



Associated with the submission:



Kuwait: End discrimination of stateless persons
by establishing a transparent pathway to citizenship

Submission to the Human Rights Committee
139th Session of the Committee on Civil and Political Rights
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Introduction

1. Salam for Democracy and Human Rights (SALAM DHR) and the Institute on Statelessness and Inclusion (ISI) make this joint summary submission to the Committee on Civil and Political Rights in relation to the right to a nationality and human rights challenges pertaining to statelessness in Kuwait. Cristina Figueira Shah and Humberto Mendes Ramos wrote the first draft of this summary submission. Drewery Dyke and members of ISI edited it.
2. Salam for Democracy and Human Rights (SALAM DHR) is an independent nongovernmental organisation that promotes adherence to international human rights standards and the principles of democracy.¹
3. The Institute on Statelessness and Inclusion (ISI) is the first and only human rights NGO dedicated to working on statelessness at the global level. ISI's mission is to promote inclusive societies by realising and protecting everyone's right to a nationality.²
4. Rights Realization Centre (RRC), a UK-registered charity that promotes and protects international human rights standards through partnerships with other NGOs but also by way of engagement with governments and corporations; along with the MENA Statelessness Network (Hawiati), a network that promotes awareness about, and seeks to end statelessness in the Middle East and North Africa (MENA) associate themselves with the findings and recommendations set out in this summary submission.³

¹ For more information about SALAM DHR, see: <https://salam-dhr.org/?lang=en>

² For more information about ISI, see: <https://www.institutesi.org/>

³ For more information about RRC, see: <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charitydetails/5103620/charity-overview> and for more information about Hawiati, see: <https://www.hawiati-mena.org/>

Overview

5. This summary submission is based on the findings of the joint SALAM DHR and ISI, January 2023 report, *“Nothing But a Pen and a Word: Voices from the Stateless Bidoon Community in Kuwait During the Covid-19 Pandemic”*.⁴
6. The report, finalised in September 2022 explored the life experiences of members of Kuwait’s stateless Bidoon community during the Covid-19 pandemic, from its emergence around March 2020 to around January 2022. It provided a qualitative snapshot of the lives of those who took part in the project by exploring whether and how their socio-legal status shaped their experiences and what the impact of that experience was.
7. At the time of writing, UNHCR recorded 92,000 stateless persons in Kuwait.⁵

| Year | Country of Origin | Country of Asylum | Refugees under UNHCR’s mandate | Asylum seekers | Other people in need of international protection | Stateless persons | Host community | Others of concern |
|------|-------------------|-------------------|--------------------------------|----------------|--|-------------------|----------------|-------------------|
| 2022 | - | Kuwait | 684 | 960 | - | 92,000 | 0 | 13 |

8. The *“Nothing But a Pen and a Word”* study found that over the course of the COVID-19 pandemic in Kuwait, on account of the longstanding legal status and imposed, widespread lack of official documentation, members of the stateless Kuwaiti Bidoon community could not immediately access healthcare at all times; and when members of the community could access healthcare, it was generally later – sometimes months late. Access to vaccination, in particular, was structurally delayed on account of documentation requirements for online sign-up and, as a result, in some cases, initially denied to hundreds if not many hundreds of Kuwaiti-born stateless persons. Access to healthcare at times appeared to ignore specific vulnerabilities, such as co-morbidities and/or social factors that put members of the stateless community at greater risk than citizens.
9. On account of their legal status, at the same time, members of the Bidoon community experienced unstable, generally poorly remunerated work and other social deprivations commensurate with their legal status.
10. Amidst the public health crisis, the government body responsible for the administration of the stateless Bidoon community - the Jihaz al-Merkezi, or Central System - was mired in allegations of corruption and carried out what appears to have been industrial-scale falsification of identity documents in order to change arbitrarily the legal status of stateless persons, including up to many hundreds or thousands born in Kuwait.⁶ Amnesty International has also documented such falsification of identity documents.⁷ Practices of the Central System, or Jihaz al-Merkezi contravened Kuwaiti and binding international law. As an effectively autonomous agency, its conduct appears to have escaped oversight and accountability. Its actions, alongside others taken by the Kuwaiti authorities, appear to have been aimed at reducing the documented existence of stateless persons in Kuwait, without providing a reasonable or internationally recognisable and non-arbitrary pathway to nationalisation.
11. The results of this study indicated that hundreds or even thousands of stateless people suffered

