

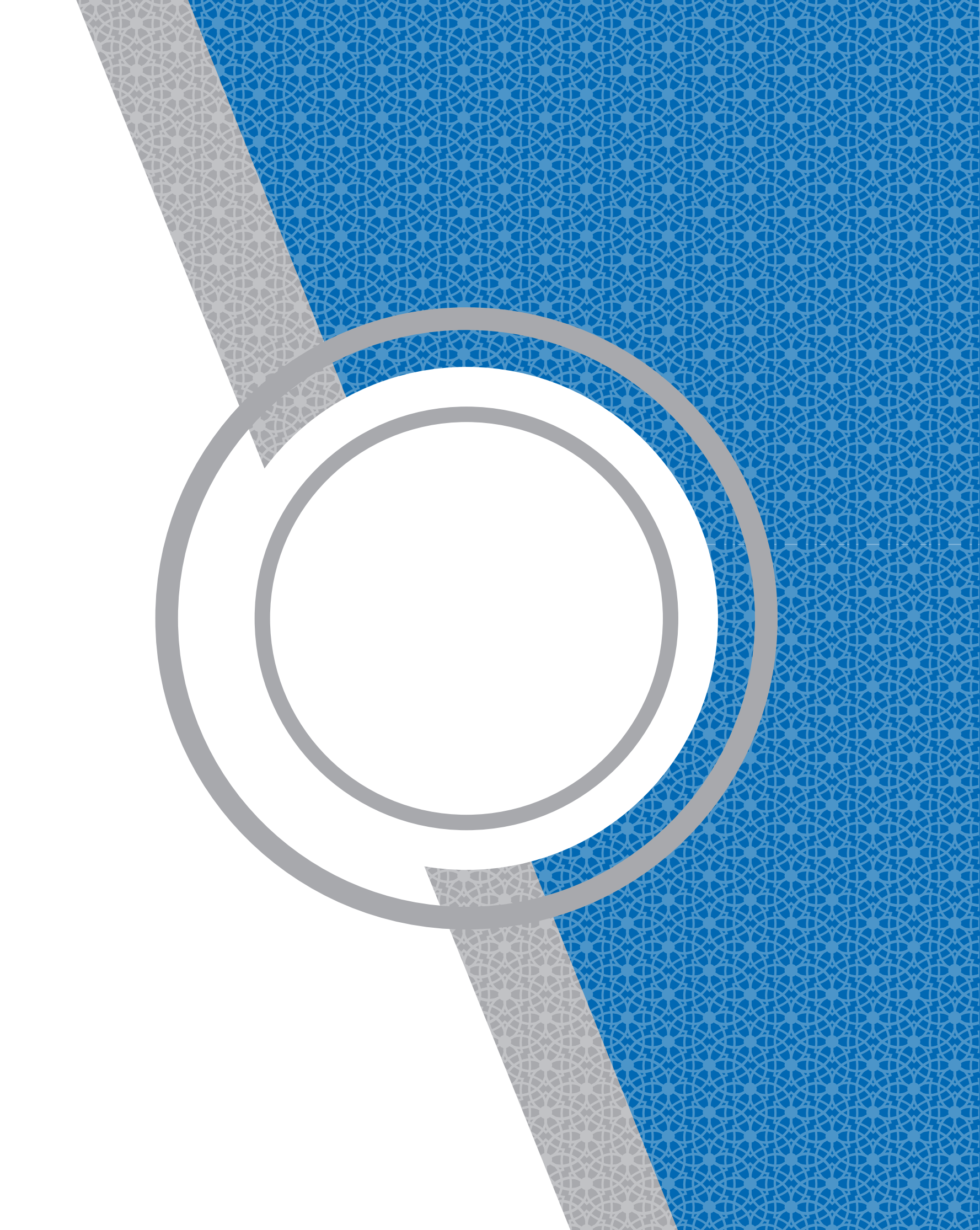
Third Annual Report of the
National Institution for Human Rights
2015 - Kingdom of Bahrain

المؤسسة الوطنية لحقوق الإنسان
National Institution *for* Human Rights





Third Annual Report of the
National Institution for Human Rights
2015 - Kingdom of Bahrain



“The public rights and freedoms stated in this 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.”

Article (31) of the Constitution of the Kingdom of Bahrain

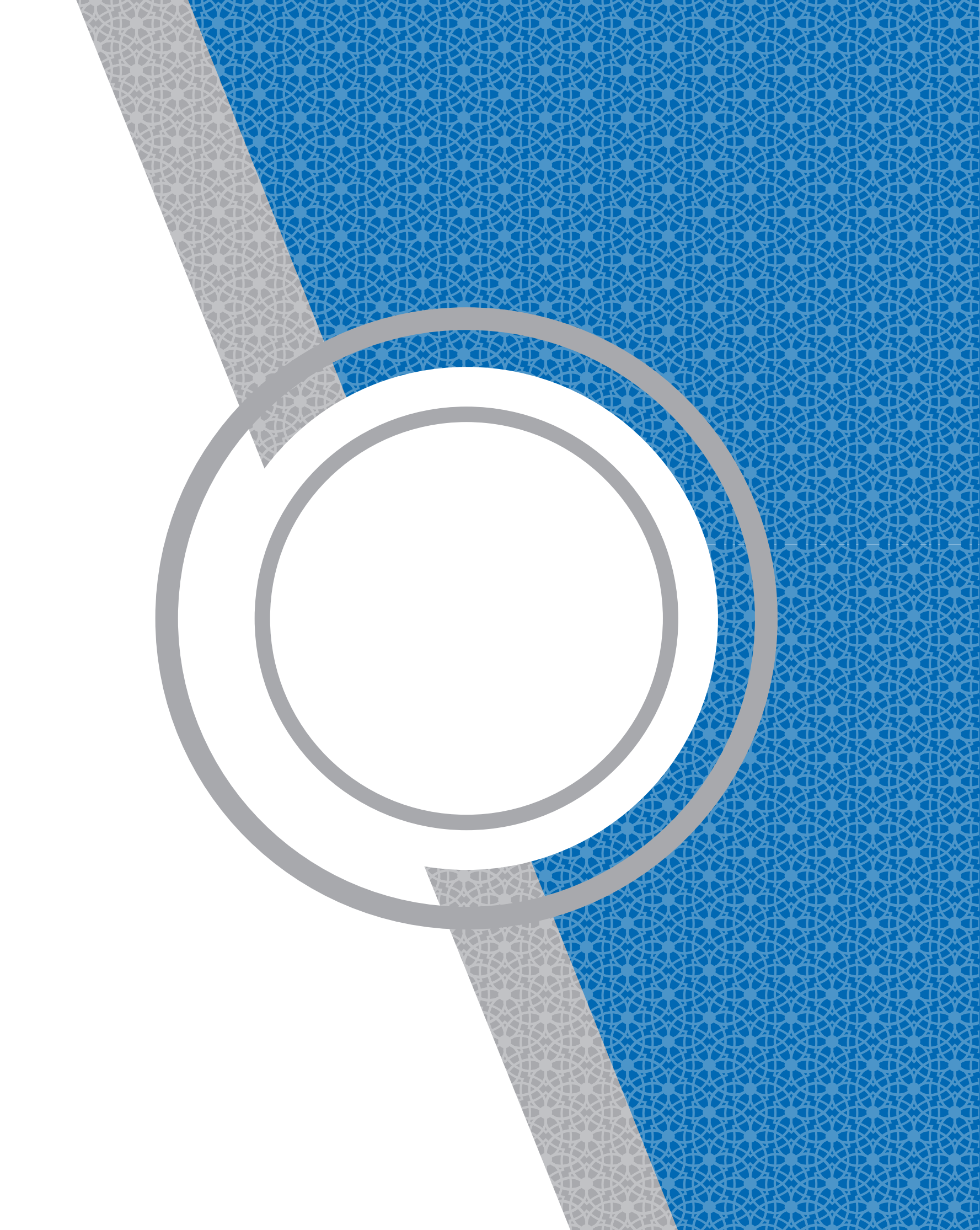


Table of Contents

Introduction

Chapter I: Follow up of the recommendations of the National Institution for Human Rights 2013 and 2014 Reports

Chapter II: The Consultative Opinion Submitted by the National Institution for Human Rights

Section I: NIHR Consultative Opinion Submitted to Council of Representatives (Legislative Authority)

Section II: The consultative opinions submitted by the NIHR to the Cabinet (Executive Authority)

Chapter III: The Role of the NIHR in the Field of the Promotion and Protection of Human Rights

Section I: Role of the NIHR in the Field of Promoting Human Rights

Section II: Role of the NIHR in the Field of Protecting Human Rights

Chapter IV: Main Issues Related to Human Rights in the Kingdom of Bahrain

Section I: The Human Rights Situation in the Kingdom of Bahrain

Section II: Development of the Reform and Rehabilitation Center (Jaw Prison)

Section III: The right to equality and non-discrimination in enjoyment of rights

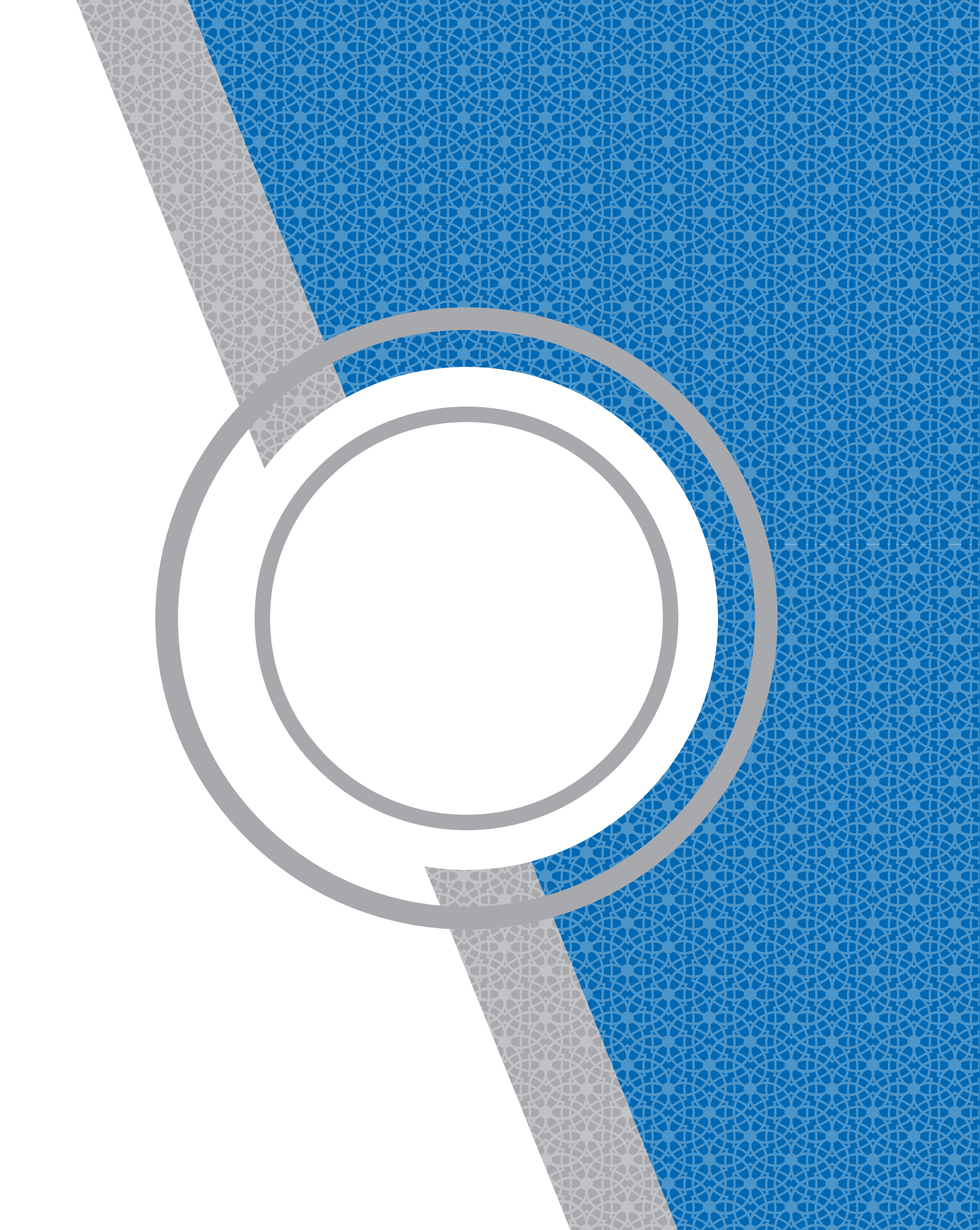
Section IV: The right to grantees of a fair trial

Section V: Right to Citizenship

Section VI: Freedom of Opinion and the Right to Expression, Access to Information, and Privacy

Section VII: Freedom of residence and the right to movement

Final Recommendations



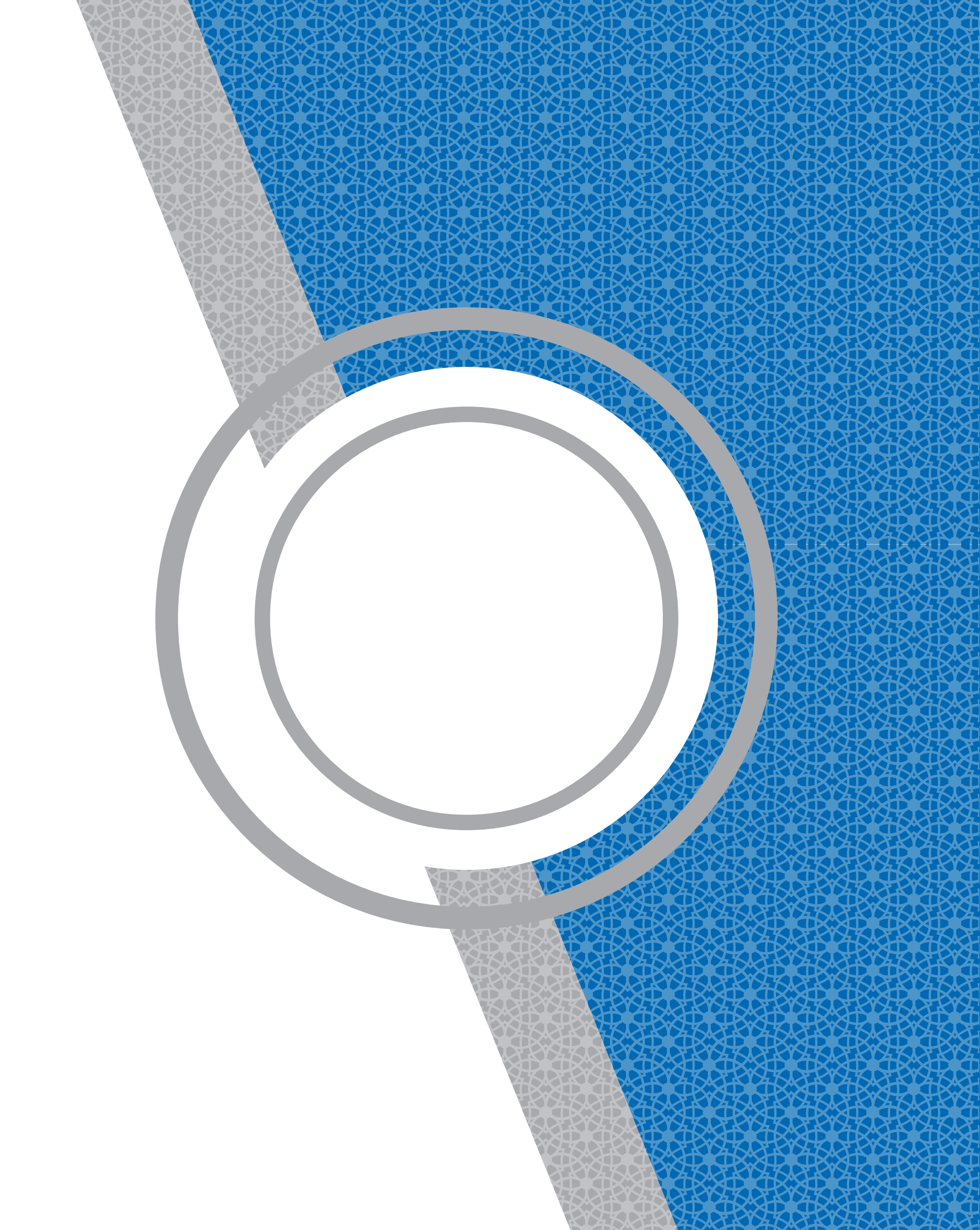
Introduction

Since His Majesty King Hamad bin Isa Al Khalifa, King of Bahrain, ascended the throne in 1999, the Kingdom of Bahrain experienced major changes towards promoting greater democracy and partnership frameworks in decision making to strengthen the foundations of the rule of law, up to the constitutional amendments of 2012. These amendments strengthened the legislative and supervisory powers of the elected Council of Representatives (*Majlis an-nuwab*), and limited the role of the Consultative Council (*Majlis al-shura*) to a legislative role with no supervisory role. These amendments also addressed the need for the government, during the constitutional period, to submit its program to the Council of Representatives, where it may be accepted, or rejected. These fundamental transitions had an impact on the course of human rights and public freedoms and on the extent to which individuals enjoy these rights and freedoms in the Kingdom.

Accordingly, the 2015 Third Annual Report of the National Institution for Human Rights (NIHR) was prepared in accordance with Article No. (21) of Law No. (26) of 2014 establishing the Institution, which stipulates that: “the Council of Commissioners shall prepare an annual report on NIHR efforts, activities and other works related to human rights in the Kingdom, and any recommendations and proposals within its mandate; determine performance obstacles and any approved solutions to avoid them. The Council of Commissioners shall present its report to the King, the Cabinet of Ministers, the Council of Representatives, and the Shura Council, and shall present in parallel its report to the public opinion.” The Third Annual Report of NIHR presents a description and evaluation of the most prominent human rights situations in the Kingdom, with a review of the national organization’s efforts in the promotion and protection of human rights, taking into account the provisions of the Constitution and international instruments and standards pertaining to human rights.

The report consists of four chapters preceded by an introduction. The first chapter addresses the measures taken to follow up the recommendations of the NIHR 2013 and 2014 reports. The second chapter presents the NIHR advisory opinions submitted to the legislature and the Council of Ministers (the executive branch). The third chapter reviews the role of NIHR in the promotion and protection of human rights. The final chapter, chapter four, is dedicated to presenting a number of key issues that have directly touched on the status of human rights. It illustrates the situation of human rights in the Kingdom and the reform of inmates’ rehabilitation centers (JAU). In addition, it addresses a number of rights, namely, the right to equality and non-discrimination in the enjoyment of rights, the right to a fair trial, the right to citizenship, freedom of expression and opinion, the right to access information, the right to privacy, and freedom of residence and movement. The report concludes with a number of final recommendations.

In conclusion, the National Institution for Human Rights hopes that this report will be a continuation of the development of human rights reality in the Kingdom, in line with its international obligations arising out of the ratification of or accession to international human rights instruments, or the recommendations of the Universal Periodic Review. NIHR looks forward to reach the best practices for the enjoyment of the various rights and public freedoms and to turn human rights into a lifestyle.



Chapter I: Follow up of the recommendations of the National Institution for Human Rights 2013 and 2014 Reports

Preface

The NIHR issued a number of recommendations on improving the situation of human rights in the Kingdom, and submitted them to the three branches of government (legislative, executive, and judicial). This chapter includes the responses received by the NIHR regarding the recommendations that have been implemented, and the findings of the NIHR, as follows:

(1) The right to life and the right to physical and moral integrity

- In relation to urging the government to submit 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. The Kingdom of Bahrain submitted its report to the Committee against Torture on November 15, 2015 according to document No. CAT/C/ BHR/2.
- The recommendation on developing clear and transparent criteria and a schedule for the prompt disbursement of compensations to those who are proven to have sustained injury, whether these compensation are 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. In its report to the Committee against Torture¹, the government indicated that by the end of 2013, an amount of US\$ 159,000 was paid for civil compensation to the family of each victim. The Compensation Fund received four hundred and twenty one (421) applications from affected individuals and there are one hundred ninety-three (193) cases undergoing medical examination to determine the degree of disability. During 2012-2013, all death cases, a total of thirty five (35), released by the fact-finding Commission, were compensated; four cases were not addressed in the report. The total amount of the compensation reached two million, two hundred twenty thousand dinars, the equivalent of six million dollars. In 2014, the Civil Settlement Office of the Ministry of Justice compensated six (6) new deaths, which are not included in the fact-finding Commission report, the amount of three hundred sixty thousand dinars; forty-seven (47) cases linked to the events, were compensated by the amount of three hundred fifteen thousand, five hundred dinars. Thus, the total compensations paid in 2014 amounted to six hundred seventy-five thousand, five hundred dinars, the equivalent of two million, eight hundred thousand US dollars.
- The recommendation to subject law enforcement officers to comprehensive extended training programs using curricula that include 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 dismiss any law enforcement officer implicated in ill-treatment of detainees or convicts. The NIHR has strengthened its cooperation with the Royal Police Academy by carrying out a number of training programs for the various police leaders and ranks.

¹ Report of the Kingdom of Bahrain to the Commission against Torture, paragraphs 130 to 141, Document No. CAT/C/BHR/2.

- The recommendation 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. Law No. (18) of 2014 on Correctional and Rehabilitation Institutions was issued on July 3, 2014. In addition, Law No. (39) of 2014 amending provisions of the Code of Criminal Procedure promulgated by Legislative Decree No. (46) of 2002 on custody was also issued. In addition, the Minister of Interior issued Decree No. (131) of 2015 on the Regulations for Correctional and Rehabilitation Institutions Law promulgated pursuant to Law No. (18) of 2014 on August 16, 2015².
- The recommendation stating that the Special Investigation Unit (SIU) at the Public Prosecution, being the body entrusted with investigation into allegations of torture and other forms of cruel, inhuman or degrading treatment or punishment, shall enjoy full independence according to the Istanbul Protocol. The SIU indicated that it is an independent entity at the Public Prosecution and carries out its legal functions under the full authority of its Head. The Public Prosecutor administratively supervises the Unit's activities, as stipulated in Article (1) of Decree No. (8) on the establishment of the Special Unit and Article (1) of Resolution No. (26) of 2013 on the issue of Directives to the SIU.

The unit enjoys full independence in undertaking its work without supervision or guidance, which is shown by the fact that the members of the Unit who were selected from the public prosecution have severed all ties with their former work and are fully dedicated to their work at the Special Unit. This is in line with the principles of the Istanbul Protocol on Effective Investigation and Documentation of Torture and other Cruel Inhuman treatment, which stipulates that it shall not be permitted for the body that took over prosecution to investigate a complaint of torture and ill-treatment. This is emphasized in Articles (2) and (25) of the Directives on the Special Investigation Unit.

The Judicial Police Section was established to promote the independence of the Unit in investigation and information gathering under the supervision of head of the Unit. The Section is composed of two officers and five members of the police who are engaged in gathering information and conducting investigations on the cases submitted to the unit in full independence.

A male, and a female, forensic medicine specialists and a psychiatrist have been assigned to the SIU performing their activities in accordance with the guidelines and directives of the Istanbul Protocol on Effective Investigation and Documentation of Torture and other Cruel Inhuman treatment.

Regarding the SIU cases referred to criminal courts, a member of the Special Investigation Unit represents the prosecution. The Unit also prepares pleadings, respond to defense pleading, and appeal rulings, as the case may be.

- The recommendation urging the SIU, in accordance with the provisions of the Istanbul Protocol, to be committed to issuing public reports. These reports shall include, as a minimum 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. The SIU explained that, since its establishment on February 27, 2012, it has been committed to issuing periodic public reports that are published monthly by various media. These reports include detailed statements of complaints received by the SIU related to allegations of torture and ill-treatment, and the related investigation procedures taken thereto. In addition, the SIU issues statements on important matters.

² Effective on 21 August 2015, and published in the Official Gazette No. 3223 n 20 August 2015.

In this regard, it should be noted that the SIU, when publishing, complies with two basic rules: The first, is the Istanbul Protocol in the area of collection of evidence and the treatment of victims. The second is the Code of Criminal Procedure regarding conducting the investigation, its integrity, accuracy, and authenticity before the parties and the courts. Observing the confidentiality of the investigation is one of the imperative principles of the Code of Criminal Procedure; hereby adhered to. Therefore, the SIU balances between the right of the victim and the community to know the developments, and at the same time maintaining the confidentiality of the investigation as required by law to guard against the loss of evidence or its manipulation.

- The recommendation urging all decision-makers of security leaders to take the necessary legal accountability procedures regarding death cases that occurred in detention places as a result of torture or other forms of ill-treatment. The SIU confirmed that it has begun its extended investigation to determine the criminal and disciplinary responsibility for deaths and allegations of torture and cruel and degrading treatment during the events of February and March 2011, and the soundness of national safety. The SIU has completed its investigations into those cases and events by excluding criminal suspicion of leaders of the Interior Ministry; while referring two officers of the Ministry of Interior, who were proven to have breached the duties of their jobs, to face disciplinary action. It should also be noted that, during the investigation of all the cases, the SIU assesses and determines superior and senior leaders' responsibility in connection with the said cases in accordance with the principles of the Istanbul Protocol.

(2) The right to liberty and security of person

- The recommending on 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. In this regard, the Institute for Judicial and Legal Studies incorporated in its annual work plan for the judicial year 2015- 2016 conducting basic, continuous, and specialized training. This was done in the light of the 2020 Strategic Plan of the Judiciary, and the needs assessment report on the continuous training of judges and the public prosecution through the implementation of extended basic training programs. In addition, the Institute expanded the implementation of the continuous and specialized training programs, as well as train of trainers programs under the supervision of specialized teachers, focusing on the preparation of periodic training activities that will help judges and members of the public prosecution stay up-to-date with the latest legislative and judicial developments on both domestic and international levels. The training plan of judges and members of the public prosecution took into account distributing the training activities throughout the judicial year from September to the first week of June 2016, with a total of twenty seven (27) different training programs, which will reach approximately ninety (90) programs, based on the frequency of conducting the training programs.

- The recommending on 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 the issuance of any decision banning him/her from traveling well in advance. The Ministry of Justice and Islamic Affairs and Endowments launched on November 11, 2015 an electronic service to inquire about travel bans and payment of dues, which enables citizens and residents to have access to their legal status and settle them if necessary before proceeding with travel arrangements through the national portal bahrain.bh. This is done in collaboration with the Information and E-government Commission, the Nationality, Passports, and Residence Affairs, and the Ministry of Transport and Communications. The Minister of Justice, Islamic Affairs and Endowments explained that “this service will help all citizens and residents, as it will enable them to verify if there are any civil court rulings issued by the implementation courts preventing them from traveling as of July 2008. Therefore, it will save them the trouble of booking and payment of travel costs, and avoid any losses resulting from not traveling. In addition, citizens and residents can avoid any delays that may result in effecting rules proceedings, if any. In the end, this will be in the interest of the public; pointing out that, with this service available, the person concerned will not be forced to visit the Ministry to complete the payment process and then follow-up the judge’s ruling with respect to this matter.
- The recommendation to expedite the issuance of the necessary amendments to the Code of Criminal Procedure on reducing the duration of custody and granting the accused the right to effective grievance. Law No. (39) of 2014 amending some provisions of the Code of Criminal Procedure, promulgated by Legislative Decree No. (46) of 2002, was issued on September 3, 2014³. It replaced the text of articles (147), (148) and (149) of the Code of Criminal Procedure of 2002 with the following text:

Article (147)

A detention order issued by the Public Prosecution shall not be valid except for the seven-day period following the hand-over of the accused thereto. If the Public Prosecution decides to extend the period of detention in custody, it shall prior to the expiry of the seven-day period, refer the documents to the Lower Court Judge to issue his order upon hearing the statements of the Public Prosecution and the accused for extending the detention for a successive term(s) whose total shall not exceed thirty (30) days, provided each term shall not exceed fifteen (15) days, or shall release the accused with or without bail.

For the offences provided for in Part One of the Special Section of the Penal Code, the Public Prosecution shall have the powers of the Lower Court provided for in the preceding paragraph.

Article (148):

If the investigation is not completed and where the Public Prosecution decides to extend the detention in custody over and above the period prescribed in the preceding Article, the documents shall prior to the expiry of the said period be referred to the High Criminal Court that is held in the Consultation Room to issue its order upon hearing the statements of the Public Prosecution and the accused to extend the detention for successive terms each of which shall not exceed thirty (30) days if this is deemed in the interest of the investigation or shall release the accused with or without bail.

³ Effective on 12 September 2014, and published in the Official Gazette No. 3171 on 11 September 2014.

