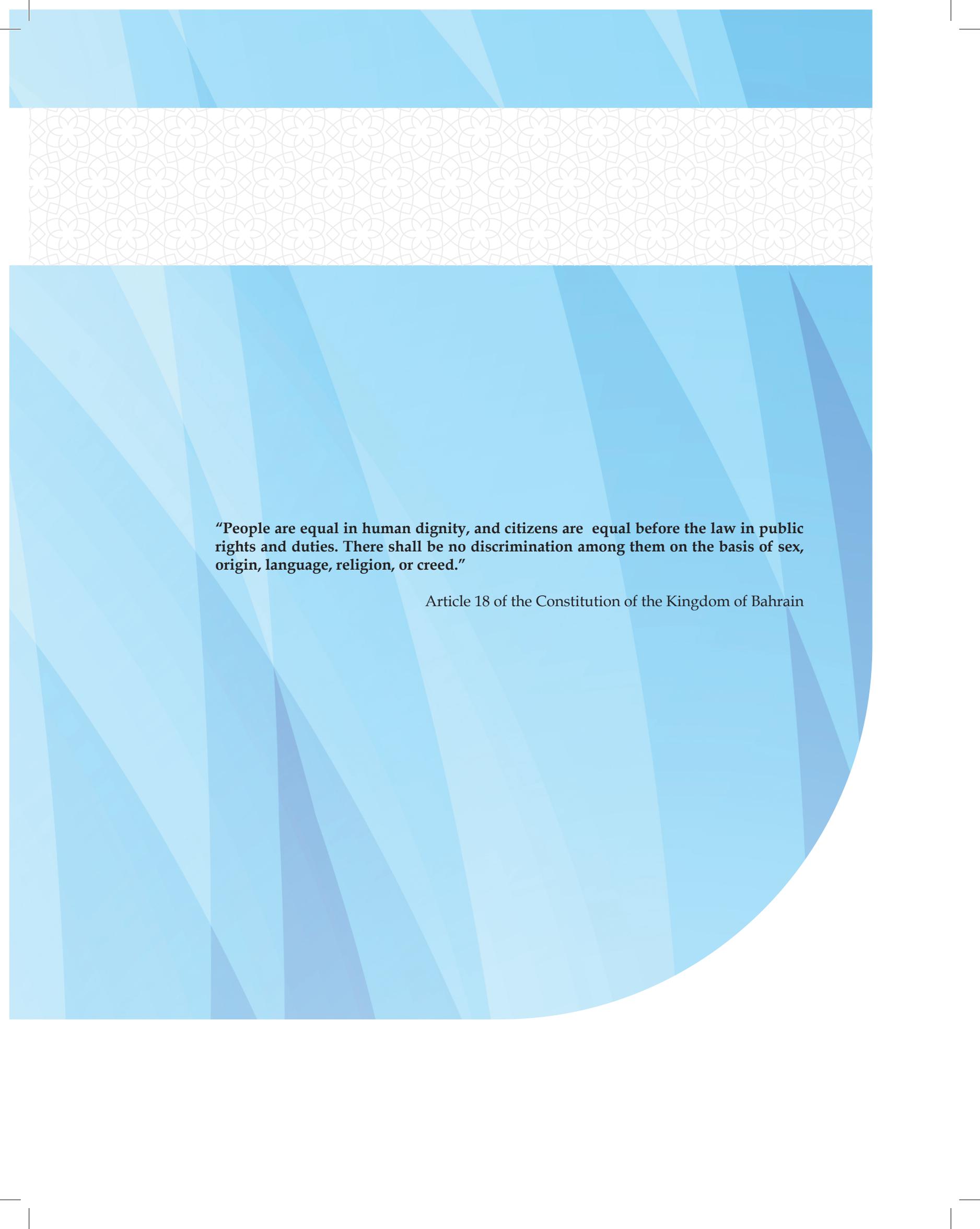




**Annual Report of the  
National Institution for Human Rights  
2013 - Kingdom of Bahrain**





**"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."**

Article 18 of the Constitution of the Kingdom of Bahrain



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## INTRODUCTION

Since the ascension of His Majesty King Hamad bin Isa Al Khalifa, King of The Kingdom of Bahrain, to throne, the Kingdom experienced major changes towards fostering democracy and establishing partnership in decision-making with a view to entrenching the foundations of the rule of law. This is in line with human rights and public freedoms and ensures people enjoyment of these rights. Among the most prominent changes is the ratification of the amended Constitution of the Kingdom of Bahrain, which devotes one whole chapter to the various public rights and freedoms. However, Bahrain underwent exceptional circumstances during the last three years, which posed critical challenges that cast a shadow on human rights in Bahrain.

Accordingly, the first annual report of the National Institution for Human Rights (“NIHR”) for the year in 2013 in accordance with the provisions of Article 14 of the Royal Decree No. 46 of 2009, amended by the Royal Decree No. 28 of 2012, on Establishing the National Institution for Human Rights, which stipulates that: **“The Institution shall prepare an annual report about its efforts, activities and all its business and shall include whatever proposals and recommendations in the scope of its powers identify the performance constraints and whatever solutions adopted to overcome them. Such report shall be forwarded to the King”**. The report describes and evaluates the most prominent human rights conditions in view of the critical phase experienced by the Kingdom. The report is based on a review of the concept and importance of rights, and the reference to these rights in the provisions of the Constitution and national legislation, without losing sight of the position of such rights in the international human rights instruments. The report presents a brief introduction to how these rights are addressed by the international standards and concepts, in particular the comments of the committees of the United Nations treaty bodies. In addition, the report points out the institution concerned with the relevant rights, and then moves to real life and the challenges that prevent the best practices of these rights. The report highlights the relevant complaints, received by the National Institution, and finally draws a set of necessary recommendations to address the causes and obstacles that hinder efforts to promote and protect human rights in the Kingdom of Bahrain.

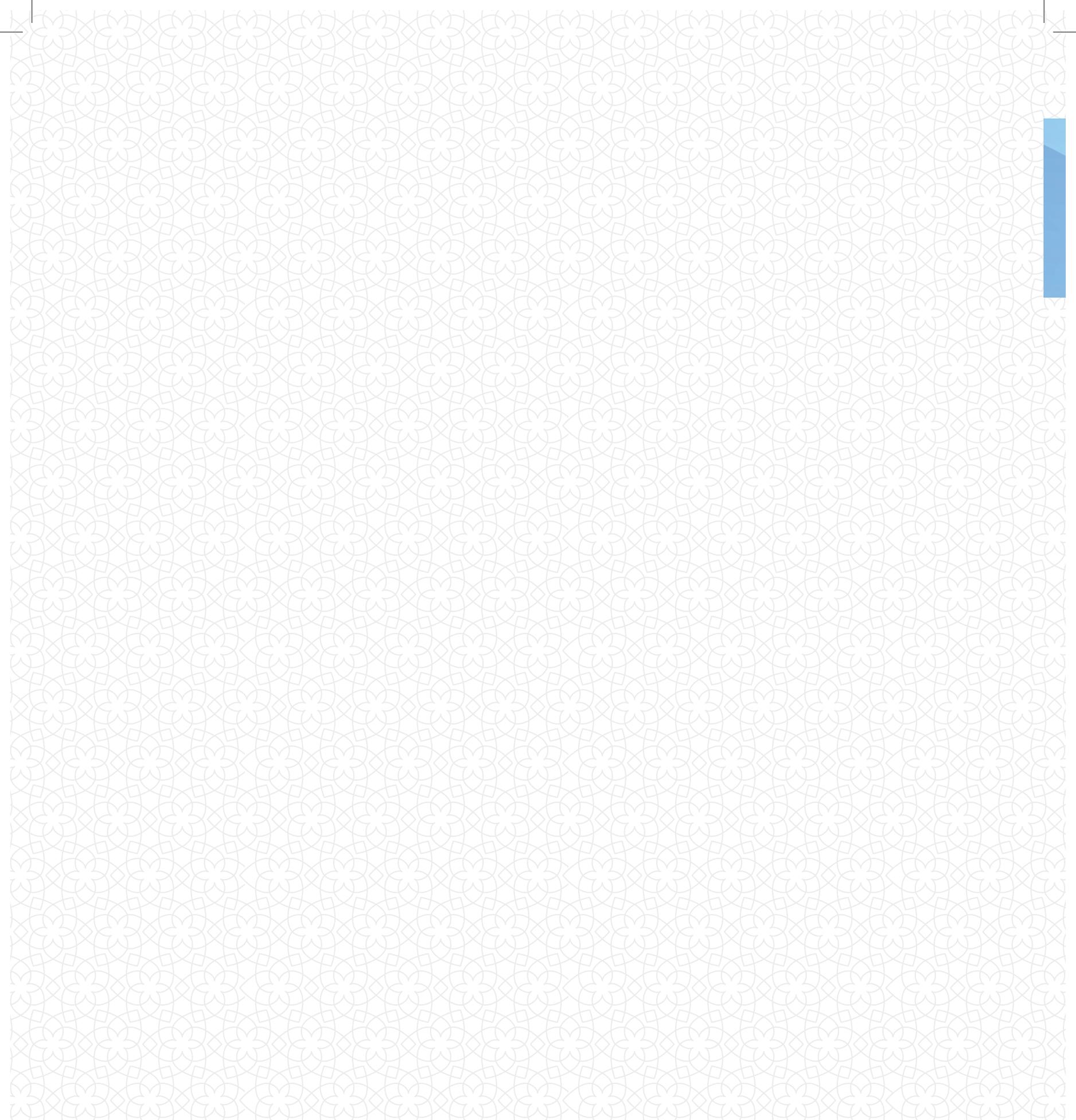


The report consists of five chapters preceded by an introduction. Chapter I discusses the inception and development of NIHR, as well as its legal framework and organizational structure. NIHR efforts in human rights promotion and protection are reviewed, with reference to its strategy and action plan for the years (2013 - 2016). It also highlights the cooperation among the relevant ministries and agencies side by side with NIHR on the complaints received, or in the process of preparing NIHR annual report.

Chapter II tackles a number of civil and political rights, such as the right to life; the right to physical and moral integrity; the right to liberty and security of person; the right to a fair trial; the right to citizenship; the right to freedom of opinion and expression; the right to peaceful assembly; and the right to organization. Chapter III deals with the economic, cultural and social rights, such as the right to an adequate standard of living; the right to work; combating trafficking in persons; the right to health, and the right to education.

Chapter IV is dedicated to reviewing the most important civil, political, economic, social, and cultural rights of the most vulnerable groups, such as women, children, the disabled, and the elderly. The last chapter highlights the major issues with a direct bearing on the reality of human rights in the Kingdom of Bahrain, namely, the issue of Bahrain National Dialogue and corruption.

Finally, NIHR hopes that this report will be a tool for reforming human rights reality in the Kingdom, in line with its international obligations arising from its ratification of or accession to human rights international instruments, or those generated by the universal periodic review before the Human Rights Council. The ultimate objective of this report is to achieve the best practices as to enjoying the various rights and public freedoms, and turn human rights into a lifestyle.



## CHAPTER I

# THE NATIONAL INSTITUTION FOR HUMAN RIGHTS “NIHR”

### **PREFACE:**

In view of the urgent need to deal responsibly with human rights issues, and develop policies related to enhancing, developing, and protecting these rights in the Kingdom of Bahrain, and based on the importance of advancing and safeguarding human rights principles, His Majesty King Hamad bin Isa Al Khalifa, King of Bahrain, enacted the Royal Decree No. 46 of 2009, amended by the Royal Decree No. 28 of 2012, Establishing the National Institution for Human Rights in Manama.

NIHR objectives are centered around the promotion and protection of human rights, consolidating human rights values, raising awareness of human rights, and ensuring that they are exercised in full freedom and independence. Paris Principles relating to the status of national institutions in the promotion and protection of human rights - endorsed by the United Nations General Assembly under Resolution No. (134/48) issued on December 20, 1993 - were the legal reference for establishing NIHR. Paris Principles are a set of internationally recognized principles on the formation of national institutions for human rights, and the respective powers granted and procedures prescribed for these institutions.

Confirming the Government's commitment to support NIHR work as the major and independent body in the Kingdom of Bahrain concerned with the promotion and protection of human rights, the Government and NIHR agreed on the need to pass a new law that ensures the full independence of the Institution and grants it more powers and functions. Therefore, the Government referred the draft law on the establishment of the National Institution for Human Rights, annexed to Decree No. (2) of 2014, to the House of Representatives. This law largely achieves the State aspirations for the development and protection of human rights.

This Chapter addresses NIHR inception and development, its legal framework and organizational structure in terms of the council of Commissioners, the Standing Committees, and the operational work of the Secretariat. The role and achievements of NIHR in the promotion and protection of human rights are stated next, with reference to its strategy and action plan for the years (2013 - 2016). It also highlights the cooperation among the relevant ministries and agencies side by side with NIHR on the complaints received, or in the process of preparing its 2013 annual report.

## FIRST: NIHR INCEPTION, DEVELOPMENT AND LEGAL FRAMEWORK

1. The Kingdom of Bahrain made voluntary pledges before the Human Rights Council during its Universal Periodic Review in April 2008, which include that the Government **“is committed to expediently establish a national human rights body, taking into account the relevant United Nations resolutions, especially the Paris Principles”**. A resolution has already been issued in November 2007 by the Council of Ministers on the establishment of a human rights national body. Once established, the body is expected to develop a national plan for the promotion and protection of human rights in Bahrain”<sup>1</sup>.
2. Commenting on the proposed law on the establishment of the national body for human rights, presented by the House of Representatives in January 2008, in which it approves and refers the proposed law to the Government in January 2009, in January 2010, the Government referred the draft law to the legislative authority, pursuant to the constitutional procedures in this regard.
3. On November 10, 2009, the Royal Decree No. 46 of 2009 Establishing the National Institution for Human Rights was issued. The said Decree prescribes that NIHR will promote human rights awareness and will provide experience and advice. In addition to its preamble, Article 15 of the Royal Decree Establishing NIHR provides for the establishment of an independent body called the “National Institution for Human Rights” which will exercise its functions with complete freedom, impartiality, and independence. According to the Royal Decree, the Institution should include twenty-three members, including the chairman and vice chairman, of proven competence and integrity, to be selected from among the advisory and academic bodies, civil society organizations, trade unions, social, economic, and professional organizations, and figures interested in human rights issues. It is further provided that women and minorities should be properly presented in the Institution, and that the members will be appointed by a royal decree for four years, to be renewed for similar periods.
4. The Royal Decree on the Establishment of NIHR sets out a number of mandates, notably the development of an integrated national strategy for the promotion and protection of human rights in the Kingdom, proposing mechanisms and special means to achieve them, considering the human rights legislation and regulations applicable in the Kingdom, and recommending the amendments it deems appropriate in this regard, especially with regard to the consistency of these laws and regulations with the international human rights commitments of the Kingdom. NIHR may also recommend enacting new legislation related to human rights, disseminate the culture of human rights in cooperation with the organs concerned with education, information, and awareness, introduce human rights protection means, receive and consider complaints related to human rights, refer any complaint decided by NIHR to the competent authorities, follow-up the complaints effectively, inform the relevant parties about the procedures of due process and help them take these procedures, or assist in carrying out these procedures with the concerned parties, and support human rights capacity, including the provision of technical preparation and training for workers in Bahraini institutions concerned with public freedoms, political, cultural, social, and economic rights and law enforcement in order to raise their efficiency.
5. Moreover, the Royal Decree provides for composing standing committees of NIHR members to carry out the mandates described above. NIHR will also have a secretariat to serve as the executive body of the Institution. The Secretariat consists of a secretary general who manages the affairs of the National Institution, supervises

1. First National Report of the Kingdom of Bahrain submitted to the Human Rights Council during the first session, held from (7-18) April 2008 - Document No. (A/HRC/WG.6/1/BHR/1).

its activities, and reports directly to the chairman of the Institution for performance of his duties. The secretary is appointed by a royal decree for a period of four years, which is renewable for a similar period. The Royal Decree requires NHIR to prepare an annual report on its efforts, activities and other works. The report should include any proposals and recommendations made by the Institution within its competence, and define performance constraints, and the solutions adopted to overcome such constraints. The report should then be submitted to His Majesty the King.

6. Pursuant to the provisions of the Royal Decree on the Establishment of NIHR, on April 25, 2010, the Royal Decree No. 16 of 2010 appointing the members of the National Institution for Human Rights was issued. The Royal Decree provides for appointing Mr. Salman Ali Kamal Al-Din as chairman of the Institution, along with twenty-two members, including two vice chairmen. The Royal Decree No. 2 of 2011 was subsequently issued appointing Dr. Ahmed Abdullah Farhan as secretary-general of the National Institution for four years as of January 20, 2011.
7. However, given the unfortunate security events experienced by the Kingdom of Bahrain since February and March 2011 and the subsequent consequences, which had a deep impact on the members' consensus towards the positions of the National Institution, some member resigned from the Institution. As a result, the quorum of the Institution was insufficient. However, despite this critical phase, and the practices violating human rights experienced in this phase, the Secretariat, in accordance with its prescribed powers, performed certain tasks in the field of protection of human rights during that period by receiving complaints and attempted to resolve them through communication with the competent authorities. In addition, statements on certain events that occurred at the time were issued.
8. In order to ensure the consistency of NIHR activity with Paris Principles relating to the status of national institutions in the promotion and protection of human rights, on September 11, 2012, the Royal Decree No. 28 of 2012 was issued amending certain provisions of the Royal Decree No. 46 of 2009 on the Establishment of the National Institution for Human Rights. The amendment provides for reducing the number of NIHR members to no more than fifteen members, including the chairman and vice chairman. The amendment also cancels NIHR competence to develop an integrated national strategy for the promotion and protection of human rights in the Kingdom, propose mechanisms and means to realize these rights, as well as its other competence to support human rights capacity, including technical preparation and training for workers in Bahraini institutions engaged in public freedoms, political, cultural, social, and economic rights and law enforcement in order to raise their efficiency. The amendment further stipulates that the secretary general of the Institution is to be appointed by a decision of the chairman upon the approval of the majority of its members.
9. On January 31, 2013, the Royal Decree No. 7 of 2013 was issued restructuring the National Institution for Human Rights by appointment of Mr. Ahmed Abdul Rahman Mahmoud Al-Saati; Ms. Jamila Ali Salman Nassif; Ms. Maria Antoine Elias Houry; Dr. May Sulaiman Mohammed Al-Otaibi; Mr. Abdul Jabbar Ahmed Qareeb Allah Al-Tayeb; Dr Abdulaziz Hassan Ali Abul; Mr. Abdullah Ahmad Issa Al-Derazi; Dr. Fouzia Saeed Abdullah Saleh; and Mr. Farid Ghazi Jassim Rafee' for four renewable years.
10. It should be noted that Paris Principles relating to the status of national institutions for the promotion and protection of human rights is a set of international standards organizing and directing the work of national institutions for human rights. It

serves as a constitution for their work and an active and constructive element in the promotion and protection of human rights in the state system.

11. These principles were driven from the decisions arrived at by the first international workshop on the national institutions for the promotion and protection of human rights, which was held in Paris in 1991. The World Conference on Human Rights held in 1993 was a turning point for the national institutions. These entities - national institutions for human rights - were formally recognized in line with Paris Principles, and the establishment of these institutions were formally encouraged. Consequently, the United Nations General Assembly, as per its Resolution No. 134/48 dated December 20, 1993, ratified Paris Principles relating to the status of national institutions for the promotion and protection of human rights. These principles are now considered as the basic standard and benchmark of the legitimacy and credibility of any national institution, its autonomy, and efficiency in monitoring human rights violations
12. Paris Principles is based on a set of criteria, which should be observed by national institutions. National institutions are required to have broad competence for the promotion and protection of human rights, a management that is independent from the government, and should have full independence in its legal, executive, and financial activities. Furthermore, the selection or nomination process of the members of the institution should be comprehensive and transparent. The institution should also have adequate financial resources for the advancement of its duties, and should be given sufficient powers to freely investigate and consider any matter falling within its mandate.
13. The International Coordinating Committee and its Subcommittee on Accreditation verify the compliance of national institutions for human rights with Paris Principles through a fair and transparent process that enhances the credibility of the national institutions work in the promotion and protection of human rights.

## **SECOND: ORGANIZATIONAL STRUCTURE OF THE NATIONAL INSTITUTION FOR HUMAN RIGHTS**

### **COUNCIL OF COMMISSIONERS:**

1. Pursuant to the provisions of Article No. 2, paragraph b, of the Royal Decree on the Establishment of NIHR, the Royal Decree No. 7 of 2013 was issued restructuring the National Institution for Human Rights. The members of the Council of Commissioners held the first procedural meeting on February 9, 2013 under the chairmanship of the most senior members to elect the chairman and vice chairman of the Institution. HE Dr Abdul Aziz Hassan Abul was nominated, by acclamation, as the chairman of the Institution, and Mr. Abdullah Ahmed Al-Derazi was nominated as vice chairman.
2. Since its formation, the Council of Commissioners, in addition to the first procedural meeting, held ten ordinary regular meetings and two extraordinary meetings, i.e. thirteen meetings during the period from February 9, 2013 to December 30, 2013.
3. During the ordinary fifth meeting of the Council of Commissioners held on June 25, 2013, the Council Resolution No. 9 of 2013 was taken adopting the Executive Regulation concerning the Organization of the National Institution for Human Rights. The Executive Regulation determines the mandates of chairman of the Institution, the meetings of the Council of Commissioners, and the mechanism of action of the standing committees and the powers entrusted to them.

**STANDING QUALITY COMMITTEES:**

4. Back to the provisions of the Royal Decree on the Establishment of NIHR, Article 7 of this Decree provides for the formation of standing committees of NIHR members to exercise their mandates, as indicated in the Executive Regulation. Each committee is chaired by a member of the National Institution. Based on the resolution taken during the first procedural meeting of the Council of Commissioners, NIHR Standing Committees have been designated as follows: Complaints, Monitoring and Follow-Up Committee, under the chairmanship of Mr. Abdullah Ahmed Issa Al-Derazi, and the membership of Mr. Ahmed Abdul Rahman Mohammed Al-Saati, Ms. Maria Antoine Elias Khoury; Civil and Political Rights Committee, under the chairmanship of Ms. Jamila Ali Salman Nassif, and the membership of Mr. Farid Ghazi Jassim Rafee, and Mr. Abdul Jabbar Ahmed Qareeb Allah, and finally the Economic, Social and Cultural Rights Committee, under the chairmanship of Dr. Fouzia Saeed Abdullah Saleh, and the membership of Dr. May Sulaiman Mohammed Al-Otaibi, and Mr. Ahmed Abdul Jabbar Ahmed Qareeb Allah Tayeb.
  
5. The Complaints, Monitoring and Follow-Up Committee receives complaints and grievances of citizens, residents, and bodies in various ways; considers, classifies and identifies the best ways to deal with the complaints; verifies and documents the complaints; and refers the complaints that have been approved to the competent authorities through NIHR Chairman. The Committee follows up the complaints effectively; informs the concerned citizens and residents of the procedures to be followed in case of complaints; provides them with assistance on such complaints, or assist them to settle these complaints with the concerned authorities in coordination with the Complaints Unit of the Secretariat; considers and monitors the reality of human rights and practice in the Kingdom of Bahrain; monitors, records and organizes information on these rights; and prepares reports containing data and indicators about violations of human rights and submits these reports to the Council of Commissioners for consideration and taking the necessary decisions. The Committee further prepares the draft annual report on the number of complaints received by NIHR with detailed data on the action taken on these complaints; provides comments and makes recommendations on the relevant national legislation to the Council of Commissioners; and conducts field visits to detention centers, and other places where human rights violations are likely to occur, in coordination with the chairman of the Institution and the Secretariat. The Committee carries out any other mandates referred to it by the chairman of the Institution or the Council of Commissioners. Since it was formed, the Complaints, Monitoring and Follow-Up Committee held ten ordinary regular meeting during the period from February to December of 2013.
  
6. The function of the Civil and Political Rights Committee is to prepare reports and recommendations to NIHR Council of Commissioners on anything that would protect and foster civil and political human rights, and submits these reports and recommendations to the competent authorities. The Committee expresses its opinion on the issues related to civil and political human rights referred to it or brought to it by the chairman of the Institution; reviews the legal safeguards for the exercise of civil and political rights; proposes appropriate recommendations; monitors the implementation of relevant international conventions and treaties; makes the necessary proposals, recommendations and observations necessary for the sound application of these treaties; and submits them to the Council of Commissioners of the National Institution; expresses its opinion on the accession of the Kingdom of Bahrain to civil and political rights conventions; reviews the Kingdom of Bahrain reservations on some provisions of the conventions to which it has acceded; monitors the implementation of international conventions and treaties relating to all

human rights and civil and political freedoms; proposes recommendations for sound application of these conventions; examines the national legislation and regulations concerned with civil and political human rights in order to develop them; presents its point of view on the extent of these regulations compliance with international human rights standards; makes recommendations on these regulations and amend them. The Committee carries out any other mandates referred to it by the chairman of the Institution or the Council of Commissioners. Since it was formed, the Civil and Political Rights Committee held nine ordinary regular meetings during the period from February to December of 2013.

7. The Economic, Social and Cultural Rights Committee has the mandate to prepare reports and recommendations on anything that would protect and foster economic, social and cultural human rights to be submitted the competent authorities; expresses its opinion on issues relating to economic, social and cultural human rights referred or brought to it or to it by the chairman of the Institution or the Council of Commissioners; examines and evaluates the economic condition of citizens and residents in the Kingdom of Bahrain in terms of the level of income and prices; prepares proposed recommendations on these conditions to be submitted to the competent authorities; evaluates education curricula and makes remarks on them to be developed according to international standards; considers, evaluates and expresses an opinion on the progress in the exercise of economic, social and cultural rights in the Kingdom of Bahrain; follows up the public opinion issues and relevant media programs; reviews the legal guarantees for the exercise of economic, social and cultural rights; proposes appropriate recommendations; monitors the implementation of relevant international conventions and treaties; makes the necessary proposals, recommendations, and observations for the sound application of these treaties, and submits them to NIHR Council of Commissioners; expresses its opinion on the Kingdom of Bahrain accession to economic, social, and cultural rights conventions; reviews the Kingdom of Bahrain reservations on some provisions of the conventions to which it has acceded; and examines the national legislation and regulations concerned with economic, social and cultural human rights in order to develop these regulations to ensure raising the economic and cultural levels of citizens and residents to the extent that meets the international standards of human rights. The Committee carries out any other mandates referred to it by the chairman of the Institution or the Council of Commissioners. Since it was formed, the Economic, Social and Cultural Rights Committee held eleven ordinary regular meetings during the period from February to December of 2013.

#### **SECRETARIAT**

8. Dr. Ahmed Abdullah Farhan was appointed a secretary-general according to the Council of Commissioners Resolution No. 2 of 2013 made during the first procedural meeting of the council of Commissioners, under Article 9 of the Royal Decree on the Establishment of the National Institution. Article 10 entrusts the Secretary General with managing the affairs and supervising the activities of NIHR. The Secretary General reports directly to the chairman of the Institution in the performance of his duties. In particular, the Secretary General undertakes the overall supervision of the secretariat, the administrative and financial affairs of the personnel in accordance with the provisions of the Royal Decree on the Establishment of the Institution, the Executive Regulation, and the resolutions issued for its implementation, and the implementation of the council of Commissioners resolutions. The Secretary General prepares periodic quarterly reports every three months on the National Institution activities, the secretariat workflow, and the works performed in accordance with the plans and programs, submits these reports to the council of Commissioners, attends meetings of the standing committees, follows up the work of these committees and

provides what is needed to implement their mandates. The Secretary General does not have the right to vote.

9. According to the Resolution of the council of Commissioners No. 10 of 2013 reorganizing the administrative structure of the secretariat of NIHR, the secretariat is composed of five major departments, namely, the Legal Affairs Department, which includes complaints unit, treaty bodies unit, national legislation unit, and committee affairs unit; the Training and Education Department, which includes training programs unit, event organization unit, and information center unit; Communication Department, which includes international cooperation unit, press and media unit, and public relations unit; the Human and Financial Resources Department, which includes human resources unit, financial resources unit, and administrative affairs unit; and IT Department, which includes technical support unit, and website unit.

### **THIRD: NIHR ROLE IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

#### **PROMOTION OF HUMAN RIGHTS:**

1. The promotion of human rights is one of the most primary functions carried out by the national institutions for human rights, and is an essential element in Paris Principles relating to the status of national institutions in promoting human rights. These institutions conduct this promotion role through the dissemination of information and knowledge about human rights to the public, or to specific target groups, for the purpose of instilling a community culture based on converting knowledge of human rights to practical skills practiced on the ground.
2. Since the Royal Decree No. 7 of 2013 Restructuring the National Institution for Human Rights was issued on January 31, 2013, NIHR played an active role in the promotion of human rights through the issuance of a number of newsletters and educational publications related to human rights, holding seminars and lectures, and concluding a number of memoranda of understanding with various relevant civil society organizations and regional bodies. NIHR also had an active role in the field of legislative review in cooperation with the legislative authority or on its own initiative. In addition, NIHR issued a number of statements on world days or events, or to indicate NIHR position about any case of human rights violation. NIHR participated in numerous regional and international seminars, workshops, training courses and conferences related to its mandate.
3. In the field of releasing newsletters, NIHR launched its monthly newsletter entitled “Human Rights”, which is an educational newsletter concerned with human rights that aims to raise awareness among citizens and residents on all aspects of this vital area of contemporary life, especially in light of global conditions and recent changes. In particular, the newsletter highlights NIHR activities, events, and achievements. The first issue of the newsletter was published in July 2013 and is still published as at the report date.
4. As regards of releasing publications, NIHR reprinted a number of international and regional human rights related documents in both Arabic and English, such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Arab Charter on Human rights; Cairo Declaration on Human Rights in Islam; and the Basic Principles for the Treatment of Prisoners. The Institution also printed the Constitution of the Kingdom of Bahrain for the purpose of raising public

- awareness of the rights and public freedoms contained therein, and NIHR Guide, which outlines its most important fields of competence, its cooperation with the official state institutions, the services provided by the Institution, in addition to a statement of its mission and vision in the field of human rights.
5. In the same context, NIHR released a semi-annual referred human rights journal rights that spreads and develops human rights culture, and upgrades human rights standards in the community. This journal is the outcome of the efforts aimed at enriching human rights thought on the international law of human rights and international humanitarian law, with focus on topics concerned with local, regional and international events, as well as human rights studies, summaries of theses, and the principles and decisions laid down by local and international human rights courts. Moreover, NIHR released human rights culture series based on cooperation with the Constitutional and Legal Studies Center of the University of Bahrain, some researchers and those interested in this area inside and abroad the Kingdom. This cooperation aimed at releasing academic legal publications related to human rights and highlighting the reality of Bahrain specifically. Eleven books were released which tackled “Human Rights in the Criminal Procedure Code”; “The Role of Civil Community Institutions in the Promotion and Development of Human Rights”; “Death Penalty in National Legislation”; “Worker’s Rights under the Bahraini Labor Law and International Human Rights Standards”; “Human Rights in the Bahraini Law”; “Human rights and Fundamental Freedoms from Islamic, International and Regional Perspective, with particular reference to those Rights and Freedoms in the Kingdom of Bahrain; “Islam and Human Rights System; “Legal Protection for People With Disabilities: Reality vs. Expectations in the Kingdom of Bahrain”; “Women’s Rights in the Bahraini Family Law (Section I)”; “Guarantees of a Fair Trial according to International Human Rights Standards”; and finally “The National Institution for Human Rights in Bahrain: Formation and Future Prospects”.
  6. As regards to holding seminars and lectures, NIHR organized a national seminar on “The role of NIHR in the promotion and protection of human rights” in 27 and 28 April, and on August 24, 2013, presented by Counselor Dr. Ahmed Abdullah Farhan, NIHR Secretary-General. The Institution held a lecture entitled “The right to freedom of opinion and expression” on September 28, 2013, which was presented by Mr. Mohammad Qandil, member of the Arab Center for Education on International Humanitarian Law and Human Rights. A lecture entitled “The Convention against Torture (CAT)” was presented on October 26, 2013 by Dr. Amjad Bahjat Shammout, Secretary-General of Bridge Center for Development and Human Rights, the Hashemite Kingdom of Jordan. Dr. Badr Mohammed Adel, Assistant Professor of Law at the University of Bahrain, delivered a lecture on November 23, 2013 on “Fundamental rights and freedoms in the Constitution of the Kingdom of Bahrain”.
  7. On December 7, 2013, Dr. Btahir Mokhtar Bojalal, Professor of International Law at the University of Lyon, France, delivered a lecture on “Fair Trial Guarantees”. Finally, Counselor Dr. Ahmad Abdullah Al-Farhan, the Secretary-General of NIHR, presented a lecture entitled “Basic Concepts of Human Rights” to the Kingdom of Bahrain delegation in the World Youth Ship Program. These lectures and seminars fall within NIHR plans to enhance human rights in Bahrain by holding educational seminars and workshops to promote and develop awareness of the rights of citizens and residents on issues related to human rights.
  8. Concerning partnership with the relevant civil society organizations and regional and international bodies, NIHR signed several memoranda of understanding with the International Bar Association on June 26, 2013, the Friends of Environment

Association on July 10, 2013, the Supreme Council for Women on December 24, 2013, and the Secretariat of Grievances of the Ministry of Interior on December 29, 2013. These memoranda aim to build bridges of cooperation with those organizations and agencies to improve the promotion of human rights and to work together to develop programs to achieve the envisaged goals.

9. In terms of legislative review, at the request of the House of Representatives and the Shura Council, NIHR presented its views on a number of national laws to indicate their compliance with international instruments on human rights and the relevant international obligations of the Kingdom. This includes the draft law on reform, rehabilitation, and custody centers; the draft law on the amendment of the provisions of the Criminal Procedure Code to reduce the period of precautionary imprisonment of the accused and grant him the right to challenge such imprisonment; the draft law amending Article 5 of Law No. 47 of 2006 on the Care, Rehabilitation and Employment of Disabled People; and the introduced Article 20 of the draft traffic law. NIHR also proposed that the Government prepares a comprehensive national strategy that includes the necessary mechanisms and procedures for dealing with human rights reports issued on the Kingdom of Bahrain.
10. NIHR presented its recommendations to the Government about the Law of Trade Unions Freedom and the Right to Organize Trade Unions in Bahrain, a proposal on amending the Citizenship Law to grant Bahraini women a right equal to men with respect to the nationality of their children, and a proposal for raising juvenile age set out in Decree Law No. 17 of 1976 concerning Juveniles up to the age of eighteen years, in addition to its observations on the National Children's Strategy for the years (2013-2017).
11. NIHR interacted with the relevant world days and events related to the promotion of human rights in the community. In 2013, NIHR issued twenty-five statements on those days and occasions, the first of which was a statement on the occasion of World Health Day; the International Day for the Elimination of Racial Discrimination; the International Day of Books and Copyright; World Day for Cultural Diversity and Development; World Environment Day; World Day Against Child Labor; World Elderly Abuse Awareness Day; the United Nations World Refugee Day; the Twentieth Anniversary of the United Nations High Commissioner for Human Rights; International Day in Support of Victims of Torture; the International Day for Victims of Enforced Disappearance; the International Day of Democracy; the World Day of Peace; the International Day of Non-Violence; the World Teachers' Day; the World Habitat Day; World Food Day; the International Day for the Eradication of Poverty; the United Nations Day; the International Day for Tolerance; the International Day for the Elimination of Violence against Women; the International Day for Persons with Disabilities; the International Day against Corruption; and Human Rights Day. As a whole, these statements aim to inform the public of the international day or occasion, with an indication of its importance, and its relevant practice at the national level.
12. In addition, NIHR was concerned with its presence and representation in regional and international forums related to its activity and mandate. NIHR participated in a number of seminars, workshops, training courses, and conferences. At the regional level, the Institution participated in the international symposium entitled "Development, Democracy and Developing the Arab Regional Regime" held at the headquarters of the League of Arab States in Cairo, in cooperation with the League of Arab States, the Arab Network of National Institutions for Human Rights, the United Nations Organization for Education, Culture and Science, and the Arab Organization

for Human Rights. NIHR also took part in the ninth Annual Meeting of the Arab Network of National Institutions for Human Rights, held in Rabat, Morocco, on “Transitional Justice Experience in Morocco”

13. During the workshop titled “From ratification to implementation: the United Nations human rights treaties and the GCC countries”, NIHR presented a working paper titled “Core International Human Rights Conventions in Bahrain”, prepared by Counselor Dr. Ahmed Abdullah Farhan, the Secretary General of the Institution, held in Doha, Qatar, in collaboration with the United Nations Centre for Human Rights Training and Education for South-West Asia and the Arab Region, University College London, the University of Qatar, and Georgetown University (Qatar), with the participation of government representatives and representatives of national institutions for human rights in GCC.
14. During the “Arab Conference for the Development of the Human Rights System at the League of Arab States”, held in Doha, which was organized by the National Committee for Human Rights in Qatar in cooperation with the Arab Network of National Institutions for Human Rights, NIHR presented a working paper entitled “Establishment of an Arab Court for Human Rights”, prepared by Counselor Dr. Ahmed Abdullah Farhan, NIHR Secretary-General. In his paper, Dr. Farhan referred to His Majesty the King initiative for establishing an Arab court for human rights, which is an unprecedented initiative in the Arab world to add a new dimension to the joint Arab action in the field of promotion and protection of human rights. This court is a necessary legal mechanism to support human rights in the framework of the League of Arab States.
15. NIHR participated in the 18th Meeting of Asia Pacific Forum, which was held in Doha, Qatar, in the presence of representatives of Arab human rights institutions, along with a representative of the High Commissioner for Human Rights and a number of international experts. The purpose of the meeting is to protect and promote human rights of the peoples of Asia Pacific region by supporting the establishment and development of national institutions for human rights and fostering cooperation between these national institutions and the United Nations on the one hand, and government and non-government organizations on the other.
16. At the international level, NIHR participated in the inauguration of the 26th session of the International Coordinating Committee on the National Institutions for Human Rights (ICC) held in the Palais des Nations in Geneva. The purpose of the session was to strengthen the role of national institutions in promoting and protecting human rights through supporting and establishing channels of communication between the activities of the national institutions for international human rights networks and develop its capabilities. NIHR also participated in the eighth session of the Arab-European Dialogue of National Institutions for Human Rights in Copenhagen.

#### **PROTECTION OF HUMAN RIGHTS**

17. Protection of human rights is the corresponding basic foundation of the role of national institutions in the promotion of these rights. This has been clearly demonstrated in Paris Principles relating to the status of national institutions in promoting human rights, which grant national institutions quasi-judicial competence through its authority to receive and consider human rights related complaints and refer these complaints to the competent authorities for follow-up. Further, the national institutions are tasked with informing the relevant parties of the procedures of due process and help them take these procedures, or provide assistance to settle these complaints with the concerned authorities.

18. The role of national institutions in the protection of human rights includes monitoring all that would prejudice the right of individuals to their prescribed rights and public freedoms, since the required protection is not limited to receiving complaints from individuals, but extends to tracking and monitoring human rights situation and documenting it from various channels and sources. The monitoring process is a necessary tool to ensure the degree and extent of the state compliance with its relevant legal or international human rights obligations.
19. Such protection also requires the national institutions to conduct field visits to places where human rights violations are likely to occur, including reform institutions, detention places, labor camps, health and education faculties, and any other location where human violations are suspected. Protection further encompasses monitoring the proceedings by attending hearings to ensure consistency with fair trial guarantees.
20. Accordingly, the Royal Decree on the Establishment of the National Institution grants NIHR the mandate to receive complaints. Article 3, paragraph e, of this Decree provides for **“To receive complaints concerning human rights, study and refer whatever the Institution decides to the concerned authority, follow them efficiently or educate the concerned authority about the procedures to be followed and assist them in adopting them or aid in settling the, with the concerned authorities”**.
21. Despite that the Royal Decree on the Establishment of the National Institution does not expressly provides for its mandate to monitor and visit detention places, this issue may be overcome by Article 1 of the Royal Decree on the Establishment of the National Institution, which stipulates as follows: **“An independent institution is established named “The National Institution for Human Rights” responsible for promoting and protecting human rights, and consolidating its values and contributing to securing its practice...”**. The protection of these rights and ensuring the exercise of these rights require the National Institution to track, document, monitor, and visit the places where human rights violations are suspected or are likely to occur. Any statement to the opposite divests the National Institution of its competence in the field of protection of human rights.
22. Therefore, the role of the National Institution in the field of protection of human rights will be reviewed. This review covers its follow-up of the various events that have had impact on people enjoyment of rights and public freedoms by issuing a number of relevant statements, its monitoring process, visiting detention places, attending meetings of the trials, in addition to its mandate to receive and follow up complaints with the concerned authorities or inform the concerned parties of the due procedures in this regard.
23. In response to certain events that have cast a shadow on the protection of human rights, NIHR released several relevant statements, such as its statement on the death of one protester. In this statement, NIHR expressed its deep regret for the death of the citizen and demanded the responsible bodies to start immediate and serious investigation to identify the reasons for the direct use of weapons. Three statements were issued on separate occasions as a result of the death of members of the security forces, in which NIHR expressed its deep regret. The Institution called all parties to adhere to peaceful and professional measures, and demanded wise people in the community to call for maintaining pacification and renounce violence and deviation, which would be detrimental to the Kingdom and affect its stability. It further called for the need to move from tension to détente in order to achieve national reconciliation and rebuild the modern state.

24. On two separate occasions, NIHR issued two statements in which it rejected the publication of the names and photographs of the accused before final court judgments are rendered. It confirmed its absolute rejection of publishing the names and photographs of the accused persons in the official media and newspapers, and considered that such acts violate the principle of presumption of innocence (the accused is deemed innocent until proven guilty) in accordance with the provisions of the Constitution and human rights international instruments to which the Government of the Kingdom of Bahrain is committed.
25. In a statement released by NIHR, it commended the measure taken by the Ministry of Education for allowing the detained or convicted students to sit for final exams. It praised the system adopted by the Ministry, which allows taking final exams in hospitals or reform and rehabilitation centers under the same conditions provided for other students.
26. In the same context, in a statement released by NIHR, the National Institution praised the decision of the Council of Ministers approving the establishment of the Prisoners and Detainees Rights Commissioner, as an independent national mechanism that allows monitoring prisons and detention centers. In another statement, NIHR praised the League of Arab States approval of the Kingdom of Bahrain request to host the headquarters of the Arab Court of Human Rights, as a necessary legal mechanism to support the human rights system under the umbrella of the League of Arab States.
27. With regard to the monitoring process, NIHR monitored daily events and news circulated in the media and social networks on the practices or alleged practices of human rights violations. Since the monitoring process is related to the various civil, political, economic, social and cultural rights, NIHR included or indicated its observations in the course of addressing these various rights, and made the appropriate recommendations in this regard in chapters 2 and 3 of this report
28. In the same context related to protection of human rights, a representative of the National Institution attended a number of hearings related to security events, which attracted public attention. For instance, the Institution attended the trial of the accused persons in the case known as “February 14”, and the trial hearings of the accused in the Drydock riot events. Attending the hearings by NIHR representative falls within its role in monitoring the human rights situation related to the rights of the accused to establish justice, determining the conduct of the trial and monitoring any violations of the accused right to enjoy fair trial guarantees in accordance with the relevant international instruments. During these visits, NIHR identified a number of measures that prejudice the right of individuals to enjoy fair trial guarantees. These measures will be referred to when the right to fair trial is addressed.
29. In addition, in the context of the monitoring process, NIHR conducted a number of visits to detention and custody centers, including Hooraa police station, the reform and rehabilitation center “Jaw” for men, the other center for women, and the detention centre at the Drydock. A number of these visits by the National Institution were made on the occasion of the visit by the delegation of Her Majesty’s Inspectorate of Prisons (HMIP) in the United Kingdom to the Kingdom of Bahrain during the period from April 28, 2013 to May 2, 2013. This visit is part of a program that aims to introduce the role of the Inspectorate in monitoring and inspecting prisons as a national preventive mechanism at the level of the relevant agencies and institutions in Bahrain by visiting some of detention and pre-trial detention centers as a training practice.
30. There were news posted on the social networks that at Friday dawn, August 16th, 2013, a group of detainees in the pre-trial detention center at the Drydock created

chaos and riot in one of the wards and the detainees were exposed to assault, beating, and ill-treatment. In coordination with the Ministry of Interior, NIHR visited the center to investigate the matter and meet with the officials and detainees. The officials reported that on Friday, August 16th, 2013, at 3:00 AM, an officer and a number of prison guards searched wing 10, after receiving information from private sources on prior planned intention by the detainees to enter mobile phones to the wings. Three mobile phones were actually seized. Subsequently, the detainees created chaos within the wing and hit and assaulted some of the police officers and tried to detain them inside the cell. They also removed the doors, and destructed some electrical appliances within the wing, poured soap and water in the corridor and connected it to a power supply. Pepper was sprayed to deal with the situation in an attempt to cripple their movement and release the police officers. Order keeping forces were then employed to deal with the detainees, using sound bombs, in order to restore order in the wing. The detainees were then placed in another wing to carry out maintenance works and get things back to normal. The officials confirmed that they dealt with the detainees in accordance with international laws and humanitarian standards.

