



**National Institution for Human Rights (NIHR)'s Opinions on the
Draft Law to Modify some of the Provisions of the Law No. (23) of 2014 on the
Issuance of the Traffic Law
(Executive Summary)**

In consideration of the efforts undertaken by the esteemed Council of Representatives in all matters related to the human rights issue, being the constitutional organization vested in the protection of public rights and freedoms, and in appreciation for the considerations targeted by the Draft Law to modify some of the provisions of the Law No. (23) of 2014 on the issuance of the Traffic Law, and upon request of the Council of Representatives' Committee on Foreign Affairs, Defense and National Security, the NIHR hereby refers its opinions on the Draft Law to the esteemed Committee, taking into consideration the relevant provisions of the Constitution as well as international human rights instruments and conventions.

Article (3 bis):

The draft Article:

Any vehicle owned by a non-citizen shall be charged a fee in return for the use of public roads owned by the state, which shall be twice the prescribed fee for the issuance of a vehicle's registration certificate, and which shall be paid on an annual basis upon payment of the vehicle registration fee.

Article (27) Paragraph (3)

The draft Article:

The fees mentioned in the above paragraph shall be determined so that it would be for the non-citizen twice the fee that is paid by the Bahraini citizen, in which case the GCC citizens shall be treated as Bahraini citizens.

NIHR's opinions:

The NIHR believes that the Draft Law to modify some of the provisions of the Law No. (23) of 2014 on the issuance of the Traffic Law, which provides for charging fees on any vehicle owned by a non-citizen in return for the use of public roads owned by the state, which shall be twice the prescribed fee for the issuance of a vehicle's registration certificate, although there are no registration fees on the Bahraini citizens in the original Law, **is a provision that involves discrimination and results in the restriction, exclusion or preference of a class over another, for the purpose of differentiation between citizens and non-citizens.** Therefore, the abovementioned Draft Law contradicts with the international human rights standards and is inconsistent with the international obligations of the Kingdom of Bahrain in this regard.

Explanatory Note

Introduction:

In consideration of the efforts undertaken by the esteemed Council of Representatives in all matters related to the human rights issue, being the constitutional organization vested in the protection of public rights and freedoms, and in appreciation for the considerations targeted by the Draft Law to modify some of the provisions of the Law No. (23) of 2014 on the issuance of the Traffic Law, and upon request of the Council of Representatives' Committee on Women and Children's Affairs, the NIHR hereby refers its opinions on the Draft Law to the esteemed Committee, taking into consideration the relevant provisions of the Constitution as well as international instruments and conventions.

The NIHR's terms of reference, pursuant to the provisions of Article (12) Paragraph (b) of its Establishment Law No. (26) of 2014, stipulate that:

"The NIHR may study legislations and codes applicable in the Kingdom of Bahrain, which are relevant to human rights, and recommend modifications it finds appropriate, especially with regard to conformity of such legislations with Bahrain's international human rights commitments, and may further recommend the issuance of new legislations relevant to human rights".

Therefore, the NIHR's opinions shall be limited to the current Draft Law to the extent it finds touching or influential upon basic human rights and freedoms, taking into consideration the relevant international human rights standards, detailed as follows:



Article (3 bis):

The draft Article:

Any vehicle owned by a non-citizen shall be charged a fee in return for the use of public roads owned by the state, which shall be twice the prescribed fee for the issuance of a vehicle's registration certificate, and which shall be paid on an annual basis upon payment of the vehicle registration fee.

Article (27) Paragraph (3)

The draft Article:

The fees mentioned in the above paragraph shall be determined so that it would be for the non-citizen twice the fee that is paid by the Bahraini citizen, in which case the GCC citizens shall be treated as Bahraini citizens.

NIHR's opinions:

Article (1) Paragraph (1) of the International Convention on the Elimination of all Forms of Racial Discrimination, joined by the government of the Kingdom of Bahrain by virtue of Decree No. (8) of 1990, states that:

"In this Convention, "Racial Discrimination" means any discrimination, exclusion, restriction or preference, which is based upon race, color, descent or national or ethnic origin, and which aims at or entails nullifying or impairing the recognition, enjoyment or exercising of fundamental human rights and freedoms, on an equal basis, in the political, economic, social or cultural arena or any in other public life field".

Paragraph (2) of the same Article stipulates that:

"This Convention does not apply to any discrimination, exclusion, restriction or preference between citizens and non-citizens of any State Party".

Article (2) of the International Convention on the Elimination of all Forms of Racial Discrimination further states that:

"The State Parties condemn racial discrimination and undertake to pursue, by all appropriate means and without any delay, a policy to eliminate racial discrimination of all forms and to enhance understanding among all races. To this end:

a.

d. All State Parties shall ban and end any racial discrimination, by all appropriate means, including issuance of legislations if necessary, which is practiced by any person, group or organization.