However, the matter shall be referred to the Public Prosecutor if three months elapse following the detention of the accused in custody for taking the appropriate actions deemed necessary for finalizing the investigation.

In all cases, the period of detention in custody shall not be more than six (6) months unless the accused is given notice of his reference to the competent court before the expiry of the above period. If the offence attributed to the accused is a felony, the period of detention in custody shall not be more than six (6) months except upon obtaining before its expiry an order from the competent court for extending the detention for a period of no more than thirty (30) days which may be renewed for similar terms, otherwise the accused shall be released from custody.

Article (149):

The Public Prosecution shall be empowered to order the temporary release of the accused who is remanded in custody at all times of its own initiative, provided that the accused shall undertake to ensure appearance whenever he is requested to do so and not to abscond from execution of a judgment handed down against him.

The accused may request his release from the competent prosecution; if his appeal is refused, he may appeal to the Attorney General, then to the First Attorney General, and then to the Public Prosecutor, provided the decision on the appeal is made by each of them within three (3) days from the date of filing the appeal. In the case when the three-days have passed without making a decision on the appeal, the grievance shall be automatically referred to the superior body.”

- The recommendation on 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 Code of Criminal Procedure for the provisional release of accused persons who are detained in its custody. The Public Prosecutor confirmed that remand is resorted to only in the narrowest extent and when there are justifications or reasons to do so. This is applicable where the incident constitutes a felony or a misdemeanor punishable by imprisonment for a period of more than three months, after the interrogation of the accused. An accused may always be remanded in custody if he has no established and known domicile in the Kingdom of Bahrain where the offence is a felony punishable by imprisonment. In addition, it is certainly applicable to the release of the accused with no guarantees for a misdemeanor offense punishable by confinement for three months. Noting that the purpose of remand is to ensure the integrity of the investigation conducted by the Public Prosecution, as well as to ensure the appearance of the accused before the investigator to facilitate the interrogation whenever requested by the investigation. Under certain circumstances, the accused is remanded in custody to be protected from possible acts of revenge and to alleviate public feelings because of the gravity of the crime.

In the exercise of the powers of the Public Prosecution to adapt and adjust between the act committed by the accused and the penalty for such act, the Public Prosecution does not hesitate to release the accused when there are justifiable grounds requiring that. Moreover, the accused is released at any time if there are circumstances necessitating that. It also resorts to other alternatives to custody, which is the release of the accused in accordance with Article No. (151) of the Code of Criminal Procedure upon providing bail, or simply bar the accused from traveling abroad. The accused may contest such order according to Article No. (159) of the same law.

A number of instructions on the justification and controls for remand for the members of the Public Prosecution were issued. A new system was also introduced for the periodic reviewing of all those held in custody to examine the justification for confinement. All accused remaining held in custody for more than three months are referred to the technical office of the Public Prosecutor to look into the measures needed to terminate the investigation. Article No. (149) of the Code of Criminal Procedure was also amended to place a new system for appealing the Public Prosecutor's custody decision giving the accused the right to request his release from the competent prosecution. If the appeal is refused, the accused may appeal to the Public Prosecutor, then to the First Public Prosecutor, and then to the First Advocate General, provided the decision on the appeal is made by within three (3) days from the date of filing the appeal.

- The recommendation to establish 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. The Public Prosecution made it clear that it functions within the limits of the statutes that criminalize these violations according to a transparent and effective system of accountability in the case of infringement of liberty and personal security. Articles (207) and (209) of the Penal Code stipulates imprisonment of any public officer who undertakes searching of a person, a home, or a place without his/her consent, or illegally detaining a person without an order from the competent authority. Article No. (357) of the Penal Code also stipulates imprisonment in the cases of unlawful arrest or deprivation of liberty. If a public officer commits the act, it is considered aggravating circumstance according to the provisions of Article No. (75), paragraph (4) of the same law.

An independent and specialized unit was established in the Public Prosecutor Office under the name of Special Investigation Unit, which specializes in investigating the disposition of violations against freedom and personal security in accordance with the provisions of Article 8 of the SIU Directive, namely, if such crime is committed or aided and abetted by a public officer against a witness or expert in a criminal case, or against a defendant during arrest, evidence gathering, or investigation, or during the course of trial in courts of law. The SIU has the same jurisdiction over crimes related to the preceding ones.

(3) The Right to a Fair Trial

- The recommendation on developing the programs of the Institute for Judicial and Legal Studies to comply with international human rights instruments, particularly those related to criminal justice and human rights. Several workshops were held throughout the year targeting members of the judiciary pertaining to strengthening the protection of human rights in cooperation with the Institute for Judicial and Legal Studies. The training program included workshops on criminal justice and human rights.
- The recommendation on dedicating further attention to intensive and effective training for judges and public prosecutors on issues related to human rights, particularly fair trial guarantees. The Supreme Judicial Council launched Future Judges Project in 2014, which aims to attract and support legal researchers and those engaged in legal work in both government and private institutions and graduates from the faculties of law for the year (2012 - 2013) of both sexes. The project aimed at preparing them according to transparent, objective, and affirmed principles and standards so as to enjoy the highest degrees of legal and professional competence, as well as the necessary skills, knowledge, and culture to develop into suitable candidates to take over those positions.

- The recommendation on enabling the detainees to attend the funerals or mourning ceremonies of any of his/her ascendants, descendants, spouse, or relatives to the second degree, and making the necessary legislative amendments to enforce this right. The Public Prosecution indicated that Law No. (18) of 2014 issuing the law on the Department of Correction and Rehabilitation and its regulations, has organized the procedures and controls enabling the detainees to attend mourning and condolences ceremonies. Regarding those remanded in custody, the Public Prosecution, being a representative of the community, is concerned that they join their families when there is a death of one of their relatives. It also seeks to overcome any obstacle that may face the detainees when leaving the detention center does not affect the interest of the investigation nor public order and security.
- The recommendation on 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. The Public Prosecution explained that the collection of evidence is conducted pursuant to the Code of Criminal Procedure, as stipulated in Article (44). Therefore, if the Public Prosecution, when conducting the investigation, finds out that any law enforcement officer had committed a breach of his duties or fails to perform his job responsibilities, it requests the relevant authority to take disciplinary action against him. This shall not bar the commencement of a criminal action when such act constitutes a punishable criminal offense.

It should be noted that a new article was incorporated in the Code of Criminal Procedure that gives the Public Prosecution jurisdiction over allegations of torture or inhuman or degrading treatment or death associated with such when inflicted upon the accused, a witness, or an expert during the collection of evidence, the investigation, or proceedings before the court, or other cases. Regarding the public security forces, the Public Prosecution commences and conducts a criminal legal action for cases referred by the Ombudsman or the Inspector General as the case may be⁴.

Moreover, the Special Investigation Unit was established in the Public Prosecutor Office, which specializes in the investigation and disposition of crimes of torture, abuse, and ill-treatment that may be inflicted by government officials, and determine the criminal responsibility for these acts. This Unit is supported by the necessary expertise and specializations required for carrying out its tasks. This includes the assignment of a number of law enforcement officers called the judicial police to assist the unit in the implementation of its decisions. In addition, physicians and forensic experts support the Unit, as well as all other human and financial resources required to ensure the efficiency and effectiveness of the Unit's performance.

The Unit has the authority to determine the criminal responsibility of government employees who have committed crimes of torture, ill-treatment, inhuman, or degrading treatment or cruel punishment, including high-ranking government and executive branch officers, under the principle of superior responsibility. The Unit is entitled to refer the cases to the competent authorities for disciplinary trial or administrative action, as the case may be. It also prepares reports that include the required measures to prevent recurrence of incidents of torture, the ways to redress them, and the adequate compensation of the victims.

⁴ Article No. (81) repeat of the Code of Criminal Procedure.

- The recommendation on activating the supervisory and oversight 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. The Supreme Judicial Council explained that it has undertaken an initiatives pertaining to tracing practical problems that impede the normal functioning of litigation procedures and overcoming the obstacles facing judicial work. The reasons for the delay in court proceedings for old and suspended cases was studied and analyzed. In addition, the Council developed a clear strategy to improve the judiciary and its staff in order to reflect the aspirations of the wise leadership related to strengthening the integrated institutional structure of the judiciary, and enhancing the community's confidence in the judicial system to ensure the judicial security of the community and the proper administration of justice and the accompanying efficient judicial systems.
- The recommendation on dedicating further attention to intensive and effective training for judges and members of the public prosecution on issues related to human rights, particularly fair trial guarantees. The Supreme Judicial Council indicated that special workshops have been set up for the members of the judiciary that include the optimal application of international standards for alternative solutions to remand and imprisonment. These workshops aim at identifying the justified conditions for remand in line with international standards, where custody is the last resort. Additionally, they aim at increasing the use of the alternatives to preventive detention, such as bail or travel bans whenever possible, and identifying the optimal international applications to incarceration, such as community work, ankle bracelets, and other electronic tracking devices. Moreover, the workshops discussed increasing the methods to enable judges to apply alternatives to incarceration, and learn about restorative, compensatory or conformity justice and the associated extending of alternatives to custodial procedures and penalties.

The Public Prosecution also noted that it works to promote human rights based on its function as a representative of the community; and seeks to realize the obligations of the law. The Public Prosecution always urges its members to work with fairness, consistency, and completion of the investigations within an optimal timeframe for the timely achievement of justice. Additionally, the Public Prosecution insists that its members respect human rights and dignity while dealing with him/her as a defendant or a victim. For that reason, the Public Prosecution is continuously pursuing the strengthening of the training system of the members of the Public Prosecution, which is a continuous system in collaboration with several specialized institutes in the Arab region and other countries of the world, through access to internal or external courses.

In addition, several courses and workshops were held in cooperation with the judicial authorities on human rights, both inside and outside the Kingdom. These workshops covered several issues and included the principles of human rights, the right to demonstrate and assemble, effective investigations into allegations of torture and cruel treatment in the light of the Protocol Istanbul, the guarantees of the accused in accordance with international standards, fair trial in criminal cases and the rights of the accused, protection of prisons and places of detention, the legal dimensions of freedom of expression in view of the legislative amendments, human rights principles and the right for peaceful protest and assembly, protection of human rights in the criminal justice process, the rights and guarantees of the accused in pre-trial stage, protection of victims of violence, elimination of crimes of violence against women. A training course was held on the international mechanisms to promote and protect human rights. Another course was held on the monitoring

and implementation of international conventions on human rights. The members of the Public Prosecution participated in the training program that was held at the International Institute of Higher Studies in Criminal Sciences in Italy (Siracusa), which provided technical assistance to the members of the Public Prosecution and the judiciary through a series of training courses in the areas of human rights protection and international and regional mechanisms concerning criminal justice and human rights.

(4) The Right to citizenship

- The recommendation urging the government to lift the reservations as to Article No. (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. The government indicated that it is dealing with the recommendations of the CEDAW Committee regarding reviewing its reservations positively, emphasizing that the Kingdom has ratified all of the articles of CEDAW, and made its reservations on the texts that are not in line with Islamic law and the national constitutional texts.

The Higher Council for Women also played a role in facilitating the granting of citizenship to children of Bahraini women married to foreigners under the Royal Deeds since 2006. The Council's reports indicated that 3525 children, sons and daughters, of Bahraini mothers and foreign fathers, were granted Bahraini nationality during the period 2006-2014 pursuant to a Royal deed; and that the number of beneficiaries reached 1550 Bahraini mothers.

- The recommendation that the Citizenship Law should incorporate the Bahraini women's right to grant citizenship to her children according to legal controls, in line with the relevant international human rights instruments. The Government of the Kingdom of Bahrain pledged before the Human Rights Council pledged at the Universal Periodic Review to do so. The Shura Council explained that it has been confirmed to grant citizenship to children of Bahraini women married to foreigners if these women are of Bahraini origin and not by naturalization; pointing out that the Committee on Women and Children Affairs at the Shura Council is considering this issue.

(5) The freedom of opinion and right to expression

- The recommendation on expediting the preparation of a draft National Plan for Information and Communication, which is based on the strengthening of the national common values, and adopting a fair, balanced, and professional media policy. The strategic five-year plan for the Ministry of State for Media Affairs (2013-2018) was launched, which aims to broadly rehabilitate and develop the information and communication sector to boost the media presence of the Kingdom of Bahrain at the regional level and among Arab countries. Thus, plays a role to promote national unity and reformist approach in the Kingdom of Bahrain, as well as to ensure security and stability in the country, and contribute to the spreading of awareness and knowledge throughout the community.
- The recommendation urging the legislative authority to expedite completing the discussion of the draft law on guaranteeing the right of 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.

The Human Rights Committee of the Shura Council indicated that it has referred the said draft law to the Committee on Foreign Affairs, Defense, and National Security Affairs of the Shura Council for review and preparation of a report in this regard. Noting that the House of Representatives passed the bill on guaranteeing the right of access to information during its meeting on November 17, 2009, and referred it to the Shura Council. In addition, Law No. (16) of 2014 concerning Protection of State Information and Documents was issued.

- The recommendation urging the public prosecution not to resort to arrest warrants in the lawsuits of audiovisual media, printing, the press, publishing and electronic media. The Public Prosecution confirmed that it is very keen on individuals exercising their right to freedom of opinion expression, within the limits set and guaranteed by the law and without prejudice to the Principle of Legality and the protection of the rights of other individuals, including not to undermine or defame people's reputation unrightfully and with false statements; and the protection of national security or of public order, and public morals in line with the provisions of the law, and in accordance with the provisions of Article No. (19) paragraph 3 of the International Covenant on Civil and Political Rights.

The Public Prosecution indicated that it does not resort to remand except in the narrowest limits and only when there are justifications or reasons as mentioned above. Concerning the offense committed by the press, printing, publishing and audiovisual, printed and electronic media, the journalist may not be held in pre-trial detention for crimes committed by the newspapers as stipulated in Article No. (81) of Legislative Decree No. (47) of 2002 on the Organization of the Press, Printing and Publishing.

- The recommendation urging the government to lessen the censorship and restrictions on the various media outlets, including removing the censorship imposed on the political associations in releasing their own publications. A new paragraph was added to Article No. (11) of Law No. (34) of 2014 amending some provisions of Law No. (26) of 2005 with respect to political associations⁵, which stipulates that: "the association may issue periodic bulletins to express its principles, objectives, and programs provided it obtains a license from the competent Minister on Media Affairs. The Minister, in coordination with the Minister of Justice, issues a by-law listing the conditions required to obtain the license, as well as the responsibility of the bulletin's editor-in-chief and the terms governing its circulation. These bulletins are subject to the limits of the freedom of opinion and expression in the law governing the press."

⁵ Issued on 7 August 2014, came into effect on 29 August 2014, published in the Official Gazette No. 3171 issued on 28 August 2014.

(6) The right to organize

- The recommendation on making the necessary legislative amendments to the provisions of Law No.(26) of 2005 on Political Associations, to include the requirement to notify the agent of the founders of the political association by registered letter of rejecting the application, together with reason for rejection; without considering the silence of the competent ministry or lack of notification as implicit rejection of this incorporation. Law No. (34) of 2014 amending some provisions of Law No. (26) of 2005 on political associations⁶ was issued. Article No. (9), as amended, stipulates that: “If the request for the establishment of a political association fulfills the requirements set forth in this Law; the Justice Minister declares the foundation of the association within sixty days from the date of requesting its establishment, or within fifteen days from the date of receiving the clarifications, documents, and data referred to in the previous article. This announcement is published in the official Gazette. If the Minister declines to announce the establishment of the association during the periods set forth in the preceding paragraph, he shall notify the agent of the founders by registered letter of rejecting the application, together with reason for rejection. If the time limits referred to in the first paragraph lapsed without the declaration of the founding of the association, or the notification of the agent of the founders of the rejection, this is a decision rejecting the founding of the association. The preceding provisions on the founding of the association shall be applicable on each amendment to the statutes of the association, and shall be published in the Official Gazette.

(7) The right to an adequate standard of living

- The recommendation urging the government to develop an integrated national strategy for sustainable water, which addresses a number of fundamental issues such as the integrated water institutional framework; coordination among the major resources; ensuring the application of key performance indicators; provision of water for future generations; protection of the existing groundwater sources; advancing the roles of civil society organizations and individuals to participate in this strategy; and promoting effective cooperation between the Gulf Cooperation Council Countries (GCC) to protect these water resources by creating a unified Gulf Network for water connection. An integrated plan was put forward to develop a sustainable water strategy addressing fundamental issues such as: developing an integrated institutional framework to manage water resources, ensuring effective coordination between the agencies responsible for water resources, ensuring the availability of water future generations, and strengthening cooperation with neighboring countries in order to protect the environment and ensure sustainable development.
- The recommendation on setting 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. Realizing the Royal Guidance with respect to accelerating the distribution of housing units to meet the needs of the citizens in all regions and provinces, the Ministry of Housing communicated with the citizens who meet the housing criteria and conditions and are candidates to benefit from the housing services.

⁶ Issued on 7 August 2014, came into effect on 29 August 2014, published in the Official Gazette No. 3171 issued on 28 August 2014.

- The recommendation 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, to ensure users 'safety against potential dangers resulting from using such. The roads sector at the Ministry of Works has been keen on designing, implementing and managing the road network in the Kingdom to provide safe, efficient, and smooth traffic flow for all road users, as well as providing a high-quality transport network and a convenient and efficient infrastructure in the Kingdom.
- The recommendation to expedite the adoption of the draft law on real estate rent 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. Law No. (27) of 2014 was promulgated issuing the Property Lease Law⁷. The Lease Disputes Committee will look into any lease disputes. However, the Committee will not hear disputes arising from leases that are not registered. The Committee has jurisdictions; and includes two judges assigned by the Supreme Judicial Council. One of the judges chairs the Committee together with an experienced officer nominated by the competent minister. The Minister of Justice issues a resolution forming the Lease Disputes Committee, or more than one committee, to settle the disputes promptly. The Law provided more balance in the relationship between the lessor and the lessee.

(8) The right to work

- The recommendation to proceed with the positive steps towards settling the cases of dismissed workers to close this file once for all. The government has indicated in its report that 97% of the dismissed workers' cases were settled once for all. It also clarified that it has implemented the recommendation with respect to returning all fired workers in the public sector. All employees of the public sector covered by the Civil Service Law, who were dismissed, totaling (180) employees, have returned to their jobs.
- The recommendation to make further efforts to create employment opportunities to accommodate the largest possible number of job seekers. The Ministry of Labor launched initiatives and projects aiming at providing appropriate job opportunities for citizens. It also made available training programs responsive to the needs of the labor market in the Kingdom of Bahrain to meet the private sector's need for qualified and competent human resources. The project on employing and qualifying Bahrainis for the years 2014 - 2016 is vital, essential, and complementary to the employment projects carried out by the Ministry during the past years.
- The recommendation to make greater efforts to improve the wages and job incentives in the public and private sectors to a level commensurate with a decent standard of living. To implementing the resolutions of the Council of Ministers, pillars to adequate and decent work for citizens have been provided through the implementation of a project on improving the wages of the nationals holding university degrees. In addition, a project was implemented on improving the wages of the nationals working in the private sector. The number of the targeted university graduate workers reached 2203 worker, whereas the number of non-graduate national workers reached 20,919 workers, bringing the total Bahraini workers targeted by the two projects to 23,122 workers.

⁷ Issued on 24 July 2014 and came into force on 7 February 2015, and was published in the Official Gazette, annex of issue No. 3168 on 8 August 2014.

- The recommendation on taking strict legal action against business owners and companies that did not comply with the minimum safety requirements of expatriate workers' housing. In 2015, the Ministry of Works, Municipalities, and Urban Planning formed working groups in cooperation with the concerned authorities to ensure that workers' housing comply with the set requirements and standards. The working groups visited the workers' housing to identify violations and refer them to the competent authorities. In addition, an integrated executive study was conducted on the phenomenon of bachelor labor accommodations in residential areas in collaboration with the municipal councils.
- The recommendation on the enactment of a law that addresses the domestic workers affairs and recruitment offices, including a statement of the rights and obligations of the parties involved. The Labor Market Regulatory Authority has issued Resolution No. (4) of 2014 on organizing work permits of domestic workers and the like, where Article No. (7) and Article No. (8) stipulate the obligations of both the employer and the domestic worker.

(9) Combating trafficking in persons

- The recommendation to make a comprehensive national strategy to combat and prevent the crime of trafficking in persons, to include, in particular, the measures necessary to prevent crime, protect its victims, and punish the perpetrators. The Chairman of the National Committee to Combat Trafficking in Persons pointed out that the Committee has a range of programs that are working on; the first is developing the national strategy to combat trafficking in persons. This Strategy contains several aspects related to outreach and the national referral system.
- The recommendation urging the Government to allocate 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. An accommodation center was established, which is the first center of its kind at the regional level, to house the victims or persons who may be exposed to trafficking in persons. This Center is supervised by the National Committee to Combat Trafficking in Persons supported by the Labor Market Regulatory Authority. It provides integrated services with a capacity exceeding to accommodate one hundred (100) persons. The center is equipped according to international specifications, and includes a range of governmental and non-governmental stakeholders. The accommodation Center is a separate, where several services are provided to workers of both sexes, such as medical services, mental health services, legal advice, and social services. In addition, the Center provides protection to them by receiving any victim or potential victim around the clock. The services are provided in seven languages.
- The recommendation 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. The Public Prosecution took over the follow-up of enforcing the provisions of the Law and referred the suspects to the courts.

The Labor Market Regulatory Authority prepared and conducted a lecture and a workshop for the members of the judiciary on with the optimal application of international standards to combat trafficking in persons. The workshop aimed to identify the modalities of monitoring the victims of trafficking in persons through the groups that are vulnerable to fall victim of such crimes, such as laborers, servants, and the like. In addition, it aimed to identify the various forms of the crime of trafficking in persons and other related crimes; and to highlight the role of prosecution in the investigation of cases of trafficking in persons, as well as the role of the judge during the trial. The workshop also aimed to cover the methods of treating the victims and protecting them during the investigation and the trial, and to identify the best international applications in the field of dealing with trafficking in persons cases.

(10) The right to health

- The recommendation on the need to adopt and implement a national health strategy, for the purpose of improving health services, in line with the requirements of population growth. The Health Improvement Strategy for the years (2015-2018) was adopted. The Strategy includes strategic objectives to maintain the health of the population through the promotion of preventive health, the integration of services and realizing quality first, and the universal access to health care services. The Strategy also aims to enhance the role of the Ministry of Health in developing policies, governance, and sustainability of health services through the provision of financial and human resources and medical technologies.
- The recommendation to improve the performance of monitoring health services to ensure the prevention of medical errors. The health services are advanced and optimal, as it recorded the best health rates in the region, and there are health-monitoring tools internally and externally.
- The recommendation to pay more attention to sickle-cell anemia (SDC) patients and multiple sclerosis (MS) patients by increasing awareness of these diseases 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. A specialized clinic was established for the treatment of sickle-cell anemia (SDC) patients in May 2015. The clinic team consists of a hematologist, an internal medicine physician, a psychological support medical doctor, an orthopedic surgeon, an anesthesiologist and a pain management doctor, a social service specialist, clinic administrator, healthcare coordinator for SDC patients, nursing staff, a nutrition specialist, and a physiotherapist. In addition, it is expected to open a new medical complex in Muharraq in 2017, which will include a long-term care center, a maternity hospital, a center for patients with multiple sclerosis (MS), which is the first of its kind in Bahrain and the region, and an elderly care center.
- The recommendation to raise the safety standards in the prevention of communicable and infectious diseases in health centers and government and private hospitals. The Ministry of Health organized a number of preventive programs and awareness campaigns to protect health against various diseases outside the health centers and hospitals. In addition, the Food Monitoring Division carried out inspections of a number of facilities and recorded several violations.

(11) The right to education

- The recommendation to review the citizenship curriculum content in order to include a number of subjects that develop real culture and practice based on the promotion of respect for human rights. The Ministry of Education made efforts to strengthen the positive image of the Kingdom of Bahrain, and to highlight the core values of tolerance and coexistence, and the rejection of hatred and intolerance through citizenship and human rights education and teaching. In developing curricula, textbooks, and training workshops, the Ministry benefited from the visions of the various stakeholders, especially in matters related to equality between women and men, resisting stereotypes for both genders, rejection of violence against women and children, and the protection of people with special needs.
- The recommendation on the control over private education, to make sure that the private educational and training institutions, in particular, private higher education institutions, give priority to the educational and the academic aspects over for-profit education. The Ministry of Education pays special attention to the private education sector as well as to the promotion of citizenship and belonging among students.

(12) Women's Rights

- The recommendation on the need to take measures in order to grant housing services to Bahraini women married to foreigners in the event of divorce, abandonment, or death of spouse. Royal directives were issued to adopt the fifth category in housing projects, which is a true materialization of the great interest of the His Majesty King Hamad bin Isa Al Khalifa King of Bahrain to emphasize Bahraini women's rights to advance them all levels. In addition, her Royal Highness Princess Sabika bint Ibrahim Al Khalifa has an unlimited interest and support of to the project's concept, and she personally follows-up the project to expand the umbrella of Bahraini women's access to housing services.

Furthermore, the Minister of Housing issued the Ministerial Decree No. (909) of 2015, which regulated the right of this category to benefit, which includes "widowers, divorced and abandoned women -not having custody of her children, unmarried and orphan women". This reflects the eagerness of Bahrain to extend the umbrella of the beneficiaries of the housing services.

- The recommendation to expand in 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. A Standing Committee was established, called "Equal Opportunities Commission" in many government agencies and official institutions.

(13) Rights of the Child

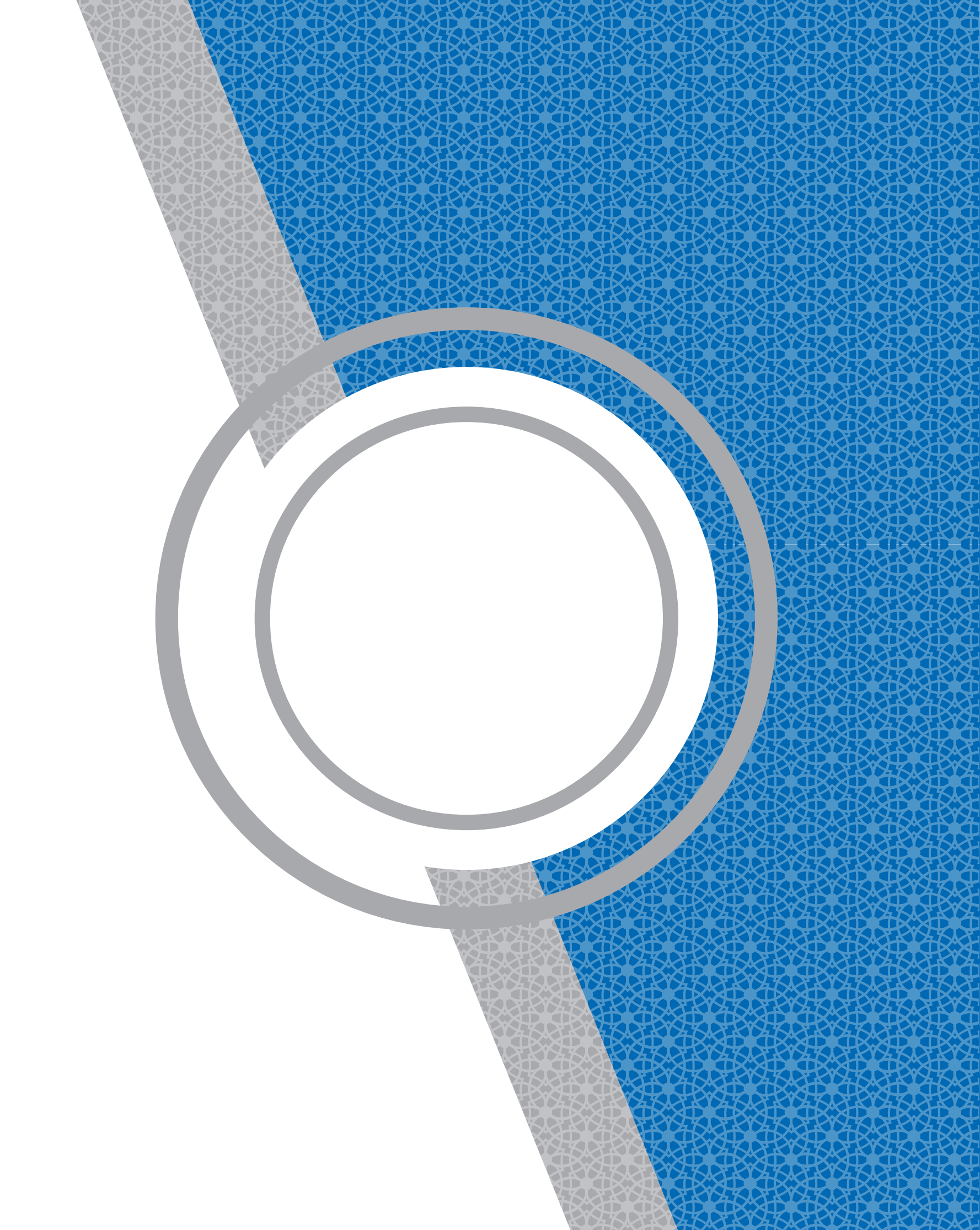
- The recommendation to activate the regulatory and supervisory role over nurseries, kindergartens and government educational institutions to ensure that children enjoy a safe environment that is free of exposure to the various forms of violence, abuse or neglect. The Ministry of Social Development issued resolution No. (11) of 2014 on the establishment of nurseries, which stipulated in Article No. (27) the supervisory, inspection, technical, financial, and administrative role of the competent administration and issuing violations.
- The recommendation to expedite the adoption of the draft law on the protection of the family from violence to be an additional legislative cover for legal protection of children from exposure to violence and abuse. Law No. (17) of 2015 on Protection Against Domestic Violence was issued.

