



Ms. Gabriella Habtom  
Human Rights Committee Secretariat  
8-14 Avenue de la Paix  
CH 1211 Geneva 10  
Switzerland  
Via E-mail: ghabtom@ohchr.org and ccpr@ohchr.org

Re: Bahrain – Consideration of State Reports at CCPR 123 Session (2 July 2018 - 27 July 2018)

11 June 2018

Distinguished Committee Members,

We respectfully submit this letter in advance of the Human Rights Committee's consideration of State Reports at its 123rd session from 2 July - 27 July 2018. Equality Now, Bahrain Women Union and the Global Campaign for Equal Nationality Rights would like to reiterate their concerns, as raised in our submission for the Adoption of the List of Issues for Bahrain at its 121st session, regarding the perpetuation of sex-based discrimination against women under the law in Bahrain. The Citizenship Act of 1963, as amended, denies Bahraini women the right to pass on their nationality to their children and spouses, preventing women from enjoying citizenship rights on an equal basis with men. We are also concerned about the exemption from punishment under the Bahraini Penal Code (Article 353) for rapists and perpetrators who marry their victims. Despite recent attempts to bring forward the issue of repealing Article 353 to the Bahraini Parliament, we regret that this has not yet been achieved. These articles violate the equality provision of Article 3 and the non-discrimination principle under Article 26 of the International Covenant on Civil and Political Rights (CCPR).

Bahrain Women Union is a nongovernmental organization with the goal of better coordinating the efforts of Bahraini associations working on women's rights and the position of women in Bahraini society. The Global Campaign for Equal Nationality Rights mobilizes international action for the removal of gender discriminatory provisions from all nationality laws, through its coalition of national, regional and international organizations and activists, including Steering Committee Members Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, Women's Learning Partnership and Women's Refugee Commission. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our membership network comprised of individuals and organizations in over 190 countries.

### *Nationality*

Bahrain's Citizenship Act of 1963, as amended, denies Bahraini women the right to pass on their nationality to their children and spouses, preventing women from enjoying citizenship

rights on equal basis with men<sup>1</sup>. Under Article 4 of the Citizenship Act, unless the father is unknown or has repudiated or not acknowledged the child, Bahraini women married to non-nationals do not have the right to confer their citizenship to their children, as do Bahraini men. Other provisions, including Articles 7 and 9, deny women the right to pass their nationality to their foreign spouses and in some cases Bahraini nationality may be taken away from naturalized women upon divorce. In addition, if the father's nationality changes, his children may cease to be citizens without consideration of the Bahraini mother's nationality.<sup>2</sup>

Despite the State party's assertion in its response to the Committee's List of Issues that the children of Bahraini women married to non-nationals shall be treated equally in terms of the fees related to the governmental services including health, education and residence fees, among many cases the suffering of Bahraini women can be seen in the reported case of Rahima Naser, a Bahraini woman married to a non-national and mother of three children (two daughters and one son) who was not able to acquire university scholarships for her children who graduated from high school with honors simply because they are not considered Bahraini. "My children are treated like foreigners despite living and being born in Bahrain," she says. Rahima and her children's suffering did not stop there. Her two daughters' applications for employment were refused for the same reason, and Rahima was deprived of housing services granted by the government to citizens because her children are not considered nationals. She is hoping that her children will be among those granted nationality at the discretion of the king.

The Citizenship Act, which denies women equality with men in terms of nationality, undermines a woman's status as an equal citizen and violates Article 18 of the Constitution of Bahrain, which guarantees equality before the law of all citizens without distinction, including of sex, as well as the CCPR. The suffering of Bahraini women married to non-nationals continues despite Law (35) of 2009 which mandates that they should be treated the same as citizens for government services. In reality, they are not treated like Bahrainis in term of jobs, scholarships and housing services.

The National Committee to Amend the Nationality law - acting under the umbrella of Bahrain Women Union which is comprised of 12 organizations - has called on the government of Bahrain to amend the nationality law so that women can confer their nationality to their children. Their proposal includes amending Article 4 (a) of the law so it states, "Anyone shall be regarded a Bahraini national, if (A) Was born in or outside Bahrain and his father or his mother was a Bahraini at the time of birth". The committee also suggested adding another provision to Article 4 to include, "the children who were born to Bahraini mothers married to non-nationals before the amendments to the law have the right to declare their desire for Bahraini nationality to the Minister of Interior." They would be considered Bahraini following a decision issued by the Minister or after a period of one year from the date of the declaration.

Several UN treaty monitoring bodies, including the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW) committees, as well as the Human Rights Council<sup>3</sup>, have expressed their concern about the sex discrimination in Bahrain's nationality law. The Human Rights Council (HRC) under the Universal Periodic Review has already reviewed Bahrain three times. The first two times the HRC recommended that the government of Bahrain address the sex discrimination in its nationality law, and the outcome of the third review held in May is pending. The CEDAW and

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<sup>1</sup> Equality Now, *Words & Deeds- Holding Governments Accountable in the Beijing+20 Review Process*, available in English, French, Spanish and Arabic at <https://www.equalitynow.org/campaigns/beijing-20>

<sup>2</sup> Equality Now, *The State We're in: Ending Sexism in Nationality Laws*, (2016), p. 35, available in English, French and Arabic at <https://www.equalitynow.org/campaigns/state-were-in>

CRC Committees have also recommended to the government of Bahrain that it accelerate amendment of the nationality law.

