المؤسسة الوطنية لحقوق الإنسان
National Institution *for* Human Rights

Fourth Annual Report - 2016
National Institution for Human Rights
Kingdom of Bahrain

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"Work is the duty of every citizen, is required by personal dignity and is dictated by the public good. Every citizen has the right to work and to choose the type of work within the bounds of public order and decency"

Article 13.1 of the Constitution of the Kingdom of Bahrain

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Introduction

Since the King of Bahrain, His Majesty King Hamad bin Isa Al Khalifa, ascended to throne in 1999, the Kingdom of Bahrain experienced major changes towards fostering democracy, entrenching the foundations of the state of law, and building an integrated legislative and legal system, actual practices and public institutions to promote human rights. These changes constitute fundamental transformations aimed at promoting human rights and public freedoms and ensure people enjoyment of these rights.

The fourth annual report of the National Institution for Human Rights (2016) is released pursuant to Article 21 of Law No. 26 of 2014 on the Establishment of the National Institution for Human Rights, amended by Decree-Law No. 20 of 2016, which provides that: **"The Board of Commissioners shall prepare an annual report on NIHR efforts, activities, and other works, which shall include a section on the progress of the human rights condition in the Kingdom, and any recommendations and proposals within its mandate. The Board of Commissioners shall determine performance obstacles and any approved solutions to avoid such obstacles. The Board of Commissioners shall present its report to the King, the Council of Ministers, the House of Representatives, and Shura Council, and shall present in parallel its report to the public opinion".** This report outlines the condition of human rights in the Kingdom, with a review of NIHR efforts in the promotion and protection of human rights, taking into account the provisions of the Constitution and the relevant international instruments and standards of human rights.

The report consists of four chapters preceded by an introduction. Chapter I tackles the amendments to a number of the articles of Law No. 26 of 2014 on the Establishment of the National Institution for Human Rights, pursuant to Decree-Law No. 20 of 2016. Chapter II includes advisory opinions presented by NIHR to the legislative authority, the Council of Ministers (the executive authority) and the Supreme Judicial Council (the judicial authority).

Chapter III is dedicated to the review of NIHR role in the promotion and protection of human rights. Chapter IV is dedicated to indicating a number of key issues that are directly related to the reality of human rights. It outlines the human rights situation in the Kingdom, the role of the Court of Cassation in fair trial guarantees, the rights of domestic and foreign workers, developing reform and rehabilitation centers through alternative sanctions that do not deprive liberty, in addition to the benefits enjoyed by people with disabilities, and the obstacles they face, considering that they are the group that has priority to receive community care.

Finally, NIHR hopes that this report, as well as the preceding reports, will serve as a tool for promoting the human rights reality in the Kingdom, in line with Bahrain obligations arising from its ratification of or accession to human rights international instruments, or the submission of the treaty reports to the Human Rights Council. The ultimate objective of this report is to achieve the best practices as to enjoying the various rights and public freedoms.

Chapter I:
Amendments to the Law on the Establishment of the National Institution for Human Rights

1. In order to complement the efforts of His Majesty King Hamad bin Isa Al Khalifa, King of Bahrain, may God protect him, which were launched by establishing the NIHR on November 10, 2009, by virtue of the Royal Decree No. 46 of 2009, which was amended by the Royal Decree No. 28 of 2012, and the enactment of Law No. 26 of 2014 on the Establishment of NIHR, in order to create a genuine legal guarantee, provide complete independence for the NIHR, and grant it further mandates and powers in line with the Paris principles relating to the status of national institutions for the promotion and protection of human rights.

2. Accordingly, in order to obtain permanent and effective membership in the Global Alliance of National Human Rights Institutions (GANHRI), through which NIHR can participate actively in the Human Rights Council sessions, meetings of the treaty bodies, special procedures, sub-committees and task groups and forces, and speak as an official institution of the Kingdom that aims at the promotion and protection of human rights, on July 16, 2015, NIHR applied for accreditation to the Sub-Committee on Accreditation (SCA), which is affiliated to GANHRI. SCA is concerned with receiving national institutions applications for accreditation status. NIHR application was formally accepted on November 25, 2015. The consideration of NIHR application was scheduled on May 9, 2016 during the informal meeting of SCA. SCA requested NIHR to submit a report entitled "Statement of compliance with the Paris principles concerned with national human rights institutions", which should include a number of points related to NIHR foundation, independence, organization structure, working methods, terms of reference, general responsibilities and relationship with the authorities and bodies concerned with human rights.

3. NIHR sent the statement of compliance with the Paris Principles to SCA four months prior to the date scheduled for consideration of its application, according to the accreditation requirements. In turn, SCA issued a brief report on the compliance statement, in which it identified a number of issues, which it deemed important to focus on and incorporate in the applicable law to comply with the accreditation requirements. SCA communicated with NIHR Board of Commissioners on the date scheduled for consideration of the application for accreditation in May 2016 to clarify several issues.

4. In the light of the information provided by NIHR, and the discussions that took place between the Board of Commissioners and SCA, SCA issued its final report containing its recommendations, which was officially released on August 2, 2016. According to this report, NIHR obtained the accreditation status (B).

5. The Board of Commissioners held a meeting to consider these recommendations, which focused on procedural aspects that were not included in the Law on the Establishment of NIHR, although the practice upon which NIHR foundation, management and performance is based proves that a proper approach was adopted in its establishment. It also indicates the transparency that accompanied the selection, the concern with its independence and the balanced practice that governs performance of its obligations and fulfillment of its role.

6. Based on NIHR conviction that its current law, compared to the establishment laws of other institutions, is significantly advanced, the concern to provide a model law will be a prominent addition that confirms the status of human rights in the Kingdom of Bahrain and its outstanding leadership. The proposed amendments were presented to the competent authorities to conform with the essence of the reform led by His Majesty King Hamad bin Isa Al Khalifa, King of Bahrain, may God protect him. This affirms that Bahrain is moving forward in providing everything that would protect and promote the human rights status through supporting NIHR to acquire its rightful position among its peers in the international community.

7. The essence of the recommendations made by SAC, adopted by the Global Alliance of National Human Rights Institutions (GANHRI), based on which NIHR was awarded the accreditation degree of category (b), focused on the importance of incorporating in the establishment law a provision to the effect that the building should be accommodated for the use of persons with disabilities, and that the members of the legislative authority should not be the majority and their membership should not affect NIHR independence in order to avoid conflicts of interest between their political positions and their positions in NIHR.

8. SAC recommendations further noted the importance of the consultation and appointment process in NIHR to be broad and transparent and to based on clear and unified standards for assessing the merits of all qualified candidates. SAC considers the importance of formalizing the process of selection and appointment of NIHR decision-making body.

9. In its recommendations, SAC confirmed the importance for the Establishment Law of NIHR to provide that the members of its decision-making body should be full-time members, as this promotes the independence of national institutions without actual or perceived conflict of interests, achieves stability in the tenure of its members, provides regular and proper guidance to its officers, and ensures continuous and effective implementation of NIHR tasks.

10. With respect to NIHR competence in the field of the promotion and protection of human rights, SAC recommended that NIHR Law needs to include concluding unannounced visits to places of detention, or any other similar place, in order to monitor, investigate and report on human rights situation, effectively and in a timely manner, and conduct regular follow-up activities.

11. SAC also recommended that NIHR needs to formalize its relationship with civil society organizations, through regular and constructive interaction with all relevant stakeholders. In this regard, SAC commended NIHR efforts and interaction.

12. On the other hand, in this regard, SAC recommendations noted that the Establishment Law of NIHR lacks any provision that relates to effective dealing by the relevant ministries and parliamentary committee. In addition, the Law does not explain how does NIHR submits its budget, how it is approved and the importance of identifying the financial control so as not to prejudice its independence. With regard to NIHR annual reports, SAC recommendations stated that these reports should indicate human rights situation in the Kingdom, as this has a direct impact on the promotion and protection of human rights in the state system.

13. In pursuit of the belief of His Majesty the King in the importance of promoting and protecting human rights, on October 9, 2016, His Majesty promulgated Decree Law No. 20 of 2016 amending some provisions of the Law on the Establishment of the National Institution for Human Rights, in accordance with the recommendations made by the Sub-Committee on Accreditation (SCA), approved by Global Alliance of National Human Rights Institutions (GANHRI), in order to strengthen NIHR, grant it greater powers to achieve the objectives for which it was created and raise its internationally rating, which will reflect the Kingdom's commitment to the maintenance of human rights.

14. The amendments set out in the Decree Law No. 20 of 2016 amending certain provisions of Law No. 26 of 2014 on the Establishment of the National Institution for Human Rights include amendment to Article 4, which states provisions related to membership. It indicates the permissibility of selecting the members of the Board of Commissioners from the members of the legislative authority, provided that they are not the majority in the Board of Commissioners, and that they participate in the deliberations without having the right to vote. The said Article provides that the mechanism, procedures and controls of selecting the members of the Board of Commissioners should be decided by a royal decree to enhance the transparency of consultation and appointment process.

15. With respect to the fact that the members of the Board of Commissioners should be full-time members to perform their membership duties, Article 5 of the Law provides that the Royal Decree appointing the members of the Board of Commissioners should determine the full-time member, who performs his duties in NIHR on full-time basis and does not undertake another profession or employment during his membership, and the part-time member, who performs the duties of his NIHR membership in addition to undertaking another profession or employment, provided that the Chairman and Vice Chairman should be full-time members.

16. The amendments to Article 12 of the Law grants NIHR the mandate to perform announced and unannounced field visits, to monitor human rights situation in reform institutions, detention centers, labor assemblies, health and education centers, or any other public place. The said Article states the importance of holding meetings and joint activities, cooperation, coordination and consultation with civil society and non-governmental organizations and various other groups and human rights advocates, communicating directly with the claims of exposure to any form of abuse, and reporting back to the Board of Commissioners.

17. Article 14 of the Law grants NIHR the authority to request any information, reports or documents which it considers necessary for the attainment of its goals or the performance of its mandates from the ministries and relevant bodies in the Kingdom. It prescribes that these ministries and bodies shall cooperate with NIHR in the pursuit of its tasks, facilitate the conduct of its mandates, provide it with its requests in this regard, and prepare responses and remarks on the recommendations set out in NIHR reports, in accordance with the laws and regulations applicable by these bodies.

18. With respect to conflict of interests, Article 5 (bis) of the Law provides that with the exception of the rights and benefits allocated to a member of the Board of Commissioners in this Law, the member is prohibited from receiving any financial fee for performing any service or work - as a member of NIHR. Subsequently, Article 10 provides that the Members of the Board of Commissioners may not be displaced and that their membership will terminate only in the cases and in accordance with the procedures set forth in the Law.

19. As regards the financial resources of NIHR, Article 20 of the Law provides that NIHR shall have sufficient financial resources to enable it to undertake its mandates and the tasks assigned to it to the best of its ability. It shall have the necessary financial resources to be allocated in a separate item of the state budget issued under a law. NIHR shall manage and control its financial resources with complete independence. NIHR accounts shall be subject to the supervision of the Financial and Administrative Control Bureau.

20. The amended Article 21 of the Law provides that the Board of Commissioners shall prepare an annual report on NIHR efforts, activities, and other works. It shall include a section that indicates the progress on human rights condition in the Kingdom, and any recommendations and proposals within its mandate. The Board of Commissioners shall determine performance obstacles and any approved solutions to avoid such obstacles. The Board of Commissioners shall present its report to the King, the Council of Ministers, the House of Representatives, and Shura Council, and shall present in parallel its report to the public opinion.

Chapter II:
Advisory Opinions Submitted by the National Institution for Human Rights

Preface

The promotion of the ratification of or accession to international human rights instruments and ensuring their effective implementation is a key function of the national human rights institutions. However, it extends to the need to conduct assessments of the extent of the State compliance with the international obligations arising from the ratification or accession and proposing legislation, regulations or practices and modification of the existing ones in line with the relevant international standards[1].

Back to the provisions of Law No. 26 of 2014 on the Establishment of the National Institution for Human Rights, amended under Decree-Law No. 20 of 2016, Article 12, paragraph (b) acknowledges explicitly that NIHR has the mandate to **"Study legislation and regulations enforced in the Kingdom which come 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".** Paragraph "c" of the said Article provides that: **"NIHR shall be empowered to study the conformity of legislation and organization of regional and international treaties related to human right, and submit proposals and recommendations to the concerned authorities on any matter that reinforces and protects human rights, including recommendations to join regional and international conventions and treaties concerned with human rights".** These mandates are reflection of Paris Principles and the general observations of the Sub-Committee on Accreditation (SCA).

In order to effectuate this jurisdiction, NIHR stated its views on two requests received from the Shura Council on a draft law and a proposed law. It stated its advisory opinion on five requests on the proposals referred to it by the House of Representatives. It also referred, on its own motion, an advisory opinion to the Council of Ministers (Executive Authority) to amend the national legislation to be in line with the international standards of human rights. The Council of Ministers - in accordance with the provisions of the Constitution - refers draft laws to the legislative authority. NIHR also referred a proposal to the Supreme Judicial Council (Judicial Authority) on the establishment of a public prosecution specialized in environment and court circuits specialized in environmental irregularities and crimes.

Thus, this Chapter addresses the advisory opinions presented by NIHR. It includes three main sections: the first is devoted to reviewing NIHR views referred to the legislative authority. The second section indicates NIHR views referred to the Council of Ministers (Executive Authority). The third section addresses NIHR proposal referred to the Supreme Judicial Council (Judicial Authority) on the topics which are considered to have a direct impact on human rights and fundamental freedoms.

[1] Paris Principles Relating to the Status of National Institutions for the Promotion and Protection of Human Rights - Competences and Responsibilities - paragraph (3), p. 5-General Observation (1-3) Encouraging the ratification of or accession to international human rights instruments - p. 91.

Section I:
Advisory Opinions Submitted to the Legislative Authority

(1) Shura Council

In appreciation of the efforts of the Shura Council as to all issues related to human rights, during the period of the report, NIHR received two requests for its views on the draft law and the proposed law.

First: Proposal to amend Law Decree No. (3) of 2002 on the Election of the Members of Municipal Councils

1. NIHR referred its advisory opinion on the draft law amending Law No. (3) of 2002 on the Election of the Members of Municipal Councils, which includes aggravating the prescribed penalties for electoral crimes stipulated in Article 30 of the Decree Law No. 3 of 2002 on the Election of the Members of Municipal Councils.

2. The draft law provides for aggravating the penalty set out in Article 30 of the Decree –Law on the crimes of the electoral process to (imprisonment for no more than two years and a penalty of no more than BHD Two Thousand, or by either punishment) instead of (imprisonment for no more than three months and a penalty of no more than BHD Two Hundred, or by either punishment) in addition to including a paragraph that does not permit the suspension of the enforcement of the penalty related to the crimes set out in this Article and increasing the prescription period of the criminal case or the civil case for the crimes set out in this Article to six months instead of three months.

3. In its proposed law, NIHR focused and stated that most provisions of the proposed law under consideration aggravate the penalty prescribed for electoral crimes. The proposed aggravation of penalties aim at general and specific deterrence from committing this type of crimes, in proportion with their gravity. It is not the type of aggravation that has an impact on people enjoyment of fundamental rights and freedoms. Moreover, the proposed amendments do not represent a violation of human rights, as set out in human rights international instruments.

Second: A draft law amending some provisions of the Code of Criminal Procedure promulgated by Decree Law No. 46 of 2002 (prepared in light of the draft law submitted by the House of Representatives)

1. NIHR referred its advisory opinion on the draft law amending some provisions of the Code of Criminal Procedure promulgated by Decree Law No. 46 of 2002, which includes four articles. The first articles includes substituting a number of articles. The second article provides for adding a paragraph to Article 142 and adding two articles. The third article provides for repealing a paragraph of Article 147. The fourth article is an executive article.

2. However, according to NIHR mandate, the advisory opinion is restricted to the legal provisions which it deemed to have an impact on or prejudice human rights and fundamental freedoms, in particular, Articles 57, 63, 64, 77, 84 (Clause 1), 86 (Clause 1, 141, 149, 294 (Clause 1), 297, 142 (bis) of the draft law. With respect to formal remarks (related to language and legal wording) and substantive remarks (related to purport), NIHR referred to the opinion memorandum of the government and the memorandum of the Legislation and Legal Opinion Commission attached to the draft law.

3. Article 53 provides that: **"A judicial summary arrest officer shall immediately hear the statements of the accused following his arrest. If he fails to provide evidence of his acquittal, he shall send him to the Public Prosecution within 12 hours. The Public Prosecution shall interrogate him within 12 hours and shall then order his imprisonment or release".** In the statement of its views, NIHR indicated that the draft law reduces the period prescribed for the arrest officers and the public prosecution in the event of arresting or interrogating the accused to twelve hours instead of twenty-four hours, as originally set forth in the Law, which is a commended approach that is consistent with the second and third paragraphs of Article No. (9) of the International Covenant on Civil and Political Rights, to which the Kingdom of Bahrain acceded under Law No. 56 of 2006, which provides for the need to inform the accused "expeditiously" of the charge attributed to him and that he shall be entitled to trial within a "reasonable time" or should be released. However, the reduction of this period to twelve hours is probably not consistent with the purpose of listening to the accused by the law enforcement officers or the public prosecutor during the interrogation, as it is a short time that is not commensurate with the procedures to be followed by those bodies to achieve justice.

