



# OPERATIONAL GUIDANCE NOTE

## KUWAIT

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## 1. Introduction

- 1.1 This document summarises the general, political and human rights situation in Kuwait and provides information on the nature and handling of claims frequently received from nationals/residents of Kuwait. It must be read in conjunction with any COI Service Kuwait Country of Origin Information at:

[http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)

- 1.2 This document is intended to provide clear guidance on whether the main types of claim are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Caseworkers should refer to the following Asylum Policy Instructions for further details of the policy on these areas:

API on Assessing the Claim  
 API on Humanitarian Protection  
 API on Discretionary Leave  
 API on the European Convention on Human Rights  
 API on Article 8 ECHR

- 1.3 Claims should be considered on an individual basis, but taking full account of the information set out below, in particular Part 3 on main categories of claims. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the API on Article 8 ECHR.

### **Source documents**

- 1.4 A full list of source documents cited in footnotes is at the end of this note.

## 2. Country assessment

- 2.1** Kuwait was invaded by Iraq in August 1990 and occupied for seven months until its liberation in February 1991 by an international military coalition in 'Operation Desert Storm'. Since that time Kuwait has had to recover from the economic, environmental and psychological damage caused by the occupation. In 2003 it was the launchpad for the invasion of Iraq.<sup>1</sup>
- 2.2** The last National Assembly elections were held in July 2003. Women and members of the armed forces were not allowed to vote. On 16 May 2005, the National Assembly approved legislation to grant women the right to vote and seek elected office; however, women were not eligible to vote in the 2 June 2005 municipal council elections because the annual February voter registration period had passed.<sup>2</sup> The Assembly is made up of 50 independent members drawn from 25 two-member constituencies. However, the National Assembly have voted in favour of reducing the number of constituencies to 5 at the 2011 elections. The new law permits each constituency to return 10 MPs. Political parties are not permitted. But a number of loose political blocs have developed in recent years including of Islamists and liberals.<sup>3</sup> In 2003, candidates were allowed to run for elections only as individuals and not with a party; however, in many cases, a candidate's party affiliation was well known and may have influenced electoral performance.<sup>4</sup>
- 2.3** Following the July 2003 elections Kuwait's 21st cabinet was sworn in. Former First Deputy Prime Minister and Foreign Minister, Shaikh Sabah Al Ahmed, was promoted to Prime Minister. His current 16-strong cabinet consists of six members of the ruling Al Sabah family, technocrats, professionals and an Islamist MP.<sup>5</sup>
- 2.4** Following the death of the Emir of Kuwait, Sheikh Jaber al-Ahmad al-Sabah in January 2006, Crown Prince Sheikh 'Saad al-Abdullah al-Sabah, 76, was appointed Emir. Sheikh Jaber, in his late 70s, had led the country since December 1977.<sup>6</sup> As Crown Prince during Sheikh Jaber's long rule, Sheikh 'Saad automatically became the new Emir on his death, although he never took his oath of office.<sup>7</sup> Sa'ad has suffered ill health for many years.<sup>8</sup> Kuwait's cabinet, under Prime Minister, Sheikh Sabah, wrote to the National Assembly indicating that Sa'ad was medically unfit to assume the role of Emir. This led to a debate and vote in the National Assembly. The members voted that Sa'ad was unfit to be the Emir. Emir prerogatives passed to the Prime Minister, Sheikh Sabah. Subsequently Sheikh Sabah has been sworn in as Emir and he has chosen a new Crown Prince and Prime Minister.<sup>9</sup>
- 2.5** There has been an active campaign to grant women the right to vote. On 16 May 2005, following full debates on the issue, the Kuwait National Assembly voted in favour of giving women the right to vote and stand for election. On 5 June 2005 the government named two women on the Municipal Council and on 12 June 2005 the government made an historic step by appointing Dr Massouma Al-Mubarak as the Minister for Planning and the Minister for Administrative Development. Dr Al-Mubarak is the first female minister and was sworn into office on 20 June 2005. The municipal elections in April 2006 gave women their first opportunity to vote.<sup>10</sup>
- 2.6** Kuwait has ratified all six core UN human rights conventions. Press freedom is guaranteed by the constitution although a degree of self-censorship is exercised. There is a high level

