

October 17, 2011

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## KUWAIT: GENDER DISCRIMINATION CREATES STATELESSNESS AND ENDANGERS FAMILIES

Gender discrimination in Kuwait’s nationality laws increases the incidence of statelessness by rendering children of Kuwaiti women and *bidoun* men stateless. Statelessness exposes women to heightened risks of abuse and exploitation. It also endangers family life. Some women are forced to divorce to try to pass nationality to their children, some are forced into marriages to try to acquire nationality, and others never marry in order to avoid statelessness for future generations.

The creation of the “*Bidoun* Committee” to process citizenship claims and reduce the incidence of statelessness and the provision of the eleven “facilities” (social benefits for registered stateless persons) are welcome steps. However, to date, no citizenship cases have been adjudicated and the eleven facilities have been poorly implemented.

### ADVANCES ON PAPER FOR *BIDOUN*, BUT LITTLE PROGRESS IN PRACTICE

In language, culture, and social customs, the *bidoun* are essentially indistinguishable from Kuwaiti citizens. The Arabic word, “*bidoun*,” meaning “without” (short for “*bidoun jinsiya*” – “without citizenship”), is used to denote longtime residents of Kuwait who are stateless. There are over 100,000 *bidoun* in Kuwait. For 25 years after Kuwait gained independence in 1961, the *bidoun* had the same privileges as Kuwaiti citizens, including free healthcare, free education from elementary through university studies, and equal access to government scholarships funding study-abroad programs.

However, this began to change in 1985 when the government systematically fired *bidoun* from public-sector employment (except the military and police) and instructed private enterprise to follow suit. It also restricted travel documents for *bidoun*, refused *bidoun* driver’s licenses, expelled *bidoun* students from public schools and universities, instructed Kuwaiti social clubs and civic associations to expel *bidoun* members, and transferred *bidoun* from the census category “Kuwaiti” to an alien population category in the Annual Statistical Abstract.

### POLICY RECOMMENDATIONS

- The U.S. Government and the European Union should press the Government of Kuwait:
  - to amend its nationality law to ensure no child is born stateless in Kuwait by permitting women and men to transmit nationality on an equal basis.
  - to allow individuals listed on the “security block” who have been denied naturalization or official documentation to be informed of the reasons for the block, and to allow these individuals to contest their listing before a judicial body.
- UNHCR should conduct outreach to the stateless population, register complaints from stateless people about their treatment, fund a study on the specific protection needs of *bidoun* women, and take up individual cases of stateless people in need of protection.
- The Kuwaiti National Assembly should codify and vigilantly oversee the implementation of the eleven “facilities” that have been granted to the *bidoun* by decree, including access to civil documentation, education, and health.

In the aftermath of the 1990-1991 Iraqi invasion and occupation of Kuwait, *bidoun* military and police personnel were fired *en masse* – even those who had fought in the Kuwaiti resistance. Only a small fraction of them were later rehired. In 1993, *bidoun* were made to pay for healthcare and were denied birth, death, marriage, and divorce certificates. Many were forced into the informal economy. Now, *bidoun* must routinely pay bribes, drive without official licenses, live illegally in homes owned by Kuwaiti friends, or accept a false nationality in exchange for official documents.

Acknowledging the situation was unsustainable, in 1993 the Central Committee to Resolve the Status of Illegal Residents was established. Three years later, a royal decree established the Committee for Illegal Residents' Affairs. And in November 2010, a subsequent royal decree replaced this committee with the Central System to Resolve Illegal Residents' Status (hereafter, the *Bidoun* Committee). Led by Salah Fadalah, a former member of parliament, the Kuwaiti government tasked the *Bidoun* Committee with determining the citizenship applications of stateless people within five years. To date, no cases have been resolved.

In April 2011, Mr. Fadalah announced that, pursuant to government decree, registered *bidoun* would be granted eleven new “civil, social and humanitarian facilities” to address the humanitarian consequences of statelessness while the *Bidoun* Committee evaluated the more than 100,000 appeals for citizenship. The new facilities include, among others, access to free education and healthcare; the issuance of birth, death, marriage, and divorce certificates and driver's licenses; and access to public sector employment – the very things that were systematically taken away over the past quarter century. However, Refugees International (RI) was informed by *bidoun* that most of these “facilities” have been only partially implemented.

## **DISCRIMINATION AGAINST WOMEN CREATES STATELESSNESS**

Under Kuwaiti law, nationality is passed through the father to the children but cannot be passed through the mother unless she is divorced or widowed. As a result, the child born to a Kuwaiti woman and her stateless *bidoun* spouse is considered stateless. RI raised this issue with Mr. Fadalah, who stated that this was not a problem because women married to stateless men can divorce their husbands. Leaving aside the fact that many Kuwaiti women in this situation do not wish to divorce their husbands and break up their families, RI was told of many women who have divorced their husbands in these circumstances and waited unsuccessfully for decades for their children to be granted

Kuwaiti citizenship, since citizenship determinations in these cases remain discretionary.

