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## Kuwait: State of Exclusion

The Arabic word, “*bidun*,” meaning “without” and short for “*bidun jinsiya*” (without citizenship), is used to denote longtime residents of Kuwait who are stateless.

The estimated number of bidun in Kuwait ranges from 90,000 to 130,000, 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 future is uncertain.

Many bidun are descendants of Bedouin tribes such as the Shammar and ‘Aneza that roamed freely across the borders of present day Kuwait, Saudi Arabia, Syria and Iraq. Either because their ancestors failed to understand the importance of citizenship or, given their centuries-old nomadic way of life, demurred at the idea of belonging to any one country, or because they were living outside the city walls, in the desert or “*badiya*,” and often illiterate, they could not furnish adequate proof that they were settled in the country and were consequently classified as stateless.

Denied the right to register officially a birth, marriage, or death, bidun are relegated to a bureaucratic no man’s land. In Kuwait, nationality is deemed a matter relating to sovereignty and by law courts can not review sovereign actions of the state. Accordingly, the bidun can not petition the courts to have their citizenship claims adjudicated. Their children are barred from free education in public school. They are not permitted to own property, register a vehicle, obtain a telephone line or purchase a SIM card for a cellular telephone. Healthcare offered free of charge to citizens is withheld from them. On driving licenses they are characterized as “illegal residents.” Their passports, grey in color and valid for five years, must be renewed after only one journey.

The majority of the bidun live in virtual exile, 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.

Bidun 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. After 1985, however, the government took a number of punitive steps to disabuse them of this belief. Bidun were dismissed from their jobs, children were barred from public and private 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.

Following the liberation of the country 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.

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. There have been instances when bidun traveling with forged documents were forcibly returned to Kuwait, and the country was compelled to admit them. There are now 15 bidun in prison awaiting deportation. They can not be deported, however, because no country will take them in, and so they languish in jail.

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. Approximately one third of the population was recognized as *bone fide* citizens, the founding families of the country. Another third was naturalized and

granted partial citizenship rights. The remaining third was classified as “*bidun jinsiya*.” 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.

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 that there is an incentive for couples to divorce to guarantee their children’s future.

Several legal experts in Kuwait are of the opinion that the country’s nationality law is in need of revision. More liberal nationality laws of other Arab countries, such as Saudi Arabia, where long-time residents can apply for citizenship, limit the problem of statelessness. Laws in Algeria and Tunisia, which grant mothers the right to pass on their nationality to their children, could serve as models for revisions in Kuwait’s law.

In June 2000, the National Assembly passed a law requiring the bidun to register with the government to begin a process that would allow some of them to be documented as citizens. The last step in this process entails DNA testing to prove that family members are in fact blood relatives. Those who failed to register would be considered illegal residents at risk of being deported. Many bidun are able to demonstrate convincingly their families’ presence in the country for several generations, and their applications for citizenship deserve consideration.

Feelings of distress, frustration, resentment, disappointment and anger among the bidun are palpable. An older generation of bidun, who once served or still do in the military and police force, are reluctant to protest their plight too strenuously. Their children however are more impatient. Unable to afford the cost of tuition, they are prevented from accessing higher education. Barred from employment in the public sector, they have to accept work that is poorly paid and intermittent. Many are reluctant to marry, because they can not support a family and fear that their children would face the same hardships. The suicide rate among bidun is reportedly high.

There is perhaps greater interest in the plight of Kuwait’s stateless now than there has been in many years. In July 2006 Kuwait’s parliament created a committee to address the issue of the bidun and earlier this year the parliament approved a law granting citizenship to 2,000. A list of those to be granted citizenship will be approved in October. In January, the Ministry of Interior announced that it would

issue driving licenses to bidun. Loath to be identified as illegal residents, however, many if not most refuse to apply for one. More constructively, the government recently announced that 100 places in Kuwaiti universities would be designated for bidun. The bidun themselves and sympathetic citizens have formed a Popular Committee for Support of the Bidun.

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. There is concern that young disenfranchised bidun may resort to crime, turn to alcohol and drugs, and subscribe to extremist ideologies. It would therefore be in the best interests of the state to find a just and equitable solution to the plight of the stateless sooner rather than later.

## **REFUGEES INTERNATIONAL RECOMMENDS:**

### **The Government of Kuwait:**

- Immediately undertake transparent evaluation of unresolved bidun cases, with intent to grant citizenship for qualifying individuals and families.
- Revise nationality law to bring it into conformity with more progressive legislation in the region, particularly regarding the equal right of women to pass on nationality to children.
- Become signatory to the 1954 Convention relating to the status of stateless persons and the 1961 Convention on the prevention of statelessness.
- Amend law barring nationality from court jurisdiction to allow bidun access to due process.
- Provide all civil registry and social services equitably and without discrimination.
- Refrain from arresting or detaining stateless persons solely on the basis of their being stateless.
- Include tuition fees for children of bidun in the national budget.

### **United Nations High Commissioner for Refugees:**

- Translate and publish its previously completed survey of bidun in Kuwait.
- Actively support government efforts to end statelessness in Kuwait.

### **United Nations Human Rights Bodies:**

- Appoint a special rapporteur on the situation of human rights in Kuwait and address the issue in the Working Group on Arbitrary Detention.
- Establish presence in Kuwait to assess and recommend resolution to the bidun situation.

*Senior Advocate Maureen Lynch and Patrick Barbieri just returned from a two-week assessment of the situation of bidun in Kuwait.*