

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 27th Session

KINGDOM OF BAHRAIN

I. BACKGROUND INFORMATION

The Kingdom of Bahrain (hereinafter Bahrain) is not a party to the *1951 Convention relating to the Status of Refugees* and to its *1967 Protocol* (hereinafter jointly referred to as *1951 Convention*). Moreover, Bahrain is neither a party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*), nor to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). Bahrain does not have a domestic legislation on refugees.

The Regional Representation of UNHCR to the Gulf Cooperation Council (GCC) countries (based in Riyadh) operates remotely in Bahrain and does not have an office *in situ*. As of 17 July 2016, UNHCR registered 271 refugees and 79 asylum-seekers, of which 161 are women, 189 are men and 57 are children. While the vast majority of refugees and asylum-seekers in Bahrain are Iraqis, there are also, *inter alia*, Yemenis, Syrians and Somalis.

Bahrain is ruled by a Sunni king, whose family holds the main political and military posts in the public administration. The State's division between the Shia majority and the Sunni population has led to a long-running tension in the Kingdom, which has sporadically boiled over into civil disobedience and demonstrations during the course of the last years. For example, in early 2011, Bahrain witnessed a wide range of demonstrations carried out mainly by Shia citizens. The Government of Bahrain called in the Saudi armed forces to help stabilising the situation and defusing tensions. Generally, Shia activists claim they do not have equal opportunities regarding access to the labour market and that areas where they live in Bahrain are deprived from basic services.

Despite the fact that Bahrain's economy is fairly diversified compared to other GCC countries, with non-oil sectors as main drivers of its economic growth, the decline in oil prices and the continuing social and political unrest are hampering Bahrain's strong economic growth seen in the last couple of years.

II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: The right to nationality

Linked to 2nd cycle UPR recommendations no. 115.95: “Adopt legislation that allows children of Bahraini mothers and non-Bahraini fathers to obtain Bahraini nationality (Uruguay)”, **no. 115.75:** “Continue taking temporary measures for granting citizenship to children of Bahraini women married to non-Bahrainis until the draft law amending the Nationality Law comes into effect (India);” **and no. 115.142:** “Complete by making the amendment to the proposed amendment to the nationality law that guarantees the Bahrain nationality for children from a Bahrain mother and a non-Bahraini father law (Sudan).”¹

To date, Bahrain has not adopted any bill to amend the *1963 Citizenship Act* to enable Bahraini women married to non-Bahraini men to confer their nationality to their children. Nonetheless, the *1963 Citizenship Act* allows Bahraini mothers to confer their nationality to their children under certain conditions – namely if they were born in Bahrain or abroad and the father is unknown or stateless.

In addition, we wish to note that conflicts between the *1963 Citizenship Act* and the Bahraini *2002 Constitution* (further amended in 2012) remains. Article 18 of the *Constitution* recognizes that Bahraini citizens are equal in human dignity and before the law in terms of rights, duties and public responsibilities. However, women are still unable to confer their nationality to their children on an equal basis as men. This was clearly highlighted in paragraph 33 of the Committee on the Elimination of Discrimination against Women’s (the Committee) previous *Concluding Observations on Bahrain* in 2014, which notes that “[...]the Committee is concerned that women still do not enjoy equal rights to nationality, given that men automatically confer their nationality to their children, while Bahraini women do not.”²

UNHCR wishes to encourage the Government of Bahrain to adopt an amendment to the *1963 Citizenship Act*, and would like to reiterate its offer to provide full technical support and cooperation, including in relation to identifying good practices and recent reforms in other States and regions. In that regard, on 16-18 February 2016, UNHCR supported and participated in a workshop held in Bahrain in collaboration with the Global Campaign for Equal Nationality Rights and in partnership with coalition members of the Bahrain Women Union (BWU) and Equality Now. The aforesaid workshop aimed at advancing amendments to the *1963 Citizenship Act* and was attended by, *inter alia*, Bahraini Parliament members, the Royal Family Council and the Citizenship Department. During discussions, it was confirmed that a bill amending the *1963 Citizenship Act* was drafted in January 2014. Nonetheless, Members of Parliament stated that they could not locate the document and it was thus unclear whether the bill was still awaiting Parliamentary passage as indicated in Bahrain’s UPR mid-term report.³

