



المؤسسة الوطنية لحقوق الإنسان  
National Institution *for* Human Rights



## Parallel Report

submitted by

**The National Institution for Human Rights  
in the Kingdom of Bahrain**

Regarding:

**Measures taken by the Kingdom of Bahrain to implement the provisions of the  
Optional Protocol on the Involvement of Children in Armed Conflict**

**(OPAC)**

To

**the Committee on the Rights of the Child (CRC)**

**Palais des Nations  
Geneva**

**June 2023**



## Introduction

1. NIHR submits its parallel report on the national report of Bahrain on the measures taken by the Kingdom to implement OPAC,<sup>1</sup> and appreciates the efforts in submitting the national report on OPAC, and NIHR submits its parallel report based on that.

## First: General guidelines

### 1. Report preparation

1.1 NIHR commends the existing cooperation between government agencies and CSIs, and the participation of stakeholders in expressing their opinions and observations, as the Gov Child National Committee was aware of the NIHR's observations during the preparation of this report.

1.2 NIHR hopes that the participation of CSIs will be more effective in preparing the national report, through the report-preparing body managing national consultations, similar to the consultations during the preparation of the UPR.

### 2. The legal status

2.1 According to Article (37) of Bahrain Constitution, as soon as the Kingdom joined the OPSC under Law No. (19) of 2004, the Protocol became part of national law issued by the legislative authority and is applicable to all<sup>2</sup>.

2.2 Bahrain has issued number of legislations that guarantee the rights of the child; the Children's Law No. (37) of 2012, and Law No. (44) of 2018 regarding International Crimes, which prohibited manifestations of the involvement of children in armed conflicts, the Law on Promulgating the Restorative Justice Law for Children and their Protection from Maltreatment (Law No. (4) of 2021), in addition to the accession to Rights of the Child. Convention.<sup>3</sup>

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<sup>1</sup> To view Law No. (26) of 2014 establishing the NIHR, amended by Decree-Law No. (20) of 2016: [https://www.nihr.org.bh/EN/MediaHandler/GenericHandler/2022/002\\_NIHR\\_Law\\_amend.pdf](https://www.nihr.org.bh/EN/MediaHandler/GenericHandler/2022/002_NIHR_Law_amend.pdf)

<sup>2</sup> Article (37) of the Constitution of the Kingdom of Bahrain stipulates that "...a treaty shall have the force of law after its conclusion, ratification and publication in the Official Gazette."

<sup>3</sup> To view the national legislation issued in the Kingdom of Bahrain, please review the official website of the Authority for Legislation and Legal Opinion: <https://www.legalaffairs.gov.bh/>



### 3. Implementation of the Optional Protocol

3.1 Although Decree-Law No. (32) of 2002 promulgating the Bahrain Defense Force Law<sup>4</sup> prohibited the recruitment of those under 18. NIHR noticed that Decree-Law No. (5) of 1987 regarding the Reserve Force<sup>5</sup> did not specify the legal age, although the advertisements regarding the call to join this force expressly stipulates that the applicant must be at least eighteen years. It is desirable to make a legislative amendment that expressly stipulates this in the text of the law.

### 4. OP dissemination and training efforts

4.1 NIHR commends the efforts made by the Bahrain Defense Force, the National Guard, the MOI and the NIS at the advanced level regarding the consolidation of the concepts of international human rights law and international humanitarian law, and related international instruments.

4.2 NIHR appreciates the cooperation between it and MOI, NIS through the Police Academy in building capabilities of MOI and NIS employees. NIHR hopes to increase this cooperation to Isa Royal Military College.

4.3 NIHR appreciates the efforts in issuing the National Human Rights Plan (2022-2026)<sup>6</sup>, of which NIHR contributed a draft plan,<sup>7</sup> and participated in the national consultations.

4.4 Given that there are no armed manifestations. NIHR has never monitored any cases of involving children in any armed conflicts, therefore the priority regarding this group was to raise awareness of their rights.

