



المؤسسة الوطنية لحقوق الإنسان
National Institution for Human Rights



Original: Arabic

English translation

**Report of the National Institution for Human Rights
of the Kingdom of Bahrain
Submitted to the Fourth Cycle of the
Universal Periodic Review (UPR)
Before the United Nations Human Rights Council***

Session (41)

7-18 November 2022

Geneva- Swiss Confederation

* The NIHR lists its observations contained in this report in the same order of the topics set out in the report of the Universal Periodic Review Working Group, which includes the addition of opinions on the conclusions, recommendations, voluntary commitments and responses submitted by the Kingdom of Bahrain, contained in document No. (A/HRC/36/3/Add. 1), taking into consideration the position of the Government on the extent to which recommendations contained in the third voluntary quarterly report submitted in September 2019 have been implemented.

Hotline 8000 11 44

Tel +973 17 111 666

Fax +973 17 111 600

eMail info@nihr.org.bh

PO Box 10808, Manama

Kingdom of Bahrain

www.nihr.org.bh



First: Recommendations with respect to Criminal Justice

1. The National Institution for Human Rights (NIHR) endorses the positive efforts in tackling these recommendations through setting up the Special Investigation Unit (SIU) pursuant to the Public Prosecution Decision No. (8) of 2012 as a unit specialized in investigating and disposing of allegations of torture and other forms of ill-treatment, and functions independently under the supervision of the Public Prosecutor.
2. The NIHR agrees with the amendments of some provisions of the Penal Code pursuant to Law No. (52) of 2012, which included the amendment of Articles (208) and (232) to incorporate the definition of (torture) contained in the International Convention into the law, thus becoming a punishable offense, where, under the law, every public official or any person who inflicts torture or other forms of ill-treatment on another person, shall be punished. In addition, the NIHR agrees with the issuance of Law No. (18) of 2014 promulgating the Reform and Rehabilitation Institution Law and its executive regulations issued pursuant to Resolution No. (131) of 2015.
3. The NIHR values the enactment of Law No. 18 of 2017 with respect to alternative penalties and measures, which includes and determines the types of alternative penalties and measures in criminal matters, the conditions for their application and the competent authorities, as this Law represents a paradigm shift in criminal policy with the aim of limiting liberty-depriving penalties to deter the perpetrators on the one hand, and to integrate them as good useful citizens in the society with improved psychological, mental and moral well-being on the other hand.

Second: Recommendations with respect to Nationality

4. The NIHR followed up on the measures and actions undertaken by the Government to facilitate granting citizenship to the children of Bahraini women, including granting Bahraini citizenship to children of Bahraini women married to foreigners in certain situations, based on a recommendation from the Supreme Council for Women.
5. The NIHR emphasizes that the entire measures and actions taken in this regard - despite their importance and the need to commend and value such - do not obviate the need for the prompt implementation by the competent authorities of the necessary legislative amendments to the current law to ensure that Bahraini women are granted a right equal to that of men with respect to granting nationality to their children, according to specific controls and rules that fulfill at the same time the international obligations of the Kingdom of Bahrain.
6. The NIHR considers that it is important that the competent authorities reconsider the reservations made by the Kingdom of Bahrain to Paragraph (2) of Article (9) of the Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW), to which Bahrain acceded under Decree-Law No. (5) of 2002, whereby Bahraini women have a right equal to that of men with regard to the nationality of their children, according to specific and necessary legal controls that balance between the essence of the right contained in the Convention and national interest.

7. The NIHR supports the amendment issued by Decree-Law No. (16) of 2019 amending some provisions of the Bahraini Citizenship Law of 1963 by the repeal of Article (24 bis) of Law No. (58) of 2006 regarding the protection of society from terrorist acts, which provides for cancelling the revocation of Bahraini citizenship in the event of being convicted of some of the crimes stipulated in the same law.

Third: Recommendations with respect to the Rights of the Child¹

8. The NIHR values the issuance of Law No. (4) of 2021 regarding restorative justice and protection of children from abuse, as well as the issuance of a number of relevant executive decisions, as this Law constitutes a qualitative addition to modern criminal legislation by giving priority to the best interests of the child in all relevant judgments, decisions and measures no matter who issues or undertakes them. In addition, the Law provides guarantees to protect the rights of children, protect them from abuse as well as moral, physical and spiritual exploitation or neglect, and provides them with health, education, and social care.