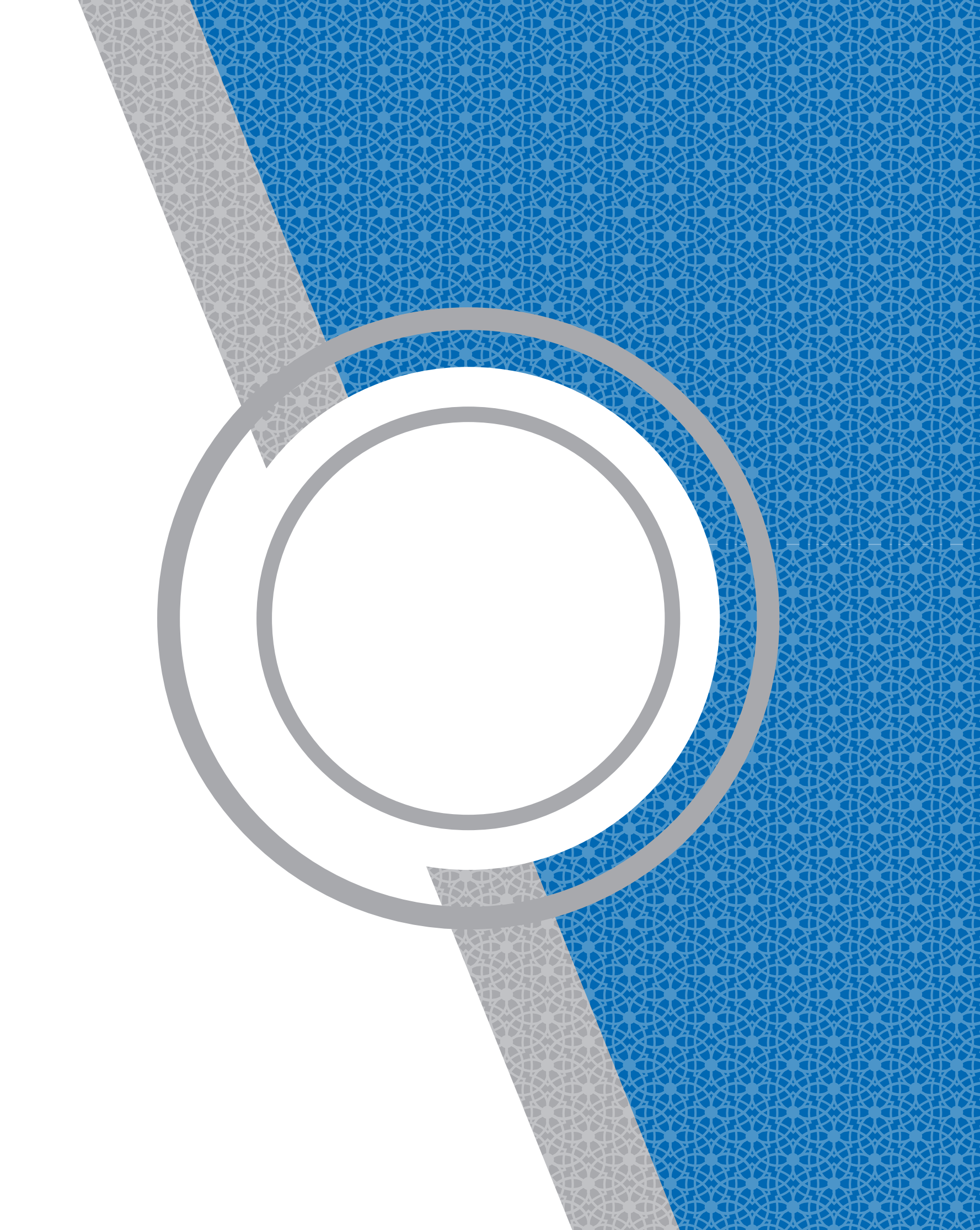
(14) The rights of persons with disabilities

- The recommendation 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. The difficulties and obstacles facing persons with disabilities have been overcome by means of preparing the roads, sidewalks, government buildings, and facilities according to the standards, while providing appropriate ramps, equipping parks, and the provision of special parking places, so that people with disabilities can easily access places and exercise their right to do so.

(15) The rights of the elderly

- The recommendation to establish and develop the departments concerned with the health care of the elderly, in order to provide the necessary medical care and treatment. The Ministry of Health has sought to ensure the provision of preventive and curative healthcare services to the elderly. In addition, it provided care at the health centers as it provided a special team, consisting of a nurse and a technical person that performs home visits for the elderly to provide them with the necessary health services, nursing care, family guidance, as well as personal care and the relevant needs.





Chapter II: The Consultative Opinion Submitted by the National Institution for Human Rights

Preface

The Paris Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights emphasized that part of the tasks of the national institutions for human rights is to undertake “to promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation”, in addition to encouraging the State to ratify these international instruments or “accession to those instruments, and to ensure their implementation”⁸. This requires the national institutions to review “relevant national laws, regulations and policies to determine that they are compatible with the obligations arising from international human rights standards and propose the amendment or repeal of any legislation, regulations or policies that are inconsistent with the requirements of these principles.”⁹

Article (12) of Law No. (26) of 2014 on the Establishment of the National Institution for Human Rights (NIHR) stated that the task of the NIHR is “to study legislation and regulations enforced in the Kingdom under the human rights areas together with recommending amendments it deems fit in this respect particularly those consistent with such legislations and the Kingdom’s international obligations in the human rights field. The institution is empowered to recommend new legislation related to human rights.”; while paragraph (c) of the same article stated “to study conformity of legislation and organization of regional and international treaties related to human right, submit proposals and recommendations to concerned authorities in any matter that re-enforces and protects human rights, support and develop to a better level including recommendations to join regional and international conventions and treaties concerned with human rights.” These tasks is a reflection of the “Paris Principles” and the General Observations of the Sub-Committee on Accreditations(SCA) in the Global Alliance for National Human Rights Institutions (GANHRI).

Therefore NIHR provided its opinion regarding certain requests on decrees, or proposals for legislation, or referred suggestions totaling eight cases; furthermore, it referred its opinions to the Council of Ministers (Executive Authority) regarding proposed legislation or amending existing ones to be in conformity with international instruments for human rights, totaling 6 cases, as the Council of Ministers is the designated party in accordance with the provisions of the Constitution to refer draft laws to the National Council.

⁸ The Paris Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights- Jurisdictions and Responsibilities- Paragraph (3) Document No. A/RES/48/134.

⁹ Genera; comment of the sub-committee entrusted with the adoption No. (1-3)- encourage the ratification or joining the International Human Rights Instruments- (May 2013).

Section I:

NIHR Consultative Opinion Submitted to Council of Representatives (Legislative Authority)

In appreciation of the efforts exerted by the House of Representatives regarding issues of relevance to human rights, as the constitutional institution guaranteeing public freedoms and rights, NIHR received a total of 8 cases for consideration and opinion, as follows:

First: Decree-by-Law No. (68) for 2014 with regard on amendments of some provisions of Law No. (58) of 2006 with regard to protection of society from terrorist acts.

1. NIHR referred its consultative opinion on the provisions of Decree-by- Law No. (68) of 2014 amending some provisions of Law No. (58) of 2006 concerning the protection of society from terrorist acts, which included in addition to the preamble, 4 articles, the First Article to replace Articles No. (8), (15), (26), (27), and (28); in the Second Article to substitute the term "Terrorist Crimes Prosecution" with "Public Prosecution" ; and Article Three stated to add two new Articles No. (2 bis) and No. (27 bis) , while Article Four is executive.
2. NIHR affirms that although the responsibility of the protection of society from terrorist acts that disturb security and stability and threaten citizens and expatriates is that of the State, which has to take all measures to prevent threatening civil security and peace, however this should not be a cause to violate human rights and public freedom protected by the Constitution's provisions, conventions, and international instruments for Human rights of relevance.
3. Article One of the Decree- by-Law propose to replace stipulated Article No. (8) stating that "Life imprisonment or imprisonment for a period of no less than 7 years shall be inflicted upon every person who trains one person or more on the manufacture or use of weapons and explosives or such other works that facilitate or prepare for the use thereof with the intent of using them in committing any of the crimes provided for in this Law. Imprisonment for a period of no less than 5 years shall be inflicted upon every person who is trained on the manufacture or use of weapons, explosives or such other training on works that facilitate or prepare for the use thereof intent of committing any of the crimes provided for in the preceding Paragraph. The same penalty provided for in the preceding paragraph shall be inflicted upon every person commits collective violence acts or combat operations abroad not addressed to the Kingdom or participates in the same in any way".
4. Followed by amending Article No. (15) to state that "A prison sentence shall be the penalty for each one who commits an assault against the officers in charge of enforcing the provisions of this Law or resists them by force, violence or threat in the course of carrying out his job duties or by reason thereof. The penalty shall be imprisonment for a period of no less than 7 years if the assault or resistance results in permanent disability without intention to cause the same or if the offender carries a weapon or kidnaps or takes hostage any of the officers in charge of enforcing the provisions of this Law, his spouse, in-laws, offsprings or a relative up to the fourth degree of relationship. The penalty shall be imprisonment for a period of no less than 10 years if the assault results in permanent disability intentionally. The penalty shall be life imprisonment, if the assault results in death without intention to kill him."

5. NIHR clarified in its consultative opinion that the essence of the amendment mentioned in the provisions of the above two stipulations is for purpose of augmenting the determined penalties or creation of other criminalized acts. In addition, the augmentation adopted by the Decree-by-Law in the crimes is for purposes and objectives represented in establishing a case of security and social stability and deterring from the commission of such type of crimes. This augmentation doesn't influence the enjoyment of the individuals with their basic rights and freedoms and doesn't prejudice or breach the human rights as stipulated in the International human rights instruments of relevance.
6. Regarding Article No. (26), the Decree-by-Law state that "A prosecution called "terrorist crimes prosecution" shall be established and the members thereof shall be appointed upon proposal of the prosecutor, which shall be competent with investigating the crimes stipulated herein. Such prosecution shall be empowered to issue an order of rending in custody by the Attorney General or whoever acts for him for a period or for successive periods not exceeding sixty months in total". NIHR considers that the stipulation mentioned in the above Decree -by-Law deals with establishing a prosecution competent with examining the terrorist crimes within the organizational structure of the Public Prosecution, and this is a procedure of an administrative and organizational form. NIHR confirms that such stipulation provided that the appointment of members of the terrorist crimes prosecution shall be by virtue of a (Royal Order) to ensure the independency of the work thereof. Thereupon, the amendment mentioned in the above Decree-by-Law does not prejudice or breach the human rights as stipulated in the International human rights instruments of relevance.
7. Regarding Article No. (27), the Decree-by-Law state that "If sufficient evidence is available for indictment of a person of committing one of the crimes provided for in this law, the judicial arrest officer shall be empowered to detain the accused for a period not exceeding twenty-eight days. The judicial arrest officer shall hear the statements of the arrested accused and shall refer him to the terrorist crimes prosecution upon the expiry of the period referred to in the preceding Paragraph. The Public Prosecution should interrogate him within 3 days from the date of his reference thereto and then shall order his detention in custody or his release". NIHR considered that the amendment mentioned in the above Decree-by-Law grants the judicial arrest officer (police) the power of arresting the accused in the crimes subject to the provisions of the law subject matter of discussion for period not more than (28) days. By reference to provisions of Article No. (9), item (3) of the International Covenant on Civil and Political Rights that the Kingdom of Bahrain joined according to Law No. (56) of 2006; such Article stipulated that it is necessary that "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released."¹⁰

¹⁰ Pursuant to its accession to the International Covenant on Civil and Political Rights, Kingdom of Bahrain shall be obligated according to article No. (40) thereof to present periodic reports on the measures taken, which represent the implementation of the recognized rights, show the progress achieved in enjoying such rights; especially, the extent of suitability of the valid national legislations thereof to the provisions of the international covenant.

8. The “Human Rights Committee” entrusted with interpreting the provisions of the international covenant on the occasion of commenting on the stipulation of Article No. (9), item (3) that: “it shall be considered in case of arresting or detaining any person in the criminal cases that he has be referred immediately to a judge or an officer legally authorized to practice the judicial power. In most member states, the law sets forth more accurate time limits and the committee thinks that the delay may not exceed few days.”¹¹
9. Regarding Article No. (28), the Decree-by-Law stated that “Information submitted by the security sources regarding the crimes provided for in this Law shall remain confidential with the Terrorist Crimes Prosecution. Such information shall not be disclosed nor shall the names of their providers be divulged without prejudice to the provisions of Article (61) of the Criminal Procedure Law.”NIHR considers that the stipulation mentioned in the Decree-by-Law above is to apply the confidentiality feature to all information submitted by the security sources in relation to the crimes provided for. However, the stipulation mentioned in the original law limits such information to what is presented to procure extension for the detention period. This issue is required by the interrogation interest in all aspects thereof and NIHR confirms, at the same time, that the accused shall be entitled to allow his lawyer to review such information. Thereupon, the mentioned amendment doesn’t prejudice or breach the human rights as stipulated in the International human rights instruments of relevance.
10. Article Two of Decree-by-Law stipulated that “The phrase “Terrorist Crimes Prosecution” shall be replaced with the phrase “Public Prosecution” wherever mentioned in Law No. (58) of 2006 on Society Protection from the Terrorist Acts.” is a creation required ordinarily, after establishing a specialized prosecution under the name “Terrorist Crimes Prosecution”, which is competent with investigation in such crimes and the meaning thereof is related.
11. Article Three of the Decree-by-Law stipulated a new Article No. (2 bis) which stated that “Provisions hereof shall be applicable to each citizen of foreigner committed an act outside Kingdom of Bahrain, which causes him to be actor or participant in one of the crimes provided for herein.” NIHR finds this stipulation is a creation with purpose of applying the provisions of this law to each citizen or foreigner who commits any act outside the regional borders of the Kingdom of Bahrain, according to which he is actor or participant in one of the crimes provided for in this law. The purpose of such creation is to protect the external security of Kingdom of Bahrain. Therefore, the creation of such stipulation does not prejudice or breach the human rights as stipulation in the International human rights instruments of relevance.

¹⁰ General comment No. (8), article (9) right of the individual to the freedom and security personally – issued by the Human Rights Committee – Document No. (HRI/GEN/1/Rev.9 (Vo1.1)) – page 182.

12. The new Article No. (27 bis) in the Decree-by-Law stipulated that “If a terrorist crime is committed or if there are sufficient evidence on possibility of commission thereof, the judicial arrest officer shall be entitled to take – within the spatial scope of the crime and for purpose of arresting the committers thereof or to prevent the occurrence thereof – any of the following procedures: 1. Inspecting the persons, who has satisfied sufficient evidences to be accused and inspecting their luggage. 2. Stopping and inspecting the public and private vehicles. 3. Banning the movement of means of transportation and traffic and pedestrians. 4. Disconnecting the communications and correspondences in the crime spatial scope and the locations, where the anti-terrorism measures are being undertaken for period doesn’t exceed twelve hours and such period may be extended by resolution of the terrorist crimes prosecution for period doesn’t exceed twenty four hours. 5. Preventing any persons that there are strong evidences against him that he has participated in a terrorist act from access to specific areas or location at specific time and days by virtue of an order to be issued by Head of Public Security for period not more than fifteen days. This order may be complained before the competent court and the complaint shall be decided within three days as of date of submittal thereof”. NIHR considers that the stipulation mentioned in the Decree-by-Law above has granted the judicial arrest officers powers represented in the authority to inspect the individuals and the public and private vehicles, to ban the movement of means of transportation and traffic and even extended such authority to the possibility to disconnect the communication and correspondences reaching to the authority to prevent any person from access to specific areas or location at specific time and days. These measures in total represent gross breach to the fundamental human rights and freedoms.
13. NIHR believes that the judicial arrest officers should undertake their role in protecting the society from terrorist acts that undermine the security and stability, terrorize innocent citizens and residents, and threaten national security and peace, such powers granted to them should not be loose and without restriction. However, all measures should be taken by order and under the supervision of a judicial authority whether on part of the competent court or the terrorist crimes prosecution at least.
14. NIHR considers that the powers granted by the Decree-by-Law above to the judicial arrest officers are not absolutely in agreement with the general and basic principles of human rights. Granting such powers to the judicial arrest officers without order or supervision by a competent judicial entity represents a gross violation of the individual’s fundamental human rights and freedoms.

Second: The draft law issuing Legal Practice Law (prepared in light of the draft law submitted by the Shura Council)

1. The NIHR referred its consultative opinion on the draft law on issuing the Legal Practice Law (prepared in light of the draft law submitted by the Shura Council), which consists of, in addition to the preamble, seventy nine (79) Articles dealing in their entirety with the regulation of the legal practice in Kingdom of Bahrain by defining the legal practice, setting up the conditions for registration in the legal profession register, organizing the conditions and provisions that shall be fulfilled by foreign law firms to operate within the kingdom, organizing the register of the lawyers admitted to pleading before the court of Cassation and the Constitutional court, organizing lawyers rights, duties and disciplinary responsibilities and determining their fees and legal aid as well as the penalties determined upon violation of the provisions thereof.

2. However, pursuant to its jurisdiction, the consultative opinion of the NIHR was limited to the legal stipulations deemed to relate and have an impact on fundamental human freedoms and rights; especially articles no. (6), (37), (38), (39), (42) and (65). Aside from that, the NIHR has referred its comments – in terms of the formal notes (language and legal register) and subject matter (content) – to the Government Memorandum Opinion, and the Memorandum of the Legislation and Legal Opinion (Fatwa) Commission, attached to the draft law.
3. Article No. (6) of draft law states that: “ It isn’t allowed to combine the legal practice and the following: 1. Speaker of the Shura Council and Council of Representatives or Municipal Councils. 2. Ministerial position. 3. Holding public positions in the State or appointment in any of the public entities, institutions or companies or employment at the banks or associations and individuals with exception of exemption by virtue of a Royal Decree issued based on recommendation by the Council of Ministers. 4. Engaging in the business activity. 5. Holding the position of chairman or member to board of directors in shareholding companies or director at a limited liability companies, joint liability and partnership companies.”
4. The NIHR explained in its statement of perspective that the above article has determined the legal cases where it is not allowed to combine practicing the legal profession and some other work. This means that there is the possibility of conflict of interest between the profession and the other work in closely related areas. However, it is noted that paragraph (1) of the same article states that it is not allowed to combine the legal profession and the position of the speaker of the Shura Council and Council of Representatives or municipality councils , while the reason for the prohibition extends to include members of these councils. This is especially the case where the speaker of the Council of Representatives and the chairpersons of municipal councils like the rest of the members of such councils but have are elected later as speakers.
5. On the other hand, the NIHR, under the law establishing the Institution, is a public institution in the State tasked with enhancing, developing and protecting the human rights in the Kingdom of Bahrain. In addition, NIHR establishing law has allowed the members of the Council of Commissioners appointed by a Royal Order to be those who practice the legal profession. Consequently, pursuant to provisions of paragraph no. (3) of the above-mentioned article; it is not allowed to combine such profession and this position:
6. The NIHR finds believes that it is preferred that members of the Shura Council, Council of Representatives and members of municipality councils should be treated equally regarding the inadmissibility of combining the legal profession and these positions because this is the very purpose sought by the draft law. In addition, the NIHR proposes to add the word (royal order or) before the phrase (royal decree based upon recommendation from the Council of Ministers), to ensure the exemption of all lawyers appointed by virtue of a royal order or royal decree in authorities or public institutions within the State.
7. With regard to Article No. (37), which ruled that:” the lawyer shall be entitled to review the lawsuits and judicial papers and have access to the data related to the lawsuit undertaken by him. The courts, prosecutions, police departments and other entities, before which the lawyer practices his profession, shall provide him with all facilities required for performing his duty and enable him to

review the papers, have access to the data and attend the investigation with his client in accordance with the law. His request may not be rejected without a legal reason. All deliberations in the session shall be documented in the minutes of the meeting. The NIHR believes that this article raises a critical issue in the international law of human rights; especially the right of everyone to a fair trial, including his right to communicate with the outside world, such as seeking the assistance of a lawyer to be chosen for protecting his rights and to assist him in defending the same. This is a basic right to be made available starting from collecting the inferences, through the stage of the initial investigation until the final and decisive judgment by the competent court; and this extends even to the period of executing the determined penalty.

8. Whereas, the provisions of the decree-by-law No. (46) of 2002 on issuing the Code of Criminal Procedures and amendments thereof have established the right of the accused at the time of arrest to communicate with the outside world; specifically article No. (61), which stipulates: “Every person who is arrested shall be informed of the reasons for his arrest. He shall have the right to contact any of his relatives to inform them of what has happened and to seek the aid of a lawyer”. Since the right to communicate with the outside world is absolute, abstract, and not restricted by the type of crime subject matter of the arrest, it follows therefore that this right is uncompromised for the arrested in all cases.
9. The NIHR finds that the legal formulation of the article subject matter of opinion must be made in such way to guarantee that the individual, whatever his legal position is, and without hindering by any entity, to communicate with the outside world, such as seeking the assistance of a lawyer to be chosen by him to protect his rights and to assist in defending him without prejudice to provisions of stipulation of article No. (61) of provisions of Decree-by-Law No. (46) of 2002 on issuing the Code of Criminal Procedures and amendments, in line with the related international convention of human rights.
10. With regard to article No. (38), which stipulates that:” The lawyer permitted to visit a detainee in the public prisons shall be entitled to visit him and meet with him alone in a decent place inside the prison.” The NIHR finds that the essence of the above article is closely connected to the preceding article, whereby the individual shall be enabled to communicate with the outside world; such as seeking the assistance of a lawyer to be chosen by him to protect his rights and to assist in defending him. This is an inherent right that shall be provided beginning from collecting the inferences reaching to the stage of the initial investigation, until a final decisive judgment is passed by the competent court. However, such right extends to the period of execution of the determined penalty; and such consultation and communication with the lawyers shall be made without delay, hindrance, or control¹², and without imposing any restrictions that hinders the individual from using such right.
11. Therefore, the word (permitted) mentioned in the above article may lead to the violation of the right of those persons whose freedom is restricted to meet their lawyers by the authority that grants the permission due to the possibility of arbitrariness in failure to grant such permission or delay in granting it. This may cause delay or hindrance in enjoying the right resulting in violation of the right of the individual to seek the assistance of a lawyer to be chosen by him to protect his rights and assist in defending such rights.

¹² Refer to; comment No. (32) of Human Rights Committee entrusted with interpreting the provisions of the International Convention on Civil and Political Rights that Kingdom of Bahrain became party thereof according to Law No. (56) of 2006 – Document No. (CCPR/C/GC/32).

12. With regard to article No. (39) of the draft law, which stipulates that: "The lawyer whether a litigant or an attorney in a lawsuit shall be entitled to authorize another lawyer in the attendance, pleadings, or other litigation procedures under his responsibility without private power of attorney (POA) as long as there is nothing hindering this in the POA". The NIHR finds that the above article allows the lawyer to authorize another lawyer on his behalf in the attendance, pleadings or the other litigation procedures, whether the former is original litigant or attorney in the judicial lawsuit. However, this authorization in its current form, and as applicable in practice, may be subject to abuse if the other authorized lawyer deals with bad faith or if he uses such authorization without the knowledge and approval of the lawyer himself. Consequently, the rights and interests of the parties to the lawsuit will be compromised.
13. The NIHR finds that it is preferable that the authorization mentioned in the above article shall be in writing, whatsoever the cogency thereof to be submitted to the competent court to protect and maintain the interest of the all parties to the judicial lawsuit in agreement with the just trial guarantee and as established by the related international convention for human rights.
14. Regarding Article No. (42), which stipulates that: "The lawyer shall offer judicial assistance for citizens and others who are financially unable to pay legal fees when delegated by the court, and he shall perform his duty in the same diligence to be exerted if he is authorized. In this case, he may not abstain from the defense unless he has been granted permission from the court before which he undertakes the defense. He shall continue until his withdrawal request is approved and a substitute lawyer is appointed." The NIHR finds that while article no. (20) of the Constitution of Kingdom of Bahrain amended by article no. (f) expressly stipulates "the right to litigation shall be guaranteed in accordance with the law". In addition, such right, which is established legislatively, may not involve discrimination between citizens and others, because it is a right that shall be enjoyed by each individual existing within the judicial jurisdiction of the State. Therefore, it was unjustified to use the term in the phrase (citizens and others who are financially unable) to refer to parties to the lawsuit as mentioned in the above article. In addition, the phrase (and others) is an unknown term and has an unspecified meaning.
15. The NIHR finds that, in line with the sound legal formation, it is preferred to replace the phrase (citizens and others who are financially unable) by (the litigants) and reformulate the whole article taking into account the aforementioned considerations.
16. With regard to the final Article No. (65), which stipulates that: "Each lawyer who violates the provisions of this law or of his profession's duties or performs work that affects or degrades the ethics and traditions of the profession shall be punished by any of the following penalties: 1. Warning. 2. Reprimand. 3. Suspension from practicing the profession for a period not more than two years. 4. Disbarment. While it is established by virtue of legislation, justice, and administrative law jurisprudence; especially in the field of the disciplinary accountability, it is necessary that the determined disciplinary penalties shall be graded in terms of severity considering its principle agrees with the human rights. This approach is stipulated in the provisions of the Civil Service Bureau issued by decree-by-law No. (48) of 2010; especially, article No. (23), which begins with the verbal warning followed by the written warning and then suspension from work with salary deduction for a period not exceeding one month during a year and not more than ten days each time, reaching to the dismissal from the service.

17. While the article subject matter of opinion made the (reprimand) penalty more severe shall the (warning) penalty and this contradicts with the principle represented in the necessity of grading in the disciplinary penalties in terms of severity. In addition, it is difficult to implement and prove the penalty of (reprimand) because it is wide and undetermined.
18. The NIHR finds that it is preferred in agreement with the approach applicable in the Bahraini Legal System, especially in field of the disciplinary accountability, to replace both penalties of (warning) and (reprimand) with (oral warning) and (written warning) mentioned in the above article, with reformulation of the article entirely taking into account the above mentioned considerations.

Third: Draft Law on Domestic Workers (prepared in light of the draft law submitted by the Council of Representatives)

1. The NIHR referred its consultative opinion on the Draft Law on Domestic Workers (prepared in light of the draft law submitted by the Council of Representatives), which consists of twenty six (26) articles, in addition to the preamble, dealing in total with regulating cases of bringing non-Bahraini domestic workers, referring to the most important conditions to be met by households to be granted a permit for domestic workers, the obligations imposed on recruitment agencies, the most important duties and responsibilities of the homeowner and the domestic worker, and the relationship between them, as well as the inclusion of the financial penalties represented in the fines imposed on those who violate its provisions.
2. However, according to the jurisdiction entrusted with, the consultative opinion of the NIHR regarding the provisions of the Draft Law was limited to the stipulations deemed related to or effective on human rights and fundamental freedoms, in particular Articles No. (7), (12), (17), and (20). Regarding the other aspects, the NIHR referred has referred its comments - in terms of the formal notes (language and legal register) and subject matter (content) - to the Government Memorandum Opinion, and the Memorandum of the Legislation and Legal Opinion (Fatwa) Commission attached to the draft law.
3. Article (7) of the Draft Law stipulated that: "the homeowner shall fulfill the following conditions:
1. He shall be a Bahraini national, and the Authority may allow a non-Bahraini to employ domestic workers in accordance to the conditions to be set forth by it for such purpose, including the submission of a Bank Guarantee in an amount of five hundred Bahraini Dinars to ensure the rights of the worker. 2. He shall be a householder, a person with disability or an elderly. 3. He shall not be convicted or referred to a court in a case of assaulting a worker; and the homeowner shall submit a written declaration in this regard accompanied by copy of his passport. 4. He shall have the financial capacity to meet his obligations toward the worker."

