

# Without Citizenship

*Statelessness, discrimination and repression in Kuwait*



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This year Kuwait is celebrating 50 years of independence. But for around 10 per cent of its population—known as “bidoon”—the anniversary also marks 50 years of statelessness.

“Bidoon” means “without” in Arabic, indicating that this group—estimated to range between 90,000 and 180,000 people—lives without nationality. Not considered as nationals by Kuwait or any other state, bidoon are stateless. While Kuwaiti nationals enjoy a large number benefits and subsidies, stateless people in this small but very wealthy country live in slum-like settlements on the outskirts of its cities, where they suffer numerous human rights violations.

This report outlines the history of the bidoon issue in Kuwait and their current situation. It discusses the relevant legal framework, with particular focus on discrimination in access to and withdrawal of nationality. It also analyzes Kuwait’s international obligations in the areas of nationality and statelessness, and offers policy recommendations.

### **Nationhood and nationality**

The foundations of Kuwait were laid in the mid-18<sup>th</sup> Century, but the emirate soon thereafter became part of the Ottoman Empire. In 1899, the Emir of Kuwait entered into a protectorate agreement with the United Kingdom, which in exchange for control over its foreign policy provided the emirate with protection against German influence in the Gulf. After the First World War, Kuwait obtained the status of a principality under the British Empire. Its borders remained somewhat porous for the next 40 years, but by the time Kuwait gained independence in 1961 the border disputes with Saudi Arabia had been settled. Kuwait’s relations with Iraq were more complicated. However, after a couple of years of disagreements over boundaries, Iraq recognized Kuwait and its borders in 1963.

Kuwait adopted its constitution in 1962, but it did not extensively cover how Kuwaiti nationality is acquired or lost—it simply states that “Kuwaiti nationality is defined by law.” The law in question in fact pre-dates the Constitution: Kuwait enacted its Nationality Act in 1959 while it was still a British colony. Although amended repeatedly over the years, this essentially reflects the current law. Acquisition of Kuwaiti nationality under the law is based on a number of criteria, most significantly residential ties to the country prior to 1920—the year of the Battle of Jahra, a victory over Saudi expansion, a very significant event in Kuwaiti history.

Significantly, the Nationality Act created several classes of citizens, the primary distinction being between those who are so-called “original Kuwaitis” and those who are naturalized citizens. Different classes of citizenship are maintained to this day, and the rights that come with Kuwaiti citizenship vary significantly depending on the article under which citizenship is acquired. Kuwaitis will identify themselves when asked as “Article-1-citizens,” “Article-5-citizens” and so on. Full political rights are only awarded to those who acquire nationality under Article 1 or 2—the so-called “original Kuwaitis.” Indeed, naturalized citizens only acquire the right to vote after 30 years of residence. In accordance with the Act, “Article-1-citizens” are

*Original Kuwaiti nationals [...] who were settled in Kuwait prior to 1920 and who maintained their normal residence there until the date of the publication of this Law.*

Article 2 provides an automatic right to citizenship for descendants of the “original Kuwaitis” provided that descent is through the paternal blood-line. Article 3 grants nationality to foundlings (an abandoned child of unknown parentage), and Articles 4 and 5 provide for acquisition of nationality through naturalization. Significantly, naturalization decisions are entirely and ultimately taken by the Minister of Interior.

### **Ethnic discrimination and nationality**

Many if not most states at some point in their history used discriminatory criteria to define their citizenry, often by restricting citizenship to a particular group(s) of people on the basis of ethnicity. Over time, however, most states have removed such discriminatory provisions from their nationality laws, and it is now widely recognized that the prohibition of ethnic and racial discrimination is an obligation *erga omnes* under international law—in other words, it is an obligation of all states toward all individuals at all times.