Furthermore, as a result of BWU’s efforts during the meeting, children of Bahraini women have been granted some preferential treatment with regard to the issuance of their residency permits and access to public services such as education and welfare programs. Hitherto,

¹ All recommendations made to Bahrain during its 2nd cycle UPR can be found in: “Report of the Working Group on the Universal Periodic Review of Bahrain” (6 July 2012), A/HRC/21/6, available at: <http://ohchr.org/EN/HRBodies/UPR/Pages/BHSession13.aspx>.

² UN Committee on the Elimination of Discrimination against Women, *Concluding Observations on Bahrain*, CEDAW/C/BHR/CO/3, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBHR%2fCO%2f3&Lang=en.

³ See update regarding recommendation 115.95, available at: http://lib.ohchr.org/HRBodies/UPR/Documents/session13/BH/Bahrain_UPR2_Mid_Term_English.pdf.

although a couple of hundred children have been granted citizenship, so far no amendment has been introduced to the law.

Recommendations:

UNHCR recommends that the Government of the Kingdom of Bahrain:

- a. Adopt an amendment to the *1963 Citizenship Act* in order to enable Bahraini women married to non-Bahraini men to confer their nationality to their children; and
- b. Seek UNHCR's technical support and cooperation in matters concerning nationality.

Additional protection challenges

Issue 2: Accession to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and establishment of a national asylum system

Bahrain has not acceded to the *1951 Convention* and lacks a domestic framework on international refugee protection. The national migration regime,⁴ applicable to all expatriates, including for entry and stay in the State, is generally applied to asylum-seekers in a strict manner due to security and political considerations. As a result, asylum-seekers and refugees without a valid visa are generally not admitted into Bahrain and therefore not granted international protection.

In general, UNHCR's persons of concern, with exception of Syrian nationals, are treated like third country nationals. As a result, any special assistance provided to those individuals, such as special consideration in case of deportation, is *ad hoc* and without legal or operational framework. The absence of a designated national department for refugees and asylum-seekers creates confusion to people seeking protection and hinders the work of international organizations. UNHCR would recommend creating such a body within the Ministry of Interior to facilitate identification and thereby protection of persons in need of international protection. In addition, the Government of Bahrain lacks appropriate data collection tools on persons of concern to UNHCR. Data and statistics are pivotal to an effective international protection and should be therefore appropriately collected and thereafter shared with UNHCR.

Recommendations:

UNHCR recommends that the Government of the Kingdom of Bahrain:

- a. Accede to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol*;
- b. Sign a Memorandum of Understanding with UNHCR to pave the way towards full accession to the aforesaid *Convention* and *Protocol*;
- c. Adopt a national refugee legislation in order to better frame rights and obligations of refugees and asylum-seekers in the country, including the right to seek asylum;
- d. Create a national department for refugees and asylum-seekers within the Ministry of Interior; and
- e. Adopt data collection tools on refugees, asylum-seekers, stateless persons and internally displaced persons and open more platforms of information exchange.

Issue 4: Lack of medical care for persons living with HIV/AIDS

⁴ The *1965 Aliens Immigration and Residence Act*, forming the basis of the migration regime in Bahrain, addresses all non-Bahraini as aliens without giving any consideration to persons in need of international protection, including refugees and asylum-seekers.

Refugees, asylum-seekers and stateless persons living with HIV/AIDS do not benefit from any medical treatment in Bahrain. As a result, they often have to leave the country, which jeopardize their life and safety. Furthermore, a medical check-up, including HIV/AIDS tests, is required for residency renewal and may lead to deportation regardless of refugee status, in contradiction to the principle of *non-refoulement*.

