

كسر القوالب Breaking the mold

#Breaking_The_Mold

Arab Civil Society Actors and their Quest to Influence Policy-Making

Country: **Bahrain**

Crushing Civil Society and Securitizing Citizenship in Bahrain

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The right to belong to a political system is the right to access rights; thus, it means recognizing individuals as “citizens”. Therefore, statelessness prevents individuals from enjoying all basic human rights.

The Bahraini government has increasingly used its authority to revoke citizenships in the context of combating terrorism, after the enactment of royal decrees in 2013 and 2014 requiring amendments to the Law on Protecting Society from Terrorist Acts of 2006 and the Bahraini Nationality Law of 1963. This policy clashes directly with the Bahraini civil society, as it allowed the nationality revocation of many Bahraini activists due to their civil activism.

The present paper sheds light on the policy deadlock resulting from the decision-makers’ discretionary power in determining the cases in which nationality revocation is allowed. It also reviews the types of civil activities that are punished by the revocation of nationalities, as well as the popular and institutional movements against this policy.

PREAMBLE AND ISSUE PRESENTATION

Since 2012, the Bahraini government has revoked the nationality of 794 Bahraini citizens throughout different phases¹.

NUMBERS OF REVOKED NATIONALITIES

| | |
|-----|------|
| 31 | 2012 |
| 21 | 2014 |
| 208 | 2015 |
| 90 | 2016 |
| 156 | 2017 |
| 288 | 2018 |

Due to this decision, some citizens were deported, and some were sentenced to imprisonment. The lists of citizens whose nationalities were revoked included names of former political and parliamentary activists, as well as Bahraini clerics and academics, in addition to the names of some of those affiliated with the Islamic State of Iraq and Syria (ISIS) and al-Qaeda (BIRD, 2016). Despite the different reasons provided for revoking the nationality in each case, all the official statements stipulated that the issuance of these decisions aimed to maintain the security and stability of the state and protect it from terrorist acts.

¹ “Revocation of Citizenship in #Bahrain (Up Today).” Anabahraini. <https://www.anabahraini.org>

The policy problem lies in two issues: Firstly, the legal framework of the policy relies on the discretionary power of decision-makers, without specifying crimes that necessitate revoking the nationality of their perpetrators. Secondly, they directly collide with civil liberties and restrict the freedoms of civil society by equating it with non-state armed action.

On the social level, this policy creates a new social class that cannot benefit from basic services such as education, health, housing or employment. The revocation of nationality may result in forced deportation. In contrast, the children of the revoked nationalities, particularly those born after the decision, face a challenge in obtaining citizenship (OHCHR, 2017).

TIMELINE: BACKGROUND OF LAWS ON REVOKING BAHRAINI NATIONALITY

The 1973 Constitution of the Kingdom of Bahrain stipulated in Article 17 that a person inherently enjoying his Bahraini nationality cannot be stripped of their nationality except in case of treason and dual citizenship; but in virtue of the same article, "it is prohibited to banish a citizen from Bahrain or prevent him from returning to it"².

Nevertheless, this article was changed in the 2002 Constitution to include other cases that the Constitution did not define:

The law defines Bahraini nationality, and it is not permissible to revoke it from whoever enjoys it except in the case of high treason and other cases specified by the law.

"It is prohibited to banish a citizen from Bahrain or prevent them from returning to it"³.

In 2010, the Ministry of the Interior stripped the citizenship of Hussain Al-Najati and his family members as part of the periodic review of the naturalized citizens' conditions, but soon a royal decree was issued and recommended that they shall regain their nationality (Alwasatnews, 2012).

In 2012, the Bahraini Ministry of Interior issued a decision revoking the nationality of 31 Bahraini citizens, one of whom was Al-Najati. The statement indicated that the decision was based on the third clause of Article 10 of the Nationality Law, which permits to strip citizens' citizenship if they harm state security (Alwasatnews).

In 2013, the King issued Royal Decree No. 20, which added the penalty for "revoking nationality" to the penalties for crimes stipulated in 4 articles of The Law on Protecting Society from Terrorist Acts (Alwasatnews, 2013), which include damaging public facilities and buildings, calling for crimes committed by organizations and associations, and dealing with terrorist associations and organizations outside the country (LLOC, 2013).

In 2014 the King also issued a decree stipulating the amendment of the Bahraini Nationality Law issued in 1963, which permits the Minister of Interior, with approval of the Prime Minister, to strip Bahraini citizenship of those who possess it if they are engaged in military service for the benefit of a foreign country, help serve a hostile country, and cause harm to the interests of the Kingdom or acts in a way that contravenes their duty of loyalty to it

² The Constitution of the State of Bahrain of 1973. Legislation and Legal Opinion Commission. <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=#2671.XEDSxy2B-2V>.

