



THE COMMITTEE ON THE RIGHTS OF THE CHILD

78th Pre-Sessional Working Group (14/05 – 01/06 2018)

Bahrain

Civil Society Submission on the right of every child to acquire a nationality under Article 7 CRC

1st March 2018

Introduction

1. The Institute on Statelessness and Inclusion (the Institute),¹ and Americans for Democracy & Human Rights in Bahrain (ADHRB)² welcome the opportunity to make this submission to the Committee on the Rights of the Child regarding Bahrain's compliance towards every child's right to acquire a nationality under Article 7 of the CRC.
2. This joint submission focuses on the child's right to acquire a nationality (article 7 CRC) and the child's right to preserve his or her nationality (article 8 CRC). Consequently, it looks at practices related to the arbitrary deprivation of and access to nationality in Bahrain, as well as resultant statelessness, which significantly undermine the enjoyment of human rights of many children. It draws on years of research, advocacy, awareness raising and direct support related experience both in Bahrain and internationally, of the submitting organisations.³
3. The Institute and ADHRB hope that the Committee will draw on this submission to raise the issue of realising the right of every child to acquire a nationality in its **List of Issues for Bahrain**, and address **recommendations to the Government of Bahrain in its Concluding Observations** to

¹ For more information see <http://institutesi.org/>

² For more information see <http://www.adhrb.org/>

³ In 2016 the co-submitting organisations made a joint Universal Periodic Review submission on Bahrain, which can be found here: <http://www.institutesi.org/BahrainUPR2016.pdf>

further prevent and reduce the problem of childhood statelessness in the country. This submission has been structured to highlight issues that may be included in the List of Issues by including them in text boxes under each substantive section, and recommendations that may be drawn on for the Committees Concluding Observations by listing them at the very end of the text.

The Report of Bahrain to the Committee

4. This submission highlights challenges in the realisation of the right of every child to a nationality in Bahrain, and the increased practice of arbitrarily depriving individuals of their nationality, and the impact this has on their families and children. It will highlight three main issues: the intergenerational nature of statelessness among the Bidoon and Ajam communities, discrimination against women in nationality legislation, and the discriminatory and arbitrary practices of Bahraini authorities in the deprivation of nationality which, coupled with discrimination against mothers, results in children being born without a nationality.
5. The Kingdom of Bahrain's September 2017 State Report to the Committee reiterated the position it articulated at its previous review that an amendment addressing gender discrimination in the nationality law is currently pending before the legislature. The State report also mentioned that Law No. 35 of 2009 on the treatment of Bahraini women married to foreigners has eased the issue of residence fees, health and education, and some government fees.⁴ While the co-submitting organisations welcome the proposed amendment of this law, we note that many years have lapsed since this amendment was first proposed, with no concrete reform or visible progress being made.
6. Despite the significant impact on the child's right to acquire and retain a nationality, and on the enjoyment of other rights, the State Report is silent on both the issue of children of the Bidoon and Ajam communities, and the issue of children of parents who had been arbitrarily deprived of their nationality.

Bahrain's International Legal Obligations

7. The gaps in law and policy that are detailed below, specifically in Bahrain's current Citizenship Act which was enacted in 1963 and amended in 1981, are in clear violation of the international obligations of Bahrain. This includes Bahrain's obligations under Articles 7 and 8 of the CRC, Article 9 of the Convention on the Elimination of Discrimination against Women (CEDAW), (equal rights for women to acquire, change and retain their nationality and to confer their nationality to children and spouses) and Article 24 of the International Covenant on Civil and Political Rights (ICCPR), which obligates states to ensure each child's right to a nationality.

4. CRC/C/BHR/4-7, paragraph 45، الجنسية البحرينية، اما فيما يتعلق بقلق اللجنة بالتمييز ضد الأطفال المولودين لأم بحرينية وأب غير بحريني في حصولهم على الجنسية البحرينية، فقد قدم مشروع قانون يقضي عند تبنيه أن يحصل الأطفال على جنسية أمهم البحرينية. وهو الآن رهن المداولة أمام السلطة التشريعية وقت إعداد هذا التقرير. كما سبق وأن صدر قانون رقم 35 لسنة 2009 بشأن معاملة أبناء المرأة البحرينية المتزوجة من أجنبي معاملة البحرينيين في كل ما يتعلق برسوم الإقامة والصحة والتعليم وبعض الرسوم الحكومية.

