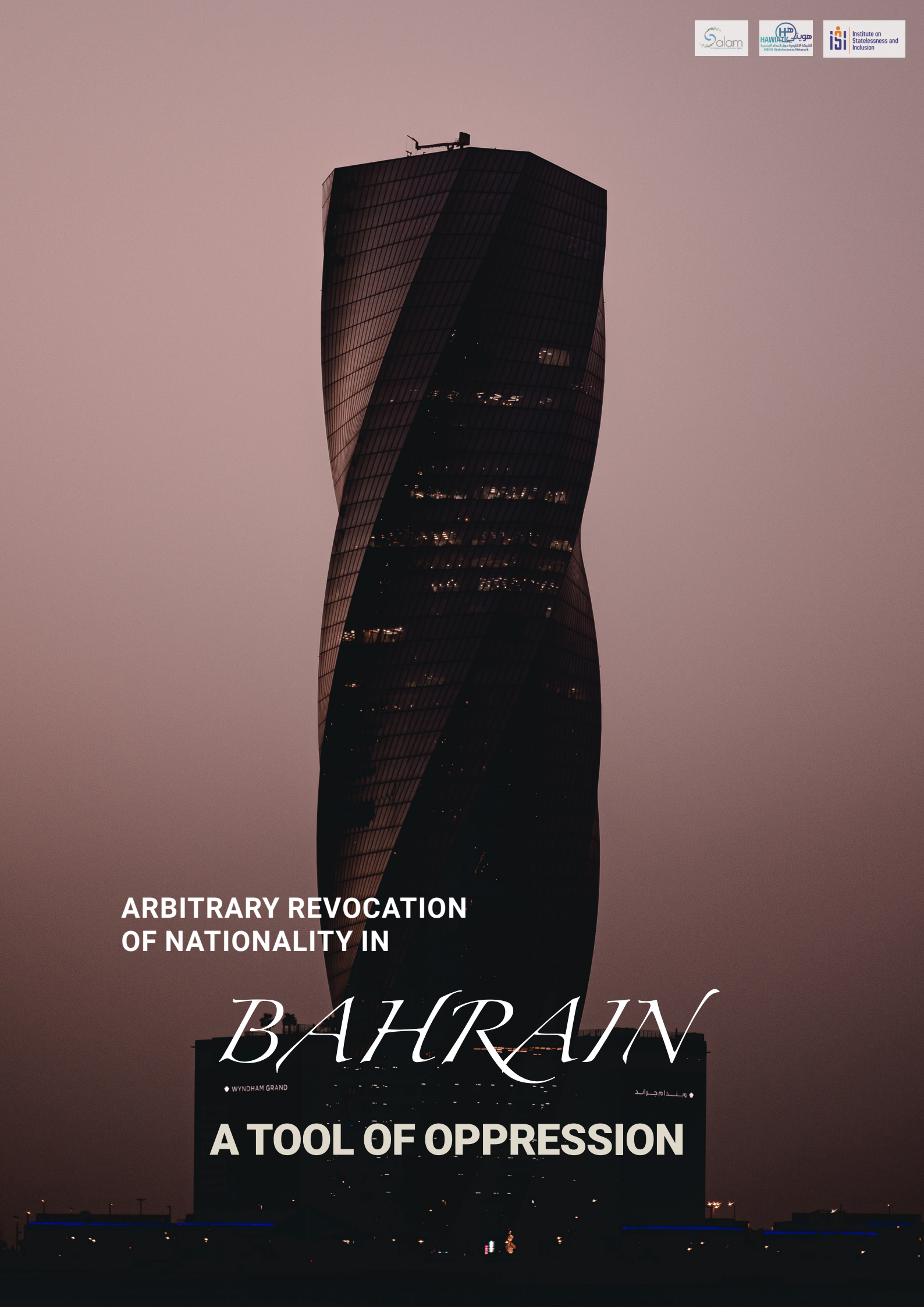

ARBITRARY REVOCATION OF NATIONALITY IN BAHRAIN

A TOOL OF OPPRESSION

Salam for Democracy and Human Rights (**SALAM DHR**) is an NGO that endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. In the pursuit of this vision, SALAM DHR aims to influence the international community, including UN representatives to improve the situation in the Middle East, and foster advocacy of human rights and democracy. To accomplish these goals, SALAM DHR conducts monitoring and analysis, produces reports, develops recommendations on policy and legislation, organizes advocacy campaigns, conducts training, and joins effective coalitions. For more information see: www.salam-dhr.org

The Institute on Statelessness and Inclusion (**ISI**) is the first and the only human rights NGO dedicated to promoting the right to a nationality and the rights of stateless people globally. ISI adopts an integrated, human rights-based response to the injustice of statelessness and exclusion. Concerned with the use and abuse of citizenship deprivation powers, one of ISI's thematic priorities is to counter arbitrary deprivation of nationality by calling out and resisting the trend towards increased use of citizenship stripping in a national security context, highlighting new situations and maintaining a spotlight on unresolved ones. For more information see: www.institutesi.org.

The MENA Statelessness Network (**Hawiati**) is a network bringing together actors working on, and interested in, statelessness in the Middle East and North Africa (MENA). The network's activities are broadly focused around reducing and ending statelessness in the MENA and protecting the human rights of stateless persons in the MENA. More specifically, the network's founding strategy is identifying and understanding statelessness, fostering solidarity and collaboration and supporting advocacy.

Cover photo by Anton Rybakov @unsplash

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Outline

Foreword

In his biography, Edward Said wrote of the condition of his mother when his family arrived in the United States at the end of the 1940s. Succinctly and bluntly, he stated, "She became a stateless person after the fall of Palestine." This sentence felt unremarkable when I first read Said twenty years ago, yet I couldn't ignore it as I was browsing it now. The description felt as if it could be on the front page of a newspaper.

I was reading the same edition from my local library - which I thought lost - after I left Bahrain in 2011. At the time, I hadn't even underlined the sentence, as I usually do. Details I once found insignificant have become impossible to ignore. They confirm to me that the experience of revoking citizenship is nothing so prosaic as a "political experience", it is an existential one. The political description cannot comprehend it even if it includes it.

It is an existential experience, meaning that you cannot perceive it simply by talking, only by living it. That truth, which has come with age and experience, now makes me more interested in the story of the mother than the son. I share this harsh existential experience with her: the mother who was born in Nasiriyah and lived in Jerusalem, refused to live for two consecutive years in the US to obtain citizenship, rejected the residency requirement in the 40s and rejected it again of in the 80s. She chose to live in Lebanon despite the tragedies of civil war and the immeasurably harsh reality it created for everyone there. Her home was, and never could be, replaceable. Said's description of his early life illustrates this sense of loss and alienation, "it was my constant feeling that I was out of place."

Place is existence, for we do not fall into existence from the womb of our mothers except in a place, which we call land, home, country, or soil. Is there a person who can remove the memory of their mother from their childhood? It is as ingrained within us as the first gasp we take. Existential questions fall upon us with unavoidable anxiety when that sense of place is removed, be it by migration, being stripped of a nationality or deportation. Immutable questions arise: Who are you? Where do you belong? How will

your children know your lost country? Is there any hope of returning to your homeland? Will your children inherit the ordeal of their homeland, just as Edward Said inherited it from his parents? Will you and your children be 'out of place'? Are you the reason why your children lost the heirlooms and legacy of their grandparents?

You will be accompanied by a constant, irreversible lump in your throat, moved when you find a writer from your lost homeland, emoting a painful expression as he tells the story of his family who lost their homeland three decades before your emigration, "A lump, they migrate, leaving a country that is no longer theirs, towards a country that will never be theirs…" Thus, the state of revoking your nationality plunges you into an existential ordeal that has no treatment or cure.

The following report monitors the metrics, enumerates cases, and provides the facts on the revocation of citizen. But the existential wound of all those affected can only be explained in the states all those who have had their nationality revoked must reckon with: they are people who suddenly found themselves exiled of their homeland, their status and identity becoming undefined. These are the cases that human rights defenders discuss, UN agencies investigate, politicians covet, and world governments evade.

Dr. Ali Ahmed Al-Dairi[*]
May 13, 2021
Windsor / Canada

[*] Dr. Ali Ahmed Al-Dairi is an academic, researcher and writer. He has published several books, including 'Stateless' or 'بلا هوية' in Arabic. His Bahraini citizenship was revoked in January 2015. He is currently residing in Canada away from his home in Bahrain.

Executive Summary

This report looks at Bahrain's revocation of citizenship of human rights defenders and advocates after the 2011 Bahraini uprising. It analyses the Bahraini nationality law and subsequent amendments adopted by the state to revoke nationality and deny rights to its citizens to quell dissent. The power to revoke nationality and incur statelessness, though concentrated in the hands of the state, is not a power unchecked. Human rights conventions, norms, international law, and further safeguards against statelessness will also be discussed in terms of the role they play in limiting unchecked State powers of revocation.

