

*National Institution for Human Rights (NIHR)'s Opinions on the
Draft Law Presented by the Council of Representatives' Committee on Foreign Affairs,
Defense and National Security
To Modify Articles (27) and (41) of Law No. (18) of 2014 on Issuance of Reform and
Rehabilitation Institution Law
(Executive Summary)*

First: Proposal to add a second paragraph to Article (27):

The original Article:

The reform and rehabilitation center's management shall guarantee respect of feelings of inmates and remand prisoners by giving them the right to perform their religious rituals at the scheduled times without disturbing the center's security and discipline.

The draft Article:

The reform and rehabilitation center's management shall guarantee respect of feelings of inmates and remand prisoners by giving them the right to perform their religious rituals at the scheduled times without disturbing the center's security and discipline.

And the reform and rehabilitation center shall hold periodic meetings and boards for religious preaching and guidance with the assistance of specialists of official bodies in order to promote inmates spiritually and ideologically in such a moderate and sound way that helps to better reintegrate them in society after the end of the sentence.

NIHR's opinions:

NIHR continually seeks to provide its opinions within its own terms of reference related to the human rights aspect. The original text does not refer to the existence of violation of any of the basic rights. So, the draft text, despite being positive, there is no reason to believe that the terms "meetings" and "boards" are accurate.

So, the NIHR finds it appropriate to keep the original text.

Second: Proposal to add a third paragraph to Article (41):

The original Article:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon approval by the minister or his/her deputy, the institution's director may give an exit permission to an inmate to visit his/her family in case of a deceased relative to the second degree or in any other case as estimated by the institution's management.

And in all cases, procedures of the visit and terms of merit and duration thereof shall be determined by the executive regulation.

The draft Article:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon approval by the minister or his/her deputy, the institution's director may give an exit permission to an inmate to visit his/her family in case of a deceased relative to the second degree or in any other case as estimated by the institution's management.

The time of visit shall be coordinated to include following the funeral of the deceased or attending the mourning ceremony.

And in all cases, procedures of the visit as well as terms of merit and duration thereof shall be determined by the executive regulation.

NIHR's opinions:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon request of the institution's director, the sentence execution judge may give an exit permission to an inmate in case of a deceased relative to the second degree to follow the funeral or attend the mourning ceremony, or in any other case as estimated by the institution's management.

And in all cases, procedures of the visit **or exit** as well as terms of merit, duration **and controls** thereof shall be determined by the executive regulation.

Explanatory Note

General Note:

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 articles of the Law No. (18) of 2014 on issuance of Reform and Rehabilitation Institution 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 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".

Whereas the NIHR highly appreciates the efforts undertaken by members of the Council of Representatives in order to continue the organization of the legislative structure in Bahrain, the NIHR finds that its terms of reference as mentioned above are limited to the study of legislations rather than draft laws that have not yet been admitted by the Council, which have not been further discussed and studied by the concerned Council's Committee and have not yet been finalized, the matter which raises the possibility of modifying or canceling thereof by the Committee or the Council, and referring it back again to the NIHR for opinion.

Therefore, the NIHR's opinions shall be limited to the current Draft Law to the extent it finds touching of influential upon basic human rights and freedoms.

NIHR's Opinions on the Draft Law in Detail

First: Proposal to add a second paragraph to Article (27):

The original Article:

The reform and rehabilitation center's management shall guarantee respect of feelings of inmates and remand prisoners by giving them the right to perform their religious rituals at the scheduled times without disturbing the center's security and discipline.

The draft Article:

The reform and rehabilitation center's management shall guarantee respect of feelings of inmates and remand prisoners by giving them the right to perform their religious rituals at the scheduled times without disturbing the center's security and discipline.

And the reform and rehabilitation center shall hold periodic meetings and boards for religious preaching and guidance with the assistance of specialists of official bodies in order to promote inmates spiritually and ideologically in such a moderate and sound way that helps to better reintegrate them in society after the end of the sentence.

NIHR's opinions:

The modification of the abovementioned Article by adding a new paragraph on the organization of meetings and the holding of periodic boards for religious preaching and guidance until the reintegration of inmates in society after the end of the sentence does not refer to violation of any of the basic rights. So, the draft text, despite being positive, there is no reason to believe that the terms "meetings" and "boards" are accurate.