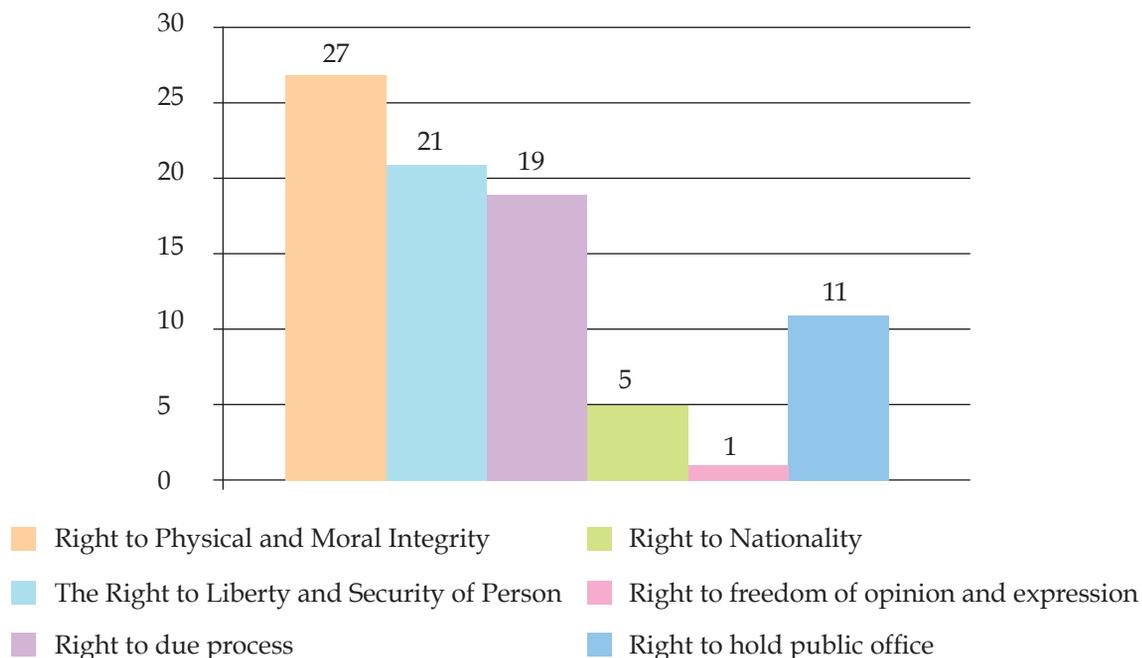
31. Subsequently, NIHR delegation visited the wing in question, accompanied by the competent officials. The delegation met the detainees from behind the steel doors of the rooms, and found that the wing contains fourteen rooms, and that the total detainees distributed to the rooms are one hundred and fifty detainees. Some of the detainees revealed the upper part of their bodies where assault symptoms were evident on different parts of their bodies. It seems that these injuries resulted from using rubber batons, which left severe red marks. Other injury traces were evident on the hand of one of the detainees, which he said that it is attributed to the use of a plastic cuff and pulling him forcibly. Other marks of injuries were found on the bodies of some detainees, apparently due to random kicking during or after the inspection process. The detainees added that they had been subjected to insults and sectarian curses during the inspection process, in addition to provocative acts such as waking them up using batons strongly. They reported that one of the officers turned the prayer voice off on prayer time, while others were prevented from reaching the Quran.
32. Some of the detainees claimed that they were not allowed to change their clothes after the inspection. One detainee was seen covered with a blanket for not enabling him to wear his underwears. When asked about the reason for this, he reported that the officials had detained his clothes in a private room and prevented his access to them. That Particular room was examined and the delegation noted that clothes were stacked in waste black Plastic bags. All pieces of clothes were mixed without labels to indicate the names of their respective owners.
33. In addition, it was noted that there were two non-Bahraini detainees in the same cell who were detained for criminal cases (one was detained in a drug case, and the other in a theft case) with severe and evident assault marks. When asked about the cause of those injuries, they said that they have been subjected to what the rest of the detainees were subjected to as a form of collective punishment. One of the detainees reported that one of the officers assaulted him by kicking and asked him about his sect. When he informed him that he is Shiite, he kicked and hit him even more.
34. Following the allegations of using shotgun and tear gas, the NIHR delegation verified these allegations by asking a number of detainees who have denied their use, adding that only stun grenades and pepper were used.
35. During the visit, NIHR delegation met three detainees in private. The first detainee said that during the inspection, he was injured behind his head as a result of beating

and he requires surgical intervention. He stressed that one of the officers committed violence and ill-treatment during the inspection, while a police officer sprayed pepper heavily from all window openings. He also reported that during the five months he spent in detention, he was denied the opportunity to meet his lawyer, adding that he knew about the accusation against him during the court hearing. He also denied that the detainees tried to detain police members. The second detainee indicated that the chaos that occurred was because the police and security forces commit violence and ill-treatment during the inspection. He reported that he was placed in solitary confinement and was beaten for 15 minutes as a result of not complying with the orders of standing up during the inspection. The detainees stated that after emptying the cells, they are exposed to sun for four hours, from 6:00 to 10:00 AM, as a result of which some detainees collapsed by reason of the heat and fatigue. They were also not allowed to drink water.

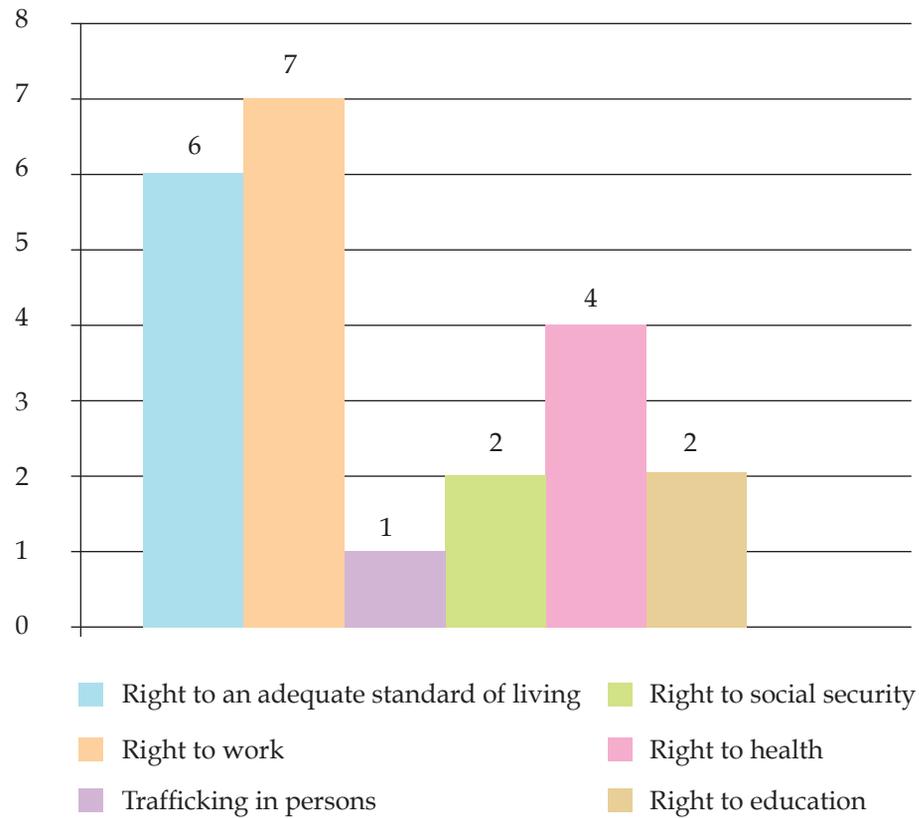
36. Following this visit, NIHR prepared a detailed report that included a number of recommendations and was submitted to the Ministry of the Interior. Among the most prominent recommendations are: investigating into the serious allegations of humiliating and degrading ill-treatment by police agents and officers who were referred to in the report; and the need to establish a culture of human rights for the detainees and promote this culture among the police officers in the detention and apprehension centers in accordance with the relevant humane international standards. The role of police officers in the detention centers should be based on effective supervision and maintaining the integrity and rights of the detainees. The detainees are held under legal custody since they are not yet convicted by court decision. In addition, penalties should be imposed on the offender alone without extension to the other detainees as a collective punishment pursuant to the principle of personal punishment stipulated in Article No. (20) of paragraph (b), of the Constitution. A security system should be established to prevent the entry of contraband materials to the detainees, and the detainees should be allowed to meet their lawyers upon their request. All facilities in this regard should be given and documented. Moreover, the detainees should be given enough time to exercise and enjoy sunshine for sufficient time. A social environment within the detention centers should be also created by providing the opportunity for the inwards to meet each other according to legal controls and without prejudice to the system in place within the centers. Family visit procedures and the accompanying security measures which may be described as humiliating should be reconsidered, and the glass barriers between the detainee and his family should be removed. Greater attention should be paid to meal quality and system in terms of sufficiency and diversity. Further attention should be dedicated to health care system and receiving and following up the treatment, and adequate sanitary kits of different types should be provided. The capacity of the rooms allocated to the detainees should be considered in order to ensure a sufficient degree of comfort. There is need to consider forming a temporary committee composed of the Ministry of Interior, the judiciary, NIHR, and the Ombudsman in order to study and visualize procedures for the treatment of detainees in the Drydock pre-trial centre. However, NIHR have not received a response from the Ministry of Interior on the actions taken concerning these recommendations.
37. On another occasion, NIHR received a complaint from the family of a convicted person to intervene to consider the provision of appropriate treatment. They have expressed their deep concern for his health. NIHR has contacted the Ministry of Interior and requested meeting the convict to identify his health condition. The Ministry has granted this request. However, when we visited the convict at the reform and rehabilitation department, he apologized for not meeting NIHR delegation without giving clear reasons. He requested coordinating with his family to follow up his health condition.

38. Within the framework of NIHR mandate, the Royal Decree on the Establishment of the National Institution grants it quasi judicial powers. Article 3, paragraph “e”, of this Decree provides that in fulfilling its objectives, NIHR has the power to “receive, consider and refer human rights related complaints, and refer these complaints to the competent authorities for following them up effectively, inform the relevant parties of the procedures of due process and help them take these procedures, or provide assistance to settle these complaints with the concerned authorities”. Accordingly, in 2013, NIHR dealt with one hundred and eighteen complaints with varied implications in terms of the rights claimed to have been violated. The Institution received 84 complaints related to civil and political rights; 27 complaints related to the right to physical and moral integrity; 21 complaints related to the right to personal freedom and security; 19 complaints concerning the right to a fair trial; 5 complaints related to the right to citizenship; 11 complaints with regard to the right to hold public office; and finally one complain related to the right to freedom of opinion and the right to expression.
39. NIHR received 22 complaints on economic, social, and cultural rights with varied implications in terms of the rights claimed to have been violated. The Institution received 6 complaints related to adequate standard of living; seven complaints related to the right to work, one of which was received by NIHR in 2011, but the violated right continued until 2013; one complaint related to trafficking in persons; four complaints related to the right to health; two complaints with regard to the right to education; and finally two complaints related to the right to social security.
40. Moreover, NIHR received 12 complaints related to a number of issues that do not fall within civil, political, economic, social, and cultural rights, either because they are related to personal disagreements or fall beyond the Jurisdiction of NIHR.
41. The complaints received by NIHR and the measures taken will be addressed in detail upon reviewing the civil, political, economic, social and cultural rights. Therefore, in this Chapter, only the number of complaints and the type of rights under which these complaints fall will be stated, as follows:

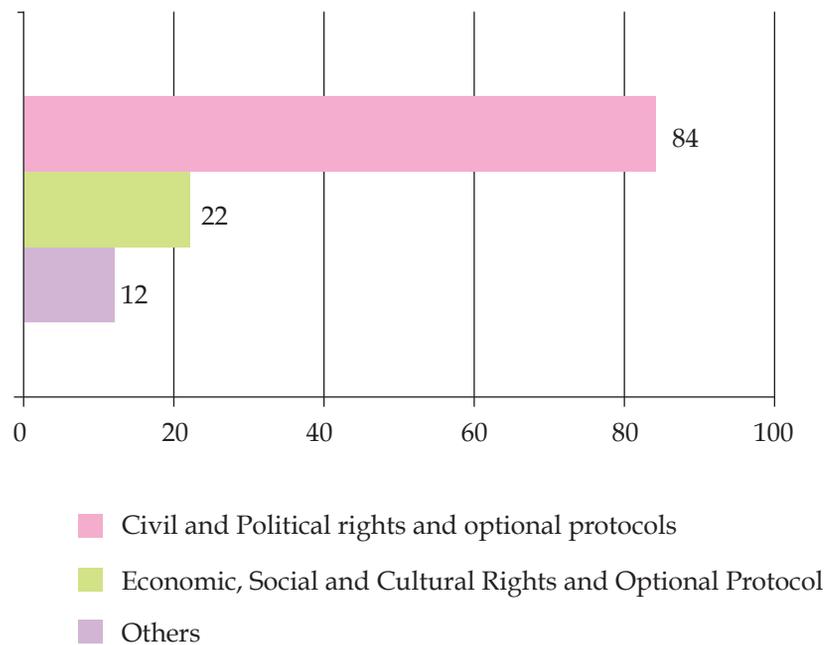
### CIVIL AND POLITICAL RIGHTS



### ECONOMIC, SOCIAL AND CULTURAL RIGHTS



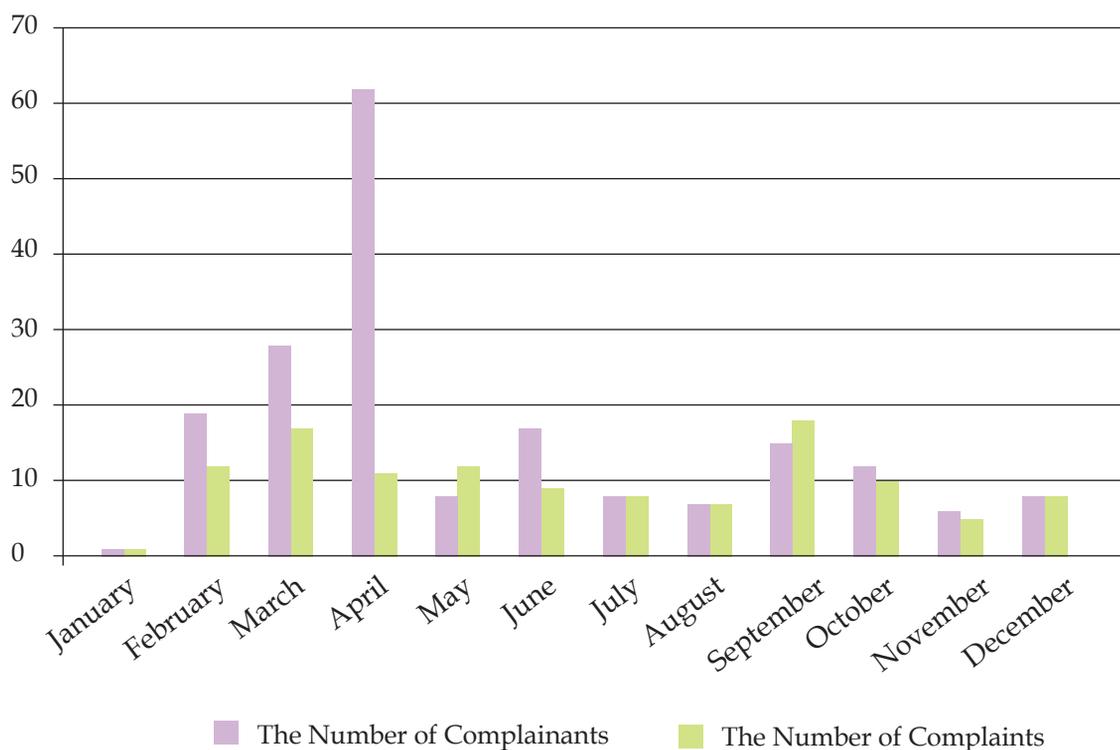
42. Graph demonstrating the number of complaints received by NIHR in 2013 concerning the various civil, political economic, social, or cultural rights or other issues that do not fall under any category of these rights and go beyond the mandate of the Institution but were addressed constructively by NIHR based on humanitarian assistance, as follows:

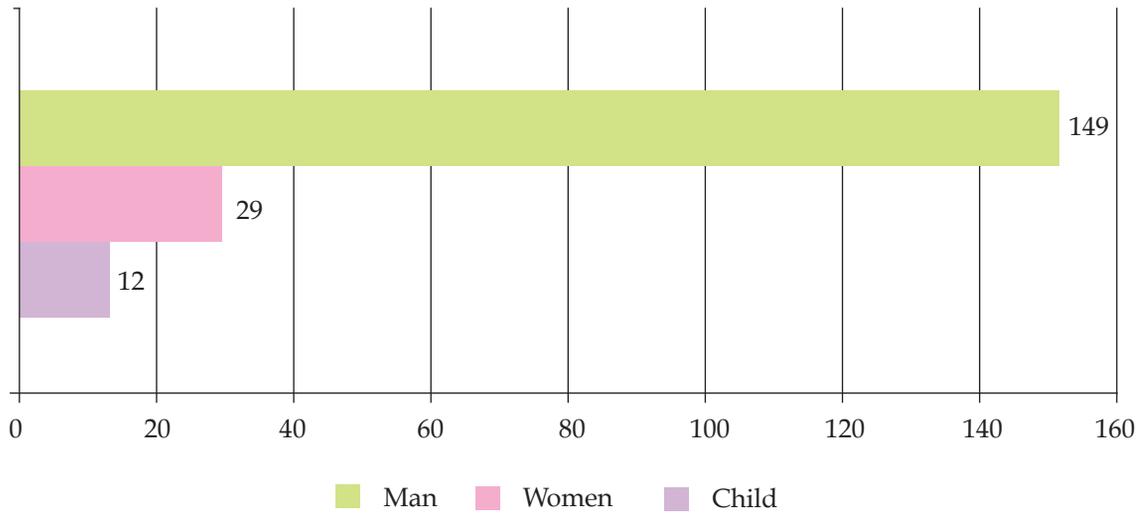


43. Table showing the number of complaints received by NIHR concerning the various civil, political, economic, social, and cultural rights by month, the number of complainants and their categories in each complaint, as follows:

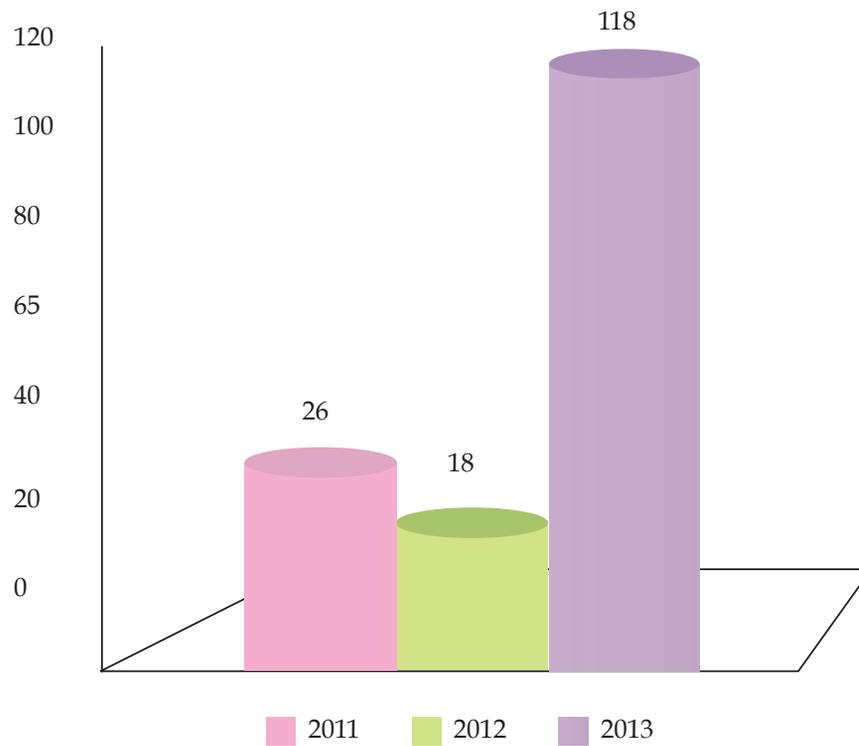
Month	Number of Complaints	Number of Complainants	Category		
			Male	Female	Child
January	1	1	-	1	-
February	12	19	14	4	1
March	16	27	21	4	2
April	11	63	62	1	-
May	12	8	5	1	2
June	9	16	14	2	-
July	8	8	2	6	-
August	7	7	4	3	-
September	18	15	10	2	3
October	10	12	7	3	2
November	5	6	4	1	1
December	8	8	6	1	1
<b>Total</b>	<b>117*</b>	<b>190</b>	<b>29</b>	<b>149</b>	<b>12</b>

\* In addition to the total above, there is a complaint that was received by NIHR in 2011. However, the violated right continued to 2013. The total number of complaints is 118.





44. Diagram indicating the number of complaints received by NIHR in 2011, 2012, and 2013.



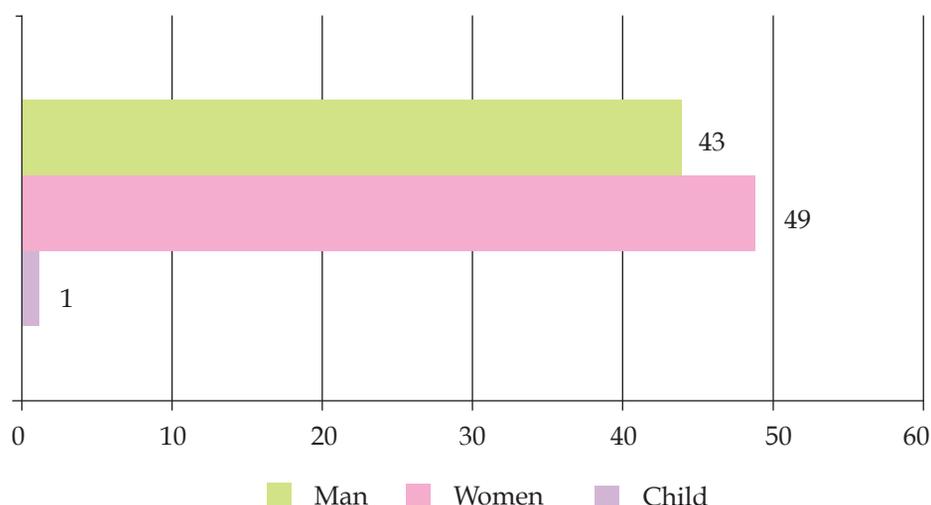
45. Based upon Article 3, paragraph e, of the Royal Decree on the Establishment of NIHR, the Institution, in addition to the power of receiving complaints, is granted the authority to provide legal assistance and advice by informing the relevant parties of the procedures of due process and helping them take these procedures, or providing assistance to settle these complaints with the concerned authorities. NIHR provides legal assistance and advice in case the issue does not fall within its legal competence, for instance if the issue is pending before a judicial or administrative body, if there is another body which has competence to consider the issue, or if the concerned parties are required to take legal or administrative action prior to recourse to NIHR. In this regard, NIHR received 48 requests for legal assistance and advice with issues ranging from requests for civil compensation, intervention in disputes and conflicts between

individuals, requests for assistance to obtain political asylum in a foreign country, or requests to intervene to end administrative proceedings before the competent government bodies.

46. In view of the requests for legal assistance and advice received by NIHR, which did not involve any direct prejudice to civil, political, economic, social and cultural rights, the Institution was required to intervene to consider these requests through direct contact or official communication with the authority concerned. This intervention includes identifying the condition of a citizen being detained in a GCC country, facilitating the implementation of a court order issued by a Bahraini court which is required to be enforced abroad Bahrain, or allowing a convict to attend the funeral ceremony of any of his relatives, in addition to other requests for releasing detainees on humanitarian grounds.

47. The following table shows the number of requests for legal assistance and advice received by NIHR by month in 2013, and by the groups seeking legal assistance or advice as follows:

Month	Number of Requests for Assistance and Legal Advice	Category		
		Male	Female	Child
January	2	1	1	-
February	3	1	2	-
March	10	6	6	-
April	8	6	6	-
May	5	2	3	-
June	7	2	7	-
July	8	6	2	-
August	9	5	4	-
September	5	1	4	-
October	7	4	3	-
November	9	2	7	-
December	11	7	4	1
<b>Total</b>	<b>84</b>	<b>43</b>	<b>49</b>	<b>1</b>



#### FOURTH: NIHR HUMAN RIGHTS STRATEGY AND ACTION PLAN FOR THE YEARS (2013 – 2016):

1. NIHR has adopted a strategy and action plan that are based on five themes, namely, developing NIHR involvement in human rights protection efforts; promoting NIHR efforts in the field of legislative review and development; launching an extended national program for human rights education; launching a specialized program for the promotion of citizenship rights and supporting its values; and strengthening cooperation at the national, regional and international levels.
2. This strategy represents the objectives envisaged by His Majesty the King initiative to establish the National Institution for Human Rights in accordance with the Royal Decree No. 46 of 2009, amended by the Royal Decree No. 28 of 2012, the powers assigned to the Institution, the targeted goals, and the ways to achieve these goals. The strategy has adopted clear mission and vision in line with its objectives towards making “**human rights culture as lifestyle**”. NIHR vision confirms that the belief in human rights is a national tenet, that the recognition of rights and public freedoms, whether civil, political, economic, social, or cultural, and whether individual or collective, is a commitment to the values of justice, equality and human dignity of all human beings without discrimination, and that dealing with these rights should be a lifestyle across the various aspects of life.
3. NIHR strategy includes the following mission “**Together to create a better practice of Human Rights**”. This mission is based on the development, promotion and protection of human rights, by providing protection and assistance to the citizens and residents, enabling them to acquire diverse knowledge to exercise their legitimate rights, determining their needs and how to claim them, and defending these needs, by spreading the culture of human rights by all means available. In addition, the mission states that change can only be achieved through official and semi-official individual and collective concerted efforts.
4. Clear vision and mission are adopted to achieve a number of objectives, namely: disseminating the culture of human rights and defending these rights by all means available; educating individuals on the fundamental rights guaranteed for them under national legislation and international conventions; strengthening and empowering individuals through various training programs to increase knowledge and awareness of fundamental rights, and how to exercise these rights in a manner that ensures that all individuals enjoy such rights; expanding the communication network with the organizations specialized in human rights at the national, regional and international levels; receiving complaints, and monitoring and documenting human rights violations; providing the required information and legal aid services to the victims of human rights violations; and drafting and issuing annual reports and specialized reports related to certain topics.
5. NIHR strategy and action plan incorporate many services related to human rights and public freedoms, whether for individuals or for the official state institutions, as well as civil society organizations, through holding seminars, workshops, symposiums, and conferences, in order to raise awareness about all kinds of individual rights and freedoms. These events cover all human rights issues, in particular the most vulnerable categories (women’s rights, children’s rights, rights of persons with disabilities, and rights of the elderly). These events also aim to introduce the United Nations human rights mechanisms, and discuss important relevant topics and concepts, such as democracy, rule of law, discrimination, and torture. These cultural events specialized in human rights serve as an opportunity for the different sects of society to exchange views on these rights in order to find the best ways to exercise these rights and ensure their protection of any direct or indirect violation.

6. NIHR provides training and education service which aims to disseminate human rights culture among the various categories, according to national and international standards, through specialized training programs and courses in order to convert knowledge of human rights to practical skills. The most important target groups of these programs are: judges, public prosecutors, members of the legislature (the House of Representatives and the Shura Council), public officials involved in drafting legislation, or developing and implementing policies, public officials responsible for drafting and submitting reports to international human rights treaty bodies, law enforcement officials, including members of Bahrain Defense Force, public security forces and national guards, punishment institutions officials, and workers in the field of journalism and audio-visual media, civil society institutions of various functions related to civil, political, economic, social and cultural rights, schools, universities, private companies and employment offices.
7. These services also include provision of advice in the form of recommendations, suggestions and consultant reports to government and non-government agencies, either on NIHR own motion or at the request of these agencies, on any matter related to the promotion, protection or development of human rights, pursuant to Article 3, paragraphs a, c, d, and e, and Article 4 of NIHR establishment Law. This includes, for example, providing advice on legislative issues, through the consideration of the legislation in force in the Kingdom, and recommending the amendments which NIHR deems appropriate in this regard, especially with regard to consistency of this legislation with the international obligations of the Kingdom. NIHR is also entitled to recommend issuing new legislation related to human rights, and cooperate with the legislative authority, composed of the House of Representatives and the Shura Council and their committees, concerning the matters related to human rights.
8. NIHR further provides advice on the implementation of international conventions through informing the executive authority to ratify international conventions, and advising it on the nature of the obligations of accession or ratification of certain international conventions. The advice provided by NIHR includes the degree of national laws consistency with the standards set out in the convention in question, or whether there is a need for additional legislative initiatives. NIHR further provides its recommendations and proposals regarding the national legislation alignment with the international conventions.
9. Moreover, NIHR provides advice on political affairs through its control over referendum and elections and gives its advisory opinion on the best democratic practices in political affairs. NIHR has a major role in the citizens' exercise of political rights and how these rights are exercised, such as the establishment of political associations, exercising the mandates of these associations according to their memoranda of association, and the relationship of these associations with the executive authority. NIHR has an important role in the dissemination of political culture and the principles of citizenship and its connection with human rights in accordance with the provisions and principles of the National Action Charter and the Constitution of the Kingdom of Bahrain based on the internationally recognized concepts demonstrated in the International Covenant on Civil and Political Rights.
10. Furthermore, NIHR provides advice on administrative matters by monitoring any bureaucratic behaviour or pattern that prejudices or prevents citizens or residents from enjoying their complete legitimate rights in accordance with the Constitution and international instruments, or affects these rights, either directly or indirectly. NIHR indicates the reasons that led to this behaviour and propose appropriate solutions to eliminate or reduce its exacerbation.

11. In addition, NIHR provides advice on judicial procedures by monitoring these procedures to ensure compliance with the international standards during investigation and trial. This is accomplished through monitoring the substantial defences and requests during the investigation, such as exercising physical or mental coercion, breaching the guarantees of the accused and the public prosecutor provision of these guarantees, unjustified delay of trials, availability of constitutional and legal guarantees during the trial, or any other actions that may violate the provisions of the Code of Criminal Procedure, and addressing these actions by making recommendations to the competent judicial authority.
12. According to its strategy and action plan, NIHR prepares or contributes to the international reports. The Institution prepares the corresponding reports in line with the international conventions that oblige the states parties to submit regular reports to the committees established under these conventions to oversee their implementation. Among the most important treaties that require preparing reports are: the International Convention on the Elimination of all Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention for the Protection of the Rights of Migrant Workers and Members of Their Families; the International Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of Persons from Enforced Disappearances. In collaboration with official bodies, NIHR contributes in the preparation of national reports pursuant to the agreements related to human rights.
13. For the purpose of protection of human rights, NIHR offers - in addition to the above - the service of receiving complaints and monitoring human rights violations. NIHR receives complaints, reports, and petitions from all individuals and bodies with respect to violations of public rights and freedoms, considers these complaints and refers the complaint it deems appropriate to the competent authorities, follows these complaints up effectively, informs the relevant bodies of the procedures of due process and helps them take these procedures, or assists in the settlement of these complaints with the concerned authorities. NIHR monitors any human rights violations, collects and analyses data and reports these data in order to put an end to these violations and recommend corrective action. The Institution deals with the complaints received and any observed human rights violations according to a clear and specific mechanism that is published and communicated to the public.
14. Within the same framework, in order to promote and protect human rights in the Kingdom, NIHR conducts field visits to detention centres, penal institutions, shelters, reform institutions, and all the relevant places, in coordination with the competent authorities, in order to identify the validity of the complaints received, propose appropriate solutions, ]make recommendations to improve the services provided in these places to serve human rights, and follow up and monitor strikes, sit-ins, and protests.
15. In order to supplement NIHR role in the development of human rights in the Kingdom, the Institution participates in the preparation of human rights national plans. Vienna Declaration and Programme of Action of 1993 recommends that each state considers the desirability of formulating a national action plan that shows the steps that can be followed by the state for the development, promotion and protection of human rights. In developing its action plan, the state should determine human rights priorities and identify the tools appropriate to be used for the implementation

of the plan. It is not possible to formulate a national action plan to improve human rights in the Kingdom without concerted effort between the executive authority, NIHR, and civil society institutions. Therefore, the role of NIHR is focused on helping the relevant authorities to prepare national human rights action plans in the Kingdom and the mechanism for the implementation of these plans, according to clear strategy, objectives and timeframe.

16. The National Institution for Human Rights action plan for the years 2013-2016 comprises five themes. The first theme is **NIHR involvement in human rights protection efforts**. In this regard, NIHR proposed a number of ideas aimed at strengthening its powers by making amendments to the Royal Decree establishing the Institution in a manner that ensures its capability to advance its functions and powers according to its establishment law. In the next phase, NIHR will use the various media and communication outlets to raise awareness among citizens about personal and public rights and freedoms, and ways to promote, protect and ensure the exercise of these rights. Awareness of human rights constitutes an essential input for protection from exposure to violations. In addition, the Institution will activate its powers in the field of receipt of complaints and the cooperation of the competent authorities with the Institution regarding the processing of these complaints. Further, the Institution aims to promote access to and communication with the complainants. It will publish a guide to dealing with complaints, and will prepare a standard regulation which will serve as reference for dealing with complaints, and evaluating the subjects of complaints, and categories of intervention and best treatment methods according to the best practices. The complaints unit of the Secretariat, under the supervision of the Complaints, Monitoring and Follow-up Committee, is provided with human resources specialized in the provision of legal assistance to victims of human rights violations, whether in terms of litigation, mediation and follow-up, or raising awareness of the procedures to be followed concerning these violations. Further, the Complaints Unit is provided with personnel specialized in field monitoring to enhance fact-finding and information gathering ability. The hotline service is provided to receive and handle complaints and urgent appeals according to pre-determined guidelines. The service of receiving complaints is available via e-mail and NIHR website. Complaints and outcomes are maintained and archived in databases in a systematic manner. Finally, memoranda of understanding were signed with the relevant authorities to identify the best practices for resolving complaints within the shortest period of time.
17. The second theme aims to **strengthen efforts in the field of legislative review and development**, according to the Royal Decree Establishing the Institution. NIHR is committed to the duty of reviewing human rights legislation and proposing alternatives, particularly with regard to the extent of national legislation alignment with Bahrain international commitments. For this purpose, NIHR Secretariat created a technical legal unit which is specialized in reviewing legislation, and proposing the necessary legislative amendments. A part-time advisory group comprised of legal specialists in legislation fields will be formed to use their expertise in preparing draft laws and proposals for amendments to the laws, drafting the necessary explanatory memorandum of these proposals, enhancing the relationship and establishing institutional cooperation with the legislative authority, including the House of Representatives and the Shura Council, in the areas relevant to the functions of the National Institution, creating communication mechanisms with the relevant committees and departments in both councils, strengthening the relationship and cooperation between the relevant ministries concerned with legislation and human rights and the executive authority, especially the Ministry of Justice; Islamic Affairs and Endowments; the Ministry of Education; the Ministry of Labour; the Ministry of Human Rights Affairs; the Ministry of Health; and the Ministry of the Interior,

and recommending the importance of legislative alignment between the national legal system and international commitments in the field of human rights in order to achieve the national interest.

18. The third theme aims to **participate in the preparation of an extended national program for human rights education**. Human rights education is one of the most fundamental pillars for achieving the desired objectives in the field of human rights, both in terms of defining human rights or raising awareness of these rights. This will create positive impact on behaviour, will curb and correct negative phenomena, and ensure automatic integration of human rights principles and standards in the development plans, claims, policies and legislation. NIHR will benefit from the methodologies of the United Nations Decade for Human Rights Education and the International Programme for Human Rights Education adopted by the United Nations consecutively since 1995. This will be achieved through cooperation with the ministry concerned with education in order to develop the integration of the human rights theme in education, including teaching human rights in the curriculum of primary and secondary education, and reviewing the curriculum in general, in order to improve the content related to human rights values, and any changes thereto, and ensure its compliance with the international human rights commitments of the Kingdom. In addition, a specialized program will be organized for the development of university students' awareness of human rights, in cooperation with public and private universities. A program in human rights will be offered within the relevant graduate programs (international law, political science, and media). Intellectual events and workshops will be held on the development of human rights awareness among media activists in the various media outlets: audio-visual, written and electronic media, since Media has a close relationship with human rights. NIHR will promote coverage of human rights issues, develop the public opinion knowledge of these issues, organize specialized training courses for media professionals to build knowledge and develop awareness in the field of human rights, possess the necessary skills to integrate human rights into topics, issues and policies, and play a positive role as media figures in relation to human rights, provide and distribute publications related to the construction of knowledge of human rights through the media, libraries, schools, universities and institutions concerned with culture, and allocate spaces for public service in various media to pass short messages with relevant content to human rights, which contribute to changing some of the negative phenomena that affect the enjoyment of fundamental rights and freedoms. NIHR cooperates with civil society organizations concerned with human rights in order to build an integrated awareness program, ensure the appropriate amount of coordination, promote and disseminate the culture of human rights in the society, adopt integrated human rights knowledge and awareness programs that serve activists in civil society institutions, which have various programs and objectives, including charitable and humanitarian development associations, professional associations and trade unions, as well as political associations, and launch a national project in collaboration with the concerned authorities in order to promote human rights in the policies and practices adopted by the relevant law enforcement bodies, including the judiciary, public prosecution, security services, defence force, and national guards.
19. The fourth theme aims to **prepare a specialized program in the field of promotion of citizenship rights and supporting its values**. This is the main tool to promote human rights culture among all segments of society. In this context, NIHR intends to prepare an integrated and continuous project in cooperation with all relevant parties. The Institution will prepare an integrated awareness program on citizenship rights and values, and will integrate its content in the context of the activities of the former theme, i.e. human rights education. Regional events for developing awareness of

citizenship and its values will be held at the local level to address the relevant gaps in the promotion of citizenship at the community level. NIHR will seek to hold a regular national conference on annual or bi-annual basis, with the participation of all concerned sectors, in order to agree on a national program of action, make practical recommendations and proposals to be adopted in the legislation, policies, and daily practices, and activate the recommendations and proposals in collaboration with various parties in order to ensure equality, equal opportunity and anti-discrimination. These are the core principles of citizenship and the fundamental tools for enhancing national affiliation in line with international human rights standards and the Kingdom commitments towards these standards.

20. Finally, the fifth theme aims to **strengthen cooperation at the national, regional and international levels**. Cooperation in the field of human rights at the national, regional and international levels is one of the main pillars to strengthen NIHR role in carrying out its duties and functions, and meet the requirements of activating its strategy. Cooperation is activated at the national level by building bridges of communication with the state legislative, executive and judiciary authorities, benefiting particularly from the relevant structures, in particular the Ministry of Human Rights Affairs, the competent departments within the ministries, the Parliamentary Human Rights Committee, other relevant parliamentary committees, the Supreme Coordinating Human Rights Committee, and the diplomatic missions accredited in the Kingdom, cooperating with other relevant national institutions and bodies, such as the Supreme Council for Women, institutes concerned with political development and public administration, and national governmental and non-governmental committees and structures concerned with activating human rights plans, coordinating with these bodies to enforce the recommendations of the periodic comprehensive review of human rights, and the final recommendations for the contractual mechanisms related to the promotion of human rights in Bahrain, meeting international obligations, cooperating with the relevant civil society institutions, taking advantage of their ability to identify the needs of citizens and their expertise in bridging the various gaps, and strengthening the role of these institutions in the field of human rights.
21. Cooperation at the regional level is enhanced through working with the relevant institutions in the framework of the Gulf Cooperation Council, in particular the Office of Human Rights founded within the Secretariat structure. The Office of Human Rights is concerned with highlighting GCC's achievements in the field of human rights, cooperating with the Arab League institutions involved in human rights, especially the Permanent Arab Human Rights Committee, the Arab Human Rights Committee (the Charter Committee), the expert committees set up by the Arab League in the field of human rights, as well as the departments and agencies specialized in international humanitarian law, women and children, cooperating with the competent departments and organs of the Organization of Islamic Cooperation, particularly the permanent independent human rights body of the Organization, which aim to "improve human rights and serve the interests of the Islamic nation", promoting respect for cultures and dialogue of civilizations according to the principles and objectives of the Charter of the Organization of Islamic Cooperation, cooperating with the Islamic Organization for Education, Science and Culture, intensifying and developing cooperation with national human rights institutions in the Arab world, through the Arab Network of National Human Rights Institutions, as well as in the framework of the Arab Organization for Ombudsman Institutions (integrity control system), which includes institutions receiving complaints in the Arab world, and cooperating with non-governmental regional organizations with expertise and competence in the field of human rights to take advantage of their expertise in the field of promotion and protection of human rights.

22. In promoting cooperation at the international level, NIHR will engage in the activities of the United Nations human rights bodies, particularly the Human Rights Council of the United Nations, the procedures of the Council, and human rights treaty and non-treaty mechanisms. Furthermore, the Institution will cooperate with the International Coordinating Committee of National Human Rights Institutions, Asia-Pacific Forum, and other human rights bodies, as well as with international governmental and non-governmental human rights organizations, and will benefit from their experiences and concerns with human rights situation at the national, regional or international level.

#### **FIFTH: COOPERATION BY THE COMPETENT MINISTRIES AND AGENCIES WITH THE NATIONAL INSTITUTION FOR HUMAN RIGHTS**

Article 5 of the Royal Decree on the Establishment of NIHR provides as follows: “NIHR may request from the competent bodies and ministries in the Kingdom any information, data, or documents which it deems necessary to achieve its objectives, or exercise its powers. Such bodies and ministries shall assist NIHR in performing its duties, facilitate conducting its mandates, and provide it with anything requested by NIHR in this regard”. As such, it is clear from this text that the ministries and agencies in the Kingdom have legal obligation to provide the National Institution with any requested information, data or documents, if such information is necessary and effective in achieving NIHR goals and objectives, whether in the course of receiving complaints, or during the collection of information and data necessary for the purpose of preparing its annual report.

