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Re: Bahrain – Adoption of List of Issues at CCPR 121 Session (16 Oct. 2017-10 Nov. 2017)

24 July 2017

Distinguished Committee Members,

We respectfully submit this letter in advance of the Human Rights Committee's Adoption of the List of Issues for Bahrain at its 121st session from 16 October – 10 November 2017. Equality Now, Bahrain Women Union and the Global Campaign for Equal Nationality Rights are greatly concerned about the 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. These articles violate the equality provision of Article 3 and the non-discrimination principle under Article 26 of the International Convention on Civil and Political Rights (ICCPR).

Bahrain Women's 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, 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 men¹. 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 take it 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 nationality². 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 such as health, education and residency fees. For example, sometimes, when Bahraini women married to non-nationals go to medical centers for treatment of their children, staff will continue to ask them to pay fees because they do not know about law (35) of 2009. The government must raise awareness about this law.

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 Council³, 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

¹Equality 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>

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

³UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bahrain*, 22 May 2008, A/HRC/8/19, at ¶60(5); UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bahrain*, 6 July 2012, A/HRC/21/6, at ¶¶115.75, 115.140, 115.141, 115.142, 115.95

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 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 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).⁴ 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."

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)). 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 the second and third periodic reports urged Bahrain to "amend the Criminal Code in order to repeal articles 334 and 353," (ADD UN doc #, para. 35(b)).

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...."

⁴Available at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=20340

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, and Morocco in 2014, have already ended impunity for rapists in the law, and others, including Jordan, Lebanon and Iraq are discussing revoking such articles.

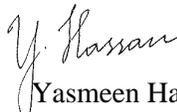
Suggested Questions for the State Party

We would respectfully urge the Committee to call on the government of Bahrain to address the sex discrimination in its laws by:

- 1- comprehensively amending 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.
- 2- revoking Article 353 of the Penal Code as soon as possible and publicizing 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/
Fatima Abu Idrees
President
Bahrain Women Union


Catherine Harrington
Global Campaign Manager
Global Campaign for Equal Nationality Rights