



Bahrain National Institute for Human Rights

Fails to Achieve Full Paris Principles Accreditation

The Bahrain National Institute for Human Rights (NIHR) failed to attain accreditation under the Paris Principles, according to the Arabic language newspaper Al Wasat. ADHRB commends the decision by the Paris Principles International Coordinating Committee, and calls upon the Government of Bahrain to immediately reform the NIHR to become compliant with international standards.

The Paris Principles are a set of international guidelines designed to set the gold standard for national human rights institutions. Among other things, the Paris Principles require separation of the institution from the government, a demonstrable history of supporting positive human rights developments, and a composition including representation of all facets of society. The International Coordinating Committee (ICC) of the Paris Principles, itself composed of several human rights institutions from around the globe that have achieved accreditation, is charged with adjudicating an institution's compliance with the standards. The ICC may award "A" status to institutions fully compliant with the Principles; "B" status to institutions only partially compliant with the Principles; or "C" status to institutions completely non-compliant with the Principles.

In late 2015, the Bahraini NIHR submitted itself for ICC review. In May, the Committee met to determine the NIHR's status. Al Wasat news recently reported that the Committee found the Bahraini NIHR to lack crucial independence from the government, and thereby determined that the Bahraini NIHR should receive "B" status. While the status provides non-voting membership in the ICC, lack of full accreditation prevents the NIHR from enjoying many ICC privileges, including speaking at the UN Human Rights Council.

ADHRB has produced a brief report on the Bahraini NIHR's non-compliance with the Paris Principles. The report finds that members of the government continue to serve as NIHR commissioners, that the NIHR maintains significant foundational and financial reliance upon the government, and that the NIHR has at times failed to critique negative human rights developments or praised government action negatively impacting human rights. For these reasons, ADHRB agrees with the ICC decision to limit the NIHR from attaining full accreditation.

The full report may be found below.

Findings

Conclusion

Ultimately, despite nominal reform, the NIHR has continued to demonstrate its inefficacy as a human rights institution as well as its failure to satisfy the six main criteria for accreditation under the Paris Principles. Throughout its tenure, the NIHR has alternately displayed a structural bias towards the government and a general apathy toward the wider challenges facing human rights in Bahrain. As a result, the NIHR has been unable to fulfil its mandate or meet the standards of autonomy, independence, and compositional pluralism.

The lack of independence in the NIHR is crucial towards its disposition as an ineffective human rights institution. That the NIHR was created by royal decree and that its mandate can so easily be modified by government action limits its ability to effectively criticize the government. Further, a large number of current government officials continue to hold influential positions in the NIHR, up to and including several



of the NIHR's commissioners and sub-commissioners. One of these members has even been documented as having threatened human rights defenders in Geneva, and taken to Twitter to express

The NIHR may possess the necessary resources to protect human rights and promote progressive reform, but it has declined to do so competently and consistently. Instead, it has tacitly overseen significant legislative regression in Bahrain, and served to partially obscure this process from international scrutiny. ADHRB thereby agrees with the ICC decision to reject any application for full accreditation from the NIHR until such time as it has addressed these considerable systemic failures.

Recommendations

For the Bahrain National Institute for Human Rights (NIHR):