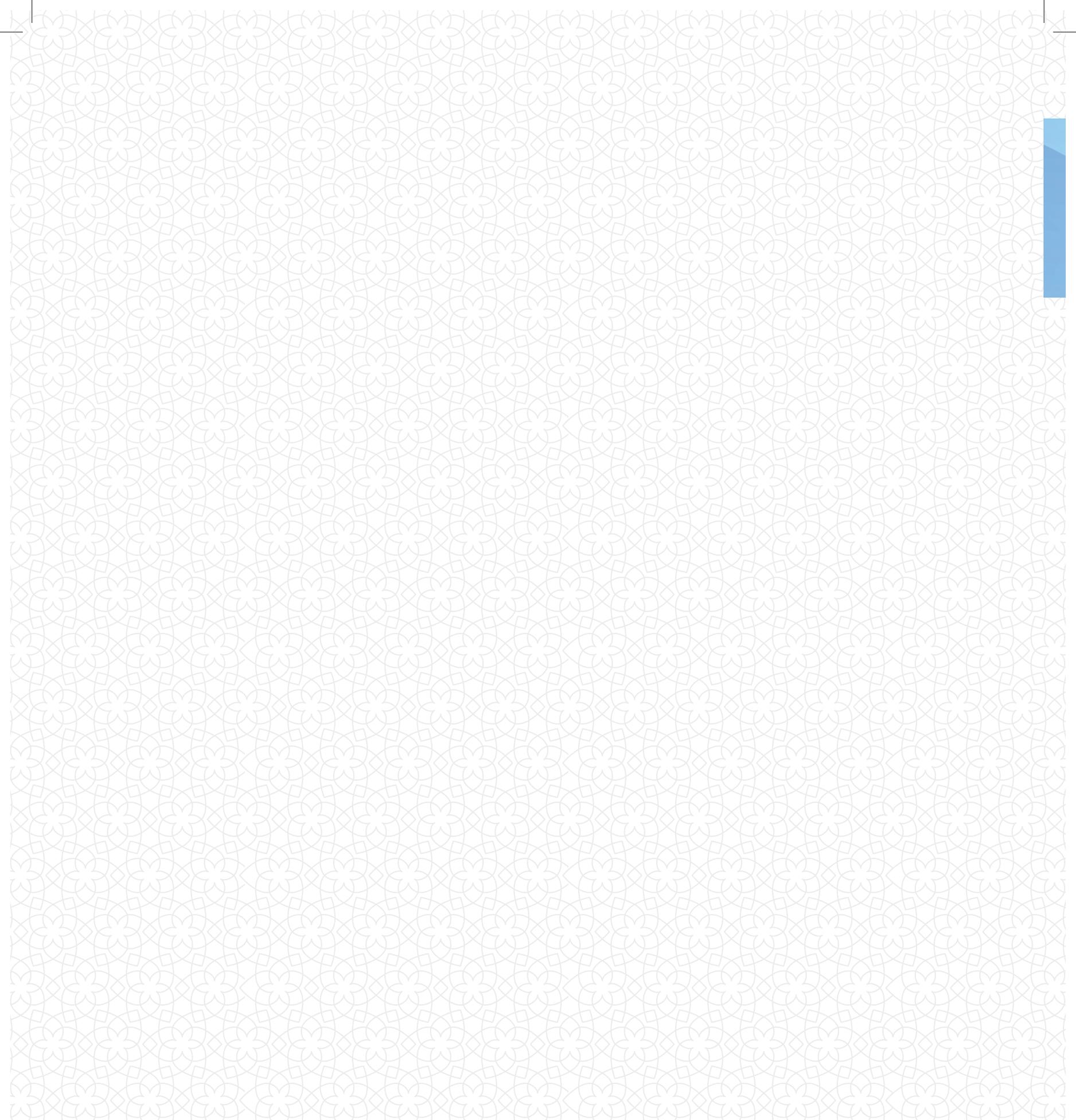
##### **A. The extent of cooperation by the competent ministries and agencies with NIHR concerning the complaints received by the Institution:**

1. The National Institution addressed a number of competent ministries and agencies in the Kingdom for the purpose of requesting clarification and information or checking the alleged violations. 94 initial letters were directed to sixteen different destinations. 45 letters were sent in response, while NIHR did not receive any response to 49 letters, despite that 33 reminders were sent.
2. 28 initial letters were directed to the Public Prosecution; followed by 27 letters to the Ministry of the Interior. 8 letters were addressed to the Ombudsman; six letters to the Supreme Judicial Council; four letters to the Ministry of Health; three letters to each of the Ministry of Education and the Ministry of Housing and Aluminum Bahrain (ALBA), followed by two letters to the Office of the Deputy Prime Minister, the Ministry of Justice, Islamic Affairs and Endowments, Gulf Aluminum Rolling (GARMCO), and Bahrain Petroleum Company (BAPCO). One letter was sent to the Foreign Ministry, the Ministry of Social Development, Electricity and Water Authority, and the Information Affairs Authority.
3. However, the cooperation by some of these bodies was only relative, as they responded to some of the correspondence out of the total number of the sent letters. 18 responses were received from the public prosecution, 9 responses from the Ministry of Interior, two letters from the Ministry of Housing the Ministry of Health and the Supreme Judicial Council. NIHR received one response from each of the Ministry of Education, the Ministry of Justice, Islamic Affairs and Endowments, the Ombudsman Secretariat, and Gulf Aluminum Rolling (GARMCO).
4. On the other hand, there was full cooperation by other bodies which responded to all NIHR letters. The Ministry of Social Development, the Ministry of Foreign Affairs, Electricity and Water Authority, Information Affairs Authority, Aluminum Bahrain (ALBA) and Bahrain Petroleum Company (BAPCO) responded to all letters

addressed to them. It is noted that the Office of the Deputy Prime Minister, although it did not respond in writing to the letters sent, requested meeting the National Institution and discussing the issues of the letters, and reflected a positive attitude towards settling and resolving the complaints.

**B. The extent of the cooperation by the competent ministries and agencies with NIHR concerning the annual report:**

1. In order to perform the duties assigned to it, Article 14 of the Royal Decree Establishing the National Institute for Human Rights provides that: **“The Institution shall prepare an annual report about its efforts, activities and all its business and shall include whatever proposals and recommendations in the scope of its powers identify the performance constraints and whatever solutions adopted to overcome them. Such report shall be forwarded to the King”**. This requires that NIHR obtains from all competent ministries and agencies concerned in the Kingdom the information, data or documents which it deems necessary to prepare its report.
2. Accordingly, the National Institution addressed 18 ministries and official bodies, namely, the Ministry of Industry and Trade, Ministry of Labor, Ministry of Public Works, Ministry of Justice, Islamic Affairs and Endowments, Ministry of Education, Ministry of Human Rights Affairs, Ministry of the Interior, Ministry of Health, Ministry of Culture, Ministry of Social Development, Ministry of Housing, Ministry of Foreign Affairs, Information Affairs Authority, Civil Service Bureau, Public Prosecution, the National Security Agency, the Ombudsman Secretariat, and the Supreme Environment Council.
3. NIHR addressed 8 civil society organizations, namely, Bahrain Human Rights Society, Mother and Child Welfare Association, Bahrain Parents Care Society, Bahrain Union Society for the Disabled, Bahraini Women Union, Bahrain Jurists Association, Bahrain Diabetic Care Society, and Bahrain Medical Society.
4. In response to the official correspondences sent by NIHR to the above mentioned ministries, competent agencies and civil society organizations, 13 ministries or bodies responded, namely, the Ministry of Industry and Trade, Ministry of Labor, Ministry of Public Works, Ministry of Justice, Islamic Affairs and Endowments, Ministry of Education, Ministry of Human Rights, Ministry of the Interior, Ministry of Health, National Security Agency, Supreme Environment Council, Ombudsman Secretariat, public prosecution, and the Civil Service Bureau. Five bodies did not respond to NIHR letters, despite that second letters were sent to them, namely, the Ministry of Culture, Ministry of Social Development, Ministry of Housing, Ministry of Foreign Affairs, and the Information Affairs Authority.
5. Regarding civil society organizations, Mother and Child Welfare Association, Bahrain Parents Care Society, and Bahrain Diabetic Care Society responded to NIHR letters, while five civil society organizations did not respond thereto, namely, Bahrain Human Rights Society, Bahrain Union Society for the Disabled, Bahraini Women Union, Bahrain Jurists Association, and Bahrain Medical Society.
6. In this regard, in order to achieve effective cooperation with the Government, and pursuant to Article 5 of the Royal Decree No. 46 of 2009, amended by the Royal Decree No. 28 of 2013 on the Establishment of the National Institution for Human Rights, NIHR recommends that the Cabinet should take a decision that requires all ministries and government agencies to provide the National Institution with the information required no later than two months, or within a shorter period if necessary, and assigning an officer in these authorities to follow up this issue.



## CHAPTER II

### CIVIL AND POLITICAL RIGHTS

#### **PREFACE:**

The international community pays special attention to the promotion and protection of civil and political human rights as a key tool to ensure greater enjoyment of human rights to the full degree. The Resolution of the United Nations General Assembly No. 200A XXI dated December 16, 1966 adopting the International Covenant on Civil and Political Rights, to which Bahrain acceded under Law No. 56 of 2006, is the first legally binding instrument that organizes these rights as a whole.

Civil and political rights fall within fundamental human rights and freedoms related to the right to self-determination, the right to equality and non-discrimination, the right to effective remedy, the right to life and physical and moral integrity, the right to liberty and security of person, the right to freedom of residence and movement, the right to fair trial, the right to citizenship through recognition of legal personality, the right to freedom of thought, conscience and religion, the right to freedom of opinion and expression, the right to hold public office, the right to freedom of peaceful assembly and organization, and the right to participate in public affairs.

Accordingly, this Chapter addresses some of these civil and political rights that have faced challenges in practice as a result of the events that took place in Bahrain after February and March 2011 and its subsequent consequences. The most important rights among these rights are the right to life; the right to physical and moral integrity, which includes protection from torture and other cruel, inhuman or degrading treatment or punishment; the right to individual freedom and personal safety in terms of the inadmissibility of arbitrary arrest or detention; and the right to fair trial at all stages of litigation, in addition to the right to citizenship.

This Chapter also tackles the right to freedom of opinion and expression, which encompasses freedom of the press and media, religious freedom, the right to freedom of peaceful assembly and the restrictions governing them, and finally the right to organization, in terms of the right to form and join private or political associations or trade unions.

## FIRST: THE RIGHT TO LIFE AND THE RIGHT TO PHYSICAL AND MORAL INTEGRITY

1. The right to life and the right to physical and moral integrity are considered two pillars of human survival. The right to life is a paramount right that is closely associated with the person, as it is a natural right that is derived from his existence. The deprivation of this right means that this person does not exist. The other right is related to physical or moral prejudice to the person that inflicts severe pain or suffering, such as torture and other forms of cruel, inhuman or degrading treatment or punishment in a way that interferes with the exercise of his other rights and freedoms.
2. The Constitution of the Kingdom of Bahrain, in Chapter III entitled “Public Rights and Duties”, Article 19, paragraph d, 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 degrading 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. The Penal Code promulgated by Law No. 15 of 1976, as amended, includes provisions that provide legal coverage for the protection of the human right to life and the right to physical and moral integrity. The legislator granted further protection by means of Law No. 52 of 2012 amending some provisions of the Penal Code promulgated by Law No. 15 of 1976. Under the amended law, the circle of incrimination was broadened to include every person, public official or officer assigned with public service who intentionally inflicts severe pain or suffering, whether physical or moral, to any person under his custody or control for the purpose of obtaining from him or any other person information or confession, punishing him for an act he, or any other person, has committed or is suspected of having committed, intimidating or coercing him or any other person, or for any reason based on discrimination of any kind. In this amendment, the legislator excluded subjecting these crimes to time-limitation prescribed by law for torture crimes, and considered the offenses against the right to physical and moral integrity as felonies rather than misdemeanors. Furthermore, according to Law No. 49 of 2012 amending Article 81 of the Law on Public Security Forces issued by Decree No. 3 of 1981, the offenses relating to allegations of torture or cruel, inhuman, or degrading treatment, or associated death are excluded from military crimes. Therefore, the competence to consider these crimes fall within the ordinary courts, which is considered a legislative approach that is consistent with the relevant international standards.
4. As regards international human rights instruments, Article 6 of the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006, confirms that the right to life is an inherent right for every human being, that the law protects this right, that not one may be deprived of his life arbitrarily, and that the countries which have not abolished death penalty should impose this punishment only for the most serious crimes in accordance with the national legislation of the country in force, pursuant to a final judgment rendered by a competent court. The Covenant further pays attention to the right to physical and moral integrity. Article 7 prohibits subjecting any person to torture or cruel, inhuman or degrading treatment or punishment, or conducting any medical or scientific experimentation without his free consent.
5. The Government of the Kingdom of Bahrain accession to the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment under Decree-Law No. 8 of 1998 has triggered the legislature to amend the Penal Code in

a manner consistent with the purposes of the Convention. In addition, the United Nations General Assembly, in its Resolution No. 57/199, adopted an optional protocol attached to the Convention which aims to establish a regular monitoring system through working visits carried out by international and national bodies to places where individuals are deprived of their liberty in order to prevent torture and other forms of ill-treatment.

6. Though the Government of the Kingdom of Bahrain did not accede to the Optional Protocol to the Convention to date, concerning institutional building, the Government has created and determined the mandates of the Prisoners and Detainees Rights Commission under Decree No. 61 of 2013. The Commission was established in compliance with the Government's commitments to the recommendations of the report prepared by BICI and in line with its voluntary pledges before the Human Rights Council's Universal Periodic Review. The Commission is granted the right to monitor prisons, detention centers, juvenile and detainee care centers, and other places where people may be detained, such as hospitals and mental hospitals, in order to verify the detention conditions of the inmates and the treatment they receive, and ensure that they are not subjected to torture or cruel, inhuman, or degrading treatment.
7. As part of the Government of the Kingdom of Bahrain treaty commitments for submitting reports to the Committee Against Torture (CAT) arising from the provisions of the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment to follow-up the states' implementation of its provisions, the Government submitted its initial report to the Committee on May 18, 2004, even though the deadline for the report submission is April 1999. CAT had recommended the Government to submit its next periodic report by April 2007. However, the Government has not complied with this request to date and did not provide a justification for the delay. This constitutes a breach of its commitment to the international treaty.
8. Given the reality of the death penalty, which affects the essence of the right to life, the Ministry of Justice, Islamic Affairs and Endowments reported, in its reply to NIHR questions in this regard, that since 2013, only one death penalty judgment was issued. The death penalty judgment, according to Article 40 of the Decree-Law No. 8 of 1989 Promulgating the Court of Cassation Law is considered to be challenged by the force of law before the Court of Cassation. It is noteworthy that the Government of the Kingdom of Bahrain, in stating its observations on the Universal Periodic Review recommendations before the Human Rights Council for adopting moratorium of the death penalty or its abolition in absolute terms, did not support such recommendations because they are contrary to the provisions of the Constitution and the Penal Code which provides for the death penalty, along with appropriate safeguards to ensure fair death penalty when committing such serious crimes.
9. Regarding the right to physical and moral integrity and the implementation of Recommendation No. 1716 of the report of BICI of, which states as follows: **"Developing an independent and impartial accountability mechanism of government officials who have committed acts in violation of the law, or caused, by reason of neglect, cases of murder, torture and ill-treatment of civilians, with a view to taking legal and disciplinary action against such persons, including those with leadership positions, whether civilian or military, to whom the principle of command liability applies in accordance with international standards"**, the Attorney General Resolution No. 8 of 2012 was issued for establishing a special investigation unit which has the mandate to investigate and handle the allegations

of torture and other forms of ill-treatment. According to its establishment resolution, the unit will carry out its duties independently under the supervision of the Attorney General, and will be chaired by a public prosecutor, assisted by a number of experienced investigators. The unit will be supported as necessary to carry out its tasks.

10. However, the said Special Investigation Unit, in its current form, does not have the aspired independence and impartiality to ensure effective investigations. The assignment of investigation into allegations of torture and other forms of ill-treatment to the public prosecution may not be consistent. The public prosecution initiates investigation with an individual who is accused of committing acts of criminal law, while being at the same time a victim subjected to torture or other forms of ill-treatment.
11. Nonetheless, the Special Investigation Unit commenced its functions since its inception. According to the public prosecution response to NIHR inquiries, it has investigated into 21 complaints, which included nine death cases that were referred to the courts. The number of accused persons from members of the security forces was 37, including six officers, with ranks ranging from lieutenant to major. However, NIHR did not obtain confirmed information about the nature of the judgments awarded on these cases, whether acquittal or conviction judgments, and the terms for which the convicts were sentenced, since the Institution did not receive a response to its communications from the unit in this regard.
12. Although the public prosecution, represented by the Special Investigation Unit, made periodic statements through the local press about its work and the procedures carried out regarding the allegations of torture and other forms ill-treatment, which fall within the jurisdiction of the Unit, and the consequences arising therefrom, these statements are brief and do not rise to the level of public reports which must include the minimum information referred to in the Istanbul Protocol. Accordingly, the statement-making methodology adopted by the Special Investigation Unit in this regard should be reconsidered.
13. According to NIHR follow-up of the published judgments in the cases referred by the Public Prosecution (Special Investigation Unit) to the competent criminal courts, it is noted that there is discrepancy between the judgments awarded against the accused persons in security cases, such as enticement of violence, riots, or other similar acts, in which terms of imprisonment are usually long, and the judgments awarded against the accused persons in cases of torture and other forms of ill-treatment by the employees of the Ministry of Interior. The punishment in these cases is usually diluted, which is not commensurate with the offense committed, or acquittal may be awarded. Such approach, if proven, promotes impunity policy.
14. In order to complement the institutional structure in the field of protection of the right to physical and moral integrity, and implement the recommendation of the report of Bahrain Independent Commission of Inquiry No. 1717, which states that **“The Office of the Inspector General in the Ministry of Interior should be considered a separate and independent unit of the Ministry organizational structure. The duties of the Office of the Inspector General include receiving complaints and grievances just as is the case in other countries”**, Decree No. 27 of 2012 was issued, as amended by Decree No. 35 of 2013, on the Establishment of an Independent Office of the Secretary General of Grievances at the Ministry of Interior. This Office was mainly mandated to receive and examine complaints made by any party against any officer of the Ministry of Interior, whether civilian and military, and wherever his work location is. In addition, the Office has absolute authority to visit prisons,

juvenile care centers, and custody and detention centers in order to verify the legality of custody, and that inmates, prisoners and detainees are not exposed to torture or cruel, inhuman, or degrading treatment.

15. NIHR values the efforts of the Ombudsman of the Ministry of Interior regarding its visit to the Reform and Rehabilitation Centre (Jaw Prison) and issuing the first report on the visit which was published on its website. The visit aims to ensure meeting its standards related to humane treatment, location conditions, legal rights and guarantees of guests, in addition to the available health care, along with the report recommendations, and following up these recommendations by the Ombudsman with the competent authorities.
16. In the context of implementing Recommendation No. 1718 of the report of BICI, which states as follows **“Modifying the Decree on the Establishment of the National Security Agency to maintain its concern with gathering intelligence information without law enforcement or arrest. The National Security Agency should have an independent inspector general office”**, Decree No. 115 of 2011 was issued amending certain provisions of Decree No. 14 of 2002 on the Establishment of the National Security Agency. The Agency mandate was confined to gathering information and monitoring and detecting all activities related to espionage, communication and terrorism.
17. However, based on the two decrees establishing the Ombudsman at the Ministry of Interior, the Office of Inspector General, and National Security Agency, it is noted that the appointment of the (Secretary-General) and (Inspector General) is made under a decree on the recommendation of the (Minister of Interior) and the (Chairman of the National Security Agency), as the case may be. This does not achieve the required independence, in view of the potential conflict of interests between the body concerned with protection of the right to physical and moral integrity of the defendants. Thus, NIHR considers that there is a need to take measures to ensure effective independence in the Ombudsman the Ministry of Interior, Office of Inspector General, and National Security Agency.
18. However, despite these efforts, the right to physical and moral integrity is still subject to numerous violations at almost frequent rate. The security events taking place in the Kingdom have brought these violations to light, given the improper use of force by the public security forces, such as using shotguns, tear gas inside houses and closed places, and stun grenades, in addition to allegations of assault by beating during the arrest of the suspects. The monitoring process carried out by NIHR, whether by tracking posts published in the media and social networks, or through the complaints received from individuals, revealed that there are cases in which this right was violated, which resulted in physical injuries, some of which are classified as severe injury.
19. Within the framework of implementing the recommendations No. (1722/ j) and (1722/ k) indicated in the report of BICI related to remedy of the damage to the right to physical and moral integrity, Decree-Law No. 30 of 2011 was enacted to set up the National Fund for Compensating Affected People. The main purpose of this Fund is to provide effective remedies to those affected by the events experienced by the Kingdom of Bahrain during February and March 2011, or any incidents of a similar nature that occurred after this date. Compensation is granted after a final criminal judgment is rendered by the competent court condemning the perpetrator and awarding compensation for all those who have sustained material, moral or physical damage by law enforcement forces, or any member of the public security forces. This provision also applies to any public officer who suffered physical or

moral damage during or by reason of performing his duty, which was caused by any person, in addition to any other person who suffered material, moral or physical damage because of these events, or for intervening to assist any of the aforementioned victims in distress or to prevent victimization.

20. The establishment of the National Fund for Compensating Affected People pursuant to Decree-Law No. (30) of 2011 is a positive step that enforces the Basic Principles and Guidelines on the Right to Fair Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. This Decree-Law was followed by Decree No. 13 of 2012 concerning the Regulation of the National Fund for Compensating Affected People, whereby a committee was established to consider the compensation claims submitted to the committee and pay compensation for victims in accordance with the provisions of the law. The Decree states that the committee will be composed of five members, two of whom will be judges, two members to be selected from civil society organizations, and one member from the government. The members should be recognized for independence, objectivity, competence and integrity. However, no resolution has been issued so far to nominate the members of this committee.
21. The Ministry of Justice, Islamic Affairs, and Endowment, in response to the NIHR inquires in this regard, reported that, upon the recommendation of the National Committee concerned with the recommendations of the report of Bahrain Independent Commission of Inquiry, the Government created alternatives to resolve the situation of affected people through the most prompt procedures, by adopting the Civil Settlement Initiative, without prejudice to the right of those who do not accept the proposed settlement to have recourse to the civil courts, and without affecting any criminal accountability. Special courts have been established to hear cases of compensation for 2011 events.
22. In compliance with this recommendation, the Ministry reported that it has received requests for civil settlement since March 18, 2012. The Settlement Office of the Ministry received nearly 84 settlement requests for death cases, and 420 settlement requests related to injuries. The committee formed to consider requests for civil settlement decided to compensate all death cases stated in the report of Bahrain Independent Commission of Inquiry which totaled 35 cases, in addition to four other cases which were not mentioned in the report. The compensation budget was approved in two phases in the total amount of Two Million, Eight Hundred and Forty Thousand Dinars, at the rate of Sixty Thousand Dinars per death case. The amounts were paid to the eligible persons who have accepted civil settlement in full. With regard to injury cases, the Committee began its consideration of the applications submitted to the Civil Settlement Office totaling four hundred and twenty applications. The applications were considered and entitlement to compensation was determined. 116 cases were identified in the first stage, and were referred to forensic examination in order to indicate the injury rate. 75 applications were received in respect of these cases up to date. The necessary measures are taken to determine the ratio of compensation and commence compensation.
23. Concerning NIHR competence to receive complaints related to the right to physical and moral integrity, NIHR, during the period from January to December 2013, received 27 complaints, which included repeated allegations of acts amounting to torture and other cruel, inhuman or degrading treatment or punishment. The number of complaints received regarding exposure to torture and other forms of ill-treatment during arrest was eight complaints. Seven complaints were received concerning allegations of torture sustained in police stations, while ten complaints were received

about torture sustained in custody centers and reform and rehabilitation centers, with an average of five complaints each. Only two complaints were received concerning claims of torture during arrest and in police stations.

24. Following receipt of such complaints, NIHR considered these complaints and expressed its legal opinion thereon. It addressed the competent authorities concerning these complaints, such as the Ministry of Interior, the Public Prosecution, an Secretariat, and the Supreme Judicial Council. One complaint was excluded, which was dismissed for lack of jurisdiction, since its subject was referred to and decided by the court. NIHR addressed the public prosecution and the Ministry of Interior concerning two complaints, and it was reported that investigation into the complaints was conducted and the necessary measures were taken. NIHR sent a correspondence concerning one complaint and it was found out that no right was violated in this complaint. However, NIHR did not receive any response by the competent authorities concerning the remaining 17 complaints, despite the repeated correspondences addressed by the NIHR on these complaints.
25. Moreover, NIHR visited the Drydock detention center after receiving a complaint about humiliating and degrading treatment of one of the arrested accused persons in the case known as (five tons). Following correspondences with the Ministry of Interior and the Supreme Judicial Council concerning this complaint, the detainee was interviewed to determine his condition and verify the allegations put forward by his family in the complaint. The allegations consist of handcuffing the detainee with iron shackles, not providing a bed for sleeping, discharging the air-conditioner water in the cell, the manner of presenting meals, not opening the cell to the other cells, which deprives the detainee from communicating with the rest of the detainees. The Institution prepared a report on the visit, which was sent to the Ministry of Interior. The Ministry responded by denying the allegations without indicating the procedures taken and the investigations conducted which led to the Ministry conclusion.
26. Based on the published news in the local newspapers and social networks about chaos and riot events in one of the wards in the Drydock custody centre by a group of detainees, NIHR requested visiting the centre and interviewing the detainees. The Ministry of Interior directly complied with the request of the National Institution. During the visit, NIHR delegation met the concerned parties at the Ministry and police members, in addition to those the detainees in the ward. The delegation interviewed some of the detainees individually. During the visit, it was observed that there were marks of severe assault on different parts of the bodies of those arrested as a result of beatings with batons by riot police in a manner that can be described as collective punishment. In addition, the detainees reported that they were placed under hot sunshine for up to four hours, and were subjected to insults and curses of sectarian nature. NIHR prepared a detailed report on this visit and concluded it with recommendations that highlighted the need to conduct serious investigations by the Drydock management officers into the alleged torture and other forms of humiliating and degrading treatment, and consider the possibility of composing an ad-hock committee of the Ministry of Interior, the judiciary, NIHR and the Ombudsman to establish procedures for treatment of detainees at the Drydock custody center in line with the relevant international standards on the treatment of prisoners and detainees. The National Institution sent that report to the Ministry of Interior, but it did not respond to the report to date.
27. It is worth noting that NIHR has contacted the Ministry of Interior on two different incidents in order to first visit the custody center, based on the complaint received

from one of the detainees, and the reform and rehabilitation center, based on reported suspicion of torture and other forms of ill-treatment against some inmates. However, NIHR did not receive any response from the Ministry of Interior to this request.

## RECOMMENDATIONS

1. The Special Investigation Unit in the Public Prosecution should be the body entrusted with investigation into allegations of torture and other forms of cruel, inhuman or degrading treatment or punishment and should have full independence, according to Istanbul Protocol.
2. The Special Investigation Unit of the Public Prosecution, in accordance with the provisions of Protocol Istanbul, should be committed to issuing public reports that include the following minimum components: the procedures and methods adopted in assessing evidence, the specific events that took place, the findings drawn by the Unit based on the applicable law, and the recommendations made based on the findings.
3. Urging the Government to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman Treatment or Punishment.
4. Urging the Government to continuously support the periodic resolutions of the United Nations General Assembly related to abolishing death penalty.
5. The Government's commitment to provide periodic reports to the Committee against Torture established under the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the specified deadlines.
6. Urging the legislative authority to expedite the enactment of an integrated legislation for reform, rehabilitation, and custody centers in accordance with the international standards on the treatment of prisoners and detainees.
7. The need to transfer the administrative, regulatory and supervisory authority over reform, rehabilitation, and custody centers to the Ministry of Justice, Islamic Affairs and Endowments.
8. Urging the legislative authority to reconsider the last paragraph of Article 3 of the Decree-Law No. 3 of 2011 on the Establishment of a National Fund for Compensating Affected People, which provides that in order to disburse compensation, a final criminal judgment by the competent court condemning the perpetrator should have been rendered.
9. The need for the Government to develop clear and transparent criteria and schedule for prompt disbursement of compensation to those who are proven to have sustained injury, whether the compensation is assessed by the National Fund for Compensating Affected People or the Civil Settlement Office of the Ministry of Justice, Islamic Affairs and Endowments, as the case may be.
10. The need to offer comprehensive extended training programs for law enforcement officers using curriculum that includes teaching all components of human rights. The training should include effective interrogation techniques and the proper approach to obtain information without resorting to coercive means, consisting of acts of torture or other forms of ill-treatment, and dismissing any law enforcement officer whose ill-treatment of detainees or convicts is proved.

11. Reducing recourse to solitary confinement punishment as disciplinary sanction in line with the findings of the report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Council of Human Rights.
12. Considering setting a date for the visit by the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Human Rights Council, in fulfillment of the obligations of the Kingdom of Bahrain during the Universal Periodic Review, after completing the implementation of the recommendations stated in the report of the competent Bahrain Independent Commission of Inquiry.
13. The need to take the necessary legal accountability procedures in respect of all decision-makers of security leaders with regard to death cases that occurred in the detention places, as a result of torture or other forms of ill-treatment, which are explicitly referred to in the report of Bahrain Independent Commission of Inquiry.

## SECOND: THE RIGHT TO LIBERTY AND SECURITY OF PERSON

1. The right to liberty and security of person is one the most important human rights which ensure that individuals exercise other rights and freedoms. The essence of this right is the prohibition to deprive an individual of liberty, or arresting or detaining him. Therefore, the recognition of the right to liberty and security of person requires the existence of procedural and substantive safeguards which are subject to the supervision of the judiciary to prevent the public authorities' violation of the right of individuals to enjoy this right, except in the circumstances set out in the law.
2. The Constitution of the Kingdom of Bahrain, in Article No. 19, guarantees the right to liberty and security of person. This is explicitly expressed as follows: **"a. Personal liberty is guaranteed under the law. b. 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.**
3. In addition, the Criminal Procedure Code, promulgated by Decree-Law No. 46 of 2002, as amended, includes a set of procedures and controls that form an integrated legal framework to protect the right to liberty and security of person, through the prohibition of arrest or inspection, except by order of the competent authorities, in the cases specified in the law and following specific procedures prescribed by law.
4. The legislator expanded the scope of this protection and the right to liberty and security of person under Law No. 53 of 2012 amending some provisions of the aforementioned Criminal Procedure Code. Further legal safeguards were granted for the category which has a special legal status, such as experts and defendants in the lawsuits of alleged torture or inhuman or degrading treatment. These measures consists of taking the necessary action for the protection of these categories from the risks which may threaten them because of or on the occasion of making testimony or providing information on these cases.
5. It is to be noted that the legislative authority is currently considering a draft law on reducing the duration of custody and granting the accused the right to appeal against the decision against him, since this procedure directly affects the right to freedom. On this occasion, NIHR presented its views and confirmed the importance of reducing the period of custody, and granting the accused the right to an effective

- remedy, which needs to be in the form of a hierarchy grievance so as not to grant exclusive power to issue such a decision to a single authority and avoid arbitrary decisions.
6. Article 9 of the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006, provides for the right to liberty and security of person and that it is not permissible to arrest or detain any person arbitrarily, or to deprive any person of his liberty, except for the reasons set forth in the law. It further confirms the need to inform any arrested person of the reasons for the arrest, and the charge against him, and the need to bring him promptly before a judicial authority within a reasonable period, or to be released. It also affirms that each individual who has been arrested or detained has the legal right to obtain appropriate compensation.
  7. Concerning the Government implementation of the recommendations stated in the report of BICI related to the right to liberty and security of person, and in compliance with Recommendation No. 1722/d, which provides for: **“taking all possible steps to avoid arrest without the opportunity of promptly contacting a lawyer or preventing communication with the outside world. In all cases, all arrests should be subject to effective control of an independent body. Moreover, the arrested person should review a copy of the warrant of arrest, and no person may be detained and deprived of communicating with others”**. In the report of following up the implementation of these recommendations issued in December 2013, the Government disclosed that all detention centers are subject to effective judicial control. The members of the Special Investigation Unit in the Public Prosecution visit these centers to examine the various complaints received by the Unit. In addition, the Ministry cooperated with the International Committee of the Red Cross (ICRC) concerning visiting prisons and training of national cadres working in the prisons, in order to raise their efficiency. The Government also explained that the Ministry of Interior has issued a decision that includes new measures which require the signature of any detainee and the officer in charge of detention on a set of documents that include several rights, including presenting the warrant of arrest and ensuring rapid communication with a lawyer.
  8. However, despite these legal safeguards and restrictions and the efforts made by the Government to lay down substantive and procedural legal framework by activating the recommendations of the report of BICI, the right to liberty and security of person was prejudiced, to an extent that it was almost eliminated in certain cases. The security measures in place showed many cases in which the individual’s right to freedom and personal safety was exposed to violations. These violations consist of the arrests carried out by the authorities in violation of due process, accompanied by assaulting the sanctity of homes and their inhabitants. Based on the information posted in the media and social networks channels, NIHR has observed pictures and videos showing order security forces enclose the houses and use force to break through the doors and destruct property. The right to physical and moral integrity was violated in certain cases, and the places to which the arrested were taken were not disclosed.
  9. NIHR hopes that there will be explanatory statements by the Ministry of Interior concerning such violations which were undoubtedly committed by its officials. The Ministry of Interior should conduct serious and effective investigations that reflect the implementation of the recommendations set out in the report of BICI, and the obligations of the Government of the Kingdom of Bahrain to the international recommendations which it has supported in the process of the Universal Periodic Review before the Human Rights Council.

10. The prejudice to the right to liberty and security of person has a direct impact on people freedom of movement. NIHR has monitored the spread of security points in the Kingdom regions in this period, particularly at the entrances of residential areas, which are designed to protect and provide public security in community against the acts that would violate the community security and peace. However, in certain cases, there is abuse and misuse of authority for purposes other than for which such authority is intended. As a result, the liberty of people movements is reduced in a manner affecting their enjoyment of other rights and public freedoms. In addition, they are exposed to harassment in violation of human dignity, in addition to use of inappropriate and sectarian expressions.
11. Regarding the right to liberty and security of person, NIHR received 21 complaints, with issues ranging from order security forces enclosing houses, which constitute flagrant violation of the sanctity of private residents in some cases; to destruction of private property, such as breaking doors, scattering the contents of homes and throwing away private belongings; not presenting the warrant of entry and arrest; continued detention of individuals despite the release decision issued by the court; detention without any charges brought against the detainees; in addition to not disclosing the agency that ordered the arrest in some cases, or the destination to which the arrested are taken in other cases. There was one complaint about restricting freedom of movement.
12. NIHR considered the complaints received and expressed its legal opinion thereon. It addressed the concerned authorities concerning all of these complaints, except for one complaint, since the alleged violation was committed a long time ago, and it is difficult to be proved. The relevant entities were addressed concerning six complaints, and they reported that they have conducted the necessary investigations and legal verification procedures. In four complaints, it was evident that there was no violated right, and therefore, the complaints were dismissed. The relevant entities were addressed in connection with nine complaints, but no response was received. As regards the complaint relating to the right to freedom of movement, NIHR addressed the Ministry of Interior, which responded and corrected the violation case.

#### **RECOMMENDATIONS:**

**In light of the foregoing, the National Institution for Human Rights recommends the following:**

1. Urging the Government to accede to the Optional Protocol to the International Covenant on Civil and Political Rights which is related to the government's recognition of the competence of the Human Rights Committee to receive individual complaints.
2. Urging the Government to accede to the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the resolution of the United Nations General Assembly No. (61/177) issued on December 20, 2006, and amending the relevant national legislation so as to ensure the activation and implementation of the provisions of this Convention.
3. Conducting effective and intensive training and awareness programs for public prosecution and employees of the executive agency of the public prosecution in order to promote the culture of human rights, respect for the rights and guarantees of the accused, and introduce alternative means for the measures imposing restrictions on freedom.
4. The need for the public prosecution to activate the authority granted to it by the legislature to take alternative measures to pre-trial detention, and effectuate its

discretion granted under Article No. 149 of the Criminal Procedure Code for the provisional release of the accused persons who are detained in its custody.

5. Activating the supervisory authority of the public prosecution in relation to the work of law enforcement officers and any violations committed by them in the case of arrest, search, or entering houses without the written permission of the prosecution or not presenting the warrant, if it is available, and taking disciplinary or penal actions against them.
6. Urging the legislative authority to expedite the issuance of the necessary amendments to the Criminal Procedure Code on reducing the duration of custody and granting the accused the right to effective grievance against it.
7. Immediate cessation of the individual actions of law enforcement agencies associated with arrest and search procedures that constitute human rights violations.
8. Establishing an effective and transparent system of accountability for any person who is proved to have caused the violation of the right to liberty and security of person.
9. The need to supplement the efforts of the Ministry of Interior in the field of protection of all persons whose freedom is restricted, through the provision of the necessary audio and video recording equipment and security cameras in all police departments and its affiliated centers, and reform, rehabilitation, and custody centers.
10. The need to overcome all obstacles with regard to limiting the freedom of movement across borders or official ports, and not preventing anyone from traveling without legal justification, and the importance of informing the person concerned of any decision banning him from travel well in advance.
11. Immediate cessation of illegal or unjustified actions at security checkpoints and enabling local residents to have access to their homes.
12. Considering and allowing the Working Group on Enforced or Involuntary Disappearances, and the Working Group on Arbitrary Detention of the Human Rights Council to visit the Kingdom.

### **THIRD: RIGHT TO A FAIR TRIAL**

1. The right to a fair trial is one of the international human rights law criteria. It aims to protect people from diminution of their rights related to their legal positions before the judicial body from the moment of their arrest, during pre-trial detention, in the course of trial, and until the last stages of the trial (appeal or cassation). A trial is not considered to be fair, or certified to be fair, unless at least two conditions are satisfied: first, the trial procedures, from beginning to end, should be guided by the Constitution, domestic legislation, and the instruments developed by the international community, second: an independent and impartial judicial authorities should apply these regulating procedures.
2. Article 20 of the Constitution of the Kingdom of Bahrain guarantees this right and provides for a series of guarantees, such as the principle of legitimacy, to the effect that no crime or penalty may be established except by virtue of law, and no penalty may be imposed except for offenses committed after the relevant law comes into force. It further provides that penalty is personal, that the accused person shall be presumed

innocent until proved guilty in a legal trial in which the necessary guarantees for the exercise of his right of defense in all the stages of investigation and trial are ensured in accordance with the law; and that no physical or moral injury shall be inflicted on an accused person.

3. At an important era of the history of the Bahraini judiciary, in order to confirm the independence of the judiciary and to guarantee the right to a fair trial, the Constitutional Court was created under Decree-Law No. 27 of 2002, as amended by Decree-Law No. 38 of 2012. This court was established pursuant to the guidance set forth in the National Action Charter related to the Kingdom establishment of the judicial bodies stipulated in the Constitution and the appointment of a judicial body that is competent to consider the disputes related to the constitutionality of laws and regulations, and the public prosecution. According to the Constitution, the jurisdiction of the Constitutional Court is limited to monitoring the constitutionality of laws and regulations. If the unconstitutionality judgment is related to a criminal provision, the conviction judgments rendered based on this provision will be considered as void. In addition, the Decree-Law No. 42 of 2002 was issued promulgating the law of the judicial authority, as amended, and forming and organizing the judicial authority and determining the limits of its mandate, the mechanism for appointment of judges, and determining their duties, and the creation of a judicial inspection system to monitor the actions of judges and holding them accountable.
4. The Criminal Procedure Code, promulgated by Decree-Law No. 46 of 2002, as amended, 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 arrest and collection of evidence stage up to preliminary investigation and the trial stage.
5. In terms of international instruments, the right to enjoy the guarantees of a fair trial has a framework of protection under Article 14 of the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006, which provides for a set of guarantees that covers almost all trial phases. The Bahraini Government also ratified other conventions which deal with these guarantees, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Bahrain acceded by Decree-Law No. 4 of 1998; the Convention on the Rights of the Child, to which Bahrain acceded by Decree-Law No. 16 of 1991; the Convention on the Elimination of All Forms of Racial Discrimination, to which Bahrain acceded by Decree No. 8 of 1990; and the Convention on the Elimination of All forms of Discrimination against Women, to which Bahrain acceded by Law No. 15 of 2010.
6. Within the framework of the implementation of Recommendation (1720) stated in the report of BICI, which provides for **“Allowing the opportunity to review all conviction judgments rendered by national safety courts, which did not take into account the fundamental principles of fair trial, including full and immediate use of an attorney, and not accepting evidence obtained under duress”**. The Government pointed out, through the report of the implementation of this recommendation issued in December 2013, that Decree No. 28 of 2011 was issued concerning all issues related to the status of national safety. This Decree grants the ordinary courts the jurisdiction to adjudicate all cases of misdemeanors and appeals related thereto which have not been adjudicated by the national safety courts by virtue of a final decision. It also grants the public prosecution and the convicted person the right to appeal the rulings rendered by these courts. In addition, Decree No. 62 of 2011 was issued for referring the cases which have not been adjudicated by the national safety courts to

the ordinary courts. The Supreme Judicial Council formed a judicial commission to review all decisions rendered by national safety courts. This required conducting re-trial for 135 cases, among 165 cases in which final decisions have been rendered.

7. In compliance with the Recommendation No. (1722/g), which states as follows: **“There should be audiovisual recording for all formal interviews with the arrested persons”**, the Ministry of Interior issued an order for taking the necessary steps in this regard. The General Directorate of Investigations and Criminal Evidence, as well as police departments and their affiliated centers, were provided with 26 audiovisual recording rooms. 18 other rooms were also prepared for interviews with the detainee lawyers to ensure complete confidentiality.
8. However, despite these measures taken, the right to enjoy the guarantees of a fair trial is still vulnerable to abuse by some of the competent authorities, represented by the Ministry of Interior, the Information Affairs Authority, and the Public Prosecution, which prejudice the essence of these guarantees prescribed in the Constitution. These violations include the repeated publication of the names and pictures of the defendants in the official media and some local daily newspapers, in blatant violation of the principle of the presumption of innocence, and which prejudices the human dignity of the accused. The international human rights instruments conclusively provide that law enforcement officers, or even the public authorities in the state, whether in the evidence collection stage, pre-trial investigation, or during the hearings before the courts, should not express their views publicly regarding the charge of the accused before the court reaches a final judgment in the case. Instead, these authorities should be prevented from raising prior suspicions about people who belong to a particular racial, ethnic or sectarian group. This is because such publication and raising suspicions have a direct impact on the public opinion, which may generate a conviction that could be adopted by the court before which the case is brought.
9. In view of the violation of the principle of presumption of innocence observed by NIHR, two statements were released on two separate incidents, in which NIHR reaffirmed its categorical rejection of the repeated publication of photographs and names of the accused persons in various cases. The first statement was released on February 20, 2013, concerning the publication of the names and photographs of the defendants in the case known as the (Cell), while the second statement was released on June 13, 2013 on the publication of the names and photographs of the defendants in the case known as (February 14 Case).
10. NIHR notes, based on the complaints it received, or through the monitoring process, that some law enforcement officers did not comply with the legal procedures governing the process of arrest, searching and entering homes, which requires a warrant issued by the competent authorities that has to be presented before commencing the process. These are pre-trial guarantees, which have an impact on the validity of subsequent actions. These guarantee fall within the implementation of Recommendation No. (1722 / D) of the report of BICI, which acknowledged that **“The arrested person should review the arrest warrant, and he may not be detained or deprived of communication with others”**.
11. NIHR affirms the right of the accused to communicate with the outside world, including the appointment of a lawyer of his choice to protect his rights and help him on his defense. This is an inherent right that should be made available to the accused, right from the evidence collection stage, until pre-trial investigation, and up to the trial stage. The counsel assistance should even extend after the trial period. In addition, it is not enough for the authorities to provide the right to contact a

lawyer for the accused, but the authorities must respect the confidentiality of the communications and consultations between the lawyers and their clients.