Amending Kuwaiti nationality law so that both women and men may confer nationality on an equal basis is necessary to ensure that no child is born stateless in Kuwait.

Children of Kuwaiti mothers and *bidoun* fathers enjoy the right to attend public schools until the age of eighteen. Upon turning eighteen, they lose the privileges of Kuwaiti citizenship they have grown up with and are considered *bidoun*. Suddenly treated as “illegal residents”, they lose their right to higher education and are potentially subject to deportation if they fail to acquire a work permit and employment. Last year, it appeared that an advance for women's rights was won when Kuwaiti women were granted the right to sponsor their children for residency. However, RI was informed by many women that the right to sponsor residency has often not been applied in practice.

In many other respects, Kuwait is a regional leader in personal status laws for women. Important advances in women's rights were made in 2005 when women were granted the right to vote. There are currently four women serving in the Kuwaiti National Assembly. And importantly, the Kuwaiti Constitution prohibits discrimination on grounds of sex, likely rendering its nationality law unconstitutional and making this policy ripe for reform.

## **BIDOUN WOMEN SUFFER THE CONSEQUENCES OF STATELESSNESS**

RI heard a number of accounts of specific problems confronted by stateless women in Kuwait. One pertains to the issue of identity documentation, which is central to the exercise of any civil right in Kuwait. Many older *bidoun* women lack any documentation. Fifty years ago in the Kuwaiti desert, families did not uniformly appreciate the importance of obtaining birth certificates for their children. There was greater recognition that boys would need such documents to enter the army or the police, but for girls they were more frequently perceived as superfluous. Decades later, these undocumented births adversely impact women's lives. RI met a number of older *bidoun* women who lacked documentation even though their husbands and children were documented.

Limited opportunities are available to the *bidoun* community in general, but *bidoun* women confront even greater constraints. RI was told that the only perceived hope for many *bidoun* women is to marry a Kuwaiti man to pass citizenship to their children and to potentially attain citizenship themselves. However, dependence on Kuwaiti men's

legal rights inevitably puts some *bidoun* women at risk of exploitation and abuse. RI heard accounts of Kuwaiti men who refused to pass citizenship to their *bidoun* wives in order to prevent them from filing domestic abuse complaints. Conversely, RI met a number of *bidoun* women who elected to never marry: they refused to make themselves more vulnerable to exploitation and did not want to have children through marriage to a *bidoun* man since the children would also be stateless.

There are no statistics available on domestic violence against *bidoun* women, but RI was told that this is a common phenomenon. As one *bidoun* woman told RI, “Our husbands can’t find work because they are *bidoun*; they feel useless. Kuwaiti women don’t get abused at home like *bidoun* women do because their families don’t face the same stresses.” RI was told that very few *bidoun* women report domestic violence, since they fear their husbands could end up with a “security block” that could affect the entire family’s access to documentation, as well as bring shame on the family.

*Bidoun* women and Kuwaiti women married to *bidoun* men told RI they had suffered sexual harassment at the hands of government officials when applying for documents for themselves and their families. Since the issuance of documents to *bidoun* is discretionary, officials are placed in a powerful position that some abuse. The women to whom RI spoke had no idea where they could go to register complaints against officials who abused their authority, and most feared that a complaint could result in a blemish both on their citizenship file and the files of their family members.

For *bidoun* women in Kuwait, the inability to obtain marriage certificates can have severe consequences, including limiting their access to proper medical assistance when giving birth. Without a marriage certificate the birth of a baby in Kuwait is considered illegal, and therefore the mother cannot give birth in a public hospital.

*Bidoun* women have few prospects for employment. Largely restricted to low-paying jobs with no security, those who do find employment typically work in nurseries, daycare, or as secretaries, and earn a fraction of what Kuwaiti women in the same positions earn. A small number of *bidoun* women become teachers, but only in low-paying private schools, earning roughly 150 KD (US \$450) per month. Kuwaiti teachers in public schools earn around 850 KD (US \$2,550). Unemployed *bidoun* women often feel pressure to provide for their poverty-stricken families and are at a heightened risk of exploitation. RI was informed of situations where *bidoun* women and girls were forced into prostitution,

which is particularly dangerous in a conservative society like Kuwait, where women are ostracized – or worse – for shaming their families.

### **BIDOUN CHILDREN LEFT WITHOUT A FUTURE**

The primary safeguard of a child’s rights is a birth certificate, but for many years Kuwaiti authorities stopped providing birth certificates to children of *bidoun* fathers. The adverse impacts of this policy persist for *bidoun* children who have no documentation of their identity. Even today, *bidoun* children over the age of six can only obtain birth certificates if DNA tests prove the child’s relationship with their parents.

*Bidoun* children receive inferior education that does not equip them for a successful future in Kuwaiti society. They are very rarely permitted to attend public schools (unless they have a Kuwaiti mother). A government-run education fund helps to pay private school fees for some *bidoun* families, but many families told RI that the assistance does not cover all costs, and that private schools have raised their fees knowing that the government provides subsidies. This is particularly harmful for girls, as *bidoun* families with limited means prioritize sending their boys to school.

