



KUWAIT

SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD
91ST SESSION, 29 AUGUST – 23 SEPTEMBER 2022

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1. INTRODUCTION

The information in this submission is based on a combination of desk research and a field mission to Kuwait that Amnesty International conducted between 22 and 29 June 2022, focusing on the Kuwaiti authorities' conduct with respect to the rights to health and education of stateless residents of Kuwait (Bidun). During this mission, Amnesty International interviewed 29 Kuwaitis, including 24 stateless Kuwaitis and five Kuwaiti-national activists and civil society members working to address discrimination against the Bidun.

2. RIGHT TO A NATIONALITY FROM BIRTH (ARTICLE 7, ARTICLE 2)

Kuwait has a long-term stateless population, the Bidun, who have been present in the country since independence in 1961.¹ Under Article 2 of the Law on Kuwaiti Nationality, only children born “to a Kuwaiti father” are universally and automatically recognized as Kuwaiti nationals.² For the first two decades after independence, a child born to a Kuwaiti mother and a father “of unknown nationality or without a nationality” was recognized as Kuwaiti under Article 3.1 of the law.³ In 1980, however, Article 3.1 was amended to remove the right of a Kuwaiti mother to pass her nationality to her children born to a father who was stateless or of unknown nationality.⁴ For the last 42 years, therefore, the rule has been that children born to two stateless parents or to a stateless father will be born stateless.

The size of the affected population is substantial. The Research Directorate of Kuwait's National Assembly estimated in April 2014 that the number of Bidun was 111,000, or about 10% the size of the recognized population of Kuwaiti nationals.⁵

In this connection, Amnesty International reiterates the recommendation made to the government of Kuwait by the UN Committee on the Rights of the Child to describe the measures it is taking to “ensure the right of all children to be registered at birth and acquire a nationality without discrimination, in particular Bidun children”, and to “review the Nationality Act to remove discriminatory provisions, prevent statelessness and accord Kuwaiti women the right to pass their nationality on to their children irrespective of the father's nationality”.⁶

¹ Anh Nga Longva, *Walls Built on Sand: Migration, Exclusion and Society in Kuwait*, 1997, pp. 50, 51.

² Kuwait, مرسوم أميري رقم (15) لسنة 1959 بقانون الجنسية الكويتية, Article 2.

³ Kuwait, مرسوم أميري رقم (15) لسنة 1959 بقانون الجنسية الكويتية, Article 3.1.

⁴ Kuwait, مرسوم بقانون رقم 100 لسنة 1980 بتعديل بعض أحكام قانون الجنسية الكويتية, Article 1.

⁵ Research Directorate of the National Assembly, Kuwait, *البدون في الكويت: قضية لم تحسم بعد!!*, April 2014, kna.kw/research/elbdoon/01.pdf, p. 1.

⁶ UN Committee on the Rights of the Child (CRC), List of issues in relation to the combined third to sixth periodic reports of Kuwait, 17 November 2020, UN Doc. CRC/C/KWT/Q/3-6, paras 6(a), 6(b).

3. BACKGROUND: DOCUMENTATION OF IDENTITY

Children born stateless face a heightened level of legal uncertainty and risk of human rights violations if their parents are not recognized by the government as regular residents of Kuwait. In case of births within Bidun families without regular residence status, hospitals will issue a simple report of the birth (Arabic: بلاغ ولادة), but not a finalized, formal birth certificate (Arabic: شهادة ميلاد) from the Ministry of Health. The birth certificate is needed to obtain a Civil Identity Number (Arabic: رقم مدني) from the Public Authority for Civil Information. This number is essential to receive any services as a stateless but regular resident of Kuwait. Five out of 22 Bidun families interviewed by Amnesty International had children falling into the nearly undocumented category without birth certificates and Civil Identity Numbers.

