

Report on the Effectiveness of the National Institute for Human Rights (NIHR)



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National Institute for Human Rights
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contents

- 5 Introduction
- 8 **First:** The Issuance of the 2015 Report
Second: Following up on the 2013 Report Recommendations, as confirmed in its 2014 report
- 15 **Third:** Recommendations included in the reports under revision
- 16 **Fourth:** Presentation of consultative opinions NIHR offered, as concluded by its reports of 2015 and 2016
- 18 **Fifth:** Review of the NIHR's role in protecting human rights in its 2015 and 2016 reports
- 20 **Sixth :** NIHR's efforts to encourage authentication of international human rights' agreements or acceding to them
- 21 **Seventh:** NIHR's efforts to interact with the international human rights system, and cooperate with other human rights organizations
- 22 **Eighth:** Assessment of human rights situations in light of the two reports under study
- 25 The NIHR's compliance with the Paris Principles in terms of composition and establishment law

Introduction:

Bahrain is still witnessing, since February 2011, complicated human rights issues due to the way the Bahrain government deals with citizens. The Bahrain Independent Commission of Inquiry (BICI) report has set a description to these issues that can be summarized in violations of the right to life, the right to physical safety, the freedom of religion, opinion and expression; the right to free trial, the right to education and work and the right to religious practices. These violations have indicated an institutional disorder in the state agencies. The violated rights were the result of the demand of a political structural reform that includes granting people the right to power and reform the justice and security systems.

The international community presented a number of demands to the Bahrain authorities that pushed for key institutional reforms. A number of regulatory bodies were formed to enhance human rights, in order to prevent the above mentioned violations. The institutional reform includes the National Institution for Human rights (NIHR), which its formation has been modified more than once in order to obtain the satisfaction of the international community, to make it a part of the formal institutional reform with a previous intent of facing public demands. It is apparent that these institutions are intended to reflect an elegant image to the way the Bahrain authorities dealt with these demands, despite the violations committed that have required urgent changes to be put in place.

The largely negative role the NIHR has so far played by painting a warped and many times sham picture of the human rights situation in Bahrain has resulted in a need to shed light on its role, assessing its effectiveness, examining in detail its annual reports (most recently 2015 and 2016), and investigating the reality of its compliance and execution of the Paris Principles.

Methodology:

This report will assess NIHR's work and effectiveness in Bahrain by the extent of its institutional compliance to the Paris Principles, as well as the rate in which it has satisfied the protocols issued by the coordination committee of NIHR and international institutes, that are intended to enhance and protect human rights.

Section I:
**Spotlights on the NIHR
for 2015 and 2016**

First: The Issuance of the 2015 Report:

The first report was released on January 12, 2016, approximately 12 months later than its scheduled release date. The issuance of an effective report ought to be clearly the at the forefront of NIHR efforts. This did not seem to be the main priority, as NIHR preferred the committee to have access to only the first and second reports.

Second: Following up on the 2013 Report Recommendations, as confirmed in its 2014 report:

The General Observation 1.6 of the Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA) of the International Coordinating Committee of National institutions for the Promotion and Protection of Human Rights, issued in May 2013, stated:

“Annual, special and thematic reports of National Human Rights Institutions serve to highlight key national human rights concerns and provide a means by which these bodies can make recommendations to, and monitor respect for, human rights by public authorities. National Institutions, as part of their mandate to promote and protect human rights should undertake follow up action on recommendations contained in these reports and should publicize detailed information on the measures taken or not taken by public authorities in implementing specific recommendations or decisions. In fulfilling its protection mandate, a National Institution must not only monitor, investigate and report on the human rights situation in the country, it should also undertake

rigorous and systematic follow up activities to promote and advocate for the implementation on its recommendations and findings, and the protection of those whose rights were found to have been violated. Public authorities are encouraged to respond to recommendations from National Institutions in a timely manner, and to provide detailed information on practical and systematic follow-up action, as appropriate, to the National Institution's recommendations."