4. The Human Rights Committee, entrusted with the interpretation of the provisions of the International Covenant on Civil and Political Rights, indicates the meaning of the term "expeditiously"[2]. It identifies that this period should not be no more than forty-eight hours, which is in line with the course adopted in the original law that the accused should enjoy the prescribed guarantees during the period of his arrest.

5. Therefore, NIHR believes that the period prescribed by the provision as stated in the original law, which is forty-eight hours, is consistent with the international instruments relevant to human rights as well as the requirements of justice.

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[2] Concluding observations of the Human Rights Committee during its consideration of periodic reports of States Parties to the International Covenant on Civil and Political Rights, including (Uzbekistan)
Document No. (CCPR/CO/83/UZB), (Ukraine): Document No. (CCPR/C/UKR/CO/6), (Moldova) Document No. (CCPR/C/MDA/CO/2).

6. Article 63 provides that: **"The Higher Civil Court of Appeal President, High Civil Court President, execution judges, and members of the Public Prosecution shall be empowered to visit and inspect prisons periodically every three months and report this to the Supreme Judicial Council. b. Without prejudice to the foregoing clause, the Higher Civil Court of Appeal President, High Civil Court President, execution judges, and members of the Public Prosecution shall be empowered to inspect prisons to satisfy themselves that there is no person who is illegally imprisoned. They shall be empowered to have access to the prison books and arrest and imprisonment warrants, obtain copies thereof, contact with any prisoner and hear from him any complaint that he may have. The prison officers and staff shall render to them all assistance to obtain the information they request".**

7. NIHR concurs with the provision set out in the draft law, which prescribes that there should be an independent, periodic and regular judicial oversight of the reform and rehabilitation institutions, as it ensures the correct implementation of the judicial decisions issued by courts of different types. In addition, it is a control that ensures the rights and freedoms of the detainees, as decided by the provisions of the Constitution, the law and international conventions acceded to or ratified by the Kingdom of Bahrain.

8. In its views, NIHR confirmed that the said article set out in the original law grants the judicial authority the right to control and inspect reform and rehabilitation institutions, which is a principle consistent with the need for an independent judicial control over those institutions. This control and visits should be performed regularly every three months. It creates an independent and effective control that ensures correct implementation of the decisions issued by courts of different types. Such control ensures the rights and freedoms of the detainees set out in the provisions of the Constitution, the law and international conventions acceded to or ratified by the Kingdom of Bahrain and is consistent with the relevant provisions set out in Law No. 18 of 2014 Enacting the Reform and Rehabilitation Institutions Law, especially Article 63 thereof.

9. Article 64 provides that: **"Every prisoner shall be entitled to file at any time with the prison officer a written or verbal complaint to be reported to the High Civil Court of Appeal President, High Civil Court President, execution judge or Public Prosecution. The complaint may be submitted in a closed envelop. The said officer shall accept the complaint and submit to the complainant a receipt indicating the receipt of the complaint and the date of receipt. The officer shall report it immediately to the concerned person after recording it in the register maintained for this purpose in the prison. A document indicating that the complaint has been sent to the party to which it is addressed shall be attached to the prisoner file no later than three days from the date of receiving the complaint, after entering it in the register prepared for this purpose in the prison. The prisoner file shall also include a document that indicates that the complaint has been sent to the party to which it is addressed and the notification date. Everyone who becomes aware of any person who is illegally imprisoned or kept in a place that is not intended for imprisonment shall give notice to the execution judge or a member of the public prosecution, as stated in the foregoing paragraph. The execution judge or a member of the public prosecution shall be required to immediately**

call at the place in which the prisoner is detained and carry out an investigation and then order the release of the prisoner who is illegally detained. He shall draw up a statement to this effect to be sent to the Public Prosecution for taking legal action towards the person responsible for such imprisonment. If an order is issued for dismissing the complaint by the party to which it is addressed, the complainant shall be informed accordingly".

10. NIHR believes that the legal provisions set out in the article stated in the original law is more general and comprehensive and provides more secure guarantee of the rights and freedoms of the detainees. The article as stated in the draft law is limited to filing the complaint in writing, while the original article permits filing the complaint in writing or orally. In certain cases, it is not possible to file the complaint in writing. In addition, the article in the draft law restricts the public prosecutor authority to taking legal action towards the person responsible for the illegal imprisonment of the convicted or at a place not designated for imprisonment, to the exclusion of any other procedure. On the other hand, the original provision grants the public prosecutor the right to take any legal action that ensures commencing a criminal case against the person responsible for the illegal imprisonment and notify the competent authority, in his capacity as a public servant, to take disciplinary action against him.

11. Thus, the legal provisions set out in the article of the original law are more general and comprehensive and guarantee the rights of detainees to file written and verbal complaints under the umbrella of independent judicial oversight.

12. Article 77 provides that: **"Judicial arrest officers shall, in the course of carrying out their duties, be empowered to seek the direct assistance of the military force with the permission of the competent public prosecution".** NIHR concurs that the judicial arrest officers should have the power to seek the assistance of military force, when necessary, with the permission of the competent public prosecution.

13. NIHR believes that the provision set out in the draft law that the judicial arrest officers may, when necessary, seek the assistance of military force, subject to a permission by the public prosecution, is a judicial guarantee that is in line with the international instruments of human rights. In particular, Article 44 of the Law provides that: **"Judicial arrest officers shall report to the Public Prosecutor and be subject to his supervision with respect to their job duties".** Therefore, it is necessary for this power to be coupled with a permission by the competent public prosecution, which is not contrary to the urgency or intervention required in cases of necessity.

14. Clause 1 of Article 84 provides that: **"The accused, victim, the plaintiff who claims civil rights, the person responsible for them, and their attorneys shall be entitled to attend all investigation proecdures. A public prosecution member shall give them notice of the day and time on which the investigation procedures take place and venue thereof".** Accordingly, NIHR believes that determining the day, time, and place where investigation will be carried out achieves justice for all parties to the criminal case and is in line with the international instruments related to human rights.

15. In its views, NIHR noted that the addition of the word (time) as stipulated in the draft law, in the cases where the public prosecution member conducts the investigation procedure, is in line with the actual empowerment of the accused to seek the assistance of an attorney during the investigation in particular. This is supported by the position adopted by the Human Rights Committee during its consideration of the reports of the States Parties to the International Covenant on Civil and Political Rights[3], to which the Kingdom of Bahrain acceded under law No. 56 of 2006.

16. Clause 1 of Article 86 provides that: **"In all cases where another member is designated to conduct certain investigations, a member of the Public Prosecution shall ensure that the delegation decision is written and indicates the issues required to be investigated or the procedures required to be taken".** NIHR agrees with the draft law that the delegation decision issued by the public prosecution should be in writing.

17. NIHR believes that the provision set out in the draft law that the delegation decision issued by the public prosecution should be written and indicate the issues required to be investigated or the actions required to be taken ensures an actual guarantee for the parties to the criminal case or the other concerned parties, particularly in the evidence process. In addition, the investigation procedures, including the delegation decisions, can be verified and considered before the competent court, which will make it easier for the court, upon drafting the delegation decision, to verify all investigation procedures.

18. Article 141 provides that: **"A public prosecution member shall immediately interrogate the accused who has been arrested. If this is not feasible, he shall order his detention in a place intended for such detention pending his interrogation. The period of detention shall not be more than 12 hours. Upon the expiry of this period, the administrator of such place shall refer him to the public prosecution. The public prosecution shall interrogate him immediately; otherwise, it shall order his release".** NIHR believes that the period prescribed by the provision, as stated in the original law, which is twenty-four hours, is in line with the international instruments related to human rights and achieves justice.

19. Article 149 provides that: **"The Public Prosecution shall be empowered, at all times, to order the temporary release of the accused who is remanded in custody, of its own initiative or upon the accused arrest, provided that the accused shall submit a bail and undertake to be present, whenever he is requested to do so, and not to abscond from the enforcement of the decision that may be handed down against him. The application submitted by the accused who is remanded in custody shall be decided upon within twenty-four hours from the date of the application. The person whose application is rejected may appeal to the executive judge within three days from the rejection date. The judge shall decide upon the appeal within three days from filing the appeal after review of the documents of the public prosecution and the documents of the accused. The appeal shall be conducted in accordance with Article 158 of this Law".**

[3] Concluding observations of the Human Rights Committee during its consideration of periodic reports of States Parties to the International Covenant on Civil and Political Rights, including (Ireland): Document No. (CCPR/C/IRL/CO/ 3), (Netherlands): Document No. (CCPR/C/NLD/CO/4).

20. In its views, NIHR indicated that granting the accused the right to appeal from the decision sentencing him to provisional imprisonment is in line with the rights of the accused adopted by the international human rights instruments in this regard. However, to achieve effective appeal, it should be a hierarchal appeal starting from the president of the entity that issued the decision and ending with another judicial body in order to ensure prompt consideration of the appeal by the competent authority by granting the accused the right to apply for his release to the competent public prosecution. If his application is rejected, he may appeal the decision to the public prosecution within 48 hours from the date of the application. The lapse of the aforesaid period without deciding on the appeal is considered as rejection of the appeal. In this case, the appeal will be automatically referred to the competent court, which shall decide on the appeal within three days.

21. Accordingly, NIHR believes that it agrees in principle with the provision set out in the draft law that states that the accused may appeal from the provisional imprisonment decision issued against him. However, in order to achieve effective appeal, it should be a hierarchal appeal starting from the president of the entity that issued the decision up to the competent court, according to the above mentioned grounds.

22. Clause 1 of Article 294 provides that: **"An appeal shall be filed by submitting a report to the Clerks Department of the court that handed down the judgment or before the prison officer within 30 days from the date of pronouncing the judgment in presence or the judgment given in respect of an objection, from the expiry date of the time limit prescribed for contesting a judgment in absentia, or from the date of the judgment considering it null and void".**

23. NIHR agrees with the stated amendment. It believes that extending the time limit for appeal as to the person against whom the decision is issued from 15 days, as stated in the original Law, to thirty days, is in line with Article 295 of the said Law, which grants the public prosecution thirty days for appeal as of the date of the decision issuance. In addition, extending the time limit of appeal grants the person against whom the decision is issued an enough period to prepare his procedural and substantive defense. Clause 5 of Article 14 provides that: **"Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law".**

24. Article 297 provides that: **"If the litigant files an appeal within the prescribed 30-day period, the time limit for the appeal shall be extended for the remaining litigants who have the right to appeal by attendance in the scheduled hearing".** With respect to this Article of the draft law, NIHR refers to the grounds stated in connection with Clause 1 of Article 294 above in order to avoid repetition and prolongation. Therefore, NIHR agrees with the amendment set out in the draft law on the basis of the aforementioned grounds.

25. The last Article 142 (bis) provides that: **"a. The accused against whom the provisional imprisonment order is issued may appeal from the decision within twenty-four hours from the date of the decision. If it is decided to reject the appeal, the rejection shall be reasoned. b. The person whose appeal is rejected or who does not file the appeal within the prescribed limit may appeal the provisional detention order or the rejection decision before the executive judge within three days from the date of the rejection decision or the lapse of the appeal time limit set out in the preceding clause. The judge shall decide on the appeal within three days from the filing date, after perusal of the documents".** In principle, NIHR agrees with the article set out in the draft law. However, the justifications indicated by NIHR concerning Article 149 of the draft law should be taken into account.

(2) House of Representatives

In appreciation of the efforts of the House of Representatives with respect to human rights issues, NIHR, within the reporting period, received five requests for its insights on five draft laws.

First: Draft Law Amending Articles 27 and 41 of Law No. 18 of 2014 Promulgating Reform and Rehabilitation Institution

1. NIHR presented its advisory opinion on the draft law amending Articles 27 and 41 of the Law No. 18 of 2014 Promulgating the Reform and Rehabilitation Law. It referred to the proposal to add the following clause: **"The Center management shall convene periodic meetings for preaching and religious guidance by specialists of official bodies to provide the inmates with moderate and proper religious teaching, which will better integrate them in the community after the end of their sentence period",** to Article 27, which provides as follows: **"The Center management shall respect the sentiments of the inmates and the provisional detainees by granting them the right to perform their religious rituals on time, without prejudice to the security and order of the center".** In its views, NIHR indicated that the amendment of the above Article by adding a paragraph on organizing regular meetings for religious guidance and counseling in order to integrate the inmates in the community after the completion of their sentence period does not entail any violation of the fundamental rights. Therefore, it is of the opinion that the original provision of the article should be maintained.

2. With respect to the addition of the following paragraph: **"The visit time shall be coordinated to include attending the funeral of the deceased or the mourning ceremonies"** to Article 41, which provides as follows: **"The inmate or his second-degree relatives may request a special visit if there is reason to do so. The head of the center shall determine the circumstances of each case. The Director of the Institution, upon the approval of the Minister, or his deputy, may authorize the inmate visit to his family in the case of the death of one of his second-degree relatives, or in any other case determined by the management of the Institution. In all cases, the Executive Regulation shall determine the visit procedures, conditions, eligibility requirements, and duration".**

3. NIHR believes that the amendment of the Article above by adding a paragraph relating to the inmate permission to attend the funeral or the mourning ceremonies of a deceased second -degree relative entrenches the inmate right to contact with the outside world, which is necessary to rehabilitate and integrate the inmate socially. In addition, it is consistent with the international human rights standards, which affirm the right of the detainees to receive humane treatment based on their inherent dignity[4].

4. NIHR confirms that the inmate right to contact his family, especially in the critical circumstances, is enshrined in the Constitution of the Kingdom of Bahrain. Article 5 of the Constitution of the Kingdom of Bahrain provides that: **"The law protects the family and preserves its bonds and values. The State ensures the realization of the necessary social solidarity of citizens".** Therefore, the detainee right to contact with the outside world is a necessary requirement to protect the right to private and family life, a motive for the inmate to maintain his mental state, and a support to him that gives him the ability to interact with the detention environment. With regard to the inmate participation in the mourning ceremony or the funeral of the deceased, this grants the inmate the last chance to see his deceased relatives, especially if the last time he saw them was long ago.

5. Accordingly, in principle, NIHR agrees with the draft law. However, it believes that while the mandate of the director of the reform and rehabilitation center is an organizational mandate within the framework of the institution itself, granting the Minister the authority to give the inmate the permission may be inconsistent with the mandates granted to the executive judge. The inmate attendance of the funeral and mourning ceremonies is considered as suspension of the punishment on temporary basis. This is exclusively decided by the executive judge without any review. This requires the amendment of the executive regulation of the law, which identifies the visit procedures, eligibility requirements and duration.

6. Based on the above, NIHR is of the opinion that the original provision should be amended as follows: **"The inmate or his second-degree relatives may request a special visit if there is reason to do so. The head of the center shall determine the circumstances of each case. The executive judge, at the request of the institution, may permit the inmate absence in the case of the death of one of his second-degree relatives to attend the funeral or the mourning ceremony, or in any other case determined by the management of the institution. In all cases, the executive regulation shall determine the visit or absence procedures, duration and controls".**

Second: Proposed law entailing the amendment of some of the provisions of Law No. (37) of 2012 enacting the Child Law

1. The NIHR submitted its advisory opinion on the proposed law on the amendment of some of the provisions of Law No. (37) of 2012 enacting the Child Law which entails replacing the provisions of articles (11), (12), (18), (19), (20), (21), (22), (23), (25), (26), (28), (38), (40), (43), (51), (54), (55), and (56) of Law No. (37) of 2012 issuing the Child Law.

[4] Article 10 of the International Covenant on Civil and Political Rights, to which the Government of the Kingdom of Bahrain acceded under Law No. 56 of 2006. Under Article 37 of the Constitution of the Kingdom of Bahrain, the Covenant is part of the applicable national legislation.

2. However, according to its mandate, the advisory opinion of the NIHR was limited to the legal texts deemed to relate or have an impact on the basic human rights and freedoms.

3. Pertaining to article No. (11), which stipulates that: **"A National Commission for Childhood shall be formed by a decision of the Council of Ministers headed by the Minister of Labor and Social Development; its membership consists of representatives from the Ministry of Labor and Social Development, the Ministry of Interior, the National Institution for Human Rights, the Ministry of Education, The Supreme Council for women, the Public Prosecution, General prosecutor's Office, the Ministry of Information, the Ministry of Health, the Ministry of Justice, Islamic Affairs and Awqaf, the Ministry of Foreign Affairs, the University of Bahrain, the Ministry of Youth and Sports, and two members from civil society organizations specialized in childhood;"** and article No. (12), which includes the jurisdiction of the National Commission for Childhood; and article No. (51), which stipulates that: **"The Child Protection Center shall have a board of directors and shall be formed every three years by a decision of the Minister of Labor and Social Development; it includes representatives from the Ministries of Justice, Islamic Affairs, and Awqaf, Interior, Health, Education, Labor and Social Development, and the Ministry of Information, the National Institution for Human Rights, the Supreme Council for women, and two members representing the civil society organizations."**

4. The NIHR agrees on the significance of its involvement in specific categories of human rights national committees, or centers for the protection of a certain human right, as this membership brings forth participatory work between the NIHR and the concerned governmental agencies and civil society organizations; and positively influences the strengthening and protection of human rights of the said category in the state system. Nevertheless, it is necessary, in all cases, to understand that it is the duty of the NIHR in the exercise of its membership in the national committees or the specialized centers, to be consistent with its mandate stipulated in the law establishing the NIHR. This also extends to its membership of the National Commission for Childhood and the Board of Directors of the Child Protection Center, both consisting of members from the concerned ministries and governmental agencies, as well as the relevant civil society organizations.