12. NIHR points out that the detained person's right to external communications is not confined to counsel assistance, but extends to enabling him to attend the funeral or mourning ceremony of any his ascendants, descendants, spouse or his relatives to the second degree, in line with the social customs and traditions prevailing in the Kingdom.
13. Perhaps one of the most important aspects of the right to trial is that detention places should be announced. The importance of this aspect lies in ensuring that the detainee communicates with the outside world, and protecting him from exposure to any violation of his human rights and from any acts of torture or other forms of ill-treatment or disappearance. The person should be held only in places designated for this purpose, and officially recognized and declared in advance. It is the responsibility of these bodies in the event of changing the place of detention to promptly inform the relevant authorities, as well as the family of the detainee.
14. Concerning the right of the detainee to health care as a guarantee of fair trial, each detained or imprisoned person should be allowed the opportunity to undergo an appropriate medical examination after his admission to the detention place, while ensuring the provision of appropriate medical care and specialist and free treatment, whenever necessary. It is the responsibility of police departments, police stations, reform, rehabilitation, and custody centers to examine the detainees, prisoners, or patients periodically, prepare medical reports on their physical or mental health to be maintained in the personal file of the prisoner or detainee, and consider the implications of the continued existence in detention, or any other conditions of detention. It is necessary to confirm that the detainee or prisoner undergoes a medical examination at the time of detention as well as at the time of release.
15. The public prosecution is a principal branch of the judicial authority. It maintains the criminal case entrusted to it under the Code of Criminal Procedure, issued by Decree-Law No. (46) of 2002, as amended, by conducting pre-trial investigation in the case and handling the case, as the case may be. However, NIHR, through the media and social networks, and the issues raised by certain lawyers who cited their clients directly, observed that interrogation is carried out by the public prosecution in late hours of the night, without stating the reasons and justifications for conducting the investigation in such late times. This prevents the accused from his right to personal defense, because the timing has a direct impact on his mental and psychological powers, which may hinder him from real enjoyment of this guarantee. In addition, the accused is not able to have the assistance of counsel at this critical time.
16. In order to effectuate this right, the accused, or his attorney, should be given sufficient time and facilities to prepare the defense by reviewing all documents relevant to the case in a timely manner. This fact should be clearly stated in the investigation records. This will enable the competent court, upon examination of the papers to ensure that the accused gets sufficient and serious guarantees in the course of pre-trial investigation.
17. Considering that the public prosecution is the custodian of the criminal case, the concept of custody is not confined to ensuring that all formalities and technical aspects of the case are correct, but it also pertains to making sure that the accused has all guarantees of fair trial, and that such guarantees are not affected by any infringement raised by the accused before the public prosecution. These guarantees are interrelated and indivisible. Ensuring that the accused is not exposed to torture

or any other forms of ill-treatment, and safeguarding his right to communicate with the outside world, in addition to the other guarantees, start from the pre-trial stage until the accused is presented to the public prosecution, and up to the trial stage.

18. As part of NIHR efforts to ensure that individuals enjoy the right to a fair trial, NIHR representatives attended a number of hearings in certain cases related to security events in to determine the course of these trials and the extent of commitment to international standards. NIHR observed heavy security presence, barriers placed in the vicinity of the premises of the Court, which, despite being necessary to maintain public security, should not prejudice the origin of right. A public trial requires empowerment of individuals through the provision of all facilities and removing those restrictions that prevent its use. In the event that these actions are necessary, they should be clear and declared in advance. In addition, the relevant parties, such as lawyers, human rights defenders and relatives of the accused should be allowed to attend the trial, unless the court decides otherwise.
  
19. Within the scope of NIHR mandate to receive complaints, it received 19 complaints related to the right of individuals to fair trial guarantees. Four complaints pertained to allegation of not enabling the accused to review the investigation records and signing these records without knowledge of their content. Two complaints were related to slow proceedings, while two other complaints were concerned with the competence of the public prosecution in handling the case before it, either by referring the case to the competent criminal courts, or maintaining it for the reasons which the public prosecutions deems the complaint necessary to be maintained. One complaint was received about not enabling the accused to attend the hearing, and not having the assistance of counsel in realization of the right to defense. One of the complainants claimed material compensation on account of the erroneous judgment. Another complaint was received on the violation of the principle of two-degree litigation. Five complaints were received concerning the right to receive proper medical care and treatment, while one complaint was related to the right to reconsideration before a higher court, and one complaint was related to challenge to a court ruling.
  
20. a. NIHR considered these complaints and expressed its legal opinion thereon. It addressed the public prosecution and the Ministry of Interior about the raised allegations of not enabling the accused to review the investigation records and signing it without knowledge of its content. The Public Prosecution responded to only one complaint and explained that it conducted the necessary investigation. While the two said bodies did not respond to the other complaints.
  
- b. As for the complaints related to slow proceedings before the competent judicial authority, NIHR dismissed one complaint since the period during which the court considers the case is not deemed as delay in adjudication. The NIHR addressed the Ministry of Justice, Islamic Affairs and Endowments concerning the other complaint, but no response has been received to date.
  
- c. Concerning the competence of the public prosecution for handling the case and the complainant's allegation that the public prosecution did not handle the case in a fair manner, upon consideration of the two complaints, it appeared that there is no right that has been violated, since the procedures taken are consistent with the law.
  
- d. With regard to the complaint about not enabling the accused to attend court hearings, NIHR dismissed the complaint due to the absence of the involved person and his escape from prison.

- e. As regards the complaint about not providing the assistance of counsel, NIHR contacted the Ministry of Interior, but no response was received in respect of the complaint.
  - f. As for the complaint received about the request for compensation for the damage caused by the convicting judgment rendered by the Court of First Instance and the acquittal in the Court of Appeal, the complaint was dismissed since no rights were infringed upon, as this procedure complies with the principle of litigation on two degrees, which is one of the fair trial guarantees. The essence of this principle is reflected in not involving the judge of the Court of First Instance in the judgment rendered by the Court of Appeal. NIHR has considered the relevant complaint and addressed the Supreme Judicial Council to consider the matter. However, no response has been received to date. In addition, the Bahraini legislation does not provide for compensation for the legislative authority mistakes.
  - g. With regard to complaints received on the guarantee that the accused has the right to appropriate treatment and care, NIHR has taken the necessary actions about four complaints in collaboration with the Ministry of Interior. The complainants were given access to treatment and health care. The Supreme Judicial Council was addressed regarding enabling a convict to receive appropriate treatment. However, no response has been received.
  - h. As regards the complaint relating to the application for reconsideration before a higher court, and the other complaint related to challenging a court ruling, NIHR considered that both complaints prejudice the independence of the judiciary, and thus, it has no competence to consider these complaints.
21. NIHR notes that it has received a request by the family of a convict to intervene to consider the provision of appropriate treatment. The family expressed its deep concern for his health. The National Institution contacted the concerned authorities to request a meeting with the convicted person to identify his health condition. The authorities complied with the Institution request in this regard. However, upon visiting the convict in the reform and rehabilitation centre, the convict abstained from meeting the NIHR delegate without stating clear reasons. He requested coordination with his family to follow up on his health condition.
  22. Following a visit by NIHR to Drydock Custody Centre on August 17, 2013, the Institution received a call from one of the detainees in which he expressed his surprise towards holding his case pending judgment. He stated that he only attended one trial hearing in which the charges against him were recited and he was never given the chance to meet with his lawyer. His lawyer repeatedly requested the public prosecution to meet him, but in vain. NIHR addressed the Supreme Judicial Council about the issue raised by the prisoner, which, if proven, constitutes a violation of his right to fair litigation proceedings, which consist of enabling him to exercise the right of defense at all stages of investigation and trial, and having the full right to contact a lawyer. However, NIHR has not received a response about this issue to date.

#### **RECOMMENDATIONS:**

##### **In light of the foregoing, the NIHR recommends the following:**

1. Making the necessary legislative amendments to ensure the accused person's right to counsel. This should include misdemeanors as well as felonies, starting from the stage of collecting evidence, until pre-trial investigation, through the trial stage and beyond.

2. Enabling the detainees to attend the funerals or mourning ceremonies of any of his ascendants, descendants, spouse, or his relatives to the second degree, and making the necessary legislative amendments to enforce this right.
3. Activating the supervisory authority of the public prosecution in relation to the work of law enforcement officers and the violations committed by them, and taking disciplinary or penal actions against them in case of violating the provisions of the Code of Criminal Procedure.
4. The Supreme Judicial Council should verify the claims made by the defendants during pre-trial investigation or trial procedures concerning the violation of their right to fair trial. Serious and transparent investigations should be conducted with the respondents, and the necessary legal action should be taken against them, if liability is proven.
5. The security measures necessary to maintain public security in the vicinity of the court should be clear and declared in advance, and specialists such as lawyers, human rights defenders and the relatives of the accused persons should be allowed to attend the hearings, unless the court decides otherwise.
6. Activating the role of supervisory and control role of judicial inspection over judges, in order not to prolong the duration of litigation proceedings, and not to delay the hearings or to postpone cases for long periods.
7. Providing courts with qualified personnel in line with the progressively increasing number of cases, and developing specialized qualification programs to increase the efficiency of the judicial authority personnel and the level of their performance.
8. Developing the Institute of Judicial and Legal Studies programs in order to conform to international human rights instruments, particularly those related to criminal justice and human rights.
9. Dedicating further attention to intensive and effective training for judges and public prosecutors on issues related to human rights, particularly fair trial guarantees.
10. Considering and allowing the Special Rapporteur on the Independence of Judges and Lawyers of the Council of Human Rights to visit the Kingdom.

#### **FOURTH: RIGHT TO CITIZENSHIP**

1. The right to citizenship is one of the main elements of the legal personality that must be enjoyed by everyone. This right is represented by a political and legal association between the individual and the state to which the individual should be loyal. The state should protect people and grant them the advantages and rights arising from this association. Statelessness gives rise to negative consequences, primarily, the fundamental rights of individuals become vulnerable to abuse, and discrimination and ill-treatment pose present and inherent risks to stateless individuals.
2. Article 17, Clause “a”, of the Constitution of the Kingdom of Bahrain provides as follows: **“Bahraini nationality shall be determined by law. A person inherently enjoying his Bahraini nationality cannot be deprived of his nationality except in case of treason, and such other cases as prescribed by law”**.
3. The Bahraini Citizenship Act of 1963, as amended, regulates the provisions relating to the acquisition of nationality, whether acquired on origin or emergency basis. It

sets out the cases where nationality may be forfeited, either by change or deprivation. It further determines the cases of dual nationality or statelessness.

4. In terms of international instruments, Article 16 of the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006, provides as follows: **“Everyone shall have the right to recognition everywhere as a person before the law”**. The same meaning is confirmed by Article 24, Clause 3, which provides that: **“Every child has the right to acquire a nationality”**. In the same context, Article 7 of the Convention on the Rights of the Child in 1989, to which the Government of the Kingdom of Bahrain acceded under Decree Law No. 16 of 1991, provides that the child should be registered immediately after birth and will have the right from birth to a name, and the right to acquire a nationality. Clause 2 of the same Article provides that States Parties should ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. On the other hand, Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, to which the Government of the Kingdom of Bahrain acceded under Decree No. 5 of 2002, provides that: **“1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or forced upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children”**. The Bahraini Government still have reservations as to this Article.
5. Back to the provisions of the Bahraini Citizenship Act of 1963, as amended, it is noted that it limits the acquisition of the Bahraini nationality to two cases; first: if the person is born in or abroad Bahrain, and his father was a Bahraini national at the time of birth; second: if the person is born in or abroad Bahrain, and his mother was a Bahraini at the time of birth, provided that the father is unknown, or paternity has not been legally proved. In the latter case, the Bahraini nationality is granted only if the father is unknown or if paternity is not proved, in order not to deprive illegitimate children from nationality, if their mother has the Bahraini nationality. However, this constitutes discrimination in relation to children of the Bahraini mother in case the father has unknown nationality or is stateless (i.e. legitimate children). It is noted that NIHR took note of this issue and submitted its recommendations in this regard to the Government to make the necessary legislative amendments.
6. NIHR also notes that statelessness has negative impact, as it renders the basic rights of individuals vulnerable to abuse, and discrimination and ill-treatment become permanent risks to stateless persons. This will lead to restriction of the freedom of movement, and denial of employment opportunities, livelihood, decent living, and the right to housing, property, health, and education, in addition to other relevant rights.
7. Accordingly, NIHR observed that the statement released by the Ministry of Interior on November 6, 2012 deprives 31 persons of nationality according to Article 10, Clause c, of the Bahraini Citizenship Act of 1963, as amended, under the pretext of causing damage to the security of the state. The statement further notes that any person who has an objection to the decision may have recourse to the court<sup>2</sup>. NIHR followed up the recommendation of the National Council in its extraordinary session held on July 28, 2013 related to the recognition of legal personality, which stipulates

2. Bahrain News Agency (BNA) - Ministry of Interior statement released on November 6, 2012.

that **“Perpetrators and instigators of terrorist crimes should be deprived of their Bahraini nationality”**.

8. Concerning the same issue, NIHR observed that a number of human rights international organizations and bodies, including the United Nations High Commissioner for Human Rights, expressed their deep concern of the decision to deprive 31 citizens of Bahraini nationality, and warned of the consequences of arbitrary deprivation of nationality.
9. Back to the Ministry of Interior statement about revoking the citizenship of 31 citizens, NIHR found that it did not specify the legal instrument under which these citizens are deprived from their Bahraini nationality. Article 10 of the Bahraini Citizenship Act of 1963, as amended, provides that: **“Citizenship of Bahrain may be forfeited by order of His Majesty the Governor from whoever enjoys such nationality on the following cases: a. If he enters in military service of a foreign country and keeps on service despite an order issued by His Majesty the Governor ordering him to leave such service; b. If he helps or engages in service of an enemy country, or c. If he causes harm to the security of the State”**. These conditions are exclusive in which the Bahraini citizenship may be forfeited by order of the His Majesty the Governor and no one else.
10. NIHR attended one of the hearings held on December 23, 2013 before the Supreme Administrative Court to consider the case of one of the persons whose Bahraini nationality has been forfeited. During the hearing, NIHR observed that the State agencies refused to give the plaintiff a copy of the decision forfeiting his citizenship. It is incumbent on the Ministry of Interior to enable the persons whose nationality has been forfeited to obtain copies of these resolution, in order to be able to challenge these resolutions before the competent court and prepare their defense pursuant to their rights thereto. Not presenting copies of these resolutions to the defendants renders the case null and void.
11. Accordingly, NIHR believes that the State’s right to drop the nationality is legitimate and is a practice adopted in all legislation and legal systems in order to maintain the security, safety and interests of the country. However, the exercise of such right must not lead to the emergence of statelessness phenomenon. In all cases in which citizenship is forfeited, the procedure should be conditional upon a set of legal guarantees that determine the forfeiture expressly and clearly. In addition, the public authority should take transparent procedures in this regard, and nationality should not be forfeited except under a court judgment that grants the person whose citizenship is forfeited the right to effective judicial appeal from this decision.
12. In a statement released on July 28, 2013 in this regard, NIHR appreciated the recommendations made by the National Council in its extraordinary session based on its belief in the responsibility to maintain the capabilities, achievements and the future of this country. Nonetheless, NIHR stressed the need not to encroach upon the commitments of the Government of the Kingdom of Bahrain and its international obligations and to respect human rights. NIHR further asserted the need to observe the provisions of the law and to ensure its implementation in line with the constitutional and legal safeguards.
13. In order to identify the number of persons who have been granted the Bahraini nationality during 2011-2013, and the number of persons whose citizenship has been forfeited, and indicate the reasons for these measures, NIHR contacted the Ministry of Interior, but no response was received.

14. Within the scope of NIHR mandate to receive complaints, five complaints were received concerning the right to nationality, two of which were received from stateless persons, while two complaints were received from two Bahraini women married to foreigners who requested granting their children the Bahraini nationality. One complaint was received from a foreigner married to a Bahraini national who requested the acquisition of the Bahraini nationality.
15. NIHR considered the received complaints and expressed its legal opinion thereon. The Ministry of Interior was addressed concerning four complaints, but the National Institution received no response despite the repeated correspondences. As regards the fifth complaint, NIHR found that there was no violated right.
16. Concerning NIHR inquiry about the number of (stateless) people who do not have any documents and the legal procedure taken in this regard, the Ministry responded that there are no cases of stateless persons, which is contrary to what was received by NIHR about the cases of a number of people who do not have any nationality, in addition to 31 citizens whose nationality was forfeited. The decision to forfeit nationality results in considering these persons as stateless.

#### **RECOMMENDATIONS:**

**In light of the foregoing, the National Institution for Human Rights recommends the following:**

1. Urging the legislative authority to pass a new citizenship law to be commensurate with the political, economic, and social conditions of the Bahraini community, and to be in line with the international human rights instruments.
2. Urging the legislative authority to include in the new citizenship law clear and specific controls and legal standards in the cases where the Bahraini citizenship is granted by naturalization.
3. The citizenship law should incorporate the Bahraini women right to grant citizenship to her children according to legal controls, in line with international human rights instruments and the Government of the Kingdom of Bahrain commitments before the Human Rights Council at the Universal Periodic Review.
4. Taking the legislative measures that ensure granting the Bahraini women children, who have no father or who have a stateless father, the right to acquire the Bahraini nationality, on an equal footing with the person who has a Bahraini mother and unknown father, or whose paternity has not been legally established.
5. Urging the government to lift its reservations as to Paragraph (2) Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, so that the Bahraini woman has equal rights with men with respect to the nationality of her children, since this does not conflict with the Islamic principles and provisions.
6. Avoiding the forfeiture of Bahraini citizenship, except in specific and exceptional situations prescribed by the law. Forfeiture should be based on final court judgments and any person whose nationality has been forfeited should not be declared as stateless in order to avoid statelessness in the community, which poses serious risks to stability.
7. The need to reinstate citizenship to those who were deprived of it (31 citizens), under Article 11 of the Bahraini Citizenship Act of 1963, as amended, which authorizes the King to reinstate the Bahraini citizenship to those who have lost it, under the provisions of the law.

## FIFTH: FREEDOM OF OPINION AND THE RIGHT TO EXPRESSION

1. Freedom of opinion and the right to expression form the cornerstone of every society where freedom and democracy prevail. Freedom of opinion is closely linked with the right to expression, as the latter is the tool that enables exchange and development of views. Freedom of opinion and the right to expression are not limited to expression of views or ideas by the individuals, but also extend to seeking, receiving, and transmitting the various forms of information and ideas to others without regard to borders. Freedom of opinion and the right to expression also extend to freedom of the press and the media, as well as freedom of conscience and thought, and religious freedom. Therefore, the freedom of opinion and the right to expression are of the most important elements of good governance, and the basic tool through which the individual can access, receive and transmit information, to strengthen his oversight role on the performance of public authorities and hold these authorities accountable for any violation or default in the performance of their functions.
2. The Constitution of the Kingdom of Bahrain has guaranteed freedom of opinion and the right to expression in Article 22, which stipulates that: **“Freedom of belief 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”**. Article 23 provides that: **“Freedom of opinion and scientific research is guaranteed. Everyone has the right to express his opinion and publish it verbally, 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”**.
3. At the level of national legislation, “Decree-Law No. 47 of 2002 on Regulation of Press, Printing and Publishing” deals with the provisions related to printing and publishing and regulation of the press. However, no amendment to its provisions has been issued to date, despite the heavy controversy in the local community on the provisions of this legislation.
4. “Law No. 51 of 2012 Amending certain Provisions of the Penal Code”, promulgated by Decree-Law No. 15 of 1976, abolished Article No. 134 bis, which criminalizes the broadcast of false news, statements or rumors abroad about the domestic conditions in the country. It further abolished Article No. 174 criminalizing making, possessing, distributing, or posting pictures that offend the country’s reputation, and amended Article 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. It considers that the exercise of the right of expression in this range is an excuse exempt from punishment. Furthermore, the amendment of Article 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 the 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.
5. In terms of international instruments, the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006, confirms in Articles 18, 19, and 20 that everyone has the right to hold opinions without interference, and the right to freedom of expression. This right includes seeking, receiving and imparting information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. Freedom to expression may be subject

only to such limitations as are prescribed by law and are necessary to protect the rights and reputation of others, national security, public order, health, or morals. In addition, the Covenant guarantees that everyone has the right to freedom of thought, conscience and religion. This right includes freedom to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

6. Accordingly, the freedom of speech includes the right of any individual to hold opinions without interference. This freedom extends to include the right to change one's opinion at any time and for any reason of his choice with complete freedom, as well as the freedom not to disclose one's opinion. Harassment of an individual because of his opinions, or intimidating or stigmatizing him, including by arrest, detention, trial, or imprisonment, is a violation of the basic rules of freedom of opinion. In any event, freedom of opinion should not be subject to any exceptions or restrictions whatsoever.
7. The right to expression is to seek, receive and impart various forms of information and ideas, to others, regardless of frontiers, including the right to political discourse, public comments, polls, discussing human rights issues, the press, cultural and artistic expression, teaching, and religious discourse, whether this right is exercised in spoken or written form, sign language, or by expression in books, newspapers, leaflets, posters, banners and other documents. It also includes all audio-visual media, as well as electronic methods of expression.
8. However, the exercise of the right of expression requires a legal framework to prevent its abuse or arbitrary use. As such, the state is entrusted with the protection of this right. In order to strike balance between the right of individuals to expression and the restrictions that may be imposed to prevent its misuse or abuse, there are minimum restrictions or exceptional controls for the exercise of this right. These restrictions should be prescribed by law, should aim to fulfill a lawful objective, should be necessary for the democratic society, and should ensure proper use and exercise of the right rather than expropriate such rights. This is in line with Article 31 of the Constitution of the Kingdom of Bahrain, which states that: **"The Public rights and freedoms stated in the present Constitution may only be regulated or limited by or in accordance with the law, and such regulation or limitation may not prejudice the essence of the right or freedom"**.
9. As regards the institutional structure, the Supreme Authority for Media 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 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 members of media and communication figures.
10. In compliance with the recommendation stated in the BICI report No. 1722/h on **"Cancelling or mitigating the judgments convicting persons accused of crimes related to freedom of political expression that do not include incitement to violence, and dropping the charges that have not been adjudicated against them"**, the public prosecution, according to the aforementioned recommendation, reviewed the legal positions of the accused by dropping all charges related to freedom of

opinion and the right to expression. This was applied to 43 criminal cases pending before the courts. As a result of this action, several cases were finally settled, and 343 accused persons took advantage of dropping these charges, according to the Report on Monitoring the Implementation of the Recommendations of the Report of Bahrain Independent Commission of Inquiry, issued in December 2013.

11. a. With regard to the Recommendation No. 1724 / A, which states as follows: **“Considering the limitation of media censorship and allowing the opposition greater use of television and radio transmission and printed media. The continued refusal to grant a sufficiently heard voice to the opposition groups in the national media poses the risk of increased political and ethnic (racial) polarization and division”**. Recommendation No. 1724 / b, states as follows: **“Setting professional standards for the media and other forms of publications, that include a code of conduct and a mechanism for implementation, in order to maintain professional and ethical standards so as to avoid inciting hatred, violence and intolerance, without prejudice to the internationally protected rights to freedom of expression”**.
  - b. The Government has stated in its reports on following up the implementation of the recommendations of BICI issued in June 2012 and in December 2013 that it sought the assistance of a group of media experts as a first step to look into the issue of media censorship and allow the opposition greater use of the media.
  - c. The Government further stated that it is preparing a draft new media law that emphasizes rights and guarantees, including the guarantees of the freedom of the press, printing, publishing, and audio-visual and electronic media in accordance with the law, in addition to the right to criticism. The new law will guarantee the independency of journalists, with no authority over them other than the law in the performance of their work.
  - d. The draft law also stipulates that journalists should not be forced to disclose the sources of their information, and should enjoy the right to access to information, statistics and news which are permitted to be published from their sources according to the law. Under this draft, journalists are allowed the right to publish the information obtained from these sources. The Government added that the draft law has not ignored the prohibition of insulting or assaulting journalists by reason of their work, and that it regulates the relationship between journalists and the newspapers in which they work, without prejudice to the compelling orders of the Labor Law for the Private Sector. In addition, the draft law prohibits dismissing journalists before notifying the Supreme Authority for Information and Communication of the dismissal justifications, and provides for developing a general national media strategy based on the promotion of the common national values, and adopting a fair, professional, and balanced media policy of towards others’ opinions.
12. Based on NIHR follow-up of Recommendation No. 1724/A, the Institution did not find practical evidence proving allowing the opposition greater use of television and radio transmission and printed media, or granting the opposition groups a sufficiently heard voice in the national media. Despite that the Government indicated that it has used a group of independent media experts to put this recommendation into effect, it did not state the findings of the recommendations of these experts. Further, the Information Affairs Authority did not respond to NIHR letter which included a number of questions, including how the Authority handled the recommendations of BICI report which are relevant to its work.
13. In addition, NIHR observed a sample of the prohibited websites and tried to identify the number of these sites officially registered with the Information Affairs Authority,

the number of prohibited sites, the reasons for prohibition, and the legal controls that have been adopted in imposing the prohibition. NIHR also inquired whether criminal proceedings were commenced against any of the owners of these websites. However, the Authority has not responded to these inquiries to date. In the same context, NIHR also observed the continued prohibition of certain publications of a number of licensed political societies, which is inconsistent with the general principles of freedom of opinion and the right to expression, unless departure from those principles is evidenced. On the other hand, NIHR is still concerned about the news circulated in various media outlets and social networks about arresting persons concerned with media affairs.

14. NIHR listened to the judgment rendered by the High Criminal Court in the hearing held on December 30, 2013, dismissing the judgment of the Court of First Instance, and acquitting one of the defendants. The Court held that the act of the defendant is considered as exercise of the right to expression, based on the provisions in the Universal Declaration of Human Rights, the Declaration of Human Rights in Islam, and the Arab Charter on Human Rights. The incorporation of international and regional human rights instruments in national legislation regarding the right to expression by the judiciary guarantees the promotion and protection of this right. NIHR appreciates the Bahraini judiciary position in this regard. The reasoning of the acquittal decision was based on international human rights instruments, and expresses its commitment to these instruments.
15. Within the scope of NIHR mandate to receive complaints, the Institution received one complaint relating to the right of expression. Upon considering this complaint and expressing its legal opinion thereon, NIHR addressed the Ministry of Justice, Islamic Affairs and Endowments and found that the subject matter of the complaint is under investigation by the Sunni Department of Awqaf. Thus, the National Institution does not have the competence to consider this complaint.
16. Regarding the right to religious freedom, NIHR notes the need to rationalize religious discourse, of whatever source, distance it from calls for hateful sectarianism, or what may be explained as incitement or promotion of violence, and direct it towards fostering the spirit of tolerance, love, and brotherhood, based on respect for others, and rejecting and condemning violence. It should be handled in a sense of national responsibility, according to the Islamic teachings.
17. Pursuant to the recommendation of the BICI report No. 1723/B - 2, which states as follows: **“Following-up the statement of His Majesty King Hamad bin Isa Al Khalifa on the Government’s reconstruction of some religious facilities in accordance with the administrative systems at the expense of the State. The Commissions urges the Government’s consideration of this issue at the earliest convenience”**. The Government, in accordance with the Royal directives in this regard, commenced the construction of worship places, and correcting the conditions of the violating facilities in accordance with the legal framework that preserves the sanctity and status of these places. The Government has also recently directed the adoption and allocation of a special budget for the completion of this issue. According to Jaafari Awqaf Department and the Ministry of Justice, Islamic Affairs and Endowments, the formal procedures for all projects that are expected to be completed during 2014 have been finalized on the time schedules of these projects.
18. In this regard, NIHR appreciates the efforts exerted in this context, which serve to promote national cohesion and bridge the gap caused by infringement on these facilities. At the same time, NIHR calls for serious follow-up and promotion of

achievement by the concerned authorities in order to complete reconstruction according to the announced schedule.

19. NIHR also emphasizes the need to pay attention to religious forums in general, and the two communities in particular, and protecting these forums from anything that affects their sanctity, status, and mission. This can be achieved by overcoming the attempts to feed the spirit of hatred, polarization, sectarian disruption, intolerance and strife, in order to maintain coexistence, acceptance of others, national unity and cohesion of the social fabric. NIHR also emphasizes the need for public authorities and individuals to respect the freedom of practicing religious rites and religious processions and meetings in order to preserve their sanctity and status in accordance with the customs observed in the Kingdom. For this purpose, all measures should be taken to prevent encroachment upon or prejudice to these rituals and preserve the dignity and emotions of the practitioners of these rituals.

### **RECOMMENDATIONS:**

**In light of the foregoing, NIHR recommends the following:**

1. Expediting the issuance of an integrated law on the press, printing, publishing and audio-visual, printed and electronic media, in line with the international human rights instruments, without prejudice to people rights to freedom of opinion and expression.
2. Incorporating the definition of the right to expression, inclusive of receiving and imparting the various forms of information and ideas to others, regardless of frontiers, in the press, printing, publishing, and audio-visual, printed, and electronic media law. This right includes the right to political discourse, public comments, polls, discussing human rights issues, the press, cultural and artistic expression, religious discourse, whether this right is exercised in spoken or written form, sign language or expression in books, newspapers, leaflets, posters, banners and other documents, as well as all audio-visual media, and electronic methods of expression.
3. Urging the legislative authority to expedite completing the discussion of the draft law on guaranteeing the right to access to information, as a major component of the freedom of opinion and expression and media freedoms, and as primary requirement for transparency in government performance.
4. Urging the Supreme Authority for Information and Communication to expedite the preparation of a draft national plan for information and communication, which is based on promotion of common national values and adopting a fair, balanced and professional media policy.
5. Allowing all licensed political societies of various directions greater use of television and radio transmission and printed media, in line with the recommendations of the report of Bahrain Independent Commission of Inquiry.
6. Urging the public prosecution not to resort to arrest warrants in the lawsuits of audio-visual media, printing, the press, publishing and electronic media.
7. Urging the Government to limit the censorship and restrictions on the media outlets, including removing the censorship imposed on the political societies in releasing their own publications.
8. Considering and allowing the Special Rapporteur on Freedom of Expression of the Human Rights Council to visit the Kingdom.

## SIXTH: RIGHT TO PEACEFUL ASSEMBLY

1. The right to peaceful assembly has reference to the freedom of individuals, groups, or legal entities to gather in a specific public place for a specific period of time to express their public or private views towards a certain position or defend common interests for the purpose of persuading others of these views and realizing them. This right is linked to other rights and freedoms, such as the right to organize, create, and join societies and associations, freedom of opinion and expression, and the right to participate in public affairs, as these rights constitute one unit that brings all human rights together.
2. The Constitution of the Kingdom of Bahrain has guaranteed the right to peaceful assembly. Article 28, paragraph b, provides as follows: **“Public meetings, demonstrations and gatherings are permitted under the rules and conditions stipulated by law, but the purposes and means of the meeting must be peaceful and must not be prejudicial to public decency”**.
3. In terms of national legislation, the “Decree-Law No. 18 of 1973 on Public Meetings, Marches and Assemblies”, as amended, addresses the provisions relating to the organization of public meetings, marches and assemblies, imposes some requirements for the exercise of this right, and stipulates penalties that deprive of liberty, as well as financial penalties for those who violate its provisions. Decree-Law No. 22 of 2013 amends certain provisions of Decree-Law No. 18 of 1973 on Public Meetings, Marches and Assemblies. It prohibits demonstrations, marches, assemblies, or sit-ins in Manama, and excludes sit-ins in front of international organizations, on the condition of obtaining special written permission in advance. Accordingly, the Minister of the Interior Resolution No. 57 of 2011 was issued to identify the duties and responsibilities of the committee provided for in Article 6 of the Decree-Law No. 18 of 1973 on Public Meetings, Marches, and Assemblies, in order to maintain security, public order and morals.
4. In terms of international instruments which ensured the freedom of the right to peaceful assembly, Article No. 21 of the International Covenant on Civil and Political Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006 provides as follows: **“The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others”**.
5. The right to peaceful assembly is subject to guidelines that govern its exercise. It is an inherent right that should be exercised with an extent of freedom in organizing it, without restricting the persons exercising it by any provisions affecting its essence. There is also a positive obligation on the State to facilitate and protect peaceful assembly. These two obligations consist of developing mechanisms and procedures to ensure the proper exercise of this right without any restrictive bureaucratic procedures.
6. The State should also seek to facilitate and protect peaceful assembly, and ensure not impeding the efforts to disseminate information about peaceful gatherings, and that all restrictions on peaceful assembly are prescribed by law and consistent with international human rights instruments. The State should not impose organizational restrictions that would fundamentally prejudice the objectives of the intended use of this right, while ensuring that the relevant national rules and regulations are compatible with these standards to ensure the optimal exercise of this right.

7. The right to peaceful assembly should be available to all individuals, groups or legal entities, without any discrimination. The State has a positive obligation to take reasonable and appropriate measures to enable the participants in peaceful gatherings to exercise this right, and to provide the necessary protection for them. In any case, the organizers of peaceful gatherings should take this obligation for protection into account. In addition, the State is committed to enable the various media outlets to transmit information and ideas and cover and have access to peaceful gatherings, in order to achieve the envisaged goals of these gatherings.
8. On the other hand, the negative obligation of the State toward the right of peaceful assembly is embodied when unjustified measures that affect the essence of the right and its exercise are imposed. The best practices that comply with the relevant international standards consist of avoiding comprehensive prohibition on the place and time of peaceful assembly. The right to peaceful assembly should not be subject to the permission of the public authorities. Instead, prior notice should be the maximum measure to enable the State to facilitate exercising the right to peaceful assembly, and to take measures to safeguard public safety, maintain public order, and protect the rights and freedoms of others. Such notice should not be subject to excessive bureaucracy.
9. As regards the practical exercise of the right to peaceful assembly, and following the amendment, which was brought by Decree-Law No. 22 of 2013 on the Prohibition of Organizing Demonstrations, Marches, Rallies or Sit-Ins in Manama, the Government of the Kingdom of Bahrain, represented by the Ministry of Human Rights has made it clear that: **“The rationalization of preventing sit-ins, marches or rallies in the capital, Manama, is an approach that complies with the international instruments and is adopted in the countries which are considered a model in the realization of rights and freedoms ... on account of the need to protect national security, public order, morals, public health or the rights and freedoms of others”<sup>3</sup>.**
10. The Special Rapporteur on the Right to Freedom of Peaceful Assembly and the Right to Freedom of Association, in paragraph 61 of his report to the United Nations General Assembly, issued for the period from May 1, 2012 to February 28, 2013, considers that **“peaceful assemblies have been prohibited or suppressed, because their mission has raised the ire of the authorities, as the case in the Russian Federation, Azerbaijan, Indonesia, Iran, Bahrain.....”**. In paragraph 63 of this report, it is stated that: **“The Special Rapporteur is deeply concerned about the comprehensive prohibition imposed by several countries, such as Azerbaijan and Bahrain, for reasons primarily related to the maintenance of national security, public safety or public order. He firmly believes that comprehensive prohibition is essentially discriminatory and disproportionate measure, as it affects all citizens who wish to exercise their right to freedom of peaceful assembly”<sup>4</sup>.**
11. NIHR is of the opinion that the right to peaceful assembly, though an inherent right of individuals, groups, or legal entities that must be exercised freely, may be subject to controls that constitute the minimum limit that may be exercised without infringing on its essence, taking into account that these controls are exception to the rule, i.e. the freedom of peaceful assembly. Therefore, it is not possible to expand or draw analogy on these controls, and they should be always interpreted within the narrowest scope.

3. Bahrain News Agency (BNA) - Statement of the Ministry of Human Rights released on October 12, 2013 entitled “Organizing demonstrations and rallies in Bahrain in line with the international standards”.

4. Report of the Special Rapporteur on the Right to Freedom of Peaceful Assembly and the Right to Freedom of Association (Maina Kiai), dated May 21, 2012 - submitted to the United Nations General Assembly - Document No. (A / HRC / 20/27) - p 14.

12. NIHR emphasizes that the right to peaceful assembly faces a challenge associated with the community culture and awareness in dealing with it. The peaceful assembly description means that all practices associated with it should be devoid of any manifestations of violence or counter-violence by any party, or anything that would influence or prejudice the right of others to enjoy other rights and freedoms. This called for legislative interference to create controls to prevent abuse or misuse of this right, provided that these controls are consistent with the provisions of international human rights law.
13. NIHR confirms that while the State has the right to intervene by enacting legislation and taking appropriate measures to regulate the exercise of the right to peaceful assembly as a result of some violations associated with these gatherings, the intervention by the State should not be in a manner in which the right is confiscated or restricted and ultimately divested of its essence. In the same context, NIHR believes that while the provisions of Decree - Law No. 22 of 2013 substituting Article 11 of Decree-Law No. 18 of 1973 on Public Meetings, Marches, and Assemblies, which prohibits demonstrations, marches, rallies or sit-ins in the city of Manama, aims to maintain national security, public order, public safety, or public health or protect the rights of others, the Government should not interfere without justification in the organization of the right to peaceful assembly. The spatial ban (Manama) set forth in the aforesaid Decree-Law undermines the exercise of this right. This is consistent with the statement of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association that: **“The states have also a negative obligation represented in avoiding the unjustified interference with the right to peaceful assembly. the Special Rapporteur holds as best practices the laws governing freedom of assembly which avoid prescribing blanket prohibition on location and time, and provides for the possibility of imposing other restrictions which are of a lesser degree than interference .... The prohibition should be a measure of the last resort”**<sup>5</sup>.
14. NIHR believes that the full and actual exercise of the right to peaceful assembly and participation therein should not be subject to (prior permission) by the competent authority, but rather to (prior notice) as the maximum measure in order to enable that body to facilitate the exercise of this right, and to take measures that aim to safeguard public safety, maintain public order, and maintain the rights and freedoms of others. This approach is consistent with the course pursued by the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association in this regard <sup>6</sup>.

#### RECOMMENDATIONS:

##### In light of the foregoing, NIHR recommends the following:

1. Inviting the legislative authority to pass a new law on peaceful assembly that guarantees the freedom to enjoy this right in the context of the relevant international human rights instruments, or amending Decree No. 18 of 1973 on Public Meetings, Marches and Assemblies, as amended, by including a clear and explicit provision that considers the purpose of the notice to hold peaceful gatherings is to organize rather than prevent holding these gatherings, and lifting the prohibition of demonstrations, marches, rallies or sit-ins in the city of Manama.
2. The need for law enforcement agencies to protect all marches, sit-ins and rallies, especially if such right is not accompanied by any manifestation of violence or breach of security and public safety.

5. Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly of Freedom of Association (Maina Kiai), dated May 21, 2012 - submitted to the United Nations General Assembly - Document No. (A / HRC / 20/27) - p 14.

6. Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly of Freedom of Association (Maina Kiai), dated May 21, 2012 - submitted to the United Nations General Assembly - Document No. (A / HRC / 20/27) - p 10.

3. Providing adequate training programs for law enforcement agencies, particularly those entrusted with the protection of peaceful gatherings, including training on the gradual use of means of dispersing gatherings if they are contrary to the law, how to manage the crowds and participants in those gatherings, implementing a system to record and monitor the ammunition used for dispersing gatherings, and a system for communication records in order to monitor operation orders and those responsible for these operations and the executing officers. This will facilitate identifying liability for the violation, and non-infringement on the rights of others.
4. Urging civil society organizations to deepen the understanding of the right to peaceful assembly, raise the awareness of the participants and organizers of peaceful gatherings about the legal aspects and violations that might be committed by the participants and their implications, and to assume an active role in promoting awareness of the importance of this right, its exercise and its envisaged objectives in a peaceful context as a civilized form of democratic practice, announcing the end of the assembly formally, and inviting the participants to disperse.
5. Law enforcement agencies need to protect and facilitate the access of journalists and observers to the peaceful gatherings locations in order to cover the events and monitor the events of these gatherings.
6. Considering and allowing the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of the Human Rights Council to visit the Kingdom.

#### **SEVENTH: RIGHT TO ORGANIZE**

1. The right to organize is a key component of democracy, and the basis for the practical exercise of any rights and public freedoms. The importance of this right is reflected in forming an association by a group of individuals in order to work on, express, promote, or defend common interests on a collective basis. The right to organize includes the ability of these legal entities to form and join an association, in addition to terminating, suspending, and dissolving such association. These associations take a variety of forms, including civil, political, or trade union forms.
2. The Constitution of the Kingdom of Bahrain has guaranteed the right to organize, in its various forms, under Article 27 which provides as follows: **“The freedom to form associations and unions on national principles, for lawful objectives and by peaceful means is guaranteed under the rules and conditions stipulated 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”**.
3. In terms of national legislation, Decree-Law No. 21 of 1989 Promulgating the Law on Societies, Social and Cultural Clubs, Youth and Sports Private Bodies, and Private Institutions, as amended, addresses the provisions relating to the formation, registration and organization of associations, and the provisions of dissolving these associations.
4. Regarding the right to political organization, Law No. 26 of 2005 on Political Associations organizes the work of these associations in terms of the mechanism and rules of their establishment, their legal status, the acts which are prohibited to be carried out by the associations, and the conditions in which the association may be dissolved or suspended. This Law strengthens the foundations of democracy in society and promotes political life.

5. Regarding the organization of trade unions, Decree-Law No. 33 of 2002 Promulgating the Trade Unions Law, as amended, sets out the trade union structure and objectives, the provisions related to the establishment and membership of trade unions, dissolution provisions, and the acts that are prohibited to be carried out by the trade unions.
6. It should be noted that there are approximately 223 associations registered under the provisions of Decree-Law No. 21 of 1989 Promulgating the Law on Societies, Social and Cultural Clubs, Youth and Sports Private Bodies, and Private Institutions, as amended, and nearly 20 political associations formed under Law No. 26 of 2005 on Political Associations, while there are approximately 91 trade unions that fall under the provisions of Decree-Law No. 33 of 2002 Promulgating Trade Unions Law, as amended.
7. In terms of international human rights instruments, Article No. 22 of the International Covenant on Civil and Political Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006, guarantees the right to organize. It provides that everyone have the right to freedom of forming association with others, including the right to form and join trade unions, and that no restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.
8. The International Covenant on Economic, Social and Cultural Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 10 of 2007, provides for the right to form and join trade unions. Article 8 of the said Covenant states that the States Parties to the present Covenant undertake to ensure the right to form trade unions with others, and join the trade unions of one's choice, and the right of trade unions to establish federations. It agrees with the International Covenant on Civil and Political Rights in that no restrictions may be placed on the exercise of this right, other than those mentioned above.
9. Accordingly, the right to form and join associations or unions is an inherent part of the right to organize, and embodies the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Therefore, it is not permissible for the national law regulating this right to place comprehensive restrictions that prevent individuals from exercising their right to form associations or unions. If these restrictions prevent the enjoyment of the right to organize, they will be illegal restrictions. In addition, forcing the individual to join any association or union in particular infringes on this right. These entities should have the freedom to choose their members and their openness to any membership. This is particularly important for political associations or unions, as direct intervention in their membership violates their independence, and reflects negatively on the exercise of the right to organize.
10. Concerning the rules for registration of associations and trade unions, the relevant international standards confirm that the requirement of notifying the public authorities about the intention to establish an association or union complies with the international human rights law. It is better than the permission approach, which requires obtaining the approval of the competent public authority on forming the association or the trade union, as long as the notification fulfills the legal form set out in the legislation. In any case, the legislation governing the right to organize should specify short periods for responding to the entity that sent the notification

or requested the permission. The competent public authority's failure to respond within this period leads to the assumption that the associations or trade unions act unlawfully. Any decision issued by the authorities should be clearly reasoned, and these entities should be given the opportunity to object to the administrative decisions before the courts.