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<sup>1</sup> FCO Country Profile 2006

<sup>2</sup> USSD 2005 Introduction

<sup>3</sup> FCO Country Profile 2006

<sup>4</sup> USSD 2004 Section 2

<sup>5</sup> USSD 2005 Introduction and FCO Country Profile 2005

<sup>6</sup> BBC News 15 January 2006

<sup>7</sup> BBC News 21 January 2006

<sup>8</sup> BBC News 20 January 2006

<sup>9</sup> BBC News 20 January 2006

<sup>10</sup> FCO Country Profile 2006

of freedom of expression and tolerance of Christianity. The Prime Minister has declared his intention to push for political rights for Kuwaiti women and for a solution to the long-standing problem of stateless residents of Kuwait (the Bidoon).<sup>11</sup> The political, economic, and long-term budgetary implications associated with extending citizenship, and the generous welfare benefits that come with it, to the equivalent of roughly 5 percent of the population have rendered the issue highly divisive.<sup>12</sup>

- 2.7** The constitution provides for freedom of religion; however, the government placed some limits on this right. The constitution protects the freedom to practice religion in accordance with established customs, provided that it does not conflict with public policy or morals. The constitution declares that Islam is the state religion and that Shari'a is "a main source of legislation."<sup>13</sup>
- 2.8** Violence against women continued to be a serious and overlooked problem. The law does not specifically prohibit domestic violence, although cases are tried as assault. Each of the country's 83 police stations reportedly received weekly complaints of domestic abuse. The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases are not reported, especially outside of the capital. Abusive husbands, if convicted, rarely faced severe penalties.<sup>14</sup>

### **3. Main categories of claims**

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Kuwait. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)

All APIs can be accessed via the IND website at:

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<sup>11</sup> FCO Country Profile 2006

<sup>12</sup> USSD 2005 Section 5

<sup>13</sup> USSD 2005 Section 2

<sup>14</sup> USSD 2005 Section 5

<http://www.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>

### 3.5 Undocumented Bidoon

**3.5.1** Most claimants will apply for asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the State due to their undocumented status.

**3.5.2** *Treatment.* The legal status of tens of thousands of Bidoon residents remained unresolved. The Bidoon (an Arabic term meaning "without" as in "without citizenship") are Arabs who have residency ties to the country, some persisting for generations and some for briefer periods, but who either lack or have failed to produce documentation of their nationality.<sup>15</sup> This group includes:

- Individuals descended from nomadic groups whose ancestral lands are within the borders of present day Kuwait but who were unable to claim automatic citizenship under the Nationality Law of 1959 because they could not prove continuous settled presence in Kuwait from 1920, as that law requires.
- Individuals who could have registered as citizens under the Nationality Law and earlier citizenship regulations but neglected to do so.
- Individuals who attempted to claim citizenship under the Nationality Law and earlier citizenship regulations and whose applications were accepted for consideration but never acted upon by the Kuwaiti authorities.
- Individuals who migrated to Kuwait from nearby countries to work and over time lost effective links to and effective nationality in their country of origin, as well as children of such migrants who failed to establish nationality in their parents' country of origin.
- Children of Bidoon parents, including notably the children of Kuwaiti mothers and Bidoon fathers.<sup>16</sup>

The exact number of Bidoon residents was unknown, but a 2004 government census estimated 107 thousand persons to be Bidoon. Since the mid-1980s, the government has actively discriminated against the Bidoon in areas such as education, employment, medical care, and mobility.<sup>17</sup>

