

THE 'WITHOUTS' OF KUWAIT

NATIONALITY FOR STATELESS
BIDUN NOW

AMNESTY
INTERNATIONAL



More than 100,000 stateless Bidun people live in Kuwait. Many were born there and belong to families who have lived there for generations. Yet in this oil-rich land of plenty, most of these Bidun face severe restrictions on their access to employment, health care, education and the state support enjoyed by Kuwaiti citizens. When Bidun have protested to demand their rights, they have faced violence and repression.

Many Bidun currently living in Kuwait were born and raised in Kuwait. Some have Kuwaiti mothers and other Kuwaiti relatives. Many belong to families that have been settled in Kuwait for many years, including before independence in 1961. Yet for over 50 years, the Kuwaiti authorities have denied Bidun people citizenship of the only country they know, labelling them



“Some of my friends and family can’t get a birth, marriage or divorce certificate; others are not allowed to work in the public sector or to own property; others still are not allowed a university education.”

Nawaf al-Bader, pictured above, Secretary of the Bidun Committee of the Kuwait Society for Human Rights.

“non-Kuwaiti”, “unidentified [citizens]” and, now, “illegal residents”.

The term Bidun comes from “*bidun jinsiyya*” (“without nationality”). The Bidun are indeed Kuwait’s “withouts” – without nationality but also without the rights conferred by full citizenship.

Until 1986, the Bidun enjoyed a status similar to that of Kuwaiti citizens. Since then, however, many thousands of Bidun have not been able to access government services that require national IDs because they possess only temporary documents whose renewal is at the discretion of the state. Thousands more have no documents at all and often rely on charity to survive.

The naturalization process, administered by a government body – the Central System to Resolve Illegal Residents’ Status – is opaque and based on shifting criteria. The Central System assesses cases and makes recommendations to the Higher Committee of Citizenship, a government body that decides whether nationality will be granted.

Because of the discrimination they face, Bidun who are able to work in the public sector accept lower wages and poorer terms of employment than Kuwaiti citizens. The Bidun often pay higher fees for essential medical care they cannot obtain at state facilities. Bidun parents sometimes have to send their children to fee-paying schools

as some are excluded from free state schools, although there is a state-sponsored fund for education that Bidun families can access.

In April 2011, the government promised to improve the rights of Bidun, but have yet to turn their words into deeds. This not only continues to deny tens of thousands of Bidun their internationally recognized human rights. It also damages Kuwait’s international reputation.

In despair, some Bidun have felt compelled in recent years to buy forged, foreign passports in order to regularize their status. However, their inability to renew these passports has left them even more disenfranchised and further complicated any possible resolution to their statelessness. In July 2013 the head of the Central System repeated the government position that some Bidun have an alternative nationality and are therefore ineligible for Kuwaiti citizenship.

cover: A Bidun protest in Taima, an area west of Kuwait City, being dispersed with water guns and tear gas on 19 December 2011.

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above right: Bidun demonstration in Freedom Square, Taima, on 6 January 2012. Protesters marched with a 50-metre Kuwaiti flag signifying 50 years of Bidun struggle for citizenship.**



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THE DEMAND FOR CITIZENSHIP

All Bidun who can prove that they have lived in Kuwait for a number of years – the number to be determined by law based on international standards – should be eligible for citizenship.

The birth, marriage and death of all people should be recorded in a clear and consistent manner, facilitating easy decision-making about a person's status in Kuwait. Any act to undermine this process should face stiff penalties.

The application process must be fair and transparent. Biduns whose applications are rejected must be able to appeal through Kuwait's court system or an independent tribunal that has the force of law.

Unfortunately, the latest government plan – a 2010-11 proposal to create four colour-coded categories of citizenship – further threatens the human rights of Bidun.

The criteria for the varying degrees of citizenship are subjective and determined by factors such as whether an applicant can "prove" that his or her forbearers took part in the 1965 census, served in the army or police, or lived in Kuwait.

In May and October 2012, Amnesty International delegates in Kuwait discussed the Bidun issue with government representatives, including the Prime Minister, and met many members of the Bidun community.

One Bidun man said that he felt betrayed because he had served in the Kuwaiti army but still has no nationality. Another said that he had been refused citizenship even though he has proof that his grandfather worked in the pre-independence government and his father served in the army in the 1970s.