Recommendations:

UNHCR recommends that the Government of the Kingdom of Bahrain:

- a. Provide free appropriate medical and psychological care to persons living with HIV/AIDS; and
- b. Refrain from deporting persons living with HIV/AIDS, in particular those who are in need of international protection.

Issue 5: Ratification of the 1954 Convention and the 1961 Convention and amendment to Article 10, paragraph C, of the Citizenship Act, 1963.

Bahrain is not a party to the *1954 Convention* and the *1961 Convention*. Accession to these *Conventions* would allow for the establishment of safeguards against statelessness in law and would ensure minimal standards of treatment of stateless persons with full respect to their human rights.

To date, UNHCR estimates that there are approximately 1000 stateless persons in Bahrain, mainly due to revocation of nationality. During 2015 alone, UNHCR was notified of around 300 nationality revocations. In this regard, UNHCR wishes to note that Article 10, paragraph C, of the *1963 Citizenship Act* allows the Government of Bahrain to revoke nationality under certain circumstances.⁵ This Article has often been used as a legal basis to revoke citizenship, in particular during the course of the last years, increasing the risk of statelessness in the State. For instance, in June 2016 five different courts revoked the nationality of 23 Bahraini nationals. In addition, another decision, following a request from the Ministry of Interior, revoked the citizenship of an iconic Shia cleric, Sheikh Isa Qassim.⁶ Several Bahraini nationals, including Shias and Sunnis, whom were subject to nationality revocation were left stateless.

Recommendations:

UNHCR recommends that the Government of the Kingdom of Bahrain:

- a. Accede to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*; and
- b. Amend Article 10 paragraph C of the Bahraini *1963 Citizenship Act*, in line with international standards.

⁵ Citizenship of Bahrain may be deprived by order of His Majesty the Governor from whoever enjoys such nationality on the following cases:

- (A) If he enters in military service of a foreign country and keeps on service despite an order issued by His Majesty the Governor ordering him to leave such service.
- (B) If he helps or engages in service of an enemy country, or
- (C) If he causes harm to the security of the State.

⁶ In a Bahrain News Agency statement on June 20, 2016, the Interior Ministry said it was revoking the citizenship of Sheikh Isa Qassim, considered the spiritual leader of the main opposition group, Al Wifaq. It accused him of “creating an extremist sectarian environment” and saying he had “encouraged sectarianism and violence.”

**Human Rights Liaison Unit
Division of International Protection
UNHCR
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ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BAHRAIN

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Bahrain.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ⁷	Recommending State/s	Position ⁸
Discrimination against women		
115.50. Modernize the national plan for the development of Bahraini women in line with the anti-discrimination programs and to evaluate the effects of those programs and projects on the development of them and the society at large;	Oman	Supported ⁹
115.68. Take further measures, including legislative, in order to expand rights and opportunities of women and promote gender equality;	Belarus	Supported
115.69. Take all necessary measures to combat all forms of discrimination against women and enhance their participation in State institution;	Jordan	Supported
115.71. Continue its efforts to empower women economically, politically and socially, and to take all necessary measures to eliminate all forms of discrimination against women;	Morocco	Supported
115.73. Continue promoting initiatives aimed at empowering women of the country in their economic, political and social level;	Chile	Supported
Trafficking in persons		

⁷ All recommendations made to Bahrain during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Bahrain" (6 July 2012), A/HRC/21/6, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BHSession13.aspx>.

⁸ Bahrain's views and replies can be found in: *Addendum* (12 October 2012), A/HRC/21/6/Add.1/Rev.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BHSession13.aspx>.