4. The NIHR considers that the above article stipulates the conditions that shall be fulfilled by the homeowner so that he can bring and hire a domestic worker. One of the conditions is that the homeowner shall not have been convicted or referred to a court in case of assaulting a worker and he shall present a written declaration in this regard accompanied by a copy of his passport. While such conditions supposedly provide the protection for the worker from any breach that the worker may suffer by the employer, the NIHR finds that it is necessary that such condition shall be linked to a final and decisive judgment passed by a competent court in a case filed against him in his capacity as an employer. A mere referral to the court is not sufficient. Presumption of innocence is an accompanying and existing right for everyone and cannot be revoked except by the issuance of a judgment with all pre-conditions thereof. Therefore, the NIHR hereby agrees to the conditions mentioned in article no. (6) of the current draft law, except for item No. (3) as detailed above.
5. As for Article No (12), which stipulates that: “(a). The worker shall comply with the following: 1. perform domestic work honestly and sincerely. 2. Respect the privacy of the house where he works and maintains the properties of the homeowner and home contents. 3. Shall not disclose the household’s secrets. 4. Respect the prevailing traditions and customs of the society. 5. Inform the homeowner before leaving, or departing, or be absent from the house. (b). If it is proved that the worker has caused the loss of or damage to tools and materials owned or possessed by the homeowner or were in the possession of the worker intentionally or due to a carelessness, the homeowner shall be entitled to deduct from the worker’s salary the value of the lost or damaged items and the value of repair thereof. Should a dispute arise between the homeowner and the worker, the matter shall be referred to the Labor Market Regulatory Authority Personnel Affairs Committee stipulated in article (15) of this Law. (c). Should the worker escape from the employer’s home for a reason not attributed to the employer, the worker shall bear all expenses incurred by the homeowner in addition the expenses of returning to his/her his homeland. (d). The worker shall incur the expense of airlines ticket to his country should he personally decide to leave the Kingdom for any whatsoever reason”. The NIHR explained that the above article listed the obligations imposed on the worker toward the employer (homeowner). Yet, the listing is not sufficient in item (c) regarding the determination of the expenses that shall be paid (refunded) by the worker to the employer in the event of the worker’s escape, whether such expenses cover recruitment and employment expenses only or otherwise; especially that a breach to the contractual obligations necessitates that the violating party shall incur the compensation whenever so is required. Such compensation naturally includes the homeowners’ gains as well as losses.
6. The stipulation of item (d) raises a question concerning the extent of considering the worker’s absolute desire to complete the procedures for traveling. In fact, this contradicts Article No. (21) of the attached law that stipulates: “The worker is forbidden from leaving the Kingdom without the homeowner’s permission or that of office, as the case may be. The Minister of Interior shall issue - in coordination with the Minister - a resolution on the provisions and procedures related to work permits for workers coming to the Kingdom and their departure procedures”. In addition, the above article overlooked the reference to the necessity that the worker shall perform the work entrusted to him at the homeowner exclusively.

7. The NIHR finds that it is necessary to determine the expenses that shall be refunded by the worker in accordance with item no. (3) of the above article, without leaving it unlimited. In addition, item (d) must be amended by adding the phrase “without prejudice to provisions of article No. (21) of the law”. The NIHR also confirms the importance to add a final item in the article, which binds the worker to perform the work entrusted to him at the homeowner exclusively.
8. With respect to Article No. (17), which stipulates that: “If any event of a complaint or information related to a breach to the rights of the worker or the obligations of the homeowner or the worker, the Authority shall take the following measures: (a) Summon the homeowner and worker to the Authority to settle the complaint amicably.(b) If the complaint is related to worker’s place of residence, the place of residence shall be inspected by male and female inspectors to ensure the implementation of the provisions of this law after seeking the approval of the homeowner in this regard. (c) If the homeowner object to the inspection mentioned in paragraph (b) of this article, this shall be deemed as evidence against the homeowner to be considered by the Authority in formulating its resolution on the complaint. (d) If the inspection provided for in this article shows that there is any violation, the homeowner shall be warned to remove the effect of the same within one week from date of warning; otherwise, an arrest report shall be prepared against him and the necessary measures provided for in the applicable Private Sector Labor Law shall be taken”.
9. The NIHR believes that while the above mentioned article substantially regulates the procedures that shall be followed in event of receiving complaints related to a breach of the worker’s rights, item (b) exceeds the limits of regulation and prejudices the privacy guaranteed by the Constitution of Kingdom of Bahrain on places of residence in Article No. (25) stipulating: “Places of residence shall be inviolable. They may not be entered or searched without the permission of their occupants except in the circumstances and manner specified by the law”. In addition, Article No. (17) of the International Covenant for Civil and Political Rights that the government of Kingdom of Bahrain became party thereto according to law No. (56) of 2006, stipulates: “(a) In addition, no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, or to unlawful attacks on his honor and reputation. (b) Everyone has the right to the protection of the law against such interference or attacks”. Naturally, the effect of item (b) is applicable to the subsequent items which have all overlooked the international standards and national legislations represented by the Constitution by breaching the protection granted to individuals in their places of residence.
10. On the other hand, even though the inspection measure is issued by an entity other than the judicial entity and acquired the administrative nature, it is naturally deemed as one of the investigation procedures aimed at establishing the truth though search and investigation in a place granted special inviolability by virtue of the law. In addition, the mentioned inspectors enjoy the capacity of the judicial arrest officers, who are subject to articles and provisions of the Decree-by-Law No. (46) of 2002 on issuing the Code of Criminal Procedures and the amendments thereof, which regulates the work of the judicial arrest officer.

11. It is also noted that item (c) establishes legal evidence against the homeowner, which assumes the worker's complaint shall be deemed correct if the homeowner objects to the inspection of the place of residence. There is no doubt this evidence is supposedly unconstitutional because there is no causal relationship between objection to inspection of the worker's place within the house of the employer and the validity of the complaint. There may be considerations leading the homeowner to insist on objection to the inspection including the abuse of his moral reputation and infringement of his privacy.
12. The NIHR considers that the above mentioned article should be reviewed in such a way that doesn't contradict the right of the individual to the privacy and the inviolability of his place of residence guaranteed by virtue of the national legislation and international covenants, so that the right of the worker to ensure the soundness of his complaint shall not be given priority over the privacy granted by the legislation for the place of residence in a way that does not contradict the provisions of Decree-by-Law No. (46) of 2002 on issuing the Code of Criminal Procedures and the amendments thereof in this regard.
13. Regarding the last Article No. (20), which stipulates that:" (a) The inspectors, who are employees of the Authority, and appointed by the CEO to perform the inspection work and ensure the execution of the provisions of this law, statues, regulations and resolutions issued in execution thereof, shall have the following mandate: 1. Accessing the workplaces, employment offices, and other related places. 2. Reviewing the registers related to foreign employees. 3. Verification of work permits and identification of foreign workers. 4. Requesting the necessary data, documents, and information from the employers, recruitment offices, their representatives, or persons in charge of actual management thereof. (b). The employers, recruitment offices, their representatives, or persons in charge of actual management thereof shall not hinder the authority's inspectors from performing their tasks and shall provide them with the correct documents, data and information necessary for performing their tasks within suitable period to be determined by them. (c). The employees to be authorized by the Minister of Justice in agreement with the competent Minister shall have the power of judicial arrest officers as for the crimes provided for herein, committed within their jurisdiction and related to their jobs. The written reports regarding such crimes shall be referred to the Public Prosecution by virtue of a resolution to be issued by the Authority's CEO. The NIHR hereby refers to the same opinion mentioned on Article No. (17) because the current article is related to the inspection procedures. In addition, the NIHR is of the view that the following paragraph must be added to the beginning of the Article: "Without prejudice to the provisions of Decree-by-Law No. (46) of 2002 on issuing the Code of Criminal Procedures and amendments thereof that regulates the work of the judicial arrest officers," so that it doesn't contradict the legal stipulations regulating the work of the judicial arrest officers stipulated in the Decree-by-Law No. (46) of 2002 on issuing the Code of Criminal Procedures and amendments thereof with the draft law in question.

Fourth: Recommendation of a law amending Article No. (45) of Law No. (23) of 2014 on Issuing the Law of Traffic

1. The NIHR referred its consultative opinion on the recommendation of a law amending Article No. (45) of Law No. (23) of 2014 on issuing Traffic Law, which stated that: "A new article No. (25) shall be added to the provision of Article (45) of the Traffic Law promulgated by Law No. (23) of 2014, as follows:" 25- videotaping a traffic accident and publishing it electronically, with the exception of the media".
2. The NIHR considers that the above item on penalizing all of the those involved in videotaping traffic accidents in public places, because of the consequences of such acts, as it may result in publishing or posting these images on social media without the required authorization, as well as causing crowding due to filming at the scene of the accident resulting in obstruction of the work of the security services and the disruption of traffic, without exclusion of the right of the media and the press from covering such news, is appropriate , especially that the Draft-by-Law No. (15) of 1976 issuing the Penal Code and its amendments, does not include a provision to criminalize this act. However, the NIHR believes that only licensed media should be exempted and that it should be given the right to be at the location of the traffic accident and to cover it in the media.

Fifth: Proposal of a law by means of adding a new article Number (350 repeated) to the Penal Code promulgated by virtue of Law Number (15) for the year 1976.

1. The NIHR supplied its consultative opinion concerning the proposed law by adding a new article of number (350 repeated) to the Penal Code enacted by virtue of Law Number (15) for the year 1976, where the article newly introduced thereto stipulates: "**Any person who assumes the identity of another gender in any form whatsoever shall be penalized by imprisonment for a period not in excess of one year and a fine not in excess of one thousand Dinars or with one of these two penalties.**"
2. Whereas the NIHR emphasized that it agrees in principle with the legal and factual principles, standards and aims which the proposed law aims to achieve based on the importance of creating a legislation that criminalizes the actions and behavioral patterns which are inconsistent with public order or with Islamic Law (Shari`ah) as the main source of legislation, such in accordance with what is set forth in Article (2) of the Constitution.
3. Moreover it emphasizes the importance of the existence of legislation which regulates or addresses or criminalizes any actions or behavior which contribute to safeguarding public order and morality, in cases in which those actions or behaviors constitute a prominent societal phenomenon which demands legislative intervention, whereby the legislation is not just to punish for purposes of deterrence, but even to address that phenomenon in its various aspects.
4. It is without doubt the case in principle that emulation of the other gender is one of the behaviors which contravene public order and morality in the State, which necessitates for there to be a legislation that criminalizes it; however, it constitutes actions which must be treated in physical or psychological aspects concerning the person accused of the crime of the imitation of the opposite gender.

5. Reverting to the text included in the proposed law, it is palpable that it emerges in nebulous and imprecise formulation, given that it provides the judicial enforcement officers and precisely in the stage of gathering evidence a discretionary authority to arrest and refer to the public prosecution in the shadow of the absence of a clear and specific definition of the deed of (imitation), where such approach encourages the laying down of individual and personal standards for arresting persons (who imitate the opposite sex) through attire or movements or mode of speech or the external appearance of hair or the bodily constitution of the person, which is a matter that is inconsistent with general principles contained in the stipulations of legislation and criminal regulations, which demand adopting the principle of the legitimacy of punishment (there is no crime or punishment except through a law), in addition to the fact that it is one of the principles affirmed in Paragraph (a) of Article (20) of the Constitution, in addition to being one of the accepted principles affirmed by the international conventions relating to human rights, particularly the right to enjoy the guarantees of a fair trial, rather than merely the (prevailing custom) as stated by the explanatory memorandum of the proposed law.
6. Therefore, even though they constitute at times forms of imitation of the opposite sex, namely deeds that violate public order and morality in society necessitating punishment to prevent and deter committing them, nevertheless in other cases those deeds could be the consequence of physical or psychological factors which require the intervention of specialized medical practice to determine the psychological behaviors of individuals and their natural or acquired tendencies which in certain cases result from educational methods or social upbringing, or are the result of pathological cases necessitating medical intervention rather than the imposition of punishment.
7. Therefore, the conduct of (imitation of the opposite sex) could be the result of a pathological case where the person imitating the opposite sex requires referral to a specialized medical committee in order to define the case, and the extent to which those behavioral patterns could be considered as imitation or otherwise, as well as the method of dealing with those cases, whereby the totality of this would be evidence for the judge in accordance with his discretionary power to prescribe the suitable punishment or to refer the case to medical or psychological treatment in case required.
8. Based on the foregoing, it is the view of the NIHR that with all due respect to the principles and standards that the proposed law aims to achieve by adding a new article of number (350 repeated) to the Penal Code promulgated by an edict by virtue of Law Number (15) for 1976, including criminalizing all who imitate the opposite sex in any form whatsoever, given that it aims to create legislation which criminalizes the deeds and behaviors inconsistent with public order or Islamic Law, as a main source of legislation, the proposal (draft) in its current form is characterized by being amorphous and lacking in defining specifically the behavior of imitation of the opposite sex, and does not give due regard to the physical and psychological aspects which the imitating person may suffer from, which may require reformulation in accordance with the aforementioned considerations.

Sixth: The proposed law would repeal Article Number (353) of the Law Number (15) for 1976 by promulgating the Penal Code.

1. The NIHR stated its consultative opinion concerning the proposal in the law by repealing Article Number (353) of the decree under Law Number (15) for the year 1976 by promulgating the Penal Code, which included a repeal of the referred to Article from the provisions of the law which stipulates that **“no punishment shall be prescribed for one who commits one of the crimes stipulated in the previous articles in case he concludes a sound marriage between him and the victim. And in case a final ruling is rendered prior to the matrimonial contract there will be a stay of execution and its criminal consequences shall end.”**
2. The NIHR values in principle the standards and principles upon which is based the draft law subject of explanation, represented by repealing Article Number (333) of the Penal Code promulgated by decree by virtue of Law Number (15) for the year 1976, which calls for not penalizing the committer of assault on the woman once a sound matrimonial contract is concluded between him and the victim, given that the person presenting the proposal considered repealing the Article above as entailing for the culprit not to escape from criminal punishment merely by virtue of a sound marriage to the victim, where the Article in its present form does not protect the woman from the act of aggression, and its continuance would encourage the perpetrators of the crimes of rape and infringement of honor to commit more crimes given the existence of a legal means barring punishment represented in concluding a sound matrimonial contract between the culprit and the victim, which connotes inconsistency with the decided penal philosophy.
3. Notwithstanding that the Arab Human Rights Committee (the Charter Committee) emanating from the Arab Human Rights Charter, ratified by the Kingdom of Bahrain pursuant to Law Number (7) for the year 2006, included closing recommendations where the first report of the Kingdom of Bahrain in the third session held on (16-21) February 2012 called for: **“amending the penal code and ensuring that those who commit the crimes of rape are held to criminal account in case of marriage with the victim, in a manner assuring the principle of marriage grounded in full consent where there is no compulsion as is stated in the Charter,”** which concurs with the proposed draft law subject of the discussion.
4. However, the NIHR on the other hand is of the view that Article Number (353) of the Penal Code promulgated by virtue of Law Number (15) for the year 1976 has made it incumbent on the court not to rule to prescribe the decided punishment on the perpetrator of the act of rape, given that it is associated with the presence of a sound matrimonial contract between him and the victim, given that the “sound matrimonial contract” referred to and affirmed by the Article above requires fulfillment of all the conditions and pillars.

5. Hence, the marriage of the rapist to the victim in accordance with the Article subject of the discussion requires the complete consent of the woman (victim), where she may not be coerced into matrimony with the rapist, given that she has absolute freedom to conclude this sound contract with the rapist which in this case annuls the ruling of a criminal punishment, on grounds that the punishment even though it aims to achieve general deterrence and the protection of society, it likewise seeks to safeguard the integrity of society and prevent the dismemberment of the family, and moreover, the woman who is the victim possesses freedom to reject the marriage which connotes applying the prescribed criminal punishment to the rapist given the negation of the purposes intended by the legislator from not applying it, which would place the woman in such case in a weak legal situation, or at a lower standard insofar as fulfillment of her rights.
6. Perhaps the recommendation arrived at by the Arab Charter Committee in the course of consideration of the report of the Kingdom of Bahrain referred to as per the foregoing, entwined the amendment of the provisions of the Penal Code with ensuring that the committers of the act of rape do not escape criminal responsibility in case of the matrimony of the victim, which would assure the principle of matrimony grounded in full consent without compulsion, but in referring to the position of Article (353) of the same law, it may be observed that it necessitates the presence of a sound marriage contract between the two parties, which connotes not compelling any of the parties to conclude it, which is indicative of complete consent, where with the presence of the condition contained in the law the stipulation is consistent with the provisions of the Charter.
7. Based on the foregoing, it is the view of the NIHR that with full regard for the standards and considerations intended by the proposed law from annulment of Article (353) of Law Number (15) for the year 1976 by promulgating a penal law, nevertheless it favors maintaining it as stated in the original law, to the extent that the matrimonial contract concluded between the rapist and the victim materialized with her full consent and without compulsion, in addition to the fact that the same Articles necessitated in order not to apply the prescribed punishment to the rapist concluding a sound matrimonial contract that fulfills all the legal requirements, which is something that is compatible with the purposes intended by the legislator from this Article.

Seventh: Proposed law entailing the amendment of some of the provisions of the Bahraini Nationality Law for 1963, presented by the House of Representatives (Parliament)

1. The NIHR provided its advisory opinions concerning the proposal to amend some of the provisions of the Bahraini Nationality Law for 1963, presented by the House of Representatives, where it was decided to undertake the proposed amendment to the text of Articles (6) and (7) of the law above, related to the conditions for granting the Bahraini nationality to a foreigner, his spouse and minor children, and depriving them of some of the rights concomitant with granting them the nationality for a period of ten years from the date of acquiring it (such as the right to vote or represent or be nominated or appointment to the local councils, and the right to avail of any form of housing services assured to the Bahraini nationals by birth, in addition to the regulation of the process of loss and recovery by the Bahraini woman married to a foreigner of her nationality.

2. Article Number (6) of the draft law states: **“1-It is permissible by command of the king to grant the Bahraini nationality to every foreigner with full legal capability in case he requests it and meets the following conditions: a) He shall have resided in the Kingdom of Bahrain continuously for a period of twenty five years at least or fifteen continuous years at least in case he holds the nationality of one of the Arab countries by birth. And the idea of continuity is not negated for the applicant for Bahrain nationality if he travels on an official mission- and if he departs on an unofficial mission whilst maintaining the intention to return, the period he spends abroad shall be deducted from the period of residence in Bahrain. B) He shall be of a good moral character. C) He shall have a legitimate source of livelihood. D) He shall have property registered in his name with the Department of Survey and Land Registration, or a bank account with a balance not less than one hundred thousand Dinars. E) He shall not be convicted in Bahrain or abroad of a crime or felony that violates honor and integrity or of a crime that impinges on public order throughout the term of his previous residence. F) He shall be proficient in the Arab language in speech, reading and writing and must pass an exam that is prepared for this purpose which is issued by virtue of a decision from the Minister of Interior. G) He shall be well versed on the history, culture and traditions of the people of Bahrain and shall pass an exam prepared for this purpose which is issued by virtue of a decision from the Minister of Interior. 2) It is permissible for the King to command granting the Bahraini nationality to any person who holds the nationality of an Arab State and requests it in case he renders distinguished services to the Kingdom of Bahrain. 3) As an exception from the ruling of the first Paragraph of this Article, it is permissible to grant the Bahraini nationality to those with rare specializations or who hold a Master’s and Ph.D. degree based on the following conditions: a) The competent minister recommends in the field of competence to grant the Bahraini nationality due to Bahrain’s dire need thereof. B) More than ten years shall have elapsed since being awarded the Ph.D. and he shall have spent not less than five years in the Kingdom of Bahrain. 4) In case a man is granted the Bahraini nationality in accordance with this Article the minor children at the time of the granting of the nationality are considered naturalized Bahrainis, provided that upon reaching maturity they have the right to choose their original nationality or any other nationality, and moreover, he is considered as a naturalized Bahraini any who is born and parented by this man after his naturalization. The wife of a naturalized Bahraini does not acquire the nationality unless the Ministry of Interior announces its desire for such, and the wife remains in cohabitation with her husband in Bahrain for a period of five years from the date of declaring her wish. Moreover, it is permissible for the Minister of Interior to exempt from all this Article or some thereof, and it is also permissible for him to deprive the wife from acquiring the Bahraini nationality. 5) The foreigner who acquired the Bahraini nationality pursuant to the provisions of this Article prior to the expiry of ten years from the date of acquiring the nationality shall not enjoy any of the following rights: a) The right to elect or represent or be nominated or be appointed to the local councils (with the exception of clubs or private associations). The right to avail of any forms of housing services guaranteed to the holders of the Bahraini nationality by birth. This rule applies to all who have previously acquired the Bahraini nationality prior to this law taking effect and the ten years apply concerning those persons from the date of acquiring the nationality. Excepted from the application of the provisions of the two previous clauses is the Bahraini holding the nationality of one of the member states of the Gulf Cooperation Council”.**

3. While Article (7) of the proposals stipulate that **“1- The foreign woman who marries a Bahraini after the date of this law coming into effect does not become Bahraini unless she apprises the Minister of Interior of her wish to acquire this nationality and the matrimonial relations existed for a period of five years from the date of declaring her wish or her Bahraini spouse died or her child died prior to the expiry of this period and he had children through her who are Bahraini by birth and she maintained her legitimate and ordinary residence in Bahrain until the expiry of this period then it is permissible to grant her the Bahraini nationality. It is permissible for the Minister of Interior to give exemption from all or some of this period, and it is also permissible for him during this period and for reasons related to national security and public order to deprive the foreign woman from acquiring the Bahraini nationality by virtue of belonging to her spouse. Moreover, it is permissible for the concerned party to challenge (appeal) the decision of the Minister of Interior to deprive the foreign wife from obtaining the nationality by virtue of affiliation to her spouse before the High Civil Court. 2- The Bahraini woman who marries a foreigner does not lose her nationality unless she acquires the nationality of her foreign husband as of the date of her acquiring the said nationality, and despite this the Bahraini nationality is restored to her from the date of the expiry of her matrimonial bond in case she declares her wish thereof to the Minister of Interior and her ordinary residence is in Bahrain or she returned to reside therein. And it is permissible for the Minister of Interior to exempt from all or some of this period, and it is likewise permissible for him during this period and for reasons related to national security and public order to deprive her from recovering her Bahraini nationality pursuant to the previous Paragraph. 3- In case a foreign woman acquires the Bahraini nationality pursuant to the previous paragraph or pursuant to Paragraph (4) of Article (6) of this Law, she does not lose it upon the end of matrimony unless she recovers her original nationality or acquires another nationality, and it is possible to restore her Bahraini nationality by command of the King in case she requests such.”**
4. The NIHR is of the view that paragraphs (1-2-3-4) of Article Number (6) subject of the proposed law are consistent with the provisions of the Bahraini Constitution and with the provisions of international conventions related to human rights to which the Kingdom of Bahrain acceded, given that these paragraphs treat the conditions which should be met by every foreigner who applies for the Bahraini nationality, which are legal restrictions which the legislator drew up in accordance with a general standard for everyone that wishes to acquire the Bahraini nationality, and in this respect he has absolute discretionary power to set any of the conditions that he deems suitable, and in view of the fact that the acquisition of the nationality in a particular country is intimately intertwined with the high state policy and given its high authority and sovereignty domestically and abroad, the public law jurisprudence has considered it a political act which is not subject to the monitoring of the judiciary.
5. As to what relates to Paragraph (5) of Article (6) of the proposed law it violated each of Articles Numbers (1/E,4, 16/B, 18, 31) of the Bahraini Constitution, and Articles Numbers (2,5,25,26) of the International Covenant on Civil and Political Rights (ICCPR), and Articles (2,5) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article (1,5) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to which the Kingdom of Bahrain acceded in the manner outlined above.

6. Moreover, Paragraph (1) of Article (7) of the proposed law has violated each of the stipulations of Articles (1/E, 4, 18, 31) of the Bahraini Constitution, and Articles (2,5) of the International Covenant on Civil and Political Rights (ICCPR), and Articles (2,5) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Articles (1,5) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Eighth: Proposal concerning the desire of the august Government to prepare a comprehensive national strategy including mechanisms, procedures and plans necessary for dealing with the human rights reports which are issued concerning the Kingdom of Bahrain.

1. The NIHR provided its advisory opinion concerning the proposal for the august Government to prepare a comprehensive national strategy including the mechanisms, procedures and plans necessary for dealing with the human rights reports that are issued concerning the Kingdom of Bahrain, and it explained in this connection that it views as important the presence of a comprehensive national strategy for human rights in the state given that it is among the necessary and significant foundations in terms of influencing the efforts to promote, develop and protect human rights, and given that it defines a constellation of main objectives subject of interest, and in which governmental and non-governmental efforts overlap (legislative authority, the NIHR, civil society organizations) for purposes of achieving them in actual reality through practical and genuine practices in this regard.
2. It is necessary for the element of comprehensiveness to be present in this strategy, whereby its scope would encompass all the policies of implementing civil, political, economic, social and cultural rights on the one hand, and on the other creating a clear modality in the field of cooperating with the international mechanisms for protecting human rights, through laying down a plan to coordinate and draft the reports and submit them to bodies focusing on treaties and the mechanism of comprehensive regular review.
3. Moreover, the comprehensive scope extends to creating cooperation with international organizations and the regional bodies operating in the field of human rights, and particularly the facets of coordination in preparing responses to the statements, inquiries and the requests for dispatching delegations to the Kingdom.
4. Whereas the Ministry of Foreign Affairs is the quarter that chairs the High Coordinating Committee for Human Rights which has been reconstituted pursuant to the Resolution of the Council of Ministers Number (14) for 2014, where Article (3) of the same resolution stipulates the jurisdictions assigned to the committee including: **"1-Laying down a coordination mechanism assuring the achievement of the best policies in dealing with issues related to human rights. 2- Prepare a national plan for human rights at the level of the Government and submit it to the Council of Ministers for approval. 3- Coordinate in preparing responses to the statements and inquires issuing from organizations and associations inside and outside the Kingdom related to human rights."**

5. Hence the goals which the proposal seeks to achieve represented in the preparation of a comprehensive strategic plan include mechanisms and procedures necessary for dealing with human rights reports provided they include integrated plans to confront the misinformation stated in those reports and revealing the true picture of the Kingdom, which the NIHR finds as theoretically actualized through the jurisdictions assigned to the High Coordinating Committee for Human Rights.
6. However, it is the view of the NIHR that the proposal entails a call that emanates from a keenness to protect the public interest in terms of the necessity of expediting the preparation of a plan or a comprehensive national strategy for human rights at the level of the Kingdom of Bahrain, in which coalesce all efforts whether the relevant governmental quarters or other powers and quarters such as the legislative authority through the Shura Council and the House of Representatives, and the NIHR which considers the Paris Principles as a legal frame of reference, in addition to the civil society organizations operating in the human rights field, and it would not be possible to ignore the role played by labor unions and professional associations, particular those that are connected to the segment deserving of care (woman, child, elderly, physically handicapped) along with the importance for the strategy to rest upon a process of societal consultation which is of immense importance for crystallizing the seminal aims of this plan, given that they are quarters directly or indirectly concerned with human rights.
7. Moreover, the NIHR perceives the importance of laying down a mechanism to deal with particular aspects related to events and developments pertaining to human rights, so as to undercut any pretext or legitimate reason for issuing reports or statements damaging to the image of the Kingdom, such by means of clarifying what relates to any criticism with transparency and realism through the following: a) Ascertain the occurrence of a violation and establish its credence, through gathering evidence and communicating with the relevant official quarters in the Kingdom, with a view to establishing the details of what occurred. B) In case it is proven that the violation did not actually take place the decided mechanism should be capable of refuting it by providing evidence and proof that it did not occur. C) In case it is proven that the violation took place it is necessary to reveal the truth, the actual events and the measures taken, particularly those measures aiming to prevent the recurrence of the violation, and specifically action taken concerning those concerned with applying the law, such given that the international organizations are interested in remedial action and are keen on the measures taken for the violation not to recur and do not desire hearing justifications. In this context it is necessary to allude to the actual reality, and to indicate the measures taken, such given that admission of what took place and endeavoring to rectify the situation and bringing those that committed violation to justice is what bolsters credibility and undercuts the allegations when they are exploited for human rights purposes. D) It is important to emphasize that the convergence of all the governmental and non-governmental efforts in the Kingdom represents the only way to human dignity and endeavoring to promote and safeguard human rights, and this demands serious efforts to lay down a national human rights strategy, in order to manifest what the Kingdom has achieved across the previous decades, and to underscore what is required to safeguard the rights and freedoms of the coming generations of the sons of this munificent homeland.

