures that offend the country’s reputation, and amended Article No. (69 bis), which provides that the interpretation of the restrictions on the right to expression in the Penal Code or any other law is the necessary framework for a democratic society in accordance with the principles of the National Action

Charter and the Constitution, and considers that the exercise of the right of expression in this range is an excuse exempt from punishment. Furthermore, the amendment of Article No. (168) of this Law limiting, exclusively, the legal descriptions arising from broadcasting false news, and the requirement that the act should be deliberate and arranged to cause damage to national security, public order, or public health, are amendments that add more guarantees and more space for the enjoyment of freedom of opinion and the right to expression in the Kingdom of Bahrain.

8.4 As regards the institutional structure, the High Authority for Information and Communication was established under Decree No. (47) of 2013. The Authority is responsible for proposing the information and communication policy in the Kingdom of Bahrain, following up its implementation, proposing the controls and rules necessary to promote the media and communication profession, developing standards of supervision and control over media content and advertisements in the various media and communication outlets, in addition to receiving complaints about media content, and reconciling the relevant parties concerning these issues. Accordingly, the Royal Decree No. (29) of 2013 was issued to compose the Authority of a chairman and nine renowned members of the media and communication field.

8.5 Concerning the right to peaceful assembly, the Constitution of the Kingdom of Bahrain guarantees this right in Article No. (28), Paragraph (b) stating that “Public meetings, parades and assemblies

are permitted under the rules and conditions laid down by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency”.

- 8.6 At the national legislation level, Decree-Law No. (18) of 1973 on Public Meetings, Rallies, and Gatherings and its amendments was issued addressing the provisions concerning the organization of public meetings, rallies, and gatherings, imposing certain requirements for the exercise of this right. It also stipulated penalties for deprivation of liberty, as well as imposing fines for those who violate its provisions.
- 8.7 Decree Law No (22) of 2013 amending certain provisions of Decree Law No. (18) of 1973 concerning Public Meetings, Rallies, and Gatherings, prohibited the organization of demonstrations, marches, gatherings, or sit-ins in the city of Manama, except for sit-ins in front of international organizations, provided a special written permission is obtained. Accordingly, the Minister of Interior Decree No. (57) of 2011 was issued to define the duties and responsibilities of the committee provided for in Article No. (6) of Decree-Law No. (18) of 1973 regarding Public Meetings, Rallies, and Gatherings with a view to maintain security, public order, and good morals.
- 8.8 The NIHR views that the right to peaceful assembly, although it is an inherent right for individuals, groups, or legal entities that must be exercised freely, yet, this right may be subject to minimum permissible controls to exercise it without prejudice to its substance. Considering that these controls are an exception to the principle of freedom of

peaceful assembly, they may not be expanded further or standardized, and must be constantly interpreted in the strictest limits.

- 8.9 The NIHR asserts that the right to peaceful assembly faces a challenge linked to the culture and awareness of the community in dealing with it. Describing an assembly as peaceful requires that all the practices accompanying it are far from the manifestations of violence or counter-violence from any party, or whatever influences or prejudices the right of others to enjoy the other rights and freedoms. This led the legislative intervention to provide for controls to prevent abuse or their misuse, provided that such controls conform to the relevant provisions of International Human Rights Law.
- 8.10 The NIHR affirms that, although the State has the right to intervene in the enactment of legislation and to take appropriate measures to regulate the exercise of the right to peaceful assembly as a result of certain infringing behaviors accompanying such assemblies, the State's intervention must not be in such a way that the right is confiscated or restricted, thus losing its substance.
- 8.11 With regard to the freedom of association, the Constitution of the Kingdom of Bahrain guaranteed this freedom in Article No. (27), which stated that "The freedom to form associations and unions on national principles, for lawful objectives and by peaceful means is guaranteed under the rules and conditions laid down by law, provided that the fundamentals of the religion and public order are not infringed. No one can be forced to join any association or union or to continue as a member."

