



Systematic Human Rights Violations in the State of Kuwait

State of Kuwait
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I. Introduction

1. Formed in 2002, Americans for Democracy & Human Rights in Bahrain (ADHRB) fosters awareness of, and support for, democracy and human rights in Bahrain and the Gulf Region.

In this document, ADHRB reviews the Government of Kuwait's compliance with its international human rights obligations to create a tolerant and inclusive society which safeguards fundamental human rights and freedoms. ADHRB welcomes the opportunity to offer comments on the state of human rights and freedoms in the State of Kuwait to the Office of the High Commissioner on Human Rights. This submission assesses Kuwait's implementation of its 2nd Cycle Universal Periodic Review (UPR) recommendations concerning:

- Rights violations of non-citizens and stateless persons;
- Freedom of expression, assembly, and association;
- Women's rights and equality; and
- Torture, inhumane prison conditions, and forced labor.

II. Executive Summary

2. The Government of the State of Kuwait claims that "the promotion of human rights forms an integral part of the mission that it is striving to accomplish in conformity with its religion, its Arab identity and its humanitarian values since the provisions of its Constitution and all its legislation form a framework for the application of the lofty principles in which human rights have pride of place."¹ The government does not, however, actively protect the rights and freedoms of stateless persons and non-citizens, erecting obstacles to inclusion and equality within the country's judiciary and legislative practice. Those without citizenship also have more difficulty gaining access to employment, healthcare, and housing, along with their interrelated freedoms of expression, assembly, speech, and movement.

The State of Kuwait continues to prohibit certain forms of expression, in particular criticism of the government, the ruling system, and certain religions (including Islam and other Abrahamic faiths), regardless of citizenship status. Authorities regularly arbitrarily arrest, detain, and torture writers, bloggers, human rights defenders, and other activists who criticize the government and its policies, convicting many to lengthy prison terms after unfair trials marred by due process violations. Authorities also ban activists and writers from traveling internationally, intimidate, harass, and threaten them into silence, and occasionally sentence some to public floggings.

3. During its 2nd cycle UPR in 2015, Kuwait received the following notable recommendations pertaining to the rights of the Bidoon and other stateless persons:

¹ A/HRC/WG.6/21/KWT/1, page 28

157.30. Ratify the Conventions on refugees and stateless persons (Honduras);

157.31. Accede to the 1954 Convention relating to the Status of Stateless Persons (Slovakia);

157.32. Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, with a view to finding a permanent solution to the legal status of Bidouns [*sic*] in Kuwait (Australia); and

157.34. Make a credible commitment to improving the status of Bidouns by ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness (Germany).

The government noted these recommendations, but has yet to take substantive action promoting the rights of the Bidoon and other non-citizens.

The following recommendations were made to the State of Kuwait during the 2nd UPR cycle pertaining to freedom of expression, assembly, and association:

157.174. Guarantee the right to freedom of expression and allow the use of social media without undue restrictions and limitations (Italy);

157.181. Ensure the realization of freedom of the press and the media, in line with ICCPR standards (Mexico);

157.177. Ensure that media and internet laws fully comply with Kuwait's obligations to protect freedom of expression under international agreements (United States of America);

157.179. Review existing laws including the Law on Press and Publication to ensure freedom of expression in accordance with international standards (Austria);

157.180. Protect and respect the right to freedom of expression and introduce legislation and institutions to ensure the independence of the media, prevent censorship and promote transparency in public affairs (Norway);

157.173. Legislate to guarantee the freedoms of expression, of assembly and of opinion (Australia);

157.182. Guarantee in law and in practice, without any abusive restrictions, freedom of peaceful assembly and freedoms of opinion and expression, on the internet and in the traditional media, in line with the International Covenant on Civil and Political Rights ratified by Kuwait (France); and

157.183. Guarantee the right to freedom of expression, association and peaceful assembly of journalists, activists, human rights defenders and those who take part in demonstrations (Uruguay);

Each was supported by the State of Kuwait during the 2nd Cycle, yet the government has failed to implement legislation in a manner protecting the unrestricted operation of independent civil society and human rights organizations. In contrast, the government uses its law on associations to criminalize independent civil society groups. Political participation, gender equality, and labor market conditions are also items of concern, with reports of recent human rights violations.

ADHRB believes that the Kuwaiti government has not successfully implemented its 2nd Cycle UPR recommendations, with authorities continuing to endanger fundamental human rights and freedoms.