⁴ To access the report, see: <https://salam-dhr.org/voices-from-the-stateless-bidoon-community-in-kuwait-during-the-covid-19-pandemic/>

⁵ UNHCR Refugee Data Finder, accessed 2 October 2023, at: <https://www.unhcr.org/refugee-statistics/download/?url=Bxt3cW>

⁶ See the Corollary Information section of the report, *Nothing But a Pen and a Word: Voices from the Stateless Bidoon Community in Kuwait During the Covid-19 Pandemic*, from page 30 onward.

⁷ See the first full paragraph at the top of page 2 of the statement *Kuwait: Rising Signs of Despair among Bidun Highlight Cruelty of Draft Law*, 21 November 2019, <https://www.amnesty.org/en/documents/mde17/1362/2019/en/>. It states: “To date, the Central System has arbitrarily assigned many Biduns who applied for renewed IDs in recent years a false, non-Kuwaiti nationality (typically Iraqi or Syrian), which then appears in both the database records system and on their new official documents. By doing so, the Central System has effectively been pressuring Biduns in need of ID cards into waiving their national rights in exchange for the documentation they need in order to manage their daily lives”. See also the references on pages 10/11 and 28 of the Amnesty International report, *“I don’t have a future” - Stateless Kuwaitis and the Right to Education*, 17 August 2023, at: <https://www.amnesty.org/en/documents/mde17/6990/2023/en/>

tremendous economic and psychological hardship during the pandemic, including in the course of successive lockdowns during which they faced unstable employment; did not have access to broadly analogous forms of socio-economic support as that accorded to citizens. Accordingly, the impact of Covid-19 on Kuwait's stateless Bidoon community was proportionally more widespread and more intense than that experienced by counterparts with Kuwaiti citizenship.

Summary assessment of the State Party's report: Discrimination and the Right to Nationality

12. The June 2020, fourth periodic report of the State of Kuwait under the International Covenant on Civil and Political Rights provides further evidence of the state party's misrepresentation of the rights set out in the Covenant and indicates that it knowingly and intentionally abrogates state responsibility by violating a spectrum of rights of those who are or who would be, under a generally and internationally understanding of the term, recognisably stateless.⁸
13. Paragraph 19 of the state party's report, addressing the character of the de facto stateless community in Kuwait is a flawed 'interpretation' of the character of statelessness as it is understood internationally. For example, it is an intentional misrepresentation of the situation on the ground to assert that "[...] *there are no so-called "stateless persons" or "Bidoon", since these terms refer to persons who have no nationality of their own. This does not apply to the status and definition of unlawful residents who entered Kuwait illegally and concealed the documents indicating their original nationalities in the hope of gaining Kuwaiti citizenship and all its attendant privileges*".⁹ The state party's records show that thousands of children have been born and that the state party has refused to grant nationality on an intergenerational basis. The assertion of the state party may be viewed as a malign administrative measure to eliminate a challenge that the authorities have long refuted.
14. In paragraph 21 of the state party's report, the Government of Kuwait (GoK) underlines that "*the granting of Kuwaiti citizenship is a sovereign matter that the State evaluates on the basis of its own best interests*".¹⁰ While this is undeniably true in law and practice, anecdotal evidence suggests that discriminatory views of influential Kuwaitis shapes governmental policy paralysis: in October 2012, a member of the then Prime Minister's staff told a current staff member of SALAM DHR, following a meeting with the then Prime Minister, Jaber Al-Mubarak Al-Hamad Al-Sabah, that the reason why the GoK did not facilitate granting citizenship to the stateless community was on account of "*demography*": "*they [the Bidoon] are mostly poor and Shi'a*". We understood this assertion to be his personal opinion. Analogously, a leaked 7 February 2017 United States diplomatic cable ('Wikileaks') explained that the communities' relative poverty and supposed sectarian affiliation shaped popular and government thinking about the issue.¹¹