**3.5.3** In May 2000, parliament voted to ease the citizenship requirements for about 36,000 Bidoon who registered in a 1965 census.<sup>18</sup> Only Bidoon registered by 27 June 2000, could begin the process under which they could be documented as citizens. According to this law, Bidoon who were able to prove sufficient ties to the country (that is, their presence, or the presence of their forebears, in the country prior to 1965) were eligible to apply for citizenship directly. The Government maintained that at least 40 to 50 percent of the Bidoon were concealing their true identities. While the law allows up to 2,000 registered Bidoon to be naturalized each year, the Government only granted citizenship to approximately 1,600 in 2003.<sup>19</sup> The government granted citizenship to approximately 1,769 Bidoon during 2005. In recent years a total of 10,200 Bidoon received citizenship. There were 87,300 Bidoon citizenship requests pending. There were no reports during 2005 of the government deciding the nationality of any Bidoon without a hearing.<sup>20</sup> Many Bidoon were unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality.<sup>21</sup> Others obtained passports from foreign diplomatic representations to regularise their status and stay in Kuwait. Often such passports are not renewed once expired.<sup>22</sup>

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<sup>15</sup> USSD 2005 Section 5

<sup>16</sup> HRW 2000

<sup>17</sup> USSD 2005 Section 5

<sup>18</sup> RI Lives on Hold 2005

<sup>19</sup> USSD 2005 Section 5

<sup>20</sup> USSD 2005 Section 5

<sup>21</sup> USSD 2005 Section 5

<sup>22</sup> RI Lives on Hold 2005

- 3.5.4** As a result of what allegedly were fraudulent citizenship applications, the Government has brought forgery charges against several Bidoon applicants since July 2001. The only reported forgery conviction was in 2001.<sup>23</sup> There continued to be reports of Bidoon obtaining false documents in order to apply for citizenship in 2005.<sup>24</sup>
- 3.5.5** Although the Government eliminated the Bidoon from the census rolls since 1985 and discontinued their access to most government jobs, some Bidoon worked in the armed forces and are being accepted in the institutions of the Public Authority for Applied Education and Training. The Government has denied the Bidoon official documents such as birth certificates, marriage certificates, civil identification, and drivers' licenses, which has made it difficult for many unregistered Bidoon, particularly younger Bidoon, to find employment. The Government does not issue travel documents to Bidoon routinely, and, if Bidoon travel abroad without documentation, they risk being barred from returning to the country unless they receive advance permission from immigration authorities.<sup>25</sup> Kuwait placed arbitrary restrictions on the circumstances under which it will grant Bidoon travel documents. Bidoon must specify why they wish to travel when applying for travel documents, and those that are provided are typically limited period, single use documents issued under article 17 of Passport Law 11/1962.<sup>26</sup> The government permitted some Bidoon to travel to Saudi Arabia during 2005 for the annual hajj pilgrimage. In accordance with the law, the Ministry of Interior (MOI) issues Bidoon a single-use passport for hajj travel.<sup>27</sup>
- 3.5.6** On 29 May 2003 a Consular officer at the Embassy of Kuwait in Canada confirmed that the Executive Committee for the Foreign Affairs of Illegal residents issues Bidoon residents in Kuwait a personal document referred to as an "Alien Reporting Card for Bidoons." The official also confirmed that this document is plastic, wallet-sized and divided into three columns with a photo of the subject in the far left column.<sup>28</sup>
- 3.5.7** The Minister of Education (MOE) approved free education for all children of Bidoon parents effective as of the opening of the 2004-05 school year. The Bidoon also began to receive free health care. During 2005 the Waqf Health Fund, a partially government-funded program, signed contracts with several insurance companies to pay the fees for Bidoon health services.<sup>29</sup>
- 3.5.8** **Sufficiency of protection.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.5.9** **Internal relocation.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.
- 3.5.10 Caselaw.**  
**BA and others UKIAT [2004] 00256 CG**  
 The Tribunal noted that as a result of undocumented Bidoon not having civil identification documents, they are prevented from working with few exceptions, prevented from receiving the most basic government services, denied rights to medical treatment, housing, documentation, education, and drivers licences. (para 69) The IAT then concluded that undocumented Bidoon living in Kuwait experience discrimination so severe that it amounts to a form of persecution. (para 90) It was considered that the Bidoon have an extended tribal identity and that this was sufficient to bring them within the meaning of the term "race" under the 1951 Convention. (para 88) However in addition to this the IAT noted that the existence of a number of legislative and societal measures of discrimination marked the Bidoon out from others, and that this would be sufficient to qualify them as