11. Concerning the exercise of the right to organize, the State has a positive obligation to enable individuals to exercise this right freely without any fears or exposing them to any threat, including any arbitrary measures, such as detention, torture, ill-treatment, or slander media campaigns, or restricting freedom of movement or arbitrary dismissal from work, especially in respect of workers in trade unions.
12. The State has a negative obligation to avoid undue obstruction of the exercise of the right to freedom of associations or trade unions. The members of these entities should be able to freely determine their bylaws, organizational structure, and activities, make decisions without interference by the State, and enjoy other rights such as freedom of opinion, the right to expression, the right to disseminate information, and the right to peaceful assembly.
13. According to the provisions of Decree-Law No. 21 of 1989 Promulgating the Law on Societies, Social and Cultural Clubs, Youth and Sports Private Bodies and Private Institutions, it is clear that the registration of associations - of civil nature - is based on an application submitted to the competent ministry. The latter publishes the registration in the Official Gazette, within sixty days from the date of submission of the application. Furthermore, under Article 11 of this Law, the competent administrative authority has the right to **“refuse the registration of an association, if the community is not in need for its services or if there is other association(s) that fulfills the community needs for the activity, which the association wants to practice. The authority may refuse to register an association if the creation of such association undermines the welfare and security of the State; if the premises of the association or the place where its activity is practiced are not appropriate from health or social perspective; or if the association is created to revive another association which has been previously dissolved”**. In addition, the Law considers that the elapse of the aforementioned period without completion of registration or notifying the application will be deemed as implicit rejection of the registration application of the association. It guarantees the right to challenge before the authority that issued the decision, and then appeal the decision before the courts. The Law permits dissolving the association compulsorily and closing its administratively on temporary basis for no more than 45 days as per a resolution by the competent minister in the cases exclusively set out in the law.
14. The Law considers the expiration of the prescribed period without answering the applicant as implicit rejection of the application. According to this procedure, the rule is to not register or announce the association, while the exception is to approve the application by competent ministry. This conclusively constitutes violation of the right to organize and does not comply with the principles of international human rights law. Despite that the Law limits the circumstances under which the association may be dissolved compulsorily or closed administratively for a certain period, granting the dissolution authority to the competent minister may raise the suspicion of abuse of power, as opposed to vesting this authority in the courts.
15. Further to Law No. 26 of 2005 on Political Associations, it is clear that the establishment mechanism set out in the Law is based on submitting an application to the Minister of Justice Affairs. The application should be signed by the founders, their signatures

should be certified, and should be attached with data and documents related to the association. The Law grants the competent minister the authority to announce the establishment of the association during sixty days from the date of the establishment application, if the application satisfies the conditions prescribed, or within fifteen days from the request of the competent minister to provide any clarifications or documents necessary to complete the registration process. The said Law requires that in case the competent minister does not announce the establishment of the association during the prescribed period, he shall notify the agent of the founders by a registered letter of the decision rejecting the establishment, along with the reasons for rejection. The purpose of this measure could be enabling the applicant to appeal the decision to the court. However, the Law considers the elapse of the prescribed period for the association registration without announcing its registration or notifying the founders' agent of rejection as implicit rejection of such establishment. In any case, the Law prescribes that it is impermissible to dissolve political associations, suspend the activity of the association, or dismiss its officers except in accordance with the provisions of the statute of the association or by virtue of a court order.

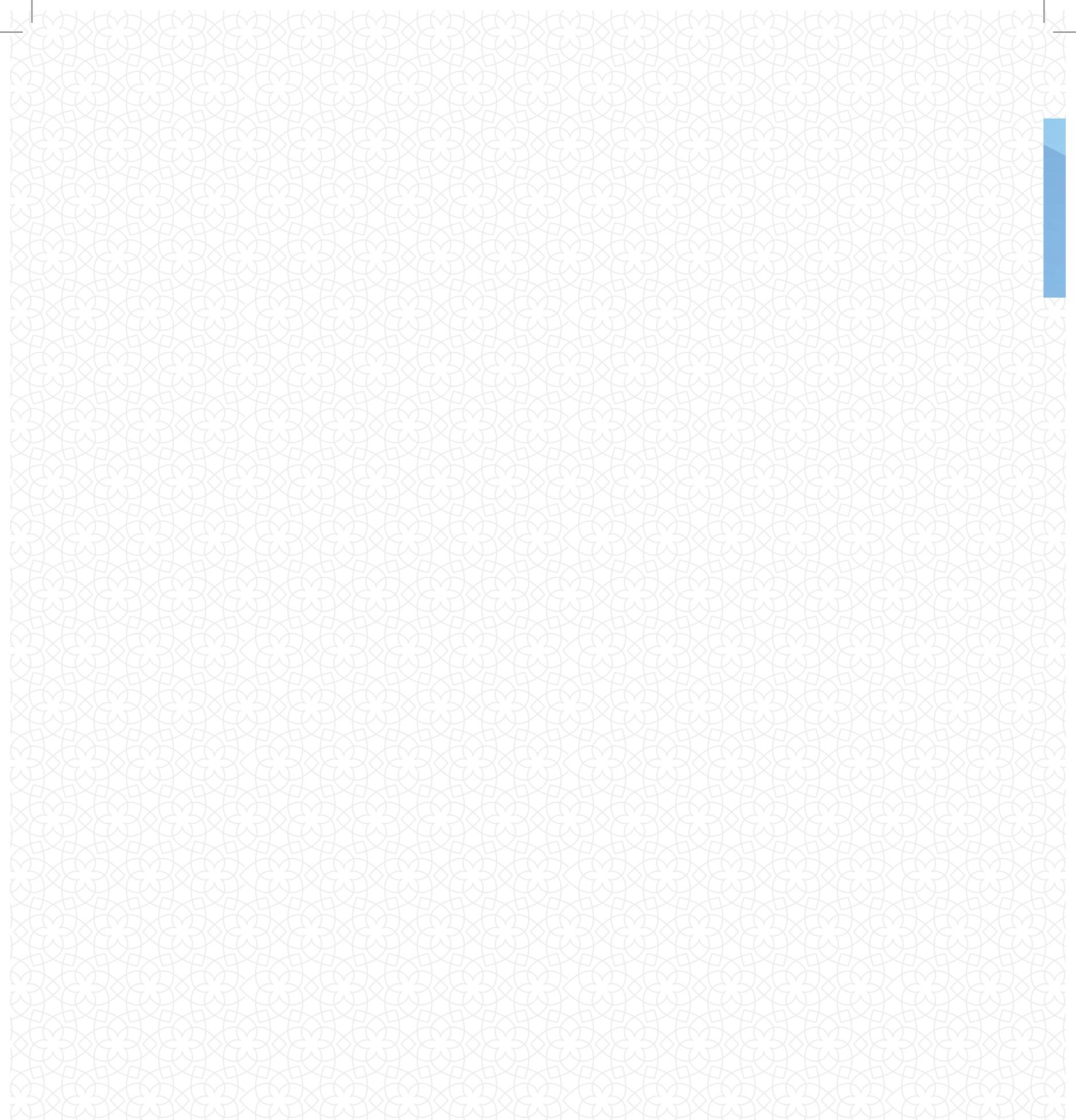
16. The Law requires notifying the agent of the founders of the association by registered letter of the decision rejecting the establishment, along with a statement of the reasons for rejection, in order to be able to challenge the rejection decision before the court. This serves as guarantee of the right to organize. However, despite this approach, the fact that the Law considers the elapse of the prescribed periods for the association registration without announcing its registration or notifying the founders' agent of rejection as implicit rejection of such establishment divests this guarantee of its value, since it is not an acceptable measure. The implicit rejection in these circumstances would infringe upon the international standards related to the right to organize. It should be noted that the prohibition stated by the Law for dissolving or suspending the activities of the political associations or dismissing their officers except in accordance with the provisions of the statute of the association or by virtue of a court decision is a correct provision in the right direction.
17. Regarding the freedom of the political action of political associations, Resolution No. 31 of 2013 adds Article 3 bis to the Resolution No. 4 of 2005 on the rules of political associations' communication with foreign political parties or organizations. According to these rules, the communication between political associations and foreign political organizations should be in the presence of a representative of the Ministry of Foreign Affairs or any competent authorities deemed appropriate by the Ministry. The said resolution requires the political association, which requests such communication, to notify the Ministry of Justice, Islamic Affairs and Endowments in order to coordinate with the Ministry of Foreign Affairs at least three working days before the communication date. NIHR believes that this procedure is in conflict with the right to organize, and restricts the political action of the associations.
18. Regarding Decree-Law No. 33 of 2002 Promulgating the Law on Trade Unions, as amended, the provisions of Article 11 explicitly states that the procedures for forming a union consist of filing its statute and the name of its founders with the labor affairs ministry, provided that such statute does not contradict the provisions of the laws and regulations in force in the Kingdom. Article 17 considers that the dissolution of trade union organizations and their council of directors in accordance with the procedures set forth in the statute of the trade unions are in line with the best practices related to the right to organize. However, Article 10 of the said Law limits the right of workers who are subject to civil service regulations to joining these unions without the ability to found them. This undermines the right of this category to form trade unions. There is need for granting private sector and civil service workers equal rights to form and join trade unions.

## **RECOMMENDATIONS:**

### **In light of the foregoing, NIHR recommends the following:**

1. The need for the legislative authority to expediently approve a draft law on civil organizations and institutions, taking into account the appropriate developments in human rights, and supporting this law with the guarantees for the exercise of the right to organize in line with international human rights instruments.
2. Making the necessary legislative amendments that grant the associations that are subject to the provisions of Decree-Law No. 21 of 1989 Promulgating the Law on Societies, Social and Cultural Clubs, Youth and Sports Private Bodies, and Private Institutions, as amended, the freedom of incorporation by means of notification.
3. Performing the necessary legislative amendments to the provisions of Law No. 26 of 2005 on Political Associations, so that it includes the requirement to notify the agent of the founders of the political association by registered letter of rejecting the application, together with the reasons for rejection, without considering the silence of the competent ministry or lack of notification as implicit rejection of this incorporation.
4. Incorporating a provision in Decree-Law No. 33 of 2002 Promulgating the Law on Trade Unions, as amended, that grants the workers governed by civil service regulations the right to form and join trade unions.
5. Canceling Resolution No. 31 of 2013 adding a new article, i.e. Article 3 bis, to the Resolution No. 4 of 2005 on the rules of political associations' communication with foreign political parties or associations.





## CHAPTER III

### ECONOMIC, SOCIAL AND CULTURAL RIGHTS

#### **PREFACE:**

The International Covenant on Economic, Social, and Cultural Rights issued pursuant to the United Nations General Assembly Resolution No. (2200A XXI) on December 16, 1966, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 10 of 2007, is the first binding international instrument that combines a number of rights related to economic, social and cultural fields. The jurisprudence of international human rights refers to these rights as the second generation rights that followed civil and political rights.

Economic, social and cultural rights include human rights and fundamental freedoms related to the right to work, the right to social security, the right to protect and provide assistance to the family, in addition to the right to health, right to education, as well as cultural rights.

Accordingly, this Chapter will address some of these economic, social and cultural rights which form the foundations of decent life and adequate standard of living for the Bahraini community, as well as the challenges and problems related to these rights. The most important rights are the right to work, in terms of prevention of forced labor, and optional and consensual acceptance of paid work, in addition to safe and healthy working conditions; the right to live according to decent standards of living that safeguard human dignity through the provision of adequate housing and adequate food and water; and the right to health through access to adequate and quality health services and use of health facilities and services on an equal footing and non-discrimination basis. This Chapter will also address the right to education in terms of making education compulsory and free in the primary stage, and readily accessible in secondary and university education stage, towards progressive realization of free and compulsory secondary and university education.

In view of the seriousness of the crime of trafficking in persons which haunts the world's conscience and constitutes a form of modern slavery and a flagrant violation of human rights and fundamental freedoms, this Chapter deals with this crime in terms of the ability of the existing national legislation to prevent and combat it.

## FIRST: RIGHT TO AN ADEQUATE STANDARD OF LIVING

1. The right to an adequate standard of living is required to achieve the human dignity of the individual. Therefore, everyone should be enabled to achieve that level through the provision of basic needs, consisting of the right to adequate housing, water, and food, and access to decent living requirements by improving the infrastructure of roads, bridges, sewage networks, and a clean environment. These components as a whole ensure optimal enjoyment of an adequate standard of living.
2. The Constitution of the Kingdom of Bahrain guarantees a number of rights, which together constitute the elements of the right to adequate standard of living. Article 9, paragraph “f”, provides as follows: **“The State shall endeavour to provide housing for citizens with limited income”**. Paragraph “g” provides that: **“The State shall make the necessary arrangements to ensure the exploitation of land suitable for productive farming...”**. Paragraph “h” states that: **“The State shall take the necessary measures for the protection of the environment and the conservation wildlife”**.
3. In terms of national legislation, Decree-Law No. 10 of 1976, as amended by Law No. 7 of 2009 on Housing, regulates all matters relating to housing services provided by the State. As to the right of individuals to have access to sufficient food and water, Decree-Law No. 18 of 1975, as amended by Decree-Law No. 11 of 1977, on Setting and Monitoring Prices, sets out the provisions related to controlling local markets, preventing monopoly, requiring traders to comply with and not manipulate price limits, identifying the goods supported by government, and determining violation penalties. Concerning the environment, Decree-Law No. 2 of 1995, as amended by Decree-Law No. 12 of 2002 on the Protection of Wildlife; Decree-Law No. 21 of 1996, as amended by Decree-Law No. 8 of 1997, on Environment; and Decree-Law No. 20 of 2002, as amended by Decree-Law No. 54 of 2012, on the Regulation of Fishing and the Exploitation and Protection of Marine Resources, form the legislative framework for environmental protection, marine resources, and wildlife in the Kingdom of Bahrain.
4. The right to an adequate standard of living is also provided for in the international human rights instruments, specifically the International Covenant on Economic, Social, and Cultural Rights, which was acceded to the Government of the Kingdom of Bahrain under Law No. 10 of 2007. Article 11 of the said Covenant provides that everyone have the right to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The Covenant further recognizes the right of everyone to be free from hunger, and have access to adequate food and improved methods of production, conservation and distribution of food in such a way as to achieve the most efficient development and utilization of natural resources.
5. The relevant international instruments confirm the right to adequate standard of living, in particular the right to adequate housing or shelter, and the need for the right to be adequate in terms of privacy, adequate space, and reasonable cost. As such, everyone should enjoy a degree of security in his house, which guarantees legal protection against forced eviction, harassment and other threats. Individuals benefiting from their homes should have continuous access to natural resources, clean drinking water, energy, sanitation, waste disposal, drainage, and emergency services.
6. The State has an obligation to provide opportunities for adequate housing for most vulnerable categories, such as women, the elderly, children, and people with disabilities, and must take the necessary steps to ensure the provision of housing

subsidies for those who cannot get affordable housing. In addition, the State should protect tenants from unreasonable increase in rent values.

7. Regarding the right to adequate food, the State should provide food in a quantity and quality that meet the nutritional needs of individuals. In addition, food should be free of harmful substances, and should be accessible in sustainable ways. Access to food has an economical aspect, namely, the individuals should have sufficient financial capacity that do not threaten meeting the basic needs for food. Therefore, it is required to provide social programs to ensure adequate food for individuals with limited income. On the other hand, everyone should have physical access to food, including infants, children, the elderly, people with disabilities, and people with chronic health or psychological problems.
8. Regarding the right to adequate water as one of the pillars of decent life and living, every person should be provided with adequate and continuous personal and domestic water. This water should be safe and free from everything that threatens health, and should be accessible and affordable by all categories. The costs of access to water should not deprive individuals of it.
9. In terms of exercising the right to adequate standard of living in real life, the Ministry of Housing statistics indicate that there is a significant rise in the number of tenders which were proposed and awarded by the Ministry in 2013, compared to the years (2011-2012). This is due to the financial support, whether from the public budget allocated to the Ministry, or through the Gulf Development Program, which caused a remarkable increase in the implementation of residential units. The number of residential units through the years (2012 - 2013) totaled 5431 units distributed across the various governorates of the Kingdom.
10. In a move aimed at reducing the consequences of delay in obtaining the residential services provided by the State, the Government introduced the housing allowance estimated at BHD 100 for each housing service applicant, whose application is five years old. The monthly family income should not exceed BHD 900. This allowance contributed to the improvement of the living conditions of the target groups.
11. In addition, the Government directed considering the humanitarian and urgent cases that require taking immediate decisions to reconsider the old cancelled residential applications. In compliance with these directives, the Ministry of Housing formed a committee to consider those cases, and develop appropriate solutions as required.
12. Despite the efforts made by the Government in the provision of adequate housing, there are still serious impediments that aggravate the housing crisis in the Kingdom, most notably, the steady increase in population, which lead to increased demand for the housing service, along with the waiting period that exceeds twenty years in certain cases, in addition to the high value of rents, which is incommensurate with the financial capacity of a huge segment of the population.
13. NIHR has contacted the Ministry of Housing for the purpose of identifying the efforts and obstacles that limit people's access to housing services, and the future steps to improve those services. However, the National Institution received no response about these inquires, despite sending repeated correspondences.
14. Based on NIHR belief that the right to adequate housing is one of the most important economic, social, and cultural rights, it issued a statement on December 17, 2013 in response to His Majesty the King speech on the provision of adequate housing. The King directed providing 40,000 residential units on the occasion of the Kingdom

- celebration of the national holidays. This provision will help promote an adequate standard of living.
15. In terms of NIHR mandate to receive complaints related to the right to housing, the National Institution received six complaints, three of which were about the long waiting period to obtain the housing service, which exceeds twenty years. Two complaints were received about not enjoying the right to adequate housing, while one complaint was received about the withdrawal of the residential unit by the competent ministry.
  16. The National Institution considered and expressed its legal opinion on these complaints. It addressed the Ministry of Housing and Electricity and Water Authority. The violations in three complaints were removed through NIHR response. In one complaint, there was no evidence to substantiate the alleged violation, while in another complaint, it appeared that there is no violated right as the complainant abused his right. The Ministry of Housing did not respond concerning the last complaint.
  17. In terms of the Government efforts related to the right to adequate food, NIHR follows with interest the Ministry of Industry and Trade efforts in monitoring the local market and the prices of vital consumer goods and food products, particularly those subsidized by the government (flour, domestic poultry and red meat) according to the specified prices.
  18. The endeavors of the Ministry of Industry and Trade in preventing monopolistic practices and commercial fraud in the vital sectors that are associated with people life, and not imposing compulsory prices of food commodities subsidized by the Government, is a commendable approach in order to effectuate the free trade principles on which the economy is based.
  19. In spite of the Government's efforts to ensure effective enjoyment of the right to adequate food, according to the figures stated in the Ministry of Industry and Trade response, which were reviewed by NIHR, there is increase in the prices of some food commodities, which called the Ministry to intervene and attempt to create balance. The cooperation between the legislative authority and the Government reorganized subsidy disbursement (cost of living allowance) to accommodate a larger segment of beneficiaries. In addition, the Government granted cost of living allowance to some civil service officers, under the Prime Minister's Decree No. 55 of 2011. These steps as a whole help improve the standard of living of the citizens.
  20. The right to adequate standard of living is not limited to the provision of adequate housing and adequate food and water. It rather extends to infrastructure, which contributes to enhancing the adequate standard of living. Accordingly, the Government, represented by the Ministry of Public Works, reported that it conducted a field survey of the paved roads and prepared a program for renovation and refurbishment of the infrastructure of the roads, whose useful life has ended. This project was prepared in coordination with the municipal councils and within the limits of the annual budget allocated to this project, amounting to BHD 10 Million.
  21. As regards the procedures taken for solving the problem of storm water, the Ministry of Public Works, in responding to NIHR inquiries in this respect, stated that it has examined the reasons for storm water and took the necessary action to connect it to the sewage network, create a local drainage network underground, or hold it in ground tanks until it is sucked.

22. As regards securing the streets and placing traffic barriers, the Ministry of Public Works implemented the National Plan for Traffic Safety, which aims to improve traffic safety on the roads and reduce traffic accidents and mortality rate by 30% in the next ten years. The Ministry reported that a guide was also prepared to provide traffic safety requirements for each road project; so that each road is fully equipped before it is opened for traffic.
23. However, despite these efforts, NIHR, during rainfall period, observed that large amounts of rainwater gathered in residential neighborhoods, the roads leading to them, as well as the in the main streets. Despite that rainwater is seasonal and falls for short periods during the year, measures should be taken to prevent the serious damage caused by the accumulation of water. This signifies a defect in rainwater discharge network, which has a negative impact on the right to adequate standard of living.
24. NIHR observed, through various media outlets and social networks, several traffic accidents that occur frequently from time to time, which claim the lives of road commuters, including drivers and pedestrians. Examples are the accidents that result from the vehicle that fall off the bridges across the steel fences protecting the bridges or as a result of the lack of elevated bridges for pedestrians. This calls for reconsideration of road and street designs so as to satisfy international security and safety conditions.
25. On the environmental level, the Decree-Law No. 47 of 2012 Establishing and Organizing the Supreme Environment Council was issued. This Council is responsible for environment and wildlife affairs and the preparation of future strategies for the environment and sustainable development. It comprises a group of ministers, agents, parties concerned with the environment, and a number of representatives of the relevant civil society organizations.
26. The Supreme Environment Council has the power to grant licenses for projects and activities related to the environment. The Council licensed a total of two thousand and eighty-five development projects and service activities, after verifying that they meet the environmental conditions. On the other hand, thirty-four applications were rejected for non-compliance with these requirements. The Council conducts studies before granting the license to evaluate the environmental impact of the project so as to determine the potential impacts resulting from the activity of such projects and their health, economic and social effects, and make the right decision either to grant or reject the license for the project.
27. However, despite these efforts to preserve the environment, which help provide an adequate standard of living, NIHR has concerns regarding certain issues, including the increased emissions from factories near Ma'ameer area, and the impact of such omissions on air quality, odor emissions and sewage waste in Tubli Bay Area, accumulation of muddy water in Muharraq Governorate and Tubli Bay, the increasing numbers of mosquitoes, rodents and insects in Al-Buhair Valley, and the unmeasured land filling and sea dredging operations. These issues have a negative impact on the environment, marine resources and fisheries, and cause damages to the various types of environments and the marine resources along the northern and eastern coasts of the Kingdom in particular.

#### **RECOMMENDATIONS:**

**In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to expedite the adoption of the draft law on real estate rent in order to regulate the relationship between lessors and lessees, provide

the necessary protection for tenants, ensure reasonable increase of the rent value, and guarantee legal protection against forced eviction, harassment and other threats.

2. Urging the legislative authority to expedite the adoption of the draft law on the environment in order to be an integrated legislation that would regulate various environmental aspects, and incorporate deterrent penalties for violation cases.
3. Urging the Government to develop an integrated national strategy for sustainable water, which includes a number of fundamental objectives, such as integrated water institutional framework; coordination among key resources; ensuring the application of key performance indicators; provision of water for future generations; protecting the current groundwater sources; developing the role of civil society organizations and the role of individuals to participate in this strategy; and promoting effective cooperation between GCC countries for the purpose of protecting these water resources by inducting and creating a unified Gulf network for water connection.
4. Urging the Government to set a timetable to address all applications for housing services, with particular attention to the old applications, by making the best use of the available financial resources.
5. Urging the Government to pay greater attention to evaluating the designs of roads, streets and bridges in order to comply with international safety and security conditions, so as to ensure the safety of commuters against the dangers resulting from their use.
6. Considering and allowing the Special Rapporteur on adequate housing, as a component of the right to an adequate standard of living and the right to non-discrimination in this context; the independent expert on human rights obligations related to safe, clean, healthy and sustainable environment; the Special Rapporteur on extreme poverty; and the Special Rapporteur on the human right to safe drinking water and sanitation services of the Human Rights Council to visit the Kingdom.

## SECOND: RIGHT TO WORK

1. The right to work is one of the most important human rights principles. It needs basic components to enable individuals to exercise it. A person cannot have an adequate standard of living without the basic elements, most notably the right to work. This right is necessary for maintaining human dignity and society welfare, according to economic principles and rules of social justice between the parties to the work relationship.
2. The Constitution of the Kingdom of Bahrain has ensured the right to work under Article 13 which stipulates that: **“a. Work is the duty of every citizen, is required by personal dignity and is dictated by the public good. Every citizen has the right to work and to choose the type of work within the bounds of public order and decency. b. The State ensures the provision of job opportunities for its citizens and the fairness of work conditions. c. There is no forced labour except in the cases specified by law for national exigency and for a fair consideration, or implementing court judgment. d. The law regulates the relationship between employees and employers on economics basis while observing social justice”**.
3. In terms of national legislation, the Labor Law for the Private Sector No. 36 of 2012 regulates the relationship between workers and employers, and states the rights and obligations of each party towards the other, so as to ensure the worker’s rights and privileges and taking the appropriate legal measures.

4. Within the framework of international instruments, the right to work was addressed by Articles 6, 7, and 8 of the International Covenant on Economic, Social, and Cultural Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 10 of 2007. These articles indicate that the States Parties to the present Covenant recognize the individual right to work, which he freely chooses or accepts. Everyone has the right to the enjoyment of fair wages and equal remuneration for work of equal value without distinction of any kind, granting women conditions of work not inferior to those enjoyed by men, with equal pay for equal work. Workers should also be granted the right to rest, leisure reasonable limitation of working hours, periodic holidays with pay, as well as remuneration for public holidays, and safe and healthy working conditions”
5. Perhaps the Government of the Kingdom of Bahrain accession to the ILO under Decree No. 9 of 1977 had prompted it to join a number of conventions related to the right to work totaling ten conventions. The Government of the Kingdom of Bahrain, under Decree No. 5 of 1981, acceded to ILO Conventions No. 14 of 1921 on the Application of Weekly Rest; No. 29 of 1930 Concerning Forced or Compulsory Labor; and No. 81 of 1947 on Labor Inspection in Industry and Commerce; and No. 89 of 1948 concerning Night Work of Women Employed in Industry. This was followed by ratification of or accession to a series of conventions, such as the Convention No. 105 of 1957 concerning Abolition of Forced Labor, under Decree No. 7 of 1998, followed by accession to the Convention No. 159 of 1983 on Private Vocational Rehabilitation and Employment (Disabled Persons) under Decree-Law No. 17 of 1999. In addition, the Government ratified Convention No. 111 of 1985 concerning Discrimination in Employment and Occupation, under Decree No. 11 of 2000. Under Decree-Law No. 12 of 2001, the Government acceded to the Convention No. 182 of 1999 concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labor, and Convention No. 155 of 1981 on Occupational Safety and Health and the Working Environment under Law No. 25 of 2009. The last convention which was acceded to by the Government of the Kingdom of Bahrain was Convention No. 138 of 1973 on the Minimum Age for Employment, under Law No. 1 of 2012. The ratification of or accession of the Government of the Kingdom of Bahrain to the aforementioned ILO conventions constitute a commitment with the international standards related to the right to work.
6. The right to decent work has two dimensions: individual and collective. The individual dimension is the individual’s right to decide freely to accept or choose any work of its choice, without being forced in any way to exercise or engage in any other work, in accordance with fair and satisfactory conditions of work, in addition to the enjoyment of working conditions that ensure his safety. The collective dimension of the right to work is the right of workers to form and join trade unions voluntarily, as well as the right of those trade unions to function freely and independently fully as regulated by law.
7. The principle of equality and non-discrimination applies to the right to work similar to the other rights and freedoms. International human rights conventions and instruments prohibit any discrimination in access to or maintaining employment because of race, color, sex, language, religion, political opinion, national or social origin, property, parentage, physical or mental disability, health condition, or civil, political, social or other status, which is intended to undermine or prevent the individual’s right to work on the basis of equality and non-discrimination. ILO Convention No. 111 of 1985 on Discrimination in respect of Employment and Occupation, which has been ratified by the Government of the Kingdom of Bahrain under Decree No. 11 of 2000, indicates the same meaning. Article 2 of the Convention provides that the members undertake to **“declare and pursue a national policy**

**designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof”.**

8. The State has an obligation to respect the right to work through non-interference in a way which might prejudice the essence of this right. Therefore, any discrimination based on race, color, sex, language or otherwise is a violation of the State’s obligation to respect this right. It is the State’s obligation to provide the necessary protection of this right by taking all measures that prevent the intervention of other parties that affect the individual’s enjoyment of the right to work, such as protection from arbitrary dismissal, or denial of benefits and labor rights. The State’s commitment to the principle of the right to work is materialized through the Government’s implementation of comprehensive national policies to ensure the enjoyment of all individuals of the right to work.
9. As regards the efforts of the Government of the Kingdom of Bahrain towards the right to work, NIHR reviewed the Ministry of Labor report published on December 15, 2013, which shows that unemployment rate is within natural and safe limits, as it stands on the average of 4.3%. Statistics indicate that the Ministry employed 19,764 job seekers, while the total number of job seekers registered with the Ministry is 8,051 individuals in various disciplines and qualifications.
10. The Ministry of Labor also indicated that the Improvement of National Labor Force Wages Project, since its implementation in 2012, was able to improve the wages of 12,683 Bahraini workers. The monthly wages of university graduates were increased to a minimum of BHD 400 dinars, while the wages of high school graduates or holders of lower certificates totaling 10,480 persons were increased to a minimum of BHD 250 a month.
11. Since the implementation of the Insurance against Unemployment Regulation, issued by Decree-Law No. 78 of 2006, which became a successful social solidarity regulation, it was able to fulfill part of the financial needs of job seekers or the unemployed through the monthly payment of BHD 250 to university graduates, and BHD 120 to the holders of lower degrees, and for only six months. More than fifty thousand job seekers and unemployed persons have benefitted from this Regulation.
12. As part of the Government’s pursuit to control people’s enjoyment of the right to work and its consequent effects, the Ministry of Labor conducted approximately 14,121 inspection visits, ranging between 5,568 periodic inspection visits, and 5022 visits to ensure business owners’ commitment to the decision prohibiting work at noon time in the construction sector during July and August 2013. The Ministry has also conducted inspection visits to the accommodations of migrant workers in order to ensure the application of occupational safety and health instructions. The Ministry conducted 74 visits to accommodations used by 11,060 workers.
13. Within the framework of joint efforts and continuous coordination between the Ministry of Interior, represented by Naturalization, Passports and Residence Affairs, and the Labor Market Regulatory Authority, aimed at addressing the phenomenon of bulk and irregular labor, 132 inspection visits were made, during which 756 male and female violators were identified.
14. Whereas occupational safety is one of the components of the right to work, the provisions of the Labor Law for the Private Sector, and the implementing resolutions thereof, have addressed every issue that would ensure occupational safety. These provisions include Resolution No. 3 of 2013 on the Prohibition of Work at Noon Time;

Resolution No. 6 of 2013 on the Protection of Workers from Fire Hazards in Facilities and Work Sites; Resolution No. 8 of 2013 on the Regulation of Occupational Safety within Facilities; Resolution No. 12 of 2013 on Reporting Occupational Injuries and Diseases; Resolution No. 31 of 2013 for the Prevention of Electricity Dangers; and ILO Convention No. 155 of 1981 on Occupational Safety and Health and the Working Environment, which was acceded to by the Government under Law No. 25 of 2009. These regulations constitute an integrated system that ensures occupational safety against work hazards and injuries.

15. In terms of the Government's implementation of the recommendations of BICI report, in particular Recommendation No. 1723/A, which states that the Government should: **"take the necessary measures towards ensuring that none of the currently dismissed employees should include an employee who has been dismissed for exercising his right to freedom of expression and the right to express an opinion, assembly and association"**, and Recommendation No. 1723/b, which states that: **"The Government should use all its powers to ensure that private companies and other employers who have dismissed employees for not attending to work at the time of demonstrations should not receive a less favorable treatment than the treatment shown by the Government towards civil service employees"**, the Ministry of Labor stated, in response to NIHR inquiry on how it has dealt with these recommendations, that the completion rate of the dismissed employees case, during ILO mission visit to the Kingdom of Bahrain in early October 2012, amounted to 92%. The Ministry noted that after the settlement of many pending and disputed cases, the completion rate increased to 98%.
16. In the same context, the Ministry explained that with respect to large companies, in which the number of dismissal cases totaled 1765, the completion rate of returning the dismissed employees is 100% in all companies, except two companies. In addition, there are 14 individual cases, which the management of the companies prefers to settle through the court for administrative and legal reasons. Concerning the 45 cases in a major company, which resulted from lack of agreement on the job description offered to them, some of the employees have recently returned to work. With respect to the remaining number, a neutral advisory body has been appointed recently to consider and decide on the difference between the positions offered and the previous positions held by the dismissed employees. The Company agreed to be bound by the recommendation of the advisory body. The Ministry hopes that this step will help end this issue".
17. Regarding the dismissed employees from medium- and small-sized companies, the Ministry of Labor, as pointed out in its aforementioned response, stated that in cooperation with the parties concerned, 500 cases out of 640 cases were resolved by the returning the employees to their former works. As for the remaining 140 cases, nine cases of workers on temporary contracts who do not wish to return to work and demand financial compensation only, were settled. There are 11 cases of workers who have already obtained commercial registers and practice business under the name of "business owners", and 26 cases were dismissed since they have no connection with the events that took place, and therefore their cases are considered according to the procedures in place. As for the remaining 94 cases, the Ministry of Labor is seeking to employ them in other facilities, at their option and based on their consent.
18. The provisions of the Labor Law for the Private Sector in force, issued under Law No. 36 of 2012, exclude domestic workers and similar categories from this law. This has created a legislature deficiency in regulating their affairs, recruitment offices, and the rights and obligations of domestic workers and homeowners, considering that domestic workers make up a large segment of expats in the Kingdom. The noticeable

increase of escape cases, which disrupted the relationship between domestic workers and homeowners, confirms the importance of enacting a legislation to regulate the affairs of this category. The average number of escape reports registered with the Ministry of Labor during the years (2011, 2012, and 2013) is approximately 1,500 workers annually.

19. The Government exerted efforts in controlling expatriate workers' accommodations. These efforts consist of setting up field work teams at the level of the governorates of the Kingdom, to identify the buildings and houses that pose risks to residents and their visitors. These teams are headed by the governor of the province and include members from the Ministry of Municipal Affairs and Urban Planning, Ministry of Labor, Ministry of Public Works, Ministry of Health, Electricity and Water Authority, and the General Directorate of Civil Defense. However, in spite of these efforts, NIHR observed repeated cases of fire eruption in expatriate workers' accommodations due to lack of the most basic standards of decent living and safety, which resulted in some death cases. The Ministry of Labor indicated, in its report published on December 15, 2013, that it inspected the accommodations of expatriate workers and asked the companies to make these accommodations suitable for living. However, there are still a number of companies which have not complied with the minimum requirements. This requires taking legal action against these companies by making violation records and including them in re-inspection programs. Some cases were referred to the Public Prosecution.
  
20. NIHR appreciates the social security provided by the State in the event of unemployment, which is ratified by the Constitution in Article No. 5, paragraph c, which stipulates that: **"The State guarantees the requisite social security for its citizens in ... unemployment..."**, and Decree-Law No. 78 of 2006 on Insurance against Unemployment. While it is true that these measures promote solidarity and social justice, NIHR believes that the provisions of the Law provide that the insurance amount is disbursed for a temporary period, which means that the Law has created a temporary solution for job seekers or unemployed workers. The Government should make greater efforts in order to create rewarding job opportunities to address unemployment. In addition, there is need to increase the planned duration of disbursement provided for in the Law, in order to meet the requirements for adequate standard of living and decent living.
  
21. Within the framework of NIHR mandate to receive complaints related to the right to work in the private sector, NIHR received seven complaints. Three complaints were related to dismissal from work, two of which resulted from the unrest events. Three complaints were related to discrimination in the profession, two of which were due to union activity, and the other one was due to gender discrimination. One complaint was related to harassment as a result of medial retirement.
  
22. Upon receiving such complaints, NIHR considered and expressed its legal opinion on them. In relation to complaints of dismissal from work, NIHR observed that one of these complaints included 13 workers who have been dismissed in the sixties and the eighties. This is difficult to be proved and verified, not to mention that there is no legal ground on which the complaint was based. Following NIHR receipt of a complaint about the dismissal of 53 workers because of security events, it addressed and directly contacted the competent authority. The authority reported that a number of the workers were returned to work and it is in the process of returning the remaining dismissed workers, or regularizing their status. Subsequently, NIHR contacted the complainant to find about the latest developments relating to the return of the dismissed workers and the remaining numbers of the dismissed workers. However, the National Institution was not provided with a response to date. As

for the third complaint related to dismissal from work in which 264 workers were dismissed as a result of security events, NIHR contacted the competent authorities, by means of correspondences and direct meetings. As a result of these efforts, the workers returned to work, while some others accepted material settlement with the company in question.

23. Regarding the complaints received concerning discrimination at the workplace, as regards the two complaints related to discrimination because of trade union activity, NIHR contacted the company concerned in connection with one complaint. Settlement was reached between the parties and the worker returned to his work. As for the other complaint submitted by eight workers, NIHR addressed the concerned body, which reported invalidity of the claim contained in the complaint. Accordingly, NIHR contacted the complainant to identify the latest developments on the issue of the complaint and the actions taken in this regard. However, the National Institution received no response to date. As for the last complaint related to discrimination at the workplace on gender basis, NIHR contacted the concerned party, which reported conducting investigation on the claim. It stated that it will provide NIHR with the findings of its investigations.
24. Regarding the complaint on harassment at work by mandatory medical retirement, which was submitted by seven workers, NIHR has contacted the concerned authority. The Government took corrective action and settled the matter.
25. NIHR has received a number of complaints related to the right to work in the public sector totaling eleven complaints. Four complaints were related to dismissal from work, three complaints were related to discrimination at work, one complaint was about the failure to pay compensation for unemployment during the period of suspension from work, one complaint was related to non-empowerment to exercise the right to work, one complaint was about not receiving pay for work, while the last complaint was about job relocation.
26. Upon receiving these complaints, NIHR considered and expressed its legal opinion thereon. With regard to the complaints about dismissal from work, totaling four complaints, in the first complaint related to the dismissed workers in the medical field, totaling nine doctors and nurses, NIHR addressed the Ministry of Health, and then addressed and met the Deputy Prime Minister. NIHR efforts culminated in restoring some of these workers to their jobs, while others were given a license to practice the profession in private clinics. NIHR still exerts efforts to restore the remaining employees to their positions. Concerning the second complaint, NIHR contacted the Ministry of Health to identify its essence. However, the Ministry had not replied to date despite repeated correspondences. With regard to the remaining two complaints, it was found out that NIHR does not have the jurisdiction to consider these complaints, since one complaint is pending before the courts, while the dismissal decision in the other complaint was rendered by the court.
27. Regarding the three complaints about employment discrimination, NIHR concluded that there is no violated right in one complaint, since the action taken does not affect any of the employment rights acquired. Concerning the second complaint, NIHR lacks jurisdiction to consider it, since it is still pending before an administrative investigation body. As regards the last complaint, the Ministry of Education was addressed to identify the complaint. However, NIHR received no response to date, despite repeated correspondences.
28. Regarding the complaint related to non-payment of compensation against unemployment during the period of suspension, NIHR found out that the violation

was corrected by returning the employee to work. With respect to the complaint related to non-empowerment to exercise the right to work, NIHR found that there is no right violated, since the action taken by the competent Ministry is consistent with the law. Concerning the complaint of non-receipt of pay for work, NIHR has contacted the Information Affairs Authority, which reported that the complainant did not submit the documents related to the claim. As a result, the complainant was directed to resort to the judicial authority since it is the best way to prove the right. As regards the last complaint related to job relocation, NIHR found that it does not have the jurisdiction to consider the complaint, since the case is still pending before an administrative investigation authority at the Ministry of Education

### RECOMMENDATIONS:

**In light of the foregoing, NIHR recommends the following:**

1. Urging the Government to complete the positive steps taken to settle the cases of the dismissed workers in order to finally close this dossier.
2. Urging the legislative authority to make the necessary adjustments to Decree-Law No. 78 of 2006, so that it guarantees the right to disbursement of the subsidy amount for job seekers or compensation for the unemployed throughout the period of job seeking or unemployment, and stating the legal controls that prevent the abuse of this right.
3. Urging the Government to join the ILO Convention No. 87 of 1988 concerning Freedom of Association and Protection of the Right to Organize, and ILO Convention No. 98 of 1988 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively.
4. Urging the Government to make further efforts to create employment opportunities to accommodate the largest possible number of job seekers.
5. Urging the Government to make further efforts to improve the level of wages and career incentives in the public and private sectors to be commensurate with a decent standard of living.
6. Urging the Government to take strict legal action against business owners and companies that did not comply with the minimum protection requirements of expatriates' accommodations.
7. Urging the legislative authority to enact a law dealing with domestic workers affairs and recruitment offices, including a statement of the rights and obligations of the parties involved.

### THIRD: COMBATING TRAFFICKING IN PERSONS <sup>7</sup>

1. The crime of trafficking in persons haunts the world's conscience, as a form of modern slavery. It is even known in the international circles as the "bondage of modern times". It has been firmly addressed by the international human rights law because of its importance and seriousness. It is distinguished from the other crimes, since it entails deception or coercion to set the victims in a form of organized crime. As such, it constitutes a flagrant violation of human rights and fundamental freedoms.
2. Despite the fact that the Constitution of the Kingdom of Bahrain did not explicitly refer to the prohibition of slavery and trafficking in persons in all their forms, Article 13, paragraph c, of the Constitution provides that "**There is no forced labour except**

**in the cases specified by law for national exigency and for affair consideration, or implementing court judgment”.**

3. In the context of national legislation, Law No. 1 of 2008 on Combating Human Trafficking sets out the legal elements of trafficking in persons crimes, the penalties for committing this crime, the procedures to be observed in the stage of investigation or trial as legal guarantees for the victim of this crime, and a statement of the national mechanisms adopted to prevent, combat and protect the victims of trafficking in persons. It should be noted that the above-mentioned Law is not the first law to address the crime of trafficking in persons in the Kingdom of Bahrain. In fact, it was preceded by other legislation represented in the provisions of the Penal Code promulgated by Decree-Law No. 15 of 1976, as amended. Articles 198 and 302 bis of the Penal Code criminalize some forms of this crime, in case of using workers to perform a certain work for the State, a government or public agency, or any other entity, or detaining their wages, in whole or in part, without justification, whether it is by a public officer, an officer assigned with public service, or any other individual.
4. The provisions of Law No. 19 of 2006 on the Regulation of the Labor Market, as amended, address the crime of trafficking in persons. The Law organizes the relationship between foreign workers and the employers to ensure the recognition of the rights of workers and not exploiting them. Law No. 5 of 2007 on Combating Begging and Homelessness define the two terms, their conditions, and the actions taken against them. In certain circumstances, begging is considered a form of trafficking in persons. Law No. 37 of 2012 Promulgating the Law of the Child include provisions to protect the children from falling victims to this crime as a result any form of exploitation.
5. In terms of international human rights instruments, the Slavery Convention concluded in September 1926, amended by the Protocol of 1953, the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which were acceded to by the Government of the Kingdom of Bahrain under Decree No. 7 of 1999 , in addition to the International Covenant on Civil and Political Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006, prohibit all forms of slavery and trafficking in persons. Other conventions include the United Nations Convention to Combat Transnational Organized Crime, which was adopted by a resolution of the United Nations General Assembly No. 25 in the fifty-fifth session of November 15, 2000, and its two Protocols, namely: the Protocol against the Smuggling of Migrants by Land and Sea, and the Protocol to Prevent, Suppress and Punish Trafficking in persons especially Women and Children, which were acceded to by the Government of the Kingdom of Bahrain under Law No. 4 of 2004.
6. The international human rights instruments as a whole define trafficking in persons as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
7. Exploitation for trafficking in persons includes the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or

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7. By reference to the international human rights instruments, it is noted that the term “trafficking in Persons” is used. The same term has been adopted by the Special Rapporteur on trafficking in Persons, especially women and children. However, Law No. 1 of 2008 on Combating Trafficking in Persons uses the term “Human trafficking”. Both terms has the same concept.

practices similar to slavery, servitude or the removal of organs. In any event, the crime elements are deemed to exist even with the victim's consent.