8. In terms of the arbitrary deprivation of nationality, the report of the Secretary-General on Human rights and arbitrary deprivation of nationality comments on the regulation of loss and deprivation of nationality, particularly emphasising that *'Any interference with the enjoyment of nationality has a significant impact on the enjoyment of rights. Therefore, loss or deprivation of nationality must meet certain conditions in order to comply with international law, in particular the prohibition of arbitrary deprivation of nationality.'*⁵ Furthermore, article 8 of the CRC sets out a clear obligation of states to respect the right of the child to preserve his or her nationality; thereby prohibiting the arbitrary deprivation of nationality of all children.
9. Bahrain is neither a party to the 1954 Convention relating to the Status of Stateless Persons, nor to the 1961 Convention on the Reduction of Statelessness.
10. In Bahrain's third-cycle UPR review in 2017, Uruguay, Algeria, Botswana, the Philippines, Argentina, Slovenia, Sierra Leone, Uganda and Belgium all made recommendations that urged Bahrain to reform its nationality law and to allow women to transfer their nationality to their children on an equal basis to men.⁶ Additionally, the United States of America submitted an Advance Question asking: *'Will the government take steps to reform Bahrain's nationality laws to eliminate discrimination against women with respect to citizenship conferral and transmission of citizenship to their children and spouses?'*⁷ With the exception of the two recommendations issued by Uganda and Belgium, which did not solely pertain to the issue of gender-based discrimination in the nationality law, Bahrain accepted all of these recommendations. Additionally, in 2013, the CEDAW committee requested Bahrain for an update on the status of the amendment of the law.⁸ However, Bahrain has not acted on these recommendations and continues to report that the amendment is under consideration.
11. Denmark, Germany, the Czech Republic, Mexico, and Belgium also issued UPR recommendations calling on Bahrain to end the practice of arbitrarily revoking citizenship, including when it results in statelessness or forced exile and when it is conducted under the 2006 anti-terror law. The United States of America also raised concern over *'arbitrary revocation of citizenship'* during the interactive dialogue and submitted a further Advance Question, asking: *'Will the government review decisions which arbitrarily revoke citizenship and consider changes to the law permitting such decisions in order to prevent and reduce statelessness?'* Bahrain only accepted Denmark's recommendation, and it has not taken these actions. In response, the government stated: *'The nationality code was aligned to international standards. Nationality could be withdrawn or lost, in accordance with the law. To protect society against acts of terrorism, the commission of acts of terrorism resulted in the loss of nationality; such decisions could be appealed up to the highest level of the judiciary.'* The authorities did not address extrajudicial revocation orders that can be made by the Ministry of Interior, which violate due process standards.

⁵ See A/HRC/25/28 Human Rights and Arbitrary Deprivation of Nationality Report of the Secretary-General, December 2013

⁶ Find information of recommendations and Bahrain's response https://www.upr-info.org/sites/default/files/document/bahrain/session_27_-_may_2017/response_to_recommendations_bahrain_2017.pdf

⁷ The list of Advance Questions can be downloaded from the Office of the High Commissioner's web page here: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BHindex.aspx>

⁸ See CEDAW/C/BHR/Q/3 at [http://www.refworld.org/publisher,CEDAW,,BHR,525be1c84,0.html](http://www.refworld.org/publisher/CEDAW,,BHR,525be1c84,0.html)

12. Uganda's third-cycle UPR recommendation broadly urged Bahrain to address statelessness, and Mexico issued a recommendation calling on Bahrain to ratify the Convention relating to the Status of Stateless Persons. Bahrain accepted neither of these recommendations.
13. Following the Human Rights Council's adoption of the final outcome of the review in September 2017, the High Commissioner for Human Rights sent a letter to Bahrain's Foreign Minister in which he specifically called on the authorities to address gender discrimination in Bahrain's nationality laws, thereby protecting children's right to nationality and ensuring that they are not rendered stateless:

I would like to highlight one area that was raised during the review of Bahrain: the pledge to consider amending the Bahraini Citizenship Act to grant citizenship to children of Bahraini women married to non-Bahraini men. This is a particularly important reform to address the risk of children of Bahraini women married to non-Bahraini men becoming stateless. I urge Bahrain to expedite the adoption of the amendments to the Act to bring it into full compliance with the Convention on the Elimination of All Forms of Discrimination against Women and to enable Bahraini women to confer their nationality to their children without restriction.⁹

The denial of the right to nationality of the Bidoon and Ajam of Bahrain

14. Bahrain, in its nationality law, has no safeguards against statelessness for children born in Bahrain, despite the fact that there are large stateless populations living in the country. Firstly, the Bidoons are individuals who have historically lived in the country but, for various reasons, (mostly if they missed out on the initial registration of citizens at the point of State formation), have been denied the right to a nationality. In the past, Bahrain has made some positive steps in granting nationality to many from this community, specifically in 2008 where 7,012 individuals – including many Bidoons – were naturalised. While there are no exact numbers, there are still several thousand stateless Bidoon in Bahrain, with estimates ranging from 2,000 – 5,000 Bidoon families who have not been granted nationality despite being eligible under Bahraini law. According to Article 5 of the Bahraini Citizenship Act, individuals are nationals by birth if they were born in Bahrain and their father 'was also born in Bahrain and has made Bahrain his permanent residence, at the time of birth of that person, provided, however, that this person is not holding another nationality. The existence of statelessness among this community, is exacerbated by gender discrimination in Bahrain's nationality law (see below), resulting in many children being wrongfully denied their right to acquire Bahraini nationality if both their parents or only their father is a stateless Bidoon.
15. Second, the Ajam population, an ethno-religious group of predominantly Shia individuals of Persian descent, have faced discrimination in citizenship that has resulted in many being stateless, including children. Combined with longstanding forms of institutionalised discrimination against the country's majority Shia population, the specific denial of citizenship for Ajam has forced the community disproportionately into lower socioeconomic conditions. Being both Shia and stateless, they are even more likely to be denied access to social welfare or assistance programmes available to other Bahraini citizens.¹⁰ Once again, the statelessness status is

⁹ Find the High Commissioner's letter here: <http://lib.ohchr.org/HRBodies/UPR/Documents/Session27/BH/BahrainHCLetter.pdf>

¹⁰ Apart in Their Own Land: Government Discrimination Against Shia in Bahrain, Vol. I, ADHRB, BCHR, and BIRD, April 2015, <http://www.adhrb.org/2015/03/adhrb-bird-and-bchr-publish-new-report-on-shia-discrimination> ; Apart in Their Own Land:

hereditary resulting in children being deprived their right to a nationality. Again this is true whether the mother has Bahraini nationality or not (or as often is the case in this community if she has Iranian nationality or not – as Iranian law is also gender discriminatory).

In light of the intergenerational statelessness and related deprivations experienced by these communities and their children, the Committee is urged to ask Bahrain:

- **To provide disaggregated data on the number of stateless Bidoon and Ajam in Bahrain, including the number of children born into these communities who have been denied the right to acquire Bahraini nationality over the last 5 years.**
- **On what basis do Bidoon families, who are legally eligible for Bahraini nationality according to Article 5 of the Citizenship Act, continue to be stateless in the country?**
- **On what basis does Bahrain discriminate against the Ajam, thereby denying children born into these communities of the right to a nationality?**
- **Why does the Bahraini nationality law not contain a comprehensive safeguard to ensure against statelessness for any child born on its territory who would otherwise have no nationality?**

Gender discrimination in nationality law

16. Law No (10) of 1981 Amending the 1961 Bahraini Citizenship Act sets out who is a Bahraini national.¹¹ Article 4 of the law prescribes the main mechanism of transferal of nationality, stating that:

Anyone shall be regarded a Bahraini national, if: (A) Was born in Bahrain after the effective date of this act and his father was a Bahraini at the time of birth. (B) Born outside Bahrain, after the effective date of this Act, and his father was a Bahraini national at the time of birth provided that this father or the grandfather was born in Bahrain. (C) Born in Bahrain or abroad, after the effective date of this Act, and his mother, at the time of birth was a Bahraini national provided that father was unknown, without nationality or fatherhood was not substantiated.