In contravention of its international obligations the Kuwaiti Nationality Act still contains provisions that discriminate against people on the basis of race and ethnicity (as well as gender and religion—see below). Both Article 4 and 5 of the Nationality Act give preferential treatment to persons of Arab ethnicity with respect to naturalization: people of “Arab origin” are required to meet less stringent criteria when they want to acquire Kuwaiti nationality.<sup>1</sup>

Not only is this a violation of an obligation *erga omnes* under customary international law, but it also ignores Kuwait’s treaty obligations. Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) guarantees enjoyment of the right to nationality “without distinction as to race, colour, or national or ethnic origin.” The Arab Charter on Human Rights also prohibits racial discrimination in Articles 2 and 3, as does the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the Universal Declaration on Human Rights. In the case of bidoon, however, they cannot be distinguished by race or ethnicity from other Kuwaitis and as a result do not face ethnic discrimination.

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<sup>1</sup> **Article 4 reads:** Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person of full age satisfying the following conditions [...] that he has lawfully resided in Kuwait for at least 20 consecutive years or for at least 15 consecutive years if he is an Arab belonging to an Arab country.

**Article 5 reads:** Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree, upon the recommendation of the Minister of the Interior [...]an Arab belonging to an Arab country provided that he had resided in Kuwait since before 1945 [...]a non-Arab provided that he had resided in Kuwait since before 1930

## **Nationality under Public International Law**

Two overlapping spheres of international law deal with citizenship and statelessness: customary international law and international treaty law. The latter consists of a large number of international and regional treaties that contain provisions which deal with citizenship and statelessness from various angles, and also other conventions from which one can extrapolate principles that are applicable in the area of citizenship, such as the prohibition of ethnic and racial discrimination. The main limitation of international treaty law is that treaties are only binding upon ratification. Customary international law, on the contrary, is a body of international (or regional) law generally binding on all states.

When it comes to acquisition and loss of citizenship, the Convention on Certain Questions relating to the Conflict of Nationality Laws articulates a general rule of customary international law: "It is for each State to determine under its own law who are its nationals." However, this principle does not apply without restrictions and the Convention sets an imperative benchmark:

*This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.*

Indeed, with an increasingly stronger right to nationality under international human rights law, the sovereign right of states with respect to nationality issues is slowly eroding. Non-discrimination standards in particular limit states' right to deny and deprive certain individuals of nationality. The obligation to avoid statelessness is also part of customary international law, and must be observed by all states.

A general right to nationality is recognized in the Universal Declaration on Human Rights and is reiterated in regional treaties, including the Arab Charter on Human Rights. A range of other international instruments contain provisions that safeguard specific aspects of this right, or protect the right to nationality vis-à-vis particular groups. International treaty law is particularly strong with respect to children's right to nationality. In accordance with the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights, all children have a right to acquire a nationality from birth. Over 100 states around the world have also signed up to an explicit obligation to grant their nationality to children born on their territories who would otherwise be stateless.

## **The origins of statelessness in Kuwait**

Many bidoon failed to acquire nationality at independence. Some did not qualify under the law – in other words they were not able to show residential ties to Kuwait prior to 1920. Others—and this was a greater problem at the time—did not quite appreciate the importance of having a nationality and failed to register as citizens. Men employed in the oil fields, for example, were sometimes unable or unwilling

to take time off to travel to the city for the purpose of registration. Some bidoon descend from Bedouin tribes that used to move across large areas of land in what is today Kuwait, Saudi Arabia, Iraq and Syria.<sup>2</sup> The concept of nationality was foreign to many of these people, and lack of nationality did not pose a major problem for many bidoon as they could continue to work in the public sector, including for the police force and the military. This explains in part why citizenship status may vary among members of the same family, despite their sharing the very same ancestral ties to the country. However, the fact that they did not register, of course, does not mean that they did not have a right to Kuwaiti nationality in accordance with the law.