5. With respect to article No. (18), which states that: **"Every appropriate place designated for the care of children who have not attained the age of three is a nursery. Nurseries are licensed by the Ministry of Labor and Social Development. The Ministry monitors and supervises the nurseries, and the NIHR conducts regular supervisory visits to these places. The Minister of Labor and Social Development issues the pertaining rules and decisions,"** and article No. (19), which includes the goals and objectives to be attained by nurseries.

6. The NIHR agrees in principle that a nursery is a place dedicated to care for children who are under the age of three, as stated in the text of the proposed law, rather than the age of four as stated in the original law. However, in this regard, it is necessary to refer to the competent governmental body having the original jurisdiction to be familiar with its views about this issue. Furthermore, the NIHR considers that to be entitled to conduct periodic control over nurseries is in fact achieved on the ground and in a broader and more comprehensive way pursuant to paragraphs (d) and (g) of article No. (12) of the Law establishing the NIHR.

7. In connection with article No. (55) of the proposed law, which stipulates that: **"The Director of the Child Protection Center prepares a report every three months on the Center's activities, in general, and on the cases received by the Center and the procedures followed to deal with them, in particular. An annual report is also required on the activities of the Center during the previous fiscal year, the obstacles facing the Center, and the proposed solutions in this regard. The Director presents all the reports before the Board of Directors in a timely manner as scheduled for each report; and within two months of the fiscal year end date for the annual report on the financial situation of the Center, provided the Board of Directors submits the report to the Minister of Labor and Social Development supplemented with the Board's observations for the Ministry to take the necessary action in this regard."**

8. The NIHR has made it clear in its views that it agrees in principle with the requirement stipulating that the Board of Directors of the Child Protection Center prepares periodic reports on the Center's efforts, activities and other works, as well as its financial reports. However, it is advisable that the periodicity of the Center's reports is annual or bi-annual at most, as the three months period is a short time to prepare such reports. Besides, it is necessary to refer to the competent governmental body having the original jurisdiction to be familiar with its views in this regard, in view of the fact that the explanatory note attached with the proposed law did not have any reference or explanation for this amendment.

9. With regard to article No. (20), which states that: **"Natural or legal persons shall be licensed to establish nurseries in accordance with the provisions established by a decision of the Minister of Labor and Social Development. The decision to grant or reject a license shall be issued within (thirty days) of the date of submission of the application, failure to make a decision within the mentioned period is considered rejection of the application. The person, whose application is rejected, explicitly or legally, may appeal before the competent court within (thirty days) from the date of notification of the rejection decision or the expiration of the specified period to decide on the application. The licensee shall develop internal regulations (by-law) for the nursery within (thirty days) from the date of issuance of the license, which shall be approved by the Ministry of Labor and Social Development. A decision by the Minister of Labor and Social Development defining the rules and conditions to be included in the standard internal regulations for nurseries shall be issued following consideration by the NIHR and obtaining its comments on such."**

10. Article No. (21), which stipulates that: **"The competent technical bodies at the Ministry of Labor and Social Development shall assume technical inspection and financial and administrative oversight of the nurseries, to verify its compliance with the provisions of this Law and the issued resolutions executing it. In addition, the Ministry of Labor and Social Development, after briefing the NIHR on the findings of the supervision, notifies the nursery of the observed violations with a warning to rectify the breaches within a reasonable period to be specified in the warning."**

11. Article no. (23), which stipulates that: **"The Minister of Labor and Social Development may, in the event of the presence of imminent threats to the safety and health of children, and after the NIHR comments of approval, close down the nursery temporarily until the situation is rectified within ten working days. The closure decision shall be effective if the reasons for such remain. It was still reasons. The owner of the nursery may appeal against the decision before the Court of Urgent Matters within thirty days from the date of notification."** Article No. (38), which states that: **"The State shall be responsible for establishing children libraries in all governorates of the Kingdom and a decision shall be issued in this regard by the Ministry of Education. It also establishes children clubs taking into account the needs of children with disabilities affiliated with the Ministry of Human Rights and Social Development; a decision by the Minister of Labor and Social Development shall be issued on establishing and organizing such clubs, in coordination with the NIHR and other stakeholders."**

12. Article No. (43), which stipulates that: **"A center at the Ministry of Labor and Social Development shall be established, called the "Child Protection Center ", which includes in its organizational structure branch offices of the Ministries of Justice, Interior, Health, Education, Foreign Affairs, and the NIHR."**

13. Article No. (56), which stipulates that: **"If the child is in urgent need of protection, or is likely leaving the Country, the Public Prosecution may, at the request of the Director of the Center, issue an interim order to transfer child care outside of the family, provided the case is presented before the competent court on the first business day to make a decision or to identify the person or entity having the obligation to supervise the child or to take care of him, temporarily or permanently, and the amount of expenses and the person in charge of such. The Ministry of Labor and Social Development, in coordination with the NIHR, shall undertake allocating a safe place for taking care of the child outside his family, temporarily or permanently, for the reason that the child is subjected to ill-treatment and abuse by his parents or by the person in-charge of nurturing him."**

14. The NIHR considers that its mandate stipulated in article No. (12) of 2014 of the law establishing it and its amendments, is on the whole more precise and detailed than is prescribed in the provisions of the articles contained in the proposed law under consideration. Therefore, the powers to be given to the NIHR are in fact realized on the ground without the need to amend the Child Law, which was issued recently. In addition, some of the jurisdictions contained in the proposed law are under the mandate of the competent government agency; therefore, the role of the NIHR follows later represented in supervision and monitoring of its work.

15. As for article No. (22), which stipulates that: **"The Minister of Justice, Islamic Affairs and Endowments (Awqaf) shall, in agreement with the Minister of Labor and Social Development, issue a decision to empower some of the employees of the competent bodies referred to in article No. (21) of this Law the status of law enforcement officers."**

16. Article No. (25), which states that: **"The Ministry of Labor and Social Development shall establish a system of alternative care, which aims to provide social, psychological and health care for children whose circumstances prevented them from continuing to live with their natural families; a decision from the Minister of Labor and Social Development shall be issued to organize alternative care."**

17. Article No. (26), which states that: **"The social care institution for children deprived of parental care means all shelters for children, and includes those children deprived of family care, or those with unknown father or parents or orphans, or the like. The child may remain in the institution if he is enrolled in higher education until his graduation, if the circumstances that led him to join the institution still exist, and that he has successfully passed the stages of education. A decision by the Minister of Labor and Social Development shall be issued specifying a model regulation for those institutions and the information contained in such."**

18. Article No. (28), which states that: **"The Ministry of Labor and Social Development is committed to the allocation of places in the community centers in all governorates of the Kingdom for the implementation of visiting rules, that works during morning and evening periods throughout the week, and to provide specialized staff."**

19. Article No. (40), which stipulates that: **"The prohibition on media shown to children in cinemas and similar public places shall be in accordance with the rules and conditions to be determined by a decision of the Minister of Information Affairs and the Culture and Antiquities Authority. Opportunists, managers of cinemas, profiteers, concert supervisors, and ushers are prohibited from allowing children to enter these theaters or to watch what is being screened if the show is prohibited for children as determined by the competent authority; it is also prohibited to go together with a child to watch such movies or concerts."**

20. Article No. (54), which stipulates that: **"(a) the Child Protection Center shall have a Director who is appointed pursuant to a decision of the Minister of Labor and Social Development on the recommendation of the Center's Board of Directors. (b) The Child Protection Center shall be managed by a full-time competent Director, who manages the administrative and technical affairs of the Center and oversees the progress of work."**

21. The NIHR is in favor of introducing a new article in the proposed law stipulating the replacement of the term (Ministry of Human Rights and Social Development) with the term (Ministry of Children's Affairs), and the replacement of the term (Minister of Human Rights and Social Development) with the term (Minister of Children's Affairs), wherever mentioned in this law, in order to avoid repetition and lengthy proposal. This is consistent with the proper approach adopted by the Bahraini legislator in the formulation of national laws and legislation. In addition, article No. (40) of the proposed law replaced the term (Minister of culture) with the term (Minister of Information Affairs and The Authority for Culture and Antiquities) whilst the official name of the Authority is (The Bahrain Authority for Culture and Antiquities).

Third: Proposed law amending the provision of article (127 bis) of Decree-by-Law No. 46 of 2002 promulgating the Code of Criminal Procedure

1. The NIHR referred its advisory opinion on the proposed law to amend the text of Article (127 bis) of the Decree-by-Law No. (46) of 2002 promulgating the Code of Criminal Procedure, in which the amendment stipulates that **"the public prosecution or the investigating judge or the competent court, based on the request of the victims or the witnesses or the informants or the experts or those who give information in the case, or according to what is perceived by the competent authorities from the investigations, and for acceptable considerations regarding their safety and the safety of people close to them, are entitled to order to take the necessary measures to protect them against potential danger which could threaten them because of, or in the event of testifying or coming forward with information. In such case, it shall order, with the consent of the victims or informants or witnesses or experts or the people who must be protected, to take all or some of the following measures until the danger is no longer existing: 1. relocation to a new place of residence. 2. change of identity. 3. ban the disclosure of any information about the identity, location, and place of residence of protected persons, or place restrictions on the circulation of some of this information. 4. provision of physical security for the protected person or around the house. 5. monitor means of communication and correspondence. In the case when any of the measures set out in the preceding paragraph are taken, a brief on the content of the testimony or the information shall be maintained in the investigation without disclosure of the real source until the circumstances that called for taking such measures no longer exist; or until the case is referred to the competent court and the permission to disclose the source's identity is issued by the court."**

2. The NIHR made it clear in its opinions that the Article under amendment is related to the human right to privacy, which is essential to personal freedom and underpins the enjoyment of all public rights and freedoms, and the resulting protection of human dignity and respect. The right to privacy extends to include the right of inviolability of the home, and the right of secrecy of communications, as both are physical translation of personal views or private opinions that may not be disclosed or intercepted by anyone except those meant to view such.

3. The proposed law has placed a fence of legal protection around the right of individuals to privacy by stating such in the Constitution of the Kingdom of Bahrain in article No. (26) thereof, which stipulates 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."** In addition, article No. (31) of the Constitution has referred regulating the rights and freedoms set forth in the Constitution to the law, provided that such regulation or limitation may not prejudice the essence of the right or freedom. Therefore, the freedom of correspondence, including telecommunications and electronic communications as means of correspondence, is a private freedom guaranteed to every individual. It is a public, basic, and private freedom guaranteed constitutionally to the citizen; from which, the principle of safeguarding the confidentiality of such communications stems. Without ensuring such confidentiality, the principle of the freedom and confidentiality of communication and correspondence becomes void content and meaning.

4. Accordingly, this right requires to be granted respect by the authority and the individuals. At the same time, it also requires to be guaranteed the constitutional and legal protection by the authorities against illegal abuse. However, the right to privacy is not an absolute right. It is restricted by public interest considerations, when the right and the interest of the country in maintaining its internal and external security and monitoring everything that might prejudice its system and the security of its citizens by controlling the criminal occurrence come first, before the individual's right to enjoy the confidentiality of privacy and not to breach its inviolability and reveal it without permission. It follows that public interest sets the limits of this right and defines its scope in accordance with the principle of legitimacy, by balancing between the individual's right to privacy and the right of the State to guarantee security and order.

5. With regard to item number **"5- Monitoring the means of communication and correspondence,"** the NIHR believes that, recognizing the right of the public prosecution to take several measures during the investigation period, including to seize letters, mail, newspapers, publications, parcels, and telegrams, as well as censor telecommunications conversations and correspondence, or order the recording of conversations that occurred in a special place where this is useful in revealing the truth in a felony or misdemeanor punishable by imprisonment. Yet, this can only take place within the judicial guarantee established by the legislature in accordance with the provisions of article No. (93) of the Decree-by-Law No. (46) of 2002 promulgating the Code of Criminal procedure; where the public prosecution obtains a substantiated permission from the Lower Court judge upon reviewing the bill of indictment for a period not exceeding 30 days which is renewable for another similar period(s).

6. The NIHR also considers that the above-mentioned exception stated in the text of article No. (26) of the Constitution on restricting the freedom and confidentiality of correspondence and communications, must not be interpreted widely. NIHR stresses that the frame of reference of this admissible exception, which limits the freedom and confidentiality of communications, should - in addition to being an exceptional and special case- be issued by law. Moreover, the public authority should not interfere with the exercise of this right except in accordance with the law and as necessity dictates in a democratic society "in favor of" national security, safeguarding of order, and crime prevention, or protection of public health and the accepted standards of behavior, or the protection of the rights and freedoms of the others.

7. Thus, the limits of any legislation that regulates a certain right must be in accordance with the frame of the constitutional text. Laws may not empty the essence of constitutional text, or infringe the basic public and personal rights or freedoms set forth herein, which are also guaranteed by the international legislation on human rights and the international instruments that the Kingdom of Bahrain has ratified[5], which are considered part of its the observed and enforceable laws; in accordance with article No. (37) of the Constitution, which stipulates that: **"The King shall conclude treaties by Decree, and shall communicate them to the Consultative Council and the Chamber of Deputies forthwith accompanied by the appropriate statement. A treaty shall have the force of law once it has been concluded and ratified and published in the Official Gazette".**

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[5] Article (12) of the International Declaration of Human Rights
Article (17) of the International Covenant on Civil and Political Rights

8. On the other hand, the NIHR asserts that the nature of the communication or correspondence requires that there be a caller, a callee, a sender, and a receiver. If one of them is accused, the other one is not. Therefore, it is imperative to adhere to the judicial safeguard referred to in Article (127 bis) of Decree-by-Law No. (46) of 2002 promulgating the Code of Criminal Procedure in order to ensure the right of the innocent to confidentiality of his private communications and correspondence.

9. In a related context, the right of the accused to enjoy the guarantees of a fair trial requires allowing him to communicate and consult with his lawyer at any time freely and confidentially without the possibility of hearing the conversation[6]. The provision of article No. (94) of the Decree-by-Law No. (46) of 2002 promulgating the Code of Criminal Procedure assures the confidentiality of the correspondence exchanged between the accused and the lawyer or the consulting expert. This leaves no room for doubt that the above article is consistent with the principle of presumption of innocence as well as considering the accused a person with maintained rights guaranteed in the Constitution.

10. Accordingly, the NIHR believes that some paragraphs of the proposed amendment are inconsistent with the requirements for the protection of human rights, and proposes to maintain the original text of article No. (127 bis) of Decree-by-Law No. (46) of 2002 promulgating the Code of Criminal Procedure for the mentioned reasons.

Fourth: NIHR views on the recommendation of a law amending some articles of Law No. (23) of 2014 on Issuing the Law of Traffic

1. The NIHR referred its advisory opinion on the recommendation of a law amending some articles of Law No. (23) of 2014 on issuing Traffic Law, which consists of two articles; the first article regarding adding a new article number (3 bis) and a third paragraph to article No. (27) of law No. (23) of 2014 issuing Traffic Law, and a second executive article.

2. Article No. 3 (bis) stipulated that: **"A fee is imposed on each vehicle owned by an expatriate for the use of state-owned public roads amounting to twice the prescribed fee for the issuance of the vehicle registration certificate. The fee shall be paid annually together with the vehicle registration fee". The third paragraph of article (27) provides that: "In determining the fees mentioned in the preceding paragraph, its value for the expatriate shall be twice that imposed for the Bahraini citizen; the citizens of the Gulf Cooperation Council (GCC) shall have the same treatment as Bahraini citizens."**

3. The NIHR indicated in presenting its opinion on the texts of articles No. (1), (2), and (5) of the International Convention on the Elimination of all Forms of Racial Discrimination, where the first paragraph of article (1) in Part I states that **"In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or**

[6] Eighteenth Principle of the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment

national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." The second paragraph of the same article states: **"This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens."**

4. Article (2) of the same Convention states that: **"States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end… (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group, or organization."** Article (5) of the Convention followed that: **"In compliance with the fundamental obligations laid down in article (2) of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law…".**

5. The **Committee on the Elimination of Racial Discrimination,** established under the International Convention on the Elimination of all Forms of Racial Discrimination, which is assigned to interpret the provisions of this Convention, commented on paragraph (2) of article (1) thereof that: **"1. Paragraph (1) of article (1) of the international Convention on the Elimination of all forms of racial discrimination defines racial discrimination. Paragraph (2) of article (1) excludes in this definition actions by a State party, which discriminate between citizens and non-citizens. Paragraph (3) of article (1) restricts paragraph (2) of article (1) by declaring that it is not permissible for States Parties with respect to non-citizens, to discriminate against any particular nationality."**

6. The Committee affirms that States parties are obliged to report fully upon legislation on foreigners and its implementation. The Committee further asserts that paragraph (2) of article (1) should not be interpreted in such a way that detracts from the rights and freedoms recognized and enunciated in other instruments, especially the Universal Declaration of Human Rights, the Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights[7] .