Since 2010, the main form of government document issued to the Bidun is a “review card” (Arabic: بطاقة مراجعة) issued by the Central System for the Remedy of the Situation of Illegal Residents (“Central System”), the government agency with primary authority over Bidun affairs. (In Kuwait the formal name of the card is almost never used and it is usually referred to as the “security card”, or sometimes as a “yellow card” or “grey card”, based on its colouring, which is mostly grey with a yellow strip at the top.) The card can be obtained by those who have the Kuwaiti birth certificate and Civil Identity Number, but not by those who have only the simple hospital report of birth. The card must be renewed annually and bears a statement on the back side reading “This card shall not be considered a personal identity document” (Arabic: “لا تعتبر هذه البطاقة هوية شخصية”), although in practice it is the document that government agencies expect Bidun to present to confirm their identity.

The Central System has in some cases arbitrarily assigned a non-Kuwaiti nationality to Bidun applicants renewing these cards. Amnesty International has inspected documents for two Bidun individuals who were initially recorded as having no defined nationality on their Central System cards but were later declared on their renewed cards to be of Iraqi nationality. In one of the two cases, the individual had a government record attesting his birth in Kuwaiti in 1966 to two parents of unknown nationality. The practice of arbitrarily assigning a nationality when issuing the card, which creates an official record of the purported nationality that will follow the individual throughout their life, has created distrust of the Central System among the Bidun. As a result, some Bidun who have birth certificates and Civil Identity Numbers do not apply to the Central System to obtain or renew this card.

4. RIGHT TO HEALTH (ARTICLE 24, ARTICLE 2)

Bidun Kuwaitis are currently able to access primary healthcare in the public health system, at government expense, provided they have one of the following forms of identification: a review card issued by the Central System, including expired cards; a special blue card issued by the Ministry of Health to Bidun with Civil Identity Numbers; or a full birth certificate issued by the Ministry of Health plus a Civil Identity Number issued by the Public Authority for Civil Information. According

to reporting in Kuwait's semi-official controlled press⁷ that was confirmed to Amnesty International by a Bidun man with an expired Central System card, under unpublished internal instructions that are issued and periodically renewed by the Ministry of Health,⁸ the system of primary-care government clinics (Arabic: مستوصفات) accepts expired Central System cards as valid to access most primary medical care. Certain more expensive medical interventions covered by the government for Kuwaiti nationals, however, such as dental bridges, are not approved for Bidun patients at government expense, and are only available to Bidun individuals, including children, at personal expense through private-sector health providers.

Access to healthcare is much more problematic for those who have never had a Central System card, birth certificates or Civil Identity Numbers. All medical appointments, treatments and referrals through the government healthcare system are dependent on a Civil Identity Number, and private providers too will only rarely and exceptionally agree to treat patients without a Civil Identity Number, even when the patient covers their own expenses. Of the five Bidun families Amnesty International interviewed with members who did not have a Civil Identity Number, all had found it difficult or impossible to access healthcare, including for their children, because of the lack of documentation, even when they were willing to pay for it. In a case documented by Amnesty International, a 10-year-old Bidun girl who had only the report of birth from the hospital (بلاول ولادة) and not the final birth certificate issued by the Ministry of Health (شهادة ولادة) as personal documentation has been unable to receive care from a dermatologist for an undiagnosed rash that she has suffered from since infancy. Her family last brought her to a government hospital in Kuwait City in 2020 to try again to see a dermatologist but were turned away because she does not have a Civil Identity Number. Amnesty International also documented the case of a 17-year-old Bidun boy who was only able to obtain vaccination against Covid-19 in 2022 after borrowing a friend's Civil Identity Number card and pretending to be the cardholder. When he tried to get vaccinated in 2021 under his own name, he was unable to register online as required at the time because the registration process required a Civil Identity Number. A Bidun father of a two-year-old girl was likewise only able to secure doctor's appointments for her at the public clinic in his home area in al-Ahmadi province by using the Civil Identity Number of another one of his children who, unlike his two-year-old, had a Civil Identity Number and a final birth certificate from the Ministry of Health.⁹

Amnesty International remains alarmed that Bidun Kuwaitis denied official documentation such as birth certificates and Civil Identity Numbers on the basis of discriminatory nationality policy face additional barriers in accessing healthcare as a result. In this connection, we recall the statement from the Concluding Observations on Kuwait issued by the Committee on Economic, Social and Cultural Rights in 2021:

While noting the information provided by the State party indicating that health care is provided to all residents on an equal basis, the Committee is concerned about reports of discrimination against Bidun, who have been categorized as stateless persons or illegal residents, with regard to access to health services, and of higher fees being charged for health services for such non-citizens.¹⁰

⁷ For example, aljarida, "إعفاء «البدون» المنتهية بطاقتهم الأمنية من رسوم الخدمات الصحية", 10 May 2021, aljarida.com/articles/1620643663190998000/

⁸ According to a recognized Kuwaiti national doctor who has previously worked in the public health system, a Bidun dentist who currently works in the Ministry of Health and a Bidun activist who has worked for years to collect government policy documents on the Bidun, these documents are not normally published. Amnesty International has searched Kuwait's official gazette for these documents and has not been able to locate them. The official gazette publishes some but not all regulatory decisions (قرارات) issued by government ministries, but not policy documents.

⁹ This family has children in different statuses because the earlier children were born while the father had a valid Central System card. Before the birth of his two-year-old daughter, he stopped renewing his Central System card because at his last renewal attempt in 2017 he had been asked to sign a statement that he held a non-Kuwaiti nationality before the office would issue him a new card, which would have had the new assigned nationality printed on it.

¹⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding Observations: Kuwait, 3 November 2021, UN Doc. E/C.12/KWT/CO/3, para. 32.

5. RIGHT TO EDUCATION (ARTICLE 28, ARTICLE 2)

With the exception of several limited categories (see further below), Bidun children are excluded from the free public school system at the primary, intermediate and secondary levels provided for children who are recognized Kuwaiti nationals. Kuwait has stated that the exceptional categories are defined in Ministry of Education Decision No. 114 of 2016, “Decision 504/2010... and Decision 175/2016”.¹¹ It does not state what government agency issued the latter two decisions or on what specific date any of the three decisions were issued. The Arabic term used, (قرار, here translated as “Decision”) usually refers to a regulatory decision issued by a ministry. Amnesty International has searched for matching ministerial decisions issued under the numbers stated in all issues of the Kuwaiti official gazette made available online for the years 2010 and 2016 and has not been able to find them published there.¹²

Based on Kuwait’s report to the Committee, and as confirmed by Amnesty International’s interviews with Bidun families in Kuwait, the excepted categories permitted to go to public schools are: Bidun children whose fathers are current employees of the Ministry of Education or the Ministry of Health; Bidun children whose fathers or paternal grandfathers served in the military or security forces and were not fired; and children whose mothers are recognized Kuwaiti nationals.¹³ The government of Kuwait does not make available annual disaggregated figures on Bidun children, so it is not possible to estimate the number currently attending public schools through one of these exceptions and the number of those excluded from public schools. In its submission to the Committee, Kuwait does not give a number for Bidun children in public schools for a period more recent than the 2017–2018 school year, when it reports there were 30,097 Bidun children attending the public schools.¹⁴ Amnesty International reiterates here the call made on Kuwait in the “List of issues” to explain measures taken to “improve access to and the quality of data related to all children” in the country and to provide comprehensively disaggregated data with respect to a range of children’s rights including education.¹⁵

The majority of Bidun children, who do not fall into one of the exceptional categories, must attend private schools, which unlike the public schools are not free for families. There is a body that is administered by the government and funded partly by the government and partly by private donations, the Charitable Fund for Education of Needy Children, that provides some financial support for the families of Bidun children to pay school registration fees. However, the Charitable Fund does not cover all school expenses for Bidun families. Transportation expenses, school uniforms and various school administrative fees are still covered at the families’ private expense, and these amounts are sometimes a significant burden on the income of Bidun families.