Increasingly, many states cite national security as a way to legitimise and validate their greatly delegitimate and invalid acts of state sovereignty-performance of nationality revocation – a motive that will be analyzed with regards to international human rights standards. 2 revocation case studies of former Bahraini nationals will be examined, as well as other metric data recording the increased trend by Bahraini authorities to strip nationality in the past decade.

Introduction

The Kingdom of Bahrain, situated in the Persian Gulf, gained independence in 1971. The small Gulf nation spans roughly 800 km² and has a population of 1.641 million, almost half of which are foreigners. Bahrain has historically been a divided society fueled by religious sectarianism. The Sunni Al-Khalifa family rule over a Shi'ite-majority society. The monarchy has adopted divide and rule policies, relegating the Shi'ite majority to "second- class status", in order to "maintain political control by empowering the Sunni minority."[1] Further, the country has historically suffered from poor human rights standards and conditions, resulting in overall societal dissatisfaction and unrest with regard to their rights.

Consequently, Bahraini citizens have had a long history of opposition to the Al-Khalifa monarchy, starting with significant civil unrest dating back to the 1920s when Bahrain was a British protectorate, and peaking in the mid and late 1990s, followed by the 2011 Uprising. The Arab Spring hit Bahrain following the popular uprisings in Egypt and Tunisia, and the Bahraini people took to the streets on 14 February 2011 - the 10th anniversary of the National Action Charter that had promised much for the country - to demand that their fundamental rights and political freedoms be recognised. These peaceful protests created fear within the ruling family, who reacted by systematically cracking down on protests. A few protesters were killed, and thousands were injured. Thousands of protesters were also arrested, including opposition leaders, activists, lawyers, doctors and journalists. Opposition political parties and independent media were suspended, and thousands of Shi'ite workers were dismissed from their jobs.

On 29 June 2011, King Hamad established the Bahrain Independent Commission of Inquiry (BICI) to investigate the 'incidents' in February and March. The Head of the

[1] SALAM for Democracy and Human Rights (SALAM DHR), "Post-Independence Sectarianism and Modern Suzerainty" in *Decade of Oppression: Authoritarianism in Bahrain, 2011-2020*, 2021, available at <https://salam-dhr.org/wp-content/uploads/2021/02/Salam9FEB2021.pdf> [accessed 3 May 2021]

Commission was Cherif Bassiouni, an Egyptian who had previously led a UN Security Council appointed commission to investigate war crimes in the former Yugoslavia. The 513-page BICI report that was published later in November concluded that security forces used excessive force and tortured protesters and enjoyed a culture of impunity where no one was held accountable for disobeying the law.[2]

Bahrain has witnessed a deteriorating human rights situation and a continuation of repression since the 2011 uprising. Arbitrary arrests have been carried out on a regular basis over the past several years, and security forces have continued a pattern of torture, ill-treatment and sexual harassment during arrests in detention and prisons. The two main opposition political associations, Al-Wefaq and Wa'ad, were banned in 2016 and 2017, respectively. In June 2018, the Government of Bahrain (GoB) ratified a legal amendment barring anyone belonging to these parties from running for political office. The death penalty is being used against citizens convicted in unfair trials, marred by serious due process violations and allegations of torture.[3] As of 30 April 2021, there were twelve individuals at imminent risk of execution, awaiting only the King's ratification. All independent press is banned, the judiciary is not independent, trials are not fair and do not meet the standards of international law. Civilians have been tried before military courts and many prisoners' confessions have been extracted under torture. Security forces enjoy a culture of impunity, while the government continues to abuse laws, ostensibly to protect society from terrorist acts; a pretext that is used to justify and legitimise authoritarian and regressive practices against citizens.[4]

One such practice, which has a devastating impact on individual rights, families and even future generations, is that of citizenship deprivation (also referred to as nationality revocation). Since 2012, the government has engaged in indiscriminate arbitrary

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[2] Bahrain Independent Commission of Inquiry (BICI), *Report of the Bahrain Independent Commission of Inquiry,* 2011, available at: <http://www.bici.org.bh/>

[3] SALAM DHR, Bahrain: A Deepening Spiral of Repression, 2018, available at: <https://salam-dhr.org/?p=3505>

4 For more information on the latest human rights violations in Bahrain, please visit SALAM DHR's website: <https://salam-dhr.org/?lang=en>

revocations of nationality as a tool of oppression, unlawfully targeting political opposition leaders, human rights activists, journalists, academics, religious scholars and even people who do not have any religious or political affiliation. According to available information, 985 persons were deprived of their nationality since 2012, of which, at least 434 remain with their nationality revoked. These arbitrary nationality deprivations were carried out through various means – through royal decrees, judicial rulings and ministerial orders, often without any legal basis, with subsequent legislative amendments being introduced to create an illusion of lawfulness.

The GoB's practice of citizenship revocation must be viewed as one of the many deeply harmful, arbitrary and anti-democratic tools in its arsenal, to crack down on dissent and maintain its grip on power. Like its use of torture, or the death penalty or the seizing of property, citizenship deprivation is designed as a measure to invoke fear and cause deep and often irreparable harm. Further, the measure is often imposed alongside others. For example, victims of nationality revocation are also likely to be arbitrarily detained, tortured and have their property seized. Perhaps where it differs from other measures is in its inter-generational impact. Individuals deprived of their Bahraini nationality cannot pass on their citizenship to children, thus impacting future generations as well.

Throughout this report, it will be demonstrated that revocation of nationality in Bahrain violates international standards and Bahrain's obligations under international law. In most cases of revocation of nationality, Bahrain has failed to respect its obligation to prevent, avoid and reduce statelessness. Almost all those who were stripped from their citizenship since 2012 were rendered stateless. Authorities did not take into consideration or ensure that statelessness isn't a consequence of nationality deprivation.

This practice and its effects will be explored, firstly in an overview of the country's own evolving law regarding its nationality, as well as the deprivation or stripping of it, which will be analysed in its codified texts of the Bahraini Nationality Law of 1963;[5] Law No. 21

5 The Bahraini Nationality Law of 1963, available in English at: <https://www.refworld.org/pdfid/3fb9f34f4.pdf>

of 2014 amending the Bahraini Nationality Law of 1963;[6] and Decree No. 20 of 2013, amending Law No. 58 of 2006 on Protecting Society from Terrorist Acts,[7] in consideration of the Bahraini Constitution.

Secondly, the international legal framework regarding nationality and its deprivation and revocation will be discussed, drawing on relevant international law standards, as synthesized and articulated in the Principles on Deprivation of Nationality as a National Security Measure.[8] As set out in the Principles and discussed further in this report, States should not deprive persons of nationality for the purpose of safeguarding national security, and any exercise of an exception to this rule, must be interpreted and applied narrowly, and is further limited by other well-established standards of international law. These limitations include: the avoidance of statelessness; the prohibition of discrimination; the prohibition of arbitrary deprivation of nationality; the right to a fair trial, remedy and reparation; and other obligations and standards set forth in international human rights law.

The report will then focus on the trend of Bahraini nationality-revocation post-2011, considering Bahrain's evolving national law, as well as the accompanying international legal framework. In addition, two study cases about revocation of nationality are discussed in detail, to give an overview of the process and struggle that some Bahrainis and their families go through after they are stripped of their nationality. Finally, the report will conclude with the summation of the text, as well as an emphasizing of recommendations.

All information in this report is up to date as of 30 April 2021.

6 Law No. 21 of 2014 amending the Bahraini Nationality Law of 1963 available in English at: <https://www.refworld.org/docid/58dcfdae4.html>

7 Decree No. 20 of 2013 amending Law No. 58 of 2006 on Protecting Society from Terrorist Acts, available in the original Arabic at: <https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=11438>

8 Principles on Deprivation of Nationality as a National Security Measure, 2020, Principle 4 (Basic Rule). Available at: https://files.institutesi.org/PRINCIPLES.pdf.

The Human Impact of Nationality Revocation: The Case of Dr. Masaud M Jahromu

One of the reasons that nationality revocation is such a powerful tool in the hands of authoritarian regimes is that nationality is a gateway right: nationality makes it easier to access and enjoy other rights, and also facilitates access to justice when denied these rights. In practice, by depriving someone of their citizenship, a state can efficiently deny enjoyment of other rights: political, civil, social, economic, and cultural. Further, their lack of nationality (due to revocation) can be used to justify rights violations and build narratives of the individuals being foreign agents or traitors. Moreover, nationality deprivation, when combined with the confiscation of passports and other documents, can have the effect of enforcing 'illegality' on the individual. Their very existence, not as citizens who have a right to live in their country, but as stateless foreigners with no legal residence status, no documents, and no country to be removed to, places them and their dependants in a position of extreme precarity, at the mercy of the very powers that have put them in this situation through arbitrary means.