7. In the same context, the **Committee on the Elimination of Racial Discrimination, in the course of interpreting article (5) of the Convention, commented that: "2- Once a State imposes restriction on one of the rights listed in article (5) of the Convention ..., it must ensure that the restriction is not in conflict, in the purpose and in the outcome, with article (1) of the Convention, as an integral part of international human rights standards ..., 3- All persons living within a state must enjoy much of the rights and freedoms set forth in article (5), such as the right to equality before the courts; as for other rights, such as the right to participate in the elections, to vote, and to run for office; these are the rights of citizens [8]."**

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[7] General Recommendation XI of the Committee on the Elimination of Racial Discrimination on non-citizens (D-42/1993): http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N94/032/64/PDF/N9403264.pdf?OpenElement

[8] General Recommendation XX of the Committee on the Elimination of Racial Discrimination on non-citizens (D-48/1996): http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=A%2f51%2f18(SUPP)&Lang=en

8. The NIHR mentioned in the statement of its views that - commensurate with the provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, which the Government of the Kingdom of Bahrain acceded to under Decree No. (8) of 1990 - it asserts the need to prohibit and bring to an end any racial discrimination on the basis of race, color, descent, or national or ethnic origin, including discrimination, exclusion, restriction or preference between citizens and non-citizens.

9. In spite of the fact that paragraph (2) of article (1) of the International Convention on the Elimination of all Forms of Racial Discrimination is prima facie understood that any distinction, exclusion, restriction or preference between citizens and non-citizens is beyond the scope of its application. The "Committee on the Elimination of Racial Discrimination", entrusted with the interpretation of the provisions of this Convention, has explicitly acknowledged that the distinction, exclusion or preference permitted in the text is for the purpose of differentiating between citizens and non-citizens. An example of this is the state issuing identity cards to citizens different in form, shape, or color from those issued to non-citizens, since the purpose is to distinguish between the two categories and not to discriminate, exclude, or prefer between them.

10. Based on the above, the NIHR believes that the proposed law amending some provisions of Law No. (23) of 2014 issuing the Traffic Law, which proposed imposing a fee on each vehicle owned by an expatriate for the use of public roads amounting to twice the prescribed fee for the issuance of the vehicle registration certificate, although this fee is not originally imposed by law on citizens, is a discriminatory provision and leads to restriction, exclusion, or preference of a category over the other; its purpose is to discriminate between citizens and others. Thus, the proposed law is in conflict with international human rights standards, and does not stand up to Bahrain's international obligations in this regard.

Fifth: Proposed law entailing the amendment of the provision of article No. (60) of Law No. (37) of 2012 on the Child

1. The NIHR referred its advisory opinion on the proposed law to amend the text of article No. (60) of Law No. (37) of 2012 on the child, which included modifying the text of the article to stipulate that: **"It is prohibited to exploit children in political rallies, marches, and demonstrations; and it is also prohibited to use children in electoral propaganda or other procedures and stages of the elections in all its forms."**

2. The NIHR made it clear in its views that the rights of children require special protection that is different from the rest of the rights in its content and nature. Satisfying these rights requires the provision of a sound healthy psychological and social environment. This calls for continuing to improve the situation of children without discrimination, as well as nurturing and raising them in conditions of peace and security and keeping them away from the manifestations of exploitation that may expose them to risk. The NIHR stresses that it is inadmissible to involve children or force them into political conflicts, as the protection of children from political exploitation is one of the most genuine elements to protect their right to survive and thrive, to be able to contribute to community building and development. This was confirmed by the Constitution of the Kingdom of Bahrain in paragraph (a) of Article (5) thereof, which stipulates that: "The family is the basis of society, deriving its strength from religion and morality. The law preserves its lawful entity, strengthens its bonds and values, under its aegis extends protection to mothers and children, tends the young, protects them from exploitation, and safeguards them against moral, bodily, and spiritual neglect," and article No. (1) of the law under amendment to conform with the mentioned constitutional text.

3. Accordingly, the NIHR is in agreement with the amendment of the provision of article No. (60) of the mentioned law. It believes that this amendment is in line with the Kingdom's international obligations resulting from joining or ratification of the relevant international treaties on human rights, most notably the United Nations Convention on the Rights of the Child, adopted by the General Assembly in November 1989. The Government of the Kingdom of Bahrain acceded to the Convention in 1991, and became part of the national legislation pursuant to article No. (37) of the Constitution, thus completing the umbrella of legal protection of children from all aspects of exploitation that might face them, whether paid or free of charge.

Section II:
The advisory opinions submitted by the NIHR to the Council of Ministers (the executive branch)

1. The NIHR believes that the role it is entrusted with in the promotion and protection of human rights cannot be complete except with true partnership with the public authorities in the State, especially the executive branch represented by the Council of Ministers. This completeness is, perhaps, due to the power entrusted to the government in formulating proposals of laws referred to it by the Council of Representatives or the Shura Council, to be formulated in the constitutional instruments prescribed as bills; or in referring the proposals first to the two councils as bills put forward by the government. Accordingly, the NIHR, and within the timeframe of this report, has referred to the Council of Ministers (the government) one advisory opinion on amending the provision of paragraph (2) of article No. (21) of Law No. (74) of 2006 on the welfare, rehabilitation and employment of persons with disabilities.

2. The NIHR submitted a proposal on amending the text of paragraph (2) of article No. (21) of Law No. (74) of 2006 on the welfare, rehabilitation and employment of persons with disabilities. The NIHR made it clear in its advisory opinion that article No. (7) of the International Covenant on Civil and Political Rights, which the Kingdom of Bahrain acceded to under law No. (56) of 2006, stipulates that: **"No one shall be subjected to torture, or cruel, inhuman, or degrading treatment or punishment...".**

3. The Convention on the Rights of Persons with Disabilities, which has the power of the law, and was ratified by Law No. (22) of 2011, pointed in the second paragraph of article No. (15) of the Convention that: **"States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment";** and article No. (17) of the same Convention stipulated that: **"Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others".**

4. The NIHR appreciates the efforts being made by the legislative authority to provide a higher degree of care to people with disabilities. Such care is not a case of inequality; rather it is a positive discrimination for a particular category of persons who have the right to special care to ensure that their rights are protected against violation. This is shown in the provision of paragraph four of article No. (5) of the Convention on the Rights of Persons with Disabilities, which states that: **"Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention".** However, there are several observations that the NIHR have reported in its views.

5. The NIHR pointed out that the proposed text of the amendment brought about severe penalty for negligence in the care of the person with disabilities. The original provision prior to the amendment considered the act of violation a misdemeanor punishable by imprisonment. The proposed text of the amendment classified the negligence act in the same rank of felonies that requires imprisonment. Moreover, the proposed text of the amendment has increased the fine imposed on the act of violation, which is considered aggravation of the penalty, and thus, guaranteeing the protection of the rights of persons with disabilities. Additionally, the original text prior to the amendment, included in the end of the phrase "or one of these penalties". The amendment took away the discretion of the judge in the choice of punishment between fines or imprisonment, and considered that the severity of the offense requires inflicting both penalties together to guarantee restraining those who may refrain from caring for person with disabilities in such a way commensurate with their needs.

6. It should be noted that the proposed law aims at aggravating the punishment imposed on those who take care of the person with disability in the event of severe negligence. This can be either an intentional act, without the intention to cause death but leads the disabled person to death; or it can happen by those involved in the care of the person with disability, who should, based on the values and principles of their profession, be diligent and cautious in giving the person with disability the special care needed, without increasing the severity of the punishment for the parents in the case of a minor negligence. This is an additional guarantee for the patient and a stronger deterrent for those who provide care for a person with disability. Under normal situations, it is not conceivable that parents deliberately neglect their child with the intention to cause harm, even if the intention was not going to expose the disabled person to the risk of death, except in circumstances that deviate from the innate nature, requiring more severe punishment. Whereas, it is conceivable that deliberate neglect can happen by persons other than parents, whether that person is a caretaker of the person with disability under a legal or judicial duty, or a person who works in the field of caring of the disabled. Workers in this field are supposed to exercise special care and extreme caution. The negligence of these workers, even if not intentional, requires severe punishment to protect the interests and rights of the person with disability.

7. The NIHR also explained that the penalty contained in article No. (320) of the Penal Code promulgated by Decree No. 15 of 1971 on endangering the life of a person who is unable to protect himself by reason of his health or mental condition, which states that: **"A prison sentence or a fine shall be the penalty for a person who endangers the life of a child who is less than 7 years of age or a person who is unable to protect himself by reason of his health or mental condition, …";** and the penalty contained in article No. (342) on the penalty for a person causing the death of someone caused by his fault, which states that: **"A punishment of imprisonment or a fine shall be inflicted upon anyone who causes by his fault the death of a person…. ";** both having the penalty of a misdemeanor, which does not reach the level of a crime of negligence in the care of a person with disability.

8. Whereas such penalty is not a sufficient guarantee for the protection of the rights of the person with disabilities against violation; or for the deterrence of the caretaker to do so. In view of the fact that the persons with disabilities need special care and neglecting them requires imposing severe punishment for two reasons. On the one hand, because the person with disability, in some severe cases, cannot speak and complain; and on the other hand, because the person who takes care of the person with disability has a legal obligation, and by negligence, he is not performing his assigned duty to the fullest extent. Thus, the proposed text in the amendment aggravates the penalty, thereby providing a guarantee that is greater than that prescribed in the penal system of the Kingdom of Bahrain, so as to make sure that the person with disability enjoys the right to special care on the one hand; and a strong deterrent restraining the caretaker from being negligent in carrying out his/her duties towards the person with disability, on the other.

9. Accordingly, the NIHR believes that it is important to amend the provision of the second paragraph of article No. (21) to read as follows: **"The penalty shall be imprisonment for a period not exceeding ten years and a fine not exceeding five thousand dinars, if the consequence of this negligence caused the death of a disabled person,"** based on the above-mentioned rationale.

Section III:
Advisory opinions filed by the National Institution for Human Rights to the Supreme Judicial Council (the judiciary)

1. The NIHR maintained effective communication with the Supreme Council of Justice (the judiciary) with the aim of promoting integration in the human rights organization. It sent its proposal to the Council regarding the establishment of an environment specific public prosecution as well as court departments specialized in environmental violations and crimes.

2. The environmental right is amongst the rights guaranteed by the third generation of human rights, or what has been termed as rights of solidarity. As a human right, it is the "right to the existence of a balanced environment and what is required to maintain and improve natural systems and resources, and protecting the environment from pollution or the unjust deterioration of its resources".

3. The World Charter for Nature of 1982 [9], which was adopted by the General Assembly, indicated in its preamble: "human beings need to acquire the necessary knowledge in order to maintain and develop their ability to use natural resources in a manner that ensures preservation of the species and ecosystems for the benefit of present and future generations". And this right must be protected by the state to ensure that everyone enjoys it, and that necessary measures are taken to achieve the full realization of the right to a clean environment.

4. The Constitution of the Kingdom of Bahrain states in Part II the basic components of the Bahraini society, and Article (9) included provisions to ensure that citizens enjoy the right to a clean and healthy environment. Paragraph (f) stipulated that: "the state implements required measures for the maintenance of the environment and wildlife conservation". The Constitution was also keen on maintaining environmental parameters, maintaining ecosystem balance, and preserving elements of environmental security and natural resources for the community through the provisions of Article number (11), which stipulated that: "all natural wealth and resources are the property of the state, which is responsible for its preservation and proper investment, taking into account the requirements of the state security and the national economy."

5. Through extrapolating the provisions of Decree for Law No. (47) for the year 2012 indicating the establishment and organization of the Supreme Council for the Environment, Article No (1) indicated that: "A Council is established and will be called (The Supreme Council for the Environment), and will be attached to the Council of Ministers. A decree will be issued to define its composition and determine the period of membership, hereinafter referred to in this law as the "Council". The Council shall assume the direct powers vested in both: the environment entity and the competent minister in charge of environment affairs as set forth in Legislative Decree No. (21) for the year 1996 on the environment, the National Commission for Wildlife Conservation stipulated in Decree number (2) of the year 1995 on the protection of wildlife. The Council in particular has the right to develop the future strategy for environment and sustainable development in the Kingdom of Bahrain and follow up its implementation with relevant ministries, entities and institutions".

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9 The World Charter for Nature – document no A/RES/37/7

6. With reference to the provisions of Law No. (21) for the year 1996 on the environment, Article No. (28) stated that: "the Minister of Housing, Municipalities and Environment, and the staff required will be delegated to conduct inspection work, which the implementation of this law and its executive orders requires, and prove the violations of its provisions and the provisions of these decisions. Those employees will also have access to places where these irregularities are located and they have the right to request information, data and submit reports, and take samples and measurements and conduct studies needed to determine the extent of environmental pollution, as well as pollution sources and ensure the application of systems and requirements for environmental protection. The Minister of housing, municipalities and the environment, may delegate any official entity, while exercising the authorities referred to in the preceding paragraph". It is understood from the foregoing that the legal protection of the environment requires one of two things: either prevent the causes of pollution, or combat the existing causes in order to achieve ecological balance and eliminate their impact.

7. The Bahraini legislator was keen on issuing many laws necessary for the protection of the environment and preservation of natural resources, and assigned to the Supreme Council for the Environment many terms of reference that enable it to perform this role. Among the most important authorities granted to the Council are those provided for in Article (28) above. Where the Council delegates the staff required for inspection work, who are known as "law enforcement officers with special jurisdiction."

8. The aim of the judicial law enforcement in the field of environmental protection is to carry out surveillance, inspection, sampling and measurements and analysis required to prove the crimes of assault on the environment in accordance with laws and regulations issued in this regard. The functions of judicial officers in the field of offenses against the environment does not stop at catching environmental crimes and reaching perpetrators only, but it extends to bringing them to trial to receive their penalty. The environmental inspectors are required by law to send the minutes of irregularities to the competent prosecutor during a specific period of time (decided by the law) from the date of preview. Such records should also be sent to the person concerned, and this is what has not been given by the Bahraini legislator to the law enforcement officers in the area of crimes against the environment. As the article No. (28) above did not provide for the need for the law enforcement officers to report on environmental crimes in the event of discovery, and trigger it judicially because the damage caused by the environmental crimes is not confined to a specific person, as a group of persons could get hurt, or the society as a whole could get hurt, and the damage may extend to other living species.

9. Also, the environmental crimes do not stop at a certain time or a certain place, and they may take a long time, and cross borders while human efforts fail to stop or control them. The perpetrator of the crime could be a natural person or a moral person – buildings and factories- or group of persons who sometimes cannot be reached or specifically identified in the case the reporting process and bringing them to trial were late.

10. On the other hand, the judicial police- in the scope of legislations protecting the environment - is characterized by a special nature and great importance depending mainly on the staff who are granted the status of law enforcement officers. Those employees must possess a great deal of technical qualifications, and enjoy wide scientific and operational expertise in the environmental field to enable them to perform their assigned tasks in an optimal manner.

11. They are also required to have expertise and qualifications - in the field of research and investigation and monitoring of irregularities – enabling them to perform their job in the best manner. The judicial officer should prove the identified environmental crimes through presenting legally sound evidence, and catch crimes committed in violation of the provisions of environmental laws and decisions related to his field of work, and he should adhere to the limits of his spatial areas defined for him, and he has the right to expose the crimes with all possible methods as long as these methods do not harm the rights of individuals or restrict freedoms, that is all the evidence reached by the judicial officer and all his actions should be within the scope of the law and the principle of legality.

12. In this situation, there is a need to find legislative and other measures, especially the establishment of a public prosecutor specialized in environment, with a view to promoting the role of inspectors of the Supreme Council for the Environment, giving them the right to judicial law enforcement to carry out their desired role.

13. The Environmental Prosecutor's Office is a specialist prosecutor that has the task of filing the proceedings on behalf of the society before the competent courts, and the jurisdiction of the environmental prosecution is comprehensive as it covers all land of the state and its territorial waters.

14. The environmental prosecutor is to prosecute a number of crimes, such as: crimes arising from the violation of the provisions of environmental laws, environmental health, and attacks on public and private state property, especially agricultural lands, and crimes resulting from the violation of pollution prevention and the preservation of agricultural, animal husbandry and fishery laws, and crimes arising from extraction of sand and other materials from the marine public property and bottom of the sea, and crimes resulting from violation of reserves laws and wildlife and compulsory protection, as well as crimes arising from the violation of the laws of rating institutions and control over the safety and health of substances that affect human health, and the crimes arising from the violation of construction and urban planning laws.

15. The issue of environmental protection and the preservation of natural resources does not stop at the establishment of a competent environmental prosecutor and the creation of assisting departments, but also extends to the creation of sections in the competent courts of environmental crimes, where these courts need in order to perform their role the support of a number of judges in terms of their knowledge of international instruments and national legislation related to environmental rights.

Chapter III:
The role of National Institutions for Human Rights in the promotion and protection of human rights

Preface

The role of national human rights institutions, through their constitutional mandate or the legislature, focuses on the field of "promotion and protection of human rights". This role has been clearly demonstrated in the Paris Principles relating to the status of national institutions in promoting and protecting human rights as a constitution for their work and an active element in the promotion and protection of human rights in the state system.

The role of these institutions in the promotion is done through spreading a human rights culture by various means, including conferences, training courses, workshops and lectures targeting the general public, or specific target groups, as well as training in the field of human rights, and the publication and printing of educational brochures related to the work of national institutions, as the lack of knowledge of the principles of human rights among all segments of society is a strong reason for violations. Therefore, the promotion of human rights concepts and entrenched awareness of such rights contributes to providing protection for all of those rights.

The protection of human rights is the main pillar corresponding to the role of national institutions in the promotion of these rights. This was clear in the "Paris Principles", especially when those principles awarded quasi-judicial competencies to the national institutions through their authority to receive complaints related to human rights, and studying and referring them to the competent authorities in addition to follow-up; Also, to enlighten relevant parties with the procedures to be followed and help them implement or assist in settling such issues with the concerned authorities.

