

Report for the
Universal Periodic Review (Third Cycle)
Kuwait 2020
Submission July 2019

البدون End
Statelessness
(Australia)

Kuwait's humanitarian disaster

Inter-generational erasure, ethnic cleansing
and genocide of the Bedoon

(Please refer to the Annexes)

'Unfortunately, criminals and traffickers are not the only ones who can render persons stateless by denying citizens of the means to prove their citizenship. Sometimes governments commit what is known as administrative ethnic cleansing, or erasure.'

David Weissbrodt, 2006, 'The Human Rights of Stateless Persons'

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Part 1

[1.0] Assessment of Previous Recommendations of the UPR of Kuwait 2015

All but one of the previous recommendations by state parties on the Bedoon at the Universal Periodic Review of Kuwait 2015 were 'noted' rather than 'supported' by the state (and one rejected). It is difficult to explain why the Human Rights Committee (HRC) did not surmise that the decades-long violations against the Bedoun had already reached catastrophic proportions in 2015.

[1.1] The approach is indicative of international complacency about the Bedoun situation, exacerbating GOK's (Government of Kuwait) belligerence toward the Bedoon, in refusing to accept their identity and culture, national history, the legitimacy of their legal claims or the state's responsibility to the group in international law and the religion of Islam. GOKs position toward the population is one of ongoing aggression. The end-goal is total population eradication. The Special Procedures Office in Geneva received a request for the Special Rapporteur on Genocide to investigate our very well evidenced complaint in February 2019. The Rapporteur appears to be unable to respond appropriately due to corruption.

[1.2] Human rights NGOs have dramatically reduced reporting since 2015; elaboration by academics is very limited. Human rights activism has become popularised, but human rights defender/monitor organisations have cultivated a climate of exclusivity and exclude Bedouns from the most important levels of participation. They also discourage direct reports to the HRC, enabling Foreign NGOs to control and suppress information flow, who refuse to report comprehensively on the erasure. Grassroots funding and development opportunities are urgently needed.

[1.3] Refusal of the state to accept or to refer to the Bedoon as 'stateless'

GOK has refused to refer to the Bedoon as 'stateless' for decades (Kennedy, 2016). Doing so would be perceived as an admission the state had deprived Bedouns of citizenship intentionally. The recent example of female MP, Safa al Hasham, attested to the currency of this attitude: "There isn't such a thing as Bedoon, stateless" (*Sarmad Media Channel*, 28 April 2019).

[1.4] Reference to the Bedoon as 'illegal residents' mixes the group's identity with nationals of other states who live in Kuwait. This mixing obscures the identity of the Bedoon, particularly because GOK imposes fraudulent nationality labels on the Bedoon on all government records, including the National Census. The method facilitates concealment of human rights violations the Bedoon are vulnerable to as a result of the erasure (administrative ethnic cleansing), such as deaths, deportations and disappearance.

[1.5] Persistence of the claim the Bedoon are 'illegal residents' due to erasure

GOK's position on the identity of the Bedoon was elaborated in the *Report of the Working Group on the Universal Periodic Review* Kuwait Addendum Views* (4 June 2015, A/HRC/29/17/Add.1). Recommendation No. 157-30 was rejected. The recommendation cited,

'The issue that the State of Kuwait is looking into the status of illegal residents who have concealed their national identity documents and are thereby in breach of the Residence of Foreigners Act No. 17/59.'

[1.6] The status of a resident being legal or illegal, and their possession or concealment of documents, does not constitute their identity. The ongoing negation of the Bedoon's cultural identity, imposing a policy construction over them (no law was ever broken by the group to qualify as 'illegal') erases the Bedoun's national, indigenous and ethnic identities (see Annexes), demonstrating genocidal intent.

