

Review of the UK Home Office Country Information and Guidance (CIG) Report Kuwait, Bidoon -3 February 2014

Prepared for the Chief Inspector of Borders and Immigration & the Independent
Advisory Group on Country Information (IAGCI)

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1. Introduction

1.1. Purpose of the Review

This review assesses the new UK Home Office Country Information Guidance (CIG) report on Kuwait bidoon (3 February 2014) on the basis of the instructions provided by the Independent Advisory Group on Country Information (IAGCI), which is part of the Office of the Chief Inspector of Borders and Immigration. It aims, as required, at:

- . (i) Assessing the extent to which information from source documents has been appropriately and accurately reflected in the CIG report.
- . (ii) Identifying additional sources detailing the current human rights situation in the country with respect to main grounds for asylum claims.
- . (iii) Noting and correcting any specific errors or omissions of fact.
- . (iv) Making recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach.

To do so, the review is divided into two parts:

The first one investigates how *accurate* and *impartial* the information presented in the CIG Report is, by cross-checking the material with the sources cited and correcting it, when needed, using other available sources.

In a second part, the review assesses how *up-to-date* the information is in the light of the rapidly evolving situation in Kuwait and adds factual information that is missing. It also examines the extent to which the scope of the information represents a fair summary of the issue, by identifying themes that could be better developed to ease the understanding of the reader.

All additional sources used are recapped in an annex at the end of the review.

In addition, it is understood that the CIG Report on Kuwait is a **pilot document** and tests a new format, merging the former two separated Country of Origin Information (COI) and Operational Guidance Notes (OGNs) in one single Report: special care thus was devoted to assess the consistency and the logical link between guidance and information, on the one hand as well as to make the CIG report as user-friendly as possible, on the other.

1.2. Author

Claire Beaugrand is a researcher with the Institut français du Proche Orient (Ifpo). Her doctoral dissertation, completed in 2011 at the London School of Economics analysed the issue of statelessness (bidoon) in Kuwait between 1959 and 2009, under the title *Statelessness and Transnationalism in Northern Arabia: Biduns and State Building in Kuwait (1959-2009)*. She published various articles on the issue among others “Statelessness and Administrative Violence: Biduns' Survival Strategies in Kuwait” in *The Muslim World* (April 2011) as well as “The Emerging Idea of Nationality and Subsequent Institutionalization of Social Cleavages in Kuwait and Bahrain” in *The Yemeni Chronicles* (Issue 14, 2007).

1.3. Summary of findings

The issue of the bidoon in Kuwait is very complex, not least because, over more than fifty years, the State of Kuwait has been dealing with it through inconsistent policies. This inconsistency created various incentives and expectations on the part of the bidoon, who developed, over time, different strategies and sought various types of papers in order to maximize their chances of naturalisation or solve their everyday conundrums. For the smooth understanding of the reader, it is important to highlight three phases of different governmental policies:

1) Initially, from the early 1960s to 1986 the State of Kuwait tolerated the grey area between nationals and foreigners, as a legacy of tribal nomadic practices but also as a convenient way to staff its security forces.

2) As of 1986, it went back on this tolerant policy that translated into an exemption from the provisions of the law 17/1959 on Aliens' residence; it then lumped all different cases together under a same “illegality” label. The government justified this measure by the fact that illegal migrants who falsely pretended that they had no national affiliation abused the vaguely defined category of bidoon. This ushered into a period of pressure policy that stripped the bidoon of the rights they had enjoyed so far as state's tolerance; the rationale of the policy was to force the bidoon to regularise their status and “reveal their true origin.” As of 1993, different government authorities were successively created to implement this policy.

3) While still tasked with ascertaining bidoon's national origins (whether foreign or Kuwaiti) on the basis of crossing data collected from all ministries and government agencies, the Central System to Resolve Illegal Residents' Status (shortened as Central System), set up in November 2010, has gradually and *selectively* reversed the policy of rights deprivation. Although bidoon are still considered as “illegal residents”, the Council of Ministers Decision No. 409/2011, promulgated on 6 March 2011, granted them a set of civil and human privileges and facilities.

In a way or another, this three-step history should be made clearer in the document so as to understand the background of the bidoon category, and its extreme variety of situations, with regard to the documents held and rights enjoyed. This also would shed light on what is at stake with the Decision No. 409/2011 and the importance of finding out which categories of bidoon have access to what kind of rights and services and specifically who has none. The report should provide more information as to the deprivation of rights and in particular the concrete consequences of the lack of documentations in its section 1.3 “consequences of being a bidoon” as well as give more details on the measures taken by the Central System.