### **How the bidoon became “illegal” in the 1980s**

In the mid-1980s, the situation for bidoon began to rapidly deteriorate. The Nationality Act was amended several times between 1960 and 1985, making access to nationality increasingly difficult. For the first time, in 1986 the government began to apply the Alien Residence Act to bidoon, effectively stripping them of most of the rights they had enjoyed since independence and re-classifying them as “illegal residents.”<sup>3</sup> This was allegedly part of a policy pursued by the Minister of Interior at the time—Shaikh Salem al-Sabah—and ultimately aimed to drive bidoon out of the country.<sup>4</sup> Stateless persons were suddenly fired from government jobs, and over the next few years access to public education became more limited, and bidoon began experiencing problems acquiring and renewing drivers’ licenses and travel documents. These developments should also be seen in the light of the climate of suspicion that was present throughout the region as a result of the Iran-Iraq War.<sup>5</sup>

In the late 1980s the government began to expel bidoon under the Alien Residence Act and the Penal Code. The government tried very hard—and succeeded to some degree—to change the public conception of bidoon from citizens in all but name to illegal residents. It should be noted that a Kuwaiti Appeals Court in 1988 ruled that because they are not considered nationals by any state, bidoon residents could not be considered “aliens” in terms of the Alien Residence Act.<sup>6</sup> The government however ignored the court’s decision and continued to expel bidoon.

### **The Iraqi occupation of Kuwait and the 1990s**

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<sup>2</sup> Shiblak (2011), in Blitz and Lynch, *Statelessness and Citizenship*, Edward Elgar, UK, p. 174

<sup>3</sup> Refugees International (2007), available at <http://www.refugeesinternational.org/policy/field-report/kuwait-state-exclusion>, accessed April 27, 2011. See also, Beaugrand (2011), ‘Statelessness and Administrative Violence: Biduns Survival Strategies in Kuwait’, *Muslim World*, Blackwell, UK, pp. 228

<sup>4</sup> HRW (1995), available at <http://www.unhcr.org/refworld/topic,463af2212,492fb8b02,3ae6a7dc0,0.html>, accessed April 24, 2011.

<sup>5</sup> Shiblak (2011), p. 177

<sup>6</sup> Quoted in HRW (1995)

By the time of the Iraqi invasion of Kuwait on August 2, 1990, bidoon in Kuwait were increasingly living in poverty. They had been dismissed from their jobs in large numbers, their children were no longer allowed to attend public schools, and health care had become more or less inaccessible.

In the fall of 1990, the Iraqi occupation authorities ordered bidoon to join the Popular Army, a pro-Iraq militia.<sup>7</sup> Those who did not join risked imprisonment and in the worst case a death sentence. Some bidoon did indeed join the militia, but others did not. In fact, large numbers of bidoon served in the Kuwaiti military—one of few places they were still allowed to work—and it has been estimated that as many as one third of the people who were killed by the Iraqi army were bidoon.<sup>8</sup> Notwithstanding, many Kuwaitis viewed bidoon as Iraqi accomplices and as a result the persecution of bidoon worsened significantly after liberation in late February 1991.<sup>9</sup>

After liberation, bidoon who were still employed in the public sector were dismissed retroactively from the date of the invasion, meaning that those who worked throughout the occupation—doctors and nurses, for example—were denied back-pay. The number of deportation orders also increased significantly, although many were not carried out since there was no country to which the bidoon could be deported. Most deportation orders were “administrative orders” which meant that no access to judicial review was available.

Seen as “illegal residents,” many rights previously available to bidoon became increasingly hard to enjoy. Basic rights such as issuance of key documents—including birth, marriage and death certificates—were denied, which in turn had a whole range of negative consequences. Pilgrimage to Mecca—the *Hajj*—also became difficult for bidoon. Most were only allowed to leave Kuwait if they agreed not to return. To this day, religious travel still poses a major problem to many bidoon, and bribes are becoming lucrative opportunities for border officials and travel companies. In March 2011, a bidoon told Refugees International about an elderly man who has never been able to go for *Hajj* because he refuses to pay the bribe.