Section II:

The consultative opinions submitted by the NIHR to the Cabinet (Executive Authority)

Based on the belief of the NIHR that its role in the field of promoting and protecting human is not fulfilled except through real partnership with the public authorities of the State, particularly the executive authority represented in the Council of Ministers, and perhaps this complementarity is based on the jurisdiction assigned to the Government insofar as formulating laws referred to it by the Shura Council and the House of Representatives for formulation in harmony with the Constitution as a draft law, or to refer them to the two assemblies as laws presented by it. Hence, the NIHR based on the time scope of the Report submitted to the Council of Ministers six consultative opinions whose contents are diverse either by amending some of the legal stipulations in effect or suspending applying some of them or to generate other stipulations that are consonant with international conventions and the obligations of the Kingdom in the field of human rights.

First: Proposal to amend the Bahraini Nationality Law for 1963 as amended, concerning granting the Bahraini woman equal rights with men insofar as the nationality of her offspring

1. The NIHR submitted a proposal concerning amendment of the Bahraini Nationality Law for 1963 as amended, relating to granting the Bahraini woman equal rights to men related to the nationality of her offspring, and this proposal is grounded in constitutional and legal justifications, such given that the Constitution of the Kingdom of Bahrain and specifically Article (18) thereof expressly stipulates: **“People are equal in human dignity, and citizens are equal before the law in rights, freedoms and public duties, and there is no discrimination between them in this regard as a result of gender or origin or language or religion or creed.”** This connotes that the Constitution which is considered to be the foundation of the legal system of the State emphasizes that the citizens whether men or women are equal in terms of all rights and freedoms, and there is no differentiation between them due to gender or origin or origin or religion or language or creed.
2. While Article (37) of the Constitution considers the international conventions once ratified to become automatically a part of the national legislation given that they were ratified by constitutional means (the law) issued by the legislative authority through the Shura Council and the House of Representatives, and hence the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to which acceded the Kingdom of Bahrain pursuant to Law Number (5) for 2002 is considered based on the foregoing a part of the national legislation in effect.
3. Whereas Article (1) of the same Convention aforementioned stated that: **“The term (discrimination against woman) denotes any differentiation or exclusion or restriction based on gender and among its consequences or aims is to undercut recognition, based on the equality of man and woman of human rights and fundamental freedoms in the political, economic, social, cultural and civil fields or any other field, or to vitiate recognition in favor of the woman of these rights or her enjoyment and exercise thereof irrespective of her matrimonial state.”**

4. Article (2) of the same Convention added: **“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;”**. Moreover, Article (9) Paragraph (2) of the Convention- which the Kingdom expressed reservation on- which stipulates: **“States Parties shall grant women equal rights with men with respect to the nationality of their children”**.
5. While Article (4) of the Nationality Law for 1963 as amended stipulates that: **“A person shall be deemed a Bahraini national in the following cases: A. If he is born in Bahrain or abroad and his father, at the time of birth, was a Bahraini national. B. If he is born in Bahrain or abroad and his mother, at the time of birth, was a Bahraini national, providing that his father was either unknown or not legally to be related to his father.”**
6. It is clearly evident based on the principle of equality enshrined in the Constitution, and what is contained in the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) the activation of the provisions of the Convention necessitates taking the appropriate legislative measures which prohibit discrimination against woman including the granting by the woman the nationality which she possesses to her offspring with the possibility of placing restrictions regulating such granting of nationality without prejudice to its essence.
7. Hence, it is the view of the NIHR that it is necessary to make the necessary amendment to Article (4) of the Bahraini Nationality Law for 1963 as amended whereby the Bahraini woman would enjoy the right of granting the nationality to her offspring whereby the stipulation would be consistent with the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which is a part of national legislation pursuant to Law Number (5) for the year 2002, which is not marred by the doubt of being unconstitutional in accordance with Article (18) of the Constitution, while not overlooking the fact that the right of woman in granting her offspring the nationality she holds does not at all conflict with the principles of the Islamic Shari`ah in this regard.
8. Moreover, the Supreme Council for Women (SCW) explained in the third report of the Kingdom of Bahrain submitted to the committee concerned with the elimination of all forms of discrimination against woman formed by virtue of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), that the Council is currently endeavoring in conjunction with all the concerned authorities to expedite considering a new nationality draft law with a view to achieving equality between woman and man in respect of nationality in accordance with objective standards and restrictions which safeguard the rights of this segment, and which do not conflict with the sovereignty of the State, in order to enable withdrawing the reservation contained in Paragraph (2) of Article (9) of the Convention upon enactment of a new nationality law that permits withdrawing such reservation.¹³

¹³ For further reading: Third Regular Report submitted by the Kingdom of Bahrain to the committee concerned with elimination of discrimination against woman -21 December 2011- Document No. (CEDAW/C/BHR/3)

9. It is worthy of mention that in the course of the comprehensive regular review and upon discussing the report of the Kingdom concerning the human rights situation submitted in the second round (May 2012) the report of the task force concerned with the review contained around four recommendations entailing the necessity of making the necessary amendment to the Nationality Law assuring for the offspring to obtain the Bahraini nationality of the mother equally with men,¹⁴ and on the other hand the Kingdom explained in the response to those recommendations that they garner support and acceptance and that a law amending the current Nationality Law is being drafted.¹⁵
10. It may be noted that such granting of nationality will lead to avoiding numerous problems which the offspring of Bahraini women suffer from whether they belong to fathers of unknown nationality or without nationality or whether they are fathers of a foreign citizenship, but due to necessitating reasons and the imperative of family cohesion it is necessary to granting them the nationality of the Bahraini mother.
11. Accordingly, the NIHR finds it important to amend Article (4) as stipulated in the Bahraini Nationality Law for 1963 as amended whereby the text becomes as follows: **“A person shall be deemed a Bahraini national in the following cases: A. If he is born in Bahrain or abroad and his father, at the time of birth, was a Bahraini national. B. If he is born in Bahrain or abroad and his mother, at the time of birth, was a Bahraini national, providing that his father was either unknown or not legally to be related to his father.”**
12. Moreover, a new article in the law was proposed whose text is: **“The offspring of a Bahraini woman married to a foreigner are granted the Bahraini nationality once she declares such desire, in accordance with the following restrictions and parameters: a) The mother must be a Bahraini at the time of the birth of the son. B) The son must have a legitimate and continuous residence in the Kingdom of Bahrain for a period of at least (10) years or (5) years in case the father is of Arab nationality or at least one year in case the nationality of the father is that of a Gulf Cooperation Council state. C) The written approval of the father for his minor son to obtain the Bahraini nationality, and excepted from this condition are the sons of the divorced Bahraini woman or in case of the death of the father or his loss of legal capability. D) It is permissible for the son once reaching the age of maturity to retain the Bahraini nationality or to relinquish it. And in all cases, it is permissible for the King to grant the offspring of the Bahraini woman married to a foreigner the Bahraini nationality without being restricted by the rules stipulated in this article.”**
13. Based on the foregoing, it is the view of the NIHR that the aforementioned proposed amendment aims to achieve the principle of equality expressly stipulated in Article (18) of the Constitution, and is consonant with the provisions of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to which the Kingdom acceded pursuant to Law Number (5) for the year 2002, where the latter is considered a part of national legislation as stated by Article (37) of the Constitution on the one hand, and is consistent with the obligations of the Kingdom before the Human Rights Council upon the comprehensive regular overview of the human rights situation on the other.

¹⁴ For further reading: Report of the team concerned with the comprehensive regular review- May 2012- recommendations stated in clauses nos. (75-115), (95-115), (115-140), (115-142)- Document number (A/HRC/21/6) - (Enclosure).

¹⁵ For further reading: Report of the Kingdom of Bahrain concerning the final recommendation of the comprehensive regular review on 13 September 2012 (an amendment of the recommendations was performed on 12 October 2012)- Document Number (AA/HRC/21/6/Add.1/Rev.1) (Enclosure).

Second: A proposal on the amendment of the provisions of the two articles Numbers (60) and (69) of Law Number (37) for the year 2012 by enacting the Child Law, such as relates to criminalizing the exploitation of children in the election process

- 1- The NIHR submitted a proposal on the amendment of the provisions of the articles (60) and (69) of Law Number (37) for the year 2012 by enacting the Child Law, such as relates to the criminalization of the exploitation of children in the election process, where the NIHR explained in its consultative opinion that whilst child rights require special protection, that differ from the other rights in their content and nature, given that their fulfillment requires the provision of a sound and healthy psychological and social environment, and this calls for continuing to improve the circumstance of children without discrimination, in addition to raising and rearing them in a peaceful and secure environment.
- 2- The NIHR has expressed extreme concern as relates to what children in the Kingdom of Bahrain are exposed to in exploitation in the field of election propaganda during the elections period, which may expose them to the risk of injury or death or detention, whilst emphasizing the impermissibility of exposing the life of children to danger or placing them within the matrix of political competition whilst being in the stage of forming their political consciousness, and it emphasizes the responsibility of those involved in this, given that protecting children from political exploitation is considered among the fundamental elements related to assuring their right to survival, growth and development, in order to be able to contribute to building society and to achieve its progress.
- 3- By reading the texts of Article Number (37) for 2012 concerning the Child Law, Article Number (60) relating to the criminalization of political exploitation of children stipulated that it is **“prohibited to exploit children in demonstrations, meetings and marches that are of a political aim.”** Moreover, **Article Number (69) thereof related to imposing punishment on all who perform the action of exploitation states: “Without prejudice to any stricter punishment stipulated in any other law, any who violate the provisions of Article (60) of this law shall be punished by imprisonment for a period not less than one year and a fine not in excess of one thousand Dinars or by one of these two penalties.”**
- 4- Notwithstanding the progress achieved in the legislative structure in the Kingdom as relates to criminalizing the exploitation of children in meetings and processions that are of a political aim as stipulated by Article (69) of the Law Number (37) for the year 2012 concerning the Child Law referred to above, this Law did not provide sufficient protection for children from the other forms of political exploitation also represented in exploiting them by political groups in acts of violence, destruction and terrorism whether for a material return or not, and exploiting the children in election campaigns, whose spreading in Bahraini society was recently observed.
- 5- Hence, based on the commitment of the Kingdom to the necessity of caring for the young, and protecting them from exploitation, and also protecting them from moral, physical and spiritual neglect, the NIHR believes that it is imperative to amend the provisions of Articles (60) and (69) of Law Number (37) for the year 2012 concerning the Child Law, in order to fill the existing legislative void as relates to the other forms of the political exploitation of children.

- 6- The NIHR emphasized that this conduct will be consistent with the international conventions to which Bahrain acceded or which it ratified, particularly the United Nations Convention on the Rights of the Child (UNCRC) adopted by the General Assembly in November 1989- to which the Kingdom acceded in 1991 such insofar as the articles (19) Paragraph (1), (32), (36), in addition to the provisions of the International Labor Organization Convention Number (128) for the year 1999 concerning prohibition of the worst forms of child labor and the immediate measures to eliminate them- to which the Kingdom acceded in 2001- particularly Article (3) Paragraph (d), which stipulates that **“the expression (worst forms of child labor) includes in the conception of this convention the following: d- labor activities which would probably lead, by virtue of their nature or the conditions in which they are practiced, to cause harm to the health of children or their safety or their moral conduct.”**
- 7- Moreover, this approach is also consistent with the national legislation in effect, most importantly what was stipulated in the Constitution of the Kingdom of Bahrain in Article Five Paragraph (a): **“The family is the basis of society, deriving its strength from religion, morality and love of the homeland. 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.”**
- 8- In addition to what is stated in the provisions of Law Number (37) for 2012 concerning the Child Law in Article (1) thereof which states that the **“State guarantees the protection of childhood and motherhood, and cares for children, and strives to provide the suitable conditions for their proper upbringing in all aspects,”** Article Number (3) thereof which affirms for the **“protection of the child and his best interest to be a priority in all the decisions or measures related to childhood irrespective of the quarters which implement them,”** and what was stipulated in Article Number (7): **“Due regard in employing children is not to do harm to their safety or health or the essence of their rights stipulated under this law, and also the provisions of the labor laws in the Kingdom shall be respected.”**
- 9- Moreover, the provisions of Law Number (17) for the year 1976 should not be overlooked, related to juveniles, amended by Law Number (23) for the year 2013 and specifically Article Number (2) Clause (8), and Article (4) Clause (c) and articles (19), (20), (22) of the same law.
- 10- Based on the foregoing the NIHR deems it necessary to amend the text of Article Number (60) of Law Number (37) for the year 2012 concerning the aforementioned Child Law, and include in it a comprehensive definition of the various facets of the political exploitation of children, including for example, their exploitation by political groups in acts of violence, destruction and terrorism whether for a material return or not, and to utilize and exploit children in marches, meetings and demonstrations, and to use and exploit children in election propaganda campaigns, so as to complete the legal protection of children from all forms of political exploitation, in addition to amending the text of Article Number (69) of the same law related to the imposition of punitive action that deprives of freedom or involves financial penalties on those that carry out the act of exploitation, such by embedding in the Article gradual penalties based on the form of exploitation that befalls a child.

Third: Proposal to add a new article to Law Number (23) for the year 2014 by enacting the Traffic Law, concerning designating anew the fines collected from violators of car parking spots allocated for physically handicapped persons

- 1- The NIHR submitted a proposal to add a new article to the provisions of Law Number (23) for 2014 by promulgating the Traffic Law, such as relates to redefining the fines collected from the violators of the car parking spots allocated to physically handicapped persons, where the NIHR explained in its consultative opinion that given the importance attached by the State to the subject of the rights of the physically handicapped persons, where the State guarantees for this segment to enjoy all of its rights, in addition to guaranteeing the other rights which it shares with others reflecting as this does the advance civilizational standard of the State.
- 2- The rights of physically handicapped persons are distinguished from the remaining rights in their content and nature, where the rights of this segment aim to fulfill their needs through converting from a state of isolation to integration, from patronage to enjoyment of rights, from exclusion to inclusion, as a prelude to promoting its effective participation in society, so as to be able to contribute to building and advancing it.
- 3- The Government of the Kingdom of Bahrain ratified the Convention of the Physically Handicapped Persons pursuant to Law Number (22) for the year 2011 so as to emphasize the enjoyment of all the persons of all types of handicaps of human rights and fundamental civil, political, economic, social and cultural freedoms.
- 4- Therefore, and in order to assure the exercise of physically handicapped persons of their rights in reality and to support them, it is the view of the NIHR that there should be a legislative amendment by adding a new article to the provisions of Article Number (23) for the year 2014 by enacting the Traffic Law, such by reallocating the fines collected from the violators of parking locations allocated for physically handicapped persons in the Kingdom of Bahrain, and to allocate them within the budget of the Ministry concerned with the affairs of the physically handicapped to be disbursed to those deserving from this segment.

Fourth: Proposal to amend some of the provisions of Law Number (27) for the year 2005 concerning education, as relates to extending the age of compulsory education so as to include secondary education

- 1- The NIHR submitted a proposal to amend some of the provisions of Law Number (27) for the year 2005 concerning education, as relates to extending the age of compulsory education so as to include secondary education, where the NIHR explained in its consultative opinion that whilst the Constitution of the Kingdom of Bahrain stipulate in Article Seven thereof: **"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 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."**

- 2- The NIHR explained that through reading the provisions of the Law Number (27) for the year 2005 concerning education, Article Number (1) thereof states: "In applying the provisions of this law the following words and phrases will have the meanings assigned hereunder: basic education: the educational stage which starts from the compulsory age and its period is at least nine academic years. Secondary Education: the educational stage which starts after basic education and its period is three academic years. Compulsory age: six years old for a child according to the Gregorian Calendar date relating to the birth of the child, and the compulsory period ends with his reaching the age of fifteen years."
- 3- Moreover, Article Number (6) of the same law states: "Basic education is the right of children that reach six years old at the start of the academic year, and the kingdom commits to make it available them, and the parents or guardians must comply with implementing it, such at least for nine academic years, and the Minister shall issue the necessary decisions to regulate and implement the compulsory education concerning the parents and guardians. And it is permissible in case of the availability of seats in the basic education schools to admit those who are of the less than compulsory age in accordance with rules and restrictions embodied in the decision of the Minister."
- 4- This was followed by the stipulation of Article Number (8): "Penalized with a fine that is not in excess of one hundred Dinars is the father of a child or his guardian in case he causes the absence of a child who reached the compulsory age from school, or his absence without an acceptable excuse from attending school for a period of ten continuous or discontinuous days during the academic year, and no criminal legal action is instituted except upon the request of the Ministry, and after warning the violator by a letter."
- 5- It is evident from the foregoing that the law concerned with regulating education in the State rendered the compulsory age as commencing at the age of six years and it would be possible for the age to be less in case of availability of seats in the schools, and the elementary stage which constitutes the first stage of elementary education consists of six classes, and moreover, in case of the completion of the first stage of elementary education with success the student moves to the second stage of basic education and this stage consists of three classes which are named the preparatory stage, and thus ends the compulsory age for education in the preparatory stage, that is by the student attaining the age of fifteen years, to be followed by the secondary stage for compulsory basic education whereby the education in the secondary stage- in which the age of the student is between sixteen years and eighteen years- is optional so long as the relevant law did not expressly state that it is compulsory.
- 6- Moreover, by reading the provisions of Law Number (37) for the year 2012 by virtue of the enactment of the Child Law, Article Number (3) stipulates: "The protection of the child and his best interests are a priority in all the decisions or measures related to childhood irrespective of the issuing or implementing quarter.". This was followed by Article Number (4) of the same law which states: "It is intended by the child in this law any who is not more than eighteen Gregorian Calendar years such with due regard to the laws in force governing those who are less than this age..".

- 7- Whilst the Child Rights Law determined for the age of the child to be eighteen years pursuant to Article Four thereof, and stipulates that it is necessary for the higher interests of the child to garner priority in all the decisions and procedures related to childhood, this demands amending the legislation related to regulating education, that is amending Law Number (27) for the year 2005 concerning education and particularly the texts of Articles Numbers (1), (6) and (7), so as to be compatible with the Child Rights Law, whereby the compulsory age ends upon the student reaching the age of eighteen, and thus the compulsory education is from the elementary stage until the end of the secondary stage, particularly given that secondary education represents an increasing source of concern and a considerable challenge for the policymakers and researchers throughout the world given its great and growing significance in the formation of cohesive, sound and advanced societies which desire to energize economic growth, in addition to being an embodiment of a critical and important stage in the educational system, given that it represents a means of connection between the basic education in its first and second stages (that is the elementary and preparatory stages) and higher education, in addition to being an intersection between the educational system and the job market. Hence, the best interests of the child demand for education in the secondary school stage to be compulsory.
- 8- By referring to the general commentary Number (11) concerning Article Number (14) of the International Covenant on Economic, Social and Cultural Rights (ICESCR),¹⁶ related to the action plans for elementary education, we find that Paragraph Number (6) thereof defined the term compulsory and explained that the element of being compulsory aims to highlight that it is not the right of the parents or guardians or the state to look into the decision related to providing elementary education to the child as though it were an optional decision. This requirement also emphasizes the prohibition of discrimination on the basis of gender as relates to providing education, such pursuant to Articles numbers (2) and (3) of the Covenant.¹⁷
- 9- The element of compulsoriness in the stage of secondary education will be focused on explaining that the parents, guardians or state are not entitled to look into the decision related to providing secondary education to the child as though it were optional, whereby the completion of the child of his education in this stage is considered a basic right of the child and an overriding interest which requires penalizing one who deprives the child or his guardian of completing his secondary education, pursuant to Article Number (8) of the Law Number (27) for 2005 concerning education.
- 10- Moreover, the same meaning was alluded to by Article Number (13) in Paragraph (b) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) as related to secondary education where it stipulated the necessity of **“(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;”**, and the general commentary explains concerning the same article that the aim of this stage is to complete the basic education and to lay the foundation for ongoing education and to develop the human and prepare him for professional life and for the stage of higher education.¹⁸

¹⁶ Kingdom of Bahrain acceded to the International Covenant on Economic, Social and Cultural Rights pursuant to Law Number (10) for the year 2007.

¹⁷ General Comment Number 11: Action plans for the sake of elementary education (Article 14), twentieth session (1999) Committee of Economic, Social and Cultural Rights- Doc. Number (E/C12/1999/4).

¹⁸ General Comment Number 13- twenty first session (1999), the right to education (Article 13). Committee of Economic, Social and Cultural Rights, Doc. Number (E/C12/1999/10).

- 11- Based on the foregoing, the NIHR deems it important to amend the provisions of Articles Numbers (1), (6) and (7) of Law Number (27) for the year 2005 concerning education, such by rendering the compulsory basic education as inclusive of education in the secondary stage, whereby the basic education comprises of three stages: the elementary stage, the preparatory stage, and the secondary stage, and whose overall period is twelve scholastic years.

Fifth: Proposal to amend Article Number (82) of Law Number (3) for the year 1982 concerning the Public Security forces Regulation amended by virtue of Law Number (37) for the year 2002.

- 1- The NIHR submitted a proposal to amend Article Number (82) relating to Article Number (3) for the year 1982 concerning the Public Security Forces Regulation, amended by virtue of Law Number (37) for the year 2002, where the NIHR explained in its consultative opinion that whilst the Constitution of the Kingdom of Bahrain stipulated in Article Number (20) thereof, in paragraphs (c, g) specifically: **“C. An accused person is innocent until proved guilty in a legal trial in which he is assured of the necessary guarantees to exercise the right of defence at all stages of the investigation and trial in accordance with the law.”** And **“f. The right to litigate is guaranteed under the law.”**
- 2- Moreover, Article Number (105) thereof through paragraph (a, b) stipulates: **“a. The various types and degrees of the courts shall be regulated by law, and the law shall state their functions and jurisdiction. b. The jurisdiction of military courts shall be confined to military offences committed by members of the Defence Force, the National Guard, and the Security Forces. It does not extend to other persons except when martial law is declared and within the bounds prescribed by law.”**
- 3- By reading the texts of the law issued by decree Number (3) for the year 1982 concerning the Public Security Forces and amended pursuant to Law Number (37) for the year 2002 issued by a decree, Article Number (82) relating to forming courts stipulates: **“The military courts are: 1-the higher military appeal court: and comprises of three judges presided by the most senior whose rank is not less than colonel. 2- The greater military court: this comprises of three judges presided by the most senior provided that his rank is not less than lieutenant colonel. 3- Minor military court: comprises of a single judge whose rank is not less than captain. It is required that at least one judge in these courts has a law degree and it is permissible for him to be a civilian affiliated to the Ministry of Interior, and it must always be the case for the court presiding judge to be more senior in rank than the accused, and in case this is impossible then to be of equal rank. The formation of these courts is by virtue of a decision of the Minister of Interior, and the trial is held at the place and time designated by the presiding judge.”**
- 4- Hence, the law issued by decree concerning the Public Security Forces Regulation referred to above did not regulate the degree of appeal before the Court of Cassation within the formation of courts to which are subject the members of the Public Security Forces referred to in Article Number (5) of the same law.

- 5- Reverting to Article Number (105) Paragraph (a) of the Constitution which assigned jurisdiction for arranging courts of various types and grades whilst elucidating the functions and competencies of these courts, the judiciary was organized pursuant to the law issued by decree Number (42) for the year 2002 by the enactment of the Judicial Authority Law, according to which the courts were divided into civil and religious courts, in addition to the criminal courts which are regulated by a law issued by decree Number (46) for the year 2002 by issuance of the Criminal Procedures Law, in addition to the presence of other courts such as urgent decisions courts, the constitutional court and the military courts.
- 6- By shedding light on the law issued by decree Number (42) for the year 2002 by issuing the Law of Judicial Authority, we find that Article Number (6) thereof stipulates: **“The Civil Courts are composed of the following: 1. Court of Cassation, 2. Civil Higher Appeals Court, 3. Greater Civil Court 4. Lesser Court, each of the above has jurisdiction in settling all cases raised to their attention in accordance with the law in civil, commercial and administrative articles, as well as in disputes related to the personal affairs of non-muslims, and in crimes, save for anything exempted by a special clause.”**
- 7- Moreover, the law issued by decree Number (12) for the year 1971 issued the Civil & Commercial Procedures Act which emphasizes what was contained in the law issued by decree Number (42) by issuing the Judicial Authority Law, where Article Number (200) thereof stipulates: **“The means of challenging a verdict are: 1- objection to verdict by default 2- objection by a party external to the litigation 3- appeal 4- requesting a rehearing of the trial”.**
- 8- On the other hand, the law by decree Number (32) for the year 2002 promulgating the Bahraini Defense Forces Law is devoid of a text referring to the organization of the courts to which are subject those who are addressed by it, but by reading the provisions of the law by decree Number (34) for the year 2002 by issuing the Military Penal Law amended by virtue of law by decree Number (46) for the year 2010, it may be observed that Article Number (35) thereof stipulates: **“The military courts are: a) The military court of cassation. B) Higher military court of appeal. C) Higher military court. D) Lesser military court. E) Special military court. Each one of them is competent to hear the cases referred to them according to the law.”**
- 9- Moreover, Article Number (46 repeated) of the latter law includes the jurisdictions assigned to the Court of Cassation which pivot around considering the appeals presented by the military prosecution or by the convicted person insofar as the final judgment issued by the High Military Court of Appeal or the Higher Military Court in its appeal capacity in a felony or misdemeanor, in addition to the competence to adjudicate in the requests to reconsider the final judgment of punishment related to the articles of crimes and felonies, in addition to adjudicating in dispute over competence between the military courts.
- 10- By reverting to the law by decree Number (3) for the year 1982 concerning the Public Security Forces Regulation amended by virtue of law by decree Number (37) for the year 2002, which did not provide for formation of the Court of Cassation within the military courts to which are subject those addressed by its provisions, and excepted from this are the segment of civilian employees working in these forces who are subject to ordinary courts of law.

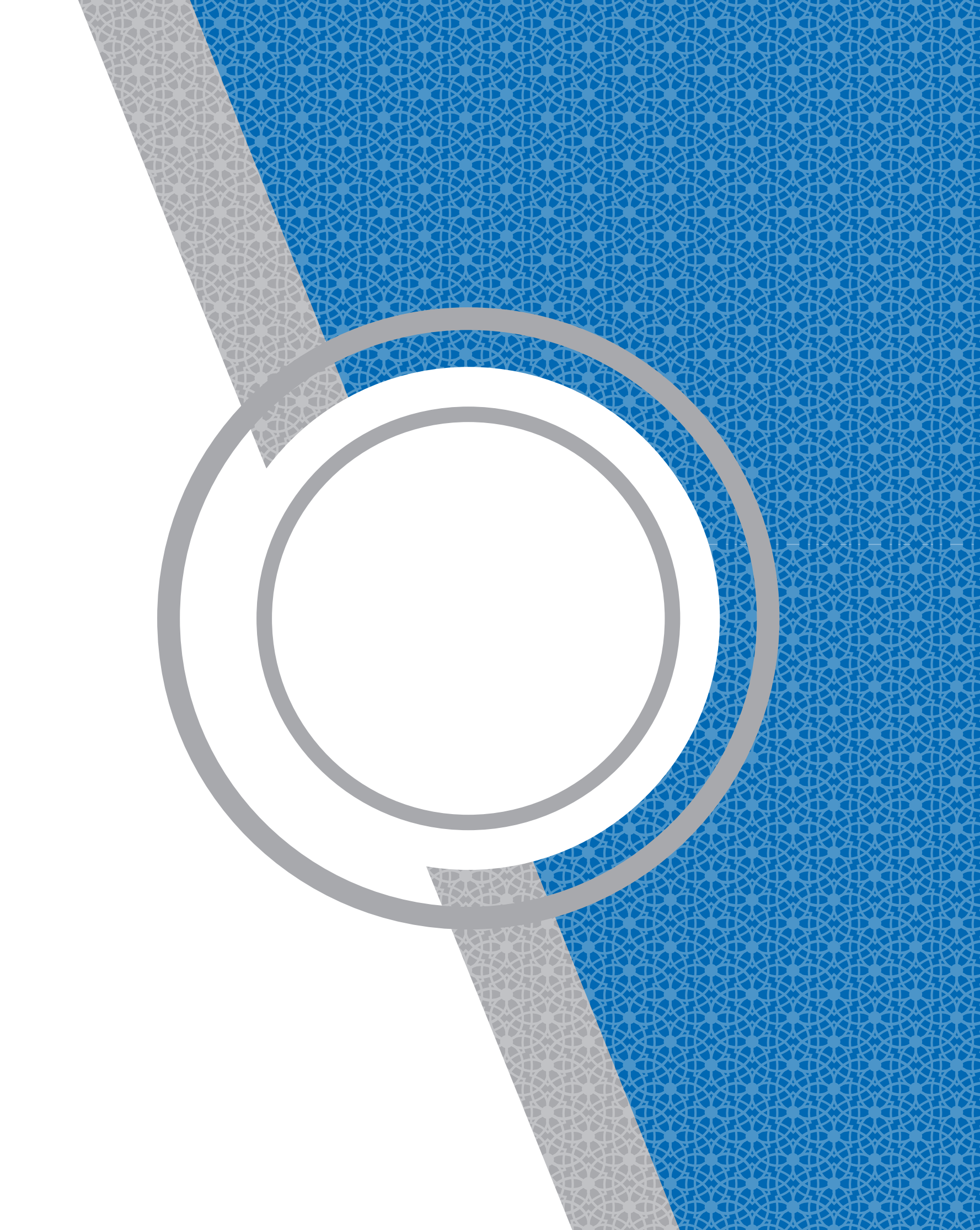
- 11- The NIHR perceived the importance of amending the provisions of the law by decree Number (3) for 1982 concerning the Public Security Forces Law to be included (Court of Cassation) within the formation of military courts to which are subject those addressed by its provisions, given that there is no justification for differentiating between the military personnel and the other civilian employees insofar as enjoying the guarantee of the presence of a Court of Cassation that monitors the sound application of the law, and the amendment is consistent with the law by decree Number (34) for the year 2002 by issuing the Military Penal law amended by virtue of a law by decree Number (46) for the year 2010, which created the Court of Cassation to be included within the formation of military courts to which are subject the members of the Bahraini defense forces.