A Bidun man described how the country's complex yet arbitrary registration system affects his relatives:

"I was born in 1986 and have a birth certificate. But I don't have a nationality... I have a Bidun passport and so do my brothers because my father is in the military..."

Another observed:

"My father has been working in the Ministry of Interior since 1970 but he does not have Kuwaiti nationality... My mother is a Kuwaiti but has no right to extend her nationality to her children..."

WOMEN AND GIRLS

As is often the case in marginalized communities, Bidun women and girls are particularly vulnerable to discrimination and abuse. Nadia al-Husain, a Bidun activist, explained:

"Bidun women do not really express their anger and frustration at the situation... there are no provisions for Bidun women in case of divorce... They tell us we should be happy with what we have."

"In a family with four girls and two boys, the family will [pay to] send the two boys to school. The girls will each take a year in turn, so each girl will go to school every four years. Girls will be victims at home unless they choose to marry... [However] many Bidun women choose not to marry in order not to repeat the cycle with their own children."

"Women suffer violence [and] there is no medical or social support. Their husbands use poverty as an excuse for their violence towards them... should they be widowed, they receive nothing."

“In 2011 came the Arab Spring. With the wind of change the Bidun did not call for a revolution, but demanded their rights to citizenship.”

A Bidun activist, speaking to Amnesty International in 2012

PROTESTS MET WITH VIOLENCE

Just as 2011 marked the 50th anniversary of Kuwait's independence, it also signalled the 50th anniversary of statelessness for the Bidun in Kuwait, although it was the 1959 nationality law that set in motion the legal problems confronting the Bidun.

Frustrated by the lack of progress on securing basic rights, in early 2011 Bidun activists began organizing demonstrations. Most took place in Taima, an area west of Kuwait City. As months passed, the scale of demonstrations increased, as did repression and retaliation by the authorities.

On 18 February 2011, some 120 largely peaceful demonstrators were arrested and 30 required medical treatment: the security forces had forcibly dispersed those gathered. Another violent clash took place on 11 March 2011.

In May 2012, security forces used batons and armoured vehicles to disperse about 200 peaceful Bidun protesters near Taima. At least 15 activists and a journalist were detained.

Kuwaiti human rights activists, including from Human Line (the Khat al-Insan association), witnessed and documented violations by the security forces.

On successive weekends in December 2011, thousands of people attended



AN ACTIVIST'S STORY

Musa'ed al-Shammari took part in a demonstration early on 13 January 2012 in Taima. He told Amnesty International that many attended Friday prayers that day and that the police surrounded the mosque and only allowed those who promised not to join the demonstration to leave.

Around 300 people refused. Police then used tear gas to force them into the courtyard, where they struck them with truncheons and arrested 59.

Later, a further 12 people, including Musa'ed al-Shammari and Abdulhakim al-Fadhli, were summoned by the police and charged with inciting the protest. Both men were transferred to Kuwait Central Prison. All 71 detainees were subsequently transferred to Kuwait Central Prison before being released on bail by the end of the day.

Musa'ed al-Shammari said that in the following weeks, police subjected Bidun to spot-checks and beatings in the street. Some had their mobile phones confiscated. He added that doctors were prohibited from certifying injuries sustained during the demonstrations, making it difficult to lodge complaints, and that for 14 days the authorities secretly imposed a form of martial law in Taima.

Musa'ed al-Shammari was charged with numerous offences, including being the “owner” of a Twitter campaign and having links to human rights activists, organizations and opposition groups abroad.



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themed demonstrations, such as “Friday of the Flowers”, where flowers were given to participants and the police, and “Donation Friday”, when a blood bank was established. For two consecutive demonstrations, the security forces allowed peaceful demonstrators to assemble. Then, on 7 January 2012, the Deputy Interior Minister declared that Bidun demonstrations were forbidden.

Amnesty International again called on the Kuwaiti authorities to allow peaceful protest and intensify efforts to find a lasting solution for the Bidun.

However, the authorities continued on occasion to use violence against protesters. In early July 2012, for instance, security forces used water cannons, tear gas and beatings to break up a Bidun demonstration.