The law therefore only allows the father to grant nationality automatically, which means that nationality is only transferred through a Bahraini male. Women cannot transmit their nationality to their children or husbands. According to this law, Bahraini mothers can only confer their nationality to their children when the father is unknown or not legally related to the children.

17. This discrimination puts children at heightened risk of statelessness. When a child cannot obtain the nationality of the father, they are at heightened risk of becoming stateless, and this is exacerbated in Bahrain given that there are a substantial number of stateless individuals in the

Government Discrimination Against Shia in Bahrain, Vol. II, ADHRB, BCHR, and BIRD, September 2015, <http://www.adhrb.org/2015/09/adhrb-releases-part-2-of-shia-discrimination-report/>; and ADHRB's Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the Convention on the Elimination of All Forms of Racial Discrimination, July 2017, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fFICS%2fBHR%2f28077&Lang=en

country, as set out above. In order to transfer nationality to their children, unless the father is stateless, women have to actively demonstrate that the father is unknown or that fatherhood was not substantiated. However, it is unclear whether this provision is ever implemented, and the social repercussions of registering a child with an unknown father may be too severe in many cases for mothers to pursue this option. Furthermore, even in the case of stateless fathers, it is evident that many Bahraini women married to Bidoon men have not been able to transfer their nationality to their children, despite the law being clear on this point.

18. It must be noted that Bahrain has taken some positive steps toward resolving this problem. In 2009, the government established a waiver in order to grant access to certain state services for children of foreign fathers¹² and in 2013 General Secretary of the Supreme Council of Women in Bahrain stated that many children of Bahraini women married to non-Bahraini nationals were granted Bahraini nationality by Royal Decree.¹³ However, Royal Decrees are arbitrary solutions to a fundamental problem of discrimination which undermines every child's right to acquire a nationality. A legislative solution that applies to every child as a permanent safeguard against statelessness is a more appropriate and sustainable solution. In this light, it is important to note that in January 2014, the cabinet approved a proposed law to pass the citizenship of Bahraini mothers to their children under certain conditions. The proposal was forwarded to the council of representatives for discussion and approval, however several years later there has been no conclusion of this review and no amendment. In April 2017, the council of representatives reportedly rejected the proposal altogether, partially on the grounds that the 2009 waiver for services was sufficient.¹⁴

In light of the discriminatory nature of Bahraini law, the Committee is urged to ask Bahrain:

- **On what basis, does Bahrain continue to retain a gender discriminatory nationality law, despite its previous acceptance of recommendations by this Committee, the CEDAW and UPR to amend its nationality law, and its own statements to the same?**
- **Why is it that Bahraini mothers of children whose fathers are unknown, without nationality or where fatherhood has not been substantiated, are not able to pass on their nationality to their children, despite clear legal basis for this?**
- **What steps is Bahrain taking to strengthen implementation of its nationality law, to ensure that children who are entitled to nationality are not deprived of their rights on the basis of gender, ethnic, religious or other forms of discrimination against the parents of the child?**
- **What updates can the state provide on the legislative initiative which began in 2014? Why has this not yet resulted in legal reform, eradicating gender discrimination in Bahrain's nationality law?**

¹² "Follow Up: State Reporting: Action by Treaty Bodies, Including Reports on Missions." CEDAW. 2009.

http://www.bayefsky.com/html/bahrain_cedaw_follow_report.php

¹³ Habib Toumi, "Proposal allowing Bahraini mothers to give children citizenship rejected," Gulf News, 30 April 2017,

<http://gulfnews.com/news/gulf/bahrain/proposal-allowing-bahraini-mothers-to-give-children-citizenship-rejected-1.2019461>

¹⁴ Ibid.