4.5 NIHR was keen to detail its efforts and activities in its annual reports (2013 to 2022)<sup>8</sup>.

4.6 In cooperation with the UN treaty bodies, NIHR submitted parallel report from the fourth to sixth periodic report on the Convention on the Rights of the Child<sup>9</sup>.

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<sup>4</sup> <https://www.lloc.gov.bh/PDF/L3202.pdf>

<sup>5</sup> <https://www.lloc.gov.bh/PDF/L0587.pdf>

<sup>6</sup> To view the National Human Rights Plan for the years (2022-2026), please review the official website of the Ministry of Foreign Affairs: <https://www.mofa.gov.bh/>

<sup>7</sup> To view the NIHR's proposal regarding the National Human Rights Plan, please see the official website of the Institution at the following link:

<https://www.nihr.org.bh/MediaHandler/GenericHandler/Consultative/2019/Gov/PDF/03.pdf>

<sup>8</sup> <https://www.nihr.org.bh/EN/eLibrary/?category=65>

<sup>9</sup> To view the parallel report of the National Institution for Human Rights on the national periodic report from the fourth to the sixth on the progress made in implementing the Convention on the Rights of the Child, please see the official website of the institution at the following link:

<https://www.nihr.org.bh/EN/About/Reports/R1>



## 5. The National Institution for Human Rights (NIHR)<sup>10</sup>

5.1 Law No. (26) of 2014 was issued to establish the NIHR, and amended in 2016. NIHR is currently taking the necessary procedures to request its reclassification by the SCA, hoping to obtain an accreditation classification of category (A) during the next stage.

5.2 Recently NIHR has allocated Dr. Hooreya Hasan as a Child Rights Commissioner within the composition of the Council of Commissioners. Her roles and competences are as follows:

- Knowledge of the international conventions and national legislation related to children's rights.
- Considered an independent ambassador for children's rights, ensuring that their views and interests are heard, and giving a voice to all children.
- Understands the issues facing children, the policy environment, ensuring that the best interests of the child are the primary consideration.
- Work to establish partnerships with government agencies, civil society institutions, and regional and international non-governmental organizations related to children's rights.
- Communicating with broad and diverse audiences and has the skill to challenge and influence
- The Children's Commissioner will represent the views of children and young people and will have the desire, passion, empathy and belief in the cause of children's rights.
- Investigate any matter related to children's rights, including the adequacy of complaints and advocacy services for children.
- Conduct and follow up assessments of the impact of children's rights on new policies and legislation affecting children.

### **Second: prevention**

6. NIHR reaffirms that it did not monitor any suspected or certain cases of compulsory recruitment within the armed forces, as well as the absence of any militias or the presence

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<sup>10</sup> For more detailed information about the National Institution for Human Rights in the Kingdom of Bahrain, the efforts and activities undertaken by it, its organizational structure and terms of reference for the work of its permanent quality committees, please review the official website of the institution at the following link: <https://www.nihr.org.bh/>



of any armed manifestations outside the scope of the law, and that the age specified in the law regarding recruitment is consistent with the provisions of the OPAC.

7. Since the issue of conscription is one of the issues that arises during the exceptional circumstances that any country is going through, the constitution and the law regulate these circumstances in two main cases: state of national safety (SNS), and martial law (SML).

8. The declaration of SNS is to control the situation in the country when it is exposed to an emergency that threatens public safety in all parts of the Kingdom or in a region of it, in accordance with its aim to preserve the rights of citizens and to quickly control the status quo. SML is not declared except in cases that threaten the security and safety of the Kingdom, and it is not sufficient to control it using the procedures stipulated in the ordinary laws, or those imposed by the declaration of the state of national safety, but rather it requires taking exceptional measures and measures necessary to eliminate sedition and armed aggression, and impose Security to preserve the integrity of Bahrain Defense Force.<sup>11</sup>

9. It follows from this differentiation that the procedures necessary to restore control over the *status quo* when declaring SNS are less severe and infringing on the rights and freedoms of individuals than those that are resorted to in the event of declaring SML. Clause (b) of Article (36) "a state of national safety or martial law is not declared except by decree, and in all cases its declaration must be for a period not exceeding three months, and it may not be extended except with the approval of the National Assembly by the majority of the members present."