The role of national institutions in the field of protection also includes: undertaking the process of monitoring everything that would prejudice the right of individuals to the enjoyment of rights and public freedoms prescribed for them. The monitoring process constitutes a necessary procedure to ensure the degree and the extent of the State's respect of its relevant legal obligations or international human rights. Such protection also requires the national institutions to conduct field visits to places that are likely to witness human rights violations.

Therefore, this chapter will address the role played by the NIHR in the promotion and protection of human rights in two main branches: the first is dedicated to show its activities in the field of promotion of human rights, while the second is dedicated to review its efforts in the protection of those rights.

Section I:
The role of the NIHR in the field of promoting human rights

1. The provisions of Law No. (26) for the year 2014 included the establishment of the National Institution for Human Rights, as amended by Decree-Law No. (20) for the year 2016, confirming its role in the promotion of human rights, where Article No. (12) approved a number of jurisdictions for the NIHR in order to achieve its objectives in this area, through its participation in the development and implementation of a national plan for the promotion of human rights in the Kingdom, studying legislations and regulations in force relating to human rights, and recommending amendments as it deems appropriate, especially with regard to the consistency of these legislations with the Kingdom's international human rights obligations, in addition to recommending the issuing of new legislations related to human rights.

2. In addition, the provisions of the law granted the NIHR jurisdiction to consider the appropriateness of legislative and regulatory texts in comparison with regional and international treaties on human rights, and to provide suggestions and recommendations to the competent authorities regarding everything that would promote human rights, including the recommendation to join relevant regional and international conventions, and to provide parallel reports, and contribute to the formulation and discussion of reports that the kingdom pledged to submit periodically and make comments. This will be done as part of the application of regional and international agreements concerning human rights. It will also publish its reports in the media, and cooperate with the national authorities, regional and international organizations, and relevant institutions in other countries who are concerned with the promotion of human rights.

3. Those provisions also mandated the NIHR to hold conferences and organize seminars and training courses in the field of human rights, and conduct research and studies in this regard, and to participate in local and international forums, and in the meetings of regional and international organizations, as well as issue its own bulletins, publications, data and reports, and display them on its website.

4. Pursuant to the terms of reference contained in the provisions of the law, the institution played an active role in the promotion of human rights through conducting a number of seminars, lectures, and agreement on a memorandum of understanding with an organization operating in the field of human rights. The NIHR also played an active role in the field of legislative review in cooperation with the House of Representatives and the Consultative (Shura) Council, in addition to issuing a number of statements to coincide with the days or international events, as well as its regional and international participation in numerous seminars and workshops, training courses and conferences relevant to its work.

5. With the purpose of enriching the scientific and cognitive aspect of human rights issues among the public, the NIHR set up a training course in collaboration with the National Commission for Human Rights in the State of Qatar about regional and international mechanisms for the promotion and protection of human rights. A number of employees from public and government agencies and community organizations participated, along with a number of civil.

6. Complementing the strategy and plan of the NIHR in the field of spreading the human rights culture, and in accordance with the best practices in line with international standards, the Institution held an introductory lecture on human rights contained in the Constitution of the Kingdom of Bahrain and its role in the field of promotion and protection of those rights for Al-Shrooq Secondary School for Girls.

7. Likewise, the NIHR effectively contributed to the "Legal Clinic for Human Rights at the University of Bahrain" program for the sixth batch of students. This is a practical training program for law students that enables them to acquire skills in the field of human rights, by offering workshops, lectures and presentations by specialists from the NIHR about its role in the promotion and protection of human rights. The program was spread over fifteen weeks and tackled the Institution's jurisdiction in the area of promotion, as well as its role in the protection of human rights through a mechanism to receive complaints and related procedures, to provide legal assistance and advice, and its role in the process of monitoring human rights violations.

8. As part of the NIHR interaction with international human rights mechanisms, particularly the universal periodic review mechanism, it filed it parallel report with its observations on the human rights situation in the Kingdom of Bahrain to the Human Rights Council of the United Nations in preparation for the discussion of the third periodic report of the Kingdom of Bahrain for the Working Group on the comprehensive Periodic Review which holds its first session in February 2017.

9. The NIHR was keen to attend and represent Bahrain locally and externally in regional and international forums related to its work and responsibilities. This occurred through its participation in numerous seminars and workshops, training courses and conferences. The NIHR participated in a workshop on combating human trafficking organized by the United Nations Center for Training and Education in cooperation with the Arab network of national human rights institutions and the National Center for Human Rights in the Hashemite Kingdom of Jordan. It also participated in a workshop on monitoring, monitoring reports, monitoring of hate speech and the role of national human rights institutions, which was organized by the Arab network for national institutions on human rights, in collaboration with UNHCR human rights Commission of Oman for human rights, in addition to its participation in a training program at the British University of Nottingham about the rights of children.

10. The NIHR took part in a training session on the establishment of national human rights institutions in accordance with the Paris Principles and their role in the international system, which was organized by the Forum on Asia-Pacific regional office in the Qatari capital Doha, in addition to its participation in the work of the eleventh session of the Arab Human Rights Committee emanating from the Arab Charter on human rights of the League of Arab States during the discussion of the first periodic report of the Republic of Algeria on its human rights situation.

11. In addition, the NIHR participated in the meetings of session No. (33) of the Human Rights Council of the United Nations, where it presented on the sidelines of the meeting, a lecture for participants which discussed the role of the NIHR in the promotion and protection of economic, social and cultural in rights in Bahrain. Also, it participated in the 21st meeting of the Forum for Asia and the Pacific, held in the Thai capital, Bangkok, and participated in the twenty-ninth annual conference of the global alliance of national institutions for human rights held in Geneva, Switzerland.

12. The NIHR participated in the thirteenth General Assembly meeting of the Arab Network of National Human Rights Institutions in the Omani capital, Muscat, as well as its participation in the observation of legislative elections in each of the Kingdom of Morocco, and the Hashemite Kingdom of Jordan. It also participated in the training workshop on monitoring tools and follow-up of human reproductive health of the national human rights institutions, established by the United Nations Population Fund, and the regional Office of the High Commissioner for human rights in the Middle East and North Africa in Amman, Jordan.

13. Moreover, it participated in a workshop on workers' rights, held by the regional office of the Forum for the Asia-Pacific in Doha- Qatar. It also participated in the "Climate COP 22 and national human rights institutions", regarding the role of national human rights institutions in monitoring sustainable development goals and commitments according to the "Paris agreement on climate change ", which was held in Marrakech, Kingdom of Morocco at the invitation of the National Council for human rights, Kingdom of Morocco. In addition, it participated in a workshop on writing parallel reports to the Arab Commission on human rights organized by the Arab network of national institutions for human rights of the Secretariat of the League of Arab States in Cairo.

14. The NIHR organized and participated in many events and local workshops and seminars related to the themes intended to promote and protect human rights. These were held by official bodies and various national associations, such as a workshop on writing reports on the inspection of prisons, and a workshop entitled " SWOT analysis and strategic planning for the judicial development ", and a workshop on the mechanism for receiving complaints and dealing with them, and a workshop on the citizenship law and the right of women in granting citizenship to their children, and a training course on the explanation of pension rights and benefits, and a training course on regional and international mechanisms for the promotion and protection of human rights , and a training course on mixed migration and asylum.

15. Also, the NIHR - in order to strengthen its cooperation with organizations and centers working in the field of human rights training - concluded a memorandum of understanding with the Arab Institute for Human Rights for the purpose of benefiting from the institute in building national capacities in the field of human rights in accordance with the relevant international standards. The total of memorandums of understanding signed by the NIHR with associations and civil society organizations and official bodies, whether inside or outside the Kingdom reached around thirty (30) MoUs until the end of 2016.

Section II:
The role of the NIHR in the field of human rights protection

1. The provisions of Law No. (26) for the year 2014, which established the National Institution for Human Rights, as amended by Decree-Law No. (20) for the year 2016, defines the role of the NIHR in the field of protection of human rights through the receipt of complaints on human rights, and field visits to monitor the human rights situation in places of detention.

2. Where Article No. (12) of the same law in paragraph (E) thereof states that the National Institution's jurisdiction is to **"monitor cases of human rights violations, and conduct the necessary investigations, and draw the attention of the competent to authorities to them and submit proposals relating to initiatives aimed at putting an end for these cases, and when necessary express an opinion on the position of these authorities and their reactions"**, also in paragraph (F), it stipulated its authority to **"receive complaints related to human rights and study, research them and refer what the institution believes should be referred to the competent authorities with effective follow up, or enlighten stakeholders with the procedures to be followed and help them to implement them, or assist in their settlement with the concerned authorities".**

3. With respect to the field visits as a means of monitoring granted to the NIHR, paragraph (G) of Article No. (12) stipulates its mandate as to **"carry out announced and unannounced field visits, to monitor the human rights situation in correctional institutions and places of detention and workers' gatherings and health and educational facilities, or anywhere else where violations of human rights are suspected".** These terms of reference, in their entirety, relate to the role played by the national organization in the field of human rights protection.

4. This text comes as a confirmation of the need to expand the terms of reference in the field of protection of human rights in a manner consistent with international decisions in this regard. The required protection should not be limited to only receiving complaints, but should extend to tracking and monitoring the status of human rights and document it by various ways and methods, because the monitoring process is necessary to ensure the degree and the extent of state's respect of its legal or international obligations relevant to human rights.

5. Pursuant to the terms of reference contained in the provisions of the law, the NIHR played an active role in the protection of human rights, where it interacted with some of the events that have cast a shadow on Human Rights, and issued several statements on separate occasions expressing its deep regret for the death of a man and the injuring of police officers, expressing condolences and sympathy for those who died and the injured, and expressing disapproval at the same time of such violence against the police. It invited members of the community to be vigilant and not to be dragged behind the calls for violence and adhere to the tools of peaceful work and defend the legitimate demands by legal means at their disposal, which are guaranteed by law. It also called for abiding by national unity and promoting peaceful coexistence between groups and the different components of Bahraini society. In addition, it called on the competent authorities to apply the law, including limiting the recourse to violence and encouraging peaceful action in the exercise of freedom of opinion and the right to expression, taking into account the legal rights of the accused, guaranteed by Bahrain's Constitution and relevant national and international legislations.

6. It also issued a statement condemning the bombing, which led to the death of a female citizen and the wounding of three children who were with her in the car, expressing condolences to the family of the deceased, and calling on all spectrums of society to be vigilant and not to be dragged behind the calls for violence and to promote the values of peaceful coexistence in the society.

7. With regard to the right of individuals to privacy, the NIHR issued a statement praising the guidance of His Royal Highness the Prime Minister to the competent authorities asking them to develop appropriate legislation that prevents the violation of the privacy of individuals through the abusive use of social media, or any other means without the consent of the persons concerned or their authorization, and which does not take into account the rights of individuals and violates their sanctities. The NIHR believes that the guidance of His Royal Highness to enact legislation designed to preserve the privacy of individuals reflects the keenness of the government to push the efforts of the Kingdom of Bahrain towards asserting permanent respect for human rights, stressing that the right to privacy is a fundamental right, and an essential element in a democratic society.

8. In the same context, on the protection of human rights, the NIHR attended a number of hearings that had a resonance in public affairs, including attending the trial of the Secretary-General for political association, as well as attending five-related hearings on urgent administrative proceedings raised by the Ministry of Justice, Islamic Affairs and Endowments against one of the political associations asking for liquidation of its funds and transferring them to the state treasury, because it committed acts of violation of the law No. (26) of 2005 concerning political associations. Then, the NIHR stressed that the right to a fair trial is a norm of international human rights law that is designed to protect people from the diminution of their rights relating to their legal positions in front of the judiciary, and is a fundamental pillar of a fair trial set out in international instruments ranging from the Universal Declaration of Human Rights, as Article (11/1) of it states that "... **provides (any opponent) with necessary guarantees for his defense",** followed by the international Covenant on civil and political rights Article (14/3-b) thereof **" to be given enough time and facilities to prepare his defense ... ",** the Constitution also affirms the right of defense in Article (20/c) thereof that **"... necessary guarantees are made for the exercise of the right of defense ...".**

9. The NIHR also monitored four different occasions, whether through social media or local newspapers, residents conditions in the rehabilitation center, where a related incident was about allegations of the existence of cases of poisoning due to the food provided to them, and subsequently, through its representative of the Committee for complaints, monitoring and follow-up it contacted those involved in the center in order to investigate the validity of the allegations, which turned out to be invalid. Another incident was about the arrest of an accused without due process, who was denied communication with the outside world, where the Institution took necessary measures and communicated with the concerned entities and managed to enable the accused to contact his family and inform them of his whereabouts. Also, two monitored cases included claims from convicts being denied receiving proper health care, and the committee pursued their case with the party concerned and followed up on their condition.

10. The Institution also spotted a story in a local newspaper about the treatment of a female citizen by one of the official authorities because of the absence of the official, which led to the violation of some of her basic rights. The NIHR communicated with them through the complaints, monitoring and follow-up committee and settled the matter.

11. With regard to the right to education and the provision of safe school environment for children, the Institution monitored through the local newspapers cases of assault by a teacher on a secondary school student, which resulted in a broken tooth, and subsequently the NIHR contacted all concerned authorities, which began due process in this matter and took action.

12. The NIHR monitored complaints across social media and the local press, as well as receiving complaints, amounting to forty-five (45) which included claims from families of some persons kept in the remand center where security measures prevented families from directly meeting with detainees during the process of visitation because of a glass barrier between them. Subsequently, the Institution, in collaboration with the Ministry of the Interior conducted a visit to the center to find out how true is the allegation, where its delegation from the committee for complaints, monitoring and follow-up met with the administration of the center which explained that the procedure was for the benefit of detainees for reasons of preventing the entry of banned substances, as a number of cases were found where narcotic substances or sharp items were given to detainees. But there was a system that allows a detainee to meet with his family in a private room in accordance with specific regulations. The committee submitted some recommendations for appropriate and more flexible procedures which ensure no prejudice to the right of detainees for direct communication with the visitors, and the advancement of the process of educating inmates and their relatives about the systems and procedures in this regard.

13. Under the mandate of the NIHR in the field of protection of human rights, the Institution played an active role in receiving different complaints relating to human rights. It studied and referred valid cases to the competent authorities to follow up effectively or enlighten concerned entities about the proper procedures to be followed and to help them settle them. The NIHR dealt during 2016 with one hundred and thirty-two (132) complaints concerning the rights of the defendants and where violations occurred.

14. The number of complaints regarding civil and political rights reached one hundred and sixteen (116) complaints, and the share of complaints relating to the right to physical and moral integrity reached twenty-six complaints, and there were twenty-eight complaints related to the right to liberty and personal security; as for the complaints relating to the right to enjoy the guarantees of a fair trial, the number was forty-four complaints. The NIHR received nine complaints about the right to residence and movement, and eight complaints concerning the right to non-discrimination in the enjoyment of rights and freedoms, and one complaint related to the right to receive remuneration.

15. As for complaints relating to economic, social and cultural rights, the total complaints received by the NIHR was twenty one (21) complaints, where the share of complaints relating to the right to education was four, and two complaints were about the right to health, and six complaints regarding the right to work and nine complaints about the right to adequate standard of living.

