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14 December 2018

**Re: Information on Bahrain for Consideration by the Committee on the Rights of the Child at its 80th session (14 January 2019 - 1 February 2019)**

Dear Distinguished Committee Members,

We respectfully submit this letter in advance of the Committee on the Rights of the Child's (the Committee's) discussion of Bahrain at its 80th session from 14 January 2019 - 1 February 2019. Equality Now would like to take this opportunity to express our concern about human rights violations faced by children in Bahrain. We are particularly concerned by the Bahraini Citizenship Act, which denies women the equal ability to confer citizenship to their children as men; Article 353 of the Penal Code, which allows an exemption from punishment for rapists who marry their victims, who are often underage; and Article 20 of the Family Law (19) of 2017 which allows for girls to be married off before the age of 18.

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. Equality Now is also a founder and steering committee member of the Global Campaign for Equal Nationality Rights, which aims to eliminate gender discrimination in nationality laws. 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

***Discriminatory nationality law***

Article 7 of the Convention on the Rights of the Child (CRC) grants children the right to a nationality and obligates State Parties to "ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless." Article 8 of the CRC grants children the right to "preserve [their] identity, including nationality, name and family relations as recognized by law without



unlawful interference”. Finally, denying children the ability to obtain citizenship due to the sex of their parent is a form of discrimination, and is therefore also a violation of Article 2 of the CRC.

Bahrain’s Citizenship Act of 1963, as amended, denies Bahraini women the right to pass on their nationality to their children, leaving children vulnerable to statelessness. Under Article 4 of the Citizenship Act, unless the child’s father is unknown or has repudiated/not acknowledged the child, Bahraini women do not have the right to confer their citizenship to their children.<sup>1</sup> 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>

Although Law (35) of 2009, as mentioned in the State Party’s response to the List of Issues,<sup>3</sup> mandates that children of Bahraini women married to non-nationals are exempt from residency, health care, and education fees the same as for citizens,<sup>4</sup> inequality persists. Rahima Naser, a Bahraini woman married to a non-national and mother of three children, was ineligible 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. In addition, because her children are not considered nationals under the Bahraini Citizenship Act of 1963, as amended, her two daughters’ applications for employment were refused and Rahima was deprived of housing services granted by the government to citizens. Her remaining hope is that her children will be among those granted nationality at the discretion of the king.

Several UN treaty monitoring bodies have expressed their concern about the discrimination in the Bahraini nationality law and the length of time the Bahraini government is taking to amend the law. Indeed, in its 2011 Concluding Observations, this Committee called for Bahrain to “revise its national legislation with a view to allowing the transfer of Bahraini citizenship to the children of Bahraini mothers and non-citizen fathers on the same basis as the transfer of citizenship to children of Bahraini fathers and non-citizen mothers.”<sup>5</sup> In 2014, the Committee on the Elimination of Discrimination against Women (CEDAW) also urged Bahrain to “modify or repeal” the “discriminatory provisions in its Penal Code and Nationality Law.”<sup>6</sup> The Human Rights Council (HRC) under the Universal Periodic Review has also recommended that the government of Bahrain amend its nationality law to remove the discriminatory provisions.<sup>7</sup> In its 2018 Concluding Observations, the Human Rights Committee also noted its concern that “women do not enjoy equal rights with men in conferring nationality to their children as women

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<sup>1</sup> Bahraini Nationality Law, No. 1963/8, as amended, at Art. 4.

<sup>2</sup> Equality Now, *The State We’re in: Ending Sexism in Nationality Laws*, (2016), p. 35, available at [https://d3n8a8pro7vnm.cloudfront.net/equalitynow/pages/306/attachments/original/1527598829/Progress\\_from\\_NationalityReport\\_EN.pdf?1527598829](https://d3n8a8pro7vnm.cloudfront.net/equalitynow/pages/306/attachments/original/1527598829/Progress_from_NationalityReport_EN.pdf?1527598829)

<sup>3</sup> CRC/C/BHR/Q/4-6/Add.1, ¶ 32.

<sup>4</sup> Concluding Observations: Bahrain, Committee on the Rights of the Child, ¶ 38, U.N. Doc. CR/C/BHR/CO/2-3 (Aug 3 2011). [hereinafter U.N. Doc. CR/C/BHR/CO/2-3]

<sup>5</sup> *Id.* at ¶ 38.

<sup>6</sup> Concluding Observations on the third periodic report of Bahrain, Committee on the Elimination of Discrimination against Women, ¶ 14, U.N. Doc. CEDAW/C/BHR/CO/3 (10 Mar. 2014). [hereinafter U.N. Doc. CEDAW/C/BHR/CO/3].

<sup>7</sup> Report of the Working Group on the Universal Periodic Review: Bahrain, Human Rights Council, U.N. Doc. A/HRC/36/3 (Jul. 10, 2017).



require a royal decision to do so,” and urged Bahrain to expedite the process of amending its nationality law.<sup>8</sup>

In addition, 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 .”<sup>9</sup> This was reaffirmed on February 28, 2018 at the conference on “Belonging and Legal Identity,” under the patronage of His Excellency President of the Republic of Tunisia, and organized by the League of Arab States. The resulting Arab Declaration on Belonging and Identity further endorses gender equality in nationality laws as a regional standard, “affirming the commitment of the Arab region to ensure life with dignity, and to recognition as an equal person before the law for all without discrimination, as enshrined in the Arab Charter on Human Rights, including articles 5 and 9.”<sup>10</sup>