A difficulty worth highlighting from the outset for the reader is that the Kuwait State's does not recognise the bidoon as “stateless” as per the international law but maintains

that even newer generations can recover a “true original” nationality –which according to other countries’ nationality law (like Iraq and Saudi Arabia) is not straightforward. Nationality Law of Iraq: <http://www.refworld.org/docid/4b1e364c2.html>
Nationality Law of Saudi Arabia: <http://www.refworld.org/docid/3fb9eb6d2.html>
As a result, when using the word “stateless”, the report should always make clear in whose perspective it is meant.

Secondly, the new governmental approach towards the bidoon should be understood in the context of the rupture marked by the eruption of bidoon protest on 18 February 2011 in the bidoon populated areas, still going on at the time of writing. The significance of the event and the consequences on the bidoon demonstrators should be better emphasised, as Kuwait prohibits expatriates’ demonstrations (Article 12 of the 1979 Public Gatherings Law) and has a very low tolerance to foreigner-induced public disorder. The bidoon protests were forcefully dispersed and demonstrations forbidden, which has led to a creeping escalation until 2014. The protests ought to be followed closely, especially as reports of arrests and allegation of ill treatments in detention emerged, which results in bidoon having security flags, i.e. one of the grounds for considering their treatment amounting to persecution.

Based on this remark, I would suggest that the CIG in its guidance section draws, more than it already does, the attention of the reader onto the question as to whether the bidoon has been involved in the protests and was attributed a security block that would severely restrict his/her rights.

Finally, I believe that there is still some room to ease the understanding of the caseworkers by better presenting the information gathered on the complex matter.

2. Minor corrections, inaccuracies and typological errors

2.1. Single occurrence

Page 3:

Citizenship **categories** and not **catagories**.

Page 5:

“1. Bidoon (also known as bedoun, bidoun, bidun). A coma shall be added after “bidoun.”

I would also suggest to remove the words “ethnicity or” in 1.1.1, that may be misleading for readers, right at the beginning of the report. Ethnicity has played very little role in the issue of the bidoon since its emergence, and. Bidoon are almost exclusively Arabs; if there were some Persian bidoon, there would not be discriminated on this very basis but on the basis of their absence of proper registration with nationality committees (1960-1965) or immigration authorities (later on).

Page 8:

1.1.21 “gain nationality in 1961” is inaccurate: as a matter of fact, the committee of nationality existed between 1960 and 1965 mostly in urban Kuwait.

See Al-Anezi, R. H. (1989) *A Study of the Role of Nationality in International Law with Special Reference to the Law and Practice of Kuwait*. Cambridge, Cambridge. Pages 256-257 as for the role of the nationality committees and the rather untidy process that led to nationality granting.

1.1.24 The report should, for the sake of precision, clarify which “Bidoon Committee” is meant here by calling it “the Executive Committee, in charge of the bidoon.”

Page 10:

1.2.1 Rather than “at the time of Kuwait’s independence in 1961”, as *Human Rights Watch* writes, it is more accurate to say “at the time of Kuwait’s implementation of its 1959 Nationality Law.”

Page 11:

The following sentence, mixing two sources, is particularly confusing: “the bidoon are considered to be without nationality by the Kuwaiti government, so in effect, stateless, although the authorities maintain that the majority of bidoon are nationals of other countries.” A bit of chronology should be inserted here to make sense of the sentence: “the bidoon *were* considered to be without nationality by the Kuwaiti government until 1986 when the authorities reclassified them as “illegal migrants” maintaining that the majority are nationals of other countries” –otherwise it reads contradictory.

Likewise the rest of the paragraph ought to be presented with more logic rather than juxtaposing contradictory statements of numbers without explanations of what they refer to. Since the paragraph deals with the current situation, it would be useful to highlight first that the figures vary and that the government’s target is to reduce the number by gradual cases’ resolutions –notably the recovery of foreign nationality.

See the official booklet: Central System to Resolve Illegal Residents’ Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)*.

Finally, the government statement of 93,000 “registered unlawful residents” should be part of a discussion as for the contested figure. See below.

Page 12:

To my sense, there is no point referencing the date of the independence of Kuwait from Britain in 1961. This is an established fact.

Moreover, the expression, quoted from the FCO November 2007, for the date of 1996 “those registered with the ECIR by 1996 were given *temporary resident rights*” (my emphasis) is unclear as to what these rights entailed, since at the time, the bidoon had officially no legal or civil rights and from the residence permit’s point of view, they have always resided in contravention of the 1959 Aliens’ Residence Law, that is without having a national sponsor but also without being deported.