⁸ United Nations, International Covenant on Civil and Political Rights / Human Rights Committee, Fourth periodic report submitted by Kuwait under article 40 of the Covenant, due in 2020, [Date received: 23 June 2020], UN reference CCPR/C/KWT/4. See: <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhspccZtPQ7R1iwNDmNuQ2Q9W%2BzvsIsXPuKAnJ004xJR5hoSB2A4Lc4v1ZlbdxDT2U7Bxrp38ug%2FhEN28Wa53%2BLpOwfvUtRzDE6WnDGC3d4hi>

⁹ The relevant paragraphs state:

19. *It is important to explain that there are no so-called "stateless persons" or "Bidoon", since these terms refer to persons who have no nationality of their own. This is not applicable to the status and definition of unlawful residents who entered Kuwait illegally and concealed the documents indicating their original nationalities in the hope of gaining Kuwaiti citizenship and all its attendant privileges.*

20. *Thus, the official designation is that of "unlawful residents", pursuant to Decree No. 467 of 2010 concerning the establishment of the Central Agency for the Remedy of Situations of Unlawful Residents.*

¹⁰ The entire paragraph reads:

21. *The granting of Kuwaiti citizenship is a sovereign matter that the State evaluates on the basis of its own best interests. It is subject to the conditions and regulations laid down in the Kuwaiti Nationality Act No. 15 of 1959, as amended, which specifies the cases in which the possibility of obtaining citizenship may be considered. The Central Agency for the Remedy of Situations of Unlawful Residents investigates and examines the situation of such persons on a case-by-case basis, with full transparency and without succumbing to pressure or personal whims, in accordance with the road map produced by the Supreme Council for Planning and Development, approved by the Council of Ministers and promulgated by Royal Decree No. 1612 of 2010.*

¹¹ See: Confidential / Section 01 or 03 / Kuwait - Subject: Kuwait's effort to appease Bidoon with driver's licenses backfires, 7 February 2017, at: https://wikileaks.org/plusd/cables/07KUWAIT221_a.html The cable stated, amongst other things:

Kuwaiti politicians walk a fine line on the Bidoon issue reflecting a sharply divided public opinion. Urban Kuwaitis see the Bidoon as uncultured foreigners hiding their true identities to try to freeload off the generous Kuwaiti social welfare state. Human rights activists and tribal MPs (most Bidoon come from the tribal MPs' districts) have decried the hardships faced by the Bidoon and have raised the profile of the Bidoon through the media and public rallies. Sectarian and tribal rivalries also divide those who support or oppose Bidoon naturalization. For instance, some Sunnis claim that a large percentage of the Bidoon are Shi'a, which they worry would upset Kuwait's sectarian balance. Tribal MP Khudeir Al-Enezi gave PoOff a detailed breakdown of the tribal affiliations of

15. SALAM DHR and ISI call upon the Committee to request that representatives of the GoK explain the methodology and eligibility of provisions set out in paragraph 22, viz. Act No 11 of 1998, whereby the adult children and grandchildren of naturalised citizens become eligible for citizenship. For example, why would it be remarkable that children become eligible for citizenship when this should exist by virtue of the Covenant itself?

Role and character of the Jihaz al-Merkezi, Central System, or Agency

16. The character, function and role of the Central System constitutes a violation of Article 26 of the Covenant, amongst other articles: its reason for being is to administer a population subject to restrictions and limitations that constitute discrimination and lesser protection of the law; its very purpose is to create and perpetuate discriminatory law and practice.

17. Further, in contravention of articles 14, 16, 17, 21, 24, 26, 27, while the GoK asserts broadly equal treatment between citizens and members of the stateless community in respect to health, education and other social services, the report *Nothing but a Pen and a Word* details structural inequalities in law and practice that are concomitant with the very existence of the Central System. Evoking an administrative model akin to apartheid South Africa era, it is a body that oversees the provision of services to a community with fewer and weaker rights; and a society apart from others - citizens - also born and raised in Kuwait. It is the sole responsible body that controls “every facet of life of a stateless person in Kuwait”.¹² Its conduct systematically serves to delegitimize the Bidoon community by promoting and continuing the lesser legal status of members of the community.