Chart No. 1
The number of complaints received by the NIHR relating to Civil and Political Rights

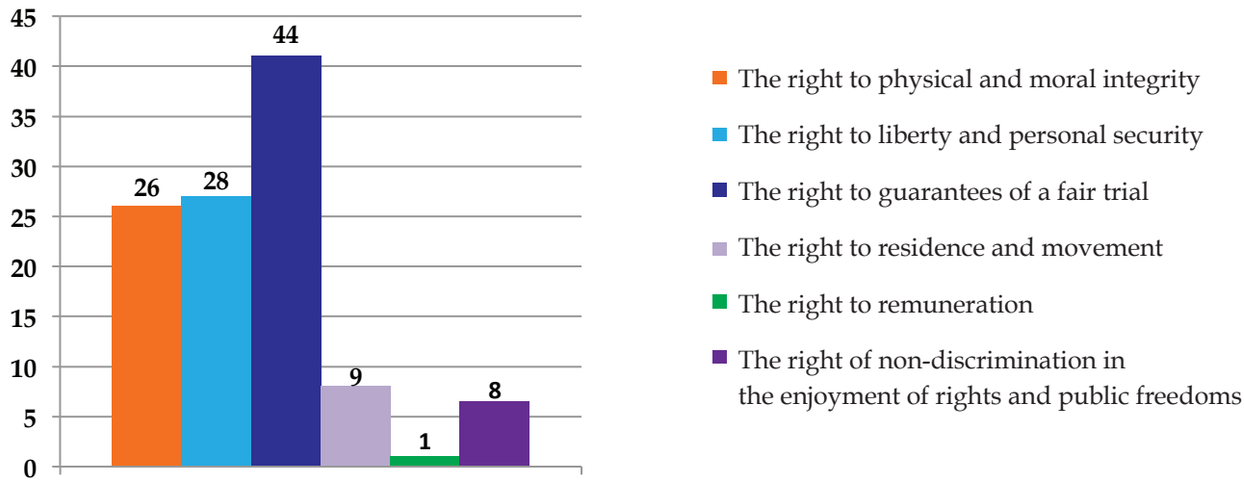


Chart No. (2)
The number of complaints received by the NIHR regarding economic, social and cultural rights

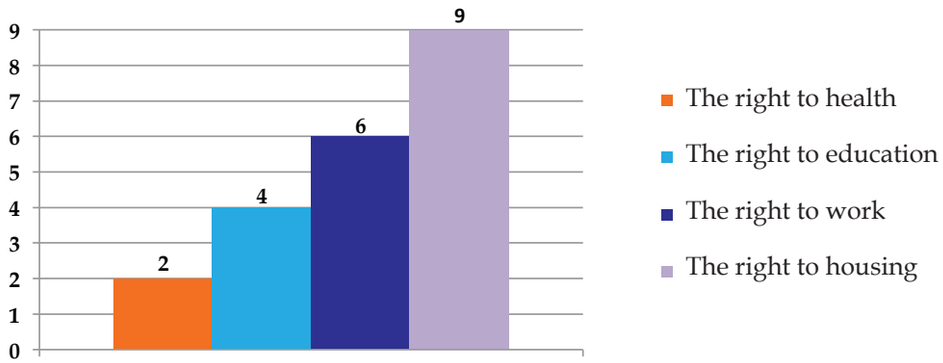


Chart No. (3)
The number of complaints received by the NIHR in 2016 regarding the various civil and political or economic, social and cultural rights, or other issues that do not fall under any category of those rights

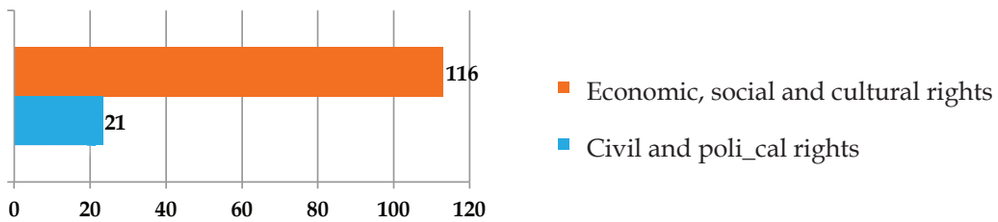
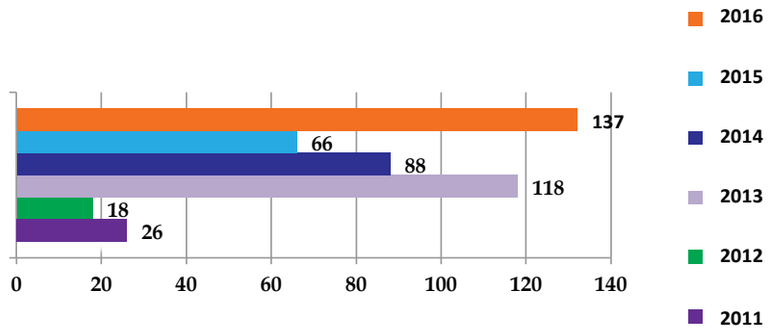


Chart No. (4)
The number of complaints received by the NIHR during the years (2011 until 2016)



16. With reference to the provisions of Law No. (26) for the year 2014 regarding establishment of the NIHR, and its modifications in Article No. (12) of paragraph (F) thereof, which granted it in addition to the power of receiving complaints, the right to provide legal assistance. This is done through making relevant entities aware of procedures to be followed and help them to implement such procedures, or assist in the settlement with the concerned parties. The NIHR takes part in providing legal assistance to individuals or any entity, whether on the occasion of presenting a complaint demonstrating that the issue is not part of the jurisdiction of the NIHR, or upon the request for such legal assistance. This is done by creating awareness of the procedures to be followed and assist in taking them before resorting to the NIHR, with an indication of the need to exhaust all legal or administrative remedies, or to submit a request to the competent security authorities, or go to another authority with inherent jurisdiction in that regard.

17. In this regard, the NIHR received one hundred and forty- five (145) requests for help and statutory advice, some of which relate to personal issues or disputes between individuals, or issues pending before a judicial or administrative investigation, or relating to an application to release convicts or detainees or consider the validity of the charge, or events that are not within the institution's jurisdiction because they happened outside the territorial boundaries of the Kingdom.

A table showing the number of complaints and requests for legal assistance received by the NIHR in 2016

Month	Number of requests for assistance	Number of complaints	Number of complainants	Category		
				Male	Female	Below 16 years
January	10	3	3	3	-	-
February	20	16*	61	60	-	1
March	13	9*	10	8	1	1
April	4	7*	9	9	-	-
May	16	22*	32	27	4	1
June	13	28*	30	28	1	1
July	10	13*	27	20	7	-
August	18	10*	12	8	2	2
September	17	14	14	14	-	-
October	13	11*	12	10	1	1
November	11	4	4	3	1	-
Total	**145**	**137**	**214**	**190**	**17**	**7**

* Some of the complaints made by one individual, but it includes more than one complainant.

Chapter IV:
Main issues with direct impact on the situation of human rights

Preface

Human rights status is like any other cases that are affected by conditions and variables that affect any society, whether such variables assume a positive character that lifts the human rights situation in the state, or a negative character that makes those rights vulnerable to abuse. Such circumstances and variables might be the result of security or political and economic events that befall a community, or a result of irregularities and abuses that affect the community's earnings.

Accordingly, this chapter will deal with five sections, the first section deals with the human rights situation in the kingdom, and the second section deals with guarantees for a fair trial and the role of the Court of Cassation, and the third section deals with the right to work for domestic and foreign workers, while section four of this chapter deals with alternative sanctions that do not deprive one of his liberty, and finally the fifth section deals with the rights of persons with disabilities and the obstacles they face as groups that are entitled to care in the community.

Section I:
The human rights situation in the kingdom of Bahrain

1. The human rights situation indicator in any system is subject to two criteria in the principle of the rule of law: The first is the need for the legislation in force to be harmonized with international human rights standards and decisions, and the second is that practical practices by public authorities aimed at the realization of human rights should be in line and those standards and decisions.

2. In this section we will review the most important laws or decrees of the laws within the duration of the report, and the extent of their compliance with the relevant international human rights decisions, as well as the visuals submitted by the NIHR to the legislative and executive authorities, in addition to a review of the actual practices of some rights through the complaints received by the NIHR.

3. At the level of national legislation, the NIHR spotted the issuance of a number of national legislations relevant to respects to human rights, whereby based on an extrapolation of such legislation it became clear that it is aligned with the provisions of the Constitution and international standards so as to enhance the civil, political, economic, social and cultural human rights in the state system.

4. From such legislation, which was compatible with international standards and which will improve the situation of human rights in the Kingdom was the enactment of Law No. (9) for the year 2016 on specifications and standards, where the law is aimed mainly at maintaining public health and safety for consumers and protecting them from fraud and injustice while ensuring quality of the goods in accordance with standard specifications.

5. The NIHR applauds the issuance of Law No. (13) for the year 2016 amending some provisions of Law No. 26 of 2005 on political associations, which included the inadmissibility of combining between membership or affiliation to political associations and engaging in religious preaching and public speaking, and also the inadmissibility of combining between religious work and political work in all cases.

6. With respect to political rights, Law No. (14) was issued for the year 2016 amending some provisions of Decree Law No. (14) for the year 2002 on the exercise of political rights. It included reference to a number of offenses related to exercising political rights, which in essence are crimes or offenses with tightened punishment meant for the protection of the electoral process.

7. In the field of protection of economic civil rights, a series of legislations were issued that were meant to create an economic and investment environment that fosters civil and commercial transactions and benefits the general economy of the Kingdom. This included the enactment of Law No. (18) for the year 2016 on Investment Companies, Ltd., and Legislative Decree No. (27) for the year 2016 amending some provisions of the CBB Law and financial institutions promulgated by Law No. (64) of 2006, and Decree Law No. (22) for the year 2016 on protected cell companies, and Legislative Decree No. (23) for the year 2016 (the Trust law).

8. With regard to advisory opinions submitted by the NIHR to the House of Representatives and the Shura Council, or those presented as proposals to the Council of Ministers, the amendment of Decree-Law No. 3 of 2002 on the election of members of municipal councils, which included greater stringency in dealing with electoral crimes stipulated in Article No. (30) of Legislative Decree No. (3) for the year 2002 on the election of members of municipal councils. The NIHR opinion concluded that the proposed amendments do not violate human rights, as included by related international human rights instruments. This is still pending before the relevant committee of the Shura Council.

9. Concerning the advisory opinion of the NIHR on a draft law amending some provisions of the Code of Criminal Procedure promulgated by Legislative Decree No. 46 of 2002, prepared in light of the draft law submitted by the Council of Representatives, the Shura Council resolution came in line with the decree of the Council of Representatives to reject the draft law in principle, even though the NIHR, while expressing its views on the draft law, considered that there were aspects that can be modified in the law to provide legal guarantees that correspond with the provisions of the Constitution and the relevant international conventions.

10. Regarding the proposal to amend articles (27) and (41) of the provisions of Law No. (18) for the year 2014 through issuing a Law for the Reform and Rehabilitation Institution, and the draft law amending some provisions of Law No. (37) for the year 2012 by issuing the Children's Act, and the proposed law to amend the text of Article (127 repeated) of Legislative Decree No. 46 of 2002 promulgating the Code of Criminal procedure, and the draft law amending some articles of law No. (23) for the year 2014 for issuing a traffic law, they are issues still pending before the competent committees of the House of Representatives.

11. As for the proposal, which the NIHR submitted to the Cabinet about modifying the text of paragraph (2) of Article No. (21) of Law No. (74) for the year 2006 on the Care and Rehabilitation and Employment of the Disabled, and which aims to tighten punishment on the person/s caring for the disabled in case of gross negligence, which is either a deliberate action or without the intention to bring about death, but leads to ending the life of a disabled person, or occurs by those involved in the care of the disabled, it is still under consideration by the concerned authorities, as such modification was not approved to date.

12. The reality of human rights practices, and through the complaints received by the NIHR regarding various civil and political rights, the statistics indicate receipt of (116) complaints in 2016, compared with fifty-eight (58) complaints in 2015, while the share of the economic, social and cultural rights were (21) complaints in 2016, compared with eight (8) complaints in 2015.

13. The increasing number of complaints that the NIHR received during this year compared with last year, cannot be considered an indication of the decline in the human rights situation in the kingdom, nor is it an indication of an individual's enjoyment of the various rights and public freedoms, as it merely demonstrates the increasing confidence in the institution and the duties entrusted to it, and its relentless endeavours to provide everything that would promote and protect human rights.

Section II:
Guarantees of a fair trial: the role of the Court of Cassation

1. The right to a fair trial is a criterion of the international human rights law, and it aims to protect people from the diminution of their rights relating to their legal positions before the judiciary from the moment of their arrest and during their detention before being brought to trial and during trial, until the last stages of the trial in the appeal or court of cassation. The trial cannot be considered a fair trial, or a just trial unless two conditions are met at least: first, the whole proceedings from beginning to end are to be guided by the Constitution and domestic legislation that govern its work, and the instruments developed by the international community, second: that an independent and impartial judicial authority applies such regulatory procedures.

2. The Constitution of the Kingdom of Bahrain guaranteed this right in Article No. (20) thereof, which referred to a set of guarantees, such as the principle of legitimacy that there is no crime or punishment except under the law, and lack of punishment for previous acts prior to the law being applied. It also dealt with the personal punishment and the presumption of innocence until proven guilty in a legal trial which includes all the necessary guarantees to ensure the exercise of the right of defense at all stages, as well as the prohibition of physical or moral torture.

3. At the level of international instruments, the right to enjoy guarantees of a fair trial has created a framework of protection in Article 14 of the International Covenant on Civil and Political Rights, to which acceded the Government of the Kingdom of Bahrain under Law No. International Covenant (56) for the year 2006, which included a group of guarantees almost universal for all stages of the trial, specifically paragraph (5) of the same article, which stipulates that: **"any person convicted of a crime has the right to resort, according to the law, to the highest court in order for it to reconsider his conviction and his sentence".**

4. The Court of Cassation is considered the highest body in the judicial system, and it is a court of law that specializes in ensuring that correct procedures are being followed during lawsuits and that legal outcomes of the courts of first instance or appellate are correct. The task of this court is limited to ensuring that correct judgments were issued by the ordinary courts and that they are based on valid legal procedures according to the law, as it doesn't reconsider the merits of the case and does not interfere in the proceedings.

5. The provisions of Decree Law No. (8) of 1989 were organized by issuing the Court of Cassation Law and its amendments, establishing the court, its composition and terms of reference and appeals presented to it in civil and commercial cases and the personal status of non-Muslims and criminal materials, to add further protection of the right to the enjoyment of the guarantees of fair trial through the implementation of Article (14) paragraph (5) of the international Covenant on civil and political Rights.

6. Pursuant to the role of the NIHR in monitoring the human rights situation insofar as the defendant's rights in the administration of justice contained in its inception law, specifically in Article No. (12) in paragraph (F), it has followed up on some rulings from the Court of Cassation, which ruled the cancellation of judgments of courts of appeal, including the revocation of judgments in a lawsuit related to law No. (58) for 2006 on the protection of society from terrorist acts and its amendments, in which the Court of Appeal ruled for ten years imprisonment for the accused. This was based on violating the information contained in the documents and defective causation in a manner that requires it to be overturned and to return the case to the same court to rule on the case again.

7. The NIHR also monitored the rendering of two judgments by the Court of Cassation, where it ruled on two lawsuits and returned them to the Court of Appeal to judge them again. These lawsuits are known as "Sahleh" and "Dyyah", where death penalties were issued to some of the defendants. The Court of Cassation through the revocation of the two rulings demonstrated clear neutrality, impartiality and independence as it requested re-examination of the rulings again in order to be in agreement with established legal safeguards.

8. Regarding another issue, the NIHR monitored a ruling by the Court of Cassation on the appeal presented by the Secretary General of one of the political associations, where it ruled to overturn the ruling of the appeals court and returned the case to the same court in order to judge the lawsuit again.

9. In this regard, the NIHR believes that what is embodied by the Court of Cassation is the establishment of the principles of justice and equity, which is commendable for the judiciary. It expressed its great appreciation and respect for the Court of Cassation's role as one of the most prominent constitutional guarantees in the implementation of and the enjoyment of the rights and public freedoms. The NIHR wishes that all employees and interested researchers in the field of law enforcement and justice take into account and be guided by the principles that the Court of Cassation implements on various topics related to human rights for the purpose of the correct application of the provisions of the law in accordance with the relevant international commitments of the Kingdom of Bahrain.

Section III:
The right to work: domestic and foreign workers rights

1. The right to work is one of the most important human rights, which requires the basics that enable individuals to exercise it, where the individual cannot enjoy an adequate standard of living without the presence of the basics, most notably the right to work, which is truly required by human dignity and public good in society according to economic principles and rules of social justice between the work parties.

2. The Constitution of the Kingdom of Bahrain guaranteed the right to work in Article No. (13), which stipulates that: **"(a). Work shall be the duty of every citizen necessitated by personal dignity and the public good. Every citizen shall have the right to work and to choose his type of work in accordance with public order and moral standards. (b). The State shall ensure that work is made available to the citizens and that its terms are equitable. (c). No forced labour shall be imposed on anyone except in the circumstances specified by the law for national emergency and with just remuneration, or as an implementation of a judicial decision. (d). Relations between employers and employees shall be regulated by the law on an economic basis, due regard being given to the principles of social justice."**

3. On the level of National Legislation, Law No. came (19) of 2006 regarding organizing the labor market included regulating the work of foreign workers in order to work and earn a living. On the other hand, the labor law in the civil sector No. (36) for the year 2012 regulates the relationship between the worker and the employer, stating the rights and obligations for each towards the other so as to guarantee that workers enjoy appropriate rights and privileges and legal measures. A decision by the Ministry of Labour and Social Development No. (4) for the year 2006 clarifies the obligations of employers in the private sector to transfer their workers' salaries to the banks, and Law No. (1) for the year 2008 on combating human trafficking, some of whose provisions included the need to provide protection for foreign workers who have been exposed to the crime of trafficking, through the provision of legal protection and the prevention of damage caused by it. This is to be done through a committee called "Committee for assessing the status of foreign victims of trafficking in persons."

4. At the level of international instruments, the International Covenant on Economic, Social and Cultural Rights dealt with the right to work, which the Government of the Kingdom of Bahrain joined under Law No. (10) for the year 2007 in articles (6.7): The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. Also, the States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular: Remuneration which provides all workers, as a minimum, with: (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;(b) Safe and healthy

working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

5. The accession of the Kingdom of Bahrain to the International Labour Organization under Decree No. (9) of 1977 prompted it later to join a group of related agreements about the right to work totaling ten conventions, where the Government of the Kingdom of Bahrain acceded under Decree No. (5) for the year 1981 to each of the ILO Conventions No. (14) for the year 1921 on the application of the weekly rest in industrial plants, and No. (29) of 1930 concerning forced or compulsory labor, and No. 81 of 1947 on inspection of work in the industry and trade, and number (89) for the year 1948 concerning the employment of women in the industry by night, followed by ratification or accession to a series of agreements, such as the Convention No. 105 of 1957 concerning the abolition of forced labor under Decree No. (7) of 1998, followed by the accession to the Convention No. (159) 1983 on Vocational rehabilitation and employment (disabled Persons) by Decree-law No. (17) of 1999, The government also ratified the Convention No. 11 of 1985 on discrimination in employment and occupation under Decree No. (11) of 2000, and by Decree-Law No. (12) for the year 2001 it joined the Convention No. 182 of 1999 on the prohibition of the worst forms of child labor and immediate action to eliminate them, and Convention No. 155 of 1981 on occupational safety and health and the working environment in accordance with law No. (25) for the year 2009, where this was the last of those agreements entered into by the Government of the Kingdom of Bahrain Convention No. 138 of 1973 on the minimum age for employment, under Law No. (1) for the year 2012, as the ratification or accession of the Government of the Kingdom of Bahrain to the international Labour Organization conventions mentioned above constitutes a commitment related to the right to work by international standards.