- 8.12 At the national legislation level, Decree-Law No. (21) of 1989 Issuing the Law of Associations, Social and Cultural Clubs, Special Committees Working in the Field of Youth and Sports, and Private Institutions and its amendments dealt with the provisions concerning the formation, registration, and regulating the of work of associations and the provision for dissolution.
- 8.13 Law No. (26) of 2005 was issued concerning Political Associations, which regulates the work of these associations in terms of the mechanism and rules of their establishment, their legal status, and the acts that are prohibited from being practiced by such, without ignoring the conditions in which the associations may be dissolved or suspended, to strengthen the foundations of democracy in society and the promote political life.
- 8.14 It is hereby established, through the mentioned Law, that the envisaged mechanism to establish political associations is based on a request submitted to the Minister of Justice, signed by the founders with certified signatures, together with attaching a number of statements and documents related to the association. The Law also granted the competent minister to declare the foundation of the association within sixty days from the date of requesting its establishment, or within fifteen days from the date of receiving the clarifications or documents necessary to complete the registration process. The same law requires that if the competent minister declines to announce the establishment of the association during the prescribed periods, the minister must notify the agent of the founders by

registered letter rejecting the establishment and the reasons for rejection. The purpose of this is to enable the founders to challenge the decision before the court. However, the law considers that if the time limits lapsed without the declaration of the founding of the association or the notification of the agent of the founders of the rejection, then this is an implicit rejection of this establishment. In all cases, the law specifies that political associations cannot be dissolved or suspended, or their leaders dismissed except in accordance with the provisions of the statute of the association or by virtue of the judiciary.

- 8.15 Despite the fact that the path adopted by the Law requires notifying the agent of the founders with a registered letter of rejecting the establishment and stating the reasons for rejection in order to be able to challenge the rejection decision before the judiciary, which is a guarantee for the effective enjoyment of the freedom of association; yet, the provision on elapsing the set deadline for the founding of the association without declaring its establishment or notifying the agent of the founders of refusal, and considering it an implicit rejection, has voided the value of that guarantee. This is not acceptable, since implicit refusal in such cases constitutes an infringement of international standards relating to the freedom of association.
- 8.16 It should be noted that the course of the Law toward the inadmissibility of dissolution of political associations or suspending their activities or dismissing their leaders except in accordance with the provisions of the statute of the association or by virtue of the judiciary is a provision in the right direction.

- 8.17 There are more than two hundred and twenty-three associations registered in accordance with the provisions of Decree Law No. (21) of 1989 issuing the Law of Associations, Social and Cultural Clubs, Special Committees Working in the Field of Youth and Sports, and Private Institutions and its amendments; and about twenty political associations operating under the umbrella of Law No. (26) of 2005 Concerning Political Associations.
- 8.18 The NIHR, pursuant to its mandates included in the provisions of its Establishment Law, has played an active role in the field of human rights protection. This was reflected in attending a number of trial sessions that resonated among the public, including attending the administrative proceedings against the Islamic Wafaq Society before the High Civil Court in an administrative district, in which the court ordered on 17 July 2016, to dissolve the association and liquidate its funds and return its proceeds to the State treasury, up until the Court of Cassation upheld this ruling on 19 February 2018.
- 8.19 The NIHR also continued to attend the administrative proceedings against the National Democratic Action Society (Wa'ad) before the High Civil Court in an administrative district, in which the court ordered on 31 May 2017, to dissolve the association and liquidate its funds and return its proceeds to the State treasury. The NIHR was keen to attend the hearings of the Supreme Court of Appeal, which upheld the ruling of the High Administrative Court in its session held on 26 October 2017.

8.20 The NIHR believes that there was no suspicion of a violation of the right to fair trial guarantees, as the trial proceedings were objective and consistent, in substance and content, with fair trial standards. This is evident in the fact that the Court allowed both litigants (the lawyer of the State Prosecution) and (the lawyers of each association) to express their opinions, defend them, and to hear their statements in full, freely and without interruption. In addition, the Court allowed the members of each association, some lawyers, human rights supporters, and representatives of a number of foreign embassies to be in the courtroom, entrenching the principle of public hearings, which is one of the main pillars of fair trial guarantees.

8.21 Recommendations:

- a. To issue an exclusive and integrated law on press, printing, publishing, audio-visual and printed media, and electronic media in accordance with the international and regional human rights instruments.
- b. To issue a law on guaranteeing the right to information as a key component of freedom of opinion, the right to expression, and freedom of the media.
- c. To issue a law on civil society and organizations that takes into account suitable developments of human rights, while supporting the law with all guarantees that ensure the freedom of association, in line with international human rights instruments.
- d. To encourage civil society organizations to expand their understanding of the right to peaceful assembly, sensitize the

participants and organizers of peaceful gatherings to the legal aspects and violations that may occur and the consequences, and play an active role in promoting awareness of the importance of practicing this right and its desired objectives in a peaceful framework, as a civilized image of the exercise of democracy, and to announce the end of the gathering officially and ask the participants to scatter.