III. Lack of positive legislation to protect the rights of stateless persons and non-citizens

3. Stateless persons known as *Bidoon* (sometimes transliterated from Arabic as *Bidoun* or *Bidun*) constitute a population of around 100,000 within the State of Kuwait, but routinely face legal bias in courts favoring Kuwaiti citizens, torture and abuse at the hands of security forces, restrictions on freedom of assembly and freedom of movement, and discrimination. According to Amnesty International, more than 100,000 Bidoon are stateless today, despite warnings from the UN Committee on the Elimination of Racial Discrimination urging Kuwait to guarantee their inclusion and access to state services.²

4. The judiciary system reportedly discriminates against non-citizens' cases, deciding in favor of Kuwaiti nationals. Proactive legislation does not exist in Kuwait to protect citizens and non-citizens alike from potential administrative deportation without judicial review. Citizenship and residency questions are not subject to judicial review in Kuwait, nor can those whose residency has been stripped or canceled due to their arrest appeal via the judicial process.³

5. The Bidoon cite having experienced torture and abuse at the hands of Kuwaiti police and security forces, particularly during attempts to exercise their right to freedom of assembly and freedom of expression. Related to freedoms of assembly and expression, the Bidoon report the Kuwaiti government's routine prohibition of their gathering in public space under Article 12 of the 1979 Public Gatherings Law. Bidoon and other stateless

² 2018 Country Reports on Human Rights Practices: Kuwait. US Department of State, 2018. Pages 11-12, 16-17. Web.; *Prisoners of the Past: Kuwaiti Bidun and the Burden of Statelessness*. Human Rights Watch, 2011. Web.; *Country Information and Guidance, Kuwait: Bidoons. Version 2.0*. Home Office of the United Kingdom. July 2016. Web.; Amnesty International Report 2017/18: Kuwait. Web.

³ US Department of State, Country Report Kuwait 2018. Pages 6-7, 16-17. Web.; *Prisoners of the Past*, 2011.; Amnesty International, 2017/18.

persons or non-citizens in Kuwait report inhibited freedom of movement by police and other government forces, due to a lack of sufficient identification, travel documentation, and/or exercised prejudice. Frequent arbitrary arrest of protestors is also reported. These actions run contrary to the State's expressed support of related recommendations made by Estonia, for instance, during the 2nd UPR cycle.⁴

9. The problem of stateless persons can be exacerbated by existing legal and cultural norms in Kuwait, including prohibiting non-citizens from transferring citizenship to their children. Nor can female citizens transfer citizenship to children born to non-Kuwaiti fathers. There are also reports of prevalent societal discrimination towards non-citizens in Kuwait in the housing, employment, education, and healthcare sectors.⁵

12. Discrimination against Bidoons in healthcare, employment, and education is also prevalent, with issues arising from lack of citizenship and proper documentation. Foreign or non-citizen workers report rampant employer abuse of the *kafala* sponsorship system and participation by employers in visa trading practices.⁶

IV. Restrictions on freedom of expression, assembly, and association

14. The Kuwaiti government continues to restrict Kuwaitis' rights to freedom of speech and expression, with authorities using provisions in the constitution, national security law, and other legislation to prohibit lawful expression of dissent.⁷

15. Religious persecution remains problematic, as does a lack of sufficient legal and judicial provisions for protecting the rights of minority groups. Shia Muslims, for example, report experiencing discrimination at the hands of the Kuwaiti government and fellow citizens. Some religious groups claim they must practice "discreet self-censorship" to avoid attracting attention and causing conflict with the State.⁸

16. Internet freedom is limited within Kuwait, with authorities monitoring internet activity and social media sites to surveil and restrict those who publicly express anti-government ideology. Non-governmental organizations (NGOs) and religious denominations registration requirements remain in place, threatening citizens' closely-linked freedoms of speech, expression and association and the flourishing of independent civil society. For example, authorities recently detained Bidoon activist Abdulhakim al-Fadhli for participating in a peaceful demonstration in 2012. According to Amnesty International reports, the court posted "a bail of 500 Kuwaiti dinars (about USD1,660) to halt the implementation of the prison

⁴ A/HRC/29/17/Add.1; Department of State, *Country Report Kuwait*. Pages 13-14, 16-17. Web.; *Prisoners of the Past*. 2011. Web.; Amnesty International, 2017/18. Web.

