



**NIHR's consultative opinions on the resolution of the Council of Representatives on a draft law on amendment of some provisions of Law No. (26) of 2005 on the Political Societies (prepared in light of the proposed law submitted to the Council of Representatives)  
And draft law on amendment of some provisions of Law No. (26) of 2005 on the Political Societies, accompanied with the decree No. (35) of 2012**

In appreciation of the efforts exerted by the esteemed Shura Council in all that is related to the issues of human rights; and with with all due respect to the considerations aimed at by the resolution of the Council of Representatives regarding the draft law on amendment of some provisions of Law No. (26) of 2005 on the Political Societies (prepared in light of the proposed law submitted to the Council of Representatives) Draft Law on amendment of some provisions of Law No. (26) of 2005 on the Political Associations accompanied with the decree No. (35) of 2012 and based upon request of the Committee of Legislative and Legal Affairs to submit the opinions of NIHR regarding the above-mentioned subject; the institution will summarize its opinions regarding both above mentioned draft laws according to the resolution of the Council of Representatives regarding **the replacement of stipulations of article (6), item (f) of paragraph (4), (8) first paragraph, (9) second paragraph, (16), (22) first paragraph, (23) first paragraph, provided that a new paragraph under No. (g) shall be added to article (6), new paragraph to article (11) and new item No. (3) to article (17) and the remaining items of the article shall be renumbered, second paragraph shall be added to article (18) and new article shall be created under no. (23, bis) to the provisions of Law No. (26) of 2005 on the Political Associations.** Thereupon, this can be summarized as follows:

**(preamble)**

The stipulation as determined by the honorable Council of Representatives:

Draft  
Law No. (...) of (...)  
On amendment of some provisions of Law No. (26) of 2005 AD  
On the Political Associations

We, Hamad bin Isa Al Khalifa, King of Kingdom of Bahrain;  
Having perused the constitution;  
**Decree-by-Law No. (47) of 2002 on Regulation of the Press, Printing and Publishing;**  
Law of Communications issued by Decree-by-Law No. (48) of 2002; and  
Law No. (32) of 2010 on the Financial Disclosure;  
Shura Council and Council of Representatives has ratified the following stipulation and we have approved and issued the same:



**NIHR's Visions:**

The National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

**(First Article)**

**Article (6), item (f), paragraph (4)**

Stipulation as determined by the esteemed Council of Representatives:

f. Not to use the state's institutions, public institutions, places of worship, **religious rites** and educational institutions to practice their activity.

**NIHR's Visions:**

The National Institution for Human Rights hereby thinks that the addition of the phrase (**religious rites**) according to the resolution of the Council of Representatives regarding the above stipulation is in agreement with the purposes aimed at by the complete paragraph that the places of worship and the religious rites shall be away from everything may affect the sanctity, position and lofty mission thereof and completely away from the political interactions and activities.

Therefore, the National Institution for Human Rights agrees on the resolution taken by the Council of Representatives in this regard.

**Article (8), first paragraph:**

**Stipulation as determined by the honorable the Council of Representatives:**

The Minister of Justice shall be entitled to request from the founders the submittal of any clarifications, data or documents necessary for execution of provisions hereof by virtue of a registered letter to be issued within **thirty days** as of date for **submitting** the association incorporation application.

**NIHR's Visions:**

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as stipulated in the resolution of the Council of Representatives stating the reduction of the period granted to the Minister of Justice to Request any clarifications, documents or data to (30 days) beginning from data of submittal of the incorporation application. This amendment is for interest of the incorporation applicants and restricts the possibility of arbitrariness or procrastination of the administrative entity (Ministry) in this regard.



Therefore, the National Institution for Human Rights agrees on the resolution taken by the Council of Representatives in this regard.

### Article (9):

#### Stipulation as determined by the honorable the Council of Representatives:

If the political society's application meets the conditions stipulated herein, the Minister of Justice shall declare the incorporation of the association within sixty days as of date of incorporation application thereof or within fifteen days as of date of handing over the clarifications, documents and data referred thereto in the preceding article. This declaration shall be published in the Official Gazette.