[1.7] GOK has not been 'looking into' the status of illegal residents to find out their genuine nationality or lack of nationality as cited. This is quite clear from the appalling quality of evidence it has released recently, to illustrate what it claims to be 'proof' of the Bedoun's 'original nationality'. These 'proofs' are legally invalid, and show the irrational ideology GOK has adopted toward the Bedoun for decades. The Bedoun are undergoing inter-generational erasure and ethnic cleansing. The group has entered a genocidal phase under the supervision of the HRC (see Annexes), while GOK and the state ruler has been lauded by the United Nations for its cash donations, distributed to buy silence and conceal the Bedoun disaster.

[1.8] Persistence of the claim the Bedoon have 'original nationality'

In the above report, GOK asserted:

'In the case of illegal residents, on the other hand, their original nationalities have been established by the Central Agency on the basis of documentary evidence and, consequently, not being covered by those Conventions, they are regarded as being in breach of the Residence of Foreigners Act No. 17/59.'

[1.9] GOK asserts the Bedoon have 'original nationality' because it does not want the group to have Kuwaiti nationality. However, GOK was aware the Bedoun were stateless when the Nationality Law (1959) of Kuwait was first introduced. Most Bedoun were initially deprived of citizenship via Decree 5/1960, determining how the Kuwait Nationality Law (1959) was applied. The policy of de-nationalisation (implemented 1986) was not based on claims of 'other nationality,' but tribal culture (al Moosa, 1976, in Kennedy, 2016).

[2.0] The forms of documentary evidence created by the state to substantiate its claim Bedoons have 'original nationality' significantly diverge from normative standards - to a disturbing extent - with one exception, the children of Kuwaiti citizen women who have stateless fathers. The state of Kuwait has never produced plausible proofs that the group as a whole or any substantive part, has nationality in other states. Only a handful of single cases of individuals claiming they are Bedoons have been found to be nationals of other states over last 60 years (al Anezi, 1989; Human Rights Watch, 1995; Kennedy, 2016). The claim is a mischaracterisation.

[2.1] GOK attempts to impose the policy construction of 'other nationality' by coercing and forcing the group to sign repeat confessional documents confessing ('admitting' or 'revealing') a nationality selected by the state. Sometimes members of a family are allotted different nationalities (Human

Rights Watch, 2011, p.26; Kennedy, 2016). GOK recently claimed it held some **five million documents** representing 'proof' Bedoons held 'original nationality' (Al Majilis Media, 11 December 2018). Each of these 'proof's of other nationality are analysed in the Annexe attached. The 'proofs' are either fraudulent, or so flawed as to be almost impossible to take seriously. GOK has run this program since 1983 - nearly forty years (al Anezi, 1989, p263, n132 in Kennedy, 2016, p.187).

[2.2] National report submitted by the state of Kuwait

(REF: National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21* Kuwait (A/HRC/WG.6/21/KWT/1)

This report contained a special section on the Bedoon. The data provided represented expenditures on stated numbers of Bedoons (i.e. statistics), rather than an audit of services delivered. As such, the data did not measure services received by the Bedoon, and may well represent money wasted on corruption. This method of communicating 'enjoyment of human rights' is the typical method used by GOK to obscure discovery of its true levels of service provision (see Kennedy, 2016). There is no way of verifying the information reported, because developmental data for the Bedoun is not collected. When a state is attempting to erase the population with genocidal intent, it is unlikely that the state is providing the services it claims, because such services promote life.

[2.3] Furthermore, since expulsion in 1985, the Bedoun have been excluded from state development plans, funded by the UNDP. They are not accounted for within the UN Population Division of the Department of Economic and Social Affairs. The Bedoun are denied the right to socioeconomic and cultural development via inclusion in the UN Sustainable Development Goals 2030 and Kuwait's national economic plan Vision 2035; no local and international NGOs have requested this. The group have rights as indigenous, tribal people and should be visited by the Special Rapporteur for the rights of Indigenous Peoples.