¹ The NIHR submitted its parallel report on the combined fourth to sixth national periodic reports of the Kingdom of Bahrain on the progress achieved in implementing the provisions of the Convention on the Rights of the Child, which it acceded by Decree-Law No. (16) of 1991, to the Committee on the Rights of the Child during its session No. (80) (January 14 - February 1, 2019), which included a number of detailed recommendations with respect to the rights of this category.

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/BHR/INT_CRC_IFN_BHR_33213_E.pdf

Fourth: Recommendations with respect to the Rights of Persons with Disabilities²

9. The NIHR followed up the Government's positive handling of the rights of persons with disabilities, however it finds it necessary to issue a new law on the rights of this group in line with the provisions of the Convention on the Rights of Persons with Disabilities, addressing - at the very least - the broad outline of infrastructure and engineering specifications and requirements appropriate to persons with disabilities in public facilities, tourist facilities, various means of transportation, and housing services, in addition to issuing an executive regulation to be annexed to the Law detailing these specifications, requirements and needs.

Fifth: Recommendations with respect to Family Law

10. The NIHR appreciates the issuance of Law No. (19) of 2017 promulgating the Family Law, and accords with the legislative policy followed by the Kingdom of Bahrain with respect to the gradual implementation of raising the age of marriage to (18) years - despite that the provisions of Law No. (19) of 2017 issuing the Family Law and the relevant ministerial decisions have set the age of marriage for both sexes at (16) years - as a policy that will lead to a reduction in the percentage of marriages for those under the age of eighteen years in the coming years, which is confirmed by in practice as the average age of marriage for females is (24) years.
11. The NIHR believes that, although Law No. (19) of 2017 promulgating the Family Law is mostly comprehensive and applies to family issues of the two honorable sects (Sunni and Ja'fari) included in its scope being general provisions originating from Islamic Sharia, the presence of some other provisions that apply to women belonging to the Sunni sect and do not apply to women belonging to the Ja'fari sect, or vice versa, is a natural and sound situation to account for the particularity of each sect and does not create discrimination between them, in addition to the fact that this particularity in provisions is consistent with the right to religious freedom.

Sixth: Recommendations with respect to the National Mechanisms and Institutions for the Protection and Promotion of Human Rights

² The NIHR submitted its parallel report on the national report of the Kingdom of Bahrain combining the first and second periodic reports on the progress made in implementing the provisions of the Convention on the Rights of Persons with Disabilities, which was ratified by the Kingdom of Bahrain under Law No. 22 of 2011, to the Committee on the Rights of Persons with Disabilities in November 2021, which included a number of detailed recommendations related to the rights of this category. https://tbinternet.ohchr.org/Treaties/CRPD/Shared%20Documents/BHR/INT_CRPD_IFL_BHR_47637_E.pdf

12. The NIHR was established by Royal Decree No. (46) of 2009, granting it the competencies and powers in a manner consistent with the “Paris Principles” with respect to the status of national institutions for the promotion and protection of human rights issued pursuant to the United Nations General Assembly Resolution No. (134/48).
13. Believing in the importance of strengthening NIHR’s functions, granting it more financial and administrative independence, and creating a legal guarantee, the House of Representatives and the Shura Council (the legislative authority) approved its establishment law, whereby Law No. (26) of 2014 was issued to establish the National Institution for Human Rights.³
14. Based on the recommendation of the Sub-Committee on Accreditation (SCA) and approved by the Global Alliance of National Human Rights Institutions (GANHRI), the NIHR enjoys B status accreditation. However, in order to strengthen the NIHR and give it more powers to achieve the goals for which it was established and raise its international classification, Decree-Law No. (20) of 2016 was issued amending some provisions of the law establishing the NIHR, taking into account all the observations and recommendations made by GANHRI and its Sub-Committee.
15. The amendments in the law establishing the NIHR included Article No. (3) Paragraph (b) regarding how to select the members of the Council of Commissioners from among the members of the legislative authority, provided they do not form a majority in the Council of Commissioners and that they can participate in the discussion as non-voting members. Paragraph (c) of the same Article stipulates that the mechanism, procedures and controls for the selection of the members of the Council of Commissioners are issued by a Royal Decree in order to enhance the transparency of consultations and appointments.
16. Regarding full-time membership of the Council of Commissioners to perform their duties, Article No. (5) of the Law stipulates that the Royal Decree appointing the members of the Council of Commissioners shall identify the full-time member (a member who works full-time to fulfill his/her mandate in the NIHR and is not committed to work in another job or profession while performing membership duties) and the part-time member (a member who is fulfilling his/her mandate duties in the NIHR and may, in addition to that, perform another work or profession), provided that both the Chairperson and the Vice Chairperson are among the full-time members.