⁹ *Addendum*: "The Kingdom follows up these recommendations with interest as they form the essence of the national plan for mainstreaming Bahraini woman, an ongoing program aimed at the implementation of the "National Model for Integrating Women's Needs in Development". The Government's program for legislative term 2010-2014 expressly includes for the first time initiatives aimed at continuing the efforts of empowering women economically, politically and socially through a number of mechanisms and processes, including the adoption of equal opportunity administrative units at ministries and government departments." (115.50, 115.68, 115.69, 115.71, 115.73).

115.94. Continue its efforts with a view to the prevention and elimination of trafficking in human beings;	Azerbaijan	Supported ¹⁰
115.97. Increase its further efforts in the area of combating human trafficking, including considering the possibility to develop a state program or a plan of actions aimed at strengthening the Government's measures to prevent and eliminate sexual exploitation and trafficking of children;	Belarus	Supported
Discrimination against minorities		
115.70. Meet the aspirations of groups that are the victim of discrimination;	Belgium	Supported
115.93. Prevent incidents of violence against members of ethnic and religious communities;	Canada	Supported
Nationality		
115.75. Continue taking temporary measures for granting citizenship to children of Bahraini women married to non-Bahrainis until the draft law amending the Nationality Law comes into effect;	India	Supported ¹¹
115.95. Adopt legislation that allows children of Bahraini mothers and non-Bahraini fathers to obtain Bahraini nationality;	Uruguay	Supported
115.142. Complete by making the amendment to the proposed amendment to the nationality law that guarantees the Bahraini nationality for children from a Bahraini mother and a non-Bahraini father law;	Sudan	Supported
Persons with disabilities		
115.38. Adopt a national policy on children with disabilities;	Chile	Supported ¹²
115.168. Review national legislation and develop awareness and training programmes in order to eliminate legal and de facto discrimination against boys and girls with disabilities and as well as with respect to those children living in the poorest areas of the country;	Uruguay	Supported
115.169. Continue taking necessary efforts and action to provide appropriate educational opportunities for persons with disabilities;	Ecuador	Supported
115.170. Continue strengthening efforts to guarantee access to adequate education for persons with disabilities;	United Arab Emirates	Supported

¹⁰ **Addendum:** "Bahrain has created both a national committee to combat human trafficking and a further committee to follow up on foreign victims. Since 2007, a shelter for victims has been operational." (115.94 and 115.97).

¹¹ **Addendum:** "Citizenship was conferred on 335 children of Bahraini women married to non-Bahrainis by Royal Order issued in December 2011. Law No. 35/2009 gave children of Bahraini women married to non-Bahrainis exemption from public, health and education services, and permanent residency fees. A draft law is in the process of being enacted to amend the Bahraini Nationality Law." (115.75, 115.95, 115.142).

¹² **Addendum:** "Following ratification of the UN Convention on the Rights of Persons with Disabilities in 2011, the Action Plan of the National Strategy for Persons with Disability was put into effect. A Children's Act has been enacted in compliance with the UN Convention on the Rights of the Child. Educational curricula have been developed in collaboration with international experts/organizations (UNESCO) to disseminate human rights and citizenship values." (115.38, 115.168, 115.169, 115.170, and 115.172.).

115.172. Provide adequate education opportunities for the persons with disabilities;	Saudi Arabia	Supported
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II. Treaty Bodies

Committee on the Elimination of Discrimination against Women

Concluding Observations, (10 March 2014), [CEDAW/C/CHR/CO/3](#)

Definition of discrimination against women

11. The Committee acknowledges that the Constitution, in its articles 4 and 18, stipulates that equality is guaranteed by the State, that all citizens are equal before the law and that there shall be no discrimination based on sex, in addition to the fact that the Convention has the status of law in Bahrain. Nevertheless, the Committee reiterates the need for the State party's national legislation to contain an explicit prohibition of discrimination against women, as defined in article 1 of the Convention.