Part 2

[2.4] Progress on measures since the previous UPR Kuwait 2015

“Persistent Non-Cooperation” with recommendations

Progress made on measures citing the Bedoon and their conditions, recommended by state parties in the UPR Kuwait 2015:

Measures:

R/A 2.1. Acceptance of international norms

157.32, 157.33, 157.34

Level of implementation: NIL

R/A 8. Non-discrimination

157.120

Level of implementation: NIL

R/A 17: Rights related to name, identity, nationality

157.236, 157.240, 157.241, 157.242, 157.243, 157.244, 157.245, 157.247, 157.248, 157.249, 157.250, 157.251, 157.252, 157.253, 157.254

Level of implementation: NIL

Reference to all measures: A/HRC/29/17/Add.1

[2.5] Summary :

While the HRC recommends that the stakeholders assess the implementations of the previous UPR recommendations, there is little we can say about GOKs total failure to implement *all* state recommendations for the Bedoon, other than to emphasise that the non-implementation of these reflects the priorities of GOK to inflict human rights atrocities across the whole Bedoon population, as discussed herein and in the accompanying Annexe.

[2.6] R/A 25: Right to education

* Here, we refer to the right to “education for all” children in the context of the Bedoon.

Measures:

157.200, 157.201, 157.202, 157.203, 157.204

Level of implementation: NIL

Reference to all measures: A/HRC/29/17/Add.1

[2.7] **Summary:** We refer to the schooling of Bedoon children in the context of the measures that apply to all inhabitants of Kuwait. Bedoon children and youth are not accounted for in national statistics on education participation reported to UNESCO, such as the 'education for all' and 'children out of school' programs. This is because the state does not report the data to the international bodies. The state merely reports on expenditures on education for the Bedoon - not education received, enrolments, completions or marks received other than final year marks published with other students.

Part 3

[2.8] Developments since the last review and any other human rights issues

Genocide

Strong indicators of genocide were discovered by the author in *The Stateless Bedoon in Kuwait Society: A Study of Bedouin Culture, Identity and an Intellectual Ideal* (Kennedy, 2016). By late mid-2018, the situation had not improved. Subsequently, she submitted an 'Urgent Appeal to the Special Rapporteur on Genocide,' the Special Procedures unit of the Human Rights Council 14 February, 2019, with Bedoon leader Abdulhakim al Fadhli. The request is shown in the Annexe attached.

[2.9] The request received no response from the Special Rapporteur on Genocide. The author strongly urges the Human Rights Council to consider the Appeal, as it provides more information than can be included in this report, including primary data from the group itself. The document includes a historical summary of the development of policy to expel and destroy the Bedoon, and a comprehensive argument showing the state does have a clear intent to commit erasure (administrative ethnic cleansing) as a component of the existing pattern of genocide. GOK has over a number of decades, developed a sophisticated system of destruction designed to eradicate the population group and its and culture in part or in whole, thus satisfying the normative definition of genocide (Lemkin, 1944; Mann, 2005).

[3.0] Destruction of the population (the physical aspect of genocide)

Destruction of population numbers in whole or in part, relates to the physical aspect of genocide (Lemkin, 1944). External auditing of the population size has been urgently required since the Bedoon were administratively expelled from the state in 1985-6, as it was from this time, the group were prohibited from forming families and thus, from reproducing (as mentioned above, the group cannot form relationships or have children outside marriage by Kuwaiti law).

[3.1] The Bedoon population since undergone radical reduction. They were then reduced by approximately half it's size after violent ethnic cleansing (1990-1995) in which Coalition forces were implicated. The population reported around 260,000 to 300,000 in 1986 and reported at 150,000 in 1995 (Human Rights Watch, 1995, n8; Ghabra, 1997b in Kennedy, 2016, p.180). The present size of the population according to GOK is approximately 110,000 (*Kuwait Times*, 17.10. 2017).

[3.2] While some advocates claim the population is actually much larger than the number cited by GOK, undocumented Bedoons have been re-registered by GOK and received identity cards for some time, but it is not clear when this practice of re-registering undocumented Bedoons commenced. It is becoming increasingly difficult to obtain correct, up-to-date government data on the population size due to the group's reallocation to different nationalities.