18. Paragraph 23 of the state’s party report asserts that the Central Agency, or System (*Jihaz al-Markezi*), the autonomous state body established to oversee all stateless-related administrative matters such as:

- Issuing user and health insurance cards. In practice, Bidoon’s legal status has prevented or delayed access to medical services. For instance, the Salam DHR and ISI report documented the case of a 15 year old boy in 2021 who was denied chemotherapy treatment on the basis that these services “were reserved only for citizens”.¹³ It also observed that during the Covid-19 pandemic, there were registered cases of infected people who were denied admission to the hospital or were not allowed to see a doctor “with no reason given”.¹⁴
- Promotion of access to education and “free education”. In reality, most stateless children are educated in parallel, private schools which generally have lower educational and professional standards than state schools, from which stateless children are prohibited from attending, even though many thousands are also Kuwait-born; Moreover, there is no reference regarding the explicit gaps or restrictions put on access to state-funded higher education institutions faced by stateless persons. While it is positive that, for example, “a total of 141 students of both sexes were registered with the Ministry of Education to pursue Master’s degree courses or doctorates”, how does that figure tally in relation to those without citizenship? If it is considerably less, per capita, it is on account of discrimination in the education system, in which there is one stream for stateless persons and another for citizens. In that regard, it is important to mention the registered cases of stateless people who despite achieving to study overseas, faced a series of challenges to see their diplomas be recognized by the GoK. This is specifically documented for medical students who claimed that the Equivalency Department of the Ministry of Higher Education had refused to validate their degrees on the grounds that they were not Kuwaiti citizens. Further alarming is the case of Bidoon students in Kuwaiti universities who have reported on numerous occasions that they were forced to register for an identity document under their terms (forcing them to accept false nationalities) to be allowed to register for a university program.
- Providing official documents. However, the evidence of the 2021-2 report showed that the GoK falsifies, on an industrial scale, personal documentation. The coerced enforcement of fraudulent documents, and the actions from the Central System that directly target Bidoon community

Kuwaiti citizens and Bidoon, arguing that certain tribes fear a loss in power if the Bidoon are naturalized.

¹² “Nothing but a pen and a word”: *Voices from stateless Bidoon community in Kuwait during the COVID-19 pandemic*, 2023, p. 15 onward.

¹³ *Ibid.*, p. 26.

¹⁴ *Ibid.*, p. 26.

members to forcibly deny their connection to Kuwait, violating Article 26 of the Covenant, requiring treatment without discrimination and equal protection of the law. This violation is observed in a variety of cases where it has been reported that the Central Agency has classified Bidoon people under foreign nationalities every time Bidoon individuals request identity papers.¹⁵ This kind of practice is also noticed in numerous cases of institutional blackmail where for instance Kuwait Universities have “added notes on stateless students’ certificates to fabricate false accusations of having other nationalities”.¹⁶

19. Evidence from the report showed that members of the Bidoon community faced restrictions in respect to being able to lodge complaints or make use of the judicial apparatus to find protection, and/or reparations. For instance, in numerous cases related to the Central System, the impossibility for the Bidoon community to appeal the decisions of the Central System is documented, especially in relation to the demand and promulgation of identity documentation papers.¹⁷ Further complications were also observed in cases of convicted Bidoon people, in which it was observed that they were held in deportation centres and were denied any judicial assistance. This was justified with the argument that these were foreigners who did not have the proper identification papers to remain in the country.¹⁸
20. The GoK carried out arbitrary arrests of stateless activists and human rights defenders (HRDs) for protesting the suspension of salaries to stateless people working in public institutions, their exclusion from the formal labour market, and the discriminately applied lockdown of the Bidoon community during the COVID-19 pandemic. For example, the case of Hani Hussain, a lawyer and human rights defender whom the government prosecuted in 2015 on nine criminal charges.¹⁹ HRD, Abdulhakim al-Fadhli has repeatedly spoken out against systematic efforts by the GoK to destroy “*whatever self-sufficient efforts the Bidoon have built for themselves*”.²⁰
21. In this regard, state conduct contravenes obligations under articles 14, 16, 19 and 21 of the ICCPR in respect to accountability, transparency, peaceful assembly, and the respect for the rule of law.