1. With the goal of establishing compliance with the Paris Principles and obtaining accreditation with the United Nations International Coordinating Committee of National Human Rights Institutions (NHRIs):
 - a. Establish independence from the Government of Bahrain by ensuring that staff members are not influenced by government pressure and replacing staff that currently hold or recently held government positions, especially those relating to law enforcement, public prosecution, or the Ministry of Interior;
 - b. Guarantee government funding for the institute without government input on institution activity;
 - c. Adopt and implement strict criteria regarding recruitment and appointment for membership within the institution, including standards dictating that future members cannot have held a government position within the last four years and cannot have been directly implicated in human rights infringement and abuses; and
 - d. Provide members of the NIHR with immunity from government prosecution for activities undertaken in carrying out their duties as NIHR members.
2. Ensure transparency by continuing to publicly release annual reports on institution activity and composition;
3. Facilitate cooperation with the international community:
 - a. Coordinate with international human rights organizations to bring institution practices in line with international human rights standards;
 - b. Invite foreign delegations and non-governmental organizations to observe and support NIHR activity and to report on the human rights situation in the country; and
 - c. Continue to pressure the Government of Bahrain to allow formal country visits by the Special Procedures of the United Nations, including the Special Rapporteur on torture and other cruel, unusual, or inhuman treatment or punishment; and
4. Discharge the mandate of the organization by proactively and publicly condemning any government action that violates international standards of human rights.



Discussion

The Paris Principles

Under the Principles relating to the Status of National Institutions (Paris Principles), a National Human Rights Institution (NHRI) must meet six main criteria in order to receive accreditation with the International Coordinating Committee (ICC): it must maintain a broad mandate with the competence to protect and promote human rights; it must demonstrate operational autonomy; it must maintain statutory or constitutional independence from the government; it must be composed in accordance with standards of pluralism; it must possess adequate resources with which to function; and it must possess adequate powers with which to investigate relevant issues of concern.

The NIHR does not satisfy these criteria. Though its mandate was nominally revised in 2014 to meet certain provisions of the Paris Principles, the NIHR specifically remains in violation of sections 3(a), 3(b), 3(c), and 3(d) of the “Competence and responsibilities” category, sections 1 and 2 of the “Composition and guarantees of independence and pluralism” category, and subsections (e), (f), and (g) of the “Methods of operation” category.

Action Taken in Defense of Human Rights

Sections 3(a), 3(b), and 3(c) of the “Competence and responsibilities” category of the Paris Principles state that a NHRI must – among other things - promote national legislation, regulations, and practices that adhere to international human rights standards and instruments, encourage the ratification of the above-mentioned instruments or accession to those instruments, ensure the effective implementation of said legislation and instruments, and draw attention to instances where human rights are violated. The NIHR has doubly failed to observe these principles, neither promoting legislation that conforms to international human rights norms nor criticizing legislation in clear violation thereof. Although it has previously supported progressive legislation that would allow female Bahraini citizens to pass their citizenship on to their children, the NIHR has rarely endorsed any law intended to advance human rights in Bahrain or engender greater observance of international standards. In 2014, the NIHR recommended the ratification of additional international human rights instruments for the first time in its five-year history, but the government has yet to act on this proposal.

As for its obligations under those instruments or institutions already ratified, the NIHR has exhibited a similar reluctance. Despite having acceded to the ICCPR in 2006, the Government of Bahrain has never submitted a report to the Committee on Human Rights, and it has fallen increasingly behind on its other treaty-mandated reporting. At time of writing, there is no evidence to suggest that the NIHR even recommended these reports be submitted. This inaction is in clear violation of section 3(d) of the “Competence and responsibilities” category of the Paris Principles, which states that a NHRI must contribute to the reports required by the “United Nations bodies and committees ... pursuant to their treaty obligations.” The NIHR has neither urged the government to fulfill these duties nor taken any substantive action to address the considerable backlog.

While it has declined to promote progressive government action and treaty compliance, the NIHR has also failed to address ongoing human rights abuses in Bahrain. Since 2009, the NIHR has refused to criticize a series of legislation enacted by the government in clear contravention of international human rights law, including decrees that impose seven-year prison sentences for publicly insulting the king, prohibit free interaction between civil society organizations and foreign governments, and grant broad detention



authority to the security forces. In 2014, the NIHR took no action as the government prosecuted members of the Al-Wefaq opposition party for meeting with U.S. Assistant Secretary of State for Democracy, Human Rights, and Labor, Tom Malinowski; it similarly did not act when the government later branded Malinowski *persona non grata* and expelled him from the country.