The practice leaves people unable to access many basic services, from healthcare to housing, finance, and education. It means total exclusion from public life and has been compared to social death. The practice does not just affect individuals only, but entire families, including children, who have been deprived of their nationality by association. It also affects future generations: new-born children of those stripped of their nationality are at risk of statelessness and its consequences, and their stateless status may in turn be inherited by their future descendants.

Our research team spoke to Dr. Masaud M. Jahromi, who shared with us the ordeal that he and his family have been put through as a consequence of his nationality being arbitrarily revoked. Below is his story.

The Case of Masaud M. Jahromi

On Saturday 31/1/2015, Masaud Mirza Jahromi, an academic at Ahlia University in Manama, was having lunch with his family when he began receiving messages from some of his friends, asking him if stories about his nationality being revoked were true. At that time, a list of 72 Bahraini nationals whose nationalities were revoked by a royal decree was circulating on social media. Dr. Jahromi saw his name on the list without receiving any official notification from the authorities.

Dr. Jahromi's hardship with statelessness has a long history. He is from a Bahraini family of Persian origin, that has lived in the country for more than a century. However, only some of his family members were able to obtain Bahraini nationality, the rest were considered "Bidoon" (without nationality), for racial and sectarian reasons. Dr. Jahromi's statelessness was an obstacle to his academic ambitions, as he was only able to obtain a temporary travel document to continue his university studies outside the country. After he finished his Master's in Control Engineering and Information Technology in the United Kingdom, he was accepted for a PhD programme in Network Engineering at the University of Kent. In the summer of 1999, just before finishing his PhD thesis, Dr. Jahromi was obliged to return to Bahrain to visit his sick mother. His stay in Bahrain lasted almost two years, because the authorities refused to provide him another travel document to return to England and defend his PhD thesis. It was not until 2001, after Bahrain implemented some reforms, that Dr. Jahromi finally gained the right to a Bahraini nationality and was able to obtain his PhD.

At the time of the 2011 February Uprising in Bahrain, Dr. Jahromi was a professor at Ahliya University in Manama and the president of a cultural centre. Even though he was not in the country at the beginning of the protests and did not participate in any political or public event at the time, Dr. Jahromi was arrested on 14 April 2011. Security forces raided his house in the middle of night and dragged him out in front of his family without providing any warrant or explanation. After five months in jail, during which he was allegedly tortured, ill-treated, subjected to constant humiliation and placed in solitary confinement for two months, he was put on

trial on the charge of "participating in an unlicensed protest". He was released on bail after the second hearing. Ten months later, the court sentenced him to four months in prison. It is widely believed that the real motive behind Dr. Jahromi's arrest and torture was his position as an academic who supports human rights and partakes in activism for social and cultural justice. After serving his sentence, Dr. Jahromi returned to his work and pursued an academic life, away from the media and political activities. He had no political activity, even on social media, until the 2014 parliamentary elections, which he decided to boycott, like many other Bahrainis.

After being circulated on social media on 31 January 2015, the official Decree No. 8 of 2015 was published in the Gazette on 5 February 2015. This contained a list of 72 Bahraini nationals whose nationality had been revoked, including Masaud Jahromi. The Decree stated that the nationality of the 72 individuals was revoked on the basis of Article 10(c) of the Bahraini Nationality Law of 1963 amended by Law No. 21 of 2014, which allows nationality deprivation for persons who "cause harm to the interests of the Kingdom or act in a manner that contradicts the duty of loyalty to it."

This decision revoked the nationality of academics, human rights activists, political activists and religious scholars without any legal process or trial. What these individuals had in common was their boycott of the 2014 parliamentary elections and their opposition to the government. Dr. Jahromi and seven others appealed the decision before the First Major Civil Court. The Court rejected the appeal on 7 December 2015 on the basis that the government is fully within its rights to assess threats to the integrity and stability of its internal and external security, and the issuance or revocation of citizenship is not subject to judicial oversight.

On 5 February, the date on which the Decree was published in the Gazette, Dr. Jahromi was summoned by the Immigration and Passports Department to hand over his passport and ID card. He was also asked to sign a pledge stating that his attendance is obligatory upon request, and within two weeks, a decision must be taken: either to leave Bahrain or change his residency status. This meant that his Iranian wife, Mrs. Elham Shakeri, was also liable to be deported from Bahrain because

her residency was issued on the basis that she was the spouse of a Bahraini national. She was finishing her Master's degree in Bahrain at the time and was on the verge of undertaking a PhD. As a result, she was unable to continue her studies. The situation contributed to Mrs. Shakeri's psychological and physical breakdown; she was hospitalised several times for treatment, and upon her doctors' insistence, she agreed to travel to Iran for treatment and to visit her family, after they made sure that she could return to Bahrain before her residence visa expired.

After receiving a court summons regarding his now 'illegal' residence in Bahrain, Dr. Jahromi addressed the Immigration and Passports Department on 16 April 2015, explaining that he does not have any other nationalities, and that he was ready to obtain a Bahraini sponsor in order to get his life back in his country. Alternatively, he requested that they issue him a temporary passport to facilitate his departure from the country. His request was not taken into consideration, and the Lower Criminal Court ordered his deportation on 14 May 2015. Dr Jahromi appealed the decision. When the course of the Court of Appeals changed after a series of formal postponements, and it became clear that his deportation was inevitable, he submitted a letter to the Minister of Interior on 25 February 2016, asking him to delay the implementation of the forced deportation ruling until the end of his son's school year. His wife was still receiving treatment in Iran; therefore, Dr Jahromi was his son's only guardian in Bahrain. Concurrently, he met with the president and vice-president of the National Institution for Human Rights (NHRI) and asked them to intervene on this matter.

After failing to receive any promises from the National Institution for Human Rights or any reply from the Minister of Interior, Mrs. Shakeri had to risk her health and fly back to Bahrain on 6 April 2016. The same day, Dr. Jahromi's appeal was denied. The next morning, he received a call from the Immigration Department requiring his attendance. Dr. Jahromi and his wife met the vice president of the NHRI. He was told that the president of the NHRI was personally following the matter and that jurists affiliated with the NHRI were recommending that Dr. Jahromi's attorney submit a request to delay execution of the judgment. This request was

submitted, but the judge did not comment on the request. Receiving constant calls from the Immigration and Passports Department, Dr. Jahomi repeated that he was awaiting the judge's verdict. However, after noticing some threatening hints, he took the decision to go to them.

Upon arriving, a civil servant and security guard were waiting for Dr. Jahromi. It was made clear to him that the judge's decision wouldn't be valid, and that his deportation would be immediate. Dr. Jahromi was asked to choose his destination, so he chose the United Kingdom. The civil servant said it was not possible due to visa restrictions. He was then offered to choose between Iraq, Lebanon and Turkey. Dr. Jahromi chose Lebanon. He was then escorted to the airport where, just before take-off, he was handed a passport issued on the same day and valid for one year, which stated in the nationality section "Bahraini resident". Dr. Jahromi flew to Beirut, where he still lives today with his family. He remains stateless.

In addition to being stripped of his citizenship, Dr. Jahromi has also been denied his pension from the Social Security Fund. After his citizenship was revoked, he was fired from his work at Ahliya University as a result of pressure being imposed by the Minister of Education (according to the university's president). After the court ordered his deportation, he submitted all the papers required to the Social Security Fund, to receive his pension. However, his application was put on hold by the vice president of the Fund. Following his deportation, Dr. Jahromi requested his pension through his lawyer. However, he was informed that pension dues for those who had their citizenships revoked are frozen based on a decision issued by "higher authorities". This decision has not been shared with Dr. Jahromi.

National Legislation

After the uprising in 2011, several amendments to key legislative texts regarding Bahrain's nationality laws have been passed. The most recent of these amendments is Decree No. 16 of 2019 on amending Bahraini Nationality Law of 1963'[9], which represents the current legislative framework on citizenship revocation. Accordingly, all power to revoke nationality currently sits with the Minister of Interior (subject to Cabinet approval), who has wide discretion to act, and is not subject to any judicial oversight. Over the years, there have been key changes to nationality revocation powers, since the first nationality legislation passed in 1963. They are, chronologically, as follows: (a) the Bahraini Nationality Law of 1963; (b) the Bahraini Constitution of 1973[10] (c) the Bahraini Constitution of 2002[11] (d) Decree No. 20 of 2013, amending Law No. 58 of 2006 on Protecting Society from Terrorist Acts (e) Law No. 21 of 2014 amending the Bahraini Nationality Law of 1963 and (f) Decree No. 16 of 2019 on amending Bahraini Nationality Law.

Historically, the power to revoke nationality had been concentrated with the King, the Cabinet – specifically initiated by the Minister of Interior – and the judiciary. The legal developments and transfers of power that have taken place to reach the current status quo, with all revocation power being concentrated with the Minister, reflect and mirror political developments. Many of these changes were brought about to retroactively provide a veneer of lawfulness to clearly unlawful decisions, which did not follow the existing laws. The stages of these legal developments are analysed below, with the political climate taken into account.