If the Minister abstained from declaring the political society within the period stipulated in the preceding paragraph, he shall notify the founders' representative by virtue of a registered letter regarding the rejection and the reasons for rejection.

After passage of the times stated in the first paragraph without declaring the society or that the founders' representative hasn't been notified of the rejection, this shall be deemed as resolution of objection to the establishment of such society.

**The preceding provisions related to establishment shall be applicable to each amendment occurring to the society's articles which shall be published in the Official Gazette.**

#### NIHR's Visions:

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by the Council of Representatives by adding a last paragraph to the end of the above-mentioned article may not breach the right to assembly, because the proposed addition is just a procedural issue aims at preventing the arbitrariness of the political societies in amending their articles of incorporation without passing through the related legal procedures. This shall be made by following the same procedures related to the incorporation with the publication in the Official Gazette.

However, the NIHR finds that the stipulation of article No. (9) in the original law isn't in agreement with the best practices followed regarding the right to assembly, which the essence thereof is represented in incorporating the societies and syndicates and joining to the same. **The law considered that the passage of the dates determined for registering the society without declaring the registration thereof or notifying the founders' attorney on the objection shall be deemed as implied objection of such incorporation. This is deemed as**



**discharge of the guarantee granted by the same law to the association regarding the possibility to contest such resolution of objection before the court, because such approach isn't acceptable and it is deemed as breach to the international standards related to the right to assembly.**

In the same regard, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association (Maina Kiai) stated that "**the (notice) procedure is better than the procedure of (prior declaration) in terms of adherence to the International Law of Human Rights, which requires procuring the approval of the authorities to incorporate an association as a legal entity and the states shall execute the same. Based upon the notification procedure, the associations are granted the legal personality automatically whenever the founders notify the authorities on the incorporation of an organization. In most countries, this notice is served in form of written statement containing number of information elements determined clearly in the law. However, this issue isn't deemed as precedent condition for existence of the association, but it is rather a registration statement of the management by the incorporation of the mentioned association ...**"<sup>1</sup>

Thereupon, the NIHR hereby thinks that it is necessary to consider that the passage of the dates determined in the above stipulation without declaring the incorporation of the society or notifying the founders' representative of the rejection shall be deemed as resolution of approval on such incorporation and not objection to the same in line with the above mentioned justifications.

#### **Article (15) Second Paragraph:**

Stipulation as determined by the honorable Council of Representatives:

The society shall provide the Minister of Justice with a copy of its annual budget, final account during the first quarter of the year, a financial resources statement, finance statement and financial position of the association. In addition, the society shall publish its annual budget and final accounts in the official gazette.

#### **NIHR's Visions:**

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by Council of Representatives by requiring Political Societies to publish their annual budgets and their final accounts in the official gazette ensures more transparency of all the financial activities of the society.

<sup>1</sup> Report of United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association (Maina Kiai) – submitted to Human Rights Council in the 20<sup>th</sup> Round thereof, dated on 21<sup>st</sup> May 2012, document No. (A/HRC/20/27) page 20.



Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

#### Article (16)

Stipulation as determined by resolution of the honorable Council of Representatives:

The funds of the society shall be deemed as public funds in implementation of provisions of the Criminal Law and the persons working for Political Societies thereof shall be deemed as public employees in implementation of provisions of the mentioned law. **Provisions of Law No. (32) of 2010 on Financial Disclosure shall be applicable to the society's' leaders to be elected according to provisions of article No. (12) hereof.**

#### NIHR's Visions:

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by Council of Representatives stating that the Provisions of Law No. (32) of 2010 on Financial Disclosure shall be applicable to the societies' leaders – as a principle, which aims at establishing the rules of transparency, accountability and justice for such category. However, by reference to the provisions of the same law, it is apparent that all categories subject to such law are those persons holding public political positions related directly to the state's public money, while the leaders of the political societies are not covered by this.

On the other hand, the application of the provisions of the Law of Financial Disclosure to the leaders of the political societies necessitates the application of such provisions to the leaders of the national associations, which are subject to the provisions of Law of societies, cultural and social clubs, and private establishments that operate in the field of youth and sports, and private institutions issued pursuant to the Decree-by-Law No. (21) of 1989 and the leaders of the labor unions issued by Decree-by-Law No. (76) of 2002 of the same law in order to execute the principles of equality in the similar legal centers.