In viewing the Bahrain NIHR report of 2015, one would realize the following:

a-NIHR was not serious in the follow up of issues outlined in its second and third reports of 2013 and 2014. It chose to defend state authorities, in relation to recommendations it had not implemented. It cited some stances by official bodies responsible for the implementation of these recommendations. However, NIHR did not comment seriously or strongly criticize non-implementation, or show strong desire to realise the objectives of the recommendations. Among those recommendations, we highlight the following:

-The recommendation to provide compensations to victims of violations. NIHR repeated in its report what was included in a governmental report submitted to the committee against torture, which noted the measured adopted in 2013 and 2014, without updating or attempting to follow-up what happened to this specific recommendation.

-The recommendation to subject law enforcement officers to comprehensive extended training programs using curricula that include teaching all components of human rights. The training should include effective interrogation techniques and the proper approach to obtain information without resorting to coercive means consisting of acts of torture or other forms of ill-treatment. NIHR report did not mention whether the training had an impact, if it did, and whether there is any progress in the methods of interrogations. This is an extremely prominent issue, especially in light of constant complaints that defendants are tortured to extract confessions; an issue stated by victims before in numerous court cases between 2015 and 2016, yet NIHR continues to ignore this.

-The recommendation stating that the Special Investigation Unit (SIU) at the Public Prosecution shall enjoy full independence according to the Istanbul Protocol. The extensive implementation follow-up shows that the institute gave up on its previous recommendations, and chose to include the response of the SIU, in defending its independence, and statistical reports, without any evaluation of this response by NIHR. This is especially important to note, since originally it was always stated that the basis of SIU formation that it works independently and its works are transparent. Again, nothing new emerged since the recommendation was issued, right until the issuance of the 2015 report.

-The recommendation urging all decision-makers of security leaders to take the necessary legal accountability procedures regarding death cases that occurred in detention places as a result of torture or other forms of ill-treatment. NIHR's notes in the first report had mentioned in relation to the contradictions in verdicts; as some are harshened in cases linked to incitement, and others are eased for security members, is a cause for encouraging impunity. All those presented at court from the country's security apparatus were oddly junior staff members, without having security leaders involved in the investigations. In all instances, the High Courts ruled the easing of the maximum sentences against any security forces personnel, while the rest of the cases were bizarrely found wholly innocent. However, NIHR did not comment on issues relating to these recommendations, but it chose to defend its implementation investigation, without any real-life evaluation.

-The recommendation on activating the supervisory authority of the Public Prosecution in relation to the work of law enforcement officers and the violations committed by them, and taking disciplinary or penal actions against them in case of violations of the Code of Criminal Procedure. The report stated the response of the Public Prosecution, without commenting on whether there was any change or not, in terms of the recommendation implementation.

-The recommendation to proceed with positive steps towards settling the cases of dismissed workers to close this file once for all. Although governmental bodies stated that the recommendation was implemented completely, the General Federation of Bahrain Trade Union noted that there are still a number of dismissed workers, whom the government promised to return to their jobs in the tripartite agreement between the government, the union, and the World Labor Organization. However, the government neglected the implementation of this recommendation, and NIHR's silence is shocking, and illustrates its abandonment of protecting dismissed workers' rights.

-The recommendation to review the citizenship school curriculum content in order to include a number of subjects that develop real culture and practice based on the promotion of respect for human rights. Although Minister of Education responses were general, it did not provide any proof of change in the curriculum, based on the said recommendation. These curriculums are open to everyone, so anyone can check if they included what the recommendation mentioned. Again, NIHR opted to remain silent and ignore the non-implementation of this recommendation.

b-NIHR omitted recommendations in its previous reports, and some it even avoided to mention, although they are literary preserved. This raises questions about the seriousness of NIHR in protecting human rights as a priority in its work conduct. Among the neglected recommendations, we mention the following:

-The NIHR mentioned in its first report issued in 2013, that it visited the Dry Dock Prison after the August 26, 2013 events there. It included many recommendations, which included things related to physical assaults of remanded in custody, sectarian insults and curses, and collective punishments. The report also presented recommendations, which the government never mentioned its implementations. This is elaborated on from paragraphs 30 until 36 of its reports. Despite that, NIHR's third and fourth reports dropped investigations of this recommendation, and has not followed up on this recommendation.