Page 13:

In 2010: rather than “34,000 bidoon have the right to obtain Kuwaiti citizenship”, it would be more accurate to write: “34,000 bidoon are *meeting the eligibility requirements* for the Kuwaiti nationality” as this phrasing better reflects the position of the government.

Page 14:

1.3.1 the “law in 1986” was, as a matter of fact, a “decree.”

1.3.4 and 1.3.5 The report wonders whether an amendment submitted by the Ministry of

Interior that would allow Kuwaiti women to “sponsor their husbands and children to acquire Kuwaiti nationality provided they have been married for ten years” was ratified. Conversations with human rights activists suggest that no tangible measure came out of this proposal (interview with the author, 2 June 2014).

The content of the 1.3.5 paragraph seems irrelevant to the purpose of the CIG report.

Page 20:

The content of the 1.5.5 paragraph does not seem to provide relevant information serving the purpose of the CIG report.

Page 24:

In 3.1.1, it is not clear from the paragraph that the bidoon staged their own protest, more precisely in the exclusively bidoon-populated areas (Tayma, Sulaybiyya and Ahmadi). Ideally, it could be useful to have these areas appear on the map provided page 23. As a matter of fact, over time, bidoon and opposition protests have been held separately.

In 3.1.3, the footnote reference should be BedoonRights.org not “Bidoon Rights”; <http://www.bedoonrights.org/2013/07/07/kuwaiti-women-protest-for-their-bidoon-husbands/>

Moreover, mention of this fact is misleading by overgeneralisation: it only concerns the wives of the limited number of bidoon employed by the Ministry of Defence as well as those of the mostly Saudi who replaced the bidoon in the ranks of the security forces.

2.2. Throughout the CIG Report

The report uses consistently the term “security card” for the cards issued by the Executive Committee for the Illegal Residents set up in 1996. Even if this use is widely generalised in the various sources, this translation of the original Arabic (*bitâqa murâja’a*) is inaccurate. “Security” conveys an idea that may be interpreted as biased: it would be preferable to translate throughout the document by “reference card”, with the term “reference” used with the meaning of “following up the transactions with the Executive Committee” like in a “reference number” –or make an explanatory/disclaiming note.

In the Response of the Kuwaiti Government to the 13 June 2011 *Human Rights Watch*, “Prisoners of the Past, Kuwaiti Bidun and the Burden of Statelessness”, the Kuwaiti government stated: “There is no such thing as a “security card.” Rather, it is a review card issued to every person registered with the Central System that contains his personal data and case file number”(page 5).

Government of Kuwait’s letter, “Report on the Human Rights Watch Report and Response to its Questions and Inquiries”, further to the 13 June 2011 *Human Rights Watch*, “Prisoners of the Past, Kuwaiti Bidun and the Burden of Statelessness”, http://www.hrw.org/sites/default/files/reports/Response%20of%20the%20Kuwaiti%20Government%20to%20HRW_0.pdf

A clarification ought to be made in paragraph 1.1.14 and 1.3.6 as for who considers “children born to a Kuwaiti woman and a bidoon man” to be “stateless.” From the perspective of the State of Kuwait, these children would bear the nationality or status of their father, hence would be either stateless or entitled to Kuwaiti citizenship or from a foreign nationality. 1.3.6 statement that the Kuwait Nationality Law itself acknowledges statelessness as resulting from this type of union is erroneous.

It should certainly be noted that with the passing of time and generations, the attribution by the Kuwait authorities of a foreign national affiliation becomes more and more problematic as the nationality laws of surrounding countries confer nationality to children of nationals but not explicitly to their grandchildren.

As a result it would be better to explain and replace “stateless” by “bidoon in the eyes of the Kuwait State but stateless in international law if the father cannot ascertain his own nationality” in the aforementioned sentence.

Secondly, in the next sentence, “stateless” should be replaced by “noncitizen.” Otherwise the statement stands in contradiction to paragraph 1.3.3.

As a matter of fact, the State of Kuwait contests the status of “statelessness” and denies it to the entire category of bidoon. A group of Kuwaiti female activists called Group 29 in reference to the article of the 1962 Constitution providing for equality before the law, fights for the state recognition of the bidoon as stateless people.