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<sup>23</sup> USSD 2004 Section 5

<sup>24</sup> USSD 2005 Section 5

<sup>25</sup> USSD 2005 Section 5

<sup>26</sup> HRW 2000

<sup>27</sup> USSD 2005 Section 2

<sup>28</sup> CIRB 2003

<sup>29</sup> USSD 2005 Section 5

a particular social group. (para 89) The Tribunal took into consideration the particular circumstances of each case concluding that, "we are satisfied that the individual circumstances of the appellants neither significantly add to nor detract from the situation they would face in common with other undocumented Bidoon." (para 86)

### **HE [2006] UKAIT 00051 CG**

The Tribunal noted that although recent improvements represent changes of clear relevance and may be indicative of an improving attitude on the part of the authorities towards the Bidoon, there remain other significant problems. (para 35) The Tribunal therefore conclude on the general issue that undocumented Bidoon still face such a level of discrimination in a range of ways in their lives in Kuwait, as to continue to be the victims of persecution. There has not been a material change since the country guidance decision in *BA* and accordingly the Tribunal remain of the view that undocumented Bidoon are at risk as concluded in that determination.

**3.5.11 Conclusion.** The most recent country information suggests some slight improvement for the situation of undocumented Bidoon; free education for all children of Bidoon parents and free health care starting at the beginning of 2005. However whilst some Bidoon have evidently made very successful lives for themselves in Kuwait, others will have suffered severe discrimination and significant problems remain. For discrimination to amount to persecution, measures must involve persistent and serious ill treatment without just cause. They must be of a substantially prejudicial nature and must affect a significant part of the individual's or group's existence to the extent that it would make the individual's life intolerable if they were to return to the country in which they are likely to be persecuted. Most of the Kuwaiti undocumented Bidoon will fall within that category, however a few may not and if there is strong evidence that an individual has been treated differently and would be able to rise above the general discrimination that undocumented Bidoon suffer then they should be refused asylum. Such claimants may have had access to employment, health services, and education in Kuwait. Bidoon have an extended tribal identity which is sufficient to bring them within the meaning of the term "race" under the 1951 Convention. A grant of asylum will be appropriate in the majority of these claims.

## **3.6 Documented Bidoon**

**3.6.1** Some claimants will claim asylum or make a human rights claim based on ill treatment amounting to persecution at the hands of the State due to their ethnic identity.

**3.6.2 *Treatment.*** Bidoon who were able to prove sufficient ties to Kuwait (that is, their presence, or the presence of their forebears, in the country prior to 1965) were eligible to apply for citizenship directly. Some Bidoon (the Government claims 26,000 over the past several years) have disclosed their true nationalities to the authorities and have obtained passports from their countries of origin (Iraq, Iran, Syria, Jordan, and Saudi Arabia). Once documented, Bidoon are able to obtain residency permits and other official papers.<sup>30</sup>

**3.6.3** Article 17 passports may be issued to Bidoon who hold valid civil identification documents and who occupy high positions in the army or in the business community, or who work for the Kuwaiti government and are travelling on official business, and members of their families. To submit an application for an Article 17 passport the person may be requested to submit a birth certificate, a Kuwaiti civil identity card, or the applicant may be asked for a "reference": i.e., a Kuwaiti citizen who will support his or her application for a passport. It is reportedly difficult for a Bidoon to get an Article 17 passport without the intervention of an influential Kuwaiti citizen. Article 17 passports contain an annotation of three Arabic letters at the bottom of the biodata page indicating that the holder is not a Kuwaiti citizen. Article 17 passports are normally valid for a period of up to five years, and they allow the holder to return to Kuwait. Although Article 17 passports can only be issued within Kuwait, they can be renewed at Kuwaiti consulates outside of Kuwait with the approval of the Kuwaiti minister of the interior.<sup>31</sup>

<sup>30</sup> USSD 2005 Section 5

<sup>31</sup> CIRB 2001

**3.6.4 Sufficiency of protection.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, they cannot apply to these authorities for protection.