Then Article (5) of the International Convention on the Elimination of all Forms of Racial Discrimination further states that:



“In fulfillment of basic obligations stipulated in Article (2) of this Convention, State Parties undertake to ban racial discrimination and to eliminate all its forms, and to secure the right of every human-being, without discrimination based on race, color or national or ethnic origin, to equality before the law”.

“The Committee on Elimination of Racial Discrimination”, which is established by virtue of the International Convention on the Elimination of all Forms of Racial Discrimination, which has been assigned to interpret the provisions of this Convention, comments on Article (1) Paragraph (2), stating that:

- (1. Article (1) Paragraph (1) of the International Convention on the Elimination of all Forms of Racial Discrimination defines the term “Racial Discrimination”, while Paragraph (2) of the same Article excludes from the Definition State Parties’ actions that differentiate between citizens and non-citizens. On the other hand, Paragraph (3) of the same Article restricts Paragraph (2) by declaring that with regard to non-citizens, State Parties may not discriminate against a certain nationality.**
- 2. The Committee stresses that the State Parties are obliged to report fully upon legislations on non-citizens and the implementation thereof.**
- 3. The Committee further stresses that Article (1) Paragraph (2) may not be interpreted in such a way that detracts by any means any form of the rights and freedoms recognized and stipulated in other instruments, especially the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights¹.**

In the same context, in interpretation of Article (5) of the same Convention, **“the Committee on Elimination of Racial Discrimination”** comments that:

- (1.**
- 2. Whenever any country imposes restriction on any of the rights listed in Article (5) of the Convention, it should secure that the purpose or result of such restriction may not contradict with Article (1) of the Convention, being an essential part of the International Human Rights Standards**
- 3. All persons who live within the confines of a country should enjoy many of the rights and freedoms a stated in Article (5), e.g. the right to equality before the**

¹ The Committee on the Elimination of all Forms of Racial Discrimination’s General Recommendation No. (11) related to non-citizens (d – 42 / 1993):
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/032/64/PDF/N9403264.pdf?OpenElement>



courts. Other rights, however, e.g. the right to participate in elections, voting and standing for elections, belong to the citizens)².

Based on the above, and pursuant to the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, joined by the government of the Kingdom of Bahrain by virtue of Decree No. (8) of 1990, the NIHR emphasizes the necessity of banning and ending any racial discrimination based on race, color or national or ethnic origin, including discrimination, restriction, exclusion or preference based on citizens and non-citizens.

Although Article (1) Paragraph (2) of the International Convention on the Elimination of all Forms of Racial Discrimination apparently indicate that any discrimination, exclusion, restriction or preference between citizens and non-citizens is out of its scope of application, the “**Committee on Racial Discrimination**”, which is assigned to interpret the provisions of this Convention, explicitly states that **discrimination, exclusion or preference** permitted by the provision is for the purpose of **differentiation** between citizens and non-citizens, for example in case of issuing IDs of a different color or shape to the non-citizens, for the purpose of differentiation rather than discrimination, exclusion or preference.

Furthermore, both the Convention and the Committee undoubtedly stressed that the State Parties may not discriminate against any specific nationality nor may they interpret Article (1) Paragraph (2) of the International Convention on the Elimination of all Forms of Racial Discrimination in such a way that underestimates human rights and freedoms, whether in the civil, political, economic, social or cultural arena or any in other public life field, and that whenever a State Party imposes a restriction on one of the rights, it should secure that the purpose or result of such restriction may not contradict with Article (1) of the Convention, being an essential part of the International Human Rights Standards.

The NIHR believes that the Draft Law to modify some of the provisions of the Law No. (23) of 2014 on the issuance of the Traffic Law, which provides for charging fees on any vehicle owned by a non-citizen in return for the use of public roads owned by the state, which shall be twice the prescribed fee for the issuance of a vehicle’s registration certificate, although there are no registration fees on the Bahraini citizens in the original Law, **is a provision that involves discrimination and results in the restriction, exclusion or preference of a class over another, for the purpose of differentiation between citizens and non-citizens.** Therefore, the abovementioned Draft Law contradicts with the international human rights standards and is inconsistent with the international obligations of the Kingdom of Bahrain in this regard.

² The Committee on the Elimination of all Forms of Racial Discrimination’s General Recommendation No. (20) related to non-citizens (d – 48 / 1996):
[http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2f51%2f18\(SUPP\)&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2f51%2f18(SUPP)&Lang=en)