-Urging the Government to accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman Treatment or Punishment (OPCAT).

-Urging the Government to continuously support the periodic resolutions of the United Nations General Assembly related to abolishing death penalty.

-Considering setting a date for the visit by the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Human Rights Council.

-The need to transfer the administrative, regulatory and supervisory authority over reform, rehabilitation, and custody centers to the Ministry of Justice, Islamic Affairs and Endowments.

-Urging the Government to accede to the Optional Protocol to the International Covenant on Civil and Political Rights which is related to the government's recognition of the competence of the Human Rights Committee to receive individual complaints.

-Urging the Government to accede to the International Convention for the Protection of All Persons from Enforced Disappearance, (...) and amending the relevant national legislation so as to ensure the activation and implementation of the provisions of this Convention.

-Immediate cessation of the individual actions of law enforcement agencies associated with arrest and search procedures that constitute human rights violations.

- Immediate cessation of illegal or unjustified actions at security checkpoints and enabling local residents to have access to their homes.

- Considering and allowing the Working Group on Enforced or Involuntary Disappearances, and the Working Group on Arbitrary Detention of the Human Rights Council to visit the Kingdom.

- Making the necessary legislative amendments to ensure the accused person's right to counsel. This should include misdemeanors as well as felonies, starting from the stage of collecting evidence, until pre-trial investigation, through the trial stage and beyond.
- The Supreme Judicial Council should verify the claims made by the defendants during pre-trial investigation or trial procedures concerning the violation of their right to fair trial. Serious and transparent investigations should be conducted with the respondents, and the necessary legal action should be taken against them, if liability is proven.
- The security measures necessary to maintain public security in the vicinity of the court should be clear and declared in advance, and specialists such as lawyers, human rights defenders and the relatives of the accused persons should be allowed to attend the hearings, unless the court decides otherwise.
- Avoiding the forfeiture of Bahraini citizenship, except in specific and exceptional situations prescribed by the law. Forfeiture should be based on final court judgments and any person whose nationality has been forfeited should not be declared as stateless in order to avoid statelessness in the community, which poses serious risks to stability.
- Considering and allowing the Special Rapporteurs on the Rights to Freedom of Peaceful Assembly and of Association, and on the Independence of Judges and Lawyers, of the Human Rights Council to visit the Kingdom.

It is worth mentioning that among the recommendations mentioned above, NIHR ignored to note some under sections of non-implemented recommendations, and the report ignored the state apparatuses' increase in violations, which were a reason for the recommendations in the first place. Through this, NIHR itself is contradicting its own principles by failing to push for proper implementation of the recommendations. There is no reasonable explanation for its failure to properly follow-up on key outlined recommendations and its inability to independently and transparently criticize or reinvestigate failures by the government and official bodies.

Third: Recommendations included in the reports under revision

The annual report of 2015 comprised of a number of recommendations, however in view of its issue only in January 2017, there is no follow-up to the execution of these recommendations. More bizarrely, the annual report of 2016 did not contain any recommendations.

- In view of the recommendations that the 2015 annual report mentioned, most were only a repetition of what was cited in the 2013 annual report. The 2015 annual report did not mention that these recommendations were already stipulated previously, and have not been implemented. Approximately 18 out of 23 recommendations were repeated after three years of issuing the 2013 annual report. This suggests a negligent effort to push for implementation of recommendations, and is especially reckless considering the continued claims by defendants of severe torture in prison, confessions extracted under duress, severe injuries to protesters, unexplained deaths in custody, that have all happened in recent years.