**3.6.5 Internal relocation.** As this category of applicants' fear is of ill treatment/persecution by the state authorities, relocation to a different area of the country to escape this threat is not feasible.

**3.6.6 Caselaw.**

**BA and others UKIAT [2004] 00256 CG**

The IAT noted that documented Bidoon face societal discrimination on the grounds of extended tribal identity and family identity. However they concluded that, "whilst we would accept that documented Bedoon experience significant measures of discrimination, we do not consider, even when assessed cumulatively, that these give rise to persecution." (para 80)

**3.6.7 Conclusion.** Documented Kuwaiti Bidoon suffer significantly less problems than those who are undocumented. Bidoon still suffer discrimination as a direct result of their ethnicity however they are able to access education, health care and employment, and the discrimination is not so severe as to amount to persistent and serious ill treatment. It is therefore unlikely that a Bidoon who has documentation would be able to demonstrate that return to Kuwait would put him/her at a real risk of persecution, and a grant of asylum will therefore not be appropriate in these cases.

**3.7 Prison conditions**

**3.7.1** Claimants may claim that they cannot return to Kuwait due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in the Kuwait are so poor as to amount to torture or inhuman treatment or punishment.

**3.7.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.

**3.7.3 Consideration.** Prison conditions varied in 2005 and some were reported to be poor. However the government permitted visits by independent human rights observers. In their 18 April 2005 report, the National Assembly's Human Rights Defense Committee (HRDC) reported severe overcrowding, poor sanitation, inadequate containment of infectious diseases, and lack of sufficient medical staff as common problems in the old prison complex.<sup>32</sup>

**3.7.4** There were reports in 2005 that the authorities mistreated prisoners and failed to prevent inmate-on-inmate violence, including rape. During 2005 expatriates at the deportation facility in Shuwaikh were incarcerated between 10 days and 2 months, on average, awaiting deportation.<sup>33</sup>

**3.7.5** Construction of a new men's prison was finished in 2004, and the first prisoner transfers took place during 2005, reducing previously severe overcrowding conditions at the older, 3,000-bed prison. The new facility met all international standards for prisons. The Ministry of Awqaf and Islamic Affairs (MAIA) offered job skills and societal values training to inmates, and the Social Reform Society, an Islamist nongovernmental organization (NGO), provided drug rehabilitation programs for incarcerated addicts.<sup>34</sup>

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<sup>32</sup> USSD 2005 Section 1

<sup>33</sup> USSD 2005 Section 1

<sup>34</sup> USSD 2005 Section 1

**3.7.6** The HRDC monitored prison conditions throughout 2005 and visited the facilities in March. The government allowed the International Committee of the Red Cross (ICRC), which maintains an office in the country, access to certain categories of inmates: Iraqi prisoners of war, Bidoon, citizens of states without diplomatic relations with the country, and a returned citizen detainee from Guantanamo.<sup>35</sup>

**3.7.7** **Conclusion.** Whilst prison conditions in Kuwait are generally poor with overcrowding and lack of sanitary facilities being particular problems conditions are unlikely to reach the Article 3 threshold. Therefore even where claimants can demonstrate a real risk of imprisonment on return to Kuwait a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual's status, age, and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

#### **4. Discretionary Leave**

**4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See API on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the API on Article 8 ECHR.

**4.2** With particular reference to Kuwait the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the API on Discretionary Leave and the API on Article 8 ECHR.