Bahrain's 2002 constitution:

According to Article 17(a) of the 2002 Bahraini Constitution:

[9] See Decree No. 16 of 2019 on amending Bahraini Nationality Law of 1963, available in the original Arabic at: <https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=15018>

[10] See Bahrain's 1973 Constitution, available in English at: <https://www.servat.unibe.ch/icl/ba01000_.html>

[11] See Bahrain's 2002 Constitution, available in English at: <https://www.wipo.int/edocs/lexdocs/laws/en/bh/bh020en.pdf>

a. Bahraini nationality shall be determined by law. A person inherently enjoying his Bahraini nationality cannot be stripped of his nationality except in case of treason, and such other cases as prescribed by law.

Further, Article 31 of the 2002 Constitution provides that:

> The public rights and freedoms stated in this Constitution may only be regulated or limited by or in accordance with the law, and such regulation or limitation may not prejudice the essence of the right or freedom.

Consequently, while the Constitution does allow for citizenship revocations in very limited contexts, it also upholds the right to nationality and stipulates that limitations of the right should not undermine the very essence of the right.

The Bahraini Nationality Law of 1963 and amendments relating to revocation of nationality:

The 1963 Bahraini Nationality Law is still in place today, though it has undergone several amendments which will be further analysed below. In the original text of this law, Article 10 stated the following:

> By order of His Majesty the Ruler, it is permissible to revoke the Bahraini nationality from anyone who enjoys it in the following cases:
>
> a. If they entered the military service of a foreign country and remained in it despite the order issued by the government of Bahrain to leave it, or:
> b. If they aid or are involved in the service of an enemy country, or:
> c. If they cause damage to state security.

In its original manifestation, Article 10 therefore provided for the revocation of nationality in certain cases, only by order of the King. This provision remained unchanged until 2014.

This provision, particularly paragraph (c), is vague and broad, providing the authorities extensive leeway to target political

opponents and dissidents. As such, this provision violates Article 31 of the 2002 Constitution, which requires that laws and regulations which limit rights do not prejudice their very essence.

Bahrain's nationality law is also gender discriminatory, and Bahrain is one of 25 countries in which women don't have equal rights as men to pass their citizenship on to their children.[12] According to Article 4 of the Bahraini Nationality Act amended by Law No (12) of 1989 Amending Bahraini Citizenship Act – 1963: [13]

A person shall be deemed a Bahraini national in the following cases:

- (A) If he was born in Bahrain or abroad and his father, at the time of birth, was a Bahraini national.
- (B) If he is born in Bahrain or abroad and his mother, at the time of birth, was a Bahraini national, providing that this father was either unknown or not legally to be related to his father.

As a result of this discriminatory law, Bahraini women can only pass on their nationality to their child if the father is unknown, has no nationality or if the fatherhood hasn't been substantiated. However, in practice, it is evident that even where these criteria are met, women are denied the right to pass their citizenship to their children.

Consequently, the combined impact of powers of nationality revocation and discrimination in acquisition of nationality is that the children of (formerly) Bahraini men who were stripped of their nationality are at heightened risk of being denied Bahraini citizenship and being rendered stateless.

Decree No. 20 of 2013 amending Law No. 58 of 2006 on Protecting Society from Terrorist Acts:[14]

[12] For more information on this issue, see <https://www.equalnationalityrights.org/>

[13] Decree Law No (12) of 1989 Amending Bahraini Citizenship Act of 1963, available at: <http://www.refworld.org/docid/3fb9f34f4.html>

[14] See Law No. 58 of 2006 with Respect to Protecting the Society from Terrorist Attacks, available in English at: https://www.legalaffairs.gov.bh/4285.aspx?cms=q8FmFJgiscJUAh5wTFxPQnjc67hw%2Bcd53dCDU8XkwhyDqZn9xoYKj2q40pPEM3YBCcCeysSghYe1H05sQZeW9Q%3D%3D

This Decree exclusively addresses terrorism. As such, it adds further specificity to Article 10(c) of the 1963 Bahraini Nationality Law, by setting out which terrorism-related crimes can result in nationality revocation. However, the list isn't exhaustive and is sufficiently vague to allow for significant discretion. Through the Decree, Article 24 was added to the 2006 Law:

> In addition to the prescribed punishment, a ruling is passed to revoke the nationality of the convicted person in the crimes stipulated in Articles (5) -(9), (12) & (17) of this law. The ruling of revoking the nationality shall not be enforced except after the approval of the King of the country.

The crimes under Arts. 5 - 9, 12 & 17 of Law No. 58[15] are as follows:

> Art. 5: hijacking means of transportation for terrorist attacks;
>
> Art. 6: creation or organization of a group to prevent state laws or state institutions from functioning;
>
> Art. 7: compelling a person to join terrorist groups or organizations;
>
> Art. 8: training people for terrorist purposes;
>
> Art. 9: using or running a legal organization for crimes of terrorism;
>
> Art. 12: communicating or working for an organization outside of the country to carry out terrorist attacks inside Bahrain; and
>
> Art. 17: inciting people to commit a terrorist activity.

In addition to listing specific crimes which carry the punishment of nationality revocation, Article 24 also empowers the criminal courts to revoke nationality for those convicted. However, the King's approval is still necessary to enforce such court decisions. After the promulgation of this Royal Decree, Bahraini criminal courts stripped the citizenships of hundreds of individuals through mass trials that were unfair and lacked procedural safeguards. According to an April 2019 statement issued by UN High Commissioner for Human Rights Michelle Bachelet: "The UN Human Rights Office has long urged Bahrain to bring its overly broad counter-terrorism and counter-extremism legislation in line with its

[15] Summarized for brevity, the full provisions can be found in the aforementioned reference site.

international human rights obligations". The statement also added that: "Various UN human rights mechanisms have repeatedly called on Bahrain to take specific steps to amend its counter-terrorism legislation, and to ensure that citizenship is not revoked except in accordance with international standards and under independent judicial review."[16]

Law No. 21 of 2014 amending the Bahraini Nationality Law of 1963:

One of the main features of this law, is the amendment to Article 10 of the 1963 Nationality Law. Accordingly, a royal decree on stripping of citizenship can be issued based on a proposal by the Minister of Interior, who must act with Cabinet approval. As a result of this amendment, the Cabinet, through the Minister of Interior, has the power to revoke nationality, pending the ratification of the King. The amended Article 10 is stated as follows:

> By a decree based on the proposal of the Minister of Interior and after the approval of the Council of Ministers, the Bahraini nationality may be revoked from anyone who enjoys it in any of the **following cases:**
>
> a. If they enter the military service of a foreign country and remain in it despite the order issued by the government of the Kingdom of Bahrain to leave it.
> b. If they aid or engage in the service of an enemy country.
> c. If they cause harm to the interests of the Kingdom or act in a manner that contradicts the duty of loyalty to it.

While paragraphs (a) and (b) are similar to the original Article 10(a) and Article 10(b) of the Bahraini Nationality Law of 1963 – mirroring the previous powers of the King under the original Act – paragraph (c) of the amendment is vaguer and broader than the original Article 10(c), affording, on the face of it, wider discretion to the Minister of Interior,

[16] Office of the High Commissioner of Human Rights, 'UN human rights chief deeply concerned by mass terrorism convictions in Bahrain', (2019) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24502&LangID=E> accessed 3 May 2021

than previously afforded to the King. This provision has led to widespread targeting of dissidents and human rights defenders.

Another feature introduced by the amendment is the new Article 11, which provides for the reinstatement of nationality by the order of the King:

> By order of the King, it is permissible to restore the Bahraini nationality to whoever has lost it for any reason under the provisions of this law, without prejudice to the provision stipulated at the end of Article (7) Paragraph (1) of this Law.

As a result of this amendment, it is solely within the King's power to reinstate nationality.

Decree No. 16 of 2019 on amending Bahraini Nationality Law of 1963:

On 25 June 2019, Decree No. 16 on amending Bahraini Nationality Law of 1963 concentrated all power to revoke nationality to the Cabinet. As a result of this Decree, the judiciary no longer has the power to strip Bahraini citizens of their nationality under the 2013 amendment to the 2006 Terrorism Act. Additionally, the King no longer has the power to enforce cabinet and judicial decisions under the 1963 Nationality Law.

Once again, a royal decree was issued to amend the Nationality Law circumventing the prescribed legislative process. This Decree replaces the text of Article 10 of the 1963 Bahraini Nationality Law. There was an occurrence of a transfer of power from the King to the Minister of Interior, who shall issue a reasoned decision through the Council of Ministers to revoke the Bahraini nationality in the specific cases mentioned in the Article 10 of the Bahraini Nationality Law of 1963 prior to the amendment. In addition, a fourth case was added: conviction or court ruling against a Bahraini for one of the crimes stipulated in Law No. 58/2006 on Protecting Society from Terrorist Acts (the Terrorism Law).