10. Although the legislative system contains a special law that regulates the SML in accordance with Decree-Law No. (27) of 1982 regarding martial law, the same system is devoid of any regulation of the state of national safety, although both cases constitute a departure from the normal rules and exceptional rules are applied in both of them. NIHR hopes that there will be unified legal legislation that regulates the circumstances of both cases separately, and takes into account that it is in line with international human rights standards, especially with regard to an absolute prohibition of child recruitment in line with what was decided by the provisions of the OPAC.

11. NIHR hoped that Bahrain report on the progress made in implementing the provisions of the (OPAC) would include more detailed information as contained in items (11-17) of the guidelines issued by the UN Committee, contained in document No. (CRC/ C/OPAC/2), considering that the relevant official authorities have clear and concrete efforts and best practices that are consistent with the standards set out in the Committee's guidelines.

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<sup>11</sup> For more information on the cases of national safety and martial law, please review the explanatory memorandum of the amended constitution of the Kingdom of Bahrain, which is published on the official website of the Authority for Legislation and Legal Opinion at the following link: <https://www.lloc.gov.bh/>



### Third: Prohibition and related issues

12. Law No. (44) of 2018 issuing the International Crimes Law<sup>12</sup>, in Article (23): “Life imprisonment or imprisonment for a period of no less than ten years shall be imposed on whoever knowingly recruits children under eighteen years of age into the armed forces, or uses them to actively participate in hostilities, in the context of an international or non-international armed conflict related to it. The penalty shall be death or life imprisonment if the act results in the death of the child soldier.”

13. The same law includes provisions stating that it is not permissible to invoke higher orders as a reason for permissibility as a general rule, and the law permits, as an exception, to invoke higher orders as a reason for permissiveness if one of the conditions stipulated in Article (11) is met, which stipulates that “Committing one of the crimes stipulated in this law is not considered a reason for permissibility in compliance with an order from a government, commander or president, whether military or civilian, unless the following conditions are met: a) If the person has a legal obligation to obey the orders of the government, commander or president the meaning. b) If the person was not aware that the order was illegal. c) If the illegality of the order is not apparent. For the purposes of this article, the illegality is manifest in the case of ordering the commission of genocide or crimes against humanity.”

14. The same law in Article (3): “The provisions relating to the expiration of the criminal case and the forfeiture of the penalty by the lapse of the period stipulated in the Code of Criminal Procedure or any other law shall not apply to the crimes stipulated in this law.”

15. NIHR commends the issuance of a special law concerned with international crimes, the scope of which is the crime of genocide, crimes against humanity, war crimes, in addition to the crime of aggression. However, the NIHR hopes that the same provisions related to criminal penalties in the event of recruiting children other than the age set in (OPAC), and the provisions related to the statute of limitations, are all established and expressly stipulated in other laws and legislation such as the Bahrain Defense Force Law and the Reserve Force Law, in order not to be provisions that are limited to international crimes only.

16. In order to protect the best interests of the child, the NIHR hopes to reconsider the reasons for permissibility mentioned in Article (11) of the law to ensure that higher orders are not invoked under any circumstances or conditions. The ends that are intended to be available in the causes of permissibility, although they are based on respecting military orders, they must not be a reason for violating the rights and best interests of the child.

17. As a continuation of the legislative system regarding the recruitment of children, Law No. (1) of 2008 regarding combating trafficking in persons is stated in paragraph (b) of Article (1) that “trafficking in persons is considered recruitment, transportation, transfer, harboring or receiving of persons under eighteen years, or those who are in a circumstantial or personal situation in which their consent or freedom of choice cannot be taken into account, as long as this is for the purpose of abusing them, even if the act is not accompanied by any

<sup>12</sup> <https://www.lloc.gov.bh/PDF/L4418.pdf>



of the means stipulated in the previous paragraph. It is another guarantee that determines the optimal application of the provisions of (OPAC).

