



NIHR Consultative Opinion on Draft Law on amending some provisions of Criminal Law issued by Decree No. (15) of 1976 on (bribery, forgery, debauchery, prostitution, gambling and prohibition of pork) in light of the proposed law submitted to the Council of Representatives

Introduction:

In reference to letter of His Excellency Chairman of Shura Council No. (273 s a kh/f3d4) dated on 26th March 2014 including the desire of Council's Committee on Foreign Affairs, Defense and National Security the opinion of the NIHR on Draft Law on amending some provisions of Criminal Law issued by Decree No. (15) of 1976 on (bribery, forgery, debauchery, prostitution, gambling and prohibition of pork) in light of the proposed law submitted to the Council of Representatives, ...

it is apparent that the resolution concluded by the Council of Representatives on the above mentioned draft law includes four (4) articles in addition to the preamble, shown as follows:

- **Article One:** Replacing the stipulations of articles No. (190), (236), (306), (308), (324), (325), (328) paragraph (1), (329), (346) and (356) of Criminal Law.
- **Article Two:** Adding third paragraph to article No. (273) and second paragraph to article No. (274) and item No. (3) to article No. (326); adding new stipulations under No. (189, bis), (307, bis), (308, bis) and (308, bis "1") and adding (chapter seven) entitled "**prohibition of pork**" to part six of the Criminal Law including article under No. (308, bis "2").
- **Article Three:** Renumbering item No. (3) of article (326) to become (4).
- **Article Four:** Executive Article.

Opinion of NIHR:

By reviewing provisions of the mentioned articles as concluded by resolution of Council of Representatives regarding the draft law subject matter of opinion, it is apparent that these articles are related to the following crimes:

- **Bribery:** Augmenting the punishment decided for presenting a grant of symbolic gift to the public employee or the person entrusted with public service or promising him with similar thing to perform a work or abstain from performing a work, although he is obligated to perform the same



as well as criminalizing the act committed by (briber), (bribee) or (mediator) between both of them.

- **Document Forgery:** the punishment determined in article No. (235) of Criminal Law shall be applicable to everyone entrusted by the judicial authority or the investigation authorities to perform the expertise or translation works and he has changed the fact intentionally. The determined punishment shall be augmented, if the committer is a doctor or the like with purpose of giving a certificate prepared to be presented to the court or the investigation entities. The act of each employee or person entrusted with public service who has issued document related to the death or the heritage or documented a marriage contract, while knowing that the data or the papers that are the basis of the declaration are incorrect shall be criminalized.
- **Intoxicants:** The punishment determined for each person founded in a clear drunken status in public place of shop available to the public shall be augmented and the punishment determined for the crime shall be augmented in case of recidivism.
- **Gambling:** the determined punishment shall be augmented for each person opens or manages shop for gambling games, prepared it for such purpose, regulated similar games in a public shop or shop open for the public or any shop or house prepared for such purpose. The punishment determined shall be augmented for the same crime or for the person who is founded playing gambling in case of recidivism. In addition, the amendment decided that the funds and tools used in gambling game shall be seized and the confiscation thereof shall be ruled. In addition, the shop or the place prepared for gambling shall be closed and may not be allowed to be opened, unless it is prepared for the project purpose.
- **Debauchery and prostitution:** the determined punishment shall be augmented for each person incited or induced the debauchery or prostitution, constructed or managed a shop for such purpose or assisted in the construction or management thereof. In addition, raising the voice publicly by calling, shouting, word or speech breach the morals, or inciting the others publicly to perform the debauchery or spread advertisements or letters for such purpose shall be criminalized. The sodomy shall be criminalized even without consideration.
- **Rape and ravishment:** the determined punishment shall be augmented for each person ravished another person unsatisfactorily and the punishment shall be augmented if the victim doesn't complete sixteen years old and his dissatisfaction shall be assumed, if he doesn't reach to such age.

- **Prohibition of pork:** bringing, importing, exporting, selling or possessing pork or derivatives thereof or manufacturing any foodstuffs contain material extracted from the pork, while the doer is familiar with the same, except the permitted legal fields, shall be criminalized.

Thereupon

It is apparent that most provisions of the resolution taken by Council of Representatives regarding the draft law subject matter of opinion are for augmentation of the determined punishments or creation of other criminalized acts. Moreover, the augmentation made by the legislator in the crimes was for crimes and purposes represented in finding case of security and social security, preventing the commission of such kind of crimes mentioned in the draft law, assisting in reducing the criminal danger thereof on the individuals, society and state. This isn't deemed as augmentation that depends upon the individual enjoyment of his main rights and freedoms. Moreover, the amendments proposed in the draft law don't represent breach to the human rights and the citizens as stipulated in the related international conventions for human rights.