³ Law No. (26) of 2014 Establishing the National Institution for Human Rights, amended by Decree-Law No. (20) of 2016
https://www.nihr.org.bh/en/MediaHandler/GenericHandler/documents/download/002_NIHR_Law_amend.pdf
 Royal Decree No. (17) of 2017 Determining the Controls Governing the Appointment of Members of the Council of Commissioners at the NIHR
[https://www.nihr.org.bh/en/MediaHandler/GenericHandler/documents/PDF/Royal%20Order%20No%20\(17\)%20of%202017%20English.pdf](https://www.nihr.org.bh/en/MediaHandler/GenericHandler/documents/PDF/Royal%20Order%20No%20(17)%20of%202017%20English.pdf)

17. The amendments in Article No. (12) Paragraph (g) of the Law granted the NIHR the authority to carry out announced and unannounced visits to monitor the human rights situation in correctional institutions, places of detention, labor gatherings, health and educational centers, or any other similar public place. Paragraph (j) of the same Article authorized the NIHR to hold meetings and joint events, cooperate, coordinate and consult with relevant civil society institutions, non-governmental organizations and other diverse groups and human rights defenders, and communicate directly with the claims of exposure to any form of abuse, and report back to the Council of Commissioners.
18. Paragraph (a) of Article No. (14) of the Law gives the NIHR the authority to request any information, data or documents it deems necessary for the attainment of its goals or the performance of its mandates from the ministries and relevant bodies in the Kingdom. It also requires that those ministries and bodies assist the NIHR in performing its duties, facilitate pursuing its mandates, provide it with the requested materials in this regard, and prepare responses and remarks on the recommendations contained in the NIHR's reports, in accordance with the laws and regulations in force by these bodies.
19. Pertaining to conflict of interest, Article (5 bis) of the Law stipulates that, with the exception of the rights and benefits allocated to a member of the Council of Commissioners in this Law, the member is prohibited from receiving any financial fee for performing any service or work – in his/her capacity as a member - for the benefit of the NIHR.” except for the rights and privileges granted to a member of the Council of Commissioners stipulated in the law, a member is prohibited from receiving any amount of money in return for performing any service or work - in his capacity - for the benefit of the NIHR. The First Paragraph of Article No. (10) thereof, includes a provision according to which the members of the Council of Commissioners are not subject to dismissal and their membership does not terminate except in cases and in accordance with the procedures stipulated in the law.
20. With regard to the financial resources of the NIHR, Article No. (20) of the Law stipulates that, in order for the NIHR to carry out its duties and tasks assigned to it in an optimal manner, it shall have sufficient financial funds that are allocated in a separate item of the State's general budget issued by law. In addition, the NIHR must manage and control its financial resources with complete independence, and its financial accounts are subject to the oversight of the National Audit Office.
21. The amendment of provisions of Article No. (21) of the Law stipulates that the Council of Commissioners prepares an annual report on the efforts, activities and other work of the NIHR, including a section indicating the level of progress made in the human rights situation in the Kingdom, highlighting suggestions and recommendations within the scope of its competencies, and identifying performance obstacles and the solutions adopted to overcome them. The Council of Commissioners submits its report to the King, the Council of Ministers, the Council of Representatives and the Shura Council, and presents

- its report to public opinion in parallel.
22. The Law establishing the NIHR affirms its key role in the field of promoting and protecting human rights, as Article No. (12) thereof provided for a number of competencies for the NIHR to fulfill its objectives in this field. The role of the NIHR in the “promotion” part is strengthened by means of spreading a culture of human rights through the many available methods, such as holding conferences, training courses, workshops and lectures for the general public or specific target groups, in addition to training in the field of human rights, publishing and printing educational brochures related to its work, as well as conducting research and studies in this regard, participating in local and international forums and meetings of regional and international organizations, and issuing bulletins, publications, data and special reports and posting them on its website.
 23. The law grants the NIHR the competence to examine the compatibility of legislative and regulatory texts with regional and international treaties concerned with human rights issues, including recommending acceding to relevant regional and international conventions, submitting parallel reports, and contributing to the drafting and discussion of reports that the Kingdom is obliged to submit periodically for the implementation of regional and international conventions concerning human rights, making observations thereon, publishing such reports in the media outlets, and cooperating with national bodies, regional and international organizations, and relevant institutions in other countries concerned with the promotion of human rights.
 24. In the field of “protecting” human rights, the Law charged the NIHR with the authority to receive, examine, and study complaints related to human rights, and refer them to the competent authorities and follow them up, while informing the complainants of the procedures to be followed, assisting them in taking such procedures or in settling the complaints with the concerned authorities. The Law also entrusted the NIHR to monitor any violations of the fundamental human rights and freedoms of individuals, in addition to conducting announced and unannounced field visits to any place suspected of violating human rights.
 25. The NIHR played a dynamic and active role in expressing its observations and comments on the draft National Human Rights Plan with the Ministry of Foreign Affairs. The NIHR values the considerable cooperation of the Ministry in this regard and its immediate response to any comments made by the NIHR in this regard, and hopes that this plan is issued promptly, activated, and adequately disseminated.