To qualify for educational assistance, the child’s family must have a valid identity card issued by the *Bidoun* Committee and the child must have passed his or her relevant exams. If the identity card is expired or the child fails the exams, s/he is forced out of school. As a result, many *bidoun* children end up working illegally as street vendors, often in conditions of excessive heat and without protection from police, who may abuse them with total impunity.

### **CODIFY THE RIGHTS BY DECREE: THE PROMISED ELEVEN FACILITIES**

The eleven so-called “facilities” that address the humanitarian consequences of statelessness should be made law by the National Assembly. However, there is no consensus regarding how much progress the government has made thus far in implementing them. Mr. Fadal, of the *Bidoun* Committee, told RI that all the facilities but one – public sector employment– have been implemented. However, a political analyst with knowledge of the situation told RI, “Most of the promises are just talk. There may be improvements, but not major improvement.”

Interviews with more than two dozen *bidoun* and Kuwaiti women married to *bidoun* provided little clarity with respect to progress on the implementation of the eleven facilities.

Several interviewees acknowledged that some civil documentation was now available, including birth, marriage, and death certificates. Access to basic healthcare was reportedly covered by charity. But *bidoun* children (except for the small minority with Kuwaiti mothers) remain relegated to private schools with overcrowded classrooms. And despite the promised provision of fees, families must still pay a part of their tuition expenses.

Currently, when *bidoun* are denied access to a facility they are eligible to receive, there is no recourse. The Kuwaiti National Assembly should codify the facilities and provide oversight to ensure that any registered *bidoun* with their naturalization file before the Committee receives full benefits. Irrespective of whether or not the National Assembly passes legislation codifying the eleven facilities this session, the relevant Standing Committees in parliament should conduct oversight hearings to ensure responsible ministries are providing *bidoun* with access to the facilities without discrimination.

#### **“SECURITY BLOCK”**

In order to access civil documents, *bidoun* must request clearance from the *Bidoun* Committee. Frequently, *bidoun* are denied their applications because their names appear on the “security block” list. The government maintains that the “security block” is reserved for *bidoun* who collaborated with Iraq during the 1990-91 invasion and occupation. But RI was told on numerous occasions that *bidoun* may face a “security block” for any reason – from civic activism to minor crimes, or even because of a personal conflict with a powerful individual. *Bidoun* live in constant fear of being added to the “security block” list. One *bidoun* who still holds a government job told RI he encouraged his son not to participate in political organizing because it could lead to a “security block” for the entire family, which would jeopardize the family’s employment. . Once blacklisted, individuals on the “security block” cannot review the reasons for their listing or challenge them before a judicial body.

The Ministry of Interior should inform individuals of the reasons for their “security block” and allow them to challenge their listings in court. This will help ensure that *bidoun* are not denied access to the eleven facilities arbitrarily while they await a final determination of their citizenship status.

#### **FORCED ALLOCATION OF NATIONALITY**

A prominent Kuwaiti political scientist advised RI that the *Bidoun* Committee is seeking a bureaucratic exit from a

political problem. Thus, instead of resolving the issue of citizenship for *bidoun*, they seek to define the problem out of existence. Changing the official term from *bidoun* to “illegal residents,” or assigning a false nationality, will result in fewer *bidoun* on paper. But it will not reduce the number of stateless people in Kuwait who suffer a lack of civil rights and nationality.

While *bidoun* are now supposed to be offered the right to put “non-Kuwaiti” on their civil documents, RI was told on numerous occasions that *bidoun* were pressured by government officials to accept a randomly-allocated nationality in exchange for receiving a child’s birth certificate, a driver’s license, or other official documents. RI was informed of several incidents where multiple nationalities were assigned to a single set of siblings, or where *bidoun* in the military had to accept a false nationality in exchange for a one-time retirement benefit. While it is impossible to ascertain with any certainty how many people are coerced into accepting an assigned nationality (as opposed to those with real claims to an alternative nationality), for the *bidoun* their inability to exercise their human rights is the same.

#### **THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES**

As the UN agency with the mandate to prevent and reduce statelessness, as well as to provide protection to vulnerable populations, UNHCR has an obligation to gather information on the scope of statelessness and document its causes and consequences. Consistent with this mandate, UNHCR should intervene to help *bidoun* access the eleven facilities, and should seek to advise the appropriate ministries, National Assembly, and *Bidoun* Committee on how to implement status-determination procedures transparently and expeditiously.

UNHCR currently plays a very limited role with regard to statelessness in Kuwait. *Bidoun* told RI that UNHCR should visit their communities so they can witness their lives and struggles. UNHCR must begin work immediately to better understand the protection concerns of *bidoun* and build trust with the *bidoun* community so it can properly support this stateless population.

*Marc Hanson and Melanie Teff assessed the needs of stateless people in Kuwait in September 2011.*