

Number:

Date:

His Excellency Mr. Jawad Bin Salem Al-Arrayed,
Deputy Prime Minister
Chairman of Ministerial Committee for Legal Affairs

Peace, mercy and blessings of Allah be up on you,

With reference to the letter No.(2011/574/q) of the Secretary-General of the Council of Ministers dated December 1st, 2012 on the decision of the esteemed Council of Ministers No.(2136-04) issued in session No.(2136) held on November 20, 2011 approving a law draft on establishment of the National Foundation for Human Rights attached to the memorandum of the Minister of Justice, Islamic Affairs and Endowments No.030/031/2011, and taking all required legal and constitutional procedures to refer it to the legislative authorities after it has been reviewed by the esteemed Ministerial Committee for Legal Affairs and requesting setting of a legal tool to implement the decision.

It is my pleasure to enclose following:

- 1- A letter by His Excellency the Prime Minister to His Excellency Speaker of the Council of Representatives.
- 2- Decree referring the establishment of a National Foundation for Human Rights to the Council of Representatives.
- 3- Law decree No.(...) for ... on the establishment of a National Foundation for Human Rights.
- 4- Memorandum of the board on the mentioned law-decree.

To kindly take necessary action to refer it to the Council of Representatives after it is reviewed by the esteemed committee.

Please accept my respectful regards,

Abdallah Bin Hassan Al-Bouainain,

President of the Legislation and Legal Opinion Commission

- A copy to be delivered to the Secretary-General of the Council of Ministers

Number:

Date:

His Excellency, Khalifa Bin Ahmad al-Dhahrani, Speaker of the Council of Representatives,

Greetings,

We are honored to submit to your esteemed Council the draft-law on establishment of a National Foundation for Human Rights attached to the royal decree No.(...) for 2011 applying the provisions of Article (35/a) and (81) of the constitution.

Please accept my respectful regards,

Prime Minister,

Khalifa Bin Salman Al Khalifa

A copy to be delivered to:

-The Minister of Cabinet Affairs

-The Minister of Shura Council and Parliament Affairs

Decree No.(...) for 2011

**On referring draft-law on establishment of National Foundation for Human Rights
to the Council of Representatives**

We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain, having reviewed the constitution especially Articles (33/c, 35/a, 81)and the enclosed draft law and upon submission of the Prime Minsiter,

Hereby decree the following:

Article (1)

The Prime Minister refers to the Council of Representatives draft law NO.(..) for the year (...) on the establishment of a National Foundation of Human Rights attached to this decree.

Article (2)

This decree shall be enforceable from the day of its issuance.

King of the Kingdom of Bahrain

Hamad Bin Isa Al Khalifa

Prime Minister

Khalifa Bin Salman Al Khalifa

Issued at Riffa Palace

On:...

Corresponding to:...

Draft law No.(...) for the year

On establishment of the National Foundation of Human Rights

We, Hamad Bin Isa Al Khalifa, King of the Kingdom of Bahrain,

Having reviewed the constitution and decree-by-law No.(16) for 1991 on Bahrain signing UN Convention on the Rights of the Child ratified by the General Assembly in November, 1989,

decree-by-law No.(4) for 1998 on joining the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ratified by the UN General Assembly on December 10, 1984,

decree-by-law No.(5) for 2002 approving Bahrain acceding to the Convention on the Elimination of All Forms of Discrimination against Women,

law No.(19) for 2004 approving accession of Bahrain to the two Optional Protocols on the Involvement of Children in Armed Conflicts and the Sale of Children, Child Prostitution and Child Pornography attached to the United Nations Convention on the Rights of the Child,

Law No.(7) for 2006 ratifying the Arab Charter for Human Rights,

Law No.(56) for 2006 approving Bahrain's accession to the International Covenant on Civil and Political Rights,

Law No.(10) for 2007 approving Bahrain's accession to the International Covenant on Economic, Social and Cultural Rights,

Law No.(1) for 2008 on Combating Human Trafficking,

Royal decree (No.46) for 2009 establishing the National Institution for Human Rights and taking into consideration the Paris Principles on Establishment of National Human Rights Institutions and Realization of Fundamental Rights and Freedoms ratified by decision of the UN General Assembly No.(134/48),

The Shura Council and Council of Representatives have approved the following and we have ratified and issued it:

Article (1)

An independent institution called "National Foundation of Human Rights" will be established to promote, develop protect and reinforce concept of human rights and raise awareness on them as well as contribute to guarantee their practice, and its headquarters will be located in Manama.

The foundation shall possess an independent legal character as well as financial and administrative independence and it is to carry out its functions in a free, neutral and independent way.

