



# General Assembly

Distr.: General  
23 August 2019

English only

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## Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by Americans for Democracy & Human Rights in Bahrain Inc., a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2019]

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\* Issued as received, in the language(s) of submission only.



## **Kuwait's UPR: Systematic Human Rights violations and the ongoing targeting of the Bidoon**

Americans for Democracy & Human Rights in Bahrain (ADHRB) takes this opportunity at the 42nd session of the United Nations (UN) Human Rights Council (HRC) to raise serious concerns over Kuwait's human rights violations, particularly those against stateless persons, also known as *bidoon*. The Government of Kuwait continues to deny stateless persons and non-citizens equal rights, and to erect barriers to full inclusion. The government also continues to restrict fundamental freedoms, including the rights to free expression, association, and assembly, as well as to torture human rights defenders and detain them in inhumane prison conditions.

### **Overview**

Kuwait has a large stateless population that has faced widespread, systematic repression since the establishment of the State of Kuwait. This population, known in Arabic as *bidoon jansiya*, or "without nationality" is estimated to represent 10 percent of the population of Kuwait - approximately 100,000 individuals. Prior to Kuwait's independence in 1961, *bidoon* were treated equally as Kuwaiti citizens, and they enjoyed the same freedoms and rights. After independence, they were not included as citizens and various laws stripped them of most of their rights, as they were, and still are, deemed "illegal residents." As a result, they are denied civil documents and face restrictions accessing healthcare, education, and social services provided to Kuwaiti citizens.<sup>1</sup> In addition to discrimination against *bidoon*, the Kuwaiti government continues to prohibit expression critical of the government and ruling system, while human rights activists continue to face arbitrary arrest, detention, and torture.

### **Civil and political Rights violations**

The Kuwaiti government curtails the rights to free expression, association and peaceful assembly. The Penal Code empowers the government to criminalize "offensive speech" against the Emir, or speech that is considered disparaging to neighboring countries. Activist Abdullah Saleh was sentenced *in absentia* to 25 years in prison for expressing views and opinions on social media considered "insulting" to Bahrain, Saudi Arabia and UAE.<sup>2</sup> More broadly, human rights defenders, journalists, and members of the political opposition are targeted and harassed, banned from travel, and have had their citizenship revoked.<sup>3</sup>

Women in Kuwait face additional discrimination. Under the Nationality and Personal Status Laws, women have unequal access to finance, land, and custody rights. They are further unable to transmit their citizenship to their children.<sup>4</sup>

### **Torture and ill treatment**

Kuwait's Constitution officially prohibits torture and other cruel and inhuman punishment. However, reports indicate that Kuwaiti authorities continue to torture individuals and to subject them to other cruel, inhuman and degrading treatment. The Kuwait State Security

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<sup>1</sup> Minority Rights Group International, Kuwait-Bidoon, December 2017, <https://minorityrights.org/minorities/bidoon/>.

<sup>2</sup> Amnesty International, Country Report: Kuwait, 2018 <https://www.amnesty.org/en/countries/middle-east-and-north-africa/kuwait/report-kuwait/>.

<sup>3</sup> International Service for Human Rights, "Kuwait: End crackdown on freedom of expression and women human rights defenders," January 2017, <https://www.ishr.ch/news/kuwait-end-crackdown-freedom-expression-and-women-human-rights-defenders>.

<sup>4</sup> Ibid.

(KSS) and the Drug Enforcement General Department (DEGD) have been identified as having tortured and abused detainees during interrogations and detention,<sup>5</sup> especially non-citizens and members of minority groups. Despite this, Kuwaiti officers rarely face consequences for their violations. The United Nations Committee Against Torture (CAT) recently highlighted reports of torture committed by Kuwaiti police and security forces involving protesters, members of minorities, and persons suspected of terrorist activities.<sup>6</sup>

## Violations of rights of the Bidoon

In 2018, there were estimated to be more than 100,000 *bidoon* in Kuwait.<sup>7</sup> While the law ostensibly provides avenues for *bidoon* to gain nationality, the naturalization process is opaque and decisions on applications appear arbitrary. According to *bidoon* advocates, many *bidoon* are unable to provide the required documentation to qualify for citizenship. Since the Kuwaiti government considers *bidoon* illegal immigrants, they do not have property rights, nor do they have the same access to services that citizens have. Rather, they are denied access to quality education and healthcare, as well as civil documents, such as birth or marriage certificates. Since citizenship and residency questions are not subject to judicial review,<sup>8</sup> members of the *bidoon* community face additional challenges to rectifying discrimination against stateless persons.