Arbitrary deprivation of nationality in violation of Article 8 CRC

19. Article 7 of the Constitution of Bahrain allows for citizens to be stripped of their nationality ‘in case of treason, and such other cases as prescribed by law.’ Bahraini policy is also often dictated by royal decrees, and courts in Bahrain have previously ruled that they have no jurisdiction over decisions on nationality. As a result, the executive – the king and even cabinet ministers – have wide discretion to both naturalize and denaturalize individuals.
20. At time of writing, 578 individuals have had their nationality stripped since 2012.¹⁵ Many of these individuals were subsequently deported, whereas others only found out that their nationality had been stripped of them when they were travelling abroad. For the majority who held no other nationality, this left them stateless, and in a foreign country.¹⁶
21. Bahraini law does not ensure the right of every child to acquire a nationality and it does not contain sufficient safeguards, when citizens are stripped of their nationality, to protect children from statelessness. Bahraini law does not extend so far as to allow for the deprivation of nationality of children by association. However, due to gender-based discrimination in the citizenship legislation and the lack of proper safeguards, children born to fathers who have been stripped of their nationality will be stateless. Both the child and the father, if they remain in Bahrain, may then be unable to own property or open bank accounts, access healthcare and social services, or enrol for education. Stateless children may have to apply for residency permits and, once they are adults, be sponsored by an employer in order to continue living in Bahrain. All the while, these families live with the risk that their family members may be abruptly detained and deported by police. Therefore, the increase in arbitrary and politically motivated citizenship revocation directly raises the risk of child statelessness and the attendant restrictions on accessing vital services. In effect, it can result in collective punishment for whole families. Indeed, the co-submitting organisations are aware of some existing cases of children who have been born stateless due to this arbitrary deprivation of nationality. For example, Ali travelled from Bahrain to the United Kingdom in 2015 after the government revoked his citizenship. His three children and wife soon followed him, and all have retained their nationality. However, their fourth child has been unable to obtain a Bahraini nationality and is currently stateless. Her parents only have hope that the child will become a British citizen in a few years. Likewise, the second child of Sayed Ahmed Alawadei, a human rights activist and the director of advocacy for the Bahrain Institute for Rights and Democracy (BIRD), was born stateless in the United Kingdom after Alwadaei was forced into exile and stripped of his citizenship in reprisal for his human rights work.¹⁷

¹⁵ For the documentation on this see www.anabahraini.org also A detailed report of the impact of deprivation of nationality on the enjoyment of human rights is contained in A/HRC/19/43

¹⁶ OHCHR, Bahrain should stop persecution of Shi’a Muslims and return its citizenship to their spiritual leader, 2014, access at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14533&LangI%20D=E>

¹⁷ See the Guardian, My Daughter will be Born Stateless 2016, access at, <https://www.theguardian.com/commentisfree/2017/oct/24/daughter-stateless-uk-bahrain-torture-human-rights>

In light of the government's punitive deprivation of nationality for hundreds of Bahrainis, the Committee is urged to ask Bahrain:

- **How many children have been born stateless as a result of their parents being deprived of their Bahraini nationality?**
- **Why is the safeguard against statelessness not implemented to protect these children, in situations where the mother still retains her Bahraini nationality?**
- **What steps are Bahrain taking to ensure that no child will be deprived or denied their right to acquire and preserve their nationality, in situations where a parent has been deprived of nationality?**

Recommendations

To address the multifaceted issue of stateless children in Bahrain, the Institute and ADHRB recommend the following:

- I. Take all necessary steps to facilitate the realisation of the right to nationality and all related rights, for all stateless persons in Bahrain – in particular, children. Ensure that no child is born stateless to these communities in Bahrain.**
- II. Take all necessary steps to respect, protect and fulfil every child's right to acquire a nationality under Article 7 CRC. In particular, implement comprehensive safeguards to protect all children born in Bahrain from statelessness.**
- III. Ensure that previous commitments to amend the Citizenship Law to enable Bahraini women to transfer nationality to their children without restriction, on an equal basis to men, are proactively implemented without any further delay, and in accordance with international standards.**
- IV. Amend the Citizenship Law and the 2006 Law on Protecting Society from Terrorism Acts to prevent arbitrary deprivation of nationality and to ensure redress and right of appeal for those who are deprived of their nationality. Deprivation of nationality that results in statelessness must be prohibited, especially when this results in children being denied their right to a nationality.**