

To:

Global Alliance of National Human Rights Institutions UNOG CH-1211 Geneva 10 Switzerland

1 June 2024

Subject: Information regarding the National Institution for Human Rights of Bahrain

Dear members of the Sub-Committee on Accreditation,

In 2015, the National Institution for Human Rights of Bahrain (NIHRB or Institution) was granted B status to mark the Bahraini NIHR's partial compliance with the Paris Principles.¹ Although the NIHRB was scheduled for re-accreditation in October 2023, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI) decided to defer the re-accreditation of the NIHRB to its Second Session of 2024.² Hence, in October 2024, the SCA will decide on the re-accreditation of the NIHRB, based on an evaluation of the progress made since 2023.

Ahead of this examination, MENA Rights Group, Salam for Democracy and Human Rights, and the Bahrain Human Rights Society would like to provide follow-up information that may serve to assist in the evaluation of the compliance of the NIHRB with the Paris Principles.

This report concludes that the problems identified in 2015 and 2023 persist and show no signs of improvement.

1. Summary of concerns raised in 2023

In June 2023, MENA Rights Group, the Bahrain Human Rights Society, Salam for Democracy and Human Rights and Human Rights Foundation published an evaluation report of the NIHRB, the country's national human rights institution (NHRI) that was sent to the SCA.³

¹ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 9-13 May 2016, <u>https://ganhri.org/wp-content/uploads/2019/11/SCA-FINAL-REPORT-MAY-2016-English.pdf</u>, (accessed on 23 May 2024).

² GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 23-27 October 2023, <u>https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2023-EN-new.pdf</u>, (accessed on 23 May 2024).

³ You may find the report on the following link: <u>https://www.menarights.org/sites/default/files/2023-06/Alternative%20Report GANHRI BHR 25052023 FINAL.pdf</u>, (accessed on 23 May 2024).



In this report, we examined the institution's compliance with the Paris Principles, and whether it was able to fulfil its mandate to protect and promote fundamental human rights in Bahrain. We found that the NHRI does not constitute an independent, impartial, and effective national human rights institution.

Among the issues identified is the lack of independence of NIHRB commissioners, as many current members previously held positions in parliament and government.⁴ Additionally, we found that the NHRI has consistently failed to address numerous human rights abuses by being overly selective in handling individual complaints to avoid holding the government accountable for fundamental rights violations.⁵ We have also found that the NIHRB lacked meaningful and transparent engagement with Bahraini civil society.⁶ Importantly, we also noted that visits to Bahrain's three largest prisons were poorly documented, lacked transparency, and failed to identify issues highlighted by civil society and international actors.⁷

In October 2023, the SCA therefore decided to defer the accreditation of the NIHRB on the following grounds:

- Insufficient evidence was provided by the NIHRB regarding its efforts to address serious human rights violations, including torture and arbitrary detention.⁸
- Insufficient evidence was presented by the NIHRB regarding effective and meaningful cooperation with civil society organizations, including human rights defenders.⁹

The SCA also noted that the selection and appointment process lacked clarity as the criteria for the identification of members of the Council of the Commissioners is not explicit in Bahrain's legal framework.¹⁰

2. Developments since June 2023

2.1. Addressing human rights violations

2.1.1 Rights of the child

In its October 2023 report, the SCA "urges the NIHRB to broaden and strengthen its efforts to address serious human rights violations to ensure compliance with the Paris Principles."¹¹

The NIHRB has consistently failed to take steps to address children's rights in an efficient manner, having neglected to take into account requests from civil society in this regard.

⁴ MENA Rights Group, Bahrain, Evaluation report of the Bahraini National Institution for Human Rights, June 2023, p. 22, <u>https://www.menarights.org/sites/default/files/2023-</u>

^{06/}Alternative%20Report_GANHRI_BHR_25052023_FINAL.pdf (accessed on 23 May 2024).

⁵ Ibid, p. 11.

⁶ Ibid, Section 4 of the report.

⁷ Ibid, p. 14.

⁸ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 23-27 October 2023, p.35, <u>https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2023-EN-new.pdf</u>, (accessed on 23 May 2024).