### **The 2000s: another decade of government failure to address the problem**

In year 2000, the situation was briefly looking up for bidoon. The National Assembly had begun to recognize that this was an issue that was not going anywhere, and that some kind of resolution was necessary. Unfortunately, true political will was absent, as demonstrated by the enactment of Act 22 of 2000. While Act 22—an amendment to the Nationality Act—in theory provided a greater opportunity for bidoon to naturalize, the conditions were so strict that few qualified.<sup>10</sup> Also, an annual cap on

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<sup>7</sup> HRW (1995)

<sup>8</sup> HRW (1995)

<sup>9</sup> Shiblak (2011), p. 177

<sup>10</sup> Bidoon were required to show residential ties going back to 1965, completion of high school in Kuwait, and a clean criminal record—requirements many were unable to meet.

naturalizations was introduced, but Kuwait has rarely if ever used the full quota.<sup>11</sup> Instead of providing a genuine path to Kuwaiti nationality for bidoon, the government initiated—parallel to Act 22—a program through which those who signed affidavits to the effect that they held a foreign nationality were offered a five year residence permit.<sup>12</sup> In many cases the people who did sign the affidavits had no other nationality, and had now effectively also given up their right to Kuwaiti nationality.

This strategy of the Kuwaiti government, to simply push this issue onto other states, is indicative of a bigger problem. During a conversation with the Open Society Justice Initiative and Refugees International in March 2011, a Member of Parliament insisted that at least 90 per cent of bidoon have a foreign nationality, and that the government could resolve this issue by simply assigning them other nationalities. Similar views have been expressed by people from the social elite. This attitude demonstrates a complete failure to understand that it is not up to Kuwait to determine if a person is Iraqi, Saudi, or Syrian. Despite these limitations, the government must establish a credible statelessness status determination mechanism through which Kuwaiti officials can communicate with foreign authorities where necessary and appropriate in order to resolve the bidoon crisis.

The strict protection of its own nationality coupled with a disregard for other states' right to determine who their nationals are put Kuwait in an embarrassing situation in the early 2000s. After years of encouraging—sometimes coercing—bidoon to sign affidavits to the effect that they were nationals of other countries, government officials became involved in an illicit trade of forged foreign passports.<sup>13</sup> Unable to acquire identity and travel documents from Kuwait, and in the absence of any other nationality, some bidoon bought these counterfeit passports. The trade became big business in Kuwait for a few years and continues to have serious repercussions. One bidoon told the Open Society Justice Initiative and Refugees International that advertisements in government civil registration offices promoted agencies that produced these counterfeit foreign documents, and it is widely held that officials from the Ministry of Interior were deeply involved. In fact, in April 2011 Independent Member of Parliament Hussein Mezyed publically acknowledged this: “Unfortunately, these papers [passports and ID cards] were made valid by people working in the committee responsible for illegal residents [a government body set up to deal with the bidoon issue]. They are the ones who guided the Bedoun to offices that sell forged passports.”<sup>14</sup>

In 2003 there were new hopes among the bidoon that their status would finally be resolved. Allegedly some 5,500 bidoon were permitted to apply for nationality and a smaller number—some 1,600—were naturalized.<sup>15</sup> But the process stagnated and did not turn into the kind of reform many had hoped for. A

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<sup>11</sup> Shiblak (2011), p. 186

<sup>12</sup> HRW (2000), available at [http://www.hrw.org/legacy/reports/2000/kuwait/kuwait-04.htm#P168\\_23590](http://www.hrw.org/legacy/reports/2000/kuwait/kuwait-04.htm#P168_23590), accessed April 27, 2011

<sup>13</sup> Beaugrand (2011), p. 238

<sup>14</sup> Arab Times, ‘MP Warns Against Reappointing Al-Sayer As Health Minister’, April 21, 2011.

<http://www.arabtimesonline.com/NewsDetails/tabid/96/smld/414/ArticleID/168268/t/%E2%80%98Reconsider-cases-of-Bedoun-involved-in-passport,-ID-fraud%E2%80%99/Default.aspx>

<sup>15</sup> IRBC (2005), available at <http://www.unhcr.org/refworld/country,,IRBC,,KWT,4562d8cf2,440ed71912,0.html>, accessed April 27, 2011.



few years later, in 2006, the National Assembly created a committee to deal with the bidoon issue, but for the most part it was ineffective. In 2008 another law was proposed in the National Assembly, which would have gone some way towards resolving the issue was never passed. Another government body was set up in 2011 to deal with the issue, but it too has not been able to achieve any progress to date.