Page 3 and 19:

“Citizenship categories” is a misnomer: the different cards issued by the Central System are very remotely linked to any kind of nationality claim as stated by the government statement: “Neither are the civil and human rights afforded to illegal residents as a group in any way associated with the Nationality Act.” “Categories of cards issued by the Central System” would be more appropriate.

Human Rights Committee, CCPR, 103rd session, Geneva, 17 October–4 November 2011 “Consideration of reports submitted by States parties under article 40 of the Covenant – Kuwait, Addendum, Replies from the Government of Kuwait to the list of issues (CCPR/C/KWT/Q/2) to be taken up in connection with the consideration of the second periodic report of Kuwait (CCPR/C/KWT/2)” Pages 7.

If anything, the opacity of the naturalisation criteria can be highlighted as in the *2013 Human Rights Report- Kuwait*, US Department of State, page 14: “The law further fails to provide nonnationals, including Bidoon, a clear or defined opportunity to gain nationality.” http://kuwait.usembassy.gov/human_rights.html.

Pages 14 (1.3.2) and 16 (1.4.1):

“The Central System to Resolve Illegal Resident’s Status” should be consistently spelt as “the Central System to Resolve Illegal Residents’ Status.”

3. Recommendations for improvements and additions

3.1. Additional Information

Page 5:

The title listing all the different transliterations for the word “bidoon” should include the term “bedoon”, as in the website “Bedoon Rights”, created by the bidoon activist Mona Kareem. <http://www.bedoonrights.org>.

Page 8:

In the section “Is the claimant stateless?”, I would suggest adding a section 1.1. 27 on the specific case of individuals who have purchased faked identification papers from a third country and are unable to renew them, while their file is closed with the Kuwaiti authorities, and concluding “these individuals are stateless.”

Page 11:

1.2.4 The number of bidoon should be further discussed, quoting, for instance:

2013 Human Rights Report- Kuwait, US Department of State http://kuwait.usembassy.gov/human_rights.html, page 14:

“Although the exact number of Bidoon residents was unknown, in November the minister of interior reported to the National Assembly that there were more than 111,000 Bidoon in the country. The UNHCR estimated that the total Bidoon population was between 93,000 and 120,000, while NGOs such as Refugees International estimated the total to be as high as 140,000.”

And also, “Some Bidun activists say that the real number of Bidun in Kuwait is closer to 240,000, reflecting the government’s failure to update its statistics.” This latest figure has emerged recently among the bidoon activists based on the fact that many children of bidoon, lacking proper birth certificates, do not appear in the statistics (interview with the author, Kuwait, April 2014).

Human Rights Watch World Report 2014.

<http://www.hrw.org/world-report/2014/country-chapters/kuwait?page=2>

Second, the action of the Central System to Resolve Illegal Residents’ Status ought to be explained: when it was set up in November 2010, the Central System said it inherited 105,702 individual cases registered with the preceding organisation specialised with bidoon affairs, the Central Committee, with the task to sort them out.

The Central System takes particular care in facilitating the regularisation of bidoon status, by granting them a legal resident permit of five years. To do so, it opened a special branch in Mubarak al Kabir area on 6 May 2012 and since then up until February 2013, it claimed it registered the regularisation of 2,969 persons, most of them from Saudi Arabia (2,130 cases) (page 41-42 of the official booklet by the Central System to Resolve Illegal Residents’ Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)*).

The Central System divided the bidoon into three categories: 34,000 were deemed eligible to nationality and would hold a green card, valid for 5 years. Other would receive a red card showing that they are disqualified for naturalisation because they have criminal records (around 900 cases) or hold documents dating only to 1980 (8000). Finally, the rest would receive a three-year yellow card and would be requested to come forward and regularise their status on the basis of their foreign nationality. It is unclear, at the time of writing, whether this system of coloured-card was (or would be) implemented.

See UNHCR Refugees Daily, 18 June 2012: <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=463ef21123&id=4fe00ffc5>

What is ascertained, however, is that the Central System issues two cards with different validity length, as noted in point 1.5.6 (page 20) detailing the government’s explanation

on the two types of cards. The author could see an example of the second type of card with a yellow stripe at the top of the card. Finally, human rights' activists in Kuwait mention the recent issuance of cards with validity as short as three months, which hinders access to health services requiring identification papers valid for at least three months (email exchange and phone conversation with the author, 4 June 2014). This information ought to be verified and closely followed up.

In the “**timeline**” (page 13) as well as in the “**3. Recent events**” (page 24), the 2011 bidoon protest and its various phases till 2014 should be made more explicit

- A special line should be added in the “**timeline**” (page 13) referring to the eruption of a bidoon protest on 18 February 2011 and its handling with force by the government.