When the NIHR has taken decisive action, it has often served to obscure or ostensibly legitimize government abuse. In 2013, for example, the NIHR endorsed 22 recommendations made by the Bahrain National Assembly that sought to ban free assembly in Manama and enable security forces to arbitrarily detain vaguely-defined “terror suspects.” Though the Bahrain Independent Commission of Inquiry (BICI) provided contradictory recommendations, the NIHR argued that the National Assembly’s proposal was consistent with international human rights norms and urged critics to “stand behind the Kingdom’s wise leadership.” After the king passed the recommendations into law, ADHRB found that the government routinely exploited the legislation to stifle dissent and criminalize protest. This consistently overt support for abusive government practice is representative of the NIHR’s wider failure to effectively document and guard against violations of human rights in Bahrain.

Independence and Composition

In addition to this inability or unwillingness to meet the standards of “Competence and responsibilities,” the NIHR has also exhibited deep structural problems. Section 1 of the “Composition and guarantees of independence and pluralism” category requires an NHRI to “ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights”, namely through the representation of human rights organizations, unions, professional associations, and parliament, as well as individual academics and journalists. According to the Paris Principles, government employees should serve only in an advisory capacity if at all included in the membership an NHRI. The NIHR has not observed these principles. On the contrary, it has permitted a number of government functionaries to serve as full members of the NIHR (see below), to the exclusion of representatives from broader civil society actors like human rights NGOs.

The NIHR has maintained a close relationship with the government as it has simultaneously distanced itself from the wider human rights community. Section 2 of the Paris Principles on “Composition and guarantees of independence and pluralism” states that an NHRI must have its own independent infrastructure in order to facilitate the “smooth conduct” of its activities, and “in particular adequate funding” so that it might maintain “its own staff and premises.” Further, the NHRI must maintain this infrastructure “independent of the Government and not be subject to financial control which might affect its independence.” The NIHR does not possess such an infrastructure, nor does it maintain a wholly independent staff. Though King Hamad revised the institution’s mandate in 2014, eliminating his power to dismiss obstinate members, the Government of Bahrain retains a significant degree of direct supervisory authority over the NIHR. The king still exercises ultimate appointment powers to determine who attains NIHR board seats and the Office of the Public Prosecutor is free to manage court-ordered investigations into NIHR activities. The new mandate may constitute a substantial improvement over the original document, which required the NIHR seek royal approval for all programs and recommendations, but it does not meet the standards of independence laid out in the Paris Principles.

Exacerbating this formal state influence is the NIHR’s considerable reliance on government or government-affiliated staff. The NIHR is comprised of numerous current and former government officials, including its chairperson, Dr. Abdulaziz Hassan Ali Abul, who is a member of Bahraini parliament. In 2013, the NIHR indicated in its own newsletter that many of its staff are or have been members of the



government or government-affiliated organizations. These members have included former employees of the Ministry of the Interior (MOI) and the Office of the Public Prosecutor – two of the institutions most clearly implicated in the government’s systemic human rights abuses. Combined with the government’s legal authority to determine NIHR membership and oversee NIHR activities, the semi-formal exchange of personnel undermines the NIHR’s ability to operate autonomously. As such, the current NIHR infrastructure cannot guarantee independence or compositional pluralism, nor can it support the smooth conduct of NIHR activities free from government obstruction.

Further government-employed members of the NIHR additionally have troublesome records in their dealings with human rights defenders. In March 2015 at the 28th Session of the Human Rights Council, Bahraini MP and current NIHR board member Halad Alshaer publicly threatened to use his influence over the Ministry of Interior to bring charges against a human rights defender if the defender entered a room to attend an event. UN Security eventually removed Mr. Alshaer from the scene. Later, Mr. Alshaer accosted ADHRB’s executive director, Husain Abdulla, threatening members of Mr. Abdulla’s family in Bahrain if Mr. Abdulla continued his human rights-related activities. These events have been documented by both the Presidency of the Human Rights Council and the Special Rapporteur on the subject of human rights defenders.