- We must question what NIHR aimed at when it issued its 2016 annual report if it did not contain any recommendations whatsoever, other than praise to the batch of legislations issued in 2016 and praise to the role of the Bahraini Cassation Court in a case where it maintained assurances of a fair trial. Moreover, NIHR applauded its consultation on a draft law regarding housekeepers and updating the system of “labor flexibility”, as well as praising the role of the Minister of Labor and Social Development in its inspectional visits and the professional safety it follows. When the report concluded its theoretical research presentation to alternative punishments that do not deprive of freedom, it called on – not recommended – issuing a special law that organizes alternative punishments and the rights of disabled and impaired people. After a presentation that praised the authorities’ institutes, the NIHR pointed out one obstacle in its report, which is the implementation of

the law on paid hours for taking care of a disabled person, applauding the Prime Minister's instructions to execute this feature. In conclusion, the 2016 annual report did not contain anything tangible but only "an invitation" to look into alternative punishments for freedom-depriving punishments.

Fourth:

Presentation of consultative opinions NIHR offered, as concluded by its reports of 2015 and 2016:

When the jurisdiction of national institutes was decided to include the issuance of consultations to the Government and Parliament as part of Paris Principles – whether based on their request or by themselves – in all matters regarding improving and protecting human rights, the law of establishing the NIHR in the Kingdom of Bahrain incorporated this jurisdiction.

Finding the exact legal article does not necessarily mean NIHR plays an effective role in improving and protecting human rights. When NIHR gives praise and cover to what could be a violation to human rights or support to these violations, it illustrates the destructive role NIHR can play. Many times now NIHR issues reports and carries out analyses contrary to international standards for human rights, but is in accordance with the standards it has been given by government or parliament. This is a blatant obstruction of the truth, as it goes completely against the image of reliability it has painted of itself.

Assessment of the consultations that NIHR presented, according to its 2015 and 2016 annual reports, shows that its role is dangerous regarding human rights in Bahrain. To demonstrate the reality of this, we will present what it offered as consultation on the decree law no. 68 of 2015 and amendment of some rules on law no. 58 of 2005 on the protection of society from terrorist attacks. NIHR's consultation on the decree law guaranteed the soundness of it, and it does not violate any human rights according to the stipulations of pertinent international agreements. We will only point out the graveness of NIHR's testimony regarding some points the amendment tackled.

- The amendment decided to establish a special Prosecution called “The Prosecution of Terrorist Crimes”. The procedures of its formation and assignment of its members included special procedures; it decided to assign member with a royal order based on the Public Prosecutor’s presentation, neglecting any regulations stipulated by pertinent international agreements that would insure the independence of this Prosecution’s members. The amendment especially did not lay down the condition that the assigned members would be judicial officials. Actual implementation assigned a person who received a complaint of practicing torture, cruel and undignified treatment as the Head Prosecutor for Terrorist Crimes. A royal order assigned other members, most of whom are former employees of the Ministry of Interior. They did not carry out any screening procedures that would ensure the independence of assigning judicial officials and their competence. Nevertheless, NIHR’s consultation of establishing a specialized Prosecution was said to be of organizational administrative nature, and does not form a threat or violation to human rights. The result was allegations of duress carried out against defendants carried out by the special Prosecution.
- Although the amendment provided security parties – and their non-judicial members – to detain suspects of terrorist crimes for 28 days without any assurances, NIHR did not admit that this clause is a violation to human rights, but nonchalantly alluded to article 9 of the International Covenant on Civil and Political Rights, which enshrines specific custody rights to a detainee, lacking any courage to call this unlawful power what it actually is – a crime.
- Although NIHR had previously stated several recommendations on rights to resort to lawyers, contacting the outside world, and avoiding enforced disappearances, it had however wrecked all its previous recommendations when it decided that detaining a suspect for 28 days without any assurances or regulations is not in violation of human rights.
- The amendment decided upon the confidentiality of the intelligence presented by security sources on terrorist crimes, and intelligence

cannot be disclosed whatsoever. In other words, the suspect will be interrogated and tried based on information he has no knowledge of. Again, NIHR considered this amendment not to violate human rights stipulated by international agreements on human rights. Meanwhile, the assurances of a fair trial demands the suspect and attorney be aware of all that is pertinent to the accusation, or else the trial would lack the most important element of a fair trial.

Fifth: Review of the NIHR's role in protecting human rights in its 2015 and 2016 reports:

The mandate of the national institutes, according to the Paris Principles, shall conclude the promotions and protection of human rights. On the level of human rights promotion, NIHR reports on human rights for 2015 and 2016 included some activities, which according to the institute, are dedicated to the promotion of human rights.

