

May 11, 2010

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KUWAIT: STILL STALLING ON STATELESSNESS

The government of Kuwait continues to balk at granting nationality to its approximately 90,000 stateless residents, or *bidoon*. Lack of legal status impacts all areas of their lives. Kuwait must begin immediate and transparent reviews of all *bidoon* cases towards providing naturalization. Meanwhile Kuwait should guarantee the *bidoon* the right to work and earn equitable incomes, allow their children to enroll in public schools, provide them healthcare free of charge, and issue certificates that record births, marriages, and deaths. With Kuwait about to enter the UN Universal Periodic Review process on May 12, other states have an immediate opportunity to press the country to take these steps to address the statelessness problem.

STATELESSNESS IN KUWAIT

More than 12 million people around the world lack an effective nationality. Either never having acquired citizenship in the countries where they were born, or having lost it, they have no legal bond of nationality with any state. Kuwaiti *bidoon* did not become stateless as a result of war, forced migration, or redrawing of borders between states. On the contrary, it was an absence of permanent borders that gave rise, in large part, to the problem of statelessness in the country.

The Arabic word "*bidoon*," meaning "without" and short for "*bidoon jinsiya*" (without citizenship), is used to denote long-time residents of Kuwait who are stateless and, according to government figures, presently number just over 90,000. Many *bidoon* are descendants of Bedouin tribes that roamed freely across the borders of present day Kuwait, Saudi Arabia, Syria and Iraq. But because their ancestors failed to understand the importance of citizenship or given their centuries-old way of life they did not want to belong to any one country. Others were living outside the city walls or were illiterate. As a result, they did not or could not apply for nationality, though the majority had and still have legal documents that prove settlement in Kuwait earlier than

POLICY RECOMMENDATIONS

- H.H. the Emir of Kuwait and Parliament should formalize and implement a plan to secure the civil and political rights of every person through a transparent evaluation of all unresolved *bidoon* cases, with the intent to grant citizenship for qualifying individuals and families. A robust and comprehensive tolerance campaign to address discrimination in the society at large should be commenced.
- The Minister of Health should be immediately directed to register every child at birth, regardless of parents' nationality or status.
- The Government of Kuwait should revise its nationality law, particularly regarding the equal right of women to pass on their nationality to their children and also amend the law barring nationality matters from court jurisdiction to permit such.
- Kuwait should establish a national human rights institution.
- The United Nations High Commissioner for Refugees should proactively support government efforts to end statelessness in Kuwait. The UN Human Rights Bodies and UNICEF should establish a presence in the country.

establishment of the state. Bidoon are indistinguishable from citizens, sharing a common language and culture.

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 publication of the law. Approximately one third of the population was recognized as *bona fide* citizens, the founding families of the country. Another third was naturalized and granted partial citizenship rights. The remaining third was classified as "*bidoon jinsiya*." Even now families include members who are citizens and others who are bidoon.

Bidoon once made up the bulk of the armed forces and police and served their country loyally. They believed that eventually the government would extend them citizenship. Bidoon were included in the 1965 government census, indicating they were considered Kuwaiti citizens.

After 1985, however, the government took a number of punitive steps to destroy the hope of citizenship. Bidoon were dismissed from their jobs, children were barred from public schools and driving licenses were revoked. They could no longer carry passports (known as Article 17 passports) unless they left the country and renounced the right to return.

Bidoon soldiers proved their loyalty again during the Iraqi invasion; a large number of bidoon were among the casualties and prisoners of war. But after the liberation of Kuwait in 1991, the government stepped up its effort to strip their rights. Bidoon were fired *en masse* from positions in the military and police, and only a small fraction was rehired. They could not collect severance pay unless they produced a passport, either Kuwaiti or foreign, or left the country. Tens of thousands of bidoon who fled the country or were forced to leave were not allowed to return. Prisoners of war who returned did not receive a hero's welcome. One widow told RI, "My husband didn't get his job back. And when he passed away the Ministry of the Interior reclaimed the house. Our children can't even study." Families of dead soldiers cannot claim a father's indemnity due to their failure to present a death certificate.

Moreover, an atmosphere of intimidation continues to plague the community. Most bidoon do not feel they can freely express themselves for fear of losing the little they have.