In 2004, the government took a positive step to address access to education for bidoon children. The Ministry of Education approved free education for all children of bidoon parents, effective from the beginning of the school year in the fall of 2004. Unfortunately this right to education appears to be limited in many cases due to lack of birth certificates, and many bidoon are still only able to access private schools.<sup>16</sup>

In 2009, domestic courts went some way in recognizing that bidoon have certain fundamental rights. In March 2009 the Court of First Instance issued a marriage certificate to a bidoon woman married to a national. The same right was affirmed by the same court in two other cases in April and May 2009, and in those cases the court also issued birth certificates to the children of the two marriages. The government never complied with the court orders, however.<sup>17</sup>

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<sup>16</sup> United Kingdom Home Office, Operational Guidance Note: Kuwait (2005), at para. 3.6.7.; see also US State Departments, '2010 Country Reports on Human Rights Practices: Kuwait' (2010), available at <http://www.state.gov/g/drl/rls/hrrpt/2010/nea/154465.htm>, accessed April 27, 2011.

<sup>17</sup> US State Departments (2010)

### **Struggling with statelessness**

Massouma's story illustrates some of the real ills of Kuwait's laws and policies on nationality. Born in Kuwait to a Kuwaiti citizen mother and a bidoon father, Massouma inherited her father's predicament and has been stateless since birth—she is now in her later 20s. Thanks to her mother's status as a citizen, Massouma does not live in dire poverty like many other bidoon, but her life has nevertheless been extremely complicated by the fact that she does not have a nationality.

Massouma applied to go to Kuwait University in the early 2000s, but despite excellent grades failed to get admitted because of her lack of legal status. Instead she applied and was accepted into a university abroad. But when she arrived at the border of the foreign country she was forced to return to Kuwait because her grey passport—issued by Kuwaiti authorities to some bidoon, and to date her only form of identification—was not accepted by the border officials.

Some 10 years ago, Massouma's parents decided to divorce to improve their children's chances of naturalizing as citizens. Under Article 4 of the Nationality Act, a divorced mother may confer nationality to her children, although it is ultimately at the discretion of the Minister of Interior. Since then, Massouma and her siblings have been on the list of bidoon waiting to get nationality. They keep being told that they are "at the top of the list" but so far this has not materialized in anything—Massouma and her siblings remain stateless.

### **Women and children: discrimination and nationality**

Kuwaiti women were only given the right to vote and stand for public office in 2005, but similar reforms have not taken place in the citizenship area. With a few rare exceptions, Kuwaiti women are prohibited from conferring nationality to their children. Thus, when a Kuwaiti woman has children with a stateless man—or a foreign national who is unable to confer nationality to his children—their children become stateless. Kuwaiti women are also prohibited from conferring nationality to their non-Kuwaiti husbands. Given that the stateless population in Kuwait is quite large, these are significant problems.

Estimates ranging from 5,000 to 7,000 mixed marriages (between a Kuwaiti citizen woman and a bidoon man) have been asserted by the press. The plight of these families is similar to families where both spouses are bidoon in that the couple cannot secure marriage certificates and must pay to send children to private school. In addition, Kuwait women in this situation are afraid to speak up for fear of losing the benefits that they do have, including employment in the formal sector.

The only exception to this prohibition is in Article 5 of the Nationality Act, whereby a child born to a Kuwaiti mother can—on reaching the age of majority—acquire nationality if the father has either divorced the mother or passed away. However, this right is entirely at the discretion of the Minister of the Interior and is only granted by decree. Attempting to secure their rights, families affected by this issue say they are individually told that “You are at the top of the list” by registration officials. Some have been “at the top of the list” for years.

Gender equality with respect to conferral of nationality to children is provided for in Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Kuwait, although it has ratified CEDAW, has a reservation to this article.<sup>18</sup> However, similar or tangential provisions exist in other instruments that Kuwait is party to. For example, the Arab Charter on Human Rights provides that “States parties shall take such measures as they deem appropriate, in accordance with their domestic laws on nationality, to allow a child to acquire the mother's nationality, having due regard, in all cases, to the best interests of the child.” While the language here is ambiguous, it is always in the best interests of the child to have a nationality, which implies that to the extent that gender discrimination is creating statelessness it is a violation of the Charter.

