

Refugees International

# **The State of Kuwait**

Submission to the United Nations  
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## **Submitting Organization and Methodology**

1. Refugees International (RI) is a 30-year-old independent non-governmental organization (NGO) based in Washington, DC, USA, that advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises. RI's work includes efforts on behalf of refugees, IDPs, and stateless people.
2. RI visited Kuwait in July 2007, August 2008, and most recently in June 2009 to examine the problem of statelessness and to advocate for solutions. Each mission included interviews with stateless people in the regions of the country where they reside, as well as meetings with UN staff, NGO representatives, scholars, lawyers, and government officials. Field bulletins, longer reports, and stories highlighting individual cases were released after these trips.

## **Statelessness**

3. Everyone has the right to a nationality, but millions of people around the world have no legal tie to any government and are stateless due to a range of reasons including the redrawing of borders as a result of inter-state conflict, independence movements, and nation-building, sometimes mixed with racial or ethnic discrimination.
4. It is estimated that more than 12 million people around the world lack effective nationality. Either having never acquired citizenship in the countries where they were born, or having lost it, they have no legal bond of nationality with any state. They are stateless or at risk of de jure or de facto statelessness.
5. Without the bonds of citizenship, stateless individuals face denial of subsidiary human rights such as political participation, freedom of movement, formal employment, education, and healthcare.

## **Statelessness in Kuwait**

6. In Kuwait, the Arabic word "*bidun*," meaning "without" and short for "*bidun jinsiya*" (without citizenship) is used to denote longtime residents who are stateless.
7. Kuwait passed a Nationality Law in 1959 which defined nationals as persons who settled in the country before 1920 and maintained normal residence there until enactment of the law. At that time, a third of the population was classified as bidun (also bidoon or bedoon). The current number of bidun ranges from 80,000-140,000 and lives in squalid housing projects in Sulaibiya and Jahra, in Ahmadi and the rundown neighborhood of Jilib ash-Shuyukh. They are nevertheless indistinguishable from citizens and for years enjoyed the same services and privileges. They share a common language and culture. It is common that families comprise members who are citizens and others who are bidun. And despite the country's general progress, such as the notable inclusion of women parliamentarians for the first time in 2009, the human rights problem of statelessness has yet to be addressed in any meaningful way.

## **History of the Problem**

8. The root of the problem stems as far back as the vexatious negotiations to set the borders between Saudi Arabia and its neighbors, Kuwait and Iraq, when in 1922 (the 'Uqair Conference), Abdul Aziz ibn Saud, the founder of Saudi Arabia, insisted that borders be defined by people and not territory and reflect the movements of Bedouin tribes. Kuwait's border with Saudi Arabia was not fixed until 1970. Saudi Arabia's border with Iraq was set in 1991, after the first Persian Gulf War. Many of Kuwait's stateless today are affiliated with the Anazeh, Shammar, Abu Kamel and other tribes that once roamed across borders of present day Kuwait, Saudi Arabia, Syria and Iraq.
9. The country's 1959 Nationality Law defined Kuwaiti nationals as persons who were settled in Kuwait prior to 1920 and who maintained their normal residence there until the date of the publication of the law. At the time, some Bedouin failed to understand the importance of citizenship and neglected to claim it. Others were loath to abandon a centuries-old way of life, or were illiterate and thus unable to furnish documentation proving settlement. Approximately a third of the population was recognized as *bone fide* citizens, founding families of the country. Another third was naturalized and granted partial citizenship rights. The remaining third was classified as *bidun jinsiya*.
10. The law has been amended 14 times since and with almost every amendment, it has become more restrictive. For example, the 1959 law (Article 3) granted citizenship to children of a Kuwaiti mother when at least one of four circumstances existed: the father was unknown, paternity could not be proven, the father's nationality was unknown, or he was stateless. When amended in 1980, the mention of unknown nationality and statelessness was omitted.
11. Bidun once made up the bulk of the armed forces and police, individuals who served their country loyally. After 1985, however, Kuwait dismissed bidun from their jobs, barred their children from schools, and revoked their driving licenses.
12. Following the liberation of Kuwait from Iraqi occupation in 1991, the government stepped up its efforts to strip the bidun of their rights. They were fired *en masse* from positions in the military and police, and only a small fraction was rehired. Those dismissed could not collect their severance pay unless they produced a passport, either Kuwaiti or foreign, or left the country. Tens of thousands of bidun who had fled the country or were forced to leave subsequently were not allowed to return.
13. With a foreign passport, bidun would have been able to obtain five-year residence permits like other guest workers. In desperation, many bidun bought counterfeit passports from countries such as Somalia, Yemen, Eritrea and the Dominican Republic. One bidun explained, "I could either leave Kuwait or produce any other country's passport. Then I could have kept my job with a work permit." He rejected both options and took a job in the private sector. "This is my home," he said.