8. Within the Government of the Kingdom of Bahrain efforts to combat and prevent the crime of trafficking in persons, Article 8 of Law No. 1 of 2008 on Combating Human Trafficking provides for setting up the National Committee to Combat Trafficking in Persons. This Committee is concerned with the development of programs about preventing and combating trafficking in persons, protecting victims of this crime; encouraging and supporting preparing research, information, mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons; coordinating with various State agencies regarding the information about this crime; participating with the competent authorities in the preparation of the reports that will be submitted to the relevant international bodies on the measures that have been taken in this regard; and following up the competent government agencies' implementation of the recommendations and guidance set out in the relevant conventions and protocols to which the Kingdom is a party.
9. Moreover, Article 7 of the aforementioned Law provides for the establishment of a committee called "The Committee to assess the status of foreign victims of trafficking in persons". This Committee is granted the competence to remove any obstacles to the employment of the foreign victim if he is need for work, as well as coordinating with the Ministry of Interior to return the victim to his native country, or to his place of residence in any other country when so requested. The Committee may recommend, if necessary, that the victim remains in the Kingdom and correcting his legal conditions to enable him to work. The Committee may also look at all reports related to the victim, and may hear the statement of the victim and that of his legal representative.
10. In the context of providing the necessary protection for victims of trafficking in persons, through the provision of shelters for victims of this crime, "Dar Al-Aman" was established in 2006 to accommodate one hundred and twenty six cases of women with their children who were exposed to violence and abuse, including victims of trafficking in persons. The necessary care and rehabilitation services are provided to rebuild their personalities and to ensure their proper integration and adjustment. In addition, Dar Al-Karama Social Care for accommodating beggars and vagrants was established in 2007. Child Protection Center was established in 2007, which is concerned with protection of child victims of trafficking in persons, as well as with cases of physical, psychological, and sexual abuse and severe neglect.
11. In order to complement the efforts in institutional building, a special division at the Ministry of Interior concerned with fighting trafficking in persons was established. This unit reports to the General Directorate of Investigations and Criminal Evidence, and plays an active role in the search, investigation and arrest of the perpetrators of this crime, bringing them to investigation, and opening a hot line to receive communications and complaints related to the crime of trafficking in persons. In addition, it has a role in raising the community awareness about this crime through various media outlets.
12. With regard to the provisions of Law No. 1 of 2008 on Combating Trafficking in Persons, NIHR believes that the broad lines of this Law is in line with the relevant international instruments, through the criminalization of all forms of trafficking in persons. It is not limited to disguised slavery, but extends to sexual exploitation, child labor, and trafficking in persons, with severe punishment imposed in the cases that require aggravated punishment. Further, it expands the indictment to include legal

persons, imposes imprisonment and penalty, and considers the trafficked person as a “victim” who does not require punishment.

13. Given the victim’s right to rehabilitation, the Law pays attention to the victims by stating that they should be placed in medical or psychological rehabilitation centers, nursing homes, or shelters with the provision of accommodation. It provides for the victim’s right to bring his case before the courts, and allows the victim of the crime of trafficking in person to stay in the Kingdom - if foreign - provided that his legal conditions are adjusted.
14. In the field of protection of the victims of the crime of trafficking in persons, the Law does not indicate the need to provide protection and ensure complete confidentiality for the victims of the crimes of trafficking in persons, whether at the stage of investigation or trial. The Law also considers the crime of trafficking in persons a felony punishable by imprisonment, but it does not refer to the attempted crime of trafficking, the punishment of the accomplice in the crime, and the person knowingly benefiting from services or benefits through the victim of trafficking in persons. It further does not allude to the possibility of exempting the offender from punishment in the case of reporting the crime.
15. NIHR notes that the Committee established under Article No. 8 of the Law is a national committee entrusted with combating the crime of trafficking in persons. It is represented by the official bodies of government, along with civil society organizations. Therefore, it is obliged, as a national committee, to develop a national strategy to combat trafficking in persons. Accordingly, NIHR considered the function of this Committee. It has prepared a draft and sent it to the Minister of Foreign Affairs, being the concerned minister, to be forwarded to the said Committee for consideration and taking the necessary action. NIHR noted that this Committee does not carry out a significant activity that lives up to the powers assigned to it under the Law. Furthermore, since its formation, this Committee has not published its reports to the public on a regular basis in order to inform public opinion on the efforts to combat and prevent the crime of trafficking in persons.
16. NIHR contacted the Ministry of Foreign Affairs to obtain information about the role of the National Committee, the decisions issued by the Committee, the number of cases and defendants, the judgments made against those who were accused in cases relating to trafficking in persons, the mechanisms adopted by the State to protect the victims and their families, the actions taken to rehabilitate the victims, the compensation offered to them, and the actions taken on the domestic workers and the assistance provided to them. However, the Institution has not received any response to date.
17. Within the framework of the mandate of NIHR to receive complaints related to trafficking in persons, it has received one complaint related to the sexual exploitation of the complainants. The National Institution addressed the National Committee to Combat Trafficking in persons, which reported that the complainants have left the Kingdom and that it could not take legal action in this complaint. It also received a request for intervention and assistance by two foreign girls who claimed that they are victims of the crime of trafficking in persons. They were directed to the Anti-Trafficking in Persons Division of the Ministry of Interior. Upon follow-up by NIHR, it found that the two girls were placed at Dar Al-Aman of the Ministry of Social Development, and that legal actions were taken against the defendant party.

## RECOMMENDATIONS:

### In light of the foregoing, NIHR recommends the following:

1. Urging the legislative authority to make amendments to Law No. 1 of 2008 on Combating Trafficking in Persons to ensure its comprehensiveness and consistency with the relevant international instruments.
2. Urging the legislative authority to conduct a comprehensive review of national legislation to ensure that it contain all relevant issues related to the crime of trafficking in persons, from prevention, treatment, to punishment of the perpetrators.
3. Urging the National Committee to Combat Trafficking in Persons to expedite establishing a comprehensive national strategy to combat and prevent the crime of trafficking in persons, to include in particular the necessary measures to prevent the crime, protect victims, and punish the perpetrators.
4. Urging the Government to take the necessary measures to ensure the representation of the NIHR in the National Committee to Combat Trafficking in Persons, in view of the National Institution role in the promotion and protection of human rights.
5. Urging the Government to create suitable centers to accommodate all victims of trafficking in persons, including victims of forced labor and male victims of trafficking in persons, which correspond to the magnitude of this crime, and providing these centers with experienced staff in health, psychological, social, and legal fields to provide all means of support to the victims.
6. Urging the Government to activate the provisions of the Law to Combat Trafficking in Persons, prosecute the perpetrators of these crimes, and conduct training programs to raise the efficiency of some of the competent authorities, especially judges, public prosecutors, public security officers, the Ministry of Labor inspectors, and workers in the recruitment offices.
7. Considering and allowing the Special Rapporteur on trafficking in persons, especially women and children, of the Human Rights Council, to visit the Kingdom.

## FOURTH: RIGHT TO HEALTH

1. The right to health is one of the most fundamental human rights. This right is not limited to providing people with access to health care and the absence of diseases or incapacity, but it rather extends to the physical, mental, and social safety of the individual. The elements of basic health include the right to adequate food, adequate housing, clean water, working in safe and healthy conditions and a healthy environment, which leads in total to the highest attainable standard of health.
2. The Constitution of the Kingdom of Bahrain has guaranteed the right to health in Article 8, Paragraph “a”, which provides as follows: **“Every citizen is entitled to health care. The State cares for public health and the state ensures the means of prevention and treatment by establishing a variety of hospitals and healthcare institutions”**. Paragraph “b” of the same Article provides that: **“Individuals and bodies may establish private hospitals, clinics or treatment centers under the supervision of the State and in accordance with the law”**.
3. Within the framework of relevant national legislation, the Bahraini legislator paid attention to the right to health through the enactment of several regulations, most notably Decree- Law No. 4 of 1973, as amended, on Controlling the Use and Circulation of Narcotic Substances and Preparations, followed by Law No. 3 of

1975, as amended, concerning Public Health, which indicates health violations, the mechanism of dealing with such violations, health requirements, how to monitor public sources of water, control of health facilities, hotels, restaurants and public shops, and the penalties prescribed for violations. Decree-Law No. 14 of 1977 on Health Precautions for the Prevention of Infectious Diseases was enacted, followed by Decree-Law No. 7 of 1989 on Practicing Medicine and Dentistry, and Decree-Law No. 16 of 1989 on Human Organs Transplants. With regard to the organization of pharmacy profession and pharmaceutical centers, Decree-Law 18 of 1997 was enacted. The legislation regarding the right to health also includes Law No. 8 of 2009 on Controlling Smoking and all Forms of Tobacco.

4. As regards international human rights instruments, the International Covenant on Economic, Social and Cultural Rights, which was acceded to by the Kingdom of Bahrain under Law No. 10 of 2007, acknowledges in Article 12 the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. It also includes the steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right, including the reduction of the stillbirth-rate and of infant mortality; the improvement of all aspects of environmental and industrial hygiene; the prevention, treatment and control of all diseases; and the provision of medical service for patients.
5. The right to health is closely related to the realization of other human rights, including the right to food, housing, work, education, human dignity, life, non-discrimination, and equality, the prohibition of torture and privacy, and the right to organize. These rights and freedoms are inseparable from the right to health.
6. In addition, the patient has the right to adequate health care on the basis of his need without any discrimination in receiving such care. In this regard, the patient should recognize the identity of the physician, nurses, and his care providers. The patient should be adequately informed about the diagnosis of his illness and the plan treatment, using clear and understandable terminology and vocabulary. The patient's inquiries should be answered, and interpretation services should be provided, when needed. In all cases, the patient's privacy and the confidentiality of his information and medical statements should be maintained so as to be reviewed only by those directly concerned with his treatment.
7. The concept of the right to health is not limited to the individual's right to enjoy good health, but extends to other freedoms and rights. Examples of freedoms are: the right to control one's health and body, including the freedom to procreate, and to be safe from any interference such as torture, and medical treatment or medical experiments without consent. Rights include the right to take advantage of a health protection system, which provides for equality of opportunity for everyone to enjoy the highest attainable standard of health.
8. The State has an obligation to provide adequate public health and health care facilities and any associated service. This requires the provision of the fundamental elements of health, such as safe drinking water, hospitals, clinics, trained medical staff and professionals, and the essential drugs needed by the individual to cope with anything that may obstruct his right to enjoy the highest attainable standard of health. The individual should enjoy this right through access to it from various aspects, such as non-discrimination. Everyone should have access to health facilities, goods and services, in particular most vulnerable categories.
9. Moreover, the right to health should be enjoyed, so that everyone can afford health facilities and services. Affordability should be based on the principle of fairness for

all, including low-income segments, whether the health service is provided by the government or private sector. Equity requires that low-income families should not bear a burden that is not commensurate with their financial capacity compared to other families.

10. In all cases, when providing health services, the principles of recognized medical ethics should be observed, and the staff practices should be consistent with the best practices in the medical field, should not be not contrary to the culture and customs of the community, and should take gender requirements into account. The health facilities should be supported with skilled staff and doctors and scientifically approved drugs and hospital equipment, as well as other tools and supplies.
11. The right to health imposes an obligation on the State to respect this right, by abstaining from creating any direct or indirect obstruction that inhibits its enjoyment, such as preventing or limiting equal access to health, preventive and curative services for all individuals, including citizens, residents, prisoners, detainees, minorities, and other categories, without any discriminatory practices.
12. The State's obligations towards the right to health include providing the necessary protection of this right by taking legislative and administrative measures to ensure equality and non-discrimination in access to health care and services provided by the private sector, as well as quality assurance. The State should assume control of medical equipment and medications to identify their quality, appropriateness, and suitability for use.
13. Concerning the obligation to realize the right to health, the State is required to adequately acknowledge that right for all individuals, who are subject to its jurisdiction, in its national regulations, in particular its legal system, in addition to adopting national health policies accompanied by detailed plans for the realization of this right<sup>8</sup>.
14. As part of NIHR identification of the efforts of the Government, represented by the Ministry of Health, concerning the right to health, NIHR has contacted the Ministry of Health and posed a number of inquiries related to several topics, namely, the number of health facilities, including emergency departments and Salmaniya Medical Complex; the accommodation capacity of these facilities and their ability to meet the needs of individuals; medical staff; supervision of health services, pharmacies and drugs in terms of availability, suitability and supply standards; the most common diseases, especially genetic diseases, such as S.C.D and diabetes; mortality rate resulting from these two diseases; number of HIV cases; whether or not these cases constitute a phenomenon; the actions taken by the Ministry regarding the disease cases caused by medical malpractice; and the mechanism adopted to address these cases. NIHR also inquired about the system of providing treatment abroad; the number of cases treated under this system; how are the patients referred from detention places at the Ministry of the Interior treated; the condition of occupational health; public health conditions; mental health institutions and services; addiction treatment centers; the elderly and children; awareness programs and training courses for workers in the medical field, and future plans for the development of the medical services provided. Furthermore, NIHR inquired about the obstacles, shortcomings and problems that prevent individuals from enjoying the highest attainable standard of health; and the number of complaints or grievances received and how are they addressed. NIHR did not receive a response to these questions, except in respect of three issues, i.e.

8. International Human Rights Instruments, Vol. I, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, Twenty-second session, General Comment No. 14: The right to the highest attainable standard of health - Document No.: (HRI / GEN / 1/rev.9 (vol.1).

HIV and chronic diseases, the information on which are dated back to 2007, and the conditions of occupational safety in the Kingdom of Bahrain, for which the response was inadequate.

15. Regarding HIV cases, the Ministry indicated that the recorded cases since 1986 to August 2013 are estimated at 429 cases, and that the number of death cases since the time the disease was recorded is 204 cases out of the total cases, i.e. (47.6%). The Ministry pointed out that the disease is transmitted to the Kingdom of Bahrain through drug addicts (57%), forbidden sexual relations (33.9%), and from infected mothers to infants (2.2%). It indicated that the Government of the Kingdom of Bahrain has cooperated with international health organizations, GCC countries, and regional bodies in various fields in order to fight the disease and ensure the availability of high quality medicines, and laboratory diagnosis materials which are necessary for the disease detection. Collaboration also covers observing the norms and standards in order to improve prevention of the disease infection, diagnosis, and treatment services.
16. As regards the most common diseases, the Ministry of Health has reported the results of an outdated national survey, which dates back to 2007. The survey shows the most prominent common diseases and the prevalence rate of these diseases. In this regard, NIHR seeks to be provided with updated information to identify the state and prevalence of these diseases in 2012 - 2013 in order to prepare an assessment of state of the right to health, and the efforts made in controlling and reducing these diseases.
17. Regarding the rate of occupational health in the Kingdom of Bahrain, the Ministry of Health prepared a report that also contains outdated information, some of which dates back to 2003. As a result, it is not possible to identify the situation of the right to occupational health, and the ability to assess the Government's efforts in this regard.
18. In its follow-up of the reality of the right to health, NIHR observed that in 2013, there were a number of deaths as a result of alleged medical errors. NIHR was most concerned about the successive occurrence of these cases during a short period of time. While NIHR appreciates the investigations conducted by the Ministry and taking legal action against the perpetrators, however, the occurrence and repetition of these errors demonstrate that there is a vacuum in the effective monitoring of health services provided or the quality thereof, and lack of experience, competence, training and performance development. This requires quick and effective action to prevent the aggravation of this condition.
19. Regarding genetic blood diseases, particularly sickle-cell disease (SCD), the Ministry of Health, as reported in the local media and social network sites, has reported that the number of SCD patients is five hundred patients, while the information circulated in the same context indicates a much higher number. NIHR believes that regardless of the exact number of the diseases cases, the increasing number of mortalities raises concerns. The number of deaths of persons with SCD during 2013 is estimated at 32 cases, according to the local media and social networks, which is an average of two cases per month.
20. Through the various media outlets and social networks, NIHR observed some of the challenges faced by patients with multiple sclerosis (MS). These challenges consist of lack of access to accurate diagnosis of the disease by the medical staff in the Ministry of Health, shortage, unavailability, or delays in obtaining medicines, lack of supporting equipment and machines, difficulties in getting early medical appointments, or appointments for physical therapy or radiation, and lack of a

specialized qualification center that psychologically and physically prepares people infected with the disease. In view of lack of sufficient awareness of the disease, some cases have developed to what can be classified as people with special needs.

21. Taking into account the recommendations of the World Health Organization, which refer to the necessity of having one medical practitioner for every thousand people, the number of medical practitioners, according to the Ministry of Health statements, is around 2500 medical practitioners. Therefore, the number of medical practitioners does not achieve the appropriate standard in the provision of appropriate health services for a population of two million and nearly 318 thousand people. This will affect the quality of these services, and the possibility of falling into medical malpractices. As a result, this would be detrimental to the right of the individual to the enjoyment of the required highest attainable levels of health care and services.
22. Concerning the standard related to the sufficiency of the medical services provided, NIHR observed shortage in the number of beds at Salmaniya Medical Complex, which results in delays in patient access to health services. In addition, the capacity of health centers is not commensurate with the number of patients, and thus these centers are unable to meet their needs.
23. Within the framework of NIHR mandate to receive complaints related to the right to health, the National Institution received four complaints. Two complaints were filed by patients with sickle cell anemia related to not receiving treatment and the degrading treatment at the health facility. One complaint was about medical malpractice and negligence in treatment. The last complaint was a request for treatment abroad the Kingdom.
24. NIHR, upon the receipt of such complaints, considered these complaints and expressed its legal opinion on them. NIHR addressed the Ministry of Health in relation to the two complaints about not receiving treatment and the degrading treatment for SCD patients. The Ministry replied concerning only one complaint. It indicated that the Ministry is following up and investigating into the matter in order to take the necessary action. The Ministry did not respond as to the second complaint, despite repeated correspondences. As for the complaints received about medical malpractice and negligence in treatment, NIHR found out that the complainant did not refer to the competent authority. The concerns raised by the complainant necessitate technical investigation by specialists. Therefore, the complainant was directed to refer the matter to the relevant authority. As for the complaint related to the request for receiving treatment abroad the Kingdom, the complainant did not provide anything to prove that his proper medical treatment is not available inside the Kingdom. NIHR found out that he continued to receive treatment at government and private health facilities.

#### **RECOMMENDATIONS:**

**In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to expedite the discussion and approval of the draft law on medical liability, which is prepared in the light of the draft law submitted by the Council of Representatives, in order to be an integrated legislation that is concerned in particular with stating the rights and duties of patients, medical practitioners, and health care providers, and the implications of violations.
2. The need for the Ministry of Health to adopt and implement a national health strategy, for the purpose of improving health services, in line with the requirements of population growth.

3. Increasing the number of health canthers, maternity hospitals, and medical personnel in the five provinces, in proportion with the number of patients visiting these canthers and hospitals in each province.
4. The Ministry of Health needs to increase the accommodation capacity of Salmaniya Medical Complex, so as to improve health services.
5. The National Commission Regulating Medical Professions and Health Services needs to improve its supervision of health services to ensure avoiding the occurrence of medical malpractices.
6. The Ministry of Health needs to pay more attention to sickle-cell anemia (SDC) patients and multiple sclerosis (MS) patients by increasing awareness of this disease in the medical field, as well as improving health care and the provision of all medical requirements, and ensuring prompt provision of these requirements, in accordance with a comprehensive national strategy in this regard.
7. The Ministry of Health needs to develop a system for monitoring drug inventory and consumption rates in order to avoid drug shortage or non-availability in pharmacies, ensure satisfaction of the needs of patients, and have easy access to drugs.
8. The Government needs to provide support to civil society organizations working in the health field to enable them to achieve their goals in all fields stated in their statutes.
9. The Ministry of Health needs to increase safety standards in the field of prevention of communicable and epidemic diseases in health canthers and government and private hospitals.
10. Considering and allowing the Special Rapporteur of the Human Rights Council on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to visit the Kingdom.

#### **FIFTH: RIGHT TO EDUCATION**

1. Education has a key role in the field of human rights, and is important to ensure the exercise of other rights. The education received by the individual must be directed towards full development of the human personality and sense of dignity, and promoting respect for human rights and fundamental freedoms in order to enable everyone to participate effectively in a free community.
2. The Constitution of the Kingdom of Bahrain has guaranteed the right to education in Article No. 7, which stipulates that: **“a. The State sponsors the sciences, humanities and the arts, and encourages scientific research. The State also guarantees educational and cultural services to its citizens. Education is compulsory and free in in the early stages as specified and provided by law. The necessary plan to combat illiteracy is laid down by law. b. The law regulates care for religious and national instruction in the various stages and forms of education, and at all stages is concerned to develop the citizen’s personality and his pride in his Arabism. c. Individuals and bodies may establish private schools and universities under the supervision of the State and in accordance with the law. d. The State guarantees the inviolability of the places of learning”**.
3. In terms of national legislation, Law No. 27 of 2005 on Education provides that education is a right guaranteed to all citizens. The Law lays down the general

objectives of education and defines the responsibilities of the competent ministry for developing educational plans for the advancement of the general and technical educational system, within the framework of the general policy of the Kingdom; preparing study plans; encouraging private education; developing policies for the missions; the role of the Ministry in enhancing literacy and adult education; and paying particular attention to religious education, national education and Arabic Law. Decree-Law No. 25 of 1998 on Educational, Training and Private Institutions regulates all matters related to these institutions, in terms of the objectives on which these institutions must be based; the conditions necessary for their establishment; the financial regulation to be observed by these institutions; the study system adopted in these institution, and determining the technical supervision mechanism and administrative control over private educational and training institutions.

4. In terms of the institutional structure organizing the right to education, the Higher Education Council was established under Law No. 3 of 2005 to establish the goals of higher education institutions, and indicate the mandates assigned to it in order to prepare the policy of higher education in the Kingdom, consider high education challenges, propose ways to address these challenges, follow up higher education institutions and monitor their programs and support services. For the purpose of improving the quality of education and training in the Kingdom, Decree No. 32 of 2008 Establishing and Organizing the National Commission for Qualifications and Assuring Education and Training Quality was enacted to develop the standards for ensuring the quality of education, training, and institutional incorporation, promoting national qualifications, preparing and conducting national examinations to test performance in pre-university education, as well as preparing and reviewing the quality of educational and training institutions performance in the light of guidance standards and models. The National Commission is also in charge of developing a national framework of qualifications according to the various levels of education outputs, in line with the labor market. The said Decree-Law also provides for the formation of the National Commission and identifies its mechanism of action.
5. International human rights instruments pay special attention to the right to education. Article 13 of the International Covenant on Economic, Social, and Cultural Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 10 of 2007, recognizes the right of everyone to education. The State Parties to the Covenant undertook to make primary education compulsory and available free to all, make secondary education in its different forms, including technical and vocational secondary education, generally available and accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education. The aforementioned Article also provides for the need to respect the liberty of parents and, when applicable, legal guardians, to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State. Article 14 of the Covenant confirms that the States Parties should secure compulsory primary education, free of charge, within two years from accession to the Covenant, and to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.
6. In order to empower people to fully enjoy the right to education, sufficient educational and training institutions should be available within the jurisdiction of the State. The educational institutions should be provided with trained teachers who receive competitive wages, appropriate and developed curricula, scientific libraries, and computers. Educational and training institutions should be readily accessible to all without distinction of any kind, and in a safe manner. The institutions should

be in geographic locations appropriate for individuals, and appropriate means of transport should be provided to facilitate access thereto.

7. Technical and vocational education is an important part of the right to practical education, as it contributes to economic, social, and cultural development in order to create a working and productive segment in society. Technical and vocational education also aims to enable students to acquire knowledge and skills that contribute to their personal development, and enhances the productivity of their families and their community. Technical and vocational education is particularly important as it is an opportunity to develop the productive role of irregular school students, dropouts, unemployed workers, people with disabilities and other segments.
8. The Committee on Economic, Social and Cultural Rights of the International Covenant on Economic, Social and Cultural Rights considers that most violations of the right to education occur when the state enacts or fails to repeal legislation that discriminates against individuals or certain groups; fails to take measures to correct the reality of discrimination in education; adopts curricula that are inconsistent with the desired educational goals; fails to provide compulsory and free of charge primary education for all; fails to take concrete and targeted measures for the purpose of the progressive realization of free secondary and higher education; prevents the establishment of private educational and training institutions; fails to control the compliance of these institutions with the minimum educational standards established by the state; or if the state closes educational institutions in times of political tension in the country.
9. In terms of the exercise of the right to education, the Ministry of Education, in response to the inquiries raised by NIHR on this right, has indicated that elementary, primary, and secondary education is both free and compulsory in government schools, which amounted during the academic year (2012-2013) to two hundred and seven schools for both sexes, spread all over the Kingdom, while the number of private schools during the academic year (2013 - 2014) amounted to seventy-six schools.
10. Regarding the criteria for the establishment of public schools, the Ministry of Education stated that criteria are standardized for all schools at the various stages of study, whether in terms of average total area, amounting to about one and a half hectares, average number of students in grades, or average number of students in the school in general. In the same context, it noted that all public schools in the Kingdom are equal in terms of the quality of teachers, cognitive and systematic empowerment, curricula and textbooks, number of classes, number of hours of study, availability of scientific laboratories, computer labs, and electronic networking, extra-curricular activities, and appropriate infrastructure and its associated facilities.
11. The Ministry of Education explained that overcrowding in public schools is a rare issue. This can be inferred by the average number of students per class, which ranges between twenty-eight to thirty-six students depending on the grade. However, in some cases this average is higher as a result of the insistence of some parents, especially in the elementary stage, to keep their children near their residential areas, although there are enough seats and free two-way transportation means to other nearby schools.
12. As for school curricula, and incorporating the sectarian opinions of the two sects in these curricula, the Ministry of Education commented that that the curriculum of Islamic education in particular, which is taught in public and private schools, includes a set of common principles and values across the different religions and creeds. Non-Muslim students, whether Bahraini or foreign, are not obliged to study these curricula. The Ministry also confirmed that in reviewing the curricula of Islamic

education from 2002 to 2006, it took into consideration the common principles between the Sunni and Jaafari sects in relation to worship in particulars, so that the student learns about the opinions of the two sects regarding all matters of concern to Muslims. The Ministry has established a Jaafari religious institute as well as a Sunni religious institute that offer the same curriculum and in the same specifications, except with regard to the details of each doctrine.

13. As part of the Ministry of Education efforts to promote the values of citizenship and human rights education, the Ministry developed curricula and textbooks for citizenship and human rights education, starting from the first grade up to the secondary level. In addition, there are curricula that deal with volunteer work in the secondary stage in particular, in addition to special volunteer activities for the elementary and primary stages.
14. The Ministry of Education pays attention to professional development of teachers, through appropriate allocation of budget and the implementation of several training programs in accordance with the Ministry's strategy towards improving the quality of education. The percentage of Bahraini male teachers in the Ministry is (87%), while the percentage of female Bahraini teachers exceeds (95%).
15. In order to follow up on cases of students' dropout in the compulsory education age, or adults who are over that age, the Ministry of Education developed a system for irregular study, through which it allowed this group the opportunity to pursue their right to education. It has also paid attention to monitoring students who drop out from school during the compulsory education age and analyzing these cases in order to identify and follow up the causes to try to return the students to regular study. As for dropout students for reasons related to going beyond the legal age, underperformance at school, or social conditions, the Ministry pointed out that the proportion of these students is (0.04%), according to the latest statistics provided by the United Nations Educational, Scientific and Cultural Organization (UNESCO) in this regard. The Ministry has designed programs to embrace dropouts in continuous education depending on the case type.
16. In order to provide support for outstanding students of both sexes in preparation for their enrollment in higher education, the Ministry of Education indicated that it allocates more than 2,500 annual scholarships, without any gender discrimination and according to standard and declared standards. It also indicated that there are two governmental universities that enroll 16,498 students, one regional university enrolling 1,294 students, and twelve private universities enrolling 32,327 students. The task of supervising and ensuring the quality of education at these universities is entrusted to the Higher Education Council established under the provisions of Law No. 3 of 2005.
17. As part of the Government's efforts to implement the recommendations stated in BICI report on the right to education, represented in Recommendation No. 1723 / b - 1, which requires: **"Returning all dismissed students who were not charged criminally for an act of violence to their former position, establishing a mechanism that allows students who have been dismissed for legitimate reasons to apply for returning to the university after the expiration of a reasonable period, adopting clear and fair standards for disciplinary action against the students and ensuring that these standards are implemented in a fair and neutral manner"**, and Recommendation No. 1725/A, which provides for the Government: **"Establishing educational programs for elementary, secondary and university stages to promote religious, political and other forms of tolerance, as well as to foster human rights and the rule of law"**, the Ministry of Education, in response to a question raised

by NIHR on how did the Ministry deal with the recommendations of BICI report, stated that it has dealt with the Commission in full transparency by providing all the information and data requested. It indicated that the Chairman of the Committee commended the Ministry performance and cooperation in this area. In NIHR opinion, the inquiry was not answered directly.

18. By reference to the report on following up the implementation of the recommendations of BICI, issued in December 2013, concerning the Recommendation No. 1723 / b - 1, which stipulates as follows: **“Returning all dismissed students who were not charged criminally for an act of violence to their former position, establishing a mechanism that allows students who have been dismissed for legitimate reasons to apply for returning to the university after the expiration of a reasonable period”**, the report indicates that this Recommendation was fully implemented before the issuance of the Commission’s report in November 2011. All remaining students were reinstated without waiting for the results of investigations or trials conducted for some of them on the basis of committing criminal offenses.
19. a. With regard to Recommendation No. 1725 / A, which provides for: **“Establishing educational programs for elementary, secondary and university stages to promote religious, political and other forms of tolerance, as well as to foster human rights and the rule of law”**, the report on following up the implementation of the recommendations of BICI indicated that this recommendation has been already implemented. The detailed plan on promoting the values of citizenship and a culture of human rights, tolerance, and co-existence is in progress. The budget needed to implement the plan has been allocated, and a specific time plan has been developed, which expires at the end of the academic year 2012 - 2013. In addition, citizenship curricula have been introduced, reviewed, and developed in order to promote a culture of civil peace and non-violence in public and private schools.
- b. Regarding human rights, tolerance, and co-existence, the report points out that the Ministry, as a first step, cooperated with experts from the United Nations Educational, Scientific, and Cultural Organization (UNESCO) in order to incorporate these principles in the curriculum, and then began to implement the second step by signing a cooperation agreement with the International Bureau of Education (Geneva). The agreement includes training of specialists in curricula field to complete the construction and development of citizenship and human rights education curricula, organizing training workshops, and organizing a forum under the supervision of experts of the International Bureau of Education on the status of the national framework for curricula development. The report concludes with the efforts of the Ministry in this regard through the decision issued by the Higher Education Council to mainstream human rights curriculum as mandatory prerequisite in the universities.
20. As part of NIHR observance of certain practices that affect the right to education, the various media outlets and social networks indicated attacks on some government educational institutions, including vandalism and sabotage acts, which coincided with the unfortunate security incidents. This caused damage to the educational process in the Kingdom, and posed risk to people. This affects the right of individuals to have access to education in a safe environment.
21. Concerning scholarships provided by the Ministry of Education to outstanding students in public or private schools, NIHR observed a number of statements made to the media and social networks by students, parents, academics, and those interested in this matter on discrimination in the distribution mechanism of these scholarships and grants. There were certain allegations reported through these

means and networks by students during personal interviews about the Ministry's actions that have a political or sectarian dimension, in addition to suspending the scholarships for some students studying abroad the Kingdom.

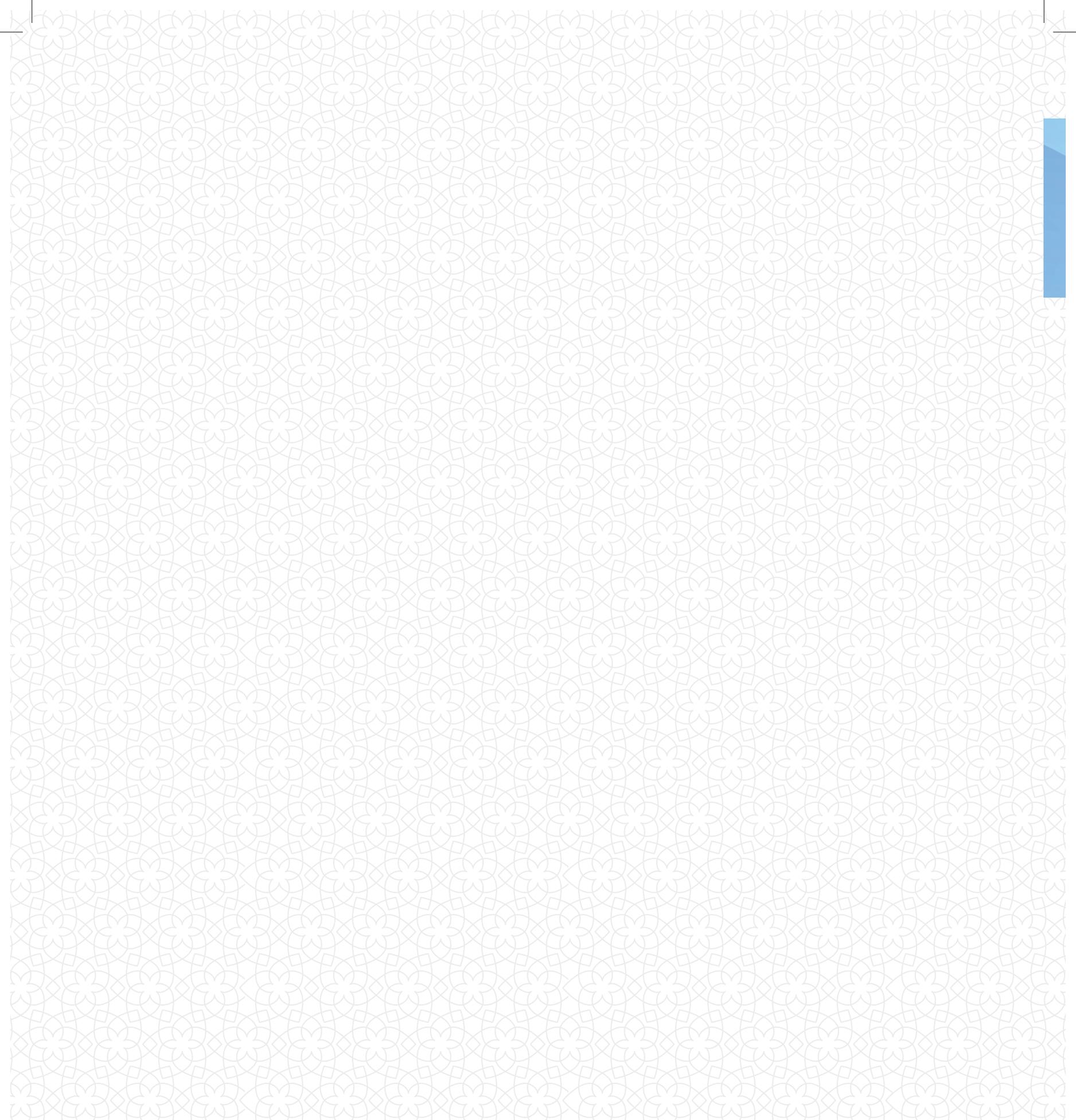
22. Despite the fact that the Government, according to a report on following up the implementation of the recommendations of BICI, issued in December 2013, indicated that it has fully implemented Recommendation No. (1723 / b - 1), which requires: **“Returning all dismissed students who were not charged criminally for an act of violence to their former position, establishing a mechanism that allows students who have been dismissed for legitimate reasons to apply for returning to the university after the expiration of a reasonable period”**, NIHR observed through the various media and social networks that there is a group of students who have been dismissed from a public university on the background of security events, and were barred from pursuing their study in that university at their own expense. This calls the Ministry of Education to promptly verify this incident and take the necessary corrective actions to raise the allegation, is substantiated.
23. On the other hand, NIHR praises the efforts made by the National Commission for Qualifications and Quality Assurance of Education and Training as an independent body to ensure the quality of education and training in the Kingdom of Bahrain. The Commission seeks to develop and enhance the educational and professional skills of human resources by reviewing the performance of schools, vocational training institutions, and public and private higher education institutions, for the purposes of determining liability, and improving quality.
24. Within the framework NIHR mandate to receive complaints related to the right to education, the National Institute received two complaints. In the first complaint, the complainant indicated that his son, who was detained in a security case, was deprived by the Ministry of Education from taking the exams. The second complaint was filed by one of the owners of higher education institutions about discriminatory and targeting practices by the Ministry of Education for sectarian reasons. This has led to obstructing the University work and the course of study in the university.
25. Upon receiving the two complaints, NIHR considered and expressed its legal opinion thereon. Concerning the complaint related to depriving the detainee of taking the exams by the Ministry of Education, the National Institution contacted the relevant ministry directly, as well as the Department of Reform and Rehabilitation, the student was enabled to perform the exam. Concerning the complaint related to the University of Dilmun, NIHR addressed the Ministry of Education, but it did not respond to the NIHR letter despite repeated correspondences.

#### **RECOMMENDATIONS:**

**In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to adopt a special law regulating the process of entitlement and distribution of grants and scholarships to student beneficiaries.
2. Urging the Ministry of Education to take measures to ensure the immediate cancellation of wood desks in public schools, in view of the negative effects and risks of these desks on the students.
3. Urging the Ministry of Education to review the citizenship curriculum content in order to include a number of subjects that develop a culture and practice based on the promotion of respect for human rights.

4. Urging the Ministry of Education to control private education, so as to make sure that the private educational and training institutions, in particular, private higher education institutions, give priority to the educational and the academic aspect over for-profit education.
5. Considering and allowing the Human Rights Council’s Special Rapporteur on the right to education to visit the Kingdom.



## CHAPTER IV

### RIGHTS OF THE MOST VULNERABLE GROUPS

#### **PREFACE:**

The international community pays particular attention to the promotion and protection of the rights of the most vulnerable groups. The interest in these groups is due to the fact that these groups are the most vulnerable to violation of the various basic rights and freedoms.

Women, children, people with special needs, and the elderly should be given special rights commensurate with the nature of these categories in order to satisfy their needs and provide them with a sound health, psychological and social environment. Consequently, the national legislator enacted laws and regulations that pay attention to these groups by providing for their rights in the various walks of life, and ensuring the necessary guarantees for the protection and exercise of these rights on equal footing and non-discrimination basis with other groups.

Accordingly, this Chapter will address the rights of the most vulnerable groups through reviewing the most important civil, political, economic, social, and cultural rights which faced challenges in practice in respect of each group, and the efforts made in this regard by the Government and relevant civil society organizations.

## FIRST: WOMEN'S RIGHTS

1. The development of society is associated with women cultural and social development and women effective contribution in the cultural building. This calls for giving women respect based on the recognition of their various fundamental rights, believing in their influential role in the construction and development of society through the explicit recognition of this role, and creating the guarantees that ensure the enjoyment of these rights on an equal footing, without any discrimination.
2. The Constitution of the Kingdom of Bahrain has guaranteed a number of rights and public freedoms for women. Article 1, paragraph e, provides that: **“Citizens, both men and women, are entitled to participate in public affairs and enjoy their political rights, including the right to vote and the right to contest for elections...”**. The Constitution refers to the need for the State to guarantee reconciliation between women duties towards their families and their work in constructing the community. Article 5, Clause b, provides that: **“The State guarantees reconciling the duties of women towards the family with their work in society, and their equality with men in political, social, cultural, and economic spheres without breaching the provisions of Islamic canon law (Shari’a)”**. In affirmation of the principle of gender equality and non-discrimination between men and women, Article 18 provides 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”**. Citizens include men and women on equal footing. Due to the fact that the constitutional provisions should be read as a whole and are indivisible, the principle of equality set out in Article 18 of the Constitution extends to all public rights and freedoms stated in the Constitution, whether civil, political, economic, social, or cultural, and whether the addressee is a man or a woman.
3. In terms of international human rights instruments, the Convention on the Elimination of All Forms of Discrimination against Women, which was acceded to by the Government of the Kingdom of Bahrain under Decree No. 5 of 2002, confirms that women enjoy all their rights without any distinction, exclusion or restriction which aims to undermine the recognition of women’s rights in all civil, political, economic, social, cultural, or any other field.
4. In the field of institutional building, the Supreme Council for Women has been established under the Amiri Order No. 44 of 2001, as amended, to be a reference for all official authorities in respect of women’s affairs. It has the competence to express its opinion, decide on matters related to women status directly or indirectly, propose policies pertaining to the development of women affairs in society constitutional and civil institutions, empower women to play their role in public life, and integrate women efforts in comprehensive development programs without discrimination. The Council has also developed a national plan for the advancement of women and solving their problems in all areas.
5. The principle of equality and non-discrimination on the basis of gender in respect of all rights and fundamental freedoms are of the principles recognized in international human rights instruments. Equality is achieved effectively through the State’s establishment of measures, enacting legislation, and adopting national policies based on the principle of gender equality. This is clearly manifested in the provisions of the International Covenant on Civil and Political Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006. Article 3 of the Covenant provides that men and women have equal right to the enjoyment of all economic, social and cultural rights set forth in the Covenant. In addition, the International Covenant on Economic, Social, and Cultural Rights, which was

acceded to by the Government of the Kingdom of Bahrain under Law No. 10 of 2007, confirms that the States Parties undertake to ensure equality of men and women to enjoy all economic, social and cultural rights set forth in the said Covenant.

6. Whereas non-discrimination is the result of the application of the principle of equality, discrimination against women is **“any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”**<sup>9</sup>
7. The abstract principle of equality and non-discrimination is not always sufficient to achieve the actual and fundamental equality between men and women. This means that at times or under specific circumstances, the State has to take special and temporary measures (positive discrimination) aimed at accelerating actual gender equality, provided that these measures are temporary to achieve equality of opportunity and treatment between men and women.
8. Examples of such provisional measures are creating the temporary quota system by the State in certain circumstances in the field of exercising the political right by determining the seats that are reserved for women in the legislative authority. Even though this measure may suggest gender inequality, it aims to establish the principle of equality and non-discrimination in the actual practice, provided that this preferential measure is adopted for a specific time period and according to certain conditions designed to enable women to have access to the Parliament.
9. Within the framework of codifying the protection provided by Shariah for women, Law No. 34 of 2005 Establishing the Maintenance Fund, as amended by Law No. 33 of 2009, organizes the matters related to maintenance and payment controls. Women, whether a wife or a widow, are given priority when maintenance debts are accumulated. Concerning women family life, Family Law (Section I) Law No. 19 of 2009 regulates matters relating to marriage provisions, rights of spouses, maintenance, divorce, and custody, which should be observed by everyone. Thus, the legislature has accorded women special importance in order to ensure respect for women’s rights.
10. In terms of the realization of civil rights for women in particular, and back to the right to life, stated in Chapter II of this report, specifically with regard to death penalty, the Criminal Procedure Code promulgated by Decree-Law No. 46 of 2002, as amended, imposes a temporary restriction on the implementation of the death penalty in respect of women. Article 334 of the said Law provides for the implementation of the death penalty on pregnant women three months from delivery. This provision is in line with Article 6, paragraph 5, of the International Covenant on Civil and Political Rights, which states that: **“Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women”**.
11. Concerning the right to physical and moral integrity and the right to liberty and security of person, NIHR observed, through the media and social networks, cases of arrests of women who have been subjected to practices that amount to ill-treatment. Some of the photos and video clips, in conjunction with the arrests carried out by the order forces, revealed certain practices that can entail violation of the privacy

9. Article I of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in Resolution No. (180/34) dated December 18, 1979, which was entered into force on September 3, 1981.

of the family of the arrested person through surrounding homes and entry into the house from the roof, without consideration to the privacy of women in their homes. In addition, physical abuse was inflicted in some cases against the people arrested. There is an allegation that a convicted woman in a security case was subjected to torture and ill-treatment that included undressing. NIHR received a complaint on a case in which the privacy of the family was blatantly violated through the entry of the order forces to the couple's bedroom without warning. These practices, if proved, constitute violation of the approved international human rights instruments in this regard.