⁹ Ibid.

¹⁰ *Ibid*, p.36.

¹¹ *Ibid*, p.35.



Although the institution met with civil society representatives in recent months who raised concerns about violations of children's rights, there have been no indications of any efforts to address or change the current situation. In late 2023, CSOs interviewed by submitting organisations Group notably discussed the need to implement Article 87 of the 2021 Restorative Justice Law for Children and their Protection from Maltreatment (hereinafter Restorative Justice Law)¹², which stipulates that a child who has been tried by an ordinary court must be retried before the correctional justice court. Civil society members requested the institution to push authorities to implement this crucial article, as its content has been one of their demands for years. However, since the meeting, they have received no updates from the institution, and no changes have been made.

Moreover, the NIHRB has appointed a Commissioner on Children's Rights in June 2023¹³, which was mostly seen as a positive step. However, since her appointment, the Commissioner has not communicated about her activities with civil society organisations or the general public, leaving them unable to assess the impact of her work and creating concerns about the effectivity of her mandate.

For example, despite a history of abuse on detained children in the country¹⁴, the Commissioner has not publicly addressed this issue and there are no indications that show it has been made a priority by her mandate. She also remained silent on recent news of a teacher sexually assaulting students¹⁵ as well as other instances of abuse, including testimonies of children being beaten by relatives or experiencing in-school bullying. Hence, civil society members interviewed by MENA Rights Group, have urged the Commissioner to be more active, communicative and effective. They have recommended creating partnerships and seeking assistance from civil society organisations to achieve her objectives and fulfil her responsibilities. Failing to do so is an indication that both Commissioner and the NIHRB are not genuinely committed to addressing children's rights and are merely attempting to whitewash violations to children's rights through this appointment.

2.1.2. Jaw prison hunger strike

¹² You can find a copy of this law on the following link: <u>https://bahrain.bh/wps/wcm/connect/b024d7f9-de6d-415c-afa1-</u>

<u>42e5a7cf8683/LAW%2BNO.%2B%284%29%2BOF%2B2021.pdf?MOD=AJPERES&CVID=oaM6yXU#:~:te</u> <u>xt=This%20Law%20aims%20to%20provide,that%20issues%20or%20implements%20them.</u>, (accessed on 25 May 2024).

¹³ National Institution for Human Rights, *June 2023 Newsletter*, p.7, <u>https://www.nihr.org.bh/issue/june2023/index.html#p=6n</u>, (accessed on 25 May 2024).

¹⁴ Human Rights Watch, Bahrain: Stop Denying Abuse of Detained Children, 7 June 2021, <u>https://www.hrw.org/news/2021/06/07/bahrain-stop-denying-abuse-detained-children</u>, (accessed on 25 May 2024).

¹⁵ *The Daily Tribune*, "Bahraini Teacher Sentenced to 15 Years for Child Assault", 29 April 2024, <u>https://www.newsofbahrain.com/bahrain/98716.html</u>, (accessed on 25 May 2024).



The SCA also highlighted in its October 2023 report that the NIHRB claimed to have undertaken various interventions with authorities in response to a recent hunger strike in Bahrain's main prison.¹⁶

On 7 August 2023, more than 400 inmates initiated Bahrain's largest hunger strike at Jaw prison, which expanded to over 800 inmates by 30 August 2023, according to the Bahrain Institute for Rights and Democracy.¹⁷ The inmates protested against their detention conditions and denial of adequate health care. They also emphasized on the years of abuse faced while in custody.. As many of the inmates were imprisoned following grossly unfair trials¹⁸, prisoners' families have also taken to the streets in protest, demanding the release of their loved ones.¹⁹

A delegation of the NIHRB has visited Jaw prison as early as 10 August 2023 to "listen to prisoners' requests and take note of their observations regarding the strike and its causes."²⁰ The institution stated that the inmates' requests focused on improving living conditions in the prison. According to the NHRI, these requests included increasing the time spent outside their cells, extending visiting hours, allowing private visits with family members, reducing the cost of telephone calls, enhancing the quality of healthcare, and permitting the collective practice of religious rites in the mosque instead of being confined to their rooms for prayers. The NIHRB then submitted a "detailed report on this visit" to the authorities in order to work on the best ways and means to reach appropriate solutions to those requests in a "balanced and fair manner."²¹ However, the institution has not published the alleged report casting serious doubts about the transparency of the NIHRB.