³ The constitution of the Kingdom of Bahrain. Shura Council. <http://www.shura.bh/en/LegislativeResource/Constitution/Pages/default.aspx>.



(LLOC, 2014).

In 2015, a member of the Shura Council demanded that housing units provided by the Ministry of Housing be withdrawn from families whose nationalities had been revoked (Alwasatnews, 2015). In 2017, the Bahraini Parliament approved a decree stipulating the suspension of benefits and retirement rights in the event of revoking or withdrawing Bahraini citizenship (Alayam, 2017).

THE DEADLOCK OF DISCRETIONARY POWER

The Constitution of Bahrain of 2002 stipulated that revoking citizenship is permissible in the case of "high treason," but it does not clearly set the criteria for determining high treason, nor the nature of the "other cases" in which revocation of nationality is permitted. This gave decision-makers a wide margin of discretion.

Furthermore, the laws on the revocation of nationality did not explicitly specify the harm to state security, which was evident in the Ministry of Interior's reservation to disclose the reasons for revoking citizenships, as it stated that "the matter remains dependent on what the competent authority is reassured in issuing decisions to revoke nationality, particularly in case of causing harm to state security, given that these recent decisions are thoroughly associated to national security issues that are related to considerations that it may be inappropriate to be disclosed for security reasons" (Akhbar-alkhaleej, 2017).

The first decision issued in 2012 to revoke citizenship violated the principle of the competence in law enforcement, as it was issued by the Ministry of Interior, without being legally categorized as the authority to do so - at that time - (Alwasatnews, 2013). Moreover, including the punishment of "revoking the nationality" in the penalties stipulated by the Law on Protecting Society from Terrorist Acts requires that the accused shall be tried before pronouncing the sanction; nevertheless, all decisions were issued before trials.

THE EFFECTIVENESS OF REVOKING CITIZENSHIP TO PROTECT SOCIETY FROM TERRORIST ACTS

Revoking citizenships as a tool to combat terrorism means prioritizing the political system, i.e., the “state” over human rights, i.e., “the citizen”. Some resorted to referring cases of revoking citizenship to the International Criminal Court Accusing, noting that it is difficult for the Local Criminal Court to achieve neutralization in the event of accusing a “citizen” of committing terrorist crimes against the political system (Lavi). Proponents of citizenship revocation assert that adopting this measure shall be a final solution (Babar, 2017), as it does not guarantee the elimination of the threat of terrorism from society.

UNDERMINING THE WORK OF CIVIL SOCIETY BY STRIPPING THE NATIONALITY OF ACTIVISTS

The campaign to revoke citizenship began in the wake of the February 2011 demonstrations. Most of those whose citizenships have been revoked were activists and parliamentarians who had participated in the popular demands’ movement (Crushing Civil Society, 2017). It is imperative in this context to consider two types of civil activities: Activities that are met with this punishment, and activities that developed after the exhaustion of this authority.

Two trends exist in the nationality revocation policies against activists: First, many of those whose nationalities were revoked were members of the Council of Representatives. They worked extensively during their membership period to tackle cases of corruption as well as political and security issues.

Second, these policies also tend to punish Bahraini activists who are abroad, and who are involved in documenting human rights violations in Bahrain through cooperation with international organizations such as the United Nations to issue periodic reports assessing the adherence of the Bahraini authorities to the ratified international conventions. This policy aims to undermine the work of activists abroad by depriving them of their official political affiliation to their country, thus nullifying their activities’ effectiveness and their cooperation with the international organizations (ADHRB, 2017).

It is also difficult to deconstruct the type of civil activity punished by revoking citizenship without taking into consideration that the majority of the victims are Baharna and Ajam (ADHRB, 2017), which may suggest an ethnic-based tendency in the policy implementation.

STRATEGIES AND TACTICS: CIVIL SOCIETY IN THE FACE OF THE POLITICS OF REVOKING CITIZENSHIP

During the first two years of policy implementation, Bahraini opposition political societies held seminars and stances of solidarity with Bahraini citizens whose nationalities were revoked. Members of the families of the victims participated, along with Bahraini lawyers. They also emphasized the unconstitutionality of these decisions (Alwasatnews, 2013) through:

ATTEMPTS TO APPEAL AGAINST THE DECISION TO REVOKE CITIZENSHIP LEGALLY

A group of Bahraini lawyers formed a committee to defend those whose nationalities had been revoked (Alwasatnews, 2015). Bahraini lawyer, Muhammad Al-Tajer, appealed against the decision to revoke Ibrahim Karimi’s nationality, considering that the decision carries constitutional suspicions, for it was issued by an entity that does not have the eligibility (Alwasatnews, 2012). Nevertheless, the Bahraini judiciary rejected this case (Alwasatnews, 2014).