10. In this regard, the NIHRn renews its call for a comprehensive review of the provisions of the Combat Trafficking in Persons Law and taking into account the observations that the NIHR referred to the government, to ensure its comprehensiveness and consistency with relevant international and regional instruments, starting from the stage of prevention to treatment, up to the imposition of punishment on the perpetrators.<sup>13</sup>

#### Fourth: Other legal provisions

19. Within the scope of the provisions of international humanitarian law, the Kingdom of Bahrain has acceded to the four Geneva Conventions, and the two additional protocols

21. With regard to the rules of international human rights law, Bahrain has ratified and acceded seven of the core international human rights instruments out of nine, namely: the International Covenant on Civil and Political Rights under Law No. (56) of 2006, and the International Covenant on Economic, Social and Cultural Rights under Law No. (10) of 2007, the International Convention on the Elimination of All Forms of Racial Discrimination by Decree No. (8) of 1990, and the Convention on the Elimination of All Forms of Discrimination against Women by Decree-Law No. (5) of 2002.

22. The Kingdom also acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Decree-Law No. (4) of 1998, and under Decree-Law No. (16) of 1991 it acceded to the United Nations Convention on the Rights of the Child, and finally the Kingdom ratified The Convention on the Rights of Persons with Disabilities under Law No. (22) of 2011. The Kingdom has not yet ratified or acceded to the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families adopted by the United Nations on December 18, 1990, and the International Convention for the Protection of All Persons from Enforced Disappearance, Adopted by the United Nations General Assembly on December 20, 2006.

23. NIHR always renews its continuous calls for the importance of the State implementing its relevant international and regional obligations, which is the explicit call that the NIHR made to the government to join the rest of the international instruments and protocols attached to them, in order to complement the international system in the field of human rights.

24. Bahrain also established the National Committee for International Humanitarian Law<sup>14</sup>, which is entrusted with the competence to consider issues related to the implementation

<sup>13</sup> To view the observations of the National Institution for Human Rights regarding Law No. (1) of 2008 submitted to the government, please see the official website of the institution at the following link: <https://www.nihr.org.bh/Consultative/2016/Gov>

<https://www.lloc.gov.bh/PDF/D3914.pdf> <sup>14</sup>



and application of international humanitarian law, and to develop strategies and plans related to it in the Kingdom. NIHR is a member of this committee.

### Concluding recommendations

1. Make the necessary legislative amendments to the provisions of Decree-Law No. (5) of 1987 regarding the reserve force, to include in it explicitly a provision that determines the legal age for its members, whether recruited or volunteered, in line with the relevant provisions of the (OPAC).
2. Make the necessary legislative amendments to the provisions of Law No. (44) of 2018 regarding international crimes, by reviewing the reasons for permissibility mentioned in Article (11) of the law to ensure that higher orders are not invoked under any circumstances or conditions. The ends that are intended to be available in the causes of permissibility, although they are based on respecting military orders, they must not be a reason for violating the rights and best interests of the child.
3. Call for the issuance of unified legal legislation that regulates the circumstances of the states of national safety and martial law separately, takes into account that it is in line with international human rights standards, especially with regard to an absolute prohibition of child recruitment in line with what was decided by the provisions of the OPAC.
4. The importance of conducting a comprehensive review of the provisions of Law No. (1) of 2008 regarding Combating Trafficking in Persons, taking into account the observations that the NIHR referred to the government, to ensure its comprehensiveness and consistency with relevant international and regional instruments, starting from the stage of prevention to treatment, up to the imposition of punishment on the perpetrators.
5. The NIHR stress the importance of increasing cooperation between it and the security and military colleges and training institutes, such as the Isa Royal Military College and the Royal Police Academy, for the purpose of moving forward in promoting the human rights culture among the employees of these security and military agencies.
6. Calling for the participation of CSIs working in the field of human rights, and child rights in particular, to be more effective in preparing future national reports, through that the competent authority in the report manages national consultations with all relevant partners and stakeholders.