The Committee of the Arab Charter at the League of Arab States, mandated to discuss governments' reports on the status of human rights in their respective countries, urged Bahrain in 2013 to revise its Citizenship Act of 1963 in order to enable Bahraini women married to non-nationals to pass on their nationality to their children on equal basis with Bahraini fathers married to foreigners. In October 2017, the League of Arab States organized the First Arab Conference on Good Practices & Regional Opportunities to Strengthen Women's Nationality Rights (Conference), in collaboration with UNHCR, UN Women, UNICEF and the Global Campaign for Equal Nationality Rights. The 18 Arab countries which participated in the Conference, including Bahrain, passed a declaration which reaffirmed the right of every person to the enjoyment of nationality, and to be recognized as an equal person before law without discrimination. The declaration requested Member States to put an end to all forms of discrimination in the area of nationality, and particularly to **“[t]ake concrete steps to amend laws and legislation relating to nationality in order to grant women and men equal rights in conferring nationality to children and spouses, and to acquire, change or retain nationality in conformity with international standards...”** This formed the basis of a groundbreaking [Declaration](#) endorsed by the Arab League in Tunisia in February 2018.

In addition, in July 2012, the Human Rights Council passed a resolution, “The Right to a Nationality – Women and Children,” which, “*Urges* all States to refrain from enacting or maintaining discriminatory nationality legislation, with a view to avoid statelessness, in particular among women and children;” It also “*Urges* States to reform nationality laws that discriminate against women by granting equal rights to men and women to confer nationality to their children and regarding the acquisition, change or retention of their nationality.” (A/HRC/Res/20/4, ¶¶ 5-6).<sup>4</sup> This appeal was again reiterated in the Human Rights Council Resolution, “The Right to a Nationality – Women’s Equal Nationality Rights in Law and Practice,” passed in June 2016 and sponsored by 107 Member States. (A/HRC/RES/32/7).

#### *Exemption of rapists and perpetrators from punishment upon marriage*

Article 353 of the Bahrain Penal Code exempts rapists from punishment if they marry their victims, promoting violence against women and girls. It states, “No penalty shall be inflicted against a person who has committed one of the crimes set forth in the preceding Articles [including rape] if a valid contract of marriage is made between him and the victim. If he was subject to a final court judgement before concluding the marriage, such judgement shall be suspended and its penal effects shall cease.” Based on information submitted by the Bahrain Government in its reply to the list of issues<sup>5</sup>, the Legislative Council has prepared a draft bill stipulating the repeal of Article 353. However, despite some efforts to bring the bill forward for review and approval by the Parliament, this has not yet taken place and discrimination in this respect continues.

In 2014 the CEDAW committee, in the light of its general recommendation No. 19 on violence against women and its previous recommendations to Bahrain, urged the government “**To revise the Penal Code, repealing any provisions contained therein that condone acts of violence against women, such as article 334 and 353...**” (CEDAW/C/BHR/CO/3, para. 22(b),

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<sup>4</sup>Available at [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=20340](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=20340)

<sup>5</sup> Paragraph 52, available at (in Arabic):

[http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BHR/CCPR\\_BHR\\_I\\_Q\\_1\\_Add-1\\_30373\\_A.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BHR/CCPR_BHR_I_Q_1_Add-1_30373_A.pdf)

emphasis in original). The CRC Committee in 2011 also urged Bahrain to take all necessary measures to “Ensure that every child is protected from all forms of physical, sexual and psychological violence.” (CRC/BHR/CO/2-3, para. 46(c)). In May 2017, the Committee against Torture in its concluding observations on Bahrain’s second and third periodic reports urged Bahrain to “**Amend the Criminal Code in order to repeal articles 334 and 353**” (CAT/C/BHR/CO/2-3, para. 35(b), emphasis in original).

In addition, repealing Article 353 and amending the Nationality Law would be in line with the 2030 Agenda for Sustainable Development (Agenda 2030) adopted in September 2015 by the UN General Assembly, including Bahrain. This includes under Goal 5 to “eliminate all forms of violence against all women and girls in the public and private spheres” (Target 5.2) and “adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels” (Target 5.c), and Target 10.3, which calls on all governments to “[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws....”

Most importantly, the repeal of Article 353 would help end the re-victimization of rape and sexual assault survivors. This would also put Bahrain in compliance with its obligations under international law. Other Arab countries, such as Egypt in 1999, Morocco in 2014, Tunisia, Jordan and Lebanon in 2017 and Palestine in 2018, have already ended impunity for rapists in the law, and others, including Iraq are discussing revoking such articles.

#### ***Suggested Recommendations for the State Party***

We would respectfully urge the Committee to recommend to Bahrain with regard to violations of the Covenant addressed in this letter to:

- comprehensively amend the nationality law to
  - a. allow Bahraini women to transfer their nationality on an equal basis with men.
  - b. prevent naturalized Bahraini women from automatically losing their nationality upon termination of marriage; and
  - c. remove any other discrimination on the basis of sex.
- revoke Article 353 of the Penal Code as soon as possible and publicize its repeal.

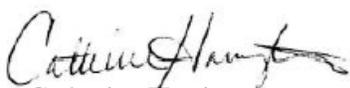
Thank you very much for your kind attention, and please do not hesitate to contact us if we can provide further information.

Sincerely,



Yasmeen Hassan  
Global Director  
Equality Now

/s/ Badria Al Marsouki  
President  
Bahrain Women Union



Catherine Harrington  
Global Campaign Manager  
Global Campaign for Equal Nationality Rights