So, the NIHR finds it appropriate to keep the original text.

Second: Proposal to add a third paragraph to Article (41):

The original Article:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon approval by the minister or his/her deputy, the institution's director may give an exit permission to an inmate to visit his/her family in case of a deceased relative to the second degree or in any other case as estimated by the institution's management.

And in all cases, procedures of the visit and terms of merit and duration thereof shall be determined by the executive regulation.

The draft Article:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon approval by the minister or his/her deputy, the institution's director may give an exit permission to an inmate to visit his/her family in case of a deceased relative to the second degree or in any other case as estimated by the institution's management.

The time of visit shall be coordinated to include following the funeral of the deceased or attending the mourning ceremony.

And in all cases, procedures of the visit as well as terms of merit and duration thereof shall be determined by the executive regulation.

NIHR's opinions:

The modification of the abovementioned Article by adding a new paragraph on giving an exit permission to an inmate to visit his/her family in case of a deceased relative to the second degree comes to accentuate the inmate's right to be in contact with the outside world, which is considered an essential part in social rehabilitation of prisoners and ensuring their return back to the society on the one hand, and an application of the international human rights standards, which emphasize prisoners' right to a human treatment based upon their inherent dignity on the other hand.¹

¹ Article (10) of the International Covenant on Civil and Political Rights, which was joined by the Kingdom of Bahrain under Decree – Law No. (56) of 2006 and by virtue of Article (37) of the Constitution of Bahrain, which is deemed an essential and applicable part of the National Legislation.

In addition, Article (79) on Standard Minimum Rules for Treatment of Prisoners emphasizes the importance of giving special care to improving inmate's family relationship in favor of the two parties, while Article (37) establishes the inmate's right to communicate with family. In addition, the UN Principle No. (15), on the Protection of all Persons Exposed to any Form of Detention or Prison, states that no inmate may be deprived of his/her right to communicate with external world especially his/her family or advocate. Besides, the UN Rules, on the Protection of Juveniles Deprived of their Liberty, contain explicit provisions in this respect, which guarantee the acknowledgement of the above right, since Article (58) of these Rules states that the juvenile should be given the opportunity to participate in the funeral of the deceased family member. Pursuant to the same rules, the above right extends to acknowledge the juvenile's right to visit his/her relative who suffers from a serious disease and may die.

The NIHR emphasizes the right of an inmate to communicate with his/her family, especially in critical circumstances, which is based upon Article (5) of the Constitution of the Kingdom of Bahrain, which states that **"the law shall protect the family and strengthen its ties, and the state shall ensure the achievement of social solidarity necessary for citizens"**. Therefore, the inmate's right to communicate with the external world represents an essential requirement for protection of the right to private and family life, motivates him/her to maintain his/her mental condition and supports him/her to be able to interact with the detention environment. And when it has to do with participation of inmate in funeral or mourning ceremony of a deceased relative, this will give him/her a chance to say farewell to a deceased relative, especially after long time away.

Therefore, the NIHR agrees with the Draft Law in principle. However, the NIHR believes that the power of the reform and rehabilitation institution manager is an organizational one with a framework limited to the institution itself, and that giving the minister the power to give an exit permission to an inmate may contradict with the powers given to the sentence execution judge, since the exit of an inmate to attend funeral and mourning ceremony is deemed as a temporal discontinuation of the execution of penalty established against him/her, which is the power of the sentence execution judge only, the matter which subsequently necessitates the modification of the executive regulation of the Law, which is assigned by Law to determine the procedures of the visit as well as the terms of reference and duration thereof.

The NIHR therefore finds it appropriate to modify the original text as follows:

The inmate or his/her relatives to the second degree may ask for exceptional visit for a reason and the chairman of the reform and rehabilitation center shall consider the circumstances of each individual case.

Upon request of the institution's director, the sentence execution judge may give an exit permission to an inmate in case of a deceased relative to the second degree to follow the funeral or attend the mourning ceremony, or in any other case as estimated by the institution's management And in all cases, procedures of the visit **or exit** as well as terms of merit, duration **and controls** thereof shall be determined by the executive regulation.