12. The Committee calls upon the State party to prohibit and sanction discrimination against women, encompassing both direct and indirect discrimination, in line with its obligations under articles 1 and 2 of the Convention. It recommends that the State party strengthen education and training programmes, in particular for judges, lawyers and law enforcement personnel, on the Convention and its direct applicability in national courts and on the forms and scope of discrimination. The Committee also encourages the State party to strengthen awareness-raising and education measures to enhance women's knowledge of their rights under the Convention.

Violence against women

21. The Committee notes the existence of a bill to combat domestic violence (on which drafting began in 2007) and the assurances given by the State party's delegation that it is currently under consideration by the chambers of the parliament. Nevertheless, the Committee is deeply concerned about the slow process of adopting specific legislation that would eliminate violence against women in all settings and include a definition of violence and provisions on remedies and sanctions. The Committee reiterates its concern that several provisions of the Penal Code condone acts of violence against women by exempting perpetrators from punishment. In particular, it regrets that the Penal Code excludes marital rape, that article 353 of the Penal Code exempts perpetrators of rape from prosecution and punishment if they marry their victims and that article 334 of the Penal Code reduces the penalties for perpetrators of crimes committed in the name of so-called honour. It also notes the absence of statistical data on the incidence of violence against women and the absence of any rape complaints to the Supreme Council for Women or the police.

22. In the light of its general recommendation No. 19 on violence against women and its previous recommendation (CEDAW/C/BHR/CO/2, para. 25), the Committee urges the State party to put in place a comprehensive national strategy and programme to address all forms of violence against women and:

- (a) **To expedite the adoption of the bill to combat domestic violence, criminalize violence against women and provide for effective remedies and sanctions;**
- (b) **To revise the Penal Code, repealing any provisions contained therein that condone acts of violence against women, such as articles 334 and 353, and including provisions to criminalize marital rape;**
- (c) **To provide mandatory training to judges, prosecutors and the police on the dynamics of violence against women and on gender-sensitive procedures to deal with women victims of violence;**
- (d) **To systematically collect data on violence against women and girls, disaggregated by sex, age and relationship between victim and perpetrator;**
- (e) **To ensure that women and girls who are victims of violence, including domestic violence, have access to effective protection and that perpetrators are prosecuted and punished;**
- (f) **To take measures to ensure that the lack of reported cases of rape is not due to victims' fear of retribution or stigma or a sign of lack of confidence in the police and judicial authorities;**
- (g) **To address the traditional cultural attitudes preventing women from reporting cases of violence, including through educational and awareness-raising programmes for the general public about the criminal nature of all forms of violence against women.**

23. The Committee welcomes information on the existence of a shelter for women victims of violence, but is nevertheless concerned about the insufficient support services for victims of violence and the absence of data on their reintegration and rehabilitation.

24. **The Committee recommends that the State party:**

- (a) **Increase the number and capacity of shelters and services for victims of violence against women, in collaboration with and through adequate funding for non-governmental organizations;**
- (b) **Take measures to increase the collection of data, with a view to ensuring access to and availability of reintegration and rehabilitation for women victims of violence.**

Trafficking and exploitation of prostitution

25. The Committee welcomes the State party's efforts through the National Committee to Combat Trafficking in Persons, increased labour inspections, bilateral cooperation with countries of origin and the provision of psychological assistance to and physical protection for victims. The Committee reiterates its concern, however, about the prevalence and extent of trafficking of girls and women into the State party for purposes of forced labour and/or sexual exploitation. The Committee is particularly concerned about:

- (a) The absence of a comprehensive national strategy to address trafficking;
- (b) The lack of information on the number of women victims who have benefited from existing programmes and on prosecution and punishment of perpetrators in cases of trafficking;
- (c) Reports that fear of retribution by employers and the risk of being detained or deported prevent women victims of trafficking from filing complaints;

(d) The lack of information on the extent and scope of prostitution and the fact that mainly migrant women trafficked into the State party are particularly vulnerable to exploitation of prostitution.