Additionally, despite inadequate facilities for practising religion being one of the key demands of the inmates on hunger strike, the institution published an article on 7 August 2023 claiming that they visited Jaw Prison a few days prior, spoke with inmates, and confirmed that "the departments of the correction and rehabilitation centres have taken the necessary procedures, measures and facilities that guarantee the rights of the inmates to perform their Ashura rites with ease."²² The inconsistency between this statement and the

¹⁶ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 23-27 October 2023, p.35, <u>https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2023-EN-new.pdf</u>, (accessed on 23 May 2024).

¹⁷ Human Rights Watch, "Bahrain: Address Hunger Strike Grievances, Release All Unjustly Detained; Treat All Prisoners Humanely", 1 September 2023, <u>https://www.hrw.org/news/2023/09/01/bahrain-address-hunger-strike-grievances#:~:text=More%20than%20400%20inmates%20in,were%20on%20the%20hunger%20strike</u>, (accessed on 23 May 2024).

¹⁸ Ibid.

¹⁹ Al-Jazeera, "'Slow murder': Hundreds of prisoners stage Bahrain's largest hunger strike", 28 August 2023, <u>https://www.aljazeera.com/news/2023/8/28/slow-murder-hundreds-of-prisoners-stage-bahrains-largest-hunger-strike</u>, (accessed on 24 May 2024).

 ²⁰ National Institution for Human Rights, "After a group of prisoners went on hungers strike, the NIHR visits the Correction and Rehabilitation Centre (Jaw Region) and meets with the strikers", 13 August 2023, https://www.nihr.org.bh/EN/newsAndEvents/News/13Aug2023.aspx, (accessed on 24 May 2024).
²¹ Ibid.

²² National Institution for Human Rights, "NIHR statement on the procedures and measures taken in correction, rehabilitation and pretrial detention centres during the Ashura Season", 7 August 2023, <u>https://www.nihr.org.bh/EN/newsAndEvents/News/7Aug2023.aspx</u>, (accessed on 24 May 2024).



inmates' demands, which partly led to the hunger strike starting on the same day, suggests that the NIHRB either did not take into account the inmates' testimonies when they met with them prior to the strike or did not speak with inmates who were allowed to accurately describe their situation.

Additionally, while the NIHRB did list parts of their requests and noted that some were met by authorities, such as increasing the time inmates can be outside their cells from one hour to two and a quarter hours²³, the institution failed to acknowledge two of the inmates' and their families' main reasons for protesting: the arbitrary detention of many following their grossly unfair trials and the torture and ill-treatment they endured.²⁴ The inmates, along with their families, called for the amnesty of unjustly detained individuals²⁵, but the institution has never addressed this demand. The NIHRB also failed to mention the inhumane conditions of detention inside the prison. Human Rights Watch has noted that three detainees have died amidst allegations of medical negligence, including lack of hygiene and sanitation which lead to two major outbreaks.²⁶ This indicates the NIHRB's unwillingnesss to address the root causes of the hunger strikes.

Additionally, even though the institution mentioned in its press release that one of the inmates' requests was access to better healthcare, they failed to mention that inmates endure a complete lack of healthcare. Human rights defender Maryam al-Khawaja, daughter of Abdulhadi al-Khawaja, a prominent human rights defender detained in Jaw prison, has stated that Bahraini authorities have repeatedly denied her father essential healthcare, despite his life-threatening cardiac problems.²⁷ Consequently, her father initiated a hunger strike on 9 August 2023, demanding access to specialist medical care. It is important to note that during his 12 years of imprisonment, al-Khawaja has been subjected to severe physical, sexual, and psychological torture²⁸, which has never been addressed by the NIHRB. It therefore appears that the institution has deliberately chosen to only highlight certain inmate requests while ignoring other's.