Sixth: Proposal to amend some of the provisions of the law by decree Number (46) for the year 2002 by issuing the Criminal Procedures Law, such concerning the period of precautionary imprisonment, grievance, and the period for commencing investigation

- 1- The NIHR submitted a proposal to amend some of the provisions of the law by decree Number (46) for the year 2002 by issuing the Law of Criminal Procedures, such concerning the appeal of the period of precautionary detention and grievance, and the period prior to start of investigation, where the NIHR explained in its consultative opinion that while Article Number (2) of the International Covenant on Civil and Political Rights (ICCPR), to which the Kingdom of Bahrain acceded pursuant to Law Number (56) for the year 2006, stipulated: **“3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy,”**
- 2- Moreover, Article Number (9)-Paragraph (4) of the above convention referred to the right to grievance regarding the decision of precautionary detention represented in a reconsideration of detention, where it stated: **“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”**
- 3- Whereas the totality of the principles related to the protection of all persons exposed to any form or detention or imprisonment, issued by virtue of the UN General Assembly resolution 35/177 of 15 December 1980, affirmed Principle Number (32) thereof: **“1. A detained person or his counsel shall be entitled at any time to take proceedings according to domestic law before a judicial or other authority to challenge the lawfulness of his detention in order to obtain his release without delay, if it is unlawful.”**
- 4- This was followed by the contents of Principle Number (37): **“A person detained on a criminal charge shall be brought before a judicial or other authority provided by law promptly after his arrest. Such authority shall decide without delay upon the lawfulness and necessity of detention.”**, and in the same context Principle Number (38) emphasized: **“A person detained on a criminal charge shall be entitled to trial within a reasonable time or to release pending trial.”**

- 5- The NIHR has deemed it important to amend the provisions of Articles Number (49) and (158) of the decree law above, whereby the accused is entitled to request the competent prosecution body to release him, and in case his request is rejected he may submit a grievance to the Public Prosecutor, and thence to the competent court, provided that each of them commits to deciding on the grievance within three days from the date of submission, while the passage of a period of three days without decision on the grievance represents a rejection thereof necessitating automatically referring the grievance to the higher authority.
- 6- Moreover, the Institution attached importance for the public prosecution insofar as criminal cases and the accused to have the right to appeal the order issued by the lesser court judge after the detention or release of the accused detained by precaution, while the court has the right to order the extension of the detention or release of the accused in accordance with what is decided in Articles (147) and (148) of the Criminal Procedures Law.
- 7- On the other hand, and as regards the term of investigation, the NIHR has explained in its consultative opinion that the Constitution of the Kingdom of Bahrain has considered the right to enlist a lawyer to defend an accused person as obligatory in criminal cases, where Article Number (20) Paragraph (e) states: **"Every person accused of an offence must have a lawyer to defend him with his consent.."**
- 8- Whereas the provisions issued under Legislative decree No.(46) of the year 2002 with respect to promulgating the code of Criminal Procedures as amended affirmed that the person charged has the right to communicate with the outside world and particularly the right to seek the help of an attorney, and rendered it an absolute right that is unrestricted by the type of crime leading to arrest, and this means the establishment of this right of the arrested person in all cases, where Article Number (61) thereof states: **"...Every person who is arrested shall be informed of the reasons for his arrest. He shall have the right to contact any of his relatives to inform him of what has happened and to seek the aid of a lawyer.."** which was followed by the First Paragraph of Article Number (84) of the same law which states that: **"The accused, victim, and plaintiff who claims civil rights, the person liable therefor and their attorneys shall be entitled to attend all investigation procedures..."**
- 9- As relates to crimes, Article Number (134) necessitates calling the attorney to attend the questioning in case it occurs, such with the exception of urgent cases or being caught committing the crime, where it states: **"Apart from the two cases of flagrante delicto and urgency because of concern for the loss of evidence, in crimes a Public Prosecution member shall not question the accused nor confront him with other defendants or the witnesses except upon inviting his lawyer to appear, if present."** . Moreover, Article Number (135) added that the attorney of the accused has the right to be informed of the investigation, and the impermissibility of separation between the accused and his attending attorney during the investigation for it states: **"The accused's lawyer shall be enabled to have access to the investigation at least one day prior to the cross-examination or confrontation unless the Public Prosecution member decides otherwise. In all cases, the accused shall not be separated from his lawyer who is present with him in the course of the questioning."**

- 10- Whilst the basic principles particular to the role of the lawyers stated through Paragraph (1) thereof that: **“All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings.”**, which was followed by Paragraph (7) of the same principles which affirms: **“..shall have prompt access to a lawyer,..”**.
- 11- Whereas the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment affirmed through principle number (17) thereof that: **“A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it.”**
- 12- In the same context, the Rapporteur of the United Nations concerned with the prevention of torture and other forms of mistreatment recommended the necessity of permitting communication with an attorney for every person who is arrested, within a period not in excess of twenty four hours after the arrest, and it is impermissible in any case whatsoever for there to be a delay in permitting the detainee to contact an attorney within forty eight hours from the time of his arrest or detention.
- 13- Due to all the foregoing, and given the importance and seriousness of conducting the investigation and what it might produce in important and decisive evidence which may alter the proceedings of the lawsuit such as confession, it was mandatory for the legislator to build a legal fence around the investigation to confer upon it- in case it transpires- procedural legality and to protect it against any argument of invalidation, and perhaps this is embodied in enabling the accused to communicate with his attorney and to call upon him to be present, while the right of the accused to seek the help of an attorney whom he chooses to safeguard his rights and to help in his defense, is a basic right which must be available in all the stages of the litigation.
- 14- Hence, the NIHR deems it important to add a new article under number (134 repeats) to the provisions issued under decree law Number (46) for the year 2002 by enacting the Criminal Procedures Code to affirm that: **“Notwithstanding not doing prejudice to the provisions stated in this law, due regard shall be given at the commencement of the investigation with the accused to call upon his attorney in case he declares his presence and his desire to attend,”** which is consistent with the justifications aforementioned.



Chapter III: The Role of the NIHR in the Field of the Promotion and Protection of Human Rights

Introduction

The role of the NIHR for Human Rights through its constitutional or legislative mandate pivots around promoting and protecting human rights. This role was clearly manifested in the Paris Principles relating to the position of the NIHR in promoting and protecting human rights as a constitution for its activity and an effective and constructive element in protecting and promoting human rights in the international system.

Such promotion is through spreading the culture of human rights by means of the various available means, including the holding of conference, training courses, workshops, and lectures for the general public, or particular targeted groups, in addition to training in the field of human rights and the publication and printing of educational bulletins that are related to the activity of NIHR.

The protection of human rights is considered the basic pillar that is parallel to the role of NIHR insofar as promoting this rights, and this was clearly evidenced in the Paris Principles, and particularly when those Principles granted the NIHR quasi-judicial jurisdictions through its authority to receive complaints related to human rights and to study them and refer them to the competent quarters whilst following up on them, whilst also enlightening those concerned about the measures that must be taken and to help them to adopt them or helping in resolving them with the concerned quarters.

Moreover, the role of NIHR in the field of protection includes its undertaking a monitoring of all that impinges on the right of individuals to enjoy the rights and freedoms decided for them, given that the monitoring process is a necessary means for ascertaining the degree of the respect of the State of its legal or international obligations related to human rights. Moreover, such protection requires for NIHR to undertake field visits to places where human rights violations may occur.

In this Chapter the role of the NIHR in the field of promoting and protecting human rights will be addressed in two basic sections: the first of which will be allocated to elucidating its activities in the field of promoting human rights, whilst the second will address its efforts in the field of protecting those rights.

Section I: Role of the NIHR in the Field of Promoting Human Rights

- 1- The provisions of Law Number (26) for the Year 2014 establishing the NIHR for Human Rights emphasize its role in the field of promoting human rights, where Article (12) thereof affirmed a constellation of jurisdictions for the NIHR with a view to achieving its objectives in this field, through its participation in laying down and implementing a national plan for promoting human rights at the level of the Kingdom, and studying and evaluating the legislation and regulations in force related to human rights and the recommendation of amendments which it deems appropriate, especially as relates to the consistency of those legislations with the international human rights obligations of the Kingdom, and also recommending the enactment of new laws related to human rights.
- 2- Moreover, the provisions of the Law granted the NIHR jurisdiction to consider the compatibility of legislative and organizational stipulations with the regional and international conventions pertaining to human rights issues, and to submit proposals and recommendations to the competent authorities in all that may promote human rights, including the recommendation to accede to regional and international convention of relevance, and to submit parallel reports, and to contribute to formulating and discussing reports which the Kingdom undertakes to present regularly and to express comments on them, in compliance with regional and international conventions concerning human rights, whilst spreading them in the media, and cooperate with national, regional and international organizations, and relevant institutions in other countries concerned with promoting human rights.
- 3- Moreover, those provisions authorized the NIHR to hold conferences and organize educational and training seminars and workshops in the field of human rights, and conduct research and studies in this regard, and partake in local and international forums, and in the meetings of regional and international organizations, in addition to issuing bulletins, statements and special reports, and to present them on its website.
- 4- In compliance with those jurisdictions included within the provisions of the Law, the Institution played an active role in the field of promoting human rights through the publication of a number of bulletins and awareness raising printed materials related to human rights, the holding of a number of lectures and symposia, and concluding a number of memoranda of understanding with various civil society organizations and relevant regional quarters, while also contributing through an effective role in the field of legislative review in cooperation with the Shura Council and the House of Representatives, in addition to issuing a number of statements marking international days or occasions, not to mention its regional and international participation in numerous symposia, workshops, trainings courses and conferences related to its activity.
- 5- In the field of issuing bulletins and printed materials the NIHR, in cooperation with the Asia Pacific Forum translated a booklet titled "Promoting and Protecting the Human Rights of Women and Girls: A Manual for NIHR," which is actually a booklet that aims to help the human rights NIHR to activate the promotion and protection of the segment of women and minorities in society given that it includes practical information concerning the mechanisms and activity that NIHR could perform in the field of monitoring, investigation and providing legal advise concerning the violations

perpetrated against this segment and promoting gender equality. Moreover, the booklet did not overlook including a number of best practices related to promoting and protecting the rights of this segment.

- 6- The cooperation of the NIHR with the Asia Pacific Forum emerges as an effort to consider the category of women and girls from among the segments deserving of care and which should enjoy special rights compatible with their nature in a manner providing a sound and healthy social and psychological environment. It is worthy of note that the Asia Pacific Forum is an agglomeration including national human rights institutions in the Asia continent, for purposes of offering support and developing the work of NIHR, while expanding the scope of mutual support, cooperation and joint activities between the member institutions of the Forum.
- 7- With a view to enriching the scientific and academic aspects in issues related to human rights for the public, the NIHR held two specialized lectures, the first of which dealt with the subject of "Social Rights of Persons with Physical Handicaps", which garnered the wide participation of civil society organizations and those interested in the rights of this group, while the other lecture treated the topic "Concepts of Democracy and the Principle of the Rule of Law and its Impact on Human Rights in the International System."
- 8- As a consummation of the efforts of the NIHR in this field, it continued to follow up its publications of the "Series of Human Rights Culture" in cooperation with the Center for Constitutional and Legal Studies in the University of Bahrain, and some of the scholars and concerned individuals in this field inside and abroad the Bahrain, with a view to publishing a number of academic legal works related to human rights, where the NIHR has completed eight books as a prelude to their publication concurrent with international occasions related to human rights, and these books and studies treated various topics focusing on human rights, namely: "Human rights and fundamental freedoms from an Islamic, international and regional perspective, with special reference to those rights and freedoms in the Kingdom of Bahrain," and "The rights of the worker in light of the Bahraini Labor Code and international human rights standards," and "Legal protection of those with physical handicaps, between reality and aspirations in the Kingdom of Bahrain," and "Capital punishment in national legislation, Bahraini legislation as a model, and international conventions and the Islamic Shari`ah, A Comparative study," and "The rights of woman in Bahraini Family Law (First part)," and "Human Rights in the Criminal Code of Procedure," and "Guarantees of a Fair Trial in Accordance with International Human Rights Standards," and finally a book on the "The NIHR for Human Rights in the Kingdom of Bahrain: Formation and Future Horizons."
- 9- This varied legal series emerges as an expression of the role assumed by the NIHR in the field of promoting and spreading the culture of human rights by means of shedding a light on the foremost rights and basic freedoms that are most practiced by individuals, and elucidating the reality of the local legislations and the extent of their harmony with relevant international human rights standards, and making these accessible to individuals including researchers, academicians and lawyers concerned with applying the law and judges and members of the public prosecution and members of the House of Representatives and the Shura Council, university and school students and private universities and activists in the field of human rights, such with a view to raising awareness about those rights and freedoms and enabling their exercise in a manner guaranteeing actually enjoyment of those rights.

- 10- Moreover, and emanating from the keenness of the NIHR to spread the culture of human rights among all the segments of society irrespective of levels of knowledge, it embarked on preparing a set of legal articles that are related to human rights for purposes of publication in the print media, particularly daily local newspapers, in the form of a newspaper column where the column treats topics related to the principles of human rights and their role in preventing corruption, and the right to a decent living standards, the right to guarantees of a fair trial, freedom of opinion and right to expression, woman's rights and the right to nationality.
- 11- As a continuation of the strategy and action plan of the NIHR in the field of spreading the culture of human rights and enjoying it in accordance with best practices and consonant with international standards through holding specialized training courses in order to convert knowledge of human rights into practical skills, and to effectuate this the NIHR held an introductory lecture for the students of the Royal Police Academy and those registered with its programs for attaining the two degrees of Master's and Human Rights Diploma concerning the "Role of the NIHR in Promoting and Protecting Human Rights," and another for a group of officers on the "The Legal Standards for Police Work" in cooperation with the Police Directorate of the Southern Directorate in the Ministry of Interior. Moreover, it held a training program for the students of the seventh summer camp to prepare the future young men in the Royal Police Academy, which addressed the fundamental principles of human rights, targeting the age group between (7-17) years.
- 12- The NIHR devoted interest to the training aspect for those involved in the field of justice, particularly beginner lawyers, which sought to introduce the basic principles of human rights, and the Paris Principles related to the center of the NIHR, and the international human rights law, international humanitarian law, where two specialized lectures were held, the first treated the topic of the guaranteed rights to a fair trial, whilst the second treated the rights and guarantees of the accused, whilst focusing on the standing of both rights in the international human rights law and national legislation whilst overviewing the best practical practices for these twin rights.
- 13- Based on the belief of the NIHR in the importance of promoting and bolstering the concepts of human rights in the judicial apparatus of the Kingdom, given that this would reinforce the protection of public rights and freedom, and in cooperation with the General Secretariat of the Supreme Judicial Council (SJC), the NIHR prepared a training program targeting a group of candidates for future judicial positions, where the program took place for an entire year, through the holding of workshops addressing various topics related to the "Fundamental Principles of Human Rights," "Research on the Electronic Sources and References Related to Human Rights," "Overview of the Rights Contained in the First Annual Report of the NIHR for Human Rights," and "The Public Rights and Freedoms in the Constitution of the Kingdom of Bahrain," and "Basic Principles in International Humanitarian Law," and the "Role of Courts in Protecting Civil and Political Rights," and the "Role of Courts in Protecting Economic, Social and Cultural Rights," and the "Concept of Criminal Justice and Human Rights," and "Prevention of the Crime of Human Trafficking," and "Standards for Determining Punishments and the Parameters of Reasoning Behind Rules and Provisions in Light of the Principles of Human Rights," and finally "Reference to International Human Rights Conventions Before the National Judiciary."

- 14- Within the same context, the NIHR effectively contributed to the program of the “Legal Clinic for Human Rights at the University of Bahrain,” which is an applied training program for the students of the Faculty of Law in order to acquire skills in the human rights field, through holding workshops and visual presentations on the role of the NIHR in the field of promoting and protecting human rights, where the program spanned fifteen weeks which focused on the reinforcement aspects of the Institution, in addition to its role in the field of protecting human rights through elucidating the mechanisms of receiving complaints and the procedures related thereto, and to offer legal assistance and advise, in addition to its role in the process of monitoring human rights violations.
- 15- Within the framework of the NIHR building bridges and forging cooperation with civil society organizations operating in the human rights field, it held discussion encounters with each of the General Federation of Workers Trade Unions in Bahrain (GFWTUB), the Bahrain Labor Union Free Federation (BLUFF), the Bahrain Women Association (BWA), the Bahrain Bar Society (ABC), Bahrain Transparency Society (BTS), the Bahrain Diabetes Society (BDS), the Mabade’a Society For Human Rights, the Together for Human Rights, the Manama Center for Human Rights, the Migrant Workers Protection Society (MWPS), the Children & Mothers Welfare Society, the Bahrain MS Patients Society. Moreover, the NIHR organized a workshop for civil society organizations operating in the field of human rights on the sound methodologies and recognized methods in preparing legal reports, such by guidance of the model principles adopted by the UN in this regard, where those encounters discussed a number of subjects foremost of which is the origin of the NIHR and its legal framework and its role in the field of promoting and protecting human rights, in addition to the role of those organizations and their activities in terms of various issues related to human rights, and the means for joint cooperation and support between the two parties, and the readiness of the NIHR to offer expertise in the field of training in terms of the issues of human rights and build the capacity of those affiliated to those institutions in respect of the various international human rights conventions and the obligations of the Kingdom of Bahrain, and the international mechanism of the relevant human rights council
- 16- Moreover, the NIHR participated in the consultative meetings held by the Ministry of Foreign Affairs with the presence of civil society organizations operating in the relevant human rights field, such with a view to discussing and evaluating the recommendations concluded by the working team concerned with the mechanism of comprehensive regular overview at the Human Rights Council affiliated to the United Nations, and to state what was accomplished from those recommendations, where the NIHR referred its observations concerning the totality of the recommendations to the Ministry of Foreign Affairs.
- 17- The NIHR was not removed from interacting with international events related to the promotion of human rights in society, where it issued during 2015 six statements on the occasion of Human Rights Day, the International Peace Day, the International Day in Support of Victims of Torture, the International Day for the Elimination of Racial Discrimination, the Arab Human Rights Day, International Women’s Day (IWD), where those statements aimed to introduce the public and all those concerned with the Day or the international event, whilst stating its significance.

- 18- Moreover, the NIHR was keen to attend and to have local and external representation at regional and international forums related to its activity and areas of specialization through participating in numerous symposiums, workshops, training courses and conferences, where the NIHR participated in the “Human Rights Symposium: A Unified Gulf Vision” organized by the General Secretariat of the Gulf Cooperation Council, and it also participated in the Third Arab Iberian Dialogue Conference for NIHR; as well as the training program on the role of NIHR in the field of promoting and protecting human rights organized by Causeway Institution for Peace-building and Conflict Resolution (CIPCR). Also, it participated in a workshop on the implementation of the Convention against Torture and other forms of ill-treatment and best practices for preventing torture at detention centers in the Middle East and North Africa.
- 19- Furthermore, the NIHR has participated in the meetings of two sessions Numbers (29) and (30) of the Human Rights Council affiliated to the United Nations, where it presented- on the sidelines of the encounter- an introductory lecture addressing the role of the NIHR in promoting and protecting human rights in the Kingdom of Bahrain, and it participated in the twentieth annual meeting of the Asia Pacific Forum which was held in the Republic of Mongolia, in addition to participating in monitoring the collective and regional elections in the Kingdom of Morocco at the invitation of the NIHR within the team of the Arab Network for National Human Rights Institutions.
- 20- The NIHR organized a training program targeting the members of the Board of Commissioners concerning the means of dealing with the media in the field of human rights, in cooperation with Causeway Institution for Peace-building and Conflict Resolution (CIPCR), and the NIHR was also keen to build the capacity of its working cadre through participating in a number of conferences, workshops and training courses, including a workshop on bolstering the legislative frameworks to protect woman from violence in cooperation with the Center of Arab Woman for Training and Research (CAWTAR) in the Hashemite Kingdom of Jordan, and its participation in the workshop held in the Egyptian capital Cairo in cooperation with the Arab Network for National Human Rights Institutions on introducing the mechanism of the Arab Charter on Human Rights (ACHR) as a regional mechanism in the field of promoting and protecting rights and freedoms, as well as participating in the meeting held by the Arab Network for National Human Rights Institutions to discuss and evaluate the code of conduct of Arab men responsible for applying the law.

Section II:

Role of the NIHR in the Field of Protecting Human Rights

- 1- The provisions of Law Number (26) for the year 2014 to establish the NIHR, emphasized the latter’s role in the field of protecting human rights, by according it a group of jurisdictions in order to achieve its goals in this field, such as monitoring cases of human rights violations and conducting the necessary surveys, and receiving complaints related to human rights, and undertaking field visits to monitor the human rights situation at places where such violations could possibly occur.
- 2- Article Number (12) of the same Law in Paragraph (E) thereof stipulated that the NIHR has jurisdiction to **“monitor cases of human rights violations, and to conduct the necessary investigation, and to call the attention of the competent quarters to them while presenting proposals related to initiatives aiming to end such cases, and when necessary to express an opinion concerning the position of those quarters and their reactions,”** and Paragraph (F) thereof stipulates its jurisdiction

“to receive complaints related to human rights and to study them and refer what needs to be referred thereof to the competent quarters while effectively following up on them, or to inform those concerned about the measures to be taken and to help them to take them, or to help in settling them with the concerned quarters.”

- 3- Concerning field visits as one of the means for monitoring granted to the NIHR, Paragraph (G) of Article Number (12) thereof stipulated its jurisdiction to **“perform field visits in accordance with recognized norms for monitoring the human rights situation in reform institutions, detention centers, workers assembly places and medical and educational institutions, or any other public place suspected of being a location where human rights are violated.”** These are all jurisdictions pivoting around the role assumed by the NIHR in the field of protecting human rights.
- 4- To effectuate those jurisdictions included in the provisions of the law, the NIHR has played a distinguished role in the field of protecting human rights, where it issued seven statements on separate occasion related to human rights, where in a statement it expressed its deep regret at the death and injury of a number of policemen in disparate security circumstances, while stating its condolences to the relatives of the deceased, and also calling for adherence to peaceful conduct, and demanding of society to shun violence and to adhere to calm, and to foster stability.
- 5- Moreover, it issued a statement in which it renewed its rejection of repeating the publication of the photos and names of the accused prior to the issuance of a final verdict, while emphasizing the importance of complying with the provisions of the Constitution, particularly paragraph (c) of Article Number (20) which states that the **“accused is innocent until convicted by a legal trial which provides him with the necessary guarantees for exercising the right to defense in all the stages of investigation and trial in accordance with the law,”** and is not compatible with Paragraph One of Article Number (11) of the Universal Declaration on Human Rights which stipulates that **“every person accused of a crime is considered innocent until proven guilty in a public trial which guarantees him the necessary means of defense”** and Paragraph Two of Article Number (14) of the International Covenant on Civil and Political Rights (ICCPR) which stipulates that **“it is the right of any person accused of committing a crime to be considered innocent until proven guilty under the law,”** whilst emphasizing the principle of presumed innocence, and the maintenance of the human dignity of the accused.
- 6- In the field of the protection of freedom of opinion and the right to free speech, the Institution issued a statement concerning the action of the Media Affairs Authority to cease the issuance and circulation of a local newspaper and emphasized the importance of compliance with the provisions of legislative edict Number (47) for the year 2002 concerning the regulation of the press, printing and publication and specifically Article Number (78) which authorized only the court to stop the issuance of the newspaper such based on the demand of the public prosecution or the victim, and Article Number (28) which stipulates that it is **“impermissible to confiscate newspapers or suspend them or revoke their licenses except by a court decision.”**

- 7- To safeguard human rights, the NIHR monitored a number of trial sessions which were of public significance, including attending the trial sessions of those charged, from the Ministry of Interior, in the death of one of the inmates of the Reform and Rehabilitation Center according to what the investigative unit of the public prosecution concluded, in addition to attending nine sessions related to the trial of the Secretary General of the Al-Wafaq National Islamic Society.
- 8- Whereas the attendance of the representative of the NIHR of the trial session is an effectuation of its role in monitoring the human rights situation related to the rights of the accused insofar as the administration of justice, such in order to observe the proceedings and deliberations of the trial.
- 9- The NIHR has monitored on two different occasions the situation of the inmates of the Reform and Rehabilitation Center (Jaw Prison), where the first of the two occasions was in response to the complaints made and requests for assistance from the relatives of some of the inmates. The second occasion was for purposes of monitoring the situation of one of the inmates given a life sentence based on what was monitored in the social media regarding the deterioration of his health condition, and in this connection the NIHR in cooperation with the Ministry of Interior undertook a number of visits to the Reform and Rehabilitation Center (Jaw Prison) in order to follow up on particular cases, and to meet with the administration of the Center and the inmates separately, and the recommendation was made to take appropriate measures concerning each case.
- 10- The number of complaints related to civil and political rights amounted to fifty eight complaints, where the ratio of complaints related to the right to physical and moral integrity was nine complaints, and thirty four complaints related to the right to personal freedom and security; as to complaints related to the right to enjoy guarantees for a fair trial, these amounted to thirteen complaints, while the NIHR received two complaints related to right to residence and freedom of movement.
- 11- As to complaints related to economic, social and cultural rights, the NIHR received eight complaints, where the ratio of complaints related to the right to education was three complaints, and one complaint related to the right to social security, and four complaints related to the right to work.