Article (2)

a- The foundation comprises a chairman, two vice chairmen and 12 members who should be well-known for their independence, subjectivity, efficacy, integrity and dedication to human rights. No final judicial verdict must have been issued against any of them and they should be appointed from academic and advisory bodies, civil society organizations, unions as well as social, economic and professional foundations as well as public figures concerned with human rights. 7 of the members must be women and the foundation must comprise representatives of minorities. Representatives of the government can also be appointed in the foundation but they must not form the majority of members and they should not be granted the right to vote on the decisions of the foundation.

b- Chairman, vice chairmen and members of the Foundation shall be appointed by a committee formed on royal directives from civil society organizations, and the committee after three months of its formation announces membership of the foundation and nominates candidates for the post of chairman and vice chairmen as well as members of the foundation in consultation with all groups including parliament. A royal decree will be issued appointing members of the foundation for 4 years renewable for only one time, and the chairman, vice chairmen and members shall assume their duties in their personal capacity.

c- A member of the committee shall be replaced if he/she is for any reason incapable of carrying out his/her duties according to paragraph (a) and he/she shall be replaced by someone meeting the requirements stipulated in paragraph (b) , and the tenure of a successor shall be complementary to that of her/his predecessor.

d- A member of the foundation shall be relieved from his/her post before end of his/her tenure only on royal directives and upon a recommendation submitted by the majority of the foundation's members in case the member is incapable of carrying out his/her duties or attending most meetings of the foundation, in case of mental or physical disability or if a final judicial verdict is issued against him/her.

e- Members of the foundation enjoy complete freedom and independence while carrying out their duties.

f- The remuneration of the foundation's chairman, vice chairmen and members shall be equivalent to the remuneration of those occupying senior positions and it shall be determined by a royal decree.

Article (3)

In order to fulfill its goals the foundation shall be completely free to comment on any issue related to human rights and to deal with any human rights case in the way it finds appropriate, and it has the right to carry out the following:

a- Study regulations and systems applied in Bahrain on human rights issues and recommend required amendments especially with regard to their compliance with Bahrain's international obligations and commitments. The foundation also has the right to recommend issuance of new laws on human rights.

b-Raise and promote awareness on the culture of human rights .The foundation shall decide on cooperation with the different bodies responsible for education, media and culture.

c-Encourage and participate in development and implementation of a national plan for human rights.

d-Submit suggestions and recommendations to concerned bodies and authorities on any action that will contribute to promoting and protecting human rights.

e-Enhance ratification of regional and international conventions on human rights through submitting suggestions and recommendations to concerned authorities.

f- Detect human rights violations and receive complaints in this regard .The foundation shall also carry out the required investigations and prepare reports including its comments that will be submitted together with its recommendations to concerned authorities.

g- Facilitate cooperation between national institutions and international organizations concerned with promotion and protection of human rights in other countries.

h- Participate in preparing reports Bahrain regularly submits in implementation of regional and international conventions on human rights and publish them.

i- Hold conferences, organize seminars and take part in international and regional meeting of organizations concerned with human rights and conduct researches and studies in this regard.

j- Announce plans and tasks of the foundation through printing bulletins and publications and freely posting reports on its website.

k- Organize and provide education and training in human rights field.

Article (4)

The King or any constitutional authorities in Bahrain shall refer any related issues to the foundation to study and comment on them.

Article (5)

Within fulfillment of its duties the foundation has the right to:

a- Request information, data or documents needed to carry out its duties and reach its goals from the different government bodies, ministries and officials of the Kingdom.

The mentioned bodies and authorities shall assist the foundation and help it to fulfill its duties and provide it with everything it needs to facilitate its work.

The foundation shall notify concerned authorities if the above mentioned bodies or ministries refuse to cooperate with it or provide it with the required documents or prevent it from accessing these documents and legal procedures will be taken against them.

b- Visit any detention centers or any public places where human rights violations have been reported.

c-The building of the foundation can only be inspected upon a court order and in presence of the concerned public prosecutor and a representative of the foundation.

d- Address public opinion directly or through media to express its opinions and recommendations.

e- Consult with other judicial authorities or non-judicial authorities concerned with promoting and protecting human rights.

f-Develop relations with Non-Governmental Organizations (NGOs) concerned with promoting and protecting human rights as well as economic and social development, combating discrimination and protecting needy children, migrant workers, refugees and disabled people in addition to other specialized organizations.

Article (6)

The foundation shall hold at least one monthly meeting and whenever needed upon a call from its chairman.

The majority of the members have to attend the meeting and among them must be the chairman of the foundation or one of his deputies and any decisions will be taken according to majority of the votes of attending members who have the right to vote. In case votes are equal the decision for which the chairman of the meeting voted will be favored.

The foundation has the right to invite anyone it seeks his/her opinion or experience to attend the meetings but he/she doesn't have the right to vote on the meeting's decisions.

Article (7)

The foundation forms permanent committees from its members to carry out its duties according to interior regulations. The committees shall be headed by one of the members, and the committees have the right to seek assistance of experts and civil society representatives to take part in discussions on human rights issues, but they don't have the right to vote on decisions of the committees.

The chairman of the foundation shall call on any of the permanent committees to hold a meeting to discuss a certain issue and he shall preside these meetings, and he also has the right to form temporary committees or to assign one of the members to investigate or study a certain issue.

Article (8)

The administrative body of the foundation consists of a General Secretariat that plays the role of the executive body of the foundation and a sufficient number of researchers and experts.