Article 10 of the 1963 Bahraini Nationality Law was replaced with the following in Article 1, Decree No. 16/2019:

It is permissible, by a reasoned decision from the Council of Ministers based on the proposal of the Minister of Interior, to revoke

Bahraini nationality from anyone who enjoys it in any of **the following cases:**

1. If they entered the military service of a foreign country and remained in it despite the order issued by the government of the Kingdom of Bahrain to leave it.
2. If they aid or become involved in the service of an enemy state.
3. f they cause harm to the interests of the Kingdom or act in contradiction to the duty of loyalty to it.
4. If they are convicted of one of the crimes stipulated in Arts. (5) - (9), (12) & (17) of Law No. (58) of 2006 regarding the protection of society from terrorist acts.

In this amendment, the phrase "[b]y a decree based on the proposal of the Minister of Interior and after the approval of the Council of Ministers" was replaced with "by a reasoned decision from the Council of Ministers based on the proposal of the Minister of Interior". This means that a royal decree is not needed to revoke citizenship. The Decree also repealed Article 24 of Law No. (58) of 2006 on Protecting Society from Terrorist Acts that gave criminal courts the power to revoke nationality. The scope of revocation of nationality was increased with the addition of paragraph 4 to this article, which allows the decision-makers to revoke nationality in relation to a wider range of crimes.

International Legal Framework

As evident from the previous chapter, the situation in Bahrain is one of almost unfettered executive discretion to revoke nationality, without any meaningful judicial oversight. This has enabled gross abuses of power, arbitrariness and authoritarian decision making, resulting in hundreds of Bahraini citizens having their nationality

revoked. As this chapter will set out, Bahrain's practice of nationality revocation has no basis in international law, undermines fundamental principles and Bahrain's core international obligations. These include Bahrain's obligations under the International Covenant on Civil and Political Rights,[17] Convention on the Rights of the Child[18] and Convention on the Elimination of all forms of Discrimination Against Women,[19] as well as relevant norms of customary international law.

Nationality, in its essence, relates to the State and its citizens: according to the Nottebohm Judgement, "nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties."[20] The intimate nature of nationality, however, does not preclude international involvement if the rules and practice related to conferral or revocation of nationality contravenes international standards.

According to Article 15 of the 1948 Universal Declaration of Human Rights (UHDR), everyone has the right to a nationality, and no one shall be arbitrarily deprived of their nationality nor denied the right to change their nationality. Furthermore, Article 29 of the Arab Charter on Human Rights adopted by the League of Arab States, of which Bahrain is a founding party, states in its first paragraph "Every person has the right to a nationality, and no citizen shall be deprived of his nationality without a legally valid reason", and, in its third paragraph, "No one shall be denied the right to acquire another nationality in accordance with the applicable legal procedures of his country".[21] As international law – and, in particular, international human rights law – has evolved, a number of key principles have increasingly been recognised as limiting State discretion in setting the rules and criteria for citizenship.

[17] International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171 (hereinafter ICCPR)

[18] Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3 (hereinafter CRC)

[19] Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, 1249 UNTS 13 (hereinafter CEDAW)

[20] *Nottebohm (Liechtenstein v. Guatemala),* Judgment, 6 April 1955, ICJ Reports 1955, p. 23

[21] 2004 Arab Charter on Human Rights, available in English at: https://www.eods.eu/library/LAS_Arab%20Charter%20on%20Human%20Rights_2004_EN.pdf accessed 15 May 2021

The State exercises its sovereignty to determine its own rules of nationality acquisition, but within limits. States also set the rules for the deprivation of citizenship; the stripping of a nationality once held. Here too, international law limits State discretion, more stringently than in the case of nationality acquisition. The justification and basis for taking away a right must be greater than the justification for rules which may exclude access to that right in the first place – particularly if these rules relate to acquiring citizenship later in life (by naturalisation).

The *Principles on Deprivation of Nationality as a National Security Measure,*[22] and the *UNHCR Guidelines on Statelessness No 5: Loss and Deprivation of Nationality*[23] provide important guidance on the question of deprivation of nationality; the former, from a wider international law perspective, and the latter, more specifically in relation to the 1961 Convention. Further, the Commentary to the Principles on Deprivation of Nationality, provides a more detailed analysis of the international law basis which underpins the Principles.[24] Accordingly, state discretion in this area is subject to the

[22] Institute on Statelessness and Inclusion (ISI), *Principles on Deprivation of Nationality as a National Security Measure,* March 2020, available at: <https://files.institutesi.org/PRINCIPLES.pdf>. (hereinafter the Principles). The Principles were drafted by ISI in collaboration with the Open Society Justice Initiative and with support from the Asser Institute and Ashurst LLP. They were developed over a 30-month research and consultation period, with input from more than 60 leading experts in the fields of human rights, nationality and statelessness, counter-terrorism, refugee protection, child rights, migration and other related areas. At the time of submission, they have been endorsed by over 100 individual experts and organisations, including leading academics, UN Special Rapporteurs and Treaty Body members, litigators, judges, parliamentarians and diplomats. The Principles restate or reflect international law and legal standards under the UN Charter, treaty law, customary international law, general principles of law, judicial decisions and legal scholarship, regional and national law and practice. They articulate the international law obligations of States and apply to all situations in which States take or consider taking steps to deprive a person of nationality as a national security measure. More information is available here: <https://www.institutesi.org/year-of-action-resources/principles-on-deprivation-of-nationality>.

[23] UN High Commissioner for Refugees (UNHCR), *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness*, May 2020, HCR/GS/20/05, available at: <https://www.refworld.org/docid/5ec5640c4.html> The Guidelines provide authoritative guidance on the interpretation of Articles 5 – 9 of the1961 Convention on the Reduction of Statelessness. They draw on the Summary Conclusions of the Expert Meeting on Interpreting the 1961 Statelessness Convention and Avoiding Statelessness Resulting from Loss and Deprivation held in Tunis, Tunisia on 31 October-1 November 2013 ("Tunis Conclusions") and the Expert Meeting on Developments related to Deprivation of Nationality held in Geneva, Switzerland on 5-6 December 2018.

[24] Institute on Statelessness and Inclusion (ISI), *Commentary to the Principles on Deprivation of Nationality as a National Security Measure,* 2020, available at: <https://files.institutesi.org/PRINCIPLES_Draft_Commentary.pdf>.

individual right to nationality,[25] the prohibition of arbitrary deprivation of nationality,[26] the prohibition of discrimination[27] and the obligation to avoid statelessness.[28] Furthermore, the impact of nationality deprivation on the enjoyment of other human rights, humanitarian and refugee law obligations and standards must be taken into consideration when assessing the legality of citizenship deprivation. These include, the right to enter and remain in one's own country, the prohibition of *refoulement*, the prohibition of torture and cruel, inhuman or degrading treatment or punishment, the liberty and security of the person; the right to private and family life; legal personhood and the rights of the child.[29] Any measures to deprive nationality must also comply with due process safeguards and the right to a fair trial.[30]

Below is a deeper analysis of international standards relating to the avoidance of statelessness, prohibition of discrimination and prohibition of arbitrary deprivation of nationality, as well as an overview of other human rights considerations which must inform any decision to deprive nationality.

A) The avoidance of statelessness[31]

25 Human Rights Council Resolution 7/10, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/7/10 (27 March 2008); Human Rights Council Resolution 10/13, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/10/13 (26 March 2009); Human Rights Council Resolution 13/2, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/13/2 (24 April 2010); Human Rights Council Resolution 20/4, The right to a nationality: women and children, UN Doc A/HRC/RES/20/4 (16 July 2012); Human Rights Council Resolution 20/5, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/20/5 (16 July 2012); Human Rights Council Resolution 26/14, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/26/14 (11 July 2014); Human Rights Council Resolution 32/5, Human rights and arbitrary deprivation of nationality, UN Doc A/HRC/RES/32/5 (15 July 2016).

26 Principles on Deprivation of Nationality as a National Security Measure, March 2020. Available at: https://files.institutesi.org/PRINCIPLES.pdf., Principle 7. See also, the Draft Commentary to the Principles, available at: files.institutesi.org/PRINCIPLES_Draft_Commentary.pdf.

27 Ibid., Principle 6.

28 Ibid., Principle 5.

29 Ibid., Principle 9.

30 Ibid., Principle 8

31 Ibid., Principle 5 (The Avoidance of Statelessness), see also Article 8(1) of the 1961 Convention on the Reduction of Statelessness (1961 Convention).

The duty to avoid statelessness is "a fundamental principle of international law"[32] and has been acknowledged as an obligation of customary international law.[33]

According to the UN Secretary General's Guidance Note on the UN and statelessness, the avoidance of statelessness exists "as a corollary" to the right to nationality itself and "States must make every effort to avoid statelessness through legislative, administrative and other measures."[34] Regional human rights mechanisms have affirmed that States' discretion to set the rules for acquisition and loss of nationality is limited by their "obligation to prevent, avoid and reduce statelessness"[35] and that "the power to deprive a person of his or her nationality has to be exercised in accordance with international standards, to avoid the risk of statelessness".[36]

Importantly, the burden should be on the depriving State to ensure that statelessness isn't a consequence of nationality deprivation. This means that the person should already have another nationality, and not the hypothetical access to one. The consequence of the duty to avoid statelessness is that it cannot be lawfully pursued if citizenship deprivation results in statelessness.