See: Refugees International & Open Society Foundations

Without Citizenship: Statelessness, Discrimination and Repression in Kuwait, 2011 (pages 11-12). <http://www.opensocietyfoundations.org/reports/without-citizenship-statelessness-discrimination-and-repression-kuwait>

- In January 2012, the bidoon defied the ministry of Interior's ban to demonstrate, which led to waves of arrests and detentions. The demonstrations have continued specifically during symbolic days like the 18 February anniversary and 2 October earmarked as the international day of Non-Violence. In October 2012, the protest led to at least 25 arrests. According to Amnesty International, during the 2-8 October 2012 protest, over 20 persons were arrested. The organisation further states: “the Kuwait Criminal Court this week reportedly postponed until 19 May 2013 the trial of 33 Bidun for participating in “unauthorised demonstrations” in December 2012” (21 March 2013).

This should be added to both the timeline and before 3.1.2 in “Recent events.”

Human Rights Watch

Kuwait: Don't Deny Right to Freedom of Expression. Stateless Bidun Ordered Not to Hold Demonstrations, 13 January 2012.

<http://www.hrw.org/news/2012/01/13/kuwait-don-t-deny-right-freedom-expression>

Amnesty International

Urgent Action: Bidun Arrested After Peaceful Protests 9 October 2012.

<http://www.amnesty.org/en/library/asset/MDE17/005/2012/en/08ef957d-fcc5-43f4-96fd-4738375a2da4/mde170052012en.html>

“Kuwait: Small step forward for Bidun rights as 4,000 'foreigners' granted citizenship”, 21 March 2013.

<http://www.amnesty.org/en/news/kuwait-small-step-forward-bidun-rights-4000-foreigners-granted-citizenship-2013-03-21>

This is Breaking People, Human Rights Violations at Australia's Asylum Seeker Processing Centre, on Manus Island, Papua New Guinea, December 2013. Page 25

Open Society Foundations:

“I Am Kuwaiti.” 8 January 2013 <http://www.opensocietyfoundations.org/voices/i-am-kuwaiti>. This gives the number of 25 arrests.

- As for the March 2013 bill to grant citizenship to 4,000 individuals (3.1.2, page 24), *Human Rights Watch 2014 report* confirmed: “activists in the Bidun

community have said this measure has not benefitted their community, but is being used to grant citizenship to children born to Kuwaiti mothers and foreign fathers.”

- Finally, since the beginning of 2014 and the hardening of the line of certain bidoon, emerging bidoon leading activists have been arrested, leading to allegation of ill treatment in detention prominent.

Amnesty International

Urgent Action: Seven Stateless Men Arrested, Ill-Treated 6 March 2014.

<http://www.amnesty.org/en/library/asset/MDE17/001/2014/en/e28eb1e0-3302-47dd-be00-6fbf76763993/mde170012014en.html>

Urgent Action: Four Bidun Men Released, Three Still Detained, 10 March 2014.

<http://www.amnesty.org/en/library/asset/MDE17/002/2014/en/87a722de-fa23-4f91-b17b-8f362c0c7cc2/mde170022014en.html>

Urgent Action: One More Bidun Man Released, Two Detained, 1 April 2014.

http://www.amnestyusa.org/sites/default/files/uaa04714_1.pdf

Page 16:

1.4.1 Concerning the Central System to Resolve Illegal Residents’ Status, that has come to be referred to as “Central System”, it would be good to add that first it took over the files from the previous Executive committee that does still officially exist. Of core importance is the fact that it has larger powers than the previous committees, that were affiliated with the Ministry of Interior. The head of the Central System has ministerial rank and the agency liaises with all the concerned ministries. “Under Article 2 of the decree establishing the Central System, this agency may take all executive measures to resolve the status of this class. In turn, the agency is in constant, active contact with all government bodies, agencies, public institutions, and competent security bodies, which provide the Central System with the data and information it needs, derived from these bodies’ records and official files. These files indicate the true nationality of the person claiming to belong to this class.” (Government of Kuwait’s letter..., page 6).

Page 17:

In the part 1.4.6 on the “security blocks”, it is important to add that, after having originated in the collaboration with Iraq during the invasion, these “blocks” have been extended, Human Rights Watch mentioning the case of “unspecific security restrictions.” (page 22; and also page 33).