All Bidun individuals interviewed by Amnesty International reported that the government had never communicated or made efforts to ensure that school-age children in their household were in fact attending school. Three young Bidun men and one Bidun child reported that they were unable to complete their childhood education and had begun working as children. Of these four, two young men were in their mid-20s, with Civil Identity Numbers and birth certificates: one did not go to school because his family was poor and he went to work to support their income; the

¹¹ Kuwait, ردود دولة الكويت على قائمة المسائل المتصلة بتقريرها الجامع للتقارير الدورية من الثالث إلى السادس، 12 January 2022, CRC/C/KWT/RQ/3-6, para. 85; Kuwait, التقرير الجامع للتقارير الدورية من الثالث إلى السادس المقدم من الكويت بموجب المادة 44 من الاتفاقية، الذي كان من المقرر تقديمه في عام 2018، 16 March 2020, CRC/C/KWT/3-6, p. 28. In the English version of Kuwait’s report to the Committee the word “Decree” is used for these legal instruments. However, the Arabic word used (قرار) is better translated as “Decision” because in the Kuwaiti context it is normally used to refer to ministerial decisions. The word for “decree” in Arabic, مرسوم, is applied in Kuwait to decrees by the emir.

¹² law.gov.kw/MainTabsPage.aspx?val=GA1 (accessed on 3 August 2022).

¹³ Annexes to Kuwait, التقرير الجامع للتقارير الدورية من الثالث إلى السادس (previously cited), Arabic Word document, p. 6.

¹⁴ Annexes to Kuwait, التقرير الجامع للتقارير الدورية من الثالث إلى السادس (previously cited), Arabic Word document, p. 29.

¹⁵ CRC, List of issues in relation to the combined third to sixth periodic reports of Kuwait (previously cited), paras 2(c), 17.

other began working after his family tried to register him for school but were rejected.¹⁶ The third young man, also in his 20s, has never had a Civil Identity Number and birth certificate, and so could not register for school. The child, now 17 years old, likewise did not have a Civil Identity Number and a birth certificate and so could not register for school. The three young men had all gone to work as street vendors; the child went to work in the food and beverage industry.

In this connection, we note the call in the “List of issues” for Kuwait to indicate measures taken to “enforce legislation to protect children from economic exploitation, including in the informal sector..., particularly Bidoon and migrant children”.¹⁷

Out of 13 Bidun families interviewed by Amnesty International whose members had attended school during the past decade, all but one family (that is, 12 families) considered the private school system to be of inferior quality to the public schools, on the basis of the quality of teaching and the quality of the buildings and equipment. In this connection, Amnesty International recalls the request made to Kuwait in the “List of issues” to explain what measures it has taken to “ensure compulsory, free and good-quality education for all children (including non-Kuwaiti and Bidoon children”) resident in Kuwaiti territory.¹⁸

Families whose children do not have birth certificates and the accompanying Civil Identity Number cannot register their children for any school, public or private. Four of the five families in this category interviewed by Amnesty International reported being unable to register for any school, while the fifth family has yet to attempt registration of their child without a birth certificate and Civil Identity Number because this child is still below school age.

In this connection, Amnesty International recalls the statement from the Concluding Observations on Kuwait issued by the Committee on Economic, Social and Cultural Rights in 2021 that the Committee is concerned that primary education is

not accessible for free for all children, including non-Kuwaiti children, living in the State party. The Committee is also concerned about the lack of measures taken... to ensure that quality education is provided to all social groups... The Committee calls upon the State party to... [e]nsure that primary education is made available for free for all children in the State party, including non-Kuwaiti children, on an equal footing with Kuwaiti children, without discrimination, including for Bidoon children.¹⁹

At the university level, subject to academic qualifications, recognized Kuwaiti national students have their higher education expenses paid in full by the state, whether they study abroad or at the state’s flagship Kuwait University. According to all Kuwaitis interviewed, Bidun and non-Bidun alike, Bidun students, in contrast, are not eligible for state-funded study abroad. Bidun students also do not compete on an equal, merit-based playing field for admission to Kuwait University because, according to all Kuwaitis interviewed and to government statements,²⁰ there is an annual quota for Bidun admissions. The quota is usually set at around 200 seats per year.²¹ The university has over 30,000 Kuwaiti national students.²² Outside of those admitted under the quota, Bidun students only have the option of enrolling in private universities for which their families pay, at rates that are often prohibitively expensive relative to Bidun family income. The

¹⁶ This individual, based on age, should have been in kindergarten through secondary school between 1999 and 2012. Prior to the establishment of the Central System in November 2010, however, procedures for Bidun school registration were different and, in addition to the Ministry of Health birth certificate and Civil Identity Number, a third document, a registration card for Bidun issued by the now dissolved Ministry of Interior committee supervising Bidun affairs, was required. This individual did not have the Ministry of Interior registration card as a child.