12. With regard to women's right to nationality, the provisions of the Bahraini Citizenship Code of 1963, as amended, is still deficient in achieving gender equality. Article 4 that addresses acquisition of citizenship shows that the person is considered a Bahraini in two cases: if he is born in or abroad Bahrain, and his father was a Bahraini at the time of birth, or if he has been born in or abroad Bahrain, and his mother was a Bahraini when he was born, provided that his father is unknown and the paternity of the father was not proved. Bahraini women are not given the right to grant their children Bahraini citizenship on an equal footing with men. There are certain cases that necessitate granting citizenship to the children of Bahraini women, especially in the case of divorce or abandonment, or upon the death of the husband. The Law favors the child of unknown father or whose father's paternity is not proved, and who has a Bahraini mother, over the legitimate child of a Bahraini mother, whose father is of unknown nationality or a non-Bahraini national.
13. The Government of the Kingdom of Bahrain has expressed reservations on the text of Article 9, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women, which states that: **"States Parties shall grant women equal rights with men with respect to the nationality of their children"**. The Government, during the process of the Universal Periodic Review of the human rights situation in Bahrain in 2012, accepted a series of recommendations for the purpose of promoting equality between women and men with regard to the nationality of the children of Bahraini women. This leads implicitly to raising the reservation to Article 9, paragraph 2, of the Convention on the Elimination of All Forms of Discrimination against Women. It is worth noting that NIHR has submitted a proposal to the Government for amending the provisions of the Bahraini Citizenship Code of 1963, as amended, for granting Bahraini women an equal right with men in respect of the nationality of their children.
14. In the same context, the Government of the Kingdom of Bahrain has taken certain temporary measures and procedures to ensure gender equality with respect to granting the Bahraini nationality to children of Bahraini women. This includes granting Bahraini citizenship by the King to children of Bahraini women married to foreigners in some cases. In addition, Law No. 35 of 2009 was promulgated to treat the children of Bahraini women married to non-Bahrain men as Bahraini citizens with respect to exemption of children from fees for government, health, educational services, and permanent residence in Bahrain. In addition, a draft law was referred to the legislative authority to amend Article 3 of the Social Security Law No. 18, which aims to introduce an allowance for children of Bahraini women married to foreigners and to join them to the beneficiary groups of social security.
15. Concerning the right of women to participate in political life, in line with Article 1, paragraph e, of the Constitution, which recognizes women's right to participate in public affairs, four women were elected to the House of Representatives out of forty elected members, and nine female members were appointed to the Shura Council,

out of forty members. As regards empowerment of women in the executive authority as decision makers, three women were appointed as ministers in the government. In respect of the judiciary authority, thirteen women were appointed as judges and public prosecutors, while one woman was appointed to the Supreme Judicial Council.

16. In terms of economic, social, and cultural rights, the right of Bahraini women to enjoy an adequate standard of living with regard to access to housing services is organized under the Minister of Public Works and Housing Resolution No. 12 of 2004 on the right of Bahraini women to the use of housing services. It includes provisions to the effect that working Bahraini women, or who have fixed monthly income, support a family, and do not have any property are entitled to benefit from the existing housing services under the Housing Act, and the executive decisions thereof. The said Resolution also grants divorced women who have permanent custody of their children under a court decision or by agreement, and do not have an independent private residence, the right to apply to the Ministry to obtain housing services. On the other hand, the Government has paid attention to improving the standard of living of women by giving married employees social allowance similar to male employees, under the Council of Ministers Resolution No. 77 of 2013 adopting the regulation determining salaries and employment benefits and controls of entitlements of employees subject to civil service law.
17. As for women's right to work, the Labor Law for the Private Sector, issued under Law No. 36 of 2012, has many advantages and rights that created a legal framework designed to protect Bahraini women in a manner consistent with the relevant ILO conventions. The most important rights include allowing the employment of women in night shifts, with the exception of not employing them in certain professions, increasing the duration of maternity leave to sixty days instead of forty-five days, and allowing them unpaid leave to take care of their children who are not six years up to a maximum six months, at the rate of three times throughout the duration of service. Women are granted the right to breastfeed their infants at the rate of two hours per day until the infant reaches six months of age, and one hour per day until the infant is one year old. In addition, a Muslim working woman is granted Iddah paid leave for one month in the event of the death of her husband. This leave may be completed from her annual leave for three months and ten days, and if she does not have annual leave balance, she will be entitled to unpaid leave.
18. In the same context, Law No. 28 of 2012 Amending certain Provisions of the Law of Public Security Forces issued by Decree-Law No. 3 of 1982 adopted the same approach by equating women member of the security forces with those employed in the civil service in respect of breastfeeding, maternity, and Iddah leaves.
19. NIHR appreciates the realization of the principle of equality and equal opportunities, through the creation of 18 "equal opportunities unit" in the ministries, official and private sector institutions, and in the House of Representatives and the Shura Council. These units are concerned with activating the national model for the integration of Bahraini women needs in development by incorporating their needs in their work fields in the ministries or government agencies. This helped guide some of the private sector institutions to follow the example of the State.<sup>10</sup>
20. In Law No. 1 of 2008 on Combating Trafficking in Persons, the legislator has created the legal framework for protection of foreign women, in particular, from exposure to all forms of the crime of trafficking in persons, in addition to establishing national

10. List of issues and questions with regard to the third periodic report of Bahrain (Addendum: Bahrain Responses) - November 7, 2013 - Document No. (CEDAW/C/BHR/Q/3/Add.1)

mechanisms represented in the “National Committee to Combat Trafficking in Persons”, and the “Committee for Evaluation and Follow-Up of Foreign Victims of Trafficking”. Moreover, there are special institutions to protect and shelter women victims of trafficking in persons, for example, Dar Al-Aman of the Ministry of Social Development. However, despite such protection efforts, foreign women - in particular - are still vulnerable to be victims of such a crime through exploitation by employers, particularly in the tourism and hotel sector, of foreign workers for the purposes of prostitution and sexual exploitation. In this regard, NIHR received one complaint and a request for assistance as a result of exposure to sexual exploitation.

21. It is worth mentioning that NIHR has presented its views on the third periodic report of the Kingdom of Bahrain submitted to the Committee on the Elimination of All Forms of Discrimination against Women, in its fifty-seventh session. NIHR made a number of observations and comments about the guidelines on the form and content of the report required to be submitted to the Committee, as well as its opinion on the observations related to the report’s data and information, in addition to the Government of the Kingdom of Bahrain implementation of the concluding observations of the Committee.
22. Within the scope of NIHR mandate to receive complaints, 26 complaints were received from female citizens and female residents. Four complaints were related to the right to adequate standard of living in connection with housing; two complaints were related to requests for granting citizenship to children of Bahraini women; one complaint was a request for Bahraini nationality by a foreign woman married to a Bahraini national; eight complaints were related to the right to work; two complaints were about the right to fair trial guarantees; four complaints were about the right to health; one complaint was from a citizen about lack of cooperation by the Embassy of the Kingdom abroad with her; one complaint was from a foreign woman on lack of cooperation by her embassy in Kingdom; one complaint raised suspicion of trafficking in persons; one complaint was related to the entitlement to unemployment allowance; and the last complaint was about the employer refusal to buy the years of assumed service after termination of service.

#### **RECOMMENDATIONS:**

##### **In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to pass a law aimed at granting Bahraini women equal right with men in relation to granting citizenship to their children according to specific controls in line with the international commitments of the Government of the Kingdom of Bahrain.
2. Urging the Government to take serious and conciliatory steps for the purpose of expediting the referral of the Jaafari part (Section II) of the draft family law to the legislative authority.
3. Urging the Government to take measures in order to grant housing services to women married to foreigners in the event of divorce, abandonment, or death of spouse.
4. Urging the legislative authority to make the necessary adjustments to the provisions of Law No. 36 of 2012 promulgating the Labor Law for the Private Sector for the purpose of establishing equality of women working in the private sector with the female employees in the civil service regarding breastfeeding leave.
5. Expanding the establishment of equal opportunity units in ministries, government agencies, and private sector institutions that did not take the initiative to establish

these units, in order to follow up the activation of a national model for the integration of women's needs in development.

6. Considering and allowing the Human Rights Council Special Rapporteur on violence against women, its causes and consequences, and the Working Group on the issue of discrimination against women in law and in practice to visit the Kingdom.

## SECOND: RIGHTS OF THE CHILD

1. Children are considered the nucleus of the community. They need protection that requires special rights along with other rights, which they share with other adults. Children's rights differ from other rights in terms of content and nature. The special rights of children are designed to provide protection that satisfies their needs by providing a sound health, psychological and social environment in which they can be appropriately brought up to be able to contribute to the construction and promotion of the community.
2. The Constitution of the Kingdom of Bahrain confirms the child's right to enjoy a set of rights and public freedoms. Article 5, paragraph a, of the Constitution provides that: **"The family is the corner-stone of society, deriving its strength from religion, morality, and patriotism. The law preserves its lawful entity, strengthens its bonds and values, under its aegis extends protection to mothers and children, tends the young and protects them from exploitation and safeguards them against moral, bodily and spiritual neglect. The State cares in particular for the physical, moral and intellectual development of the young"**. Article 7, paragraph a, provides that: **"The State sponsors the sciences, humanities and the arts, and encourages scientific research. The State also guarantees educational and cultural services to its citizens. Education is compulsory and free in the early stages as specified and provided by law. The necessary plan to combat illiteracy is laid down by law"**.
3. In terms of international human rights instruments, the International Covenant on Civil and Political Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006, confirms the State's duty to take protective measures towards children without any discrimination, and the right of every child to acquire a nationality and be registered immediately at the time of birth. In addition, the United Nations Convention for the Rights of the Child 1989, which was acceded to by the Government of the Kingdom of Bahrain under Decree-Law No. 16 of 1991, confirms a number of rights that oblige the States to take all measures to ensure that children enjoy them. The Optional Protocol on the Involvement of Children in Armed Conflict, and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography to the Convention on the Rights of the Child, which were acceded to by the Government of the Kingdom of Bahrain under Law No. 19 of 2004, have added a further protection of children by raising the recruitment age of persons in the armed forces and their participation in war operations. This contributes to the implementation of the principle that the child's best interests should be a primary consideration in all actions concerning children for the purpose of their development and education in conditions of peace and security, and protecting children from exposure to exploitation of any kind, or the crime of trafficking in persons.
4. At the national level, Law No. 37 of 2012 promulgating the Law of the Child asserts child's best interest by providing a number of rights that constitute together the framework of integrated protection. It lays down controls for the employment of children in a manner not detrimental to safety, health, or the essence of rights. It affirms the right to health, social, and physical care, protection from traffic dangers,

care and rehabilitation for disabled children in particular, child education, child protection from abuse, the inadmissibility to waive criminal proceedings related to the child, and protection from domestic and community violence. The Law prescribed protection of the child by stipulating financial punishments or imprisonment for those who violate its provisions.

5. In the area of institutional construction, the National Commission for Children was established under the Council of Ministers Resolution No. 64 of 2013. The most important mandate of the Commission is proposing a national strategy for childhood that helps the relevant bodies to develop and promote projects and programs that serve and guarantee the rights of the child; monitoring and considering child issues and basic needs; proposing appropriate solutions, including legislation and recommendations, to the relevant authorities in the Kingdom of Bahrain; and coordinating and cooperating between the various government agencies and NGOs in relation to childhood. The Ministry of Social Development has launched the National Strategy for Children for the years (2013 - 2017), which is the first child strategy. It is based on three primary foundations, i.e. respect for human rights, equal gender opportunities, and the integration of persons with disabilities.
6. Within the framework of providing mechanisms for child protection, the Center for the Protection of the Child was established in 2007. The Center is a social welfare institution that belongs to the Ministry of Social Development, which aims to protect children up to the age of eighteen years against all forms of abuse and neglect, and sexual assault cases. It offers care and treatment for children who have been exposed to physical or psychological abuse, as well as psychological and social services, education, coordination of legal and judicial services, and alternative temporary or permanent care in the case of extreme necessity. This is called temporary custody by families of the children whose parents are not able to take care of them, children who have been exposed to physical or psychological harm or neglect within the family, or homeless children. The purpose of this custody is to take care of children and shelter them temporarily until the reason for their placement no longer exists, rehabilitate the children to be reintegrated into the family, and monitor their education, psychological and social conditions.
7. Within NIHR efforts to identify the measures taken by the Ministry of Social Development regarding the rights of the child, NIHR addressed several inquiries to the Ministry concerning the plans, projects and awareness programs that deal with children's education, the number of complaints related to violations of children's rights and the mechanism to deal with these complaints, and the challenges facing children conditions in the various civil, economic, social and cultural aspects. However, the Ministry has not responded to these inquiries to date.
8. In its response to NIHR inquiries, the Mother and Child Welfare Association has indicated that it has prepared development, training and education programs and a variety of events aimed at promoting the child's mental and emotional growth and supporting the child culturally to be able to demonstrate a high degree of creativity. The Association added that it had not received any complaint about violations of the rights of the child.
9. However, despite these efforts, in reality, there are still challenges and practices that affect and undermine the rights of the child, including non-compliance by some laws of criminal dimension with respect to juvenile age. The Penal Code promulgated by Decree-Law No. 15 of 1976, as amended, and Decree-Law No. 17 of 1976, as amended by Decree Law No. 23 of 2013 on Juveniles, still consider the juvenile to be any person who is below fifteen years old. On the other hand, the Convention on the Rights of

the Child, which was acceded to the Government of the Kingdom of Bahrain under Decree No. 16 of 1991, and Law No. 37 of 2012 promulgating the Law of the Child, consider the child to be any person who is not more than eighteen years of age. The protection created by the aforementioned Convention and Law may not be applied to any person who is more than 15 years old, which undermines the essence of this protection. This has prompted the National Institution to submit a proposal to the Government to rise the juvenile age to eighteen years old.

10. Regarding the civil rights of children, particularly with regard to the right to physical and moral integrity and the right to liberty and security of person, Article 3 of Law No. 37 of 2012 Promulgating the Law of the Child stipulates that: **“The protection of the child and his best interests shall have priority in all decisions or actions relating to children, regardless of the party that issue or undertake such decisions or actions”**, which is in line with Article 3 of the aforementioned Convention on the Rights of the Child, which stipulates that: **“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”**. Therefore, the best treatment for the child needs to extend to all fundamental rights and freedoms, including the right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment. Children should not be exposed to death penalty or life imprisonment without possibility of release, and they should not be deprived of their liberty unlawfully or arbitrarily, except as a last resort and for the shortest possible period of time.
11. In all cases, every child deprived of his liberty should be treated with humanity and respect for his inherent dignity, and in a manner sensitive to the needs of the individuals who have attained his age. In particular, every child deprived of his liberty should be separated from adults, unless it is considered that the child’s best interest requires otherwise. The child should have the right to stay in touch with his family, and every child deprived of his liberty should have the right to prompt access to legal and other appropriate assistance, as well as the right to appeal against the deprivation of liberty before a court or a competent judicial authority as soon as possible.
12. Accordingly, NIHR has observed, through the media and social networks, that there are cases of detention of children between ten and fifteen years old. NIHR pursued these cases to identify the actions taken in this regard, and contacted the public prosecution in order to urgently release the children against whom no charge was proven. The public prosecution has responded and released some of the detainees. Other detainees were allowed to take their exams during the period of detention. There were also allegations of exposure to practices that fall within torture and other forms of ill-treatment.
13. In this regard, NIHR confirms that the involvement of children in the manifestations of violence and political interactions have negative repercussions on their material and moral behavior, and pose at the same time a threat to their present and future and security. It is imperative to spare and distant the children and the young generations from these manifestations and interactions, in order to achieve the best interests of children.
14. Among the special cases monitored by NIHR are allegations that some children placed in a nursery were subjected to physical and moral attacks, which -if proved - constitute a flagrant violation of the right of the child to protection from abuse and lack of exposure to violence. There was also a case of a child death, since he was

11. Ministry of Social Development website: [http://www.social.gov.bh/childhood/childhood\\_welfare/tempcare](http://www.social.gov.bh/childhood/childhood_welfare/tempcare)

forgotten in the school bus. Subsequently, the competent authorities investigated the incidents and brought the accused persons to the competent courts. These two incidents, although they do not constitute a phenomenon in society, but they indicate deficiencies in the regulatory and supervisory role by the authorities which are legally charged with the control and supervision of the protection of children in these institutions.

15. In the field of economic, social, and cultural rights, specifically with regard to the right to health, NIHR commends the efforts made by the Ministry of Health on maternal and child care, which starts from the stage of pregnancy, periodic inspection of the child, providing preventive immunizations, ensuring healthy growth of the child, and periodic follow-up of the health of the child until school education stage.
16. Within the scope of NIHR mandate to receive complaints, twelve complaints were received all of which are related to children under the age of eighteen. Three complaints pertain to allegations of arbitrary arrests, while eight complaints relate to allegation of arrest without following the due process of law, accompanied by some practices which fall within torture and ill-treatment. One complaint pertains to allegation of denying the opportunity to sit for examinations during the period of detention.

#### **RECOMMENDATIONS:**

**In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to expedite the adoption of a draft law on the protection of family from violence to be an additional legislative cover for legal protection of children from exposure to violence and abuse.
2. Urging the legislative authority to make amendments to Decree-Law No. 17 of 1976 on Juveniles in order to raise the juvenile age to eighteen years in line with the international human rights instruments.
3. Urging the government to follow up the effective implementation of the National Strategy for Children for the years (2013-2017).
4. Urging the public prosecution not to resort to measures that restrict the freedom of the children, except within the most minimum range and as a measure of last resort.
5. Urging the Government to activate the regulatory and supervisory role over nurseries, kindergartens and government educational institutions to ensure that children enjoy a safe environment that is free of exposure to the various forms of violence, abuse or neglect.
6. Urging the Government to submit its periodic report to the Committee on the Rights of the Child emanating from the provisions of the Convention on the Rights of the Child on the scheduled deadlines.
7. Considering and allowing the Special Rapporteur on the sale of children, child prostitution and child pornography of the Council of Human Rights to visit the Kingdom.

#### **THIRD: RIGHTS OF PERSONS WITH DISABILITIES**

1. The state's interest in the rights of persons with special needs and its commitment to ensuring that this group enjoy all their rights, and other rights which they share with others, are of the basic criteria to measure the level of the state's civilization. The

rights of persons with special needs in particular differ from other rights in terms of content and nature. The rights of this group aim to satisfy their own needs by changing isolation to integration; care and compassion to enjoyment of rights; and exclusion to inclusion, and promoting their active participation in community, to be able to contribute to its construction and advancement.

2. Despite there is no explicit provision on the rights of persons with special needs in the Constitution of the Kingdom of Bahrain, Article 5, Paragraph c, of the Constitution indicates that it has guaranteed the social security of a group of persons. It provides that: **“The State guarantees the requisite social security for its citizens in old age, sickness, disability, orphanhood, widowhood or unemployment, and also provides them with social insurance and healthcare services. It strives to safeguard them against ignorance, fear and poverty”**.
3. In terms of international human rights instruments, the Convention on the Rights of Persons with Disabilities, ratified by the Government of the Kingdom of Bahrain under Law No. 22 of 2011, confirms that all persons who suffer from any kind of disability should enjoy all human rights and fundamental civil, political, economic, social, and cultural freedoms and describes how the rights of all categories apply to persons with disabilities in order to be able to exercise their rights in real life. Thus, the State has obligations to ensure the rights of this category.
4. In the area of institutional construction and in order to grant more protection to ensure that the persons with disabilities enjoy their rights to the full extent, the Supreme Committee for the Disabled Affairs was formed pursuant to the Cabinet Resolution No. 1 of 2012. The Committee is headed by the Ministry of Social Development and its members are representatives from various government agencies and the private sector. The Committee is entrusted with planning and coordination of programs for the welfare, rehabilitation and employment of the disabled, developing rules for determining the basic needs for care, rehabilitation, and employment of the disabled, and conditions of admission to rehabilitation centers, developing regulations and determining the procedures for the implementation of the commitments set forth in law No. 74 of 2005 on the Care, Rehabilitation and Employment of the Disabled. A committee called the “Committee to decide on requests for prescribing prosthetic devices for people with disabilities” was established under the decision of the Minister of Social Development No. 25 of 2011. This Committee is specialized with issuing decisions regarding requests for prosthetic devices for people with disabilities. In addition, there are many rehabilitative centers that provide care, support, and services for this category.
5. According to the mandates of the Supreme Committee for the Disabled Affairs, it has developed a comprehensive and integrated national strategy based on a series of research and field studies on the condition of persons with disabilities in the Kingdom. The strategy is based on seven objectives, including legislation, health and rehabilitation, education, economic and social empowerment, empowerment of women with disabilities, in addition to facilitating the disabled access to buildings and services, and highlighting the role of the media and awareness of the importance of granting people with disabilities their full rights.
6. The principle of equality and non-discrimination on the basis of disability in the enjoyment of all rights and fundamental civil, political, economic, social and cultural freedoms is a basic principle recognized in international human rights instruments. Equality may be achieved effectively through taking measures and adopting legislation and national policies based on the principle of equality of persons with disabilities and other individuals. This is evident in the provisions of the Convention

on Persons with Disabilities. Article 5 of this Convention confirms the principle of equality and non-discrimination, and ensures that this group enjoys equal and effective legal protection in respect of all rights and freedoms.

7. Regarding the civil rights of persons with disabilities, particularly the right to equality before the law and access to justice, the Convention on the Rights of Persons with Disabilities indicates the need to recognize the legal capacity of this category on equal footing with others. This requires taking a range of appropriate measures and procedures to provide them with access to the support they need during exercising this capacity. In this regard, we have monitored that NIHR has observed that the Supreme Judicial Council, the Ministry of Justice, Islamic Affairs and Endowments and the public prosecution have taken several facilitative procedures to enable persons with special needs to enjoy their right to equality before the law and access to justice through the provision of sign language interpreters, and providing the possibility of visiting the residence place of the person in question by the judge or court officers, if this person is not able to attend to the court because of disability, in order to complete litigation or documentation procedures.
8. Regarding the right of persons with disabilities to physical and moral integrity, the Convention on the Rights of Persons with Disabilities indicates that all appropriate legislative, administrative and judicial measures should be taken to prevent exposing persons with disabilities to torture or other cruel, inhuman or degrading treatment or punishment. In this regard, NIHR has observed, through the media and social networks, that there is a detainee with disability (a blind person) held in pre-trial detention. There were allegations that this person was subjected to torture and ill-treatment and was denied medical treatment. NIHR pursued these allegations and contacted the concerned authorities. It was indicated that the detainee is receiving humane treatment and has received the appropriate treatment. The authorities promised to consider his release. On the other hand, NIHR was informed that the Ombudsman has visited him, followed up his condition, and discussed the services that can be provided to him in line with his vision disability. These services pertain to the place of his arrest, psychological rehabilitation, or special assistance that can be provided to him, in addition to other requirements related to receiving treatment and visit organization procedures, as well as communicating with his family about his condition and his requirements in view of his health condition.
9. In the area of economic, social and cultural rights, specifically with regard to the right of persons with disabilities to enjoy an adequate standard of living, Law No. 7 of 2009 adding an article to the Decree-Law No. 10 of 1976 on Housing requires the competent authorities to consider the condition of persons with disabilities or their families when accommodations are allocated, and the importance of the existence of special equipment that suits the disabled person and the type of his disability. This is consistent with the provisions of the relevant International Convention concerning treating this category equally with others in respect of providing adequate standard of living by enabling them to take advantage of these services. The provisions of Law No. 40 of 2010 Amending some Provisions of Law No. 74 of 2006 on the Care, Rehabilitation and Employment of the Disabled creates a legal cover to provide social assistance to persons with disabilities by granting them a monthly allocation that is not less than one hundred dinars to upgrade their standard of living. In this regard, the Ministry of Social Development issued identification cards for persons with disability, which grant them variable discount rates on certain goods and services. NIHR, through the website of the Ministry of Social Development, reviewed a list that includes 27 sponsors of this project, which aims to improve the standard of living for this category.

10. Regarding the right of persons with disabilities to work, the provisions of Law No. 74 of 2006 on the Care and Rehabilitation and Employment of the Disabled confirms the principle of equality in the enjoyment of all labor rights and benefits for the disabled with others without any discrimination, and requires the facilities, which have more than fifty workers, to recruit (2%) of workers with disabilities of the total workers of the facility. This obligation also includes all government agencies, institutions, and public bodies in the State.
11. In order to grant persons with disabilities their right to education pursuant to the provisions of the Convention on the Rights of Persons with Disabilities, there is need to develop the personality, talents, creativity, and mental and physical abilities of the disabled people to the maximum extent, by not excluding them from the general education system on the basis of disability, and providing them with necessary support in the field of education. Article 5, paragraph 10, of Law No. 27 of 2005 on Education refers to diversifying educational opportunities according to the diverse individual needs of students and caring for students with disabilities by following up their progress and integrating the capable persons of them with their peers in educational institutions. In this regard, in response to NIHR inquiries, the Ministry of Education indicated that facilities and equipment are provided to students with disabilities through preparing special classrooms in some schools for slow learners and students of scholastic retardation. The Ministry also reported that it has applied the experience of integrating students with disabilities in regular classes with their peer students in order not to isolate them from their surroundings and their community, i.e. schools and normal classrooms. The Ministry added that its Special Education Department detects mental retardation, speech disorder, and hearing and visual impairment in public schools, and transfers them to institutes or specialized centers. In addition, it takes special measures commensurate with the classification of the case depending on the type and nature of the disability. The infrastructure is prepared for students with disabilities to enable them to use the facilities, and specialist teachers, appropriate educational tools, and treatment services are provided to those in need.
12. In order to improve the quality of education for people with disabilities, the Government has introduced an allowance for education, rehabilitation, or care of persons with disabilities in the public schools of the Ministry of Education and the rehabilitation centers of the Ministry of Social Development. This allowance, by virtue of the Cabinet Resolution No. 16 of 2013, is estimated at one hundred dinars for the employees in educational positions, and fifty dinars for employees in a number of public positions.

#### **RECOMMENDATIONS:**

##### **In light of the foregoing, NIHR recommends the following:**

1. Urging the legislative authority to pass a law on the rights of persons with disabilities in accordance with the provisions of the Convention on the Rights of Persons with Disabilities.
2. Urging the Government to improve the infrastructure by taking into account the engineering requirements appropriate for individuals with disabilities in public facilities, especially in modern buildings and complexes.
3. Urging the Government to provide sign councils that correspond to certain disabilities (hearing and speaking disabilities) in forms that are easy to be read and understood. The signboard should be placed on public buildings and other facilities, to ensure that persons with disabilities have access to the available services.

4. The media should contribute to raising awareness of the problems of individuals with disabilities and how to deal with them, and introducing their families to the services provided by the Government for this category.
5. Urging the Government to include the basic concepts of human rights education and the International Convention on Persons with Disabilities in the curricula of primary and secondary education, which will help promote the rights of this category.
6. Increasing the Government's interest in preparing specialized technical personnel to work in the field of rehabilitation of persons with disabilities, and introducing a prerequisite course entitled: "Care and Rehabilitation of People with Disabilities" within the curricula of psychology and sociology departments.
7. Urging the Ministry of Social Development to continue the follow-up and effective implementation of the national strategy for the rights of disabled people for the years (2012-2016).
8. Urging the Government to take action to encourage community partnership to strengthen the capacity of civil society organizations in order to raise the level of awareness in all matters relating to the rights of persons with disabilities.
9. Urging the Government to provide its initial periodic report to the Committee on the Rights of Persons with Disabilities emanating from the provisions of the Convention on the Rights of Persons with Disabilities on the prescribed dates.
10. Considering and allowing the Special Rapporteur on disability of the Human Rights Council to visit the Kingdom.

#### FOURTH: RIGHTS OF THE ELDERLY

1. The issue of caring for the elderly is particularly important, since it is one of the most significant areas of social care undertaken by the state and society alike. This group represents an essential segment of the community. The responsibility for the elderly is based on providing protection by granting special rights to the elderly, along with other common rights they share with others, which are designed to satisfy their needs, so as to provide a sound health, mental and social environment.
2. The Constitution of the Kingdom of Bahrain confirms the right of the elderly to enjoy social security and health care. Article 5, paragraph c, provides that: **"The State guarantees the requisite social security for its citizens in old age, sickness, disability, orphanhood, widowhood or unemployment, and also provides them with social insurance and healthcare services. It strives to safeguard them against ignorance, fear and poverty"**.
3. In terms of international human rights instruments, despite that the International Covenant on Economic, Social and Cultural Rights, which was acceded to by the Government of the Kingdom of Bahrain under Law No. 56 of 2006, does not include any explicit reference to the rights of the elderly, the Committee on Economic, Social and Cultural Rights, in commenting on Article 9, which states that: **"The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance"**, notes that it implicitly recognizes the right to old age guarantees.
4. Regarding national legislation, Law No. 18 of 2006 on Social Security provides for the elderly right to social assistance provided by the State to the citizens in order

to help them secure the minimum requirements for basic life. In addition, Law No. 58 of 2009 on the Rights of the Elderly provides for issuing a special card allowing the elderly to obtain a reduction of at least (50%) on the fees charged by the State. The card further grants this category discounts on living supplies by interested entities and companies. The said Law further provides for imposing penalties and imprisonment on any person who undertook caring for the elderly but refrained from assuming responsibility, thus leading to damage to the elderly person. The penalty is aggravated if the act or omission is committed by one of the relatives of the elderly up to the third degree.

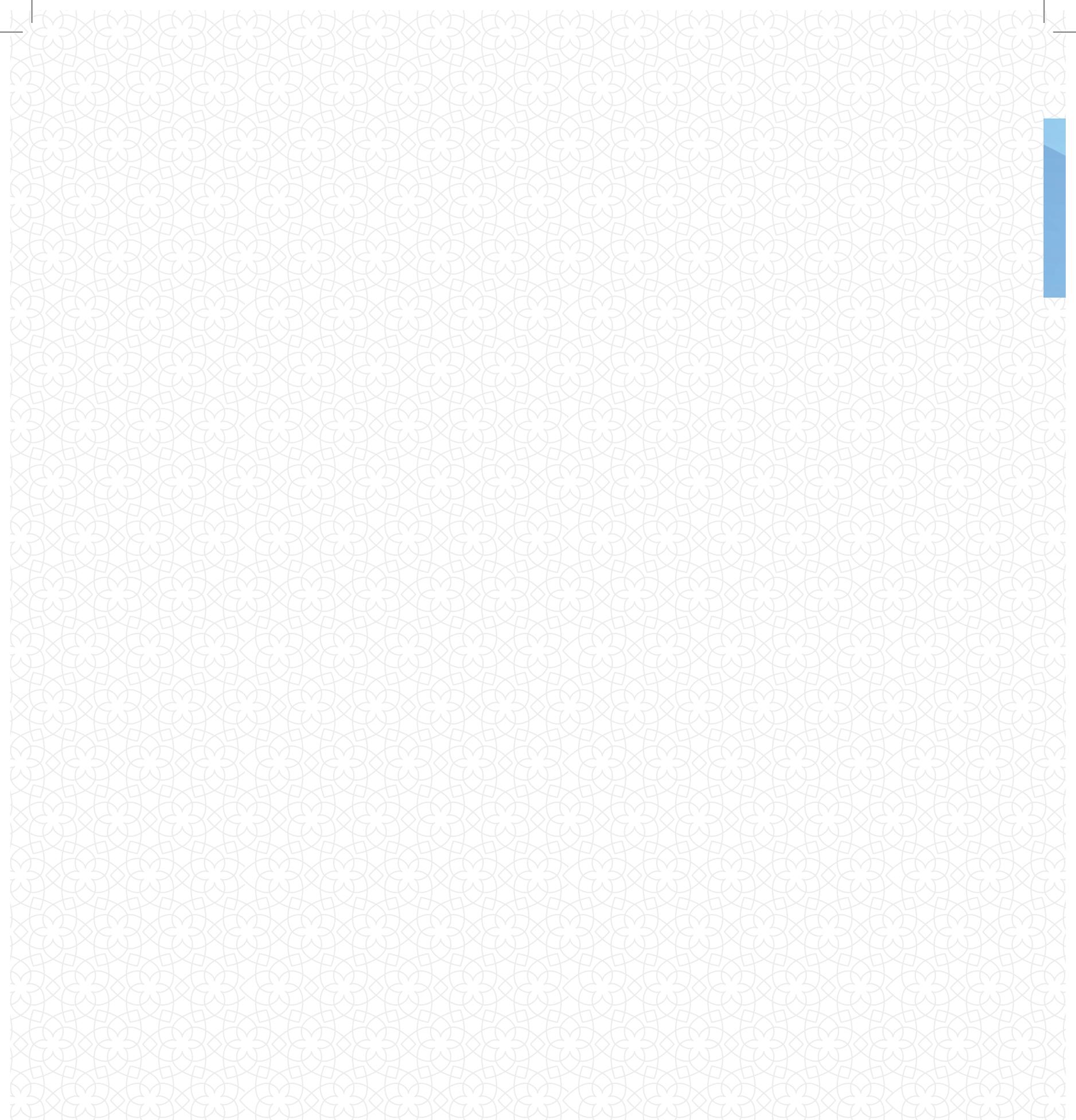
5. In the field of institutional building, and to give more protection to ensure that the elderly enjoy their full rights, the National Committee for the Elderly has been formed under the Council of Ministers Resolution No. 79 of 2011. The most essential functions of this Committee is to propose public policy for care of elderly people in the Kingdom and its operational plans for the care and integration of the elderly into society. The Committee follows up the implementation of these plans with the various parties involved in the development of services provided to the elderly in order to provide them with financial, health and psycho-social security. In addition, the Committee coordinates with the concerned authorities in order to cooperate with the United Nations organizations concerned with the elderly, and directs the public opinion to the importance of the role of the family and the community in caring for the elderly through the various media outlets.
6. In this context, NIHR has observed that the National Committee for the Elderly undertook a number of social, cultural, and organizational events and activities, such as festivals, training workshops, seminars, television and radio programs, and preparing manuals. The most prominent achievement of the Committee is the preparation of the National Strategy for the Elderly, which includes several objectives to improve the services of the elderly and reintegrate them into society.
7. Under the resolution of the Minister of Social Development No. 9 of 2013, the Office for the Elderly Services was established. It is mainly entrusted with providing family and social counseling for the elderly and their families, and receiving requests for benefiting from the services of permanent and day nursing homes and requests for alternative families for them. The Office further conducts surveys concerning the elderly in order to take advantage of their expertise and abilities and encourage them to contribute to production.
8. Within NIHR objective to identify the efforts of the Ministry of Social Development regarding the rights of the elderly, NIHR addressed several inquiries to NIHR to indicate the number of the elderly care centers, and educational media programs concerned with preserving the rights of the elderly, the most important difficulties faced by the elderly, the quality of development programs which focus on encouraging and developing the capacity of the elderly, means of control and supervision, violations and complaints received and how they are addressed, the entities that may be hired and cooperated with in order to promote development and ensure the rights of the elderly, and the training programs conducted for the supervisors taking care of the elderly. However, the Ministry has not responded to these inquiries to date.
9. Within the scope of NIHR mandate to receive complaints, it received one complaint by an elderly person in which he claimed violation of his rights in one of the nursing homes. He claimed that he did not receive health care and that there is discrimination in treatment. After examining the complaint, NIHR addressed the Ministry of Social Development, and followed up with the concerned nursing home. In the light of the Ministry response, it was found out that there is no right that has been violated.

## **RECOMMENDATIONS:**

### **In light of the foregoing, NIHR recommends the following:**

1. The Government needs to establish and develop the departments concerned with health care for the elderly, in order to provide the necessary medical care and treatment.
2. Urging the Government to create more social care homes for the elderly in each province in order to keep the elderly close to their families, and providing a variety of programs to fill the leisure time of the elderly with activities that suit their interests and abilities.
3. Urging the Government to create an infrastructure that considers the needs of the elderly and their requirements when designing and planning modern cities, public utilities, roads and streets, so as to facilitate their movement and provide them with psychological satisfaction and social security just like the rest of the community groups.
4. The Government needs to adopt a media policy that establishes social and psychological awareness of issues of older people, and interacts with the transformations experienced by the society so that a public opinion is crystallized that takes into account the needs of all ages.





## CHAPTER V

### KEY ISSUES WITH DIRECT IMPACT ON HUMAN RIGHTS

#### **PREFACE:**

The case of human rights is like any other case that is affected by the conditions and changes that occur in the community, including positive changes that promote the human rights situation in the country, or negative changes that render these rights vulnerable to abuse. These conditions and changes result from security, political or economic incidents that affect the community, or arise from violations and abuses that are detrimental to the community resources and capabilities.

This Chapter deals with issues of particular importance which NIHR believes to have formed a turning point in human rights in the Kingdom of Bahrain, and which have a negative impact on the efforts to promote human rights. The first issue is the Bahraini National Dialogue, which is the optimal project for resolving outstanding issues, especially sectarian tension, and the primary solution for the crisis that engulfed the Kingdom. The second issue is related to corruption. Corruption has serious damages to the process of construction and development and negative effects on people enjoyment of their rights and freedoms in various fields.

## FIRST: BAHRAIN NATIONAL DIALOGUE

1. Crises are exceptional events that pose challenges to the community essence. They have negative effects that reduce people's chances to enjoy the various rights and public freedoms. The issue becomes more serious when these crises are protracted, which makes terminating these crises and overcoming the consequences more difficult. Therefore, it is necessary to put an end to these crises by engaging in a project in which the public interest is a cornerstone. The project should be constructed through a review of the various visions to reach a compromise among all parties.
2. Dialogue is one of the best projects that is most adopted in solving crises. It is now considered a democratic approach that is adopted to deal with these exceptional circumstances. It is the most required and imperative approach, not only to achieve positive results, but also because the use of other alternatives may make the rights and freedoms of the individuals prone to prejudice. In addition, dialogue is a national responsibility that should be assumed by all members of the community and by the State. The Kingdom of Bahrain experienced crises and events throughout its history, albeit for different reasons from time to time. However, experience shows that there is no way to get out of crises, except through engagement in serious dialogue that is based on public interest and which leads to compromise solutions of national dimensions that satisfy all parties.
3. The reform project initiated by His Majesty the King, which was launched at the beginning of the millennium, is the fruit of dialogue in which all parties were engaged and were able to contain the political crisis. This was accomplished through a general amnesty for political prisoners who were imprisoned as a result of the nineties' events, and allowing the deportees to return home to participate in drafting a democratic project that sets the beginning of a transitional phase. The National Action Charter is the gateway in this phase to a bright future where everyone enjoys security, stability, and decent living.
4. The reform project was not to succeed but for the sense of national responsibility embraced by all parties. However, the controversial views on the interpretation of certain provisions of the Charter re-incited the political crisis and instability. These differences are related to the interpretations of the National Action Charter on the ground, namely the constitutional amendments of 2002. This created political mobilization, although less intense than that which occurred in the nineties. However, it continued until it culminated in the unfortunate events that ravaged the Kingdom during February and March of 2011 and its associated consequences. A political crisis erupted which resulted in loss of life and property, and created a huge gap and confidence crisis among all components of society, which is marked by sectarian tension. As a result, there was an urgent need to find a way out of the crisis by calling for dialogue that brings the concerned parties together. Consequently, HM the King created the suitable ground through the formation of Bahrain Independent Commission of Inquiry to identify the events and come up with recommendations and solutions for the crisis and its repercussions.
5. The importance of engaging in a comprehensive national project emerged when the crisis that engulfed the Kingdom caused serious repercussions that created imbalance embodied in sectarian tension. Consequently, there was a gap in the social fabric, which was always based on interconnection and embracing the other. These were the characteristics of the Bahraini society throughout its history. This crisis created strife and dissension, since sectarianism is a distasteful approach that instigates hatred, undermines tolerance and acceptance of others, and destructs national unity. Indeed, the danger of sectarianism and rejection of the other in various fields has direct impact on the citizens' rights and public freedoms. It leads to discrimination based

on doctrine or religion, which is contrary to the civil state that can be developed only if all social ills that threaten its existence are eliminated. Sectarianism is an inappropriate behavior that is inconsistent with the values and norms of civilized society. It is also incompatible with the principles established by the National Action Charter, the Constitution, and international human rights instruments. Therefore, addressing sectarianism is a moral and national responsibility at once.

6. As a result, the Bahraini National Dialogue initiative was commenced by His Majesty in order to achieve national harmony and reach a common ground to meet the aspirations of the Bahraini people for peace and justice and achieve national consensus on comprehensive issues. This will help sustain and move reform and comprehensive development forward, in the light of national unity and societal values, through openness to all views, and bringing visions closer. This initiative has political, economic, social, and human rights themes. However, one of the parties to the dialogue (the opposition) announced at a later stage its withdrawal from the dialogue as a result of not reaching a consensus with the other parties. However, this was not an obstacle to the continuation of the dialogue. A number of recommendations were drawn, namely, making constitutional amendments that grant the Parliament more supervision powers, and limiting the role of the Shoura Council to the legislative aspect. In addition, a number of new national laws were enacted, namely, Law No. 35 of 2012 on Consumer Protection; Law No. 36 of 2012 Promulgating the Labor Law for the Private Sector; and Law No. 37 of 2012 Promulgating the Law of the Child. Moreover, amendments were made to certain laws in force, including Law No. 33 of 2012 Amending Article 221 of the Penal Code, promulgated by Decree-Law No. 15 of 1976. There is another amendment pending before the legislature, including the draft law amending some provisions of the Criminal Procedure Law promulgated by Decree-Law No. 46 of 2002, accompanying Decree No. 124 of 2011, related to reducing the duration of the custody of the accused and granting him the right to appeal. Yet, all such legislation, despite their importance and close relevance to the rights and freedoms of individuals, are not sufficient to put an end to the political crisis.
7. In continuation of the efforts of His Majesty the King to contain the political crisis, he called the parties concerned to complete the political theme of the Bahraini National Dialogue in February 2013, represented by the Government, the legislative authority, and active political associations. However, this initiative was not much different from the precedent ones, as there were differences and lack of consensus on certain issues among the parties. There were suspension periods that ultimately put an end to the dialogue.
8. There was a bold step that seemed different from the previous steps, which was represented in holding an official meeting with the various parties, led by the Crown Prince. The initiative started with the Crown Prince meeting with the national political forces on January 15, 2014 to discuss ways to bypass the challenges that encountered the national dialogue completion sessions and achieving the desired results.
9. In this regard, NIHR would like to indicate that dialogue is the language to ensure eliminating the crisis faced by the country, with placing full confidence in the leadership of the Crown Prince to contain the crisis. The national historical responsibility will succeed with cooperation of all parties for the interest Bahrain and its future. NIHR appreciates all powers and parties which have declared their participation in the completion of the national dialogue to reach the desired results for the country and its people.

10. NIHR stresses the need to protect the democratic process and to maintain an atmosphere of coexistence, moderation, and acceptance of others. At the same time, it calls all community parties to cooperate in order to confirm respect for human rights, democratization, and the values of peace, security and stability, and direct efforts towards development, rejection of sedition and extremism, respect for the rule of law, and maintenance and reinstatement of national unity to its former condition.
11. NIHR is of the opinion that there is information which should be available to all parties involved in the dialogue as a democratic means to eliminate the crisis experienced by the country. Bold steps should be taken to contain the political crisis along the lines of the steps that have been taken at the start of the reform project initiated by His Majesty the King during which political prisoners were released. This has a direct positive impact on creating and refining the atmosphere, clearing intentions, promoting a sense of national responsibility and commitment to constitutional and national consensus frameworks, and observing the reasons for the success of the dialogue in order to start a new national chapter that is filled with hope and work and promote and protect the rights of everyone.