What's more important is NIHR's role in protecting human rights. The following are NIHR's activities in the aforementioned domain:

The 2015 annual report, in which it decided the following:

- Issuing 7 statements.
- Attending a number of court hearings.
- Following up on prisoners' conditions in Jaw Central Prison.
- Receiving 66 complaints.

The 2016 annual report, in which it decided the following:

- Issuing three press releases.
- Attending a number of court hearings.
- Monitoring four cases of prisoners.
- Monitoring a case published in print news about postponing a citizen's paper work due to the absence of the official.
- Monitoring a case of teacher assaulting a student.
- Receiving 45 complaints from prisoners concerning meeting their families from a glass partition.
- Receiving the sum of 137 complaints.

The total of what the NIHR was able to monitor and protect, lie in the type of violations that were committed which the NIHR has been allowed to investigate that are unlikely to cause embarrassment or repercussions on official bodies, senior figures, or the government. Cases such as a failure to complete paper work, or a case of a teacher hitting a student, without degrading the significance of these very serious breaches, leaves the greater violations strongly affecting the whole country and the population, to be ignored. This reflects a lack of boldness by the NIHR to deal with human rights violations in Bahrain in a systematic, transparent, and unbiased manner.

The reports under study, with their content, reflect the NIHR's ineffectiveness in the protection of human rights, since, despite the many statements issued by international human rights officials, notwithstanding statements from numerous internationally reputed rights organizations and Bahraini human rights defenders, inside Bahrain and abroad, and despite daily news, especially in the independent newspaper al-Wasat, NIHR chooses to overlook everything of significant that happens in Bahrain. It summarized its interaction and efforts in the protection of human rights in attending sessions, receiving complaints, and working as a mediator between the Minister of Interior and its victims of violations. All this confirmed what the Sub-Committee on Accreditation (SCA), which is affiliated with the Global Alliance of National Human Rights Institutions (GANHRI), mentioned in its May 2016 report, as it stressed:

The SCA is concerned about the effective application of the NIHRB's protection mandate in certain circumstances. While the SCA noted that the NIHRB had conducted some inquiries and made some public statements, it notes that NHRI's are expected to promote and ensure respect for the human rights of all individuals in all circumstances and without exception. In this regard, an NHRI's actions may include monitoring, documenting, issuing public statements and releasing regular and detailed reports on human rights violations through the media, and that these should be provided in a timely manner. Furthermore, an NHRI should also undertake rigorous and systematic follow-up activities, and should advocate for the consideration and implementation of its findings and recommendations in order to ensure

the protection of those whose rights have been violated. These actions, in particular the release of public reports, serve to combat impunity for human rights violations. The SCA encourages the NHRC to interpret its mandate in a broad and purposive manner, and to promote and protect human rights of all.

For example, the NIHR said that it attended the trial hearings held against one of the political associations under dissolution trial, Al-Wafaq National Islamic Society. The society was suspended and forced to cease operation within the space of only 3 hours, without enabling the party's lawyers time to look into case papers. The court also ruled against the defense from accessing the society's headquarters to prepare their defense; as its headquarters became under the control of the Ministry of Justice, Islamic Affairs and Endowments in that brief space of time. While this was accompanied by vast changes in hearing dates manifesting the impartiality of the judiciary, a dissolution verdict was issued without allowing the defense any comment. Despite all this, NIHR only stated that it "attended those hearings".

This begs the question: could simple attendance of hearings without providing any direction, criticism or advice to the way cases like Al-Wafaq are handled, still allow NIHR to protect human rights?

The fact that the NIHR said it attended these sessions, along with very apparent contraventions to the right to a fair trial, establishes the fact that NIHR decided to abandon its role in protecting human rights, despite its tools and mechanisms it theoretically had to stop such violations. The fact that NIHR decided to remain silent, and timidly expressed this serious issue in a mild manner in its 2016 report - its confirmation that right to a fair trial is an international human rights law norm - is truly alarming.