Moreover, regardless of the parents’ nationality status, all children have a right to acquire a nationality under the ICCPR (Article 24), as well as the CRC (Article 7). While Kuwait has no reservation to Article 24 of the ICCPR, it does have a reservation to Article 7 of the CRC to the effect that it only considers this to be an obligation in the case of foundlings—i.e. where both parents are unknown. Whether or not this is an acceptable reservation in light of the object and purpose of the treaty<sup>19</sup> is a matter of debate, however Kuwait still has a similar obligation under the ICCPR.

### **Religion and deprivation of Kuwaiti nationality**

Religious discrimination is a problem not just in Kuwait but in the Gulf Region as a whole. Kuwait does not allow any non-Muslims to naturalize as citizens, and it provides for *ipso facto* deprivation of nationality if a naturalized person renounces or “behaves in such a manner as clearly indicates his intention to abandon” Islam. This alone is problematic from a legal point of view, but to make matters worse, Article 4 of the Nationality Act also provides that “the nationality of any dependent of the apostate who had acquired it upon the naturalization of the apostate is also rendered void.”

International law has widely recognized that nobody shall be arbitrarily deprived of his or her nationality.<sup>20</sup> Where such deprivation nevertheless occurs, recourse to a fair hearing by a competent and impartial tribunal must be available. In Kuwait, this is not the case. The Nationality Act itself does

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<sup>18</sup> “The Government of Kuwait reserves its right not to implement the provision contained in article 9, paragraph 2, of the Convention, inasmuch as it runs counter to the Kuwaiti Nationality Act, which stipulates that a child's nationality shall be determined by that of his father.”

<sup>19</sup> Vienna Convention on the Law of Treaties, Section 2 (1969)

<sup>20</sup> See, for example, Universal Declaration on Human Rights (Article 15); Human Rights Council Resolution 13/2 (2010); and Arab Charter on Human Rights (Article 29)

not provide a right to appeal in cases of deprivation of nationality, and this has also been confirmed by Kuwaiti legal experts. In fact, when the Administrative Court of Kuwait was first established in 1981, it was explicitly prevented from considering questions of citizenship.<sup>21</sup> Moreover, the Nationality Act contains no safeguards against statelessness—not in the case of stateless persons born on the territory, and not in the case of people being rendered stateless through deprivation of nationality.

### **Repression, abuse and degrading treatment**

Most countries do not consider statelessness a protection ground *per se* for granting political asylum. As a result, those bidoon who have sought protection outside Kuwait have in most cases not been granted asylum and instead been forcibly returned. Upon return, some face problems with the authorities. Physical and psychological cruelty amounting to torture has been described to Refugees International by interviewees.

Most bidoon are afraid to speak publicly about their situation, as they fear repercussions against themselves or their families. An interviewee told the Justice Initiative and Refugees International that bidoon who have spoken publicly about their problems at international conferences have faced persecution on their return to Kuwait. One common measure is to label individuals as security threats which prohibit them and their families from (ever) naturalizing as citizens.

In addition to these government-sanctioned forms of abuse, ill-treatment in the work place is frequently reported. Educated and trained young people are being denied jobs, and often resort to the underground economy to make a living.<sup>22</sup> One interviewee noted that competition for low level or informal jobs nevertheless demands having a degree, English language skills, and working very long hours, yet earning well below national standards. Employers that hire bidoon also have to pay a fine if they are caught, an expense typically deducted from the salary of the bidoon employee.<sup>23</sup>

### **Protesting for rights in 2011**

Following large-scale protests across the Middle East and North Africa, the first bidoon demonstrations for nationality rights took place on February 18, 2011. Afraid of the protest spiraling out of control the government quickly promised some meager reforms, including access to a few basic rights for bidoon. One avenue for such change is the National Assembly, which was supposed to hold a two-hour discussion about the bidoon issue on March 8, 2011. Unfortunately, that day Members of Parliament voted with a two-thirds majority to postpone the discussion in favor of debating “issues that concern Kuwaitis” (in this case economic policies).