Seventh: Recommendations with respect to Equality in Employment and Work⁴

26. The Kingdom has taken clear legislative steps regarding combating racial discrimination⁵ and equality among workers and preserving their rights without discrimination by issuing Decree-Law No. (59) of 2018 amending a number of provisions of the Labor Law in the Private Sector promulgated by Law No. (36) of 2012, which provides for the addition of Article (2 bis) stating that: **“It is prohibited to discriminate between workers subject to the provisions of this law on the grounds of gender, origin, language, religion or creed.”** This was followed recently by the issuance of Decree-Law No. (16) for the year 2021 to amend some provisions of the Labor Law that includes the addition of an explicit text that states, **“It is prohibited to discriminate in wages between men and women workers for work of equal value,”** which will have a significant impact on removing every form of stereotyped discrimination, and ensuring the protection of the rights of women working in various production sectors.
27. By reviewing the provisions of the Labor Law in the Private Sector, it was noted that the working woman was granted the right to care for her child at a rate of two hours per day until the child reaches six months of age, and a total of one hour per day until the age of one year, whereas the woman working in the public sector enjoyed the right to care for her child for an average of two hours a day until the child reaches the age of two years. Accordingly, the NIHR calls for making the necessary amendments to the law in force to ensure equality between women working in the private sector and their counterparts in the public sector.

Eighth: Recommendations pertaining to International Human Rights Treaties and Mechanisms

⁴ The NIHR submitted its parallel report on the Initial National Report of the Kingdom of Bahrain on the progress achieved in implementing the provisions of the International Covenant on Economic, Social and Cultural Rights, which was ratified by the Kingdom of Bahrain under Law No. (10) of 2007, to the Committee on Economic, Social and Cultural Rights, during its session No. (14 February - 4 March 2022), which included a number of detailed recommendations related to the right to employment.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fNHS%2fBHR%2f47628&Lang=en

⁵ The NIHR submitted its parallel report on the report combining the eighth to fourteenth periodic reports on the progress made in implementing the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, to which the Kingdom of Bahrain acceded under Decree No. (8) of 1990, to the Committee on the Elimination of Racial Discrimination in September 2021, which included a number of detailed recommendations related to equality and combating discrimination.

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/BHR/INT_CERD_IFN_BHR_46908_E.pdf

28. Although the Kingdom of Bahrain has ratified and acceded to seven of the core international human rights instruments out of the nine core international instruments, namely: the International Covenant on Civil and Political Rights (ICCPR) under Law No. (56) of 2006, the International Covenant on Economic, Social and Cultural Rights (ICESCR) by Law No. (10) of 2007, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by Decree No. (8) of 1990, and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by Decree-Law No. (5) of 2002;
29. While the Kingdom acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) by Decree-Law No. (4) of 1998 and the United Nations Convention on the Rights of the Child (CRC) by Decree-Law No. (16) of 1991, and finally ratified the Convention on the Rights of Persons with Disabilities (CRPD) under Law No. (22) of 2011;
30. The NIHR hopes that the Government will look into the accession or ratification of the International Convention on the Protection of the Rights of All Foreign Workers and Members of Their Families (ICMW), and the speedy accession or ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (CPED), in addition to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), given that the Kingdom has established a national preventive mechanism against torture that reflects the essence of the Protocol represented by the Commission of the Rights of Detainees and Prisoners pursuant to Decree No. (61) of 2013.
31. Accession or ratification of the core international human rights instruments obligates States parties to submit initial or periodic reports to the treaty bodies (committees) of the United Nations responsible for monitoring the progress made by those States in implementing its provisions; thus, the NIHR hopes that The Kingdom submits its initial or periodic reports on time, without delay, and on a regular and periodic basis.