## SECOND: CORRUPTION

1. Corruption is the salient aspect of the abuse of power or public office for the purpose of achieving special gains. Corruption is defined by the United Nations as a complex social, political, and economic phenomenon that affects all countries, undermines democratic institutions, slows economic development, and contributes to government instability. Corruption perverts the rule of law and creates bureaucratic quagmires whose only reason for existing is the solicitation of bribes . It is a phenomenon that is known to all societies, and it is now considered a global ongoing phenomenon that does not belong to a specific community or historical era. It is a threat to society as a whole, which exposes it to collapse, as it could corrupt the state institutions and organs, damage its capabilities and gains, disrupt its security and stability, and undermine the various rights and public freedoms of people.
2. The threat of corruption lies in its huge damage to the building process and economic development of the state. This involves the destruction of the economy and its financial and administrative ability. This eventually leads to the state's inability to meet the challenges to construction or upgrading the infrastructure required for its growth and development, and has huge effect on the effectiveness and efficiency of the state bodies in carrying out their duties toward the individual users of the services in the various public fields, which are their basic rights.
3. Addressing corruption requires taking a series of measures, including legislative, educational and awareness measures. The community efforts should combine to confront this phenomenon and prevent its outbreak. The negative repercussions of this phenomenon affect the community. The state will not have a positive role in the fight against corruption, unless it takes an active role in enacting the necessary laws in this regard, ratifying the relevant international conventions, and aligning its national legislation with the provisions of these conventions.
4. In terms of awareness and educational efforts, corruption and its devastating effects on the community should be made clear, and every effort should be made to consider corruption as a priority challenge to be addressed. The various media authorities should conduct ongoing campaigns on corruption through the dissemination of information, and informing individuals in order to raise awareness and develop anti-corruption values. Civil society organizations should be supported in order

12. United Nations website: <http://www.un.org/ar/events/anticorruptionday>

to be able to perform their role in laying the foundations of civil culture through education, training, publishing, and the media, to detect the types of corruption and raise awareness on its harmful effects.

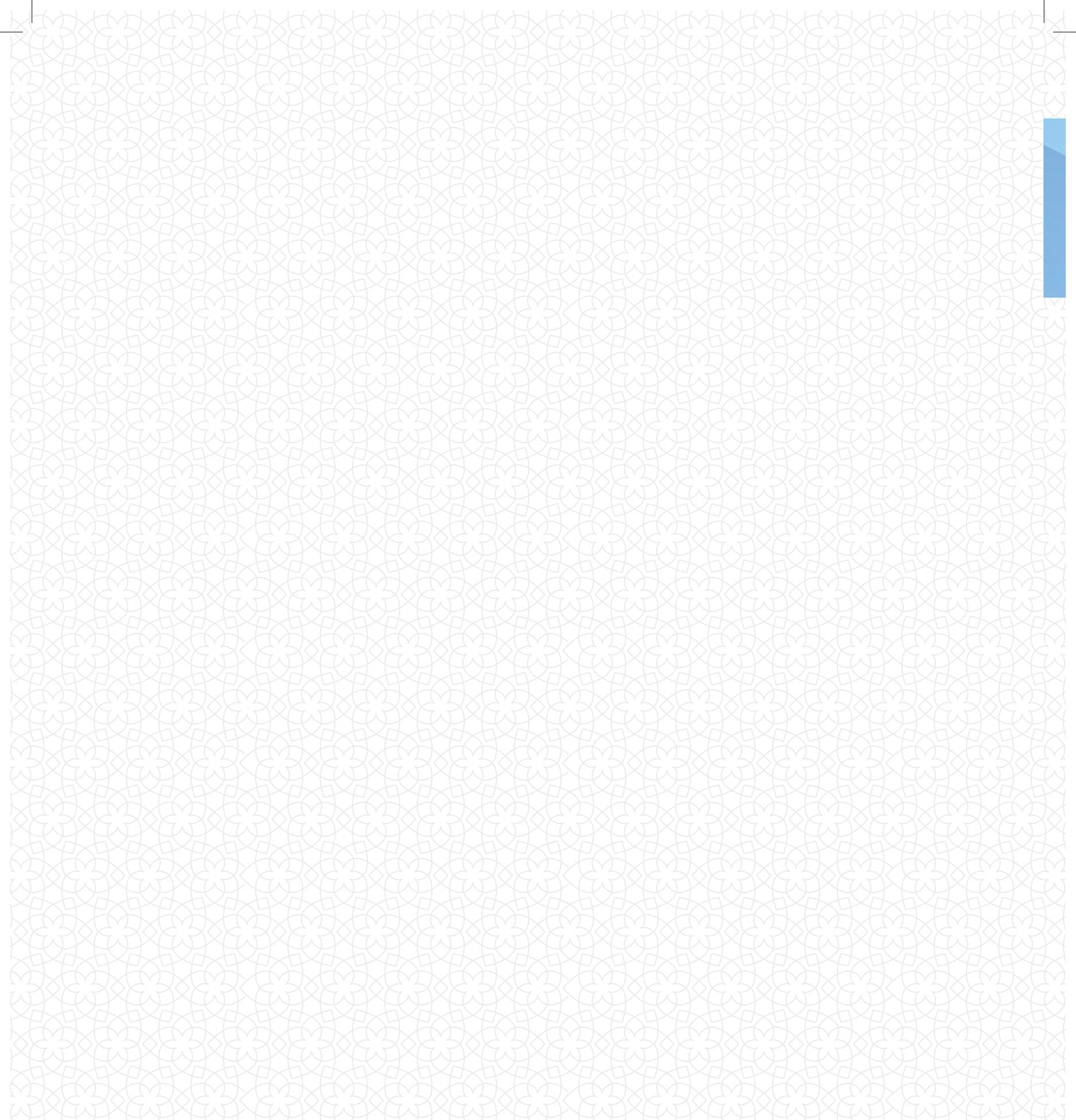
5. NIHR believes that integrity and anti-corruption requires cross-cutting reform programs backed by a strong political support. It should have a strategic content that is based on diagnosing the problem and addressing its causes, with the cooperation of government agencies and participation of all community institutions; establishing and promoting the principles and moral values of management; and benefiting from the international experience in this matter. This calls for narrowing corruption areas through strengthening, developing and upgrading seizure and control systems to keep pace with developments, issuing the necessary regulations to regulate the various aspects of public life, especially those which are not governed by any regulations, developing the authorities concerned with controlling and following up executive works, and supporting these authorities with means, funds, and qualified human resources.
6. In addition to the above, and side by side with legislative, awareness, and education measures, it is necessary to create specialized anti-corruption bodies, to be granted full independence, and linked, in terms of organization, with the supreme authority in the State, without being subject to any other authority. These bodies should be granted financial independence and self-control. The expanded use of technology in the performance of government agencies tasks reduces the chances of corruption outbreak. This allows the supreme authority to monitor the performance and the work of these bodies, as it would realize the concept of transparency, and it would enable monitoring corruption indicators and assist the competent authority to take the necessary measures.
7. Within the legislative framework, Decree-Law No. 4 of 2001, as amended, concerning the Prevention and Prohibition of Money Laundering, determines the forms of this crime and its associated penalties. Pursuant to the provisions of the Decree-Law, a committee was established to develop money laundering prevention and prohibition policies. The mandates of this Committee are determined under the Resolution of the Minister of Finance No. 8 of 2012. This was followed by Decree Law No. 16 of 2002 on the Financial Audit Court Law (FAC), as amended by Decree-Law No. 49 of 2010. In particular, the FAC verifies the appropriateness and legality of the use of these funds and their good management, including from administrative aspects, by ensuring the implementation of administrative laws and decisions and monitoring the performance of the controlled entities within a framework of neutrality, transparency, and credibility.
8. In order to entrench the principle of justice and fairness in the relationship between the individuals and the entities subject to the supervision of the FAC, NIHR believes that the mandates granted to the FAC should be expanded to include receiving individual complaints relating to any financial and administrative decisions, procedures or practices, or any omissions by any of the entities subject to its supervision. The concept of control is broader than taking the initiative to conduct investigation and validation and review the decisions made by these entities. It must be extended to receiving the complaints and observations of individuals. This is the mirror that reflects the commitment of these entities to the principle of justice and fairness, and verifies the existence of corruption.
9. Receiving individual complaints by the Financial Administration Audit Court (FAAC) is one of the means to fight and eliminate corruption. This would identify any default, negligence, or violation by the entities subject to its supervision, which

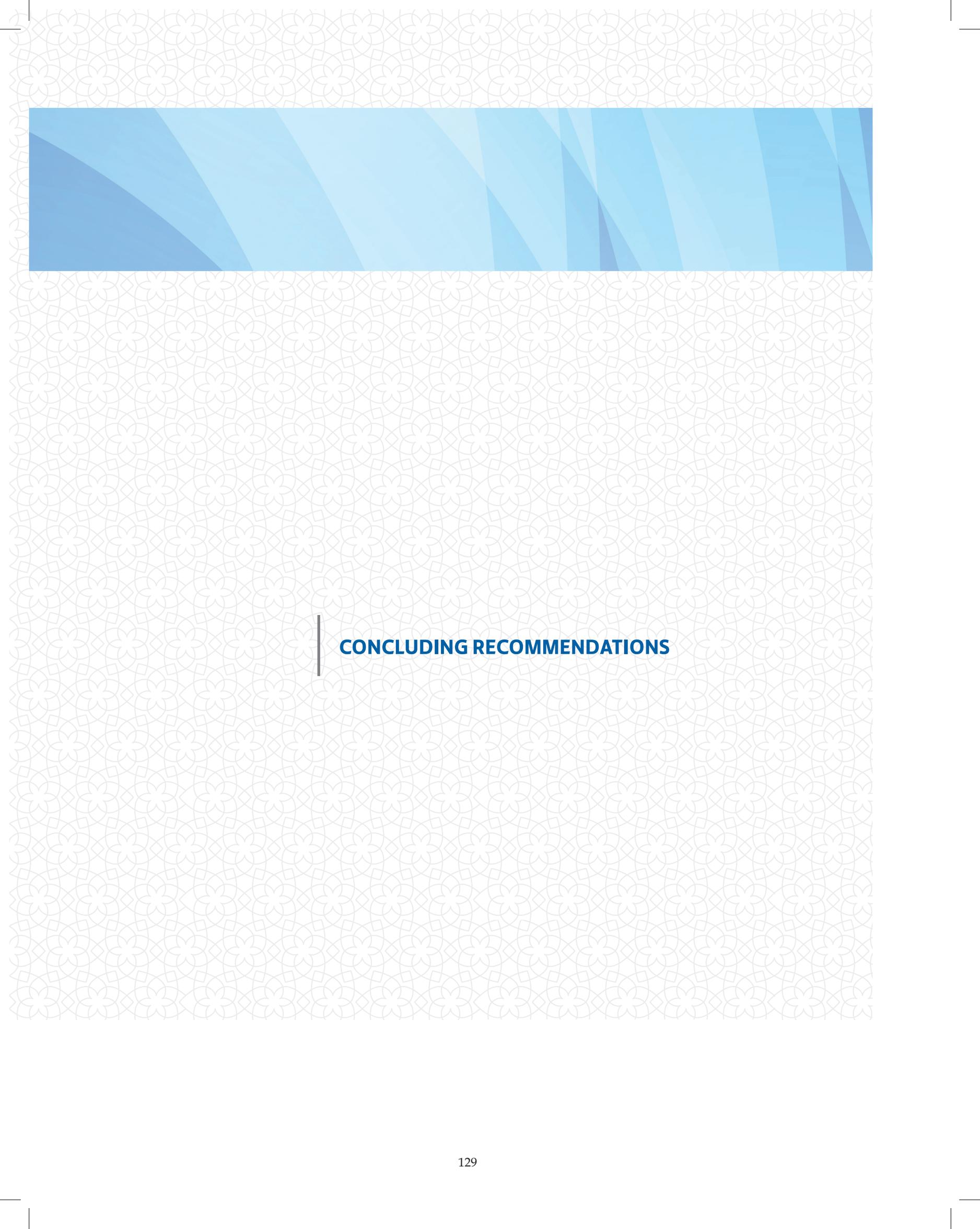
is in line with the amendment made by the legislature renaming the (FAAC), set out in Decree-Law No. 16 of 2002, to the (FAAC), with expansion of the mandates of administrative nature. This amendment was made under Decree-Law No. 49 of 2010 amending certain provisions of the (FAAC) Law. There should be an express provision to protect the informants of financial and administrative corruption to the (FAAC).

10. Within the same context, Decree-Law No. 36 of 2002, as amended by Decree-Law No. 29 of 2010, on the Organization of the Government Tenders and Bids aims to protect public money and ensure efficiency, justice, fairness and competition in the government tenders and bids. Under this Law, the Tenders and Bids Council was established to oversee the government tenders.
11. In a positive step for the application of the best ways to combat corruption within the legislative and administrative scope, and through international cooperation, the Government ratified the United Nations Convention against Corruption under Law No. 7 of 2010, which is considered the most comprehensive anti-corruption convention. It covers a wide range of crimes, including bribery, embezzlement, trading in influence, as well as hiding and laundering the proceeds of corruption. It includes provisions covering detecting and punishing corruption, and promoting transparency and technical assistance.
12. In order for the national legislation in force to be in line with the provisions of this Convention, Law No. 32 of 2010 on Financial Disclosure was promulgated. The Law requires certain categories of senior positions in various ministries and official agencies to provide, on a regular basis, a statement of financial disclosure for them as well as for their spouses and minor children. This step is designed to verify that no suspicion of corruption is committed by any of these officers. The necessary amendments were also made to certain articles of the Penal Code under Law No. 1 of 2013, to criminalize bribery and embezzlement in the private sector.
13. However, despite all these efforts, corruption is still one of the challenges facing the Kingdom, threatening economic growth and impeding development. It affects political, economic and social aspects of life. Since the establishment of the (FAAC), and its commencement of its duties in 2002, it released ten annual reports, through which numerous financial and administrative violations in a number of ministries, institutions and agencies under the control of the (FAAC) were detected, some of which were described as gross corruption. The (FAAC) 2012 – 2013 report confirms the rampant corruption and its wide spread in the State, which indicates the growing corruption phenomenon, and its recurrence over the years, with the absence of effective oversight role in these various ministries, institutions and bodies, and lack of response to the recommendations of the (FAAC). This requires taking serious and decisive action in terms of accountability and trial.
14. NIHR appreciates assigning the Crown Prince to head the Coordinating Committee, consisting of the deputies of the Prime minister, to verify the violations and abuses indicated in the report of the (FAAC), hold the defaulters, abusers and violators of the laws and regulations accountable, and refer a number of the violations indicated in the report of the (FAAC) to the General Department for Combating Corruption and Economic and Electronic Security of the Ministry of Interior to conduct its investigation into these violations, and refer another part to the Public Prosecution.
15. However, NIHR expresses its concern over the recurrence of such financial and administrative violations in some of the ministries, institutions, and bodies, which leads to obvious exhaustion of public funds. This casts a shadow on the ability of

individuals to enjoy their rights optimally in the various public fields. Therefore, NIHR confirms the need for an effective and true partnership between the various public authorities in the Kingdom and the (FAAC), civil society organizations and media outlets to establish the principles of integrity, accountability and transparency and to stand together in the fight against corruption.







## **CONCLUDING RECOMMENDATIONS**

## CIVIL AND POLITICAL RIGHTS

### FIRST: RIGHT TO LIFE AND THE RIGHTS TO PHYSICAL AND MORAL INTEGRITY

1. The Special Investigation Unit in the Public Prosecution should be the body entrusted with investigation into allegations of torture and other forms of cruel, inhuman or degrading treatment or punishment and should have full independence, according to Istanbul Protocol.
2. The Special Investigation Unit of the Public Prosecution, in accordance with the provisions of Protocol Istanbul, should be committed to issuing public reports that include the following minimum components: the procedures and methods adopted in assessing evidence, the specific events that took place, the findings drawn by the Unit based on the applicable law, and the recommendations made based on the findings.
3. Urging the Government to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman Treatment or Punishment (OPCAT).
4. Urging the Government to continuously support the periodic resolutions of the United Nations General Assembly related to abolishing death penalty.
5. The Government's commitment to provide periodic reports to the Committee against Torture established under the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the specified deadlines.
6. Urging the legislative authority to expedite the enactment of an integrated legislation for reform, rehabilitation, and custody centers in accordance with the international standards on the treatment of prisoners and detainees.
7. The need to transfer the administrative, regulatory and supervisory authority over reform, rehabilitation, and custody centers to the Ministry of Justice, Islamic Affairs and Endowments.
8. Urging the legislative authority to reconsider the last paragraph of Article 3 of the Decree-Law No. 30 of 2011 on the Establishment of a National Fund for Compensating Affected People, which provides that in order to disburse compensation, a final criminal judgment by the competent court condemning the perpetrator should have been rendered.
9. The need for the Government to develop clear and transparent criteria and schedule for prompt disbursement of compensation to those who are proven to have sustained injury, whether the compensation is assessed by the National Fund for Compensating Affected People or the Civil Settlement Office of the Ministry of Justice, Islamic Affairs and Endowments, as the case may be.
10. The need to offer comprehensive extended training programs for law enforcement officers using curriculum that includes teaching all components of human rights. The training should include effective interrogation techniques and the proper approach to obtain information without resorting to coercive means, consisting of acts of torture or other forms of ill-treatment, and dismissing any law enforcement officer whose ill-treatment of detainees or convicts is proved.

11. Reducing recourse to solitary confinement punishment as disciplinary sanction in line with the findings of the report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Council of Human Rights.
12. Considering setting a date for the visit by the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Human Rights Council, in fulfillment of the obligations of the Kingdom of Bahrain during the Universal Periodic Review, after completing the implementation of the recommendations stated in the BICI report.
13. The need to take the necessary legal accountability procedures in respect of all decision-makers of security leaders with regard to death cases that occurred in the detention places, as a result of torture or other forms of ill-treatment, which are explicitly referred to in the report of Bahrain Independent Commission of Inquiry.

## **SECOND: RIGHT TO LIBERTY AND SECURITY OF PERSON**

1. Urging the Government to accede to the Optional Protocol to the International Covenant on Civil and Political Rights which is related to the government's recognition of the competence of the Human Rights Committee to receive individual complaints.
2. Urging the Government to accede to the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the resolution of the United Nations General Assembly No. (61/177) issued on December 20, 2006, and amending the relevant national legislation so as to ensure the activation and implementation of the provisions of this Convention.
3. Conducting effective and intensive training and awareness programs for public prosecution and employees of the executive apparatus of the public prosecution in order to promote the culture of human rights, respect for the rights and guarantees of the accused, and introduce alternative means for the measures imposing restrictions on freedom.
4. The need for the public prosecution to activate the authority granted to it by the legislature to take alternative measures to pre-trial detention, and effectuate its discretion granted under Article No. 149 of the Criminal Procedure Code for the provisional release of the accused persons who are detained in its custody.
5. Activating the supervisory authority of the public prosecution in relation to the work of law enforcement officers and any violations committed by them in the case of arrest, search, or entering houses without the written permission of the prosecution or not presenting the warrant, if it is available, and taking disciplinary or penal actions against them.
6. Urging the legislative authority to expedite the issuance of the necessary amendments to the Criminal Procedure Code on reducing the duration of custody and granting the accused the right to effective grievance against it.
7. Immediate cessation of the individual actions of law enforcement apparatuses associated with arrest and search procedures that constitute human rights violations.

8. Establishing an effective and transparent system of accountability for any person who is proved to have caused the violation of the right to liberty and security of person.
9. The need to supplement the efforts of the Ministry of Interior in the field of protection of all persons whose freedom is restricted, through the provision of the necessary audio and video recording equipment and security cameras in all police departments and its affiliated centers, and reform, rehabilitation, and custody centers.
10. The need to overcome all obstacles with regard to limiting the freedom of movement across borders or official ports, and not preventing anyone from traveling without legal justification, and the importance of informing the person concerned of any decision banning him from travel well in advance.
11. Immediate cessation of illegal or unjustified actions at security checkpoints and enabling local residents to have access to their homes.
12. Considering and allowing the Working Group on Enforced or Involuntary Disappearances, and the Working Group on Arbitrary Detention of the Human Rights Council to visit the Kingdom.

### **THIRD: RIGHT TO A FAIR TRIAL**

1. Making the necessary legislative amendments to ensure the accused person's right to counsel. This should include misdemeanors as well as felonies, starting from the stage of collecting evidence, until pre-trial investigation, through the trial stage and beyond.
2. Enabling the detainees to attend the funerals or mourning ceremonies of any of his ascendants, descendants, spouse, or his relatives to the second degree, and making the necessary legislative amendments to enforce this right.
3. Activating the supervisory authority of the public prosecution in relation to the work of law enforcement officers and the violations committed by them, and taking disciplinary or penal actions against them in case of violating the provisions of the Code of Criminal Procedure.
4. The Supreme Judicial Council should verify the claims made by the defendants during pre-trial investigation or trial procedures concerning the violation of their right to fair trial. Serious and transparent investigations should be conducted with the respondents, and the necessary legal action should be taken against them, if liability is proven.
5. The security measures necessary to maintain public security in the vicinity of the court should be clear and declared in advance, and specialists such as lawyers, human rights defenders and the relatives of the accused persons should be allowed to attend the hearings, unless the court decides otherwise.
6. Activating the role of supervisory and control role of judicial inspection over judges, in order not to prolong the duration of litigation proceedings, and not to delay the hearings or to postpone cases for long periods.
7. Providing courts with qualified personnel in line with the progressively increasing number of cases, and developing specialized qualification programs to increase the efficiency of the judicial authority personnel and the level of their performance.

8. Developing the Institute of Judicial and Legal Studies programs in order to conform to international human rights instruments, particularly those related to criminal justice and human rights.
9. Dedicating further attention to intensive and effective training for judges and public prosecutors on issues related to human rights, particularly fair trial guarantees.
10. Considering and allowing the Special Rapporteur on the Independence of Judges and Lawyers of the Council of Human Rights to visit the Kingdom.

#### **FOURTH: RIGHT TO CITIZENSHIP**

1. Urging the legislative authority to pass a new citizenship law to be commensurate with the political, economic, and social conditions of the Bahraini community, and to be in line with the international human rights instruments.
2. Urging the legislative authority to include in the new citizenship law clear and specific controls and legal standards in the cases where the Bahraini citizenship is granted by naturalization.
3. The citizenship law should incorporate the Bahraini women right to grant citizenship to her children according to legal controls, in line with international human rights instruments and the Government of the Kingdom of Bahrain commitments before the Human Rights Council at the Universal Periodic Review.
4. Taking the legislative measures that ensure granting the Bahraini women children, who have no father or who have a stateless father, the right to acquire the Bahraini nationality, on an equal footing with the person who has a Bahraini mother and unknown father, or whose paternity has not been legally established.
5. Urging the Government to lift its reservations as to Paragraph (2) Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, so that the Bahraini woman has equal rights with men with respect to the nationality of her children, since this does not conflict with the Islamic principles and provisions.
6. Avoiding the forfeiture of Bahraini citizenship, except in specific and exceptional situations prescribed by the law. Forfeiture should be based on final court judgments and any person whose nationality has been forfeited should not be declared as stateless in order to avoid statelessness in the community, which poses serious risks to stability.
7. The need to reinstate citizenship to those who were deprived of it (31 citizens), under Article 11 of the Bahraini Citizenship Act of 1963, as amended, which authorizes the King to reinstate the Bahraini citizenship to those who have lost it, under the provisions of the law.

#### **FIFTH: FREEDOM OF OPINION AND RIGHT TO EXPRESSION**

1. Expediting the issuance of an integrated law on the press, printing, publishing and audio-visual, printed and electronic media, in line with the international human rights instruments, without prejudice to people rights to freedom of opinion and expression.
2. Incorporating the definition of the right to expression, inclusive of receiving and imparting the various forms of information and ideas to others, regardless of

frontiers, in the press, printing, publishing, and audio-visual, printed, and electronic media law. This right includes the right to political discourse, public comments, polls, discussing human rights issues, the press, cultural and artistic expression, religious discourse, whether this right is exercised in spoken or written form, sign language or expression in books, newspapers, leaflets, posters, banners and other documents, as well as all audio-visual media, and electronic methods of expression.

3. Urging the legislative authority to expedite completing the discussion of the draft law on guaranteeing the right to access to information, as a major component of the freedom of opinion and expression and media freedoms, and as primary requirement for transparency in government performance.
4. Urging the Supreme Authority for Information and Communication to expedite the preparation of a draft national plan for information and communication, which is based on promotion of common national values and adopting a fair, balanced and professional media policy.
5. Allowing all licensed political societies of various directions greater use of television and radio transmission and printed media, in line with the recommendations of the BICI report.
6. Urging the public prosecution not to resort to arrest warrants in the lawsuits of audio-visual media, printing, the press, publishing and electronic media.
7. Urging the Government to limit the censorship and restrictions on the media outlets, including removing the censorship imposed on the political societies in releasing their own publications.
8. Considering and allowing the Special Rapporteur on Freedom of Expression of the Human Rights Council to visit the Kingdom.

#### **SIXTH: RIGHT TO PEACEFUL ASSEMBLY**

1. Inviting the legislative authority to pass a new law on peaceful assembly that guarantees the freedom to enjoy this right in the context of the relevant international human rights instruments, or amending Decree No. 18 of 1973 on Public Meetings, Marches and Assemblies, as amended, by including a clear and explicit provision that considers the purpose of the notice to hold peaceful gatherings is to organize rather than prevent holding these gatherings, and lifting the prohibition of demonstrations, marches, rallies or sit-ins in the city of Manama.
2. The need for law enforcement agencies to protect all marches, sit-ins and rallies, especially if such right is not accompanied by any manifestation of violence or breach of security and public safety.
3. Providing adequate training programs for law enforcement apparatuses, particularly those entrusted with the protection of peaceful gatherings, including training on the gradual use of means of dispersing gatherings if they are contrary to the law, how to manage the crowds and participants in those gatherings, implementing a system to record and monitor the ammunition used for dispersing gatherings, and a system for communication records in order to monitor operation orders and those responsible for these operations and the executing officers. This will facilitate identifying liability for the violation, and non-infringement on the rights of others.

4. Urging civil society organizations to deepen the understanding of the right to peaceful assembly, raise the awareness of the participants and organizers of peaceful gatherings about the legal aspects and violations that might be committed by the participants and their implications, and to assume an active role in promoting awareness of the importance of this right, its exercise and its envisaged objectives in a peaceful context as a civilized form of democratic practice, announcing the end of the assembly formally, and inviting the participants to disperse.
5. Law enforcement apparatuses need to protect and facilitate the access of journalists and observers to the peaceful gatherings locations in order to cover the events and monitor the events of these gatherings.
6. Considering and allowing the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association of the Human Rights Council to visit the Kingdom.

#### **SEVENTH: RIGHT TO ORGANIZE**

1. The need for the legislative authority to expediently approve a draft law on civil organizations and institutions, taking into account the appropriate developments in human rights, and supporting this law with the guarantees for the exercise of the right to organize in line with international human rights instruments.
2. Making the necessary legislative amendments that grant the associations that are subject to the provisions of Decree-Law No. 21 of 1989 Promulgating the Law on Societies, Social and Cultural Clubs, Youth and Sports Private Bodies, and Private Institutions, as amended, the freedom of incorporation by means of notification.
3. Performing the necessary legislative amendments to the provisions of Law No. 26 of 2005 on Political Associations, so that it includes the requirement to notify the agent of the founders of the political association by registered letter of rejecting the application, together with the reasons for rejection, without considering the silence of the competent ministry or lack of notification as implicit rejection of this incorporation.
4. Incorporating a provision in Decree-Law No. 33 of 2002 Promulgating the Law on Trade Unions, as amended, that grants the workers governed by civil service regulations the right to form and join trade unions.
5. Canceling Resolution No. 31 of 2013 adding a new article, i.e. Article 3 bis, to the Resolution No. 4 of 2005 on the rules of political associations' communication with foreign political parties or associations.

### **ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

#### **FIRST: RIGHT TO AN ADEQUATE STANDARD OF LIVING**

1. Urging the legislative authority to expedite the adoption of the draft law on real estate rent in order to regulate the relationship between lessors and lessees, provide the necessary protection for tenants, ensure reasonable increase of the rent value, and guarantee legal protection against forced eviction, harassment and other threats.
2. Urging the legislative authority to expedite the adoption of the draft law on the environment in order to be an integrated legislation that would regulate various environmental aspects, and incorporate deterrent penalties for violation cases.

3. Urging the Government to develop an integrated national strategy for sustainable water, which includes a number of fundamental objectives, such as integrated water institutional framework; coordination among key resources; ensuring the application of key performance indicators; provision of water for future generations; protecting the current groundwater sources; developing the role of civil society organizations and the role of individuals to participate in this strategy; and promoting effective cooperation between GCC countries for the purpose of protecting these water resources by inducting and creating a unified Gulf network for water connection.
4. Urging the Government to set a timetable to address all applications for housing services, with particular attention to the old applications, by making the best use of the available financial resources.
5. Urging the Government to pay greater attention to evaluating the designs of roads, streets and bridges in order to comply with international safety and security conditions, so as to ensure the safety of users against the dangers resulting from their use.
6. Considering and allowing the Special Rapporteur on adequate housing, as a component of the right to an adequate standard of living and the right to non-discrimination in this context; the independent expert on human rights obligations related to safe, clean, healthy and sustainable environment; the Special Rapporteur on extreme poverty; and the Special Rapporteur on the human right to safe drinking water and sanitation services of the Human Rights Council to visit the Kingdom.

## **SECOND: RIGHT TO WORK**

1. Urging the Government to complete the positive steps taken to settle the cases of the dismissed workers in order to finally close this file.
2. Urging the legislative authority to make the necessary adjustments to Decree-Law No. 78 of 2006, so that it guarantees the right to disbursement of the subsidy amount for job seekers or compensation for the unemployed throughout the period of job seeking or unemployment, and stating the legal controls that prevent the abuse of this right.
3. Urging the Government to join the ILO Convention No. 87 of 1988 concerning Freedom of Association and Protection of the Right to Organize, and ILO Convention No. 98 of 1988 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively.
4. Urging the Government to make further efforts to create employment opportunities to accommodate the largest possible number of job seekers.
5. Urging the Government to make further efforts to improve the level of wages and career incentives in the public and private sectors to be commensurate with a decent standard of living.
6. Urging the Government to take strict legal action against business owners and companies that did not comply with the minimum protection requirements of expatriates' accommodations.
7. Urging the legislative authority to enact a law dealing with domestic workers affairs and recruitment offices, including a statement of the rights and obligations of the parties involved.

### **THIRD: COMBATING TRAFFICKING IN PERSONS**

1. Urging the legislative authority to make amendments to Law No. 1 of 2008 on Combating Trafficking in Persons to ensure its comprehensiveness and consistency with the relevant international instruments.
2. Urging the legislative authority to conduct a comprehensive review of national legislation to ensure that it contain all relevant issues related to the crime of trafficking in persons, from prevention, treatment, to punishment of the perpetrators.
3. Urging the National Committee to Combat Trafficking in Persons to expedite establishing a comprehensive national strategy to combat and prevent the crime of trafficking in persons, to include in particular the necessary measures to prevent the crime, protect victims, and punish the perpetrators.
4. Urging the Government to take the necessary measures to ensure the representation of the NIHR in the National Committee to Combat Trafficking in Persons, in view of the National Institution role in the promotion and protection of human rights.
5. Urging the Government to create suitable centers to accommodate all victims of trafficking in persons, including victims of forced labor and male victims of trafficking in persons, which correspond to the magnitude of this crime, and providing these centers with experienced staff in health, psychological, social, and legal fields to provide all means of support to the victims.
6. Urging the Government to activate the provisions of the Law to Combat Trafficking in Persons, prosecute the perpetrators of these crimes, and conduct training programs to raise the efficiency of some of the competent authorities, especially judges, public prosecutors, public security officers, the Ministry of Labor inspectors, and workers in the recruitment offices.
7. Considering and allowing the Special Rapporteur on trafficking in persons, especially women and children, of the Human Rights Council, to visit the Kingdom.

### **FOURTH: RIGHT TO HEALTH**

1. Urging the legislative authority to expedite the discussion and approval of the draft law on medical liability, which is prepared in the light of the draft law submitted by the Council of Representatives, in order to be an integrated legislation that is concerned in particular with stating the rights and duties of patients, medical practitioners, and health care providers, and the implications of violations.
2. The need for the Ministry of Health to adopt and implement a national health strategy, for the purpose of improving health services, in line with the requirements of population growth.
3. Increasing the number of health canters, maternity hospitals, and medical personnel in the five provinces, in proportion with the number of patients visiting these canters and hospitals in each province.
4. The Ministry of Health needs to increase the accommodation capacity of Salmaniya Medical Complex, so as to improve health services.
5. The National Commission Regulating Medical Professions and Health Services needs to improve its supervision of health services to ensure avoiding the occurrence of medical malpractices.

6. The Ministry of Health needs to pay more attention to sickle-cell anemia (SDC) patients and multiple sclerosis (MS) patients by increasing awareness of this disease in the medical field, as well as improving health care and the provision of all medical requirements, and ensuring prompt provision of these requirements, in accordance with a comprehensive national strategy in this regard.
7. The Ministry of Health needs to develop a system for monitoring drug inventory and consumption rates in order to avoid drug shortage or non-availability in pharmacies, ensure satisfaction of the needs of patients, and have easy access to drugs.
8. The Government needs to provide support to civil society organizations working in the health field to enable them to achieve their goals in all fields stated in their statutes.
9. The Ministry of Health needs to increase safety standards in the field of prevention of communicable and epidemic diseases in health canter and government and private hospitals.
10. Considering and allowing the Special Rapporteur of the Human Rights Council on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to visit the Kingdom.

#### **FIFTH: RIGHT TO EDUCATION**

1. Urging the legislative authority to adopt a special law regulating the process of entitlement and distribution of grants and scholarships to student beneficiaries.
2. Urging the Ministry of Education to take measures to ensure the immediate cancellation of wood desks in public schools, in view of the negative effects and risks of these desks on the students.
3. Urging the Ministry of Education to review the citizenship curriculum content in order to include a number of subjects that develop a culture and practice based on the promotion of respect for human rights.
4. Urging the Ministry of Education to control private education, so as to make sure that the private educational and training institutions, in particular, private higher education institutions, give priority to the educational and the academic aspect over for-profit education.
5. Considering and allowing the Human Rights Council's Special Rapporteur on the right to education to visit the Kingdom.

#### **RIGHTS OF THE MOST VULNERABLE GROUPS**

##### **FIRST: WOMEN'S RIGHTS**

1. Urging the legislative authority to pass a law aimed at granting Bahraini women equal right with men in relation to granting citizenship to their children according to specific controls in line with the international commitments of the Government of the Kingdom of Bahrain.
2. Urging the Government to take serious and conciliatory steps for the purpose of expediting the referral of the Jaafari part (Section II) of the draft family law to the legislative authority.

3. Urging the Government to take measures in order to grant housing services to women married to foreigners in the event of divorce, abandonment, or death of spouse.
4. Urging the legislative authority to make the necessary adjustments to the provisions of Law No. 36 of 2012 promulgating the Labor Law for the Private Sector for the purpose of establishing equality of women working in the private sector with the female employees in the civil service regarding breastfeeding leave.
5. Expanding the establishment of equal opportunity units in ministries, government agencies, and private sector institutions that did not take the initiative to establish these units, in order to follow up the activation of a national model for the integration of women's needs in development.
6. Considering and allowing the Human Rights Council Special Rapporteur on violence against women, its causes and consequences, and the Working Group on the issue of discrimination against women in law and in practice to visit the Kingdom.

## **SECOND: RIGHTS OF THE CHILD**

1. Urging the legislative authority to expedite the adoption of a draft law on the protection of family from violence to be an additional legislative cover for legal protection of children from exposure to violence and abuse.
2. Urging the legislative authority to make amendments to Decree-Law No. 17 of 1976 on Juveniles in order to rise the juvenile age to eighteen years in line with the international human rights instruments.
3. Urging the Government to follow up the effective implementation of the National Strategy for Children for the years (2013-2017).
4. Urging the public prosecution not to resort to measures that restrict the freedom of the children, except within the most minimum range and as a measure of last resort.
5. Urging the Government to activate the regulatory and supervisory role over nurseries, kindergartens and government educational institutions to ensure that children enjoy a safe environment that is free of exposure to the various forms of violence, abuse or neglect.
6. Urging the Government to submit its periodic report to the Committee on the Rights of the Child emanating from the provisions of the Convention on the Rights of the Child on the scheduled deadlines.
7. Considering and allowing the Special Rapporteur on the sale of children, child prostitution and child pornography of the Council of Human Rights to visit the Kingdom.

## **THIRD: RIGHTS OF PERSONS WITH DISABILITIES**

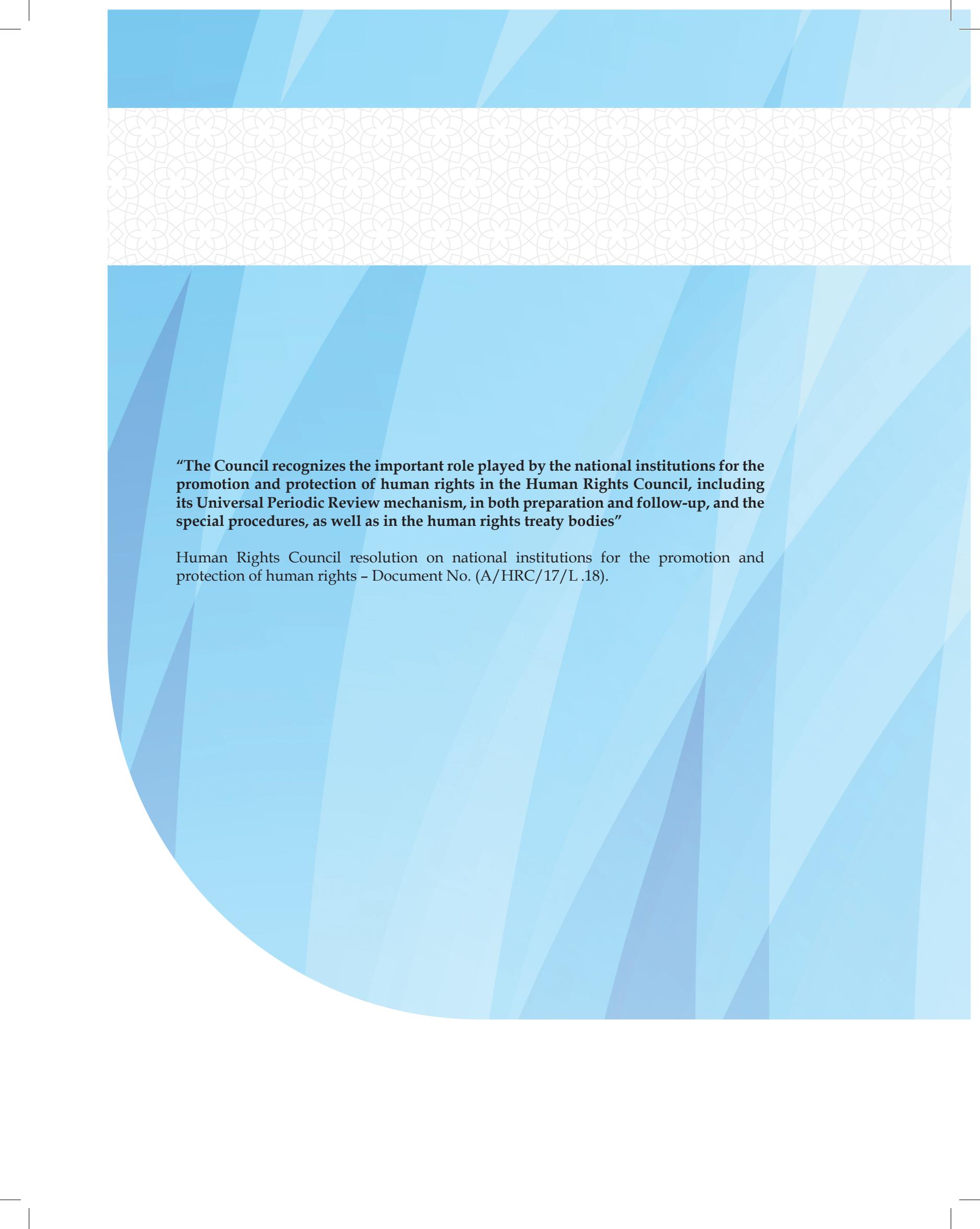
1. Urging the legislative authority to pass a law on the rights of persons with disabilities in accordance with the provisions of the Convention on the Rights of Persons with Disabilities.
2. Urging the Government to improve the infrastructure by taking into account the engineering requirements appropriate for individuals with disabilities in public facilities, especially in modern buildings and complexes.

3. Urging the Government to provide sign boards that correspond to certain disabilities (hearing and speaking disabilities) in forms that are easy to be read and understood. The signboard should be placed on public buildings and other facilities, to ensure that persons with disabilities have access to the available services.
4. The media should contribute to raising awareness of the problems of individuals with disabilities and how to deal with them, and introducing their families to the services provided by the Government for this category.
5. Urging the Government to include the basic concepts of human rights education and the International Convention on Persons with Disabilities in the curricula of primary and secondary education, which will help promote the rights of this category.
6. Increasing the Government's interest in preparing specialized technical personnel to work in the field of rehabilitation of persons with disabilities, and introducing a prerequisite course entitled: "Care and Rehabilitation of People with Disabilities" within the curricula of psychology and sociology departments.
7. Urging the Ministry of Social Development to continue the follow-up and effective implementation of the national strategy for the rights of disabled people for the years (2012-2016).
8. Urging the Government to take action to encourage community partnership to strengthen the capacity of civil society organizations in order to raise the level of awareness in all matters relating to the rights of persons with disabilities.
9. Urging the Government to provide its initial periodic report to the Committee on the Rights of Persons with Disabilities emanating from the provisions of the Convention on the Rights of Persons with Disabilities on the prescribed dates.
10. Considering and allowing the Special Rapporteur on disability of the Human Rights Council to visit the Kingdom.

#### **FOURTH: RIGHTS OF THE ELDERLY**

1. The Government needs to establish and develop the departments concerned with health care for the elderly, in order to provide the necessary medical care and treatment.
2. Urging the Government to create more social care homes for the elderly in each province in order to keep the elderly close to their families, and providing a variety of programs to fill the leisure time of the elderly with activities that suit their interests and abilities.
3. Urging the Government to create an infrastructure that considers the needs of the elderly and their requirements when designing and planning modern cities, public utilities, roads and streets, so as to facilitate their movement and provide them with psychological satisfaction and social security just like the rest of the community groups.
4. The Government needs to adopt a media policy that establishes social and psychological awareness of issues of older people, and interacts with the transformations experienced by the society so that a public opinion is crystallized that takes into account the needs of all ages.

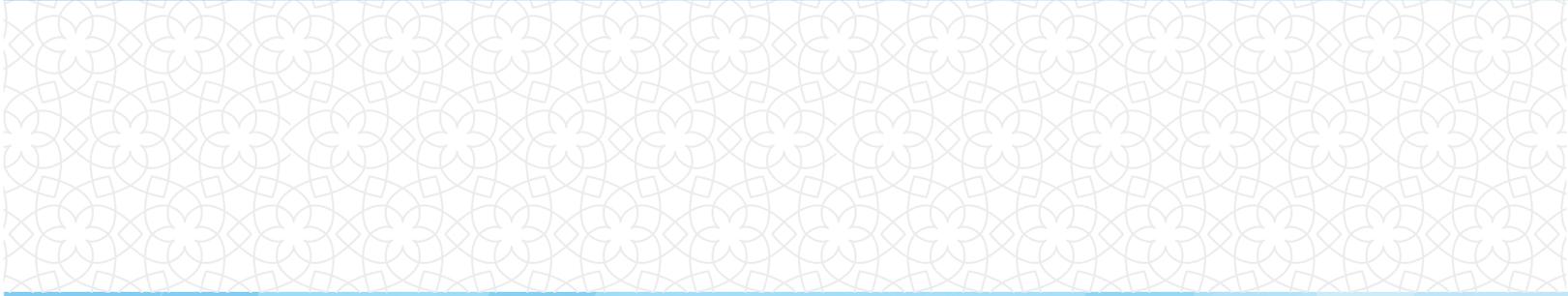




**“The Council recognizes the important role played by the national institutions for the promotion and protection of human rights in the Human Rights Council, including its Universal Periodic Review mechanism, in both preparation and follow-up, and the special procedures, as well as in the human rights treaty bodies”**

Human Rights Council resolution on national institutions for the promotion and protection of human rights – Document No. (A/HRC/17/L.18).





المؤسسة الوطنية لحقوق الإنسان  
National Institution *for* Human Rights