9. Right to participate in public life: Articles (25 & 26):

- 9.1 The constitution of the Kingdom of Bahrain stipulates under Article (1/e) the rights of citizens to stand for elections and to vote, the legislator brought forward several legislations that stated the detailed stipulations to exercise this right and to preserve it. This includes Decree-Law No. (14) of 2002 on exercising political rights and its amendments pertaining to referendum and electing the members of the Parliament, Decree-Law No. (15) of 2002 on the Shura Council and the Council of Representatives and its amendments, provisions of the Municipal Law issued by Decree-Law No. (35) of 2010 and its amendments, in addition to Decree-Law No.(3) of 2002 on the Election Scheme of the Municipal Council Members, and its amendments. Other legislations were issued to support regulating the practice of this right, like Decree-Law No. (14) of 1973 on the organization of propaganda, and Resolution No. (77) of 2006 on the arrangement of the election campaign for elections of the House of Representatives and municipal councils, to address the issues and procedures relevant to electoral propaganda and penalties for violating it.
- 9.2 In pursue of the reform initiative launched by H.H. the King at the beginning of the millennium, which started by announcing the National Charter in 2001, and reinstated the parliamentary life and called for parliamentary and municipal elections for the first time in 2002, followed by 2006 elections, and continued in 2010, till 2014 where the parliamentary and municipal elections were called for the

electorates to exercise their constitutional right in voting and running for election that took place on 22 November 2014, followed by the second round runoff on 29 November 2014, which ended by formation of the council of representatives and the three municipal councils distributed over the Kingdom's governorates.

9.3 According to the official announced numbers and statistics, the total candidates for the membership of the parliament for the 2014 parliamentary elections reached 266 candidates from the four governorates of the Kingdom, vying for the 40 seats in the council of representatives. According to the law, the Capital Governorate was allocated (10) seats, Muharraq Governorate (8) seats, Northern Governorate (12) seats, and the Southern Governorate (10) seats. As for the municipal elections, the total number of candidates for the three municipal council membership were (135) candidates competing for 20 seats: The Muharraq province municipal council allocated (8) seats, the Northern province municipal council (12) seats, and Southern province municipal council (10) seats.

9.4 According to the official announced numbers and statistics the total vote for the Capital Governorate was (90,349), Muharraq Governorate (68,618), Northern Governorate (119, 467) and Southern Governorate (71,279), with the total vote was (349,713)¹⁶. The voter turnout in the parliamentary elections was (52.6%), while voter turnout in municipal elections was (59.1%) of the total voters.¹⁷

¹⁶ Press release by the Executive Director of the parliamentary and municipal elections 2014 for 2014 as published in Bahrain News Agency (BNA) on 21 October 2014.

¹⁷ Final results of the parliamentary and municipal elections 2014 announced by head of the High Elections and Referendum Commission as published in Bahrain News Agency (BNA) on 30 November 2014.

- 9.5 Pursuant to the provisions of Law Decree No. (15) of 2002 on the Shura Council and the Council of Representatives and its amendments, particularly Article No. (27), which stated that " All election campaigning has to stop all over the kingdom 24 hours before the due date of the elections", the NIHR noted that the official media broadcasted television interviews with a number of candidates, in addition one of the local newspapers published electoral advertisements for some candidates during the electoral silence period, which was deemed an obvious violation of the provisions of the above mentioned article.¹⁸
- 9.6 On the other hand, NIHR noted certain cases of child exploitation during the electoral process that involved employing children to perform electoral campaigning in public streets and roads for some candidates. In this regard, NIHR reiterates that involving children in such practices, could yield serious repercussions on their life and safety, and is not appropriate to their age group.
- 9.7 Regarding the lists of voters, on polling day NIHR noted that a large number of names of eligible voters for parliamentary or municipal elections were missing. That was a direct result of the change in the number of districts due to the elimination of the Central Governorate, causing confusion in some electoral constituencies thus the inability of some citizens to exercise their electoral right.

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¹⁸ For more information, please review the Second Annual Report of the National Institution for Human Rights 2014, Chapter Three: Section II: The Right to Nomination and Election (www.nihr.org.bh).

Attachments

- Law No. (26) of 2014 Establishing the National Institution for Human Rights as amended by Decree-Law No. (20) of 2016.
- Application form to attend court hearings to verify fair trial guarantees (publications of the NIHR.)
- Preliminary observations of the NIHR on the Draft Initial Report of the Kingdom of Bahrain on the International Covenant on Civil and Political Rights. (Sent to the Ministry of Foreign Affairs on 30 June 2016.)
- Illustrative table showing the workshops, seminars, training lectures, and published newspaper articles in relation to the rights contained in the International Covenant on Civil and Political Rights, which the NIHR participated in conducting and dissemination, over the period (2013-2017)