Ninth: Recommendations with respect to strengthening the Protection of Foreign Workers and Combating Human Trafficking

32. The NIHR followed up the positive role undertaken by the Government in protecting expatriate (foreign) workers and combating human trafficking, which had a demonstrable effect on maintaining the position of the Kingdom, which, according to the US State Department's report on Trafficking in Persons, has placed the Kingdom of Bahrain in the Tier 1 status for the fourth year in a row, which is the highest annual international rating in this field. However, the NIHR hopes that Law No. (1) of 2008 on Combating Trafficking in Persons is revisited to be more comprehensive and consistent with relevant international standards.

33. The NIHR appreciates the adoption of the mandatory tripartite domestic contract (for domestic workers) by the Labor Market Regulatory Authority, which regulates the relationship between the employer, the owner of the employment office and the domestic worker to guarantee the rights of all parties to the contract. However, the NIHR hopes to promptly enact a special law to deal with domestic workers and employment offices affairs and include the rights and obligations of the related parties.
34. The NIHR has closely monitored and followed up the devotion and cooperation of the competent ministry in implementing Decision No. (3) of 2013 regarding banning work during noon time, which prohibits workers, specifically workers in the construction, contracting, building and construction sector, from working under the sun and in open areas during peak hours in the summer. The competent ministry may take all legal measures against companies and institutions that violate the provisions of this Decision.

Tenth: Recommendations with respect to Human Rights Defenders and NGOs

35. The NIHR believes that human rights defenders have the fundamental rights and freedoms referred to in the United Nations Declaration on Human Rights Defenders⁶, just as others do. In terms of their nature and content, states must guarantee the observance of these rights and ensure that they are respected, not infringed or restricted in a way that affects their essence. Perhaps this role assigned to human rights defenders is consistent with the purpose of establishing the NIHR contained in its Law, which necessitates building bridges of cooperation to achieve common goals with human rights defenders.⁷
36. Within the framework of strengthening collaboration with non-governmental organizations, the NIHR held a number of human rights forums aimed at deepening the partnership with relevant civil society institutions, through which tangible developments and challenges in practice were highlighted, while proposing developmental solutions to improve the status of human rights in the Kingdom of Bahrain. The NIHR commenced its meetings with civil society institutions working in the field of human rights in general, followed by meeting with institutions working in the field of environmental rights, then with institutions working in the field of the right to health. The NIHR will continue to

⁶ It is a specific international instrument for the protection of the right to defend human rights, adopted by the UN General Assembly by General Assembly Resolution No. (53/144) on December 10, 1998.

⁷ It is worth noting that the law establishing the NIHR has pointed in its last amendment pursuant to Decree-Law No. (20) of 2016, taking the recommendation of the Sub-Committee on Accreditation into account, to the need to build bridges of cooperation with human rights defenders - along with other parties - through conducting relevant meetings, events and consultations, as Paragraph (j) of Article No. (12) thereof stipulates that the NIHR **“holds meetings and joint events, cooperates, coordinates and consults with relevant civil society institutions, non-governmental organizations, various other groups, and human rights defenders, and communicates directly with the claims of exposure to any form of abuse, and reports back to the Council of Commissioners.”**

hold its national consultations with the rest of the organizations, especially those working in the field of the rights of the most vulnerable groups (such as children, women, persons with disabilities, and the elderly).

37. The NIHR calls for issuing a new law for civil organizations and institutions, taking into consideration the appropriate developments in human rights, while strengthening the guarantees that ensure the exercise of the right to organize in line with the relevant UN resolutions. It also hopes to speed up the amendment of the current law - at the very least - which prohibits the participation of some citizens in the membership of the boards of directors of civil societies being members of dissolved political parties.

Eleventh: Recommendations pertaining to the Death Penalty

38. The NIHR agrees with international human rights standards and decisions that support guaranteeing the right to life, and that human beings may not be arbitrarily deprived of this right. Despite the fact that capital punishment may be imposed only for the most serious crimes, within strict legal and judicial controls, and in very rare cases, the NIHR calls and strives for the implementation of the United Nations resolution for a moratorium on the use of the death penalty and stresses the importance of enabling people facing the death penalty to exercise their right to request a pardon or commutation of their death sentence by ensuring that clemency procedure shall be fair and transparent.