Employees of the General Secretariat as well as experts and researchers are appointed by a decision issued by the chairman of the foundation upon a recommendation of the Secretary General according to the internal regulations of the foundation.

While appointing employees their experience in human rights field has to be taken into consideration as well as diversity.

Article (9)

The Secretary-General of the foundation shall be appointed upon a decision issued by the chairman of the foundation after approval of the majority of its members. He shall be appointed for four years renewable only for one time. The Secretary-General must meet all requirements needed for the appointment of members of the foundation.

Article (10)

The Secretary-General of the foundation shall manage all the foundation's business and oversee all its tasks. He will be directly responsible to the chairman of the foundation for carrying out his duties that include:

- a- Generally overseeing the General Secretariat, personnel affairs, administrative and financial affairs in accordance with the provisions of this law, the decisions issued for its implementation and the internal regulations of the foundation.
- b- Implementing decisions of the foundation, preparing regular reports every three months including activities of the foundation, workflow in the General Secretariat and achieved tasks according to the set plans and projects.
- c- Attending sessions of permanent committees, following up their work and providing requirements for fulfillment of their duties but he doesn't have the right to vote.

The Secretary-General shall authorize any of the employees of the General Secretariat to carry out some of his duties.

Article (11)

The foundation shall have interior regulations that are issued upon a decision of the foundation's chairman based on the majority of the members' votes and they particularly include the organizational structure of the foundation and organization of its work and conferences. They also organize personnel affairs in terms of rules of their appointment, promotion, transfer, salaries, rewards, procedures, provisions of their discipline and termination as well as all other employee affairs within the framework of Civil Service Law. The regulations also include the financial and accounting system of the foundation.

Civil Service Law and its executive regulations shall apply to all employees of the foundation until the previously mentioned regulations are issued.

Article (12)

The foundation, its members and employees are committed to maintain confidentiality of data, information and documents to protect victims and witnesses.

Article (13)

The foundation shall possess sufficient financial resources that enable it to perform its duties and fulfill its tasks the best way possible. The foundation manages and controls its resources that encompass:

- Appropriations allocated for the foundation within a separate item in the state budget.

-Donations and voluntary aid the foundation decides to accept according to the laws and systems applied in the Kingdom of Bahrain.

Article (14)

The foundation shall issue a yearly report on its efforts, activities and tasks, and it has to contain its opinions, suggestions and recommendations on human rights issues.

The foundation shall submit the report to the Human Rights Ministry, post it on its website and issue a press release directly after publishing it. The report has to be discussed by concerned ministries within 6 months of its publication.

Article (15)

The royal decree No.(46) for 2009 establishing the National Foundation for Human Rights shall be cancelled.

Article (16)

The Prime Minister and Ministers in their respective jurisdictions shall implement this law and abide by it from the day following its publication on the Official Gazette.

Memorandum

On draft law establishing the National Foundation of Human Rights

Royal decree No.(46) for 2009 was previously issued establishing the National Foundation for Human Rights, and in order to grant this foundation an independent legal character and to put Paris Principles on Establishment and Development of National Human Rights Institutions into force, and in order to provide more transparency in appointing members of the foundation and granting it more powers and specialties on human rights issues it was necessary to establish and rearrange it by law.

Therefore the enclosed law draft has been prepared consisting of 16 articles. The first article provides for establishment of the foundation, naming it, clarifying the reasons behind its establishment, determining its location and granting it an independent legal character. The second article provided for the formation of the foundation and appointment of its chairman, 2 vice chairmen and 12 members of which 7 members are women. It also specified the requirements the members have to meet and the way they are chosen. The third article included the powers granted to the foundation to allow it to reach its goals. The fourth article granted the King of Bahrain and the Kingdom's constitutional authorities the right to refer any related issues to the foundation to study and express its opinion on them. The fifth article granted the foundation the right to request any information, data or documents needed for carrying out its duties and it also obliged government bodies to cooperate with it and provide it with everything it needs. It also provided for the immunity and protection of the foundation's headquarters and members while carrying out their duties.

The sixth article set the rules and quorum for the meetings of the foundation as well as issuance of laws. The seventh article organized the formation of permanent committees by the foundation according to internal regulations. The eighth article included the administrative structure of the foundation that consists of a General Secretariat to play the role of the executive body of the foundation, and the ninth article included the rules for the appointment of the Secretary General of the foundation. The tenth article provided for the specialties and duties of the foundation's Secretary –General while the eleventh article set the rules for issuance of internal regulations of the foundation upon a decision issued by the foundation's chairman based on approval of majority of the members stating that they must include its administrative structure, organization of its work, meetings as well as personnel affairs. The twelfth article obliged the foundation, its chairman and employees to maintain confidentiality of data, information and documents while the thirteenth article dealt with the financial resources of the foundation. The fourteenth article referred to the report to be issued by the foundation and what it should contain to effectively deal with human rights issues. This report has to be subsequently submitted to the Human Rights Ministry and posted on the website of

the foundation. The fifteenth article provided for cancellation of royal decree No.(46) for 2009. As for the sixteenth article it included executive rules.