PROTESTS IN DIRAZ

In June 2016, the King issued a decree stipulating the revocation of Bahraini nationality from the religious figure, Issa Qassem, according to Article 10 of the Bahraini Nationality Law and the recommendations of the National Council, which stipulate that “Bahraini citizenship shall be revoked from the perpetrators and instigators of terrorist crimes” (Alwasatnews, 2016).

Many citizens gathered to protest against this decision around Qassem’s house in Diraz (BBC, 2016), and the authorities resorted to confront the protests with a security solution. Hence, they closed the area and set checkpoints to prevent non-residents from entering. These protests ended a year later with a security campaign launched to disperse the demonstrators (Alwasatnews, 2016).

DOCUMENTATION OF DATA RELATED TO REVOCATION OF NATIONALITY: THE “I AM BAHRAINI” PORTAL

A group of human rights organizations specialized in Bahraini affairs, including the Bahrain Centre for Human Rights, SALAM Organization for Democracy and Human Rights and the Bahrain Center for Studies in London, have created the “ANA Bahraini” site (I am Bahraini) as a reference for statistics and data related to citizenship revocation in Bahrain. The site provides a platform to display all human rights research and reports that discuss this issue in Bahrain.

CONCLUSION

Exclusion of civil society from the political field and the trend towards securitizing citizenship

Revoking citizenship was one of the policies adopted by Bahrain's authorities to counter popular pressure after the demonstrations in February 2011 (Kinnimont, 2013). Legislation permitting revocation of nationality under the Law of Protecting Society from Terrorist Acts refers to securitizing Bahraini nationality (Babar, 2017), especially that security concerns were prioritized at the expense of civil participation and the exercise of the political rights of citizens. Whereas human rights bypass states' sovereignty and laws.

Moreover, policy implementation - on an ethnic basis - designates that the increasing use of powers to revoke citizenship occurs within the scope of identity politics; therefore, it is difficult for civil society to make an impact on these policies without achieving the principle of citizenship through a social convention that guarantees citizens their political and civil rights regardless of their ethnic or sectarian affiliations.

One of the objectives on which the demonstrations in February 2011 relied was people's desire to move from a state of "passive voice" to a state of "citizenship" that requires active participation in the political field. The policy of revoking citizenship came as a result in response to this popular desire.

Civil society's attempts in Bahrain to confront this policy or achieve an impact on the legislation approach have not succeeded, for they were issued to undermine its political work. Attempts made by activists abroad are also very unlikely to lead to an improvement of the status of citizenship in Bahrain as they do not have access to policy circles on the grounds and they are not interacting with local decision-makers.

It is also imperative to note that the popular movement in Diraz may have come as a protest against revoking the citizenship of a religious figure and not against the policy in general. Therefore, this movement also did not go beyond the scope of identity politics and was unable to create any feasible changes. In addition, seeking accountability through the Bahraini Parliament is unrealistic under the current circumstances especially given these policies were passed and implemented by issuing royal decrees, which reflects the difficulty of popular influence in enacting legislation and policies in Bahrain in light of the limited capacities of the Council of Representatives.



REFERENCES

Bahrain's Compliance with the International Covenant on Civil and Political Rights. (2017, July 24). Retrieved from [https://tbinternet.ohchr.org/Treaties/CCPR/Shared Documents/BHR/INT_CCPR_ICO_BHR_28328_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BHR/INT_CCPR_ICO_BHR_28328_E.pdf).

Submission for Bahrain's List of Issues Prior to Reporting (LOIPR) under the Convention on the Elimination of All Forms of Racial Discrimination (Rep.). (2017). Americans for Democracy and Human Rights in Bahrain. Retrieved from https://tbinternet.ohchr.org/Treaties/CERD/Shared Documents/BHR/INT_CERD_ICD_BHR_28077_E.docx.