B) Prohibition of discrimination[37]

The prohibition of discrimination is one of the foundational tenets of international human rights law and relates to issues of

[32] UN Human Rights Council, 'Human rights and arbitrary deprivation of nationality: Report of the Secretary-General', A/HRC/25/28 (2013), para. 6 <https://undocs.org/en/A/HRC/25/28>

[33] Council of Europe, 'Explanatory Report to the European Convention on Nationality', ETS 166 (1977), para. 33 <https://rm.coe.int/16800ccde7>

[34] UN Secretary-General (UNSG), 'Guidance Note of the Secretary General: The United Nations and Statelessness' (November 2018), p. 4 <https://www.refworld.org/pdfid/5c580e507.pdf>

[35] *Case of the Yean and Bosico Children v. The Dominican Republic*, Series C No. 130, Inter-American Court of Human Rights (IACrtHR), (8 September 2005), para 140. See also Third Report on the Situation of Human Rights in Chile, IACHrtHR OEA/Ser/L/V/II.40, Doc 10, (11 February 1977), at. 80-1.

[36] *Anudo v Tanzania*, Application no. 012/2015 (Judgement) African Court on Human and Peoples' Rights (22 March 2018), para. 78.

[37] *Principles,* Principle 6 (The Prohibition of Discrimination), see also e.g. Article 26 of the International Covenant on Civil and Political Rights (ICCPR), Article 9 of the 1961 Convention and Article 5(d)(iii) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

nationality the same way it applies to other human rights. The 2009 Secretary-General's report on arbitrary deprivation of nationality clearly articulates that any deprivation of nationality on discriminatory grounds is considered arbitrary for the purposes of international law.[38] Accordingly, a State must not deprive any person or group of persons of their nationality as a result of direct or indirect discrimination in law or in practice on any ground prohibited under international law, including race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation.

Importantly, Article 9 of the 1961 Convention on the Reduction of Statelessness[39] prohibits the deprivation of nationality on racial, ethnic, religious or political grounds, irrespective of whether the deprivation would lead to statelessness or not. It establishes the principle of non-discrimination as a stand-alone and absolute bar against nationality deprivation in any context. Consequently, "a State will need to establish that a deprivation decision is not being made on political or other discriminatory grounds. Furthermore, the deprivation must not be based on conduct which is consistent with an individual´s freedom of expression, freedom of assembly or other rights guaranteed under international human rights law."[40]

C) The prohibition of arbitrary deprivation of nationality[41]

The prohibition of arbitrary deprivation of nationality is set out in Article 15(2) of the UDHR and reinforced in different international and regional legal instruments.

[38] UN Human Rights Council, 'Human rights and arbitrary deprivation of nationality: Report of the Secretary-General', A/HRC/13/34 (2009) <http://www.refworld.org/docid/4b83a9cb2.html>

[39] Convention on the Reduction of Statelessness, 30 August 1961, 989 UNTS 175 (hereinafter the 1961 Convention).

[40] UN High Commissioner for Refugees (UNHCR), 'Expert Meeting - Interpreting the 1961 Statelessness Convention and Avoiding Statelessness resulting from Loss and Deprivation of Nationality' ("Tunis Conclusions") (March 2014) <https://www.refworld.org/docid/533a754b4.html>

[41] *The Principles,* Principle 7 (The Prohibition of Arbitrary Deprivation of Nationality).

As the African Court on Human and People's Rights held

> *International Law does not allow, save under very exceptional situations, the loss of nationality. The said conditions are: i) they must be founded on clear legal basis; ii) must serve a legitimate purpose that conforms with International Law; iii) must be proportionate to the interest protected; iv) must install procedural guaranties which must be respected, allowing the concerned to defend himself before an independent body.*[42]

In addition to the four criteria set out in the *Anudo* case, international law also stipulates that nationality deprivation must be necessary, and thereby, the least intrusive means of achieving the stated legitimate purpose.[43]

D) Other human rights considerations

In addition to ensuring that deprivation of nationality doesn't result in statelessness, is not discriminatory or arbitrary, there are various other human rights considerations which also inform whether a decision to deprive nationality is lawful or not.

In any proceedings concerning the deprivation of nationality, the right to equal access to a competent, independent and impartial judicial body established by law and to equal treatment before the law must be respected, protected and fulfilled.[44]

Further, the impact of nationality deprivation on the enjoyment of other human rights must be assessed, to determine its proportionality and lawfulness. These include:

- The right to enter and remain in one's country, meaning that all persons have the right to enter, remain in and return to their own country and that

[42] *Anudo v Tanzania* (n. 28), para. 79.

[43] *The Principles*, Principle 7.4.

[44] *The Principles,* Principle 8 (The Rights to Fair Trial, Effective Remedy and Reparation), see also e.g. Art. 10 of the UDHR, and Art. 14(1) of the ICCPR.

States are prohibited from expelling their own nationals;[45]

- The prohibition of refoulement, meaning that States must not expel or return ("refouler") any person, including one whom they have stripped of nationality, to a situation in which they face a threat to life or freedom or risk of persecution, or face a real risk of serious human rights violations;[46]
- The prohibition against torture and cruel, inhuman or degrading treatment or punishment, whereby deprivation of nationality is likely to constitute cruel, inhuman or degrading treatment or punishment, particularly where it results in statelessness;[47]
- The liberty and security of the person, meaning that everyone has the right to liberty and security of the person and that no one shall be subject to arbitrary arrest or detention;[48]
- Legal personhood, meaning that everyone has the right to recognition everywhere as a person before the law and that all persons are equal before the law;[49]
- The right to private and family life;[50]
- The rights of the child,[51] in particular every child's right to acquire a nationality,[52] the best interest of the child, and considering that "being

[45] Ibid., Principle 9.1, see also e.g. Arts. 9 and 13(2) of the UDHR; Art. 12(4) of the ICCPR; Art. 27(2) of the Arab Charter on Human Rights.

[46] Ibid., Principle 9.2, see also Art. 33(1) of the Refugee Convention; Art. 3(1) of the Convention Against Torture (CAT); Art. 16(1) of the International Convention for the Protection of All Persons from Enforced Disappearance (CED).

[47] Ibid., Principle 9.3, see also Art. 5 of the UDHR; Art. 7 of the ICCPR; Arts. 1 and 2(1) CAT.

[48] Ibid., Principle 9.4, see also Arts. 3 and 9 of the UDHR; Art. 9(1) of the ICCPR.

[49] Ibid., Principle 9.5, see also Art. 6 of the UDHR; Art. 16 of the ICCPR.

[50] Ibid., Principle 9.6, see also Arts. 12 of the UDHR; Art. 17(1) of the ICCPR.

[51] Ibid., Principle 9.7.

[52] Article 24(3) of ICCPR; Art. 7(1) of the CRC.

stateless as a child is generally the antithesis to the best interests of the child";[53]

- The prohibition of derivative loss of nationality.[54]

E) Proxy measures[55]

States must not use powers to deprive nationality for other stated purposes, including fraud, with the ulterior purpose of depriving nationality as a national security measure. Deprivation of nationality for ulterior motives – or as the means to an end without the necessary due process and not related to intentional fraudulent acts to the acquisition of that nationality – does not meet the high standards set out by international law on due process requirements and arbitrariness more broadly. Such measures also do not fall within the limited set of circumstances permitting the deprivation of nationality. Besides issues related to national security, the grounds that remain most relevant regarding the deprivation of nationality today are those relating to fraud or misrepresentation in the acquisition of nationality.[56] The Human Rights Committee has stated that "loss or deprivation of nationality can only be justified where the fraud or misrepresentation was perpetrated for the purpose of acquiring nationality and was material to its acquisition".[57]

Measures that cause *de facto* deprivation of nationality, such as restricting a person's ability to leave or enter their country of nationality or limiting access to travel

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[53] *Children of Nubian Descent in Kenya v Kenya* (2011), Communication no. 002/Com/002/2009, African Committee of Experts on the Rights and Welfare of the Child (ACERWC) (22 March 2011) para. 46 <https://www.refworld.org/cases,ACERWC,4f5f04492.html>

[54] *Principles,* Principle 9.8, see also Art. 8 of the CRC; Art. 9(1) of CEDAW.

[55] Ibid., Principle 10.

[56] See *Tunis Conclusions* (n.32) para. 69, stating that provisions relating to loyalty and allegiance to the state have "been largely superseded by later developments in domestic nationality laws".

[57] UN Human Rights Council, 'Human rights and arbitrary deprivation of nationality: Report of the Secretary General', A/HRC/25/28, para. 10.

documents necessary to that end, can also constitute arbitrary deprivation of nationality.[58] Such a restriction also risks leaving a person *de facto* stateless, whereby they may have the right to a nationality on paper, but are unable to use that right or any of the associated fundamental rights.