THE SOCIAL COST OF DENYING HUMAN RIGHTS

In Kuwait, nationality is deemed a matter relating to sovereignty and courts cannot review sovereign actions of the state. Accordingly, the bidoon cannot petition the courts to have their citizenship claims adjudicated. Furthermore, citizenship in Kuwait is passed to children through their fathers, not their mothers. Thus, the children of a Kuwaiti woman and a bidoon husband are bidoon. Sometimes even the child of a Kuwaiti father and bidoon mother is also bidoon. Laws in Algeria, Tunisia and Egypt, which grant mothers the right to pass on their nationality to their children, could serve as models for revisions in Kuwait's law.

Lack of legal status impacts all areas of life for bidoon: their identity, family life, mental and physical health, residence, education, livelihood, and political participation. The problem starts at birth. Bidoon children are not given a birth certificate. Under ordinary circumstances, a birth declaration is meant as a temporary document to be taken to the Ministry of Health and exchanged for a birth certificate. Stateless children in Kuwait, however, generally cannot obtain a birth certificate because their parents are not given marriage certificates. In some cases, parents have been strong-armed into declaring a nationality in order to obtain birth certificates and other civil registration documents.

The Convention of the Rights of the Child states that every child has the right to an identity. But when a bidoon father pulls out a copy of his child's birth declaration, any 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. One parent said, "Our children are not part of this world."

Without birth certificates, children are barred from free education in public school. Parents must pay for private, poor-quality schooling. A child of a divorced Kuwaiti woman or widow can acquire some nationality rights, including education, so there is a theoretical incentive for couples to divorce to guarantee their children's future. In reality children of such broken families are not able to secure the intended benefits. Without birth certificates, children cannot apply for passports. Hence, families with a Kuwaiti father or Kuwaiti mother cannot travel together with their children, nor can the parents leave their children behind and travel.

Kuwait fails to take advantage of the valuable labor pool available in the bidoon population. Instead the workforce is

largely composed of foreign workers. Because formal employment is precarious and only possible through “favours,” bidoon seek jobs in the underground economy: selling produce on the street, for example, and in some cases even turning to prostitution and the drug trade. Those who are employed face wage disparities with their citizen counterparts. While some individuals may manage despite everything to acquire resources through great personal initiative and exertion, these are quickly depleted through paying privately for services they do not receive from the state and supporting extended families with similar costs. Healthcare, including dental services, offered free of charge to citizens is withheld from them. They can not own property in their own names.

Bidoon in Kuwait explain that there is a vested interest on the part of traders and merchants to maintain the status quo, which accounts for some of the labor market problems they face. In reality, stateless people have much they could contribute to the societies they live in. An enlightened and forward-looking government policy would provide identification papers and work permits to all eligible persons, and permit access to training and education. The goal must be to prepare the stateless persons to render the best possible service to their homeland and the society in which they reside. “But we even need permission to dream,” one man said.

STATELESSNESS THREATENS BOTH NATIONAL AND GLOBAL SECURITY

When a sovereign government determines its requirements for citizenship and then denies or withdraws citizenship to persons residing within its borders it creates marginalized groups of people. Such individuals subsist in the shadows and avoid to the extent possible contact with the government and its record keepers out of fear and distrust. National security is compromised as a result, particularly as people seek their own solutions, often by crossing international boundaries in an irregular and uncontrolled fashion.

Without the bonds of citizenship stateless individuals face denial of subsidiary human rights as noted above. And because governments are frequently unwilling to seek solutions to the plight of stateless people, they muddle along with half-measures that create an underclass often exploited politically and economically. The situation can be, and has been, compared to a game played with great sophistication by the country’s leadership, but the pawns are the lives of real people.

The surest guarantors of national, regional, and global security are inclusive and equal access to civil rights and services and the prevention of discrimination based on ethnicity, religious affiliation, or gender. No government, including those with large numbers of stateless persons within their borders, can remain as one scholar put it, “silent and sitting.” A European representative likened the situation to air quality. He explained this analogy saying, “What one country does affects us all.”

THE DARKEST CORNERS NEED THE BRIGHTEST SPOTLIGHTS

Despite Kuwait’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 a meaningful way. As one individual expressed, “Reform in Kuwait is like a journey of a thousand steps, and we are only now beginning to lift the big toe of the left foot.”