On 13 September 2023, the UN Special Rapporteur on Human Rights Defenders, the Working Group on Arbitrary Detention (WGAD) and the Special Rapporteur on the rights

²³ National Institution for Human Rights, "NIHR conducts a field visit to the Correction and Rehabilitation Centre in Jaw Region", 2 October 2023, <u>https://www.nihr.org.bh/EN/newsAndEvents/News/2Oct2023.aspx</u>, (accessed on 24 May 2024).

²⁴ Human Rights Watch, "Bahrain: Address Hunger Strike Grievances, Release All Unjustly Detained; Treat All Prisoners Humanely", 1 September 2023, <u>https://www.hrw.org/news/2023/09/01/bahrain-address-hunger-strike-grievances#:~:text=More%20than%20400%20inmates%20in,were%20on%20the%20hunger%20strike</u>, (accessed on 23 May 2024).

²⁵ Al-Jazeera, "'Slow murder': Hundreds of prisoners stage Bahrain's largest hunger strike", 28 August 2023, <u>https://www.aljazeera.com/news/2023/8/28/slow-murder-hundreds-of-prisoners-stage-bahrains-largest-hunger-</u> strike, (accessed on 24 May 2024).

²⁶ Human Rights Watch, World Report 2022, Bahrain – Events of 2021, 2022, available at: <u>https://www.hrw.org/world-report/2022/country-chapters/bahrain</u> (accessed on 27 May 2024).

²⁷ Human Rights Watch, "Bahrain: Address Hunger Strike Grievances, Release All Unjustly Detained; Treat All Prisoners Humanely", 1 September 2023, <u>https://www.hrw.org/news/2023/09/01/bahrain-address-hunger-strike-grievances#:~:text=More%20than%20400%20inmates%20in,were%20on%20the%20hunger%20strike</u>, (accessed on 23 May 2024).

²⁸ *Ibid*.



of persons with disabilities have issued a communication to the Bahraini government, regarding three human rights defenders imprisoned in Jaw prison. These include Abdulhadi al-Khawaja, Abduljalil al-Singace and Naji Fateel, whose detentions have all been deemed arbitrary by the WGAD.²⁹ The special procedures expressed their alarm at the rapidly deteriorating health conditions of al-Khawaja and al-Singace as well as the ill-treatment that Fateel has suffered, while highlighting that all three of them have been tortured in detention. Following this communication, the NIHRB visited the three human rights defenders to interview them on 17 January 2024, aiming to verify the allegations of torture.³⁰ The institution noted that al-Khawaja and al-Singace refused to meet with them, while Fateel was interviewed, and his requests were heard. The NIHRB stated that they addressed these requests with the relevant authorities. However, they did not disclose whether they did so regarding the torture claims, nor did they share the nature of Fateel's requests. Additionally, the NIHRB failed to mention in the press release following their interview, that all three of these inmates are human rights defenders and that they are *arbitrarily* detained. This omission is another indication of the institution's reluctance to address arbitrary detention or torture in Bahrain.

From the information gathered, detainees across the Kingdom, and particularly in Jaw prison, continue to voice complaints about their dire detention conditions. Additionally, the families of detainees continue to advocate for the release of all those unjustly imprisoned.

Based on the above observations, we affirm that since our last report in June 2023, the NIHRB has not demonstrated any inclination to broaden or strengthen its efforts to address serious human rights violations in compliance with the Paris Principles and has failed to implement the SCA's latest recommendations.

2.2. Cooperation with civil society

In its October 2023 report, the SCA also urged the NIHRB to strengthen its cooperation with civil society organizations.³¹ While the institution has organized several meetings and discussions with CSOs, these interactions do not appear tohave addressed substantive issues. For instance, during the meeting with civil society where the implementation of Article 87 of the Restorative Justice Law was discussed, the institution did not publicly clarify which requests were made by the CSOs and how the institution responded to them. This pattern persists in every meeting the institution holds with civil society, as they consistently fail to disclose the demands presented by various stakeholders or outline the actions the institution plans to take in response. Consequently, transparency regarding the discussions and outcomes of these meetings, as well as their meaningfulness, remain notably lacking.