¹⁷ CRC, List of issues in relation to the combined third to sixth periodic reports of Kuwait (previously cited), para. 12(c).

¹⁸ CRC, List of issues in relation to the combined third to sixth periodic reports of Kuwait (previously cited), para. 11(a).

¹⁹ CESCR, Concluding Observations: Kuwait (previously cited), paras 34, 35(a).

²⁰ For example, Kuwait News Agency (KUNA), “(الجهاز المركزي): اتفقتا مع جامعة الكويت على مقاعد المقيمين بصورة غير قانونية”, 9 June 2018, kuna.net.kw/ArticleDetails.aspx?id=2731885

²¹ For example, KUNA, “(الجهاز المركزي): اتفقتا مع جامعة الكويت” (previously cited).

²² Kuwait University, 2017/2016 إحصائية جامعة الكويت للعام الدراسي 2016, undated, planning.kuniv.edu.kw/download/-2016/الإحصائيات/2017.pdf, p. 3. The university has not published updated annual statistics since 2017. Kuwait University, الإحصائيات, planning.kuniv.edu.kw/Statistics_Ar_1.aspx (accessed on 5 August 2022).

five Bidun students of university age interviewed by Amnesty International pointed to the College of Medicine at Kuwait University as especially significant because it is the only facility in Kuwait that offers a full medical education. Among 29 Kuwaitis interviewed by Amnesty International, Bidun and non-Bidun, only one person, a Kuwait University professor who is involved in the university's annual discussion of Bidun admissions, knew of a Bidun student who had been accepted into the College of Medicine.

5.1 COMPARATIVE EXPENDITURES ON EDUCATION

Kuwait does not generally and systematically make available disaggregated data which would enable a comprehensive analysis of the funding allocated to and expenditures made for the education of Bidun children relative to children recognized as Kuwaiti. This raises again the issue of the need for the state party to improve access to and the quality of data available concerning all children in the country.

Only very partial figures relating to comparative education budgets and expenditures are available. In 2011, Kuwait disclosed that the Charitable Fund for Education of Needy Children, which provides financial support to eligible Bidun families, had a budget for fiscal year 2010–2011 of 6 million dinars (USD 20 million), and that this amount supported 20,000 people during the 2010–2011 school year.²³ This amounts to 300 dinars (USD 1,000) per student. In contrast, Kuwait's budget for the Ministry of Education in the same fiscal year was 1.03 billion dinars (USD 3.433 billion).²⁴ The school-aged Kuwaiti national population in 2011 was about 378,000.²⁵ This means there was a budget of about 2,720 dinars (USD 9,066) per Kuwaiti national student, which is more than nine times the amount allocated for a Bidun student that year.

Kuwait's parliamentary Research Directorate reported in 2014 that the Charitable Fund spent about 11.5 million dinars (USD 38.3 million), over the three years 2011–2013, on around 40,000 students in middle school and secondary school.²⁶ This works out to about 97 dinars per student each year, or 542 dollars in purchasing power parity (PPP). In contrast, Kuwait's Ministry of Education spent a national average of \$13,499.7 PPP per student from the same age group in 2014.²⁷ This makes the amount spent on Bidun middle and secondary school students supported by the Charitable Fund in 2011–2013 only 4% of the amount spent on the average Kuwaiti student in 2014.