A key contributing factor to the perpetuation of statelessness is the lack of transparency in the process of trying to adjust one’s legal status. Stateless people often find themselves caught in a costly cycle of buying their way out of situations for which they bear no responsibility. When dealing with government civil administration offices and providers of services, exchanging money or other favours can determine if or when they may be able to acquire citizenship or legal residency. Stateless people are forced into making their own compromises, using another person’s name to buy a home or maintain a business or purchasing a passport with an unlikely national affiliation.

The pattern of corruption is self-perpetuating. Individuals benefitting from it obviously have a strong incentive to maintain the status-quo. Corruption, fed by the desperation of stateless people, is probably one of the more difficult symptoms of the problem to correct. But it is the symptom, and statelessness is the disease.

Global efforts to increase transparency, curtail corruption, and reduce the production of fraudulent travel and identity documents should be broadened to address the underlying causes, and include investigations of the workings of citizenship/naturalization boards. Efforts should be made, ideally through an internationally mandated process by an inter-governmental institution, to study and document the benefits accruing to governments (or to powerful individuals within them) that fail to find and effectively promote solutions to statelessness within their territories.

PLUGGING THE HOLES

As in other parts of the world statelessness in the Middle East region is a sensitive matter, and when the topic is mentioned a full range of feelings is expressed. One Kuwaiti admitted, “A lot of us think we are superior because we have money.” Another explained, “We can not give nationality to all these people”. One man said, “Some want to give all people citizenship but others would grant it to none of them.” Another admitted, “I am afraid for the wealth and identity of Kuwait. We have to get rid of them.” Fear and greed appear to prevail in Kuwait, and the problem is only getting bigger.

To date, the human rights mechanisms have failed to make a dent in Kuwait’s situation. 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 bidoon. The Committee recommended that the state party find a solution to the problems faced by the bidoon and ensure the enjoyment of their rights without any discrimination, in accordance with articles 2 and 5 of the Convention.

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, are 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 that Kuwait continue and strengthen education and training on the provisions of the Optional Protocol as well as strengthened measures to disseminate the provisions of the Optional Protocol, with priority given to migrant children and stateless children.

Court decisions related to civil documents as well as to matters related to access for handicapped persons have not been implemented. Proposals in Kuwait’s Parliament to honor civil and social rights of the bidoon, practically equivalent to citizenship, are at a standstill. And recently the situation of the bidoon was swept into yet another body, a Parliamentary Planning Committee, for further study and resolution. “The country spends millions on development projects,” one person said, “Can’t they solve the bidoon situation?”

Just a few weeks ago during her late April 2010 visit to the country, the UN High Commissioner for Human Rights,

Navanethem Pillay, met with Kuwaiti officials, UN representatives, and with members of the Kuwait Human Rights Society, but no one introduced her to a single Kuwaiti bidoon. The system continues to fail stateless people.

NATIONALITY BY ANY OTHER NAME

Some say there is general agreement in Kuwait that the humanitarian consequences of statelessness should be addressed immediately, leaving the contentious issue of citizenship rights to a later date. At the same time, however, many Kuwaitis acknowledge that the problems associated with statelessness will escalate. Refugees International believes it is possible to move forward on two tracks simultaneously.

Kuwait must begin immediate and transparent reviews of all bidoon cases towards providing naturalization. Numerous bidoon are able to furnish ample proof of their families’ presence in the country for several generations and their loyalty to Kuwait, as well. Their applications for citizenship deserve consideration. Meanwhile Kuwait should guarantee the bidoon 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.

At the same time the country should undertake a tolerance campaign to address discrimination in the society at large. This cycle of statelessness with its inherent indignity and insecurity is already taking its toll on the next generation. “This is just the tip of the iceberg,” and “What is worse is what you don’t see,” RI was often told.

There is a way out, according to one interviewee. His Highness the Emir of Kuwait could recognize the humanity (as well as the human capital) of the stateless population and make a historic decree granting them nationality. “The people of Kuwait will acknowledge this act,” the same individual noted. Kuwait is a small country between three big ones that have advantage in terms of population size. “It is in Kuwait’s strategic interest to have more citizens.” There is no better time than the present.

Senior Advocate for Statelessness Initiatives Maureen Lynch and consultant Charlotte M. Ponticelli traveled to Kuwait in April to assess the situation for bidoon there. This report also relied on information from consultants Patrick Barbieri and Michael Scott.