## **Bidun Today**

14. The present estimated number of bidun in Kuwait ranges from 80,000 to 140,000, less than half the number who resided in the country prior to Iraq's invasion in 1990. Those who remain are subject to systematic discrimination and their lack of legal status impacts all areas of life for bidun: their identity, family life, residence, health, livelihood, and lack of a political voice. The problem starts at birth.
15. The Convention of the Rights of the Child states that every child has the right to an identity. But when a bidun father pulls out a copy of his child's birth declaration, an observer can immediately see the problems. The child's name is not indicated on the document, and any information regarding the child's national identity, place of birth, and parents' names is either non-existent or has long since faded. The declaration of birth is only meant as a temporary document to be taken to the Ministry of Health and exchanged for a birth certificate. Stateless children generally cannot obtain a birth certificate because parents are not given marriage certificates.
16. As a result of not being able to register officially the birth of a child, a marriage, or a death bidun are relegated to a bureaucratic no man's land. One young woman described the plight of the bidun straightforwardly, "We are people who don't exist."
17. Adults who have managed to obtain an ID card describe the renewal process as interrogation. "They try to prove your family roots are derived from any other country," one man stated. Then there are many forms to be completed, supporting documentation, photographs, and a KWD 82 fee (\$306). "If after this you are willing to leave the country, they will treat you gently. Otherwise you are referred for DNA, blood tests, and finger printing." Some succumb to the lure of counterfeit passports.
18. Children can not access government education. Parents must pay for private, poorer-quality schooling. Unable to afford tuition, they can not pursue a higher education.
19. Employment in the formal sector is precarious and only possible through "favors", so bidun seek livelihoods in the underground economy – selling produce on the street, hawking bootleg DVDs, or selling blood and organs. Others work 'under the table' using an assumed name. Their vulnerable status and lack of institutional protection renders them exploitable in what one source described as "a new form of slavery."
20. On driver licenses they are characterized as "illegal residents." Some have special passports, grey in color and valid for five years that have to be renewed after only one journey though this requirement is reported to be changing.
21. Healthcare offered free of charge to citizens is withheld from bidun. Prescription medication is largely subsidized by the government, a benefit denied non-citizens. One stateless person couldn't afford medication from a private pharmacy for a chronic illness and a family member reported that the Kuwaiti Red Cross that they

can afford to purchase it. A father described the recent illness of his young son. Despite the fact that the mother is a Kuwaiti citizen, the local doctor would not treat the boy. The man transported his sick child to a private hospital, which cost 80 Kuwaiti Dinar (US\$ 240). Another child needed care outside Kuwait. Without the necessary documents to travel to a facility equipped to respond, the child died.