#### **4.3 Minors claiming in their own right**

**4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

**4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18<sup>th</sup> birthday, whichever is the shorter period.

#### **4.4 Medical treatment**

**4.4.1** Claimants may claim they cannot return to Kuwait due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

**4.4.2** The health system is based on three levels of health care delivery: primary, secondary and tertiary health care. Primary health care is delivered through a series of health centres, with general or family health clinics, maternal and child care clinics, diabetic clinics, dental clinics, and preventive care clinics, school health services, ambulance services and police health services are also available. Secondary health care is provided through six general

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<sup>35</sup> USSD 2005 Section 1



hospitals, each serving about 300 000 people. Tertiary health care is provided through a number of national specialized hospitals and clinics.<sup>36</sup>

- 4.4.3** The implementation of health strategies has had an effective impact on the health status of the population, as can be seen from the decrease in mortality indicators and the increase in life expectancy, as well as the decline in incidence of infectious diseases.<sup>37</sup>
- 4.4.4** The large numbers of the general population affected with post-traumatic stress disorder have been the major focus of mental health care during recent years. A special unit, a REGGIE centre, has been set up with extensive human resources for care and systemic research relating to post-traumatic stress disorder.<sup>38</sup>
- 4.4.5** The Article 3 threshold will not be reached in the majority of medical cases and a grant of Discretionary Leave will not usually be appropriate. Where a caseworker considers that the circumstances of the individual claimant and the situation in the country reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

## **5. Returns**

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.
- 5.2** Kuwait nationals may return voluntarily to any region of Kuwait at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Kuwait. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Kuwait nationals wishing to avail themselves of this opportunity for assisted return to Kuwait should be put in contact with the IOM offices in London on 020 7233 0001 or [www.iomlondon.org](http://www.iomlondon.org).

## **6. List of source documents**

- Foreign and Commonwealth Office, Country Profile of Kuwait, updated 21 September 2006 <http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&a=KCountryProfile&aid=1020338123989>
- United States State Department Human Rights Country Report on Kuwait, dated 28 February 2005 <http://www.state.gov/g/drl/rls/hrrpt/2004/41725.htm>
- United States department Human Rights Country Report on Kuwait, dated 8 March 2006. <http://www.state.gov/g/drl/rls/hrrpt/2005/61692.htm>
- Refugees International, Lives on Hold, The Human Cost of Statelessness dated 14 February 2005

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<sup>36</sup> WHO 2001

<sup>37</sup> WHO 2001

<sup>38</sup> WHO 2001

<http://refintl.org/content/issue/detail/5051?PHPSESSID=dcb23a56b2161700d5d753da9e963620>

- Human Rights Watch, Kuwait: Promises Betrayed – Discrimination based on origin and Status: The Bidun, dated October 2000 [http://www.hrw.org/reports/2000/kuwait/kuwait-04.htm#P168\\_23590](http://www.hrw.org/reports/2000/kuwait/kuwait-04.htm#P168_23590)
- Canadian Immigration and Refugee Board, Kuwait: “a reporting card for Bidoons”, KWT41648.E dated 9 June 2003
- Canadian Immigration and Refugee Board, Kuwait: Information on Article 17 passports, KWT37021.E dated 11 June 2001
- World Health Organisation, EMRO Country Profiles, 2001, C:\SIRIUS\App\_Temp\WHO EMRO - WORLD HEALTH DAY 2001.htm
- BBC News Kuwait's Emir Sheikh Jaber buried - Sunday, 15 January 2006, 13:35 GMT [http://212.58.226.50/2/hi/middle\\_east/4614736.stm](http://212.58.226.50/2/hi/middle_east/4614736.stm)
- BBC News Kuwait's Prime Minister to Lead - Friday, 20 January 2006, 15:40 GMT [http://212.58.226.50/2/hi/middle\\_east/4632060.stm](http://212.58.226.50/2/hi/middle_east/4632060.stm)
- BBC News Kuwait Seeks power transfer to PM - Saturday, 21 January 2006, 14:31 GMT [http://212.58.226.50/2/hi/middle\\_east/4634894.stm](http://212.58.226.50/2/hi/middle_east/4634894.stm)

**Asylum and Appeals Policy Directorate  
17 October 2006**