Scores of Bidun face trial in connection with such protests. Some have been acquitted, but at the time of writing in

July 2013, the cases were stalled awaiting a ruling on whether or not the constitutional prohibition on demonstrations by non-Kuwaitis was applicable to the Bidun community. The Constitutional Court’s ruling is expected on 18 September 2013.

TORTURE AND OTHER ILL-TREATMENT

Several Bidun told Amnesty International that they had been tortured and ill-treated by Kuwait’s security forces in connection with protests. Some said that they were blindfolded, suspended by the hands and feet, beaten with sticks, slapped and forced to “confess”. Several said that they had been held in small, overcrowded cells or in solitary confinement, and had not been allowed to use the toilet or wash, or had food withheld. Apart from the work of Kuwaiti human rights groups, Amnesty International is unaware of independent and impartial investigations into their allegations.

Bidun journalist Bandar al-Fadhli, who has been detained eight times since 2009 for criticizing the government and taking part

in demonstrations, described the torture he suffered during two of his detentions:

“On 10 February 2010... I was beaten by two people... kicking me on the legs, punching me in the head and slapping my face. They also threatened to put out a cigarette in my eye... After the interrogation they made me stay standing up for the rest of the day without water. They refused me access to the toilets and told me ‘go in your clothes’.”

“On 12 March 2010, I went to the State Security to demand my passport [which had been confiscated]... They blindfolded me and took me to an investigation room while kicking, slapping and insulting me...”

above left: Scene from a Bidun protest on 6 January 2012. Amnesty International recorded instances of excessive use of force by security forces during demonstrations in 2011 and 2012.

above: Bidun activist Abdulhakim al-Fadhli has been repeatedly arrested in 2011, 2012 and 2013. Usually held for short periods, he currently faces charges that include planning and inciting demonstrations.

“All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language or religion.”

Article 29 of the Kuwaiti Constitution

INTERNATIONAL LAW AND STANDARDS

Under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, which Kuwait has promised to uphold, all children have the right to a nationality. In November 2011, the UN Human Rights Committee instructed Kuwait to end discrimination against the Bidun community, including by amending its nationality law.

Kuwait is also obliged under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) to end discrimination against Bidun and guarantee non-discrimination in the fulfilment of human rights, including the right to a nationality, freedom of assembly and association, freedom of movement and the right to health, education and employment.

In 2011, the UN Committee against Torture, which monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, another treaty Kuwait has ratified, expressed concern at the treatment of Bidun people. It recommended, among other things, that Kuwait enact specific legislation to protect Bidun people and recognize their legal status.

In May 2010, Kuwait's human rights record was reviewed under the UN's Universal



Periodic Review process. Kuwait's government was asked about the status of the Bidun and given recommendations in relation to ending their statelessness.

The government agreed to continue efforts to find humane solutions for the “illegal residents”, including granting nationality to those who fulfil the applicable conditions and criteria and to take measures to improve the legal and social situation of the “illegal residents”. However, it rejected three recommendations, including one to give Kuwaiti nationality to those left stateless by the 1959 nationality law.

above: Police responding to a Bidun protest in Taima on 13 January 2012.

RIGHT TO EDUCATION

The right to access free, compulsory, primary education for all is provided by the International Covenant on Economic, Social and Cultural Rights, which Kuwait has promised to uphold.

Since only the children of Kuwaiti mothers can access free education, most Bidun children in Kuwait cannot. However, around 80-90% of a government fund to support access to education for “needy children” is believed to be allocated to Bidun families.

Members of the Bidun community told Amnesty International that their children in fee-paying schools often receive a worse education than Kuwaiti children, and that they are often asked to pay extra fees.

In 2012, the CERD Committee called on Kuwait to make “free compulsory education available to all children in its territory and make available and accessible secondary education to the greatest extent possible”.



TIME FOR CHANGE

Prime Minister Jaber Al-Mubarak Al-Hamad Al-Sabah told Amnesty International in October 2012 that his government would solve the issue of the Bidun within five years, repeating similar pledges made by officials in the previous two years.

While the wives and children of Kuwaiti citizens have been naturalized, little or no progress has been made to naturalize the 34,000 people who the government promised in 2010 were eligible for citizenship, let alone the tens of thousands of other stateless Bidun living in Kuwait.