Under existing legal and cultural norms, non-citizens cannot transfer citizenship to their children, nor can a woman pass her citizenship to her child, meaning a child born to a Kuwaiti mother and a *bidoon* father cannot receive its mother's citizenship. As a result, children born to *bidoon* parents cannot attend public school or receive the same level of healthcare as a child born to Kuwaiti citizens.

The Government of Kuwait grants different types of documentation to *bidoon* people than it does to citizens. It gives *bidoon*, green identity cards, and gives yellow or red cards to those whose background needs further investigation.<sup>9</sup> This creates a stigmatizing environment, excludes individuals from accessing basic rights, and places those with a yellow or red card at a constant risk of arrest. Due to the requirement for proper identification and documentation, *bidoon* find their right to freedom of movement impeded, placing them at risk of arbitrary arrest and detention if they break any number of rules.<sup>10</sup>

## The targeting of Bidoon

Recently, Kuwaiti authorities have arbitrarily arrested more than dozen protesters, including prominent human rights defender Abdulhakim al-Fadhli. Al-Fadhli was arrested in a crackdown on peaceful protestors demanding equal rights for *bidoon*. In July 2019, 12 protesters were arrested following a demonstration after the suicide of the young *bidoon* boy, Ayed Hamad Moudath, who killed himself after he lost his job due to his inability to obtain official documents.<sup>11</sup>

In late July 2019, individuals dressed in civilian clothes kidnapped activist Hamoud Al-Rabah. Al-Rabah had published statements on his Twitter accounts in support of civil and human rights of the *bidoon* community. One day later, officials arrested *bidoon* activists

<sup>5</sup> US Department of State, "Country Report Kuwait 2018," <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/kuwait/>.

<sup>6</sup> Ibid. Pages 1-4, 6-7.; CAT/C/KWT/CO/3.

<sup>7</sup> Ibid.

<sup>8</sup> ADHRB, "Systematic Human Rights Violations in the State of Kuwait," Submission to the UN UPR, July 2019.

<sup>9</sup> Supra 1.

<sup>10</sup> Supra 7.

<sup>11</sup> Lynn Maalouf, Amnesty International, "Kuwait: Authorities crackdown on protesters demanding citizenship rights," July 2019, <https://www.amnesty.org/en/latest/news/2019/07/kuwait-authorities-crackdown-on-protesters-demanding-citizenship-rights/>.

Bader Al-Tamimi and Khalifa Al-Anzi.<sup>12</sup> The men are among at least 17 members of the *bidoon* community known to be arrested since 11 July 2019.

### **Kuwait's 2nd Cycle UPR**

During its 2<sup>nd</sup> cycle UPR in 2015, Kuwait received the following notable recommendations pertaining to the rights of the *bidoon* and other stateless persons:

- 157.30. Ratify the Conventions on refugees and stateless persons (Honduras);
- 157.31. Accede to the 1954 Convention relating to the Status of Stateless Persons (Slovakia);
- 157.32. Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, with a view to finding a permanent solution to the legal status of Bidouns [*sic*] in Kuwait (Australia); and
- 157.34. Make a credible commitment to improving the status of Bidouns by ratifying the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness (Germany).

The government noted these recommendations, but has yet to take substantive action promoting the rights of the Bidoon and other non-citizens.

### **Conclusion and Recommendations**

The State of Kuwait continues to prohibit certain forms of expression and to regularly arrest activists, contravening its international obligations and commitments to protect human rights.

Kuwait must take steps to ensure that the basic rights of its stateless population are respected. *Bidoon* should be given legal residence permits that would allow them to compete for employment, as well as grant them equal access to education, healthcare, and other services that require identification documents.

ADHRB calls on the Government of Kuwait to:

- Respect its international human rights obligations and accede to the 1954 Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness;
- Guarantee the right to the freedoms of peaceful assembly and opinion and expression in both law and practice and in line with the ICCPR, which Kuwait has ratified;
- Fully respect the provisions of Article 44 of the Kuwaiti Constitution which grants the right to demonstrate and peacefully assembly to individuals without the need of prior permission;
- Implement interim measures to guarantee *bidoon*'s access to employment, housing, social services, and other rights;

Stop the series of arbitrary arrests and to release all members of the Bidoon community, which have been arbitrarily detained for their peaceful activism and to defense the civil and human rights of the Bidoon community.

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<sup>12</sup> Gulf Centre for Human Rights, "Kuwait: State Security continues series of arbitrary arrests of Bidoon activists," July 2019, <https://www.gc4hr.org/news/view/2175>.