See **Human Rights Watch**, Prisoners of the Past, Kuwaiti Bidun and the Burden of Statelessness, 13 June 2011. Page 41

<http://www.hrw.org/sites/default/files/reports/kuwait0611WebInside.pdf>

Moreover, since 2011, protest have led bidoon to be prosecuted for “illegal gathering” as Article 12 of the 1979 Public Gatherings Law bars non-Kuwaitis from participating in public gatherings – along with “inciting rebellion.”

Amnesty International

Urgent Action: Bidun Arrested After Peaceful Protests 9 October 2012.

<http://www.amnesty.org/en/library/asset/MDE17/005/2012/en/08ef957d-fcc5-43f4-96fd-4738375a2da4/mde170052012en.html>

Urgent Action: Seven Stateless Men Arrested, Ill-Treated 6 March 2014.

<http://www.amnesty.org/en/library/asset/MDE17/001/2014/en/e28eb1e0-3302-47dd-be00-6fbf76763993/mde170012014en.html>

The development of the protest requires including the case of security-blocked persons in one of the two “Assessment summaries” (pages 17 and 18)

Page 19:

Citizenship categories: even after this update, the existence of colour-coded identity could not be confirmed. What was seen though is the differentiation through expiry date.

Page 21:

Although unnoticed by human rights activists, government statements mention a last type of document whose existence may be worth being brought to the knowledge of the reader, namely the health insurance affiliation.

-the Central System to Resolve Illegal Residents’ Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)* states, page 31 that the cost of health insurance was lowered to 5 KD, as compared to 50KD for the rest of the expatriates.

-the UNHRC, CCPR reply from the government of Kuwait, page 8, mentions it at least twice (see below review, page 9).

More information can be found in paragraphs 44, 45, 84 and 87 of NM (documented/undocumented Bidoon: risk) Kuwait CG [2013] UKUT 00356(IAC)

<http://www.refworld.org/pdfid/51f7b27b4.pdf>

3.2. Broadening the Scope and Further recommendations

The “timeline” ought to be better thought in terms of prioritising important events and giving a clear sense of the different phases in government policies towards the bidoon. For instance, I would not include the date regarding the temporary passport 17 that was, at first, not specifically linked with the issue of the bidoon, but rather a solution for all nationality cases being under study (like mixed marriage’s children).

The Section on Nationality Law fails to explain the rationale of the Law 15/1959 on Nationality in Kuwait, which is the departure point of the bidoon issue. As a matter of fact, it would be good to include a paragraph on the two degrees of nationality: the law, in its article 1, defines Kuwaiti citizens by origin or first class Kuwaitis endowed with political rights, those and their descendants (article 2) who could prove continuous residence in the emirate since 1920. Nationality by naturalisation could be acquired, according to the initial article 4, by those proficient in Arabic who could prove their lawful residence in Kuwait for eight –later 15- (for Arabs) or fifteen years –later 20- (for non Arabs).

See: <http://www.refworld.org/docid/3ae6b4ef1c.html>

In addition, it is worth noting the fluid denomination of the residents of undetermined nationality over time: first “sons of the desert” exempted from the requirements of the Law 17/1959 on Aliens Residence in their quality as nomads, they were later named bidoon, short for the Arabic *bidun jinsiyya* that is, literally, “without nationality.”

Finally, most of the naturalisations since then were made on a discretionary basis according to the article 5 for “exceptional service” and not article 4.

The 2000 law, following the same logic of proving presence and continuous residence, permits nationality granting for people registered in the 1965 census.

See Beaugrand, C.B. (2011) *Statelessness and Transnationalism in Northern Arabia: Biduns and State Building in Kuwait (1959-2009)*. London School of Economics, the University of London.

I suppose that the “Consequences of being a bidoon / General overview” has been kept short for the sake of conciseness, yet since this discrimination constitutes the bottom of the issue and an important part of assessing the circumstances of the claimants, it could be useful to further develop this part. Only the women and children aspects is dealt with in details.

In 1.3.1, it should be added that the bidoon cannot register any property whether car or business under their name. After 1986 and in a gradual process throughout the 1990s, bidoon were denied access to free health care, free education, and fired from government employment. According to the US *Human Rights Report 2013-Kuwait*, in 2013, the government requested “the Central Bank of Kuwait freeze bank accounts of Bidoon with expired identification cards.”

See *2013 Human Rights Report- Kuwait*, US Department of State http://kuwait.usembassy.gov/human_rights.html, page 25.