This is not the only human rights issue in which Alshaer finds himself embroiled; his activities over Twitter cast aspersions upon his ability to adequately defend human rights in the country. One on occasion, Alshaer publicly stated that there are no prisoners of conscience in Bahrain.¹ In April 2016, he went a step further and endorsed the death penalty as a deterrent to the exercise of free speech. He tweeted in Arabic: “He who accuses the King, God save him, in participating in crimes against the state (veiled words), I think that he has committed high treason and deserves the death sentence, shortly he would deny [his statements].”²

Workshops and Cooperation with Government Institutions

When the NIHR has attempted to meet the Paris Principles’ operational requirements, its efforts have proven generally counterproductive, and even deepened these connections to the state. Under subsections (e), (f), and (g) of the “Methods of operations” category, an NHRI must establish working groups and set up local or regional sections to assist these groups, maintain consultation with other bodies responsible for the promotion and protection of human rights, and develop relations with NGOs focused on human rights. While the NIHR has taken steps to establish working groups and maintain consultations with other human rights bodies, the net results have been either superficial or detrimental: the NIHR’s working groups have so far been intermittent and limited in scope, and its extensive cooperation with the MOI’s Office of the Ombudsman has aggravated its already-problematic links to the government. Despite reports that persons that submit complaints regarding human rights abuses to the Ombudsman have been subjected to retaliatory acts of torture by MOI employees, the NIHR has long refused to criticize the Ombudsman, and in 2013 the two institutions signed an official memorandum of understanding. By effectively partnering with a compromised subdivision of the MOI, the NIHR has far exceeded the consultative role envisioned by the Paris Principles, and has potentially jeopardized its ability to protect its own complainants from reprisals. Moreover, while it directly collaborates with the MOI, the NIHR has continued to marginalize the contribution of independent NGOs. ADHRB, for example, has submitted over

¹ Al Wasat News, *النائب خالد الشاعر: لا يوجد في البحرين سجين رأي.. ونرحب بالتعاون الحقوقي*, 22 May 2015, <http://www.alwasatnews.com/news/993062.html>.

² Twitter, @alshaer_khalid, 28 April 2016, https://twitter.com/alshaer_khalid/status/725681065143230464.



50 complaints to the NIHR. At time of writing, despite repeated follow-up communications, the NIHR has refused to acknowledge a single ADHRB complaint.

Human Rights Reporting

In January 2014, five years after it was created, the NIHR issued its first official report to the Government of Bahrain. Although the report documents a number of significant human rights abuses, it also attempts to whitewash NIHR dereliction. Rather than hold the NIHR accountable for its history of institutional and operational failings, the report knowingly misrepresents the NIHR's dubious record. It falsely asserts that the NIHR has publicly opposed all government legislation enacted in contravention of international human rights law. At the same time, the report fails to note that the NIHR has explicitly endorsed laws that were used by the government to violate human rights in Bahrain, such as those proposed by the National Assembly to criminalize peaceful protest. While it does provide some valuable recommendations that would advance human rights if adopted by the government, the NIHR has been unable to leverage its otherwise excessive connections to the state in order to gain the necessary support.

In 2015, the NIHR released its second report. The report documented the institution's inability to implement recommendations made the previous year, a failure it characterized as having resulted from a recent election and a new cabinet. Fully half of the second annual report is dedicated to the legal provisions of the NIHR, and much of the remainder documents its activities to promote and protect human rights in Bahrain. However, the report fails to address cases of torture, unfairness of election and politically motivated human rights violations, though numerous international organizations continue to document the systematic use of torture and criminalization of free speech in Bahrain. The report additionally lacked any details concerning incidents, violating parties, how it addressed these violations, or how it resolved the 36 complaints it claims were resolved.