²⁹ AL BHR 3/2023, 13 September 2023, <u>https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=28350</u>, (accessed on 24 May 2024).

³⁰ National Institution for Human Rights, *February 2024 Newsletter*, p.10, <u>https://www.nihr.org.bh/issue/Feb2024/index.html#p=10</u>, (accessed on 24 May 2024).

³¹ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 23-27 October 2023, p.36, <u>https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2023-EN-new.pdf</u>, (accessed on 23 May 2024).



Importantly, in May 2024, the NIHRB sent a letter to multiple civil society representatives expressing their intention to establish a joint working group between Bahraini CSOs and the NHRI. In this letter, the institution explicitly stated that its role is to act as "a bridge between the Kingdom's official authorities and civil society institutions"³². This stance clearly undermines the work of NGOs and their capacity to independently engage with various government agencies and ministries.

We therefore submit that despite the SCA's recommendations in October 2023, the NIHRB is not engaging in a meaningful and transparent manner with civil society organizations.

2.3. Selection and appointment

While we acknowledge the new legislation regarding selection and appointment which was introduced by Royal Order No. 39 of 2023, amending Royal Order No. 17 of 2017, we maintain that this will not lead to a more independent board. As was pointed out by the SCA in its October 2023 report, "the criteria for the identification of the full-time and part-time members of the Council of the Commissioners is not explicit"³³.

In reference to Article No. (1) of Decree No (39) of 2023 regarding determining the controls for appointing the members of the Board of Commissioners of the National Institution for Human Rights:

- The new regulation stipulates the "appointment" of a committee for the selection of the NIHR commissioners. The regulation requires such committee to include "Sufficient number of experts and human rights defenders" without specifying what is a sufficient number and the criteria for selecting the experts and defenders. This also leaves much room for appointment of non-experts and non-independent members to the Committee.
- Therefore, although the new regulation attempts to address the defect in the selection process of the NIHR Commissioners in Decree No (17) of 2023, it now creates a defect in the selection process and in the criteria of the members of the committee to select the NIHR Commissioners.
- Furthermore, Decree No (39) of 2023 appoints the Minister of the Royal Court as Head of the selecting committee. Clearly a non-independent chairperson to head the selection process, casting doubt on the impartiality of the process and the outcome itself.
- The final selection of the members of the Committee is left entirely in the hands of the Minister of the Royal Court, also casting doubt on the constitution of the Committee.

In reference to Article No. (2) of Decree No (39) of 2023,

• The objective and duty of the Committee for the selection of the NIHR commissioners is the preparation of a list of candidates and not the final selection of the members of the Board of Commissioners for the NIHR. The final selection from the list of candidates is still subject to Decree No (17) of 2017 and Decree No (20) of 2016 with no clear criteria and no specificity on the selection process.

³² Please find a copy of the letter in Annex 1.

³³ GANHRI, *Report and Recommendations of the Session of the Sub-Committee on Accreditation (SCA)*, 23-27 October 2023, p.36, <u>https://www.ohchr.org/sites/default/files/documents/countries/nhri/ganhri/SCA-Report-Second-Session-2023-EN-new.pdf</u>, (accessed on 23 May 2024).



In conclusion, neither Royal Decree No (17) of 2017 nor Royal Decree No (39) of 2023 implement Article No. (1c) of Decree No (20) of 2016, stipulating that "A royal order shall be issued to determine the mechanism, procedures and controls for selecting members of the Board of Commissioners." What we have now after Decree No (39) of 2023 are only flawed mechanism, procedures and controls to select members of the committee to select a list of potential candidates for membership to the Board of Commissioners and not to select the actual commissioners themselves.

Clearly both Decrees of 2017 and 2023 fail to provide a clear and impartial mechanism for final selection of the Board of Commissioners of the National Institution for Human Rights of Bahrain.

Moreover, the next appointment process for the decision-making body of the institution is scheduled for 2025, which continues to compromise the current independence of the institution as many current members have previously held positions in the parliament or in the government.

Hence, we assert that the current independence of NIHRB members remains highly compromised, and the upcoming appointment process does not indicate any change in this regard.