Sixth: NIHR's efforts to encourage authentication of international human rights' agreements or acceding to them:

Although the provisions of the organization's establishment laws theoretically ensure this mandate, both 2015 and 2016 reports of NIHR were totally devoid of this matter.

On the contrary, although the reports issued for the years 2013 and 2014 included recommendations that encourage acceding to a number of international agreements, as previously mentioned, the report issued for 2015 has not even mentioned these recommendations.

Seventh: NIHR's efforts to interact with the international human rights system, and cooperate with other human rights organizations:

Except to what NIHR has mentioned in its 2 reports, in clauses 18 and 19 of page 76 in its annual report for 2015, and in clauses 9, 10, 11, 12 and 13 of pages 49 and 50 in its annual report for 2016, the institute has not interacted with the international human rights system by submitting parallel or shadow reports. It also has not declared any statements in the current Human Rights Council negotiations despite its presence, nor did it make any effort to persuade the government to facilitate the visit of the special rapporteurs who had made requests to visit Bahrain, and whose dates of their visit have not yet been specified.

Nevertheless, the reports issued for years 2013 and 2014 have encompassed recommendations on scheduling visits to a number of special rapporteurs, on top of which is the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment. Rapporteurs also include Special Rapporteur on the Rights to Freedom of Peaceful Assembly and Association, and Rapporteur on the independence of the judiciary, lawyers and others. However, the 2015 report has dropped these recommendations and has not even mentioned them! As on the level of interaction with statements issued by special rapporteurs, NIHR decided to completely ignore them despite the great number of statements issued during 2015 and 2016.

Moreover, reports subject to analysis were devoid of clarifying any serious measures that frame the collaboration between NIHR and relevant civil society organizations, particularly human rights organizations and human rights defenders. Nothing highlights this failure more than the reports.

Eighth: Assessment of human rights situations in light of the two reports under study:

The two reports subject to study represent a case revealing the lack of NIHR's desire to be reflective of the human rights situation in Bahrain although the annual report, according to the basic requirements of the Paris Principles, had agreed with the decision of the International Coordinating Committee of National Institutions for the promotion and protection of human rights in its general observations about what must be included in this reports, such as recommendations on legislation and administrative procedures, abuses, human rights in general and more specific issues, as well as proposals to put an end to human rights violations.

A review of the reports showed limited overall content, where both addressed limited aspects, neglecting many of the aspects referred to in the 2013 report by the same organization. No improvements were made to those aspects; instead, they were more deteriorated in 2015 and 2016. We mention the following as an example:

- The Kingdom of Bahrain has put in place complete ban on peaceful protests and sit-ins since October 2014 until today. Despite repeated in-advance notifications of marches and sit-ins, the NIHR did not consider the comprehensive ban to demonstration through administrative procedures a concern, an infringement or a violation of human rights.
- No security official has been found guilty or involved in human rights violations up until today. When a case was finally put forward, all those involved in such acts were low-ranked members associated with security agencies; a fact mentioned in the 2013 NIHR report. The same report mentioned the fact of the variation between penalties issued by low-ranked members associated with security agencies, and between those who are involved in charges related to freedom of opinion and expression, as well as the provisions of discharge and easing of sanctions

issued by the Supreme Court. Such discrepancy in sentences can be seen as encouragement for more impunity, inadvertently promoted by NIHR. All these matters were absent from 2015 and 2016 reports.

- Excessive or inappropriate use of force and allegations of torture and cruelty represent the dominant reputation of how security forces deal with peaceful protesters and prisoners. The NIHR ignored reviewing these matters as well.

- Many of those affected by human rights violations got no compensation, and the file of dismissed citizens due to the 2011 events has not yet been closed. NIHR, however, has not considered this issue a concern to the human rights situation.

- Despite the fact that NIHR decided, according to its 2013 report, it had carried out a deposition that it gave before the courts in the cases of a number of prisoners of Dry Dock Detention Center. The Public Prosecution and judiciary ignored its deposition and issued sentences on prisoners only and not on any of the security forces. Such a matter has not worried the institute in its last two reports.