Comment on the right to a nationality: Equality in nationality rights in law and in practice, Resolution passed at the 53rd session of the Human Rights Council, July 2023

22. The right to a nationality as enshrined in resolution [A/HRC/RES/53/16](#) presents the importance that nationality holds for the full enjoyment of human rights.²¹ While acknowledging state sovereignty and associated duties, the resolution identified the challenges of discrimination, vulnerability, and marginality. It appealed to states to guarantee that the dignity of all peoples be safeguarded. Our organisations assert that the conduct of the GoK departs from the standards set out in the resolution.
23. The Central System’s systematic discriminatory practices, including its industrial scale falsification of identity documents constitutes a contravention to paragraphs 4, 8, and 14 of the resolution.²²
24. The arbitrary arrests and intimidation of a number of HRDs; the failure to engage with organisations and other stakeholders in Kuwait including our own organisation; contravenes principles relating to the establishment and state guarantee of a safe public civil space and thus violates paragraph 6 which calls for the effective implementation of non-discriminatory law in consultation and engagement with stateless leaders and communities, and wider civil society.²³
25. Paragraphs 3, 5, 7, and 20 of the resolution highlight the need of the establishment of national legislation that ensures the elimination of any form of discrimination, avoiding any path that favours the loss of nationality, and the necessity to design a plan to end statelessness in consultation with victims and civil

¹⁵ Ibid., p. 19.

¹⁶ Ibid., p. 25.

¹⁷ Ibid., p. 31.

¹⁸ Ibid., p. 23.

¹⁹ Ibid., p. 23

²⁰ Ibid., p. 18.

²¹ United Nations, The right to a nationality: equality in nationality rights in law and in practice/ Human Rights Council, Fifty-third session [Date received: 13 July 2023], UN reference A/HRC/RES/53/16. See:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G23/150/98/PDF/G2315098.pdf?OpenElement>

²² United Nations, The right to a nationality: equality in nationality rights in law and in practice/ Human Rights Council.

²³ Ibid.

society members.²⁴ In this regard, too, the structure and implementation of GoK law and practice in respect to pathways to citizenship, including in relation to the issue of documentation falls short of the vision set out in the resolution.

Recommendations to the Committee on Civil and Political Rights (CCPR)

26. The right to nationality forms a *'right of rights'*; that is, citizenship guarantees a spectrum of rights. The conduct of the GoK, on what is now an inter-generational basis, constitutes conduct that violates the object and purpose of the Covenant itself, including Articles 2, 3, 24, 25, 26 and 27 of the Covenant.
27. Bearing in mind the findings of the report *"Nothing But a Pen and a Word": Voices from the Stateless Bidoon Community in Kuwait During the Covid-19 Pandemic* along with the summary assessment of the GoK's discriminatory approach towards the right to nationality, amongst the enjoyment of other rights set out in the Covenant, we urge the HRC to consider calling upon the GoK to:
- Re-assess and re-evaluate its entire approach in respect to its engagement with the Bidoon community, including by committing to abide by internationally binding human rights treaties, such as by taking objectively verifiable measures to implement treaty body recommendations;
 - Take steps to end all discriminatory and arbitrary restrictions and limitations currently applied to stateless Bidoons, in keeping with contemporaneous measures regarding their legal status;
 - Immediately abolish the Central System and bring its functions under state bodies applicable to citizens;
 - In consultation with national and international civil society, as well as intergovernmental bodies and experts, determine and publish clear, objectively verifiable assessment criteria for Kuwaiti citizenship; and
 - Create an independent pathway in line with international standards that enables non-citizens in Kuwait to apply for citizenship, with a right of appeal when rejected.

²⁴ Ibid.