3. Conclusion and recommendations

As no notable changes have been identified since our June 2023 report, we maintain the same conclusions as in our previous report. In order to comply with the Paris Principles, the NIHR should demonstrate real independence in the exercise of its mandate and ensure that it remains neutral and impartial in all circumstances in order to benefit from the confidence of citizens and civil society as a whole.

As a result, we ask the SCA to address the following recommendations to the Bahraini NIHR and King Hamad Bin Isa Al Khalifa:

a) Effectiveness of the mandate and independence from other branches

- 1. Allow any individual to run for candidacy for the Council of Commissioners, including individuals who are considered to be in opposition with the government.
- 2. Ensure that changes in the law that restrict fundamental freedoms, be addressed by the NIHR.
- 3. Review and propose amendments with regards to the criminal code, the Press Law and any other framework that may result in a violation of fundamental rights by the Bahraini government.
- 4. Ensure that complaints are dealt with fairly, transparently, efficiently, expeditiously and with consistency.
- 5. Refrain from being overly selective in addressing complaints.
- 6. Encourage the NIHR to conduct more unannounced visits to places of detention and to monitor, investigate and report on the human rights situation in such places.



- 7. Encourage the NIHR to make their full reports on monitoring detention facilities public instead of issuing public statements.
- 8. Encourage the NIHR to investigate individual cases and bring them to the attention of international human rights bodies in its reporting activities.

b) Membership

- 9. Put in place a merit-based selection process.
- 10. Remove the obligation to hold a higher academic qualification to reflect the demographic makeup of Bahraini society and the wide range of professionals in civil society organisations who do not hold a university degree.
- 11. Ensure that the nomination process includes requirements for broad consultation and participation of civil society representatives in the screening and selection process.
- 12. Establish an independent and credible body responsible of the appointment process.
- 13. Restrict the participation of individuals who are simultaneously sitting parliamentarians, by at least ensuring that they do not participate in important discussions.

Kindly yours,

MENA Rights Group, Salam for Democracy and Human Rights, Bahrain Human Rights Society.





2024/89/1-6 26 شوال 1445 ه 5 مايو 2024 م



تحية طيبة،

الموضوع: إنشاء فريق عمل مشترك مع المؤسسة الوطنية لحقوق الإنسان

يطيب لي أن أبعث لكم خالص التحيات وأصــدق التمنيات بالتوفيق لما تصــبون إليه في ســبيل رفعة وطننا العزيز.

في إطار حرص المؤسسة على توطيد أواصر التعاون المشترك بين المؤسسة ومؤسسات المجتمع المدني العاملة في ميدان حقوق الإنسان بمملكة البحرين، واستكمالا للجهود المبذولة في تنفيذ التوصيات الناشئة عن اللقاءات التشاورية التي جرت في نهاية العام الماضي، أود الإفادة بأن المؤسسة بصدد إنشاء فريق عمل مشترك يضم في عضويته مؤسسات المجتمع المدني العاملة في ميدان حقوق الإنسان، بغرض تبادل الخبرات والتجارب، وبناء قدرات العاملين فيها، ورفع وعي الجمهور في الشأن الحقوقي، إضافة إلى العمل على مناقشة القضايا المتعلقة بحقوق الإنسان وتبادل المعلومات ذات الصلة، مع وضع آلية للتعامل مع الشكاوى التي تستلمها الجمعيات، وحالات الرصد المعنية بحقوق الإنسان، تفعيلا لدور المؤسسة في كونها الجسر الواصل بين الجهات الرسمية في المملكة ومؤسسات المجتمع المدني.

وعليه، نوجه لكم الدعوة لتمثيل جمعيتكم بصـفتكم رئيسًـا لها في فريق العمل، حيث سـيتكون فريق العمل من رؤساء مؤسسات المجتمع المدني، برئاسة المؤسسة الوطنية لحقوق الإنسان، برجاء إرسال ردكم على البريد الإلكتروني <u>events@nihr.org.bh</u>.

وتفضلوا بقبول فائق التحية ووافر الاحترام.

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