6. In dedication to the principle of equality and human dignity of all workers, including domestic and foreign workers, on an equal footing with national employment without discrimination, whether based on race, religion, color, language, creed or origin, there is a pressing need to have a legal system that ensures for these two categories a decent living and necessary protection against any risk they may be subjected to. They must have recognized rights and privileges at all levels, which are no different from those enjoyed by the national labor force, especially in the area of the necessary social, legal, security and health protection.

7. This equality in treatment is consistent with the values and principles inherent in international human rights standards, which are translated by the constitutions of states and their various legislations, building on the importance of the human being as the real wealth and key element in the production process apart from being a citizen or a foreigner.

8. The legal protection supposedly offered to these groups through the enactment of governing legislation find their basis in response to preventing the crime of trafficking in persons, being aimed at a category of human beings forced by certain circumstances to have a weak legal and social status, by virtue of the practices of others with superior legal and social status.

9. The relationship between domestic workers and employers is based on work for pay relationship; therefore, they are on the whole of a different nature from other legal relations contained in other types of work. But there is some kind of "Privacy," which involves this relationship, due to the nature of the service performed by the domestic worker to the employer, a "personal" service directly or indirectly, related in many cases to the person served, making the relationship go beyond the "legal form" to become of a humanitarian nature, which generates many moral considerations for this bilateral relationship outside the framework of purely legal controls. Also, the nature of the place where the service is conducted, with all the consequences of being a private place, where non-owners don't have the right of entry, and perhaps this privacy is the basis for addressing the legal relationship between domestic workers and their employers as an "exceptional" relationship.

10. As the provisions of the labor law in force in the civil sector were issued under Law No. (36) for the year 2012 excluded domestic workers, except for some articles that dealt with some rights. This requires the existence of legislation to regulate their affairs and the affairs of recruitment offices and the rights and obligations of each party. What confirms the importance of a needed legislation to regulate the affairs of this category is a noticeable increase of cases of escape registered with the Ministry of Labour and Social Development during the years (2014, 2015) which is around five hundred and sixty-three (563) workers annually.

11. With reference to the provisions of Law No. (26) for the year 2014 creating the NIHR and its amendments, we find that the Article No. (12) in paragraph (b) explicitly confirmed that the NIHR is concerned with **"studying legislations and regulations on human rights in force in the Kingdom, and recommend amendments as it deems necessary, especially with regard to the consistency of these legislations with the Kingdom's international human rights obligations, and has the right to recommend new legislations related to human rights", while paragraph (e) of the same article on its competence -"ensure the appropriateness of legislative and regulatory texts, regional and international treaties concerned with human rights issues, and provide suggestions and recommendations to the competent authorities regarding everything that would promote and protect human rights, including the recommendation to join the regional and international conventions on human rights".** These terms of reference are a reflection of the contents of the Paris principles and general observations of the concerned subcommittee with global alliance for national human rights institutions (GANHRI).

12. In activation of this jurisdiction, the NIHR in 2015 put forward its views on the draft law on domestic workers, prepared in light of the draft law submitted by the House of Representatives, which detailed in the third annual report of the NIHR in 2015, as its views on the provisions of the draft law were confined to legal texts which might affect human rights and basic freedoms. In the same context, the NIHR called for the need to expedite the enactment of legislations that would regulate the domestic workers' affairs and include the rights and obligations of all parties.

13. Meanwhile, the expatriate workers have the right to the enjoyment of many rights emanating from the principle of equality, and the most important of which are the legal and judicial rights, including the right to equality in employment without discrimination, as well as equality of all the implications of the contract of employment, whether related to the rights of the worker or related to his obligations to the employer. The effects of non-discrimination resulting from the employment contract extend to the employer's obligations towards the worker by binding him/her to pay his dues and provide a good work environment, in addition to security, safety factors, occupational health, social services and otherwise.

14. The NIHR applauds the approval of the Cabinet of the introduction of a new system called " flexible work permit", which provides a legal alternative to the use of informal employment, where the Labour Market Regulatory Authority will issue the necessary permits to foreign workers for two years enabling them to perform temporary work with any employer or individual in any profession that does not require a professional license. The head of the Labour Market Regulatory Authority, said that the "flexible work permit" - which will come into force in 2017 - will provide a new possibility for expatriates to correct their status according to the new regulatory framework, where informal employment is incorporated within the regulatory system under the terms of guaranteeing the rights of all parties. This system will allow the worker to join any employer, whether with a commercial record or individually, and receive a temporary contract. It also gives any business owner the possibility of contracting a worker for flexible hours or for a number of days or weeks.

15. The Ministry of Labour and Social Development offers a number of work services aimed at providing legal support for the workers, including the inspection and control of various facilities to ensure the implementation of the provisions of the labor law in the private sector by employers. Also, departments concerned with providing direct services to workers were setup; such as the workers' arbitration and consulting department, which works on the registration of unions and investigates complaints and works to resolve them. In addition to the labor disputes council, which works to strengthen the labor culture of contribution and positive cooperation in solving cases and disputes between employers and workers, shelters and services center for expat workers have been established.

16. Besides the right to equality in employment without discrimination, there is the right to litigation, which represents the most important right for expatriate workers, and regulates how to settle individual and collective work disputes, for all without exception on the basis of negotiation, mediation, conciliation and arbitration. Recourse to the litigation right is guaranteed for everyone, whether they are citizens or foreigners, and this was confirmed by the Constitutional Court in the Kingdom of Bahrain in its ruling which stipulates that: **"the rights that derive their existence from the legal texts must enjoy the protection guaranteed by the Constitution or the legislature, and the State has a legal obligation to provide the legal procedures and the substantive rules that enable the rights' holders, whether Bahrainis or foreigners, to fend aggression on their inalienable rights according to the existing rules".** The natural approach to such protection is manifested in the right to litigation principle established in article No. (20 /h) of the Constitution of the Kingdom of Bahrain, which states that: **"The right to litigate is guaranteed ..."** as the phrase contained was in a general and specific format, including citizens and foreigners alike and including all the rights contained in the Constitution or in laws[10].

17. In order to facilitate foreign workers access to their rights, it was necessary to give them some privileges, including exemption from legal fees at all stages of litigation and enforcement in the cases filed by workers or their beneficiaries, considering that the worker is the weaker party in the employment relationship, which requires justice and protection, as well as the need for speed in probing the cases and taking decisions, taking into account the special circumstances experienced by the worker. The Bahraini legislator took this into account in Article No. (6) of the Labour Law for the private sector No. (36) for the year in 2012, where workers are exempt from judicial fees in all labor lawsuits filed by workers or on their behalf.

18. With regard to protection of a social nature, the employee has the right to social insurance as well as insurance against occupational diseases and work-related injuries, up to the provision of unemployment insurance like the citizens, where the Decree Law (78) for the year 2006 on the unemployment insurance gave the foreign workers the opportunity to receive compensation against the risk of unemployment once the conditions for it were met, along with the right to holidays, and the organization of working hours, and the protection of working women, and the right to health care and to benefit from health treatment services on an equal footing, not to mention their right to undergo regular medical examinations.

19. As part of the Government of the Kingdom of Bahrain's endeavor to practice control over individuals' enjoyment of the right to work and the consequent effects, and in order to maintain permanent supervisory powers of the working environment, in addition to solving individual or collective disputes between the parties to the relationship, the Ministry of Labour conducted approximately (10273) inspection visits in 2015, where it found that commitment to labor law in the private sector accounted for 98.82% of the total entities that were visited. Regarding its efforts to monitor the facilities commitment to resolution No. (3) for the year 2013 on the work ban under the sun in July and August, there were 16563 visits conducted to the various work sites.

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[10] Published in the Official Gazette on July 3, 2008 in the No. 2850 / restricting lawsuit at the Constitutional Court schedule number D / 1/60 to 4 year

20. Meanwhile, in order to ensure the provision of an enabling environment for foreign workers, the Ministry of Labour and Social Development carried out inspection visits to (2727) workers residing in the accommodation for workers, while the ministry received (33) workers' complaints about the lack of health standards and safety requirements and has taken necessary action in that regard.

21. Since occupational safety is a component of the right to work, several resolutions were issued aiming to provide a safe working environment, such as the Prime Minister's decision No. (2) for the year 2015 regarding the establishment of Occupational Safety and Health Council, which is responsible for drawing up and the implementation of public policy in the field of occupational safety and health and to ensure the optimum working environment for employees. Also, the decisions of the Ministry of Labour and Social Development number (40) for the year 2014 on the determination of the requirements and specifications of the workers' housing, and No. (3) for the year 2013 on work ban during noon period, and No. 6 for the year 2013 on the protection of workers from fire risks in facilities and work sites, and No. 8 for the year 2013 on the organization of occupational safety within the facility, and number (12) for the year 2013 on the reporting of occupational injuries and diseases, and No. 31 for the year 2013 on the prevention of the hazards of electricity.

22. The provisions of the Labor Law in the private sector and its decisions dealt with everything that would ensure occupational safety, in addition to the International Labour Organization Convention No. 155 of 1981 on occupational safety and health and the working environment, which was acceded to by the Kingdom of Bahrain under Law No. (25) for the year 2009. All of this constitutes a system that provides for occupational safety from hazards and injuries which occur in the work environment.

Section IV:
Alternative sanctions not based on deprivation of freedom

1. Punishment is the penalty prescribed by law and signed by the judge by a court judgment on behalf of the society for anyone responsible for the crime and commensurate with it. The fact that punishment is a penalty, it must involve pain for the perpetrator who violated the provisions of the law, and that is done by depriving him of the rights he enjoys. If there's a crime, then there is a penalty. So, there is no penalty unless a crime is committed and someone is responsible for it, as well as taking the principle of legitimacy that a penalty and a crime are based on judicial texts in line with the right to the enjoyment of the guarantees of fair trial.

2. Punishment as a sanction, has an educational role in society, which is to achieve its best interests by combating crime through punishment of the perpetrator, and the judiciary is the competent authority for deciding on the punishment of anyone responsible for a crime. The punishment varies according to the offense and its gravity, and can either be a deprivation of freedom or a financial penalty, and these penalties are decided by a judge depending on the real circumstances of the offender, both of which are related to the conditions and circumstances of the offense, or those related to the person of the offender and how dangerous he is as a criminal.

3. The punishment concerning deprivation of freedom is one of the most severe penalties – following the punishment of death – and is given after taking into consideration the type of offense committed and its extent and gravity, and its efficiency in the overall and private deterrence and reform of the offender. However, the realities and scientific studies, and recent trends of punitive philosophy have shown a range of options that keep pace with the evolution of societies such as alternative punishments for sentences of imprisonment, which are not the most efficient and effective to achieve its purpose, being based on the exclusion of the perpetrators from their social surroundings and their natural environment , as it may be the reason for the acquisition of other habits harmful to them and their community.

4. Alternative penalties are those imposed by the judiciary on the convict instead of the deprivation of freedom penalties, with the need to be consistent with the objective to achieve general and private deterrence, and that it would reform the convict and result in his rehabilitation. Experiments have shown that punishment concerning deprivation of freedom, in certain cases, is not enough to achieve the desired outcomes from the criminal justice system, as well as the fact that it is no longer the best method for the rehabilitation and reintegration of offenders in the society. The core reason behind the alternative punishments is to find effective ways other than deprivation of freedom that would enable the authorities to introduce the principle of proportionality with the needs of the offender, the nature of the offense he committed, and the circumstances of the case and the needs of society; and it should be noted that the alternative penalties system is applied to misdemeanors and not felonies.

5. Alternative penalties allow the perpetrator to stay loose and away from the detention environment which usually has a negative impact on his health, psychological and mental state, as it allows him to continue to engage in professional and family activities. Therefore, the international community sought in conjunction with the evolution of the human rights movement to find alternative measures to the deprivation of freedom penalties.

6. The United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules[11]) constitute the legal main reference for this system, as included the basic objectives of these rules, their scope, and the legal safeguards for their application, and the non-custodial measures prior to the trial, and during the trial and sentencing, and then subsequent measures to the stage of the trial, and the mechanism for their implementation and supervision.

7. United Nations adopted a set of principles and standards that emphasize the need to use imprisonment sentences as a last resort. Among the most important of principles adopted by the United Nations General Assembly in this area were: basic principles for the treatment of prisoners, standard minimum rules for the treatment of prisoners, rules, and principles for the protection of all persons deprived of their liberty, and the standard minimum United Nations Rules for the administration of juvenile[12] justice, the United Nations rules for the protection of juveniles deprived of their liberty. The United Nations also approved the rules concerning the treatment of female prisoners and alternative sanctions for them[13], as it organized procedures that take into account pregnant women, female minors and foreigners.

8. The international law developed types of non-custodial measures for different stages that the accused goes through, such as pretrial or during trial, or as the punishment stage after the trial and conviction, where the Tokyo Rules were not limited to recommend replacing the punishment prescribed by law after the conviction of a crime, but also calls for the replacement of the custody procedure in the investigation stage and collecting evidence by alternative procedures to the deprivation of freedom, which are required by justice and the preservation of human dignity. This is because the suspect is still in the investigation phase and has not yet reached the stage of judgment and execution of the sentence, and his offense has not been proven yet, because it is not justice to repress the freedom of the suspect like repressing the freedom of the convicted, because the first is more deserving of his freedom than the latter.

9. The practical realities impose the need to resort to measures less restrictive of the freedom of the individual, since it is not just to apply to a suspect in certain circumstances measures that rob him of his freedom pending his conviction, as the deprivation of his freedom in temporary imprisonment may be more than the sentence he will receive. So, rule number (1-5) from the Tokyo Rules relating to the phase before the trial called for the drafting of legislation that empowers the judicial police or the public prosecutor or other authority to drop the simple criminal case whenever it deems necessary to protect society or to prevent crime or to promote respect of law and the rights of victims.

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[11] Tokyo Rules, the United Nations Standard Minimum Rules for Non-custodial Measures, the General Assembly adopted resolution 45/110 of 14 December / 1990.

[12] Beijing Rules, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the General Assembly adopted resolution 40/33 of November 29/1985.

[13] Bangkok Rules, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures, adopted Resolution No. 229/65 dated March 16, 2011.

10. At the same time those rules allow imposing non-deprivation of freedom measures when necessary, such as an obligation to appear before the court upon request, or to refrain from interfering in the administration of justice, or a commitment to a certain behavior of select controls on movement, or provide a daily or periodic report to the court, or the police or to any other authority, or accept censorship by an entity designated by the court, or through the provision of financial or in kind guarantees for attending the trial.

11. Tokyo's rules also include a large number of non-deprivation of freedom measures that the judicial authorities may use as alternative punishments for imprisonment, while observing the offender's need for rehabilitation, protection of society and the interests of the victim. These include oral measures such as a reprimand, warning and alarm, parole, and sanctions affecting the legal situation of the individual: such as the deprivation of the exercise of certain activities that do not fit the nature of the offense, including the denial of the convicted of fraud from pursuing a career based on trust such as law or business management.

12. Besides penalties of an economic or financial nature that must take into account the financial condition of the individual, and order the confiscation or expropriation of funds, and restitution of money to the victim or compensating him/her, and suspending or deferring the judgment, and placing the offender under probation and judicial supervision, or making the offender work with a service of a social nature without pay, or referral to centers where the offender spends his day and is subject to treatment or make the offender gain specific skills to improve his behavior, and finally the house arrest as determined by the judge.

13. In the next phase of the ruling, the Tokyo Rules developed a large number of non-deprivation of freedom measures subsequent to the issuance of the verdict in order to avoid the placement of a convicted person in places of detention, such as the declaration of absence and the role of rehabilitation, and release in order to work or get an education, parole in its various forms, dropping the punishment, or pardon.

14. Extrapolating the national legislation, specifically Decree Law No. 46 of 2002 promulgating the Code of Criminal Procedure, and its amendments, it did not address the alternative sanctions as a punitive substitute for sentences of imprisonment, except as provided in Article No. (337) that says: "Anyone sentenced to imprisonment for a period not exceeding three months has the right to ask the judge, rather than giving him the imprisonment sentence, to sentence him to work outside the prison in accordance with article (371) and beyond ", and with reference to Article No. (371), which stipulates that "the convicted person may request at any time from the judge implementing the punishment before the issuance of the physical coercion to replace it by a manual or industrial labor sentence".

15. Also, with reference to Article (372), which stipulates that "the convict can work free of charge for a government or municipal entity for a period of time equal to the duration of his sentence. The type of work to be done by the convict is decided in addition to identifying the administrative entities that decide exactly on the work to be performed by a decision from the competent minister. The work to be performed should be completed in a matter of six hours, according to his status". And Article No. (373), specifies that " the convict should be treated in accordance with Article (371) and does not become absent from the location assigned to him, or does not finish the work assigned to him without an excuse that the administration deems acceptable. If this happens, then, the convict will be sent to prison for the implementation of the physical duress, where he was originally sentenced for execution. The days he already worked will be deducted from the duration. Also, physical coercion on the convict, who chose the job, rather than coercion, should be implemented if there is no chance for an alternative work", and Article No. (374), states that "the amounts due to the State of the fine and the amounts that must be returned and the expenses will be deducted in exchange for the convict's work as five dinars for each day".