- Social media continues to decide on violation cases that include arresting the accused person. NIHR referred to these matters in its 2013 reports and mentioned that these cases continue to happen, whereas it did not consider this issue a major concern to evaluate the rights' situation in the country.

- The annual 2013 report demonstrated the procedures adapted by the Public Prosecution, which hinder the accused persons from seeking help from lawyers defending them. Such procedures continue to execute, particularly in front of terrorist crimes prosecution. However, this matter was also recently ignored by NIHR.

- Despite the fact that the 2013 annual report referred to the security measures in the vicinity of criminal courts, and how these practices transferred some court hearings to non-public hearings especially in 2015 and 2016, NIHR chose not to mention it in its reports.

- The NIHR 2013 annual report recalled the issue of citizenship revocation of 31 Bahraini through administrative decisions, some of them tried to challenge it in court, but the government refused to present these decisions to the judiciary. This was a subject of criticism in the NIHR's 2014 report, where it recommended returning the citizenship. One of the victims had to appeal the decision personally, and the appeal was quashed, with the victim himself being deported from the country. However, the human rights situation developed, and the number of citizens whose citizenships have been revoked reached an extent that some were forcibly deported out of Bahrain. The institute did not mention these matters in its reports.

- Some regions in Bahrain are completely surrounded by security forces, and isolated from the rest of the country. Goods are prevented from entering a specific region, the Duraz area, home to the religious leader Ayatollah Sheikh Isa Ahmed Qassim, whose citizenship was revoked in June 2016. The region also witnessed collective punishment because of the protests launched in the region, covered by Al-Wasat newspaper. Despite these facts, the NIHR has ignored this situation in its report. The aforementioned events are a simple sample of the human rights situation in Bahrain. The institute's reports fail to mention these events; a clear letter of its in compliance with Paris Principles on working as an independent organization to enhance and protect human rights.

Section II:

The NIHR's compliance with the Paris Principles in terms of composition and establishment law:

NIHR argued its compliance to Paris Principles in three reports it had issued. This argumentation itself reveals its incompliance, for the institute was not objective, but promoting to itself through this argumentation; a matter which poses a question on whether complying to Paris Principles is a goal, or a method of achieving personal intents of the institute. It was clear that all the major goal NIHR seeks to achieve is to promote itself, without adopting its efforts on human rights protection a way to market itself.

We point to the following as an example:

In its first report of 2013, the NIHR decided on its compliance to Paris Principles. The report states:

To ensure the consistency of the NIHR's work with "Paris Principles" relevant to the Center of National Organizations to enhance and protect human rights, Royal Decree No. (28) was issued on September 11, 2012 for the year 2012 to amend some provisions of the Royal Decree No. (46) of 2009 to establish the National Human Rights Organization.

In the second annual report for 2014, the same NIHR decided on its agreement with the government to plan a draft law for establishing the institute, in compliance with Paris Principles. This reveals that NIHR consented to the fact that the Royal order, which it considered in its first report compliant with Paris Principles, was not. This also signifies that the draft law will make NIHR completely compliant with Paris Principles. As a result, Law No. (26) was issued of 2014 to establish the National Organization for Human Rights.

In its fourth annual report of 2016, NIHR decided on the global alliance of national organizations for enhancing and protecting human rights, after releasing the report of adopting the Subcommittee. The latter recommended classifying the institute in category B, and mentioned a number of shortcomings in the institute's establishment law, which were avoided in the issuance of Decree Law No. (20) for the year 2016, as detailed by the report's provision. We mention the amendments contained in the Decree Law on these three issues:

- First:

amendment tool of the institute's establishment law: amendments were issued by a decree issued from the executive authority, and this amendment, although presented to the legislative authority, confiscates the guarantees established by the Paris Principles; a matter mentioned by the International Coordinating Committee of National Institutions for the Enhancement and Protection of Human Rights in the general observations of the Sub-Committee on accreditation issued in May 2013. The committee decided that the establishment of the institute by a law issued from the executive authority raises concerns about the sustainability of the institute and its independence from the government, as well as its ability to implement its mandate without restrictions, a tool that was issued by the government. It was not mentioned that this law decree was presented to the legislative authority for approval, for law decrees are not executed without waiting for the approval of the legislative authority. When law decrees are presented to the legislative authority, the latter decides on rejection by the consent of the majority of the members constituting each of the Shura Council, or Council of Representatives, which is a special majority, meaning that the consent is presumed.