22. The Kuwaiti Red Crescent provides food assistance on a bi-monthly basis to a limited number of bidun families and distributes clothes at Ramadan. The International Committee of the Red Cross pursues missing person cases from the time of the Iraqi occupation and conducts detention visits to Iraqis, stateless and Palestinian detainees, some of whom were detained in connection with the 2nd Gulf War. UNHCR, mandated to work on behalf of stateless persons, has not acted in a robust way.
23. Many bidun are reluctant to marry, because they can not support a family and fear that their children would face the same hardships. Those who married were denied marriage certificates, though some go to unusual lengths to obtain one. Couples must either bring lawsuits to prove in court that they are indeed married, or arrange to have their marriages registered in another Arabian Gulf country. Some stateless couples use a legal resident's name. Other families are forced to live separately in their attempts to resolve their problem by changing their marital status or by traveling to countries where they think they can find alternative solutions.
24. As citizenship in Kuwait is passed on to children through their fathers, not their mothers. Consequently, the children of a Kuwaiti woman and a bidun husband are also bidun. A child of a divorced Kuwaiti woman or widow can acquire citizenship, so there is an incentive for couples to divorce for their children's future.
25. Another factor that contributes to the perpetuation of statelessness is the lack of transparency in the process of adjusting one's legal status. When dealing with government civil administration offices, providers of public social services, and border crossing guards, exchanging money or other favors can determine outcomes. Stateless people are forced into making their own compromises, using another person's name to buy a home, register a marriage, or maintain a business, for example, or purchasing a passport with the most unlikely national affiliation.
26. The pattern of corruption is self-perpetuating. Individuals benefitting from it obviously have a strong incentive to maintain the status-quo. Global efforts to increase transparency, curtail corruption, and reduce production of fraudulent travel and identity documents should be broadened to address underlying causes, and include investigations of the workings of citizenship/naturalization boards. Efforts should be made to study and document economic benefits accruing to governments (or to powerful individuals within them) that fail to find and effectively promote solutions to statelessness within their territories.
27. Courts in Kuwait are barred from hearing cases that touch on matters relating to citizenship. As a consequence, bidun can not have citizenship claims adjudicated.

## **Action Taken**

28. Parliament's committee to address the issue of the bidun has not resulted in concrete action. The annual law granting citizenship to some 2,000 bidun is commendable but generally remains unfulfilled. Bidun and sympathetic citizens formed the Popular Committee for Support of the Bidun. In 2006, some 5,000 people attended "Bidun Speak", the first public event of its kind. These signs would suggest that the time is right for the Kuwaiti government to take courageous steps, through legislative and judicial reform, to resolve this contentious issue, accepting the implications, financial, political and otherwise, that these would necessarily entail.
29. In the interim Kuwait should, at a minimum, address the humanitarian consequences of statelessness. It should guarantee the bidun the right to work and earn equitable incomes, allow their children to enroll in public schools, provide them healthcare free of charge, and issue all persons certificates that record births, marriages, and deaths.

## **Recommendations**

30. In 2008, the Committee of the Convention on the Rights of the Child recommended Kuwait establish a comprehensive data collection system in order to ensure that data, disaggregated inter alia by age, sex, minority groups, vulnerable children, including migrant children and stateless children (Bidoon) is systematically collected and analyzed for measuring policy implementation. The Committee encouraged Kuwait to seek the assistance of UN agencies and programs, including UNICEF. The Committee also recommended Kuwait (a) Continue and strengthen education and training on the provisions of the Optional Protocol; (b) Strengthen measures to disseminate the provisions of the Optional Protocol, with priority given to migrant children and stateless children (Bidoon).
31. In 1999, the Committee on the Elimination of Racial Discrimination (CERD) highlighted its concern that, in spite of efforts, the Government of Kuwait had not found a solution to the problems of bidoons, the majority of whom are still stateless. The Committee recommended that the State party find a solution to the problems faced by the bidoons and ensure the enjoyment of their rights without any discrimination, in accordance with articles 2 and 5 of the Convention.
32. The surest guarantors of national, regional, and global security are inclusive and equal access to civil rights and services and the prevention of discrimination. Kuwait must undertake transparent reviews of all bidun cases toward providing naturalization as well as undertake a tolerance campaign to address discrimination in society at large.
33. "When Iraq occupied Kuwait," recalled one man, "the main argument for assistance for liberation was Iraq's violation of international law and the global community's obligation to respond. The same obligations ought to apply to regularizing the status of bidun. You can't cherry-pick statutes of international law."