⁵ Department of State, *Country Report Kuwait*. Pages 14-15, 26. Web.

⁶ *Ibid.* Pages 9, 16-17, 29-31.

⁷ *Ibid.* Pages 9-13.

⁸ *Ibid.* Pages 32-33; *Religious Freedom Report 2008: Kuwait*. US Department of State. Pages 1, 8, 10-12. Web.

sentence on condition that [al-Fadhli and other political detainees] signed a pledge to no longer take part in demonstrations.”⁹

18. Limitations to full political participation still exist in Kuwait. Recent reforms to the State’s election law, for instance, prevent those convicted for “insulting” God, the prophets, or the emir from running or voting in elections. According to Amnesty International, the Government sometimes detains dissenting Members of Parliament, like Musallam al-Barrak, for critical opinions of the ruling elite.¹⁰

V. Gender equality and non-discrimination

19. Women in Kuwait still face labor market discrimination, unequal pay, and obstacles to protected employment, especially in domestic worker situations. No laws exist that explicitly prohibit domestic violence or rape in Kuwait, and full gender equality in marital law has yet to be attained, as women in Kuwait are permitted to appeal to courts for divorce on severely limited grounds.¹¹

22. Women are unable to transmit Kuwaiti citizenship to their children, resulting in statelessness should the child be fathered by a non-citizen. As a result, children born to non-Kuwaiti men face obstacles to fundamental rights and freedoms, unequal protection under law, discrimination and social stigma, barriers to political participation, and limited access to social goods and services.¹²

VI. Torture, inhumane prison conditions, and forced labor

23. Prison conditions in Kuwait fail to meet Red Cross standards, indicating they require improvement. There remain concerns over torture, arbitrary detention, inhumane treatment, and the use of capital punishment. The United Nations Committee Against Torture (CAT) recently highlighted reports of torture by Kuwaiti police and security forces (involving protesters, members of minorities, and persons suspected of terrorist activities) and called for such violations to cease. Furthermore, the death penalty is reportedly still used by the State of Kuwait in retribution for non-violent offenses.¹³

25. Forced labour is also an issue of concern, with workers citing uncompensated overtime conditions and limited rest. Additionally, the protections afforded domestic workers by Kuwaiti laws (i.e., Law 68/15) are still weaker than those generally covering employees

⁹ Department of State, *Country Report: Kuwait*. Pages 8, 13; Department of State, *Religious Freedom*. Pages 4-5.; *Amnesty International Report*, 2017/18.

¹⁰ Department of State, *Country Report: Kuwait*. Pages 18-19.

¹¹ *Ibid.* Pages 21-23.

¹² *Ibid.* Pages 13-14.

¹³ *Ibid.* Pages 1-4, 6-7.; CAT/C/KWT/CO/3.

under the State's labor law. Some domestic workers are subjected to conviction, prosecution, deportation, and detention.¹⁴

VII. Recommendations

26. The State of Kuwait is not meeting its international commitments to protect human rights, in particular the rights of stateless persons, the rights to freedom of expression, assembly, and association, and gender equality and non-discrimination. Furthermore, the government is accused of participating in arbitrary detention, torture, inhumane treatment, and of permitting forced labor and human trafficking.

We therefore call on the Government of the State of Kuwait to implement the following recommendations:

- Ratify without reservations the main human rights instruments to which it is not yet a party;
- Guarantee the fundamental human rights and freedoms of all persons, without discriminating and excluding stateless populations like the Bidoon and other non-citizens;
- Cease the harassment, arbitrary arrest, and detention of individuals for politically and religiously motivated reasons;
- Enact and uphold legislation guaranteeing the right to freedom of expression, assembly, and association which includes the right to receive or impart information;
- Reform existing laws and regulations to remove language that contradicts or fails to comply with international human rights law on freedom of expression, assembly, and movement;
- Improve prison and detention center conditions in alignment with International Committee of the Red Cross standards; and
- Ensure that labor market practices respect international human rights law, preventing human trafficking, employer abuse of labor, and granting increased protection to domestic workers.

¹⁴ Department of State, *Country Report: Kuwait*. Pages 29-31, 33-35.; US Department of State. *Trafficking in Persons Report*. 2018. Pages 260-262. Web.; Amnesty International Report 2017/18: Kuwait. Web.