Arbitrary Revocation of Nationality Since the 2011 Uprising

Since the 2011 Uprising, 985 Bahrainis have been stripped of their citizenship. 108 revocations were issued by decision of the King or the Minister of Interior on the basis of Article 10(c) of the 1963 Nationality Law (as amended). The rest of the revocations were made order of the criminal courts, under Article No. (24) of Law No. 58 of 2006 on terrorism.[59]

The court decisions were based on unfair trials that did not follow due process and international legal standards. For example, many convictions were based on confessions extracted under torture, or involved cases where lawyers were denied access to the relevant files, or which arbitrarily disregarded evidence which supported the cases of the defendants. Bahrain's criminal justice system failed to deliver impartial justice. According to Human Rights Watch, the courts "play a key role in maintaining the country's highly repressive political order."[60] For example, in September 2012, a Bahraini court classified classic tools of peaceful protest as acts of terrorism, reasoning that terrorism can be the result of "moral pressure," while affirming the long-term sentences of government critics who had advocated for the establishment of a republic of Bahrain."[61]

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[58] See also Art. 12(4) of the ICCPR and Human Rights Committee, 'General Comment No. 27: Freedom of movement (Article 12)' (1999) CCPR/C/21/Rev.1/Add.9, specifically para. 9: "[T]he right to leave a country must include the right to obtain the necessary travel documents."

[59] Zeineb Alsabeegh, *Report on Citizenship Law: Bahrain* in Global Citizenship Observatory (GLOBALCIT), 2021, <https://cadmus.eui.eu/bitstream/handle/1814/70577/RSCAS_GLOBALCIT_2021_6.pdf?sequence=1&isAllowed=y>

[60] Human Rights Watch, 'Bahrain: Citizenship Rights Stripped Away', (2014) <https://www.hrw.org/news/2014/08/21/bahrain-citizenship-rights-stripped-away>

[61] Bahrain Institute for Rights and Democracy (BIRDBH), 'Stateless in Bahrain: 52 Nationalities Revoked', available at: <http://birdbh.org/2014/11/stateless-in-bahrain-52-nationalities-revoked/>

In April 2019, the King ordered the citizenship of 551 Bahrainis to be restored, bringing the number of persons whose citizenship remains revoked down to 434. Even though their nationality has been restored, most of these people are still suffering from the consequences of their nationality revocations. They have lost their jobs, homes and properties, and are struggling to cope with the multiple rights deprivations they endured as a result of having their nationality revoked. It is unclear if any have received any compensation or restoration of rights. Further, their experience, and the looming threat of their citizenship being revoked again, has had the desired chilling effect on the activism and expression of most of these people. Many continue to live under the cloud of threat, and are reluctant to speak of their predicament, for fear of further reprisals.

SALAM DHR STATISTICS ON REVOCATION OF NATIONALITY IN BAHRAIN[62]:

2012 — 31 revocations

All 31 revocations were announced in a 7 November administrative order by the Ministry of Interior, under Article 10 of the Bahraini Nationality Law, for "causing damage to the security of the state",[63] and published by the Bahrain News Agency (BNA).Two former parliamentarians, human rights and political activists and religious scholars were targeted. All nationalities were revoked without due process, with no one being officially notified. At the time (prior to the 2014 amendment to the nationality law), the Interior Minister had no power to revoke nationality. Sameera Rajab, a spokesperson and Minister for the Bahraini Government, stated that: "It is true that the stripping of citizenship is reserved as a power for the King, but he has ordered it in this circumstance and given the Interior Minister powers to circumvent the usual procedures."[64]

2013 — 0 revocations

2014 — 21 revocations

All nationality revocations were by the courts, under Decree No. 20 of 2013.

- In August, a 9 people were convicted on charges of "participation in an illegal organisation and having ties with Iran" and stripped of their citizenship.
- In September, 9 individuals had their nationality stripped for allegedly "smuggling arms into the country". A defence lawyer involved claimed that that their confessions were extracted under torture.
- In November, 3 Bahrainis nationality was revoked and sentenced to 10 years in prison.[65]

2015 — 208 revocations

- A 31 January statement published by BNA, announced nationality revocation of 72 individuals.[66] This was formalised by Decree No. 8 of 2015 published in the Gazette on 5 February,[67] stating that their nationality was revoked on the basis of Article 10(c) of the Bahraini Nationality Law. All nationalities were revoked without due process, with no one receiving official notification. There were no trials or investigations. The list included a former MP, 8 religious' scholars, journalists and an academic.
- A further 136 people had their nationality stripped, mostly by the criminal courts.[68]

2016 — 90 revocations

- 4 February, King Hamad issued DecreeNo.11 revoking the citizenship of Raed Ali Houssein Hourani and his family, over allegedly harming national interests.[69]
- 25 May, King Hamad issued Decree No. 38, revoking the citizenship of 3 members of the National Guard for engaging in "activities that harm the interests of the Kingdom."[70]
- In May, the High Criminal Court sentenced 10 defendants to life imprisonment, and two others to 10 years, ordering the revocation of citizenship of all 12. The defendants were charged with the formation of an illegal terrorist group "Saraya Al-Ashter". The Court also revoked the citizenship of 11 suspects in the "Dar Kulaib Warehouse" case.[71]
- Chief of Terror Crimes Prosecution, Advocate General Ahmed Al Hammadi, in June, said that the High Criminal Court had issued its verdict against 10 suspects in the so called "Hezbollah of Bahrain" terrorist group case, and ordered their nationality revocation.[72]
- On June 20, 2016, Decree No. 55 of 2016 revoked the citizenship of Ayatollah Sheikh Isa Qassim, the prominent religious leader of the Shiite sect in Bahrain.[73]

2017 — 156 revocations

2018 — 298 revocations

- In January, the fourth High Criminal Court issued sentences against 60 dissidents, of which 47 were stripped of their citizenship.
- In May, Bahrain's Fourth High Criminal Court handed prison sentences to 115 Bahraini nationals and revoked their citizenship over terrorism-related charges.[74]

2019 — 181 revocations

- In February, Bahrain's Fourth High Criminal Court revoked citizenship of 25 individuals on charges related to terrorism.
- In April, the Court handed prison sentences ranging from three years to life imprisonment to 139 citizens and stripped the nationalities of 138 of them.[75] According to the UN, 17 of the convicted persons were minors, ranging in age from 15 to 17 years.

sub-total 985

reinstated 551

On April 20, 2019, the King of Bahrain reinstated the citizenship of 551 individuals who had their citizenship stripped through court orders.[76]

TOTAL 434

At the time of writing, 434 individuals remain with their citizenship revoked.

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[62] The cases here form part of a non-exhaustive list of examples of nationality revocations in Bahrain since 2011.
[63] List of the 31 individuals available on the 'Ana Bahraini' website: <https://www.anabahraini.org/>. See also HRW, 'Bahrain: Citizenship Rights Stripped Away', available at: <https://www.hrw.org/news/2014/08/21/bahrain-citizenship-rights-stripped-away>
[64] SALAM DHR, Bahrain: Stripping of Nationality a Weapon for Political Suppression, 2014, available at: <https://www.anabahraini.org/2015/07/30/salam-bahrain-stripping-of-nationality-a-weapon-for-political-suppression/>
[65] Ibid.
[66] Bahrain News Agency, 'MOI Statement: 72 Individuals stripped of citizenship', 2015, <https://www.bna.bh/en/ArchiveDetails.aspx?archiveId=32778>
[67] Decree No. 8 of 2015, available in the original Arabic at: <https://www.legalaffairs.gov.bh/Media/LegalPDF/D0815.pdf>
[68] GIDHR, 'Revoking Citizenships: the Silent Execution', available at: <https://www.anabahraini.org/wp-content/uploads/2019/09/Revoking-Citizenships-the-Silent-Execution.pdf>
[69] Decree No. 11 of 2016, available in the original Arabic at: <https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=12242>
[70] Decree No. 38 of 2016, available in the original Arabic at: <https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=12698>
[71] Gulf Institute for Democracy and Human Rights, Revoking Citizenships: the Silent Execution, 2016, available at: <https://www.anabahraini.org/wp-content/uploads/2019/09/Revoking-Citizenships-the-Silent-Execution.pdf>
[72] Ibid.
[73] Decree No. 55 of 2016, available in the original Arabic at: <https://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=12766>
[74] See BIRDBH 'Revocation of citizenship for 2018', available at: <http://birdbh.org/?s=revocation+of+citizenship&category=&year=2018&month=&format=>
[75] See BIRDBH, 'Revocation of citizenship for 2019', available at: <http://birdbh.org/?s=revocation+of+citizenship&category=&year=2019&month=&format=>
[76] Reuters, 'Bahrain king reinstates nationality to 551 citizens tried in courts' (2019) <https://www.reuters.com/article/us-bahrain-security/bahrain-king-reinstates-nationality-to-551-citizens-tried-in-courts-idUSKCN1RX0HW>

The Case of Ibrahim Karimi

Mr. Ibrahim Karimi was one of the first group of 31 people to be stripped of their citizenship in 2012.