Bidoon were denied official documents like birth, death and marriage certificates, which, in addition to human rights impact, has consequences on their proper registration. Strategies set up to circumvent these difficulties led to the threatening of family unity, with anecdotal stories of bidoon seeking divorce in front of the civil court to retroactively document an union contracted in front of a religious authority only. In a reply to the UN Human Rights Council, the government of Kuwait states “following the issuance of Decision No. 409/2011, which made it easier for residents to obtain certificates of birth, death, marriage and divorce, this group no longer has any reason to turn to the courts in order to procure these certificates.”(see reference below)

More information on the Council of Ministers Decision No. 409/2011 of 6 March 2011 granting “11 facilities” could inform better the reader on the various cases as not all the bidoon would equally benefit from the measures, usually requiring identification papers.

Human Rights Committee, CCPR, 103rd session, Geneva, 17 October–4 November 2011 “Consideration of reports submitted by States parties under article 40 of the Covenant – Kuwait, Addendum, Replies from the Government of Kuwait to the list of issues (CCPR/C/KWT/Q/2) to be taken up in connection with the consideration of the second periodic report of Kuwait (CCPR/C/KWT/2).” Pages 7 to 9.

See also for more information on the eleven facilities:

Government of Kuwait’s letter, “Report on the Human Rights Watch Report and Response to its Questions and Inquiries”, further to the 13 June 2011 *Human Rights Watch*, “Prisoners of the Past, Kuwaiti Bidun and the Burden of Statelessness”, http://www.hrw.org/sites/default/files/reports/Response%20of%20the%20Kuwaiti%20Government%20to%20HRW_da0.pdf

Free education and free health are secured for bidoon, paid by two charitable funds the Charitable Fund for the Health Care of Needy Residents of Kuwait and the Charitable Fund for the Education of Needy Children of Kuwait). These funds were created in the 2000s and the government broadened their access. The general understanding is that access to free health and education is subject to the possession of cards issued by the government authorities.

Yet further details given by the government read as follows: "Full health services at hospitals and medical centres continue to be provided entirely free of charge, although emergencies are dealt with on a purely humanitarian and case-by-case basis, to all children of illegal residents holding a check-up or health insurance card, as the cost of these services is covered by the charitable health-care fund" (UNHRC, CCPR, page 8). There is an uncertainty as to whether adult bidoon also benefit from this access to health, that Human Rights Watch also rose in June 2011. This required further investigation for the sake of clarification.

See **Human Rights Watch**, *Prisoners of the Past, Kuwaiti Bidun and the Burden of Statelessness*, 13 June 2011. Page 41

<http://www.hrw.org/sites/default/files/reports/kuwait0611WebInside.pdf>

In any case, unregistered bidoon and according to human rights activists in Kuwait (email exchange 4 June 2014) security blocked bidoon have to resort to private hospitals.

Moreover, the decision 409/2011 granted "access for disabled illegal residents to services provided by the Supreme Council for the Disabled in accordance with existing conditions."

As for education is concerned, enrolment is subject to having "a valid identification card from the Executive Committee and a birth certificate or, alternatively, a health insurance card in the case of those holding no identification card from the Executive Committee" (UNHRC, CCPR, page 8). The booklet by the Central System to Resolve Illegal Residents' Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)* further states (page 33) that the free education is given in Arab private schools licensed by the Ministry of Education upon presentation of "the appropriate documents."

Paragraph 1.3.9 mentioning "free government education" should be changed into "free education in private schools" accordingly and the second sentence removed as it is misleading: despite bidoon having no *right* to higher education, the children of Kuwaiti mothers and bidoon father have been at an advantage to enter university (see UN HRC, CCPR, page 8). Moreover, despite it being a quote from Refugee International report, there has been no documented instance so far of bidoon being deported if unemployed (See *HRW Prisoners of the Past*, page 19).

Moreover, "illegal residents are entitled to obtain civil documentation in the form of official personal papers (certificates of birth, death, marriage and divorce)" (Page 7, UN HRC, CCPR as referenced above) with the mention of "non-Kuwaiti" in the nationality field. Yet the booklet by the Central System to Resolve Illegal Residents' Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)* indicates, in its page 26, that the birth certificate are issued upon presenting the birth document from the hospital, marriage contract and "reference card" for both mother

and father. Between April 2011 and December 2012, 16,768 birth certificates were issued (page 27).

As a result, the paragraph 1.3.8 should stress the issue of birth certificates' issuance that derives from the denial of marriage certificate to the parents, as an equally worrying issue.