Chart Number (1)

Number of complaints received by the NIHR in 2015 related to civil and political rights

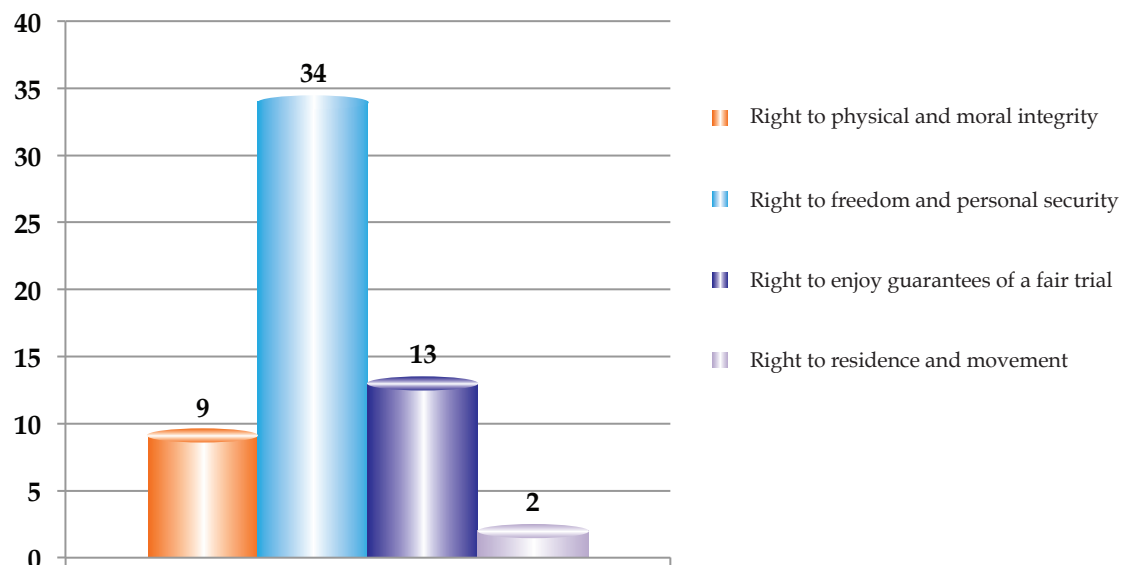


Chart Number (2)

Number of complaints received by the NIHR in 2015 related to economic, social and cultural rights

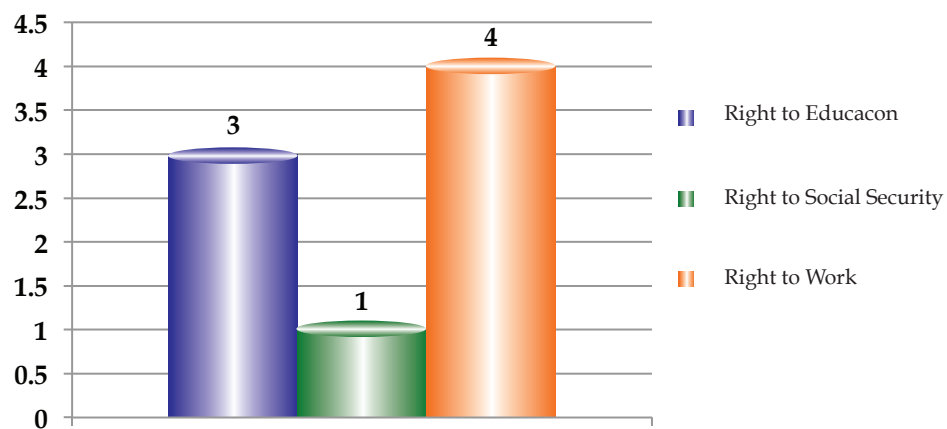


Chart Number (3)

Number of complaints received by the NIHR in the years (2011-2012-2013-2014-2015) as follows:

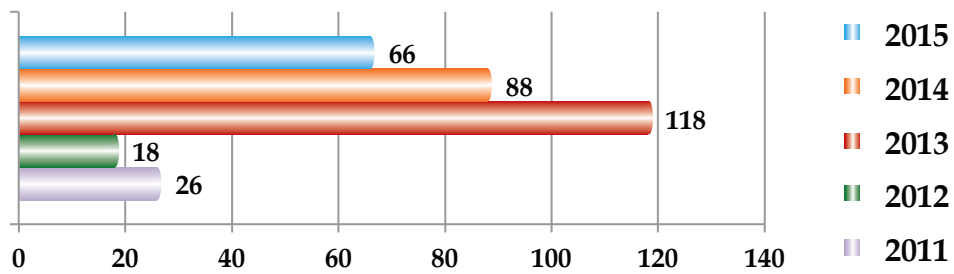
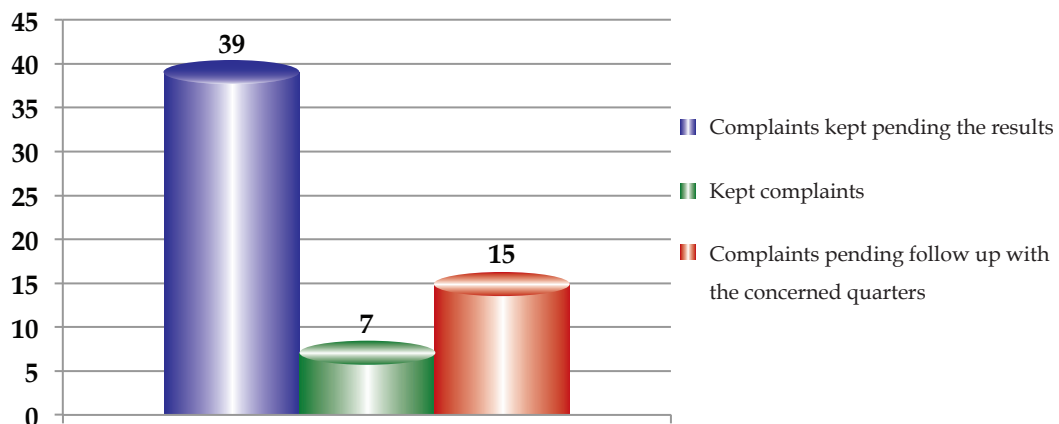


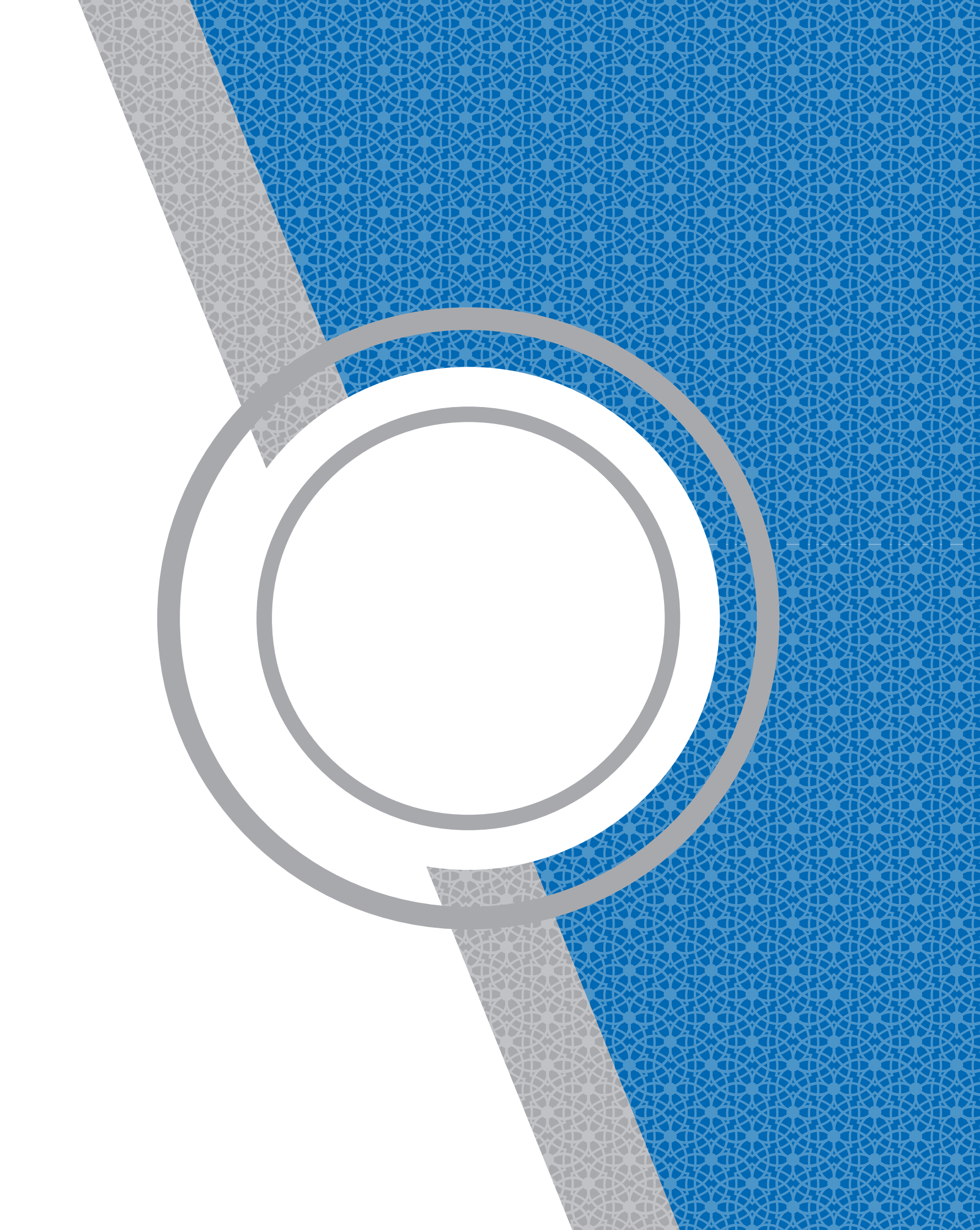
Chart Number (4)

Shows what has transpired concerning the overall number of complaints kept and those that are pending in terms of follow up with the concerned quarters received by the NIHR for the year 2015



12- Reverting to the Provisions of Law Number (26) for the year 2014 establishing the NIHR through Article number (12) –Paragraph (f) thereof, which enabled it to offer legal assistance and advise, through informing those concerned with the measures that should be taken and assist them to take them, one hundred and eight requests for assistance and legal advise were received by the NIHR, some of which were related to personal issues or disputes between individuals, or matters considered before judicial or administrative investigation quarters, or which relate to the request for releasing convicts or those detained or to consider the validity of an accusation or its invalidity, or issues where the National Institution has no jurisdiction to look into them given that they relate to a location outside the regional boundaries of the Kingdom. Actually, there has been communication with the concerned quarters regarding some of them due to humanitarian reasons, even though the Institution has no jurisdiction according to them.

Month	Number of Requests for Assistance	Number of complaints	Number of Complainants	Category		
				Man	Woman	Children under 16 years old
January	3	1	1	1	-	-
February	4	6	6	6	-	-
March	17	7	7	7	-	-
April	6	11	13	13	-	1
May	13	4	4	4	-	-
June	4	11	11	12	2	-
July	3	1	1	1	-	-
August	9	3	3	3	-	-
September	9	7	7	7	-	-
October	6	3	3	3	-	-
November	17	6	6	6	-	-
December	17	6	6	3	3	-
Total	108	66	68	66	5	1



Chapter Four: Main Issues Related to Human Rights in the Kingdom of Bahrain

Introduction

The issue of human rights is like other issues which are influenced by the conditions and variables affecting society, whether those variable are of a positive character advancing the standards of respect for human rights in the State, or of a negative character rendering those rights exposed to violation, and those conditions and variables could be the result of security or political or economic events, or a result of violations and transgressions.

This Chapter will entail seven sections, the first one of which addresses the situation of human rights in the Kingdom of Bahrain, the second section the recommendations of the NIHR concerning the development of the Reform and Rehabilitation Center for the inmates (Jaw), and the third section the right to equality and non-discrimination in enjoyment of rights, and the fourth section the right to enjoy guarantees to a fair trial and the subset of them in terms of relevant rights, while the fifth section concerns the right to nationality given that it is one of the elements of the legal personality, and the six section is about the right to freedom of opinion and expression and access to information and the right to privacy, and finally the seventh section treats the right to residence and to movement, while focusing on the persons prohibited to travel, and the category of residents concerning whom court decisions were taken prohibiting them to travel as a result of financial claims.

Section I: The Human Rights Situation in the Kingdom of Bahrain

- 1- The setting of indicators for the human rights conditions in any system grounded in the principle of the rule of law is based on two main standards, firstly: it is represented in the necessity for the applicable legislations to be compatible with international standards and resolutions pertaining to human rights, and secondly: the necessity for the practical practices of authorities applying human rights to be in harmony with those standards and resolutions.
- 2- Hence, the situation of human rights in the Kingdom of Bahrain will be addressed alongside the developments related to those rights or obstacles, by means of over-viewing the foremost laws or legislative decrees issued within the time scope of the Report and the extent of their harmony with international resolutions related to human rights, not to mention over-viewing the practical exercises of some rights.
- 3- At the level of national legislations, the NIHR has monitored a number of national legislations related to human rights, and by reviewing those legislations it became evident that most of them are harmonious with international standards, whilst the NIHR observed that some of those legislations impinge or affect human rights.
- 4- Among those legislations which were compatible with international standards and which may enhance the human rights situation in the Kingdom was the enactment of Law Number (9) for 2015 related to the enactment of the Arbitration Law, which regulated issues related to arbitration in civil and commercial transactions in a manner compatible with UNCITRAL Model Law on International Commercial Arbitration for 1985 amended in 2006 which were enacted pursuant to the UN General Assembly resolutions (40/72) and (61/33) consecutively.
- 5- The NIHR lauds the enactment of legislative decree Number (23) for the year 2015 amending some of the provisions of the Court of Cassation Law enacted by virtue of legislative decree Number (8) for the year 1989, and legislative decree Number (24) for the year 2015 amending some of the provisions of the Judicial Authority Law issued by legislative decree Number (42) for the year 2002 which included creating the Court of Cassation within the Shariah courts in their Sunni and Ja`afari sides and regulating issues related to challenging final judgment ending disputes, which is in harmony with the right to enjoy guarantees to a fair trial in accordance with international human rights standards.
- 6- Moreover, the enactment of Law Number (6) for the year 2015 concerning the conflict of laws in civil and commercial matters which are of a foreign element represents a genuine addition guaranteeing litigants of a foreign element to enjoy their rights in case of conflict of laws, with a view to achieving equality and non-discrimination insofar as enjoying the various rights and public freedoms.

- 7- In the field of the protection of family and child, Law Number (17) for the year 2015 was enacted concerning protection from family violence whose provisions included the concept of family violence and the crimes produced by such violence, and the decided measures for preventing violence and protecting the family from it, and the procedures to be followed by the Judicial Enforcement Authority and the public prosecution in such cases, and the punishments prescribed in this regard, where this legislation constitutes a framework of protection of the rights guaranteed by the Constitution and the international conventions for the family and the segments within its framework.
- 8- In the same context the enactment of Law Number (10) for the year 2015 amending Article Number (320) of the Penal Code issued by legislative decree Number (15) for the year 1976 which criminalizes any that exposes to danger a child who did not reach the age of seven years or incited others to take such action, which fulfills the principle of the optimal treatment of the child affirmed by the United Nations Convention on the Rights of the Child (UNCRC) and the provisions of Article Number (37) for the year 2012 enshrined in the Rights of the Child.
- 9- Concerning the advisory opinion of the NIHR on the draft law issuing the Lawyers Law (prepared in light of the law submitted by the Shura Council), and the draft law concerning household workers (prepared in light of the proposed law submitted by the House of Representatives) they remain under study and discussion before the competent committee in the House of Representatives.
- 10- As to the proposed law to amend Article Number (45) of the Law Number (23) for the year 2014 enacting the Traffic law, and the proposed law to add a new article under number (350 repeated) to the Penal Code issued by legislative decree Number (15) for the year 1976, and the proposed law to amend some of the provisions of the Bahraini Nationality Law for the year 1963, submitted by the House of Representatives, and the proposal concerning the honorable government to prepare a comprehensive national strategy including the necessary mechanisms, procedures and plans for dealing with the legal reports which are issued concerning the Kingdom of Bahrain, these are subjects which remain under study and consideration before the competent committees at the House of Representatives.
- 11- Concerning the complaints related to civil and political rights the NIHR received in 2013 eighty four (84) complaints, and sixty one (61) complaints in 2014, while the number of complaints in 2015 amounted to fifty eight (58) complaints, where the economic, social and cultural rights accounted for twenty two (22) complaints in 2013, and thirty five (35) complaints in 2014, and finally eighty (8) complaints in 2015.
- 12- The investigation unit affiliated to the Public Prosecution stated that it received two hundred and ninety eight (298) complaints ranging from claims of torture to ill-treatment, one hundred and twelve (112) of which were kept in record due to preclusion of the suspicion of criminality.

Chart Number (4)

Shows what has transpired concerning the overall number of complaints kept and those that are pending in terms of follow up with the concerned quarters received by the NIHR for the year 2015

Violated Right	Years			Total
	2015	2014	2013	
Right to physical and moral integrity	9	14	27	50
Right to freedom and personal security	34	33	21	88
Right to guarantees of a fair trial	13	24	19	56
Right of the inmates to avail of health care and treatment	11	20	5	36

Section II: Development of the Reform and Rehabilitation Center (Joe Prison)

- 1- In implementation of the role of the NIHR in the field of the protection of human rights, particularly what was stipulated in Article Number (12) of its founding law in Paragraph (e) thereof that the NIHR has jurisdiction to **“monitor cases of human rights violations, and to conduct the necessary investigation, and to alert the relevant quarters to them whilst presenting proposals related to the initiatives aiming to preventing such cases, and when necessary to express an opinion concerning the position of those quarters and their reactions,”** and moreover Paragraph (f) thereof stipulates its jurisdiction to **“receive complaints related to human rights and to study and investigate them and to refer what the Institutions deems necessary to the competent quarters whilst effectively following up on them, or to make aware those concerned with the procedures to be followed and to help them in such process, and to help in settling them with the concerned quarters.”**

- 2- As relates to the field visits as one of the means of monitoring granted to the NIHR, Paragraph (g) of Article Number (12) of the founding law provides for its jurisdiction to **“undertake field visits in accordance with adopted principles to monitor the human rights situation in the reform institutions and detention centers, workers meetings and health and educational institutions, or any other place suspected to be a location where human rights are violated.”**

- 3- A number of complaints and requests for legal assistance were received by the NIHR from family members of some of the inmates including allegations of exposure to beating and mistreatment at the Reform and Rehabilitation Center (Joe Prison), in addition to what was raised in the social media and local newspapers and the circulation of the photographs of inmates, which was at the time known as the events of 10 March, where the NIHR rapidly proceeded to request an urgent visit to the Center, and the Ministry of Interior responded positively, and the visit was conducted during two days on 25 and 30 March 2015.

- 4- The delegation of the NIHR met with those responsible at the Center who explained that rioting took place in a number of “wards,” where a visual recording of security cameras installed in the building particular to visits was shown, where it became evident that the situation was normal, and it was seen in the recording that there were two ladies accompanied by four children going in the direction of the visits building to complete the procedures for visiting a relative, and a person from among the relatives of the aforementioned was seen pushing two ladies outside without a palpable reason, and it is evident from the recording that that person was shouting, whereupon a number of policemen intervened and held him but he resisted, and also was observed the assault by one of the two aforementioned ladies on a member of the female police.
- 5- Those responsible at the Center explained that this incident was artificially contrived for purposes of creating chaos and rioting inside the facilities of the Center, which was something that they confirmed through receiving information beforehand indicating that contrivance the incident, was concurrent with the meetings of the Human Right Council in Geneva, through conveying information to inside the Center indicating that policemen assaulted women and children from among the relatives of the inmates to produce negative reactions.
- 6- Responsible persons of the Center added that after receipt of such information by the inmates in the mentioned building they embarked upon creating disorder through shouting Allah Akbar (God is Great) and pounding on the doors of the prison cells, and one of the inmates present proceeded to detain a member of the medical team (male nurse) inside one of the prison cells which he was carrying out his duty of distributing medicines to those needing them from among the inmates.
- 7- Those responsible at the Center briefed the delegation of the NIHR about security reports and photographs including a description of the destruction inside the mentioned buildings caused by the inmates, and also included a number of injured policemen and auxiliary forces numbering twenty two (22) policemen, and one hundred and one (101) members of the Special Forces, and eight (8) members of the supporting forces, and one hundred and three (103) inmates, explaining that in view of the magnitude of destruction inside the buildings they have become unsuited for residence, which has compelled the administration of the Center to bring out all the inmates and place them in outdoor spaces inside equipped tents until maintenance works are completed, according to them.
- 8- The delegation of the NIHR requested to know about the type of weaponry and arms used during the intervention of the policeman and the auxiliary forces in dealing with the incident, where it was stated that the weapons used were teargas and the spraying of pepper only. The delegation of the NIHR requested the Center administration to provide it with statements of the names of all the inmates in the buildings where unruly conduct took place, and upon reviewing those statements fifty five (55) inmates were randomly chosen for meetings in order to hear their statements.
- 9- The delegation of the NIHR met the inmates individually, where they concurred that the situation prior to 10 March 2015 -the day of the incidents- was normal, and that the reasons of the chaos and riots were due to information reaching the inmates that women and children were attacked by policeman in the building allocated for visits, whereupon a group of inmates began to protest through striking the gates of wards and closing them by using fire hoses, while other were able to ascend to the roof of the “wards” and hurl furniture from them at members of the police.

- 10- Among the selected random sample were inmates convicted in other cases, some of whom are citizens of neighboring Arab countries and others who were foreigners, where they stated that they are unaware of the real causes of the riots, stating the probability that the reasons are due to those convicted in security cases provoking policemen for purposes of creating chaos, and the incitement by the old inmates of the new inmates or those of young age to not conform with the orders of the administration, in addition to deliberately stirring differences between the policemen and the inmates, which brought about the intervention of the policemen and the imposition of retribution.
- 11- The delegation of the NIHR submitted urgent verbal requests to those in charge of the Center after conducting the visit, represented in the necessity of referring some of the inmates urgently to the physician in order to perform the necessary examination and receive the medical treatment and care, and to provide all the requirements of public and personal hygiene, and to enable the inmates without exception to wash and to change their clothes, and to complete as expeditiously as possible the maintenance works on the damaged buildings and to convey the inmates to them along with their possessions and furniture, and in case the work is not accomplished it is necessary to prepare the tents so as to be fit for habitation and in a manner that does not violate human dignity, and finally to enable all the inmates to communicate with the outside world, whether their relatives or lawyers or representatives of states insofar as non-Bahrainis.
- 12- The NIHR emphasizes that the person whose freedom is restricted- at the quarter entrusted with enforcing the law insofar as implementation of decisions negating freedom- is in a special condition of weakness, in view of the fact that that quarter has special powers such as the legal use of power and force, and accordingly the fate of the one whose freedom is fettered in the hands of those entrusted with enforcing the law, and this asymmetry in power leads to a situation which may lead to the occurrence of mistreatment and the violation of rights.
- 13- It is the view of the NIHR that it is necessary to lay down strict rules for crisis management in cases of disturbances so as to deal with situations of chaos and unruliness at the Reform and Rehabilitation Centers, and to restore a condition of stability or impose penalties or restrictions on the inmates required by the maintenance of order and security,, where it is necessary that such does not impinge on their basic rights or expose them to any form of torture or mistreatment to which alluded Article Number (7) of the International Covenant on Civil and Political Rights (ICCPR) **“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,”** and Article Number (10)- Paragraph (1) thereof which stipulates that **“All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person,”** and this is precisely what was alluded to by the Constitution of the Kingdom of Bahrain in Paragraph (d) of Article Number (19) which states: **“No person shall be subjected to physical or mental torture, enticement or degrading treatment,...”**
- 14- The NIHR emphasizes that the imposition of order necessitates using legal means, while taking into consideration not to arbitrarily accomplish this, and for such to be in accordance with the accepted legal frameworks, stipulated in Law Number (18) for 2014 in the Law of the Reform and Rehabilitation Institution, and particularly compliance with the principle of proportionately, and to avoid the pitfall of violating the rights of the inmates, where the imposition of a penalty due to a violation should not lead to excessive punitive action.

Section III:

The right to equality and non-discrimination in enjoyment of rights

- 1- The right to equality and non-discrimination represents an integral part of the foundations of the principle of rule of law, which is one of the main elements of the democratic regimes, where all persons within the state must enjoy the public rights and freedoms stipulated in their legal systems, and rooted in a significant degree of equality between them, without discrimination on the basis of race or gender or language or religion or creed or political difference or otherwise.
- 2- This is what is stipulated in Article Number (18) of the Constitution of the Kingdom of Bahrain, where it states: **“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.”**
- 3- The International Covenant on Civil and Political Rights (ICCPR) to which the Kingdom of Bahrain acceded pursuant to Law Number (56) for the year 2006, in the first paragraph of Article Number (2) stipulates: **“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**
- 4- Moreover, the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which the Kingdom of Bahrain acceded pursuant to Article Number (10) for the year 2007, affirms this orientation where Paragraph Two of Article Number (2) stipulates: **“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”**
- 5- The Committee on Economic, social and Cultural. Rights (CEsCR) explained in its general commentary Number (20): **“Non-discrimination is an immediate and cross-cutting obligation in the Covenant. Article 2, paragraph 2, requires States parties to guarantee non-discrimination in the exercise of each of the economic, social and cultural rights enshrined in the Covenant and can only be applied in conjunction with these rights. It is to be noted that discrimination constitutes any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights. Discrimination also includes incitement to discriminate and harassment.”**¹⁹

¹⁹ General Commentary Number (20), Non-Discrimination in Economic, Social and Cultural Rights, Document Number: (20/GC/C.12/E)

- 6- Moreover, a report issued by the Human Rights Council Affiliated to the United Nations explains that the state shall: **"guarantee that none is subject to discrimination on the basis of religion or belief in availing of education or medical care or humanitarian assistance or social welfare, and to guarantee to each person the right and opportunity to receive public services in his country on an equal footing with other without discrimination on the basis of religion or belief,"** and this obligation requires the state to take positive measures to ensure that none is exposed to discrimination prohibiting it from "any form of discrimination on the basis of religion or belief which may weaken recognition human rights and fundamental freedoms or enjoying or exercising them on the basis of equality, and to disclose the manifestations of prejudice which may lead to discrimination on the basis of religion or belief."²⁰
- 7- Moreover, the Maastricht Principles related to the obligations of states in the field economic, social and cultural rights clarified that it is incumbent on states to: **".. desist from acts and omissions that create a real risk of nullifying or impairing the enjoyment of economic, social and cultural rights extraterritorially. The responsibility of States is engaged where such nullification or impairment is a foreseeable result of their conduct. Uncertainty about potential impacts does not constitute justification for such conduct.... State responsibility is engaged as a result of conduct attributable to a State, acting separately or jointly with other States or entities, that constitutes a breach of its international human rights obligations whether within its territory or extraterritorially".**²¹
- 8- The NIHR received a number of requests for legal assistance to consider the refraining of the concerned quarter from issuing a good conduct certificate or security approval for purposes of obtaining a job opportunity, or to complete some of the procedures conditional upon which is the existence of such certificate or security approval, while demonstrating that their criminal record is devoid of any criminal offenses of which they were convicted, and as a corollary of this they were deprived of enjoying some rights, foremost of which is the right to work. As a result of this the NIHR addressed the Ministry of Interior in order to determine the reasons for not granting such a certificate.
- 9- Moreover, the NIHR received a number of requests for assistance at the General Directorate of Nationality, Passports and Residence to follow up the issuance of a travel document for the recently born for reasons related to the father being detained or convicted, and the NIHR wishes to state that issuance of this necessary document is in need of some simple administrative procedures to be undertaken at the detention places.
- 10- The NIHR emphasizes that the recognition by the State of the rights enjoyed by individuals resulting from ratification or acceding to international human rights conventions, requires taking the necessary measures guaranteeing for persons the effective exercise of those rights without discrimination due to race or color or gender or language or religion or political opinion or national or social origin or other reasons, while the State is not responsible for undertaking positive action to enable individuals to enjoy those rights, particularly the facilitation of official measures and the requirements of receiving the services related to the mentioned rights.

²⁰ Human Rights Council, Twenty Eighth Session, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural, including the right to development, Document Number: (18/28/RES/HRC/A).

²¹ Maastricht Principles related to the foreign obligations of states in the field of economic, social and cultural rights, ratified in a meeting held by the Maastricht University and the International Lawyers Committee, 28 September 2011.

Section IV: The right to grantees of a fair trial

- 1- The right to a fair trial is considered one of the standards of international human rights law, given that it aims to protect persons from a diminution of their rights related to their legal positions before the judicial authority since the moment of their arrest, and during their detention before and during trial, until the final stages of the trial, namely appeal and cassation, and it would not be possible to consider the trial to be fair, unless two conditions at least are met, first: for the trial procedures to take place in their entirety from beginning to end in accordance with the Constitution and the local legislation regulating judicial activity, and international conventions, and secondly: the judicial authority that is independent and neutral shall apply those procedures governing the trial.
- 2- The Constitution of the Kingdom of Bahrain guarantees this right in Article Number (20) thereof, which refers to a set of guarantees insofar as a fair trial, where the principle is enshrined that there is no crime or punishment except based on the law, and not to prescribe punitive action for actions that took place prior to the criminalizing law coming into force, as well as emphasizing that innocence is presumed until there guilt is proven in a legal trial providing all the necessary guarantees for exercising the right to defense in all the stages, in addition to prohibiting torture material or moral.
- 3- The Criminal Procedures Code issued by legislative decree Number (46) for 2002 as amended includes a constellation of procedures and restrictions constituting an integrated legal framework for protecting the right of a person to enjoy guarantees of a fair trial, starting with the stage of arrest and the gathering of evidence, passing by the stage of preliminary investigation, and culminating with the trial stage.
- 4- At the level of international conventions, the right to guarantees for a fair trial has created a framework of protection in Article (14) of the International Covenant on Civil and Political Rights (ICCPR) to which the Government of the Kingdom of Bahrain acceded pursuant to Law Number (56) for the year 2006, where it provided for a set of guarantees which almost encompass all the stages of the trial.
- 5- In addition to this are the conventions ratified by the Kingdom of Bahrain which addressed those guarantees such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to which the Kingdom acceded pursuant to legislative decree Number (4) for the year 1998, and the Convention on the Rights of the Child to which it acceded by virtue of legislative decree Number (16) for the year 1991, and the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to which it acceded pursuant to legislative decree Number (8) for the year 1990, and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) to which it acceded pursuant to Law Number (15) for the year 2010.
- 6- Within this framework, and in view of the extreme importance of enjoying guarantees for a fair trial which directly affect the enjoyment by individuals of their rights and freedoms, this section will treat some of the rights intertwined with the right to guarantees of a fair trial, based on what the NIHR received in complaints and assistance requests or what it monitored from the media and the social media.