Kuwaiti academic and human rights activist Ghanim al-Najjar told Amnesty International that "the promises are not enough to solve the problem".

The general situation of the Bidun appears to have worsened following the crackdown on demonstrations and Bidun activists, and amidst political turmoil in Kuwait unrelated to the Bidun issue.

Nevertheless, the pressure for change continues to grow.

TIMELINE

1959 The nationality law defines categories of Kuwaiti nationality and a range of criteria and limitations.

1961 Independence from Britain.

1962 The Constitution is finalized. Nomads continue to enter and leave Kuwait freely; some settle in Kuwait.

1965 Census establishes government baseline for citizenship.

1967 A range of mainly tribal communities are enfranchised.

1980 Amendment to the nationality law strips Kuwaiti women of the right to bestow citizenship on their children even when their children cannot take their father's nationality.

1981 Some tribal communities settled in Kuwait are given political rights enabling them to vote.

1986 A government decision strips Bidun of most rights, including free healthcare and education, and classifies them as "non-Kuwaitis".

Late 1980s Government expels some Bidun. A court overturns application of

Alien Residence Act as the Bidun cannot be defined as "aliens", but its ruling is largely ignored.

1990-91 Iraqi invasion of Kuwait. International military action restores the Kuwaiti rulers, but thousands of Bidun who had fled Kuwait are not allowed to return. Post-war IDs issued, but many belonging to Bidun are not renewed.

1999 Government decree allows stateless people to apply for citizenship if they can prove their family has lived in Kuwait since 1965. Up to 6,000 nationalized.

2000 Law No. 20 facilitates naturalization of people registered in the 1965 census and descendants, limited to 2,000 per year. It is partly implemented before being halted.

2006 Kuwait Society for Human Rights holds ground-breaking conference on the Bidun situation.

2010-11 Government proposes to create different categories of Bidun registration.

2011 Demonstrations by Bidun gather pace and are met by increased repression.

In February 2013, Group 29, a local NGO named after the article of Kuwait's Constitution providing for equality before the law, held a conference on statelessness in Kuwait and set out clear recommendations to the authorities.

In March, parliament passed a bill paving the way to granting 4,000 individuals citizenship, although the government appears not to have ratified it.

In May, a coalition of Kuwaiti NGOs formed the National Committee for the Resolution of Statelessness in Kuwait. Days later, the head of the Central System wrote to the government asking it to oppose the work of the coalition.

Amnesty International is adding its voice to those calling on the government to address urgently the issue of the stateless Bidun. Amnesty International will hold the authorities to the Prime Minister's promise to solve the problem within five years. Further suffering by over 100,000 people is simply not acceptable.



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ACT NOW – HELP THE BIDUN TO CLAIM THEIR RIGHTS

Write to the Amir of Kuwait, calling on him to immediately ensure that the government takes the following steps:

- Stop referring to Bidun as “illegal residents” and ratify international treaties relating to statelessness.
- In consultation with national and international civil society, determine and publish clear, objectively verifiable assessment criteria for naturalization.
- Begin a fair, transparent and swift adjudication of all pending applications for nationality, including the acknowledged 34,000 applications.
- Enable Bidun residents of Kuwait to have access to the courts or another form of independent tribunal with the force of law to challenge decisions made by the authorities and to make the case for their recognition as Kuwaiti nationals.
- Guarantee the right to peaceful assembly, end the use of excessive force against peaceful demonstrations, and drop all charges against those facing prosecution in connection with their peaceful participation in demonstrations if they are not to be charged with an internationally recognizable criminal offence and given a fair trial.
- Investigate allegations of police abuse, including torture and other ill-treatment, against Bidun and those detained following demonstrations for Bidun rights.
- Pending full naturalization, rescind regulations that discriminate against Bidun in terms of access to employment and public services, especially health care and education.

Please send appeals to:

His Highness Sheikh Sabah Al-Ahmad Al-Sabah
Al Diwan Al Amiri,
Sief Palace – Building 100
State of Kuwait

above: One of a series of protests held every morning for 10 days outside the Kuwait University Admission's Office calling for the acceptance of Bidun students in the country's only public university. The protest was organized by a local NGO – Group 29 – which staged a conference on statelessness in February 2013. The placards call for the rights of the Bidun to be respected.

**AMNESTY
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Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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