The process of acquiring a driving license was simplified and made cheaper from lifting special conditions; finally with regard to employment, the government adopted a new policy of giving "priority" to bidoon "over migrants" by storing the former's files in such a way as to serve the sector's needs for non-Kuwaiti workers. The same applies in the public sector where the government stated that it seeks "an appropriate vision of how to handle applications received from this category for work in the public sector on the basis of the needs of the country's public authorities once these have been covered by applications from citizens."

To sum up, emphasis should be laid on the fact that bidoon with no registration, invalid, expired and blocked cards are likely to be refused the "11 facilities" granted by the government.

3.3. Comments on the Format

Throughout the document, there are useless repetitions. For instance 1.2.4 and 1.4.2 (pages 11 and 16) repeat the same information as for the number of bidoon.

The work of **the Bidoon Committee** is mentioned several times (pages 11, 14 -1.3.2 and 16) but the presentation of data could benefit from a reorganisation whereby it would highlight 1) its large power as centralised system 2) its mission of categorisation 3) the Decision 409/2011. Finally it is important for the sake of the CIG report's rationale to note that according to the government itself, "approximately 12,000 illegal residents have not opened files with the Central System to Resolve Illegal Residents' Status and thus they have not been issued a review card. The consideration of applications for review cards has been postponed until they register with the Central System." (Government of Kuwait's letter..., page 5). With the review card being what the CIG report has so far called security card, it means that the people with no registration with the Central System have no access to rights. At the time of writing it is not clear if a bidoon registered with any of the previous "committees" would automatically be registered with the Central System. The Central System stated that it delivered "79,198 cards including the renewal, replacement of lost cards and the issuance of new cards, up until 19 January 2013 (Central System to Resolve Illegal Residents' Status, Department of Public Relations and Media *Illegal Residents: Facts and Data (2013)*, page. 43).

Overall, the guidance part of the CIG Report is clear; yet the information section could be further improved to help the reader refer to its different subsections more easily. The section "who are the bidoon" could focus more on the historical background to the issue, with a clear Nationality Law section. The "consequences of being a bidoon" is too little developed to give a proper idea of what kind of rights deprivation the bidoon without valid identification documents may face. In the "Registration and Documentation" section, the role of the Central System rather than Bidoon Committee ought to be better explained as suggested in the paragraph above, to facilitate the understanding of who

would fall outside of its control whether willingly or due to the Central System reluctance to register him/her. Better focusing on the Central System would greatly help the caseworkers to address the questions raised in the Guidance part.

Annex: Recap of Additional sources

See Al-Anezi, R. H. (1989) *A Study of the Role of Nationality in International Law with Special Reference to the Law and Practice of Kuwait*. Cambridge, Cambridge.

Beaugrand, C.B. (2011) *Statelessness and Transnationalism in Northern Arabia: Biduns and State Building in Kuwait (1959-2009)*. London School of Economics, the University of London.

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Illegal Residents: Facts and Data (2013). Booklet available from the Central System in Kuwait.

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http://kuwait.usembassy.gov/human_rights.html

Refugees International & Open Society Foundations

Without Citizenship: Statelessness, Discrimination and Repression in Kuwait, 2011 (pages 11-12). <http://www.opensocietyfoundations.org/reports/without-citizenship-statelessness-discrimination-and-repression-kuwait>

UNHCR Refugees Daily, 18 June 2012 : <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=463ef21123&id=4fe00ffc5>

Human Rights Committee, CCPR, 103rd session, Geneva, 17 October–4 November 2011 “Consideration of reports submitted by States parties under article 40 of the Covenant – Kuwait, Addendum, Replies from the Government of Kuwait to the list of issues (CCPR/C/KWT/Q/2) to be taken up in connection with the consideration of the second periodic report of Kuwait (CCPR/C/KWT/2).” Pages 7 to 9.

Human Rights Watch

Kuwait: Don't Deny Right to Freedom of Expression. Stateless Bidun Ordered Not to Hold Demonstrations, 13 January 2012.

<http://www.hrw.org/news/2012/01/13/kuwait-don-t-deny-right-freedom-expression>

Kuwait: Promises, Mostly Unfulfilled, on Citizenship: Ratify Treaty on Decent Work for Domestic Workers, 5 February 2012

<http://www.hrw.org/news/2012/02/05/kuwait-promises-mostly-unfulfilled-citizenship>

Amnesty International

Urgent Action: Bidun Arrested After Peaceful Protests 9 October 2012.

<http://www.amnesty.org/en/library/asset/MDE17/005/2012/en/08ef957d-fcc5-43f4-96fd-4738375a2da4/mde170052012en.html>

This is Breaking People, Human