The very limited data Kuwait has made available provides strong indications that the authorities spend far less per student on education for Bidun children than it spends for education on Kuwaiti national children. Amnesty International notes in this connection the Committee's call on Kuwait to describe measures taken to "improve the efficiency of budget allocations for children, including for non-Kuwaiti and Bidun children", and the call to supply geographically disaggregated figures on state budgetary allocations for children.²⁸

²³ Kuwait, "Report on the Human Rights Watch Report and Response to its Questions and Inquiries", June 2011, hrw.org/sites/default/files/reports/Response%20of%20the%20Kuwaiti%20Government%20to%20HRW_0.pdf, pp. 9-10.

²⁴ Ministry of Finance, Kuwait, 2012-2011 الحساب الختامي للإدارة المالية للدولة عن السنة المالية 2012, mof.gov.kw/FinancialData/PeriodRwwReport/PDF/FinalAccountPDF/Total2011-2012.pdf, p. 3.

²⁵ State of Kuwait – Central Statistical Bureau, *Annual Statistical Abstract*, 2011, p. 48. According to the *Abstract*, there were exactly 378,365 Kuwaiti nationals between the ages of 5 and 19 in the country in 2011.

²⁶ Research Directorate of the National Assembly, *البدون في الكويت* (previously cited), p. 13.

²⁷ UNESCO Institute for Statistics, "Kuwait", uis.unesco.org/en/country/kw (accessed on 11 March 2022).

²⁸ UN Committee on the Rights of the Child, List of issues in relation to the combined third to sixth periodic reports of Kuwait (previously cited), paras 2(b), 16.

6. RECOMMENDATIONS

Amnesty International reiterates the calls made on Kuwait in the “List of issues” to indicate what measures it is taking to “prohibit discrimination on all grounds, in accordance with the Convention”, and to “ensure that all children, including non-Kuwaiti (Bidoon and migrant)... children, can enjoy their rights under the Convention without discrimination and can access all services, including those related to health and education.”²⁹

Specifically, Amnesty International recommends that the Kuwaiti authorities:

- Revise the Nationality Law so that Kuwaiti nationality is transmitted equally, without regard to the sex of the parent, to children of Kuwaiti nationals, and more generally so that statelessness is not perpetuated by the birth of further generations of stateless children on Kuwaiti territory;
- Revise laws, policies and procedures so that every child born in Kuwait receives a full, finalized birth certificate from the Ministry of Health, rather than just the hospital report of birth;
- In consultation with national and international civil society, determine and publish clear, objectively verifiable assessment criteria for naturalization of Bidun Kuwaitis;
- Pending full naturalization, cease practices that discriminate against Bidun in terms of access to healthcare, education and other public services;
- Ensure that primary through secondary education is free and universal for all Bidun students;
- Undertake efforts to ensure that all children of school age in Kuwait are in school, that child labour is not practised and that all children receive a high-quality education;
- Do not require any form of personal identification that is not universally available in order for families to register their children for school;
- End the quota system for admission of Bidun students to Kuwait University, so that they can compete for admission to all departments, including the Department of Medicine, on an equal footing with Kuwaiti national students based on academic merit;
- Do not require a Civil Identity Number or any other form of personal identification that is not universally available in order for families to access healthcare services for their children;
- Ensure that Bidun children have the right to the enjoyment of the highest attainable standard of health without discrimination.

²⁹ UN Committee on the Rights of the Child, List of issues in relation to the combined third to sixth periodic reports of Kuwait (previously cited), paras 4(b), 4(c).

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KUWAIT

SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF THE CHILD

This submission has been prepared for use during Kuwait's review by the UN Committee for the Rights of the Child at its 91st session in August–September 2022.

The submission reviews Amnesty International's concerns about violations of the rights to nationality, education and healthcare affecting children born into the local stateless population in Kuwait, known as the Bidun. It is based on review of Kuwait's laws, the information it submitted to the Committee for this review and on interviews Amnesty International conducted with Bidun and recognized Kuwaiti national individuals during research in Kuwait in June 2022. The principal matters of concern uncovered by the research are that Bidun children, especially those from families with minimal documentation, are deprived of the right to a nationality and face significant difficulties in fulfilling their rights to education and healthcare.