First: Publication of the names and photographs of the accused in the media and social media

- 1- The principle of presumed innocence is considered to be one of the foremost foundations of the right to guarantees of a fair trial, and this presumed innocence remains with the person charged with committing a criminal act starting from the moment of arrest until the stage of trial and until he is convicted according to the law. During this period the accused shall be dealt with as innocent of the charges leveled at him, until his guilt is proven and all the appeal stages are exhausted.
- 2- The principle of presumed innocence is not confined to the treatment of the charged during the trial or in the process of presenting evidence and defense, but includes all the procedures prior to the trial, for all the investigative procedures must be underpinned by this principle, which is what was emphasized by the International Covenant on Civil and Political Rights (ICCPR) in Paragraph Two of Article Number (14) which states: **“Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.”** in addition to what the Constitution states in Article Number (20) Paragraph (c): **“An accused person is innocent until proved guilty in a legal trial in which he is assured of the necessary guarantees to exercise the right of defence at all stages of the investigation and trial in accordance with the law.”** In order to apply this principle a person should not be coerced to indict himself or to confess to his guilt, and he has the right to remain silent, where compelling a person to indict himself or to confess guilt under psychological or physical torture infringes on this principle and undermines its essence.
- 3- The effectuation of the principle of presumed innocence is considered to be one of the preventive measures for the judiciary and the investigative authorities in gathering evidence and pursuing the committers of crimes, and among the guarantees of applying this principle is not to undertake a priori analyses or judgment or to leak incomplete information on the lawsuit concerning which investigation is unfolding.
- 4- This was emphasized by the committee concerned with human rights and entrusted with interpreting the provisions of the International Covenant on Civil and Political Rights (ICCPR), namely that the principle of presumed innocence signifies that the burden of proving an accusation lies upon the prosecution and supposition of innocence is availed of by the accused. And it is not possible to presume guilt until a charge is proven beyond any reasonable doubt. Moreover, a person shall be treated according to the essence of this principle and all authorities shall refrain from a priori judgment. It has been stated in this regard: judgments are based on certitude and rather than doubt and supposition.²²
- 5- As a reading of the practical reality, it is the view of the NIHR that the principle of presumed innocence continues to be infringed in essence, through the printing of the names and photographs of the accused in the media, which constitutes a violation of this principle, in a manner impinging on the human dignity of the accused, where the international human rights conventions categorically emphasize that it is incumbent on those enforcing the law whether in the stage of gathering evidence or preliminary investigation, or during considering the lawsuit in a court of law, to refrain from spreading the names and photographs of the accused.

²² General Comment Number (13) concerning Article Number (14) Administration of Justice) from the International Covenant on Civil and Political Rights (ICCPR) Number (HRI/GEN/1/Rev.9).

- 6- The NIHR issued two statements pertaining to two separate events in which it renews its rejection of spreading the photographs and names of person charged in various cases, where the first was issued on 29 January 2015 concerning the disclosure of the names and photographs of persons charged with the crime of abusing the social media means, while the second was issued on 3 May 2015 concerning the spreading of the names and photographs of persons charged with committing crimes.²³ Actually, it emphasized in one of the two statements that some of those arrested, even if judgments were rendered regarding them, presumed innocence remains an intrinsic right given that they were rendered in absentia and that the possibility of invalidating or nullifying them whether through appealing or challenging them remains, in addition to not using their right to defense during gathering evidence or preliminary investigation and during the trial.

Second: Right of the accused to defend himself

- 1- The right to defense is considered to be a set of special privileges granted to the accused in a criminal suit to prove his innocence before the court of law through presenting the truth of the event ascribed to him, and equal in this regard is one who denies committing a crime attributed to him or one who confesses to it, and this right is considered a basic foundation upon which rests the right of the individual to guarantees of a fair trial.
- 2- The Constitution of the Kingdom of Bahrain emphasizes in Paragraph (c) of Article Number (20): **“An accused person is innocent until proved guilty in a legal trial in which he is assured of the necessary guarantees to exercise the right of defence at all stages of the investigation and trial in accordance with the law.”**. Moreover, the provisions of the International Covenant on Civil and Political Rights (ICCPR), to which the Kingdom of Bahrain acceded pursuant to Law Number (58) for the year 2006 emphasized in Paragraph Three of Article Number (14) thereof that: **“everyone shall be entitled to the following minimum guarantees, in full equality: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;”**.
- 3- The right of the accused to defend himself is important as a natural right that occupies the leading place between the general personal rights, which is a right that was not decided just for the interest of the individual, but is in the interest of society insofar as achieving justice. The absence of this right leads to a distortion of facts which could result from false testimony or confession that is extracted by illegitimate means, which could mislead the judicial process and becloud the truth.
- 4- A denial of the guarantee of the right to defense or its restriction or hindering its enjoyment by an accused person leads to an undermining of the principles upon which is based a fair trial which reflects a system of integrated characteristics that aims to safeguard human dignity and protection of his basic rights and prevents through its guarantees a misuse of punishment in a manner derailing it from its aims, and the eschewal of the guarantee of the right to defense undercuts presumed innocence, given that presumed innocence accompanies the charged person until the rendering of the judgment in a final sense.

²³ To view the two statements issued by the NHRIs for Human Rights, see the link www.nihr.org.bh.

- 5- In compliance with this, the accused may present what he wishes in verbal or written defense, and there is no restriction on him insofar as the quantity and nature of what he presents and what he deems necessary for defending himself. This necessitate giving him at all times the sufficient opportunity to respond to all that is attributed to him in an atmosphere respecting his dignity, which is expressed as the “principle of equal legal opportunities in procedures,” where the European Court of Human Rights explained that the principle of equal legal opportunities is a feature of a fair trial, which implicitly means that each party must be afforded a reasonable opportunity to prepare his case in accordance with conditions that do not render his position less solid than the position of his adversary.²⁴

Third: The Right of Detainees to Communication with the Outside World

1. The right to communicate with the outside world is a basic guarantee that protects the detainee from exposure to violations, such as torture and ill-treatment. This issue is asserted by many relevant international instruments, as well as the provisions of the Constitution of the Kingdom of Bahrain and the relevant national legislation.
2. The United National Standard Minimum Rules for the Treatment of Prisoners address the right of detainees to communicate with the outside world in view of its tremendous impact on their mental health. Rule No. 37 states that: “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits”²⁵.
3. *The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment asserts the same right in Principle 19, which states that: “A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations”²⁶.*
4. The recognition of the right of the detainees to communicate with the outside world will lead to taking actions and measures to ensure exercising it in a manner that is not prejudicial to its essence or affect its value and purpose. It is acknowledged that the competent authority has the right to develop regulatory controls, without abuse and in accordance with the legal frameworks and international standards adopted in this regard. This right should not be subject to any restrictions or controls, save to the extent necessary to achieve the interest of justice and in line with the legal status of the detainees, pursuant to the provisions of Article No. (31) of the Constitution of the Kingdom of Bahrain.

²⁴ Human Rights in the Field of Administration of Justice- Episode Number (9) of the Series of Professional Training issued by the UN Human Rights Commission in cooperation with the International Bar Association (IBA).

²⁵ The Standard Minimum Rules for the Treatment of Prisoners were recommended for adoption by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955 and were approved by the Economic and Social Council resolutions No. 663 c (d -24) dated July 31, 1957 and 2076 (d -62) of 13 May 1977.

²⁶ The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was adopted by the United Nations General Assembly Resolution No. 43/173 of 9 December 1988.

5. NIHR believes that it is important for the arrested to exercise his right to communicate with the outside world, in particular with his family, immediately after arrest, in order to inform them of his place of detention and provide him with essential requirements.

Fourth: The detainee right to health care and treatment

1. The right of the detainees to health care and treatment requires that each detainee or prisoner has the opportunity to undergo a proper medical examination after his admission to the place of detention and ensuring the provision of appropriate free medical care and treatment, whenever the need arises.
2. NIHR is aware that the police departments and centers as well as reform and rehabilitation and provisional detention centers provide health care for all sick detainees or prisoners regularly, and maintain medical reports on their physical and mental health in the personal file of the prisoner or detainee. They also undergo a comprehensive medical examination at the moment of detention and release.
3. NIHR received eleven (11) complaints and identified four cases through social networks and local newspapers. It also received calls from inmates in the reform and rehabilitation center (Joe). The inmates alleged that they do not receive treatment, health care, follow-up or medications, that they are not examined by doctors who specialize in certain type of diseases, or that they are not examined by doctors on schedule. NIHR did not verify the validity of these allegations.
4. NIHR took the appropriate action by addressing the General Secretariat of Grievances or the Office of the Inspector General of the Ministry of Interior. In addition, it contacted the reform and rehabilitation center, which cooperated significantly in this regard to address those allegations. The Center emphasized dedicating special attention and periodic and continuous follow-up to the inmates who suffer from chronic diseases or diseases of a special nature such as sickle cell anemia, multiple sclerosis (MS) or dermatological diseases through their examination by specialist doctors and providing living conditions commensurate with their health condition.

Section V:

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 to the legal status of the stateless persons.
2. Article 17, Clause "a", of the Constitution of the Kingdom of Bahrain provides as follows: "Citizenship shall be defined by the law, and no person enjoying citizenship by origin may be deprived of it except in cases of high treason and in any other conditions specified by the law". 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.

3. In terms of international instruments, Article 16 of the International Covenant on Civil and Political Rights, to which the Kingdom of Bahrain acceded under Law No. (56) of 2006, states that: "Everyone shall have the right to recognition everywhere as a person before the law". Article Clause "3" of Article 24 of the Covenant states that: "Every child has the right to acquire a nationality".
4. In the same context, Article 7 of the Convention on the Rights of the Child of 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 to this Convention 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.
5. 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". In this regard, the Kingdom reformulated its reservation to this Article to confirm consistency to the substance of the Convention, without prejudice to the provisions of Islamic law. This is considered as affirmative action in favor of women's rights relating to nationality.
6. 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. It is noted that NIHR took note that it is important for the children of the Bahraini woman married to a non-Bahraini to be equal to other children. Accordingly, NIHR submitted its recommendations in this regard to the Government to make the necessary legislative amendments in the public interest.
7. As regards the cases of withdrawing or forfeiting the Bahraini citizenship, Article 8 of the said Act exclusively states the cases in which the Bahraini citizenship can be legally withdrawn from the Bahraini national. It restricts the impact of this procedure to the person alone, to the exclusion of the person through which it was acquired, except if the Bahraini citizenship was acquired by fraud or based on false statements, concealment of substantial information, or forged instruments.
8. As regards forfeiture of nationality, Article 10 of the said Act exclusively identifies the cases in which the Bahraini citizenship may be forfeited: if he enters in military service of a foreign country and keeps on service despite an order issued by the Government of Bahrain ordering him to leave such service; if he helps or engages in service of an enemy country; if he causes harm to the security of an enemy state; if he causes harm to the interests of the Kingdom; or had acted contrary to the duty of loyalty to it.

9. In any event, the provisions of the Law identify the mechanism for withdrawal and forfeiture of citizenship, when the relevant conditions are satisfied. The Law provides that it should be made pursuant to a decree based on a proposal by the Minister of Interior and the Cabinet's approval. Before amendment, the said Law did not permit the withdrawal or forfeiture of citizenship, except by order of His Majesty King, as the head of state, its higher representative and protector of the rights and freedoms in it, because this procedure directly prejudices the rights and freedoms of individuals.
10. In the same context, NIHR has referred its advisory opinion to the House of Representatives in the course of deliberation of the draft law amending some provisions of the Bahraini Nationality Act of 1963, accompanying Decree No. (46) of 2014. It stressed that while the state has the power to organize and identify all issues relevant to the acquisition, loss, withdrawal, and forfeiture of nationality in order to protect the security and integrity of its national, regional and international interests, such organization should not in any way affect the public rights and freedoms set out in the Constitution or international conventions ratified by the State or to which the State acceded.
11. In its advisory opinion, NIHR commended the sound approach adopted by the draft law, Article 8 in particular, which exclusively identifies the cases in which it is legally permitted to withdraw the Bahraini citizenship of a naturalized person. It limits the effect of this procedure to the person alone, to the exclusion of the person through which it was acquired, except if the Bahraini citizenship was acquired by fraud or based on false statements, concealment of substantial information, or forged instruments.
12. Article 10, in particular Clause "c" thereof, of the draft law exclusively identifies the cases in which the Bahraini citizenship can be forfeited. It states that if the Bahraini national carries out any act contrary to the duty of loyalty to the Kingdom, nationality will be forfeited. Therefore, in order to restrain the arbitrary discretion of the administrative body to forfeit the Bahraini citizenship and its serious risks that directly affect fundamental human rights and freedoms, in view of the loose controls governing the cases of forfeiture of citizenship, the right of the state to forfeit the nationality of its citizens should be controlled by a firm legal framework in the form of court decisions of forfeiture and granting the person whose nationality is forfeited the right to effective appeal from the decision.
13. Accordingly, NIHR believes that the State's right to forfeit nationality is a practice adopted in all legislation and legal systems. However, the exercise of such right must not lead to the emergence of statelessness phenomenon. According to the Bahraini legislation, people whose citizenship is forfeited may appeal from the citizenship forfeiture decision to the court.
14. In this regard, in its statement released on July 28, 2013, 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.

15. In this regard, NIHR calls for the need to strengthen the legislative guarantees with respect to forfeiture of the Bahraini citizenship and not extending the effects of citizenship forfeiture to third parties, which may affect their basic rights. In addition, citizenship forfeiture affects the position of the Kingdom in the international circles, particularly when it comes to the obligations arising from Bahrain accession to or ratification of international human rights instruments.

Section VI:

Freedom of Opinion and the Right to Expression, Access to Information, and Privacy

1. Freedom of opinion; the right to expression; and the right to access to information 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; the right to expression; and the right to access to information also extend to freedom of the press and the media, as well as freedom of conscience and thought, and religious freedom. Therefore, this right is the most important element 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. It is not possible to talk about freedom of speech, the right to expression and the right to access to information apart from the right to privacy, which includes the individual's right to exchange information and ideas in the context of secrecy and the right not to intersect his postal, telegraphic, telephonic and electronic communications and correspondences, except in cases of extreme necessity and subject to the limitations prescribed by law and the necessary controls in a democratic society, which must be in line with the principle of proportionality using the least harmful means compared to other means to achieve the desired result and in line with the interest to be protected. The right to privacy is often considered an essential prerequisite for the realization of freedom of opinion and the right to expression. Any unnecessary intervention in the privacy of individuals may involve direct and indirect restriction of generation and free exchange of ideas, which creates a comprehensive obligation on the state to ensure respect for the right to privacy²⁷.
3. The Constitution of the Kingdom of Bahrain has guaranteed freedom of opinion and the right to expression and access to information in Article 22, which stipulates that: "Freedom of conscience is absolute. The State shall guarantee the inviolability of places of worship and the freedom to perform religious rites and to hold religious processions and meetings in accordance with the customs observed in the country". Article 23 provides that: "Freedom of speech and freedom to carry out scientific research shall be guaranteed. Every person shall have the right to express and propagate his opinion in words or in writing or by any other means, in accordance with the conditions and

²⁷ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression submitted to the Human Rights Council, Twenty-third session, document number: (A/HRC/23/40).

procedures specified by the law, without prejudice to the Islamic principles and the unity of the people, and without instigating segregation or sectarianism". The Constitution also guarantees the right to privacy in Article 26, which provides that: "The freedom of postal, telegraphic, telephonic and electronic communication is safeguarded and its confidentiality is guaranteed. Communications shall not be censored or their confidentiality breached except in exigencies specified by law and in accordance with procedures and under guarantees prescribed by law".

4. At the level of national legislation, "Decree-Law No. 47 of 2002 on the 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 Bahraini community on the provisions of this legislation.
5. "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.
6. The provisions of the Code of Criminal Procedure promulgated by Legislative Decree No. 46 of 2002, as amended, grant a number of judicial guarantees of the right to privacy. Article (93) of the Code instructs the public prosecution to obtain permission from the competent court to seize letters, newspapers, publications, and parcels; intercept wire and wireless communications and conversations, or make recordings of conversations that take place in a private place, if this action is useful in determining the truth in a felony or a misdemeanor punishable by imprisonment.
7. 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. It further protects the human right to freedom from arbitrary or unlawful interference with privacy, family, home or correspondence.

8. 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.
9. 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.
10. However, the exercise of the right to 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: "Public rights and liberties laid down in this Constitution shall neither be regulated nor defined except by a law, or in accordance therewith. Such regulation or definition shall not affect the essence of the right or liberty".
11. 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.
12. NIHR identified the decision of the Information Authority, which prevented a local newspaper from broadcasting video clips on the social networks (YouTube). NIHR notes that the newspaper operates under the umbrella of the provisions of Law No. 47 of 2002 on the Regulation of the Press, Printing and Publishing. Thus, the license granted does not include the activity of broadcasting news video clips, according to the newspaper. While NIHR appreciates the Authority efforts in implementing the provisions of the Press, Printing and Publishing Law and the protection of freedom of opinion and the right to expression, it believes that this role cannot be performed in violation the law, and the organization or identification of the right should not compromise its essence.

13. NIHR asserts that Article 1 of the applicable Press, Printing and Publishing Law, which regulates the issues related to the press, defines the (newspaper) as “any newspaper, magazine or other publication issued under one name periodically at regular or irregular intervals of time, including e-newspapers issued or broadcast electronically”. According to the said Law, (publications) are “writings, paintings, songs, images, audio or audio-visual products, and other means of expression, whether written, drawn, photographed, or recorded in any way including electronic or digital means; anything that can be stored on a support; stored on magnetic or electronic storage containers, or any new technology designated for and capable of circulation”.
14. The newspaper makes use of the various social networks, including audio, visual or other means of expression, which is not inconsistent with the restrictions contemplated in the applicable Law, or the necessary framework of a democratic society. These products are audio or visual products that are consistent with the express law. In addition, it is impermissible for the Authority to justify the prevention decision on the pretext of waiting for a new law regulating the media profession to include the regulation of audio-visual media activities.
15. In this regard, NIHR noted the continued blocking of certain publications of a number of licensed political associations. This practice is contrary to the general principles of freedom of opinion and the right to expression, unless it appears that there is departure from those principles.
16. NIHR emphasizes the importance of making efforts by the state and society in maintaining an atmosphere of coexistence, tolerance, national unity, cohesion of the social fabric, and fostering its awareness of political and human rights, which allows effective mass enjoyment of the various rights and public freedoms.

Section VII: Freedom of residence and the right to movement

1. The freedom of residence and the right to movement is one of the most important human rights and a pillar of human dignity. This right includes the freedom of individuals to move and choose residence within the territory of the state, and the freedom to leave any country, including their own homeland, besides their freedom to enter the countries they have left. The elements of this right directly influence other human rights.
2. Clause “b” of Article 17 of the Constitution of the Kingdom of Bahrain provides that: “It is prohibited to banish a citizen from Bahrain or prevent him from returning to it”. Subsequently, Clause “b” of Article 19 provides that: “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. At the level of national legislation, Article 178 of the Civil and Commercial Procedure Law No. 12 of 1971, as amended, states that: “The plaintiff may seek an order from the Court forbidding the defendant from travel, subject to the two following conditions: 1. If there are serious grounds for presuming that the defendant’s absconding from litigation is imminent; 2. If the claim is based on an existing and payable debt that is proved in writing, or the existence of the right is probable based on the documents. The Plaintiff or the person to whom the travel ban order is issued shall notify the person against whom the order is issued, if it is issued in his absence, within eight days from the date of the decision, by a letter with acknowledgment of receipt”.

4. Subsequently, Clause “b” of Article 179, as amended, states that: “The travel ban shall expire in any of the following events: 1. If the Plaintiff or in whose favor the order is issued fails to notify the person against whom the travel ban order is issued, pursuant to Clause 2 of Article 178 of this Law; 2. If any of the two conditions required for the travel ban order is no longer satisfied; 3. If the Defendant presents a guarantor acceptable to the court or a cash security estimated by the court to guarantee the performance of the order that may be issued in the claim; 4. Upon the lapse of two years from the date of the decision and it became final in the claim of the debt for which the travel ban was issued, without submitting an application for enforcing the decision by the judgment creditor to the enforcement court”.
5. At the level of international instruments; the right to freedom of movement and residence is enshrined by the International Covenant on Civil and Political Rights, to which the Kingdom of Bahrain acceded under Law No. 56 of 2006. Article 12 of the Covenant states that: “1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence; 2. Everyone shall be free to leave any country, including his own; 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant; and 4. No one shall be arbitrarily deprived of the right to enter his own country”.
6. Article 13 of the International Covenant on Civil and Political Rights states that: “An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority”.
7. To demonstrate this, the Human Rights Committee entrusted with the interpretation of the provisions of the International Covenant on Civil and Political Rights, in its General Comment No. 27²⁸, refers to the need for any individual present lawfully in the territory of a State to have the right to freedom of movement and choice of residence within the territory. It stresses that this right should not be subject to any particular purpose for the individual looking for movement and residence, and that any restrictions on this right must be consistent with the provisions of paragraph (3) of the Covenant through a provision in the law, should be necessary to protect the national security, public order, public health, morals or the rights and freedoms of others, and should be consistent with the other rights recognized in the International Covenant. In addition, the State should ensure that this right is protected from any interference, whether from public or private parties.
8. The Human Rights Committee further emphasized the inadmissibility of the requirement for the freedom of the person to leave the territory of a country to be subject to any specific purpose or to be dependent on the period chosen to stay outside the country. The individual’s right to determine the country of destination is part of the legal guarantee. It is incumbent on the country of residence and the country of nationality to enable the individual to enjoy the right to freedom of residence and movement, through issuing the appropriate documentation of any kind for the purpose of departure.

²⁸ General Comment No. 27: Article 12 freedom of Movement - issued by the Human Rights Committee emanating from the International Covenant on Civil and Political Rights - Sixty-seventh session (1999) - Document No. (CCRR / 21 / Rev.1 / Add.9).

9. Thus, no individual may in any event be arbitrarily denied of his right to enter his own country. The Human Rights Committee points out that the concept of “arbitrariness” provided for in Paragraph (4) of Article (12) of the International Covenant applies to any action by the State, whether any legislative, administrative or judicial action. Any intervention to prevent or restrict the individual from returning, even if by the rule of law, must be in conformity with the provisions of the International Covenant.
10. In practice, NIHR identified with concern a number of cases of banning travel by air and land despite not being summoned by any judicial body. While NIHR appreciates the circumstances in the Kingdom, it notes that travel ban without a legal provision or a court order is inconsistent with the provisions of the Constitution and the obligations of the Kingdom under the international and regional human rights conventions.
11. With respect to the right of residents to leave the Kingdom, NIHR received complaints from foreign detainees, who claimed their continued detention despite clearing their criminal penalties, and the failure of the competent authority, represented by the Ministry of the Interior (Citizenship, Passports and Residence Affairs) to enforce the deportation from the Kingdom penalty issued against them. NIHR, following receipt of these complaints, addressed the Ministry of Interior, which indicated that there are judicial orders issued by civil courts involving financial claims that led to preventing them from travel, and thus, the the part related to deportation was not possible to be enforced. It also stated that it has addressed the Supreme Judicial Council to look into the possibility of enforcing the deportation decision.
12. NIHR, in continuation of its efforts in this regard, addressed the Supreme Judicial Council to consider these judicial orders. It was found that the consideration of the possibility of implementing the deportation decision falls within the competence of the punishment enforcement judge. However, this situation is inconsistent with the provisions of Article No. 11 of the International Covenant on Civil and Political Rights, which states that: “No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation”. The travel ban decision is the result of the inability to meet this financial obligation.
13. NIHR appreciates the Ministry of Interior efforts to resolve the matter. It stresses the need for the Supreme Judicial Council to address this matter in line with the rights of residents and the interests of the local concerned parties, without prejudice to the Kingdom obligations under the relevant international treaties, conventions and instruments.

Final Recommendations

First: Recommendations on the Reform and Rehabilitation Center (Joe)

1. The law enforcement officers should join extensive and comprehensive training programs using curricula that include all components of human rights education. The training should cover effective interrogation methods and proper approach for obtaining information.
2. Develop strict controls for the use of security forces to maintain order in the event of insecurity within the reform and rehabilitation centers.
3. Enhance the joint role of the Ministry of Interior and the judicial authority, particularly in the field of enforcing Articles (63) and (64) of the Code of Criminal Procedure, related to inspecting reform and rehabilitation centers and provisional detention places, and receiving complaints from the detainees.
4. Reduce the recourse to solitary confinement penalty and other forms of ill-treatment.

Second: Right to equality and non-discrimination in the enjoyment of rights

1. Prompt response to certificates of good conduct applications.
2. Take the necessary actions to issue travel documents for the infants of detained or convicted fathers.

Third: Right to Fair Trial Guarantees

- Publish the names and photographs of the suspects in the media and social networks
1. The legislative authority should make the necessary amendments to Paragraph 5 of Article 246 of the Penal Code promulgated by Legislative Decree No. 15 of 1976, to ensure that the names or photographs of the suspects are not published before a final judgment is issued in the case, in line with the principle of presumption of innocence.
 2. Not to publish the names and photographs of the suspects or those against whom absentia judgments have been issued in the official media and local daily newspapers before a final judgment is issued by the competent court.

- The right of the suspect to defend himself

The legislative authority should make the necessary amendments to ensure the suspect right to counsel to include misdemeanors as well as felonies.

- The right of the detainees to communicate with the outside world

1. Comply with Article 61 of the Code of Criminal Procedure, which provides that any arrested person should be granted the right to communicate with any member of his family he deems fit to inform them of his detention, and his right to counsel, whether in respect of misdemeanors or felonies.

2. Enable the detainees to attend the funeral or mourning ceremonies on the death of one of their ascendants, descendants, spouse or relatives to the second degree.

- **The right of the detainees to health care and treatment**

Examine the detainees who suffer from serious or contagious diseases by specialists, as required by their respective health condition.

Fourth: Right to Citizenship

1. The legislative authority should review the citizenship law to comply with the evolving conditions of the Bahraini society.
2. Amend the provisions of Decree Law No. 36 of 2015 on the cessation of pension rights and benefits in case of the withdrawal, loss, or forfeiture of the Bahraini citizenship or acquiring a foreign nationality without permission.
3. Include the right of Bahraini women to grant the Bahraini citizenship to their children in the Citizenship Law, in accordance with legal regulations and in line with the relevant international human rights instruments.
4. Take legislative measures to grant the children of Bahraini women by a stateless father or a father of unknown nationality the right to Bahraini citizenship, similar to those who have a Bahraini mother and unknown father, or whose parentage is not legally proved.
5. Not to forfeit the Bahraini citizenship except in specific and exceptional cases stipulated in the law, and based on conclusive judicial decisions, provided that no person is rendered stateless in order to avoid a situation of stateless persons in the community because of its serious damage to stability.
6. Ensure that the forfeiture of citizenship does not extend to the family of the person whose citizenship is forfeited or who is born subsequent to the forfeiture, in accordance with the principle of personal punishment.

Fifth: Freedom of opinion and the right to expression and access to information

1. Expedite the issuance of an integrated law on the press, printing, publication and audio-visual, printed, and electronic media, in line with the international human rights instruments consistent with the right of individuals to freedom of opinion and expression.
2. Adopt the draft law on guaranteeing the right of access to information, as a key component of the freedom of opinion and the right to expression and media freedoms.
3. Grant all licensed political associations widest access to broadcast television, radio, and printed media.

Sixth: Right to freedom of movement and residence

1. Emphasis on compliance with the legal applicable regulation in the prevention of travel decisions.
2. Emphasis on compliance with the legal applicable regulation in the prevention of travel decisions.

The need to remedy the status of the children of the persons whose citizenship is forfeited, who are born subsequent to forfeiture, in order to enable them to move freely, especially in the event that the mother is Bahraini national.





Tel: +973 17 111 666, Fax: +973 17 111 600, P.O. Box 10808, Manama, **Kingdom of Bahrain**

www.mhr.org.bh

info@mhr.org.bh



[mhrbh](#)



+973 396 366 43