[3.3] Aside from the difficulty in establishing the whole size of the population at present, another serious concern is that government statistics released on the removal of identity and reallocation of identity to the names of other states, show discrepancies in the tens of thousands (see Annexe

attached) These discrepancies may illustrate new types of population loss and/or the potential for new losses to become lost in government data. It is possible that the population is undergoing further incremental or large-event population decrease due to killings, disappearances and deportations. The population reduction as a percentage of the whole population, falls easily within the range of genocidal indicators. Physical eradication has been caused by a one-time event and incrementally. Cultural destruction contributes to the incremental population loss, principally due to prohibitions on marriage (particularly marriage between Bedoons and citizens of Kuwait, prohibited in 1986 and 1992), obstruction to marriage for those who attempt it, and by enforcing poverty via deprivation of resources for health, education and employment, to further prevent marriage and procreation.

[3.4] Cultural destruction (the qualitative aspect of genocide)

Destruction of culture in whole or in part, relates to the qualitative aspect of genocide (Lemkin, 1944). Cultural destruction can be more difficult to measure than physical loss, due to the interpretative function required for evaluation. It is beyond the scope of this report to go into these measures individually and the author limits assertions of cultural destruction from the cultural viewpoint to the claims about erasure as identity theft. The identity theft has been enforced with a cyclical application for some 40 years, over multiple generations, applied to *every* individual of the population over the age of 21, and via parentage or guardianship to the *whole* population. The erasure was discussed above as a form of collective, sustained torture. Cultural destruction is within range of genocidal indicators, even within the very limited scope discussed in this report.

[3.5] Regressive actions

Please refer to the Annexe for detailed accounts of regressive actions linked to the erasure, principally:

- systematic removal of identity
- the replacement of identity with labels GOK insists is a genuine nationality

Bedoon identity terms have been removed from the following levels:

- stateless identity
- indigenous identity
- national identity
- ethnic identity
- sub-ethnic identity

- micro-ethnic
- family identity

[3.6] The violence to identity is so deep and thorough, there may as yet be no precedent for it in the genocide literature. The nature of targeting indicates that the planners of the erasure were familiar with social science theory, and sought to implement it by erasure at every level of the victim's human identity. The replacement of identity is similarly appalling, in that the 'proof' of nationality is so thoroughly unconvincing as to make a mockery of international law, except for children of Kuwaiti citizen mothers, whose parentage cannot be denied. There are a multitude of decades-long regressive actions and themes arising as to systemic human rights violations. Some of these are described in the Annexe. We implore the Human Rights Committee to examine them seriously.

[3.7] Active oppression of information dissemination

Additional to enforcement of erasure, since the Arab Spring, the Bedoun have also been forced to sign a contract-like document stating they agree are legally bound not to disclose any transactions which occur between themselves and the Central Apparatus (see Annexe). It also states that the signee agrees not to engage in any type of social 'activism' concerning their situation. The enforcement of this document on the Bedoun commenced after the Arab Spring. NGOs who have submitted petitions to the HRC on behalf of individual Bedouns regarding freedom of assembly and the right to protest (Gulf Centre for Human Rights and Front Line Defenders), have not published information on this requirement, though their advocates have been subject to it.

[3.8] GOK has access to all resources required to understand the meaning and consequences of jus cogens, crimes against humanity. There is not doubt therefore, that the ongoing torture of the whole Bedoon population is intentional. Kuwait's insistence on retaining the power over decisions of nationality as a 'sovereign' right must be seen in the context of the erasure, administrative expulsion, violent ethnic cleansing and other human rights violations of the Bedoun. The taboo surrounding Kuwait's Emiri rule in relation to issues of citizenship must be challenged if the state is to develop without requiring violence to manage the population. Global networks actively suppress information dissemination in human rights organisations and academic institutions, to prevent the full scope of the Bedoun's situation becoming known.

References

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