16. However, the NIHR believes that Article No. (337) excluded suspects at the stage of investigation or during the trial and pre-judgment from the request for replacing deprivation of freedom punishment with the phrase "for each convict". Perhaps one of the requirements of justice is to enable the suspect to enjoy the alternative penalties that do not deprive him from his freedom as long as Article No. (337) grants the convict the right to benefit from it.

17. The Article mentioned above also confined replacing deprivation of freedom punishment with non-custodial measures in the case of imprisonment which does not exceed three months, which means narrowing the scope of application of alternative punishments. Meanwhile it is necessary to expand the application of alternative sanctions to include a maximum in the prison sentence, taking into account it is a punishment for a misdemeanor. Besides restricting the replacement of punishment by a request from the convict to the judge, this requires granting the judge discretionary power in the application of alternative punishment, taking into account the circumstances of the offender and the nature of the offense.

18. The previous article identified the types of non-custodial measures as "working" outside the prison only, which signifies the inapplicability of any other measure such as reform of the crime damage, or putting the offender on probation or judicial probation, and it was better not to specify the non-custodial measures, in an effort to expand the scope of its application in terms of the type of measure.

19. The decision No. (2) for the year 2013 amending Resolution No. (27) of 2008 on the amendment of Resolution No. (3) for the year 2008 set the business and administrative entities that the convict maybe employed in under an order from the judge and the controls for such employment. The Ministry of Justice Affairs and Islamic endowments put a schedule of the types of work that may be applied instead of custodial punishment as "replacing physical coercion with industrial or manual work" in some workplaces dominated by social nature, but this decision is still flawed, like Article No. (337) mentioned above.

20. The NIHR emphasizes the importance of applying the alternative punishments' system because of its positive impact on the personal level of the offender, and on the level of reform and rehabilitation centers, in particular the overcrowding, which adversely affects the services and the rehabilitation programs being offered by the correctional institution. Also, the sentences of imprisonment cause difficulties in the integration of convicts in the society because of its psychological effects, as well as the financial burden borne by the supervisory entity on reform and rehabilitation centers.

21. The NIHR calls for the issuance of a special law to regulate alternative punishments and to consider it as part of the penal system in the national criminal legislation, as the introduction of the alternative punishments' system limits the negative effects of the detention environment, which result from the mixing of persons convicted in hazardous issues with novice or persons convicted in minor issues. The introduction of this system will help the convicted to meet his needs along with the needs of his family and his society, which is consistent with the system of individualization of punishment based on taking into account the personal and family circumstances of the offender on the one hand, and the protection of society on the other.

Section V:
The rights of persons with disabilities and handicaps: advantages and obstacles

1. The state's concern about the rights of persons with disabilities and the like, and its commitment to ensuring that this special category enjoys all their rights, and other rights which they share with others, is a basic standard of the civilization level in the field of social welfare. The rights of persons with disabilities vary in particular from the rest of the rights in their content and nature. Hence, the rights of this group aim to satisfy their own needs through the transition from segregation to integration, and from care and compassion to the enjoyment of rights and from exclusion to inclusion. These rights also promote their effective community participation, in order to be able to contribute to it building and development.

2. The attention of the Kingdom of Bahrain in this category is based on the belief that the category of persons with disabilities are able to assist in the advancement of society and the state towards progress, and that disability does not stand in their way of life. This was reflected in the keenness of the leadership in the Kingdom of Bahrain to promote, protect and ensure that this category enjoys equal all rights and fundamental freedoms with others; Also, to promote respect for their inherent dignity by taking necessary actions and measures and providing facilities for this category, ranging from enacting legislation which guarantees their rights, through the ratification of relevant international conventions, right down to providing better health services, social welfare, and conducting field projects and providing professional services in a manner that reflects positively on this category and their families.

3. The Constitution of the Kingdom of Bahrain in Article No. (5) of paragraph (c) ensured social security for a range of categories, as that Article stipulates: "The State shall ensure the accomplishment of necessary social security for citizens in old age, sickness, inability to work, orphanhood, widowhood or unemployment. The State shall also provide them with services of social insurance and medical care, and strive to protect them from ignorance fear and poverty".

4. At the level of national legislation, Law No. (74) for the year 2006, and its amendments, tackled the care and rehabilitation and employment of the disabled to provide for the category of persons with their right to care and rehabilitation, and employment. The law addressed a number of provisions that included the obligation of the concerned ministries and agencies to provide organized and ongoing services to this category, particularly in the medical, social, educational, cultural, sports, employment, transportation, housing and other fields. And in order to effectuate it, the law stipulated that the relevant ministry - the Ministry of Labour and Social Development – should establish rehabilitation centers and institutions, and care institutions and enabling workshops for the disabled, as well as shelters necessary for this category.

5. As for international human rights instruments, the Convention on the Rights of Persons with Disabilities, ratified by the Government of the Kingdom of Bahrain under Law No. (22) for the year 2011, stresses the need that all people with all kinds of disabilities enjoy all human rights, civil, political, economic, social, cultural and fundamental freedoms. It describes the applicability of the rights on all categories of persons with disabilities in order to enable them to exercise their rights, which calls for human rights obligations for this category being implemented by the state.

6. In the field of institution-building and to give more protection to ensure that persons with disabilities enjoy their rights, the Supreme Committee for the care of the affairs of the disabled was established under the Council of Ministers Resolution No. (1) for the year 2012 under the chairmanship of the Ministry of Social Development and the membership of representatives from various government agencies and the civil sector. This Committee works on the planning and coordination of special programs for the rehabilitation and employment of the disabled, and the development of rules for determining the basic needs for their care, rehabilitation and employment and conditions of admission to centers of rehabilitation, as well as the development of regulations and determining the procedures for implementation of the obligations stipulated in law No. (74) of 2006 regarding the care and rehabilitation and employment of the disabled. Another committee was established with the mandate to decide on requests for prosthetic devices for people with disabilities under resolution No. (58) for the year 2016, which specializes in issuing decisions regarding the specific requests for dispensing prosthetic devices for people with disabilities.

7. In addition, there are many rehabilitation centers that provide care and support and services for this category, notably the establishment of an integrated building under the name of the "Comprehensive Disability complex" by order of His Majesty the King and the allocation of three hectares of land for the project. Taking part in its implementation are several entities interested in this category, where the Institution cornerstone was laid in 2012, and it will be gradually functional. The complex includes elven buildings for various disabilities, and will include human cadres specialized in psychological, social and other fields of disability. The complex is designed to provide integrated care and rehabilitation, and to provide health and psychological care and physical therapy, as well as family counseling and social guidance. It will also display and market products produced by this category, and will create awareness about compensatory devices and train the families of persons with disabilities, workers and members of NGOs in that field.

8. Confirming the right of this category to work and training, September 2016 witnessed the opening of a recruitment and training disabilities center. The Center works to provide comprehensive services to people with disabilities, including hiring, training, and evaluation of job seekers in this category. The center also provides integrated services for people with disabilities, as it is equipped with the latest technologies and devices for the assessment of cases in preparation for their candidacy for appropriate jobs, and overcome obstacles in the face of this category to integrate them in jobs that fit their abilities and take into account their needs so that they can perform their role and contribute to the development of society.

9. In this regard, the Institution refers to the issuance by the Ministry of Labour and Social Development of Resolution No. (67) for the year 2016 concerning the qualification certificate data for persons with disabilities under which it gives the disabled person a free qualifying certificate containing his personal details and qualifications, and the proposed professions that he can exercise. This resolution supplements the legislative system in this aspect dealing with this category in the field of employment and training and rehabilitation.

10. Pursuant to the terms of reference of the Supreme Committee for the care of the affairs of the disabled, it has developed a comprehensive and integrated national strategy based on a set of research and field studies on the situation of disabled persons in the Kingdom. The strategy tackles seven themes: including legislation, health, rehabilitation, education, economic and social empowerment, and empowerment of women with disabilities in addition to facilitating access of the disabled to buildings and services, while highlighting the role of the media and awareness raising of the importance of giving people with disabilities full rights without diminution.

11. The principle of equality and non-discrimination on the basis of disability in the enjoyment of all civil and political rights and economic, social, cultural and fundamental freedoms is one of the basic principles recognized by the international instruments on human rights. Rights will be realized equally and effectively through the state taking necessary measures and legislations, and the adoption of national policies based on the principle of equality of persons with disabilities with others. This is clear in the provisions of the Convention on the rights of persons with disabilities, where Article No. (5) asserts the principle of equality and non-discrimination, while ensuring that this category enjoys effective equal legal protection, rights and freedoms.

12. As for persons with disabilities enjoying their civil rights, particularly equal rights before the law and access to justice, the Convention on the Rights of Persons with disabilities indicated the need to recognize the legal capacity for this category on a measure of equality with others, which requires taking a series of measures and the appropriate procedures to provide access to the support they need during the exercise of that capacity.

13. In this regard, the NIHR noticed that the Supreme Judicial Council and the Ministry of Justice, Islamic Affairs and Awqaf, and the Public Prosecution have introduced a number of facilitative measures to enable persons with disabilities to enjoy their right to equality before the law and access to justice through the provision of interpreters for the deaf and dumb, with the possibility of the judge or a staff moving to the residence of the person - who cannot attend court because of his disability- to complete any action, documentation or litigation procedures.

14. In the field of economic, social and cultural rights, and specifically with regard to the right of persons with disabilities to enjoy a decent standard of living, the Law No. came (7) for the year 2009 added an article to the Legislative Decree No. (10) of 1976 concerning appropriate housing to ensure that the situation of persons with disabilities or their families should be taken into account in the allocation of housing and the importance of the existence of special equipment suited for the type of disability, which is in line with what is indicated by the International Convention related to the need for this category's equality with others in decent living by enabling them to take advantage of those services.

15. The provisions of Law No. (40) of 2010 amending some provisions of Law No. (74) for the year 2006 regarding the care and rehabilitation and employment of the disabled, provided a legal coverage for the provision of social assistance to persons with disabilities by giving them a monthly allowance of one hundred dinars at least for the purpose of upgrading their living standards. In this regard, the concerned ministry issued an ID for a person with a disability, granting him varying proportions of reductions on certain goods and services. This was noted by the NIHR through the website of the Ministry of Labour and Social Development, which had a list of support for this project which aims to improve the standard of living for this category.

16. Also, people who suffer from some diseases that may make them in the advanced stages of the disease were included in the ranks of persons with disabilities, such as patients with severe sickle cell anemia, and MS, the genetic blood disease (thalassemia), and given services provided by the state. Where the NIHR noted that some official authorities such as the Ministry of Interior, the Ministry of Health, Ministry of Labour and Social Development, held meetings with representatives of a number of associations that deal with these diseases, which have been working to facilitate access to services provided by the State, through the provision of medicines and treatment or by issuing special ID cards for the purpose of facilitating their access to medical services and treatment in health centers or use special areas allocated to the disabled. They also work on issuing cards on behalf of people with special needs. The Institution also noted that the disabilities division at the University of Bahrain provided a special card to students who suffer from severe sickle cell anemia, and opened a health file at the university clinic in order to provide facilitative services and the attention commensurate with their state of health. The NIHR hopes the rest of the universities and educational centers would follow suit.

17. With respect to the right of persons with disabilities to work, the provisions of Law No. (74) for the year 2006 on the care and rehabilitation and employment of the disabled affirmed the principle of equality in the enjoyment of all labor rights and benefits for the disabled with others without any discrimination, while obliging establishments employing a total of more than fifty workers to employ 2% of workers with disabilities, and this obligation covers all government agencies and public institutions and organizations in the state.

18. The Welfare Act for the Rehabilitation and Employment of the Disabled acknowledged the right of persons with disabilities, specifically the pregnant employee to maternity leave without deducting it from her vacations, and the law gave this category a pension salary once their service reaches fifteen years, at least for males and ten years for females if any of them is not entitled to a pension according to the provisions of the laws governing this matter.

19. Taking into account the health status of persons with disabilities, including workers who suffer from severe sickle cell anemia, who may be affected by working conditions, the decision of the Ministry of Labour and Social Development No. (24) for the year 2013 was issued regarding the reduction of the maximum working hours, including at least one hour for some categories of workers and some industries and jobs according to circumstance. The decision specified the industries and jobs that must be taken into account for that category. In addition, Law No. (59) for the year 2014 amending Article (5) of Law No. (74) for the year 2006 on the Care and Rehabilitation and Employment of the Disabled, gives a disabled employee or a worker with a disability or caring for a disabled first degree relative two hours of rest per day with pay according to specific terms and controls.

20. In order for persons with disabilities to achieve their right to education pursuant to the contents of the Convention on the Rights of Persons with disabilities, regarding the need to work on developing their personality and their talents and their creativity, as well as develop their mental and physical abilities to their fullest potential, by not excluding them from the general education system on the basis of disability , and providing them with all the necessary support in the scope of education. Article No. (5) in paragraph (10) of law No. 27 of 2005 on Education indicated the need for diversifying educational opportunities according to the individual needs of diverse students and care for people with disabilities through monitoring their progress and integration with their peers in educational institutions.

21. In this regard, the Ministry of Education has given this category a significant attention, where the facilities and the necessary equipment for students with disabilities were made through the development of therapeutic classes in some schools for slow learner students and cases of underachievement, and work was done on the integration of students with disabilities in regular classes with their peers to avoid isolating them from their environment and their community. In addition, it studied and followed up cases of mental retardation and speech disorders and hearing and vision impairment in public schools, and worked to refer such cases to specialized institutes or centers. It also took special measures commensurate with the classification of the case according to the type and nature of disability by providing students with disabilities the proper infrastructure, and providing them with a specialized teacher and appropriate education tools, and the provision of treatment services to those in need.

22. For the purpose of improving the quality of education for people with disabilities, the government introduced an allowance for education or rehabilitation or care of persons with disabilities in the Ministry of Education public schools and the rehabilitation centers of the Ministry of Social Development. This allowance is one hundred dinars for the staff in educational functions group, and fifty dinars for employees in the public service group and that is under the Council of Ministers Resolution No. (16) for the year 2013.

23. In this regard, also, the Ministry of Labour and Social Development launched a quality initiative represented in making a computer system especially for the blind, which is endowed with a speaking program called "vision/Bassar", thus enabling this category to use computer programs and read Arabic and English web pages in an easy and clear manner. It also helps them to differentiate scanned documents and read e-mails, and take advantage of modern technology, and develop their ability to communicate and improve their integration in public and working life.

24. During the NIHR follow-up on the realities of this category of persons with disabilities or those who suffer from medical conditions placing them in the category of persons with disabilities, the NIHR spotted the opening and operation of a therapeutic medical center for blood and genetic diseases as a prominent leading center in the Arab Gulf region. The center was provided with the highest professional and technical levels, and it included a section for accidents and emergencies and another for functional diagnostics. It also noted through the local newspapers that the Ministry of Health will establish a medical complex in Muharraq Governorate in early 2017, which will include a center for patients with multiple sclerosis (MS). In this regard, the NIHR appreciates these efforts because of their significant role in ensuring that this category enjoy their rights especially in the field of health care and treatment.

25. However, the NIHR monitored the lack of implementation of Law No. (59) for the year 2014 amended by Article (5) of Law No. (74) for the year 2006 on the care and rehabilitation and employment of the disabled, which added two new paragraphs, given that the first paragraph stipulated that: " the employee or worker with disabilities or those caring for first degree disabled relatives, who have a certificate issued by the competent medical committee regarding their need for special care, may have two paid free hours a day, in accordance with the conditions and regulations established by a decision of the minister", and the second paragraph states: " those two hours under this Act and hours cannot be added to feeding hours or rest hours stipulated in other laws and decisions".

26. The Ministry of Health justified not implementing the provisions of this law in a news item published in local newspapers, that taking those two hours requires for that category to obtain a certificate issued by the competent medical committee in accordance with the conditions and criteria, indicating that those conditions and criteria have not yet been set by the concerned party, represented by the Ministry of Labour and Social Development, which sets the conditions that determine the controls and the mechanism of the law.

27. The NIHR also spotted later through a local newspaper a decision issued by the Ministry of Health to cancel the granting of two hours of rest for those granted this right after proving their eligibility by the competent medical committee, and that they should abide by the official working hours.

28. In this regard, the NIHR believes that the enactment of Law No. (59) for the year 2014 mentioned above is only an implementation of the provisions of the Convention on the Rights of Persons with Disabilities, ratified by the Kingdom of Bahrain under Law No. (22) for the year 2011, and that not implementing the law is not being true to the obligation arising from the ratification of the Convention, as concerned authorities are required to take measures necessary for the implementation of the law when it is published, as the delay in implementation - about two years - or canceling its benefit may reflect negatively on that category in a manner that hinders their enjoyment of their rights in the field of health care and services.

29. As an expression of interest in addressing this situation, His Royal Highness the Prime Minister issued instructions to accelerate in determining the conditions and rules and standards that define the state of disability that require granting two hours of rest a day with paid wages for an employee or worker with a disability or caring for disabled relatives of the first degree, which is stipulated by law No. (59) for the year 2014 and amended by Article (5) of law No. (74) for the year 2006 on the care, rehabilitation and employment of the disabled in preparation for the issuance of a decision to the competent minister and activating it, his Highness commissioned the competent ministerial committee with this.

"In order to achieve its goals, the National Institution for Human Rights has the right to comment on any issue related to human rights, and to deal with any case of human rights, as it deems appropriate"

Article No. 12 of Law No. 26 for the year 2014
For the establishment of the National Institution for Human Rights
As amended by Decree-Law No. (20) for the year 2016

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