November 6). Al- (2012). إسقاط الجنسية عن 31 بحرينياً بينهم رجال دين وناشطان سابقان ومحامٍ. *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/714002.html>
الملك يصدر مرسومين بشأن حماية المجتمع من الأعمال الإرهابية وتنظيم جمع المال للأغراض العامة. (2013), July 31). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/797321.html>

Alwasat- (December 27, 2015). الكوهي تطالب بحرمان أسر المسقطه جنسياتهم من الإسكان. *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/1061562.html>
news. Retrieved from <http://www.alwasatnews.com/news/1061562.html>
2017) وقف المزايا القاعدية عن المسقطه جنسياتهم. (2017) *Alayam*. Retrieved from <http://www.alayam.com/ayam/Parliament/656188/News.html>

Stop Revoking Citizenships – BIRD Publishes Full Documentation. (2016, February 8). Retrieved from <http://birdbh.org/2016/02/revoked-citizenship/>
2017) المحكمة الإدارية ترفض إلغاء قرار وزير الداخلية بإسقاط الجنسية عن ثمانية. (2017) *Akhbar-alkhaleej*. Retrieved from <http://akhbar-alkhaleej.com/news/article/1059646>

Kinnimont, J. (2013). Citizenship in the Gulf. In *The Gulf States and the Arab Uprisings*. Retrieved from https://www.chathamhouse.org/sites/default/files/public/Research/Middle East/0713ch_kinnimont.pdf

Lavi, S. (n.d.). Citizenship Revocation as Punishment: On the Modern Bond of Citizenship and Its Criminal Breach. *University of Toronto Law Journal*, 64. Retrieved from <https://www.law.utoronto.ca/documents/conferences2/Constitutionalism09-Lavi.pdf>.

Babar, Z. (2017). The "Enemy Within": Citizenship-Stripping in the Post-Arab Spring GCC. *The Middle East Journal*, 71(4), 525-543. Retrieved from <https://muse.jhu.edu/>.

Albarazi, Z., & Tucker, J. (2014). Citizenship as Political Tool: The Recent Turmoil in the MENA and the Creation and Resolution of Statelessness. *Tilburg Law School Research Paper*. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2376426.

Crushing Civil Society (Rep.). (2017, June). Retrieved https://www.adhrb.org/wp-content/uploads/2017/06/2017.6.5_crushing-civil-society_web.pdf

28 2013) قضايا المسقطه جنسياتهم. (March 2). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/743411.html>

2013) قانونيون: إسقاط جنسيات 31 بحرينياً يخالف دستور البحرين. (October 31). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/824356.html>

2015) 4 أشخاص يرفعون دعوى ضد مرسوم إسقاط جنسياتهم. (February 16). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/962311.html>

2016) 8) التاجر: "الإستئناف" تؤيد إبعاد كريمي وإسفيديار خارج البحرين. (March 8). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/1088138.html>

2014) القضاء يرفض دعوى إبراهيم كريمي لإلغاء قرار إسقاط جنسيته. (April 29). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/880824.html>

2012) منع كريمي من الطعن قضائياً في إسقاط جنسيته. (December 11). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/722553.html>

2016) 30) الوسط تنشر نص مرسوم إسقاط الجنسية عن الشيخ عيسى أحمد قاسم. (June 30). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/1133361.html>

Bahrain Revokes Top Shia Cleric Isa Qassim's Citizenship. (2016, June 20). BBC. Retrieved from <https://www.bbc.com/news/world-middle-east-36578000>

الداخلية: ه حالات وفاة في صفوف خارجين عن القانون. (2017). *Alwasatnews*. Retrieved from <http://www.alwasatnews.com/news/1243126.html>

Ana Bahraini: A Dedicated Network on Revoking Citizenship in Bahrain. Retrieved from <https://www.anabahraini.org/2018/02/23/ana-bahraini-a-dedicated-network-on-revoking-citizenship-in-bahrain/>

مرسوم بقانون رقم (20) لسنة 2013 بتعديل بعض أحكام القانون رقم (58) لسنة 2006 بشأن حماية "المجتمع من الأعمال الإرهابية". *Legislation and Legal Opinion Commission*. Retrieved from <http://www.legalaffairs.gov.bh/LegislationSearchDetails.aspx?id=30465#.XEDpJi2B2-U>.

"Legislation" قانون رقم (21) لسنة 2014 بتعديل بعض أحكام قانون الجنسية البحرينية لعام 1963. *Legislation and Legal Opinion Commission*. Retrieved from <http://www.legalaffairs.gov.bh/Legislation-SearchDetails.aspx?id=71239#.XEDoty2B2-W>

BREAKING THE MOLD PROJECT

In mid-2018, the "Civil Society Actors and Policymaking in the Arab World" program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project "Arab Civil Society Actors and their Quest to Influence Policy-Making". This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.

Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project's goals, and were presented by the researchers in various themed sessions over the course of the two days.

THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media's expanding role, which some claim has catalyzed the Uprisings throughout the region.

THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.

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