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<sup>21</sup> HRW (1995)

<sup>22</sup> Refugees International (2008), available at <http://www.refugeesinternational.org/policy/field-report/kuwait-honor-nationality-rights-bidun>, accessed April 27, 2011.

<sup>23</sup> Shiblak (2011), p. 179

With no change in sight, on March 11 bidoon took to the streets again chanting that they love their country and their Emir, and that they want their rights. This time the government responded with excessive force, advancing with armored vehicles and riot police, employing tear gas and flares to break up crowds, then arbitrarily running after, beating, and detaining random people. Teargas was fired into homes as well. Kuwaiti newspapers reported that 140 bidoon had been detained without charge,<sup>24</sup> and families were initially not notified of their whereabouts. While government officials continue to claim that eleven basic rights have been or will be granted to bidoon in the very near future, these will not effectively deal with the underlying problems of poverty, exclusions, and statelessness. Although basic rights are a minimum requirement, the nationality issue must be addressed to ensure an adequate and fair resolution to this problem.

## **Conclusion**

Kuwait is a rich country with a complex social fabric. The political, economic, and social elite strive to retain wealth and power—unfortunately often at the cost of violating basic human rights of other people in the country, such as the bidoon. Bidoon have no recourse, and no access to basic services. They have become victims of abuse and exploitation. Delegations of foreign governments and the United Nations in the country are reluctant to intervene in spite of Kuwait's failure to live up to its international obligations. With no answer in sight, tens of thousands of lives and enormous human capital and financial resources are being wasted. This senseless suffering was described by one young bidoon: "It is the humiliation of not being given what is a right everywhere in the world."

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<sup>24</sup> 'Interior Minister warns bedoons not to stage protests again,' [Kuwait Times](http://www.kuwaittimes.net/read_news.php?newsid=NTAxNjcwMDE4) (March 14, 2011), available at [http://www.kuwaittimes.net/read\\_news.php?newsid=NTAxNjcwMDE4](http://www.kuwaittimes.net/read_news.php?newsid=NTAxNjcwMDE4), accessed May 9, 2011

## **Recommendations**

### ***International obligations***

- Kuwait should immediately bring its laws and practices into line with its international obligations in the areas of citizenship, prevention and avoidance of statelessness, and non-discrimination.
- Kuwait should withdraw its reservations from CEDAW (Article 9) and the CRC (Article 7), and consider ratifying the Convention relating to the Status of Stateless Persons (1954) and the Convention on the Reduction of Statelessness (1961).

### ***Domestic reforms***

- Kuwait should immediately cease all forms of abuse or torture of stateless persons who have been forcibly returned to Kuwait after having sought asylum elsewhere.
- Kuwait should provide in law for a clear right to nationality from birth for any child born in Kuwait if a) Either parent is a national; b) Either parent is a habitual resident; or c) The child would otherwise be stateless.
- Kuwait should remove all discriminatory provisions from its Nationality Law, including clauses and conditions that discriminate on the basis of gender, ethnicity and religion. Specifically, Kuwait should a) Provide women equal rights to men with respect to the passing of nationality to their children; b) Remove all forms of preferential treatment afforded to people of Arab ethnic origin; and c) Remove all forms of religious discrimination including the prohibition on naturalization of non-Muslims.
- Kuwait should provide for an expedited naturalization process for stateless habitual residents.
- Kuwait should provide access to judicial review in nationality related matters, including where applications for naturalization have been rejected.
- Kuwait should immediately stop pressuring bidoon into signing affidavits to the effect that they are foreign nationals when in actual fact they are stateless.

### ***International actors***

- The United Nations, and in particular the Office of the High Commissioner for Refugees, should increase its institutional capacity to deal with statelessness in Kuwait, pursue research on statelessness, and aid the Kuwaiti authorities in establishing a credible statelessness status determination mechanism.
- The US and other states should emphasize to the government of Kuwait that it must implement its international obligations in the field of nationality and statelessness.
- The League of Arab States should address statelessness and discrimination in nationality-related matters throughout the region, and should demand that Kuwait provide bidoon with an expedited path to nationality. It should also insist that Kuwait removes all elements of ethnic, religious, and gender discrimination from its nationality law.