Mr. Karimi has been arbitrarily arrested several times by the Bahraini authorities for exercising his right to freedom of expression, association, and peaceful assembly. In February 1981, he was arrested and detained for participating in peaceful protests against

During the 2011 Bahraini uprising, Mr. Karimi was arrested by the National Security Agency on 14 April and detained for two months in a National Security Agency prison in the basement of Qal'a Prison, where he was, again, allegedly tortured and ill-treated. He was accused of spreading false rumours and incitement to hatred against the regime, and he was sentenced to a year in prison. After appealing the decision, Mr. Karimi was acquitted after spending eleven months in prison.

After Mr. Karimi was released from prison in April 2012, he heard via the media about the Interior Minister's decision to strip him and 30 other individuals of their nationality. None

the GoB and he was imprisoned for three months, during which he reportedly was tortured and ill-treated by prison officials. Shortly after being released, he was deported without any legal measures or justification, and with no official papers. Mr. Karimi remained in exile for 21 years, living between Lebanon and Europe, until he returned to Bahrain in 2002, when the King announced reforms, including a general amnesty.

of the individuals had any previous communications on the matter of this decision, nor had they been subject to any investigations or even questioning.

Mr. Karimi appealed the decision through his lawyer Mohammed Isa Al-Tajir, on 28 February 2013. The lawyer stated at the time that the revocation of nationality decision was derived solely from the Interior Minister, and that no consultation was held with the King, making the decision itself unlawful, as it was issued by an authority that had no powers or delegated authority to pass such a decision under the legal framework at the time. On 29 April 2014, the First Civil Court denied the appeal of Mr. Karimi, on the basis that the government has the full right to

assess what harms the integrity and stability of its internal and external security. This decision, in effect, meant that the issuance or revocation of citizenship is not subject to judicial oversight.

After his nationality was revoked, Mr. Karimi had no other nationality and was rendered stateless. He was later arrested for a day and forced to hand over his ID, passport and any other official papers to the authorities. He was also called into investigation regarding his illegal stay in the country, which meant that he was subject to the Immigration Law and was obliged to leave the country. Mr. Karimi was charged with illegally staying in the country without a valid residence permit, and on 28 October 2014, the Fifth Lower Criminal Court ordered his deportation. His lawyer lodged an appeal the next day, and the deportation order was halted until the court issued its verdict.

On 26 September 2015, Mr. Karimi was arrested at his home in al-Dair by police officers without an arrest warrant. The officers took mobile phones that belonged to him and his family, and other electronic devices. He was interrogated at the General Directorate of Criminal Investigation and Forensic Science without a lawyer present about a Twitter account "FreejKarimi" that criticized Saudi Arabia over the deaths of hundreds of people during Hajj. Although he denied being the owner of the account, he was allegedly tortured and forced to sign a confession pleading guilty to the charges for being the owner of the Twitter account and an electric-shock device, which are illegal in Bahrain.

During his trial before the Fifth Lower Criminal Court in Manama, defence witnesses were not allowed to be summoned. On 31 March 2016, the Court sentenced him to two years of imprisonment and a fine of 2,000 Bahraini Dinar for "publicly inciting hatred and contempt against the regime", "publicly insulting the King" and "publicly insulting Saudi Arabia and its King". He was also sentenced to one-month imprisonment for "possession of an electric-shock device without authorisation from the Ministry of Interior". Meanwhile, in a separate case, the Court of Appeals in Manama upheld Ibrahim Karimi's deportation order on 8 March 2016. After serving his sentence in Jau prison, Mr. Karimi was

deported to Iraq on 30 October 2017. Mr. Karimi currently lives in Mashhad, Iran with his family. Mr. Karimi remains stateless to this day.

Conclusion - Justice Denied

As this report has demonstrated, nationality revocation has become one of the main weapons in the GoB's arsenal, not to protect national security, but to stifle dissent, crack down on human rights defenders and further entrench the state's authoritarian and anti-democratic agenda. As such, the practice sits alongside other well documented human rights abuses by the state, including torture, arbitrary detentions, extra-judicial killings, sham trials and the use of the death penalty. The situation in Bahrain, ten years after the Arab Spring, is desperate. However, agents of the state continue to abuse human rights, including the right to nationality, with impunity. In fact, as this report has shown, laws have been passed to give a veneer of legality to acts which are clearly arbitrary and amount to serious violations of international human rights law.

A person's nationality is intricately connected to their own identity, as well as their wider belonging to their country. Further, nationality often serves as a gateway right – without nationality, it is more difficult to access and enjoy other basic rights, and it is more difficult to access justice and challenge rights deprivations. Consequently, revocation of nationality is an increasingly popular strategy used by governments to stifle dissent and punish detractors. The combined threat of having your identity stripped, your rights trampled upon and your legal status to reside in the country taken away is extremely potent. This is also why there are strong international safeguards against nationality deprivation, which Bahrain continues to disregard.

From 2012 to 2019, a total of 985 individuals were arbitrarily stripped of their nationality either by a court order, a royal decree or

ministerial order. Today, the total number is 434, after the King reinstated citizenship for 551 individuals in 2019. These people are, nevertheless, still suffering the consequences of the citizenship-stripping decisions. The majority of those who lost their nationality were rendered stateless and continue to face immense obstacles in enjoying their basic human rights.

The revocation of nationality has had serious effects on those concerned, denying them the ability to exercise their civil and political rights as well as their social, cultural and economic rights. Most of the victims of revocation of nationality who were still in Bahrain at the time of the revocation of their citizenship faced prosecution for staying in the country "illegally" and were eventually deported. Nationality revocation also impacts the individual's family members in deeply profound ways. Further, as a result of the gendered nature of revocations (overwhelmingly targeting men) and the gender discriminatory character of Bahrain's nationality law (only Bahraini fathers, not mothers, can pass their citizenship onto their children), the children born to victims of nationality revocation are also directly impacted. They, too, are denied Bahraini nationality, deprived of their basic rights and most likely rendered stateless as a result.

As demonstrated in the cases of Masaud M. Jahromi and Ibrahim Karimi, the authorities have abused nationality revocation powers with impunity, and allowed no serious grounds for challenging these arbitrary decisions under the basis that the government has the full right to assess what harms the integrity and stability of its internal and external security, and that the revocation of citizenship is not subject to judicial oversight. After the promulgation of Decree No. 16 of 2019 on amending Bahraini Nationality Law of 1963, restricting the power to revoke nationality to the cabinet only, Bahraini citizens are still at risk of being stripped of their nationality for opposing the ruling family.

Bahrain's revocation of nationality is a clear violation to its obligations and standards set forth in international human rights law and international humanitarian law, including international standards relating to the avoidance of statelessness, prohibition of discrimination and prohibition of arbitrary

deprivation of nationality, as well as other human rights considerations which must inform any decision to deprive nationality.

SALAM DHR, Hawiati MENA Statelessness Network and the Institute on Statelessness and Inclusion remain deeply concerned with this prevailing situation and urge stronger concerted action to restore the nationality rights of those impacted, provide them with an effective remedy and reparation, and dismantle the arbitrary laws which enable citizenship revocations. In this regard, we reiterate Principle 8.2 of the Principles on Arbitrary Deprivation of Nationality as a National Security Measure:

> Everyone has the right to an effective remedy and reparation. States must provide those who claim to be victims of a violation with equal and effective access to justice and effective remedies and reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.[62]

Towards this end, we make the following recommendations to the Government of Bahrain:

- Refrain from the practice of arbitrary citizenship revocation.
- Reinstate full citizenship and concomitant rights to the hundreds of nationals whose citizenships has been revoked through executive orders or unfair court decisions since 2012.
- Repeal Article 10 of the current nationality law which empowers the Minister of Interior to revoke nationality.
- Stop the deportation of those who had their nationality revoked and allow all those who were deported to return to their country as citizens with full rights.
- Fully respect and comply with relevant international human rights law standards, as articulated in the Principles on

[62] *Principles,* Principle 8.2. See also, Article 18 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted and proclaimed by General Assembly Resolution 60/147 of 16 December 2005.

Deprivation of Nationality as a National Security Measure.

- Implement the recommendations of the BICI report.

Finally, we urge all relevant international actors including Bahrain's allies, trade partners and neighbouring states, relevant UN bodies (including the Security Council, General Assembly and Human Rights Council), UN human rights mechanisms and UN agencies, the League of Arab States and Organisation of Islamic Cooperation; to take full cognisance of the severity of the situation in Bahrain, and exert extensive diplomatic pressure on Bahrain to reverse its arbitrary and counter-productive practice of nationality revocations, and address other acute human rights violations.

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