- Second:

the mechanism, procedures and regulations for nominating the members of the Commissioners of the Organization's Council: the amendment avoided the determination of the mechanisms, procedures and regulations to be in the law, to be issued by Royal Decree, define and modify without the consent of the legislative authority. The text has not decided any guarantee to achieve the goals established by the Paris Principles in selecting the members of the Board of Commissioners in a clear, transparent and participatory way, which guarantees that the selection is based on merit and pluralism; ensuring the independence of the members of the Commissioners of the organization.

We note here that the authority is dramatically aware of that whatever the capacity powers granted to the institute are, they can be regulated

by controlling the nomination of a dependent Board of Trustees, or members who do not have the merit, competence and independence. This makes them dependent to the ruling authority, and just an interface to guide the institute to do what the government wants; something that is well performed by the authority in Bahrain. In its report issued in June 2016 on the request of the national institute in Bahrain to adopt its classification, the Subcommittee indicated that the institute did not efficiently implement its mandate and independence without discrimination among the victims because of restricting its mandate. The reason behind not implementing the mandate accordingly is not the lack of the available financial resources or the absence of information, but it is the lack of the institute's and Board of Commissioners determination on the direct criticism of the violations.

It is taken into account that scrutiny in the biography of the members of the current Board of Commissioners shows how the government chose the members who are pro-violations, and preoccupied with defending the violations, without considering the validity of the content of human rights reports, except to attack these reports and human rights organizations. None of these members' histories revealed their interest in human rights or refusal to any violations or prejudice of human rights situations. They are satisfied with the negative position of the institute's Commissioners, through a tweet from the Bahraini Foreign Minister, which describes the High Commissioner for human rights Mr. Zeid Bin Raad, when he said publicly that Bahrain would not listen to those who are helpless and devoid of strength. None of these employees, nor the institute, has had any dismissive attitude to this disregard of clear values and beacons for international human rights.

The bottom line in this regard, is that the referral of the mechanism, procedures and regulations relevant to nominating the commissioners of the institute mechanisms to the Royal Order is crudely inconsistent with the Paris Principles. As a matter of fact, it has made this amendment the turning point of the process with the government, which in turn sets the amendment down and adjust it as appropriate to the government. The institute has failed in its criticism of this amendment, believing it enhances the transparency of consultation and nomination!

- Third:

The inclusion of the NIHR's annual report a part that clarifies the level of development of the human rights situation in the Kingdom: the Bahraini government does not consider this text a problem as long it has ensured the subordination of the Board of Commissioners' members. The reason is that this board will base on including this part of violations that enter the areas permissible to the institute to enter, and turn a blind eye to violations occurring in regions where the organization is forbidden from entering. Perhaps the fourth report of the institute for 2016 reflects that this text has been emptied of its contents, although the amendment has been issued before the issuance of the annual report for the year 2016, which requires the annual report to comply with this legislative guidance. However, the report subject to study did not include any assessment for the human rights situation in the Kingdom; it reflected on a number of procedures by paying tribute on less important issues than the major events that represent real concerns for the human rights situation. The report looked for cases to pay tribute for, and for matters that it may exploit to show there is a development in the human rights in the Kingdom. For instance, it relied on returning of three trials by the Cassation Court to the Court of Appeal, without specifying the sample, that this is an embodiment of the principles of justice and fairness.

Although the report considered returning the case of "blood money" (Diyah) by the Court of Cassation to the Court of Appeal as evidence of neutrality, impartiality and independence of the judiciary, NIHR issued a statement endorsing the implementation of the death sentence against the convicted in the case of "blood money". The statement also considered that the death sentence came after implementing the guarantees of a fair trial in an apparent coup d'état of NIHR, and deemed that cancelling the death sentence signifies integrity, and the implementation of the death sentence itself also signifies integrity!