26. The Committee reiterates its recommendation (CEDAW/C/BHR/CO/2, para. 27) that the State party:

(a) Adopt and implement a national strategy against trafficking that includes criminal justice measures to prosecute and punish traffickers, together with measures for the protection and rehabilitation of victims of trafficking for purposes of forced labour and/or sexual exploitation;

(b) Provide statistical data on cases of trafficking for purposes of forced labour and/or sexual exploitation and on victims who have benefited from existing programmes;

(c) Strengthen training and awareness-raising programmes for the police, border control authorities and other law enforcement agencies, in addition to labour inspectors, on their role in preventing and combating trafficking in women and girls;

(d) Take measures to ensure access to legal aid for victims and to the necessary assistance, support and protection, including facilitating the provision of residence permits where appropriate;

(e) Raise awareness of the risks of trafficking and exploitation of women for forced labour and prostitution, with a focus on migrant women;

(f) Provide comprehensive information on the issue of prostitution, including measures adopted by the State party to discourage demand for prostitution and to prosecute and punish those who exploit prostitution.

Nationality

33. The Committee welcomes the Royal Order of 2011 granting Bahraini nationality to 335 children of Bahraini women married to foreigners and notes with appreciation the Cabinet decision of January 2014 granting Bahraini nationality to the children of Bahraini women married to foreigners, subject to certain conditions. Nevertheless, the Committee is concerned that women still do not enjoy equal rights to nationality, given that men automatically confer their nationality to their children, while Bahraini women do not. The Committee notes the slow pace of adoption of the draft amendments to the Nationality Law and is especially concerned that such amendments will not automatically grant children of Bahraini women married to foreigners the nationality of their mothers, but will only codify the present system according to which, women, upon request and royal decision, can transfer their nationality to their children. In addition, the Committee is concerned about the situation of stateless persons, including the possibility of children of Bahraini women married to foreigners becoming stateless.

34. Recalling its previous recommendation (CEDAW/C/BHR/CO/2, para. 31) and in the light of the State party's commitment during its most recent universal periodic review, the Committee urges the State party to expedite the amendments to the Nationality Law to bring it into full compliance with article 9 of the Convention, and to withdraw its reservation to article 9 (2). Furthermore, it recommends that the State party consider acceding to international instruments to address the situation of stateless persons, including the 1954 Convention relating

to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Female migrant workers

39. The Committee welcomes the commitment expressed by the State party's delegation to adopting legislation that will confer rights and legal protection to domestic workers. Nevertheless, the Committee is concerned about the limited scope of application to domestic workers of Law No. 36/2012 governing labour in the private sector, given the many cases of violence, abuse and exploitation experienced by women migrant workers who are mainly employed as domestic workers in the State party. The Committee commends the State party for the adoption of decision No. 79 (2009), aimed at reforming the sponsorship system, but is concerned that conditions in employment contracts set by employers could undermine the purpose of the decision. The Committee notes with concern the lack of information on the availability of support services and programmes for protecting women migrant domestic workers from violence, abuse and exploitation, and on the availability of legal and administrative remedies to complain about violence against them.

40. Recalling its general recommendation No. 26 on women migrant workers, in addition to its previous recommendation (CEDAW/C/BHR/CO/2, para. 35), the Committee calls upon the State party:

- (a) To strengthen the legal protection of women migrant workers, in particular by amending legislation to make its provisions applicable to women migrant domestic workers;**
- (b) To ensure that the objective of decision No. 79 is not undermined by discriminatory or abusive provisions in employment contracts;**
- (c) To continue taking steps with a view to effectively abolishing the sponsorship system, seeking technical assistance from the International Labour Organization in that regard;**
- (d) To prosecute and sentence violent, abusive and exploitative employers and recruitment agents;**
- (e) To raise awareness of labour rights among women migrant and domestic workers;**
- (f) To ensure effective access by women migrant workers to legal aid and complaint mechanisms and provide victims of exploitation and abuse with the necessary protection and assistance, including immediate access to shelters and rehabilitation services.**