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

Article 19 of the CRC obligates State Parties to “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, [...] including sexual abuse.” The Committee’s 2014 joint recommendation with the CEDAW committee on harmful practices states that, “legislation that enables a perpetrator of rape and/or other sexual crimes to avoid sanctions through marriage to the victim,” is “contrary to the obligation of the States parties under both conventions.”<sup>11</sup>

Article 353 of the Bahrain Penal Code exempts rapists from punishment if they marry their victims, promoting violence against women and adolescent girls, and violating the principles of protection set by the CRC. 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.” Although as the State Party notes in its response to the List of Issues<sup>12</sup> that the Legislative Council is considering its repeal, we note that a vote

<sup>8</sup> Concluding observations on the initial report of Bahrain, Human Rights Committee, ¶¶ 18-19, U.N. Doc. CCPR/C/BHR/CO/1 (Jul. 26, 2018). [hereinafter CCPR/C/BHR/CO/1].

<sup>9</sup> The First Arab Conference on Good Practices & Regional Opportunities to Strengthen Women’s Nationality Rights, League of Arab States Secretariat General, 1-2 October 2017, Final Declaration. Available at <http://www.equalnationalityrights.org/images/zdocs/Final-Declaration-of-the-Arab-Conference-on-Nationality-English.pdf>

<sup>10</sup> <https://equalnationalityrights.org/images/zdocs/Final-Ministerial-Conference-Declaration-on-Belonging-and-Identity---English.pdf>

<sup>11</sup> Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, ¶41, U.N. Doc. CEDAW/C/GC/31- CRC/C/GC/18 (Nov. 14, 2014).

<sup>12</sup> CRC/C/BHR/Q/4-6/Add.1, ¶ 77.



has been postponed three times in the parliaments so more needs to be done by the government to encourage the parliament to take action.

In 2011 this Committee urged Bahrain to take all necessary measures to “ensure that every child is protected from all forms of physical, sexual and psychological violence,”<sup>13</sup> and noted their concern “that, as a solution for child sexual abuse cases, marriage between victim and abuser is encouraged by the State Party.”<sup>14</sup> In 2014, the CEDAW committee urged Bahrain “to revise the Penal Code, repealing any provisions contained therein that condone acts of violence against women, such as article 334 and 353.”<sup>15</sup> In 2017, the Committee against Torture urged Bahrain to “amend the Criminal Code in order to repeal articles 334 and 353.”<sup>16</sup> In 2018, the Human Rights Committee also recommended that the Bahraini government repeal article 353.<sup>17</sup> The repeal of Article 353 would help end the re-victimization of rape and sexual assault survivors, many of whom are adolescent girls. Other countries in the region, such as Egypt, Morocco, Tunisia, Jordan, Lebanon, and Palestine have already ended impunity for rapists in the law, and others, including Iraq, are discussing revoking such articles

Repealing Article 353 and amending the Nationality Law would help to bring Bahrain in line with the 2030 Agenda for Sustainable Development (Agenda 2030) adopted in September 2015 by the UN General Assembly. This includes Goal 5, which calls on governments 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 Goal 10, which calls on states to “[e]nsure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws” (Target 10.3).

### *Child marriage*

The amendments made to the Bahrain’s Family Law (19) of 2017, mandated to deal with family related issues including child marriage violates the principles of the CRC Convention in terms of protecting and promoting children rights by allowing girls under 16 to be married off. Article 20 of the Family Law states, “Girls under the age of 16 shall not be married unless permitted by the Sharia’ court after ascertaining the suitability of the marriage”. Child marriage puts girls at risk of increased domestic violence, forced pregnancy and negative health consequences, while being denied education and economic opportunity. It also limits girls’ autonomy and to reach their full potential.

Most recently, in 2018, the Human Rights Committee, in its Concluding Observations on the initial report of Bahrain, urged the State party to “ensure that the minimum age for marriage is set at 18 years for both girls and boys and amend the legal provision that allow for exceptions to the minimum age for marriage.”<sup>18</sup>

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<sup>13</sup> U.N. Doc. CR/C/BHR/CO/2-3, ¶ 46.

<sup>14</sup> *Id* at ¶ 67.

<sup>15</sup> CEDAW/C/BHR/CO/3, ¶ 22(b)

<sup>16</sup> Concluding observations on the second and third periodic reports of Bahrain, Committee against Torture, ¶ 35(b), U.N. Doc. CAT/C/BHR/CO/2-3 (May 29, 2017).

<sup>17</sup> CCPR/C/BHR/CO/1, ¶ 25(b)

<sup>18</sup> CCPR/C/BHR/CO/1, ¶18 (b).



### ***Suggested Questions for the State Party***

We would respectfully urge the Committee to raise with the Bahraini government the following questions with regard to violations of the Convention of the Rights of the Child:

- 1) What plans does the government have to remove the discrimination in the Bahraini Citizenship Act of 1963 so that Bahraini women can enjoy equal nationality rights with Bahraini men?
- 2) What are the Government's plans to revoke article 353 as soon as possible and publicize its repeal?
- 3) Are there any plans for the government to amend the Family Law (19) 2017 to ensure that the minimum age of marriage is set at 18 years and so that exceptions to the minimum age of marriage are no longer allowed?

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

We 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.
- 3) Amending the Family Law (19) 2017 to ensure that the minimum age of marriage is set at 18 years and so that exceptions to the minimum age of marriage are no longer allowed.

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

Sincerely,

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Bahrain Women's Union

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Global Campaign for Equal  
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