Thereupon, the NIHR hereby accepts – in principle – the resolution of the Council of Representatives that the provisions of the Law of Financial Disclosure shall be applicable to the leaders of the political societies, but – on the other hand – the same law shall be applicable to the leaders of NGOs and labor unions for the same justifications.

The NIHR hereby thinks that the failure to apply the provisions of the Law of Financial Disclosure to the leaders of the political societies will not cause the association away from the control and accountability. The resolution of the Council of Representatives stated in Article (15), second paragraph thereof that



the associations shall provide the Minister of Justice with copy of its annual budget, final accounts during the first quarter of the year, financial resources statement, finance statement and financial position of the society. In addition, the society shall publish its annual budget and final account in the official gazette.

**Article (22), first paragraph:**

Stipulation as determined by resolution of the honorable Council of Representatives:

If the society has violated the provisions of the constitution, this law, any other law or its statute, Minister of Justice may request the high civil court upon lawsuit to be filed by him to rule the suspension of activity of the association for period not more than three months, during which the society shall remove the violation reasons.

**NIHR's Visions:**

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by Council of Representatives by adding the phrase (or its Statute) represents express confirmation by virtue of legal stipulation that all disposals and acts made by the political societies shall be subject to provisions of the constitution and law, according to which such societies have been incorporated, any other law or even its statute, which serves as internal constitution for its business.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

**Article (23), first paragraph:**

Stipulation as determined by resolution of the honorable Council of Representatives:

If the society has committed a gross violation of the provisions of Constitution of Kingdom of Bahrain, this law or any other law thereof or if the society failed, during the period determined in the judgment ruling the suspension of its activity according to the preceding article, to remove the reasons for the violation, based upon which the judgment has been passed, the Minister of Justice may request the high civil court based upon a lawsuit to be filed by him to rule the dissolution of the society, the liquidation of money thereof and the determination of the authority to whom the money thereof shall be referred.

**NIHR's Visions:**

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by Council of Representatives by adding the phrase (based upon lawsuit to be filed by him) is undoubtedly confirmation, that doesn't need interpretation, that the political





societies may not be dissolved and the funds thereof may not be liquidated, except by a lawsuit to be filed by the Minister of Justice against the society – defendant and the latter shall enjoy all litigation rights and guarantees legally established in such lawsuit.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

### (Second Article)

Article (6), item (4), new paragraph No. (g)

Stipulation as determined by resolution of the honorable Council of Representatives:

g. Not to utilize the activities and programs of the societies to serve sectarian purposes or damage the national economy or the public interests of the state.

#### NIHR's Visions:

The National Institution for Human Rights hereby thinks that the amendment of the above stipulation as concluded by the resolution issued by Council of Representatives aims at ensuring that the political societies as well as all their activities and programs are not of sectarian nature or that may damage the national economy or the public interests of the State.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

Article (11), new paragraph:

Stipulation as determined by resolution of the honorable Council of Representatives:

The association is entitled to issue periodic publications to express their principles, targets and programs by virtue of license to be issued by the Minister concerned with the media affairs. In coordination with the Minister of Justice, the Minister shall issue a regulation determines the conditions that shall be fulfilled to grant the license and shows the responsibility of the publication editor and the conditions of circulation thereof. These publications shall be subject to the conditions of opinion and expression freedom stipulated in the law that regulates the press.

#### NIHR's Visions:

The National Institution for Human Rights finds that the creation of a new stipulation as concluded by the resolution issued by Council of Representatives is in line with the international standards related to the freedom of opinion and the right to expression. In addition, granting the right to issue the periodic publications to express their principles, objectives, programs and activities is



deemed as a platform serving the objectives sought for by the political societies and a mechanism for communication with their public and everyone.

The resolution of Council of Representatives has concluded well that such publications shall be subject to the conditions of opinion and expression freedom stipulated in the law that regulates the press. In this regard, the NIHR hereby hopes that the legislative authority shall conclude the discussion and approval of the draft law on media and communication accompanied with the decree No. (30) of 2014 considering that the provisions thereof shall be in agreement with provisions of the related international law for human rights.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

**Article (17), new item No. (3):**

Stipulation as determined by resolution of the honorable Council of Representatives:

**3. Statutes of the Society**

**NIHR's Visions:**

The National Institution for Human Rights agrees to the resolution taken by the honorable Council of Representatives for creating a new paragraph under No. (3) and renumbering the remaining items of the article guarantees the commitment of the political society to keep in the head office thereof the bylaws of the society to ensure easy reference thereto when necessary.

**Article No. (18), second paragraph:**

Stipulation as determined by resolution of the honorable Council of Representatives:

**In addition, the society shall notify the Minister of Justice of the date of the meeting of the general conference of the society fifteen days at least before convening the same. The Minister shall be entitled to request the association to provide him with number of the members who have attended the meeting, the resolutions taken thereat and the method of voting on the resolution as well as any other information related to the meeting or the activity of the society. The society shall present the required data and information and the supportive documents to the Ministry within ten days as of date of notifying it thereby.**

**NIHR's Visions:**

The National Institution for Human Rights thinks that the creation of the above mentioned stipulated as concluded by resolution of the Council of Representatives that the association shall notify the Minister of Justice regarding





the date of meeting of the general conference of the society fifteen (15) days before convention thereof and granting the Minister permissible right to request from the society to provide him with the number of the members who have attended the meeting, the resolutions taken thereat and the method of voting on the resolution as well as any other information related to the meeting or the activity of the society was for purpose of verifying the extent of commitment of the societies to the provisions stipulated in the law and the statute thereof. However, mentioning the phrase (or the activity of the society) wasn't suitable, because the created paragraph regulates some provisions related to the meeting of the general conference of the society, while the mentioned phrase is related to the request of the data or information regarding the association in general. Therefore, such phrase is deemed as unjustified addition to the stipulation.

Therefore, the NIHR hereby agrees to the resolution issued by Council of Representatives in this regard, but the phrase "or the activity of the society " shall be deleted according to the above mentioned justifications.

#### **Article (23), bis:**

Stipulation as determined by resolution of the honorable Council of Representatives:

**Each member of the society may challenge before the major civil court the validity of convention of the general conference of the society or validity of any resolution to be issued by it or the society in violation to provisions hereof or the statute of the society within period of thirty (30) days as of date of convening the conference.**

**Each interested person submit application for membership of the society and such application was rejected, he shall be entitled to challenge the resolution of rejection of his application before such court within period of thirty (30) days as of date of informing him of the resolution.**

#### **NIHR's Visions:**

The National Institution for Human Rights thinks that the creation of the above mentioned stipulation according to the resolution of the Council of Representatives grants the member of the political society visions: the right to challenge the validity of convention of the general conference of the society or any resolution to be issued by it or by the society achieves the principle of the judicial control on the commitment of the society to provisions of law regulated for their work and their statute.

In addition, granting the right to resort to the court for the applicant for membership of the political society, in case of rejecting his application, is



deemed as guarantee for not to seize his right to freely join to the societies as long as his application to the membership is in agreement with provisions of the law and statute of the society. On the other hand, this mitigates the possibility of arbitrariness of the society to accept or reject its membership illegally.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

#### **(Third Article)**

Stipulation as concluded by resolution of the honorable Council of Representatives:

**All political societies existing at time of issuing this law shall adjust their situations according to provisions hereof within period doesn't exceed one year as of the validity date thereof.**

#### **NIHR's Visions:**

The National Institution for Human Rights thinks that the above stipulated as concluded by the resolution issued by the Council of Representatives in this regard is a procedural stipulation aims at granting the standing political societies period for purpose of adjusting their legal situations in agreement with the provisions of the draft law under discussion.

Therefore, the National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.

#### **(Fourth Article)**

Stipulation as concluded by resolution of the honorable Council of Representatives:

**The Council of Ministers and the Ministers – each within his competent – shall execute the law and it shall come into force as of the next day of the date of promulgation thereof in the Official Gazette.**

#### **NIHR's Visions:**

The National Institution for Human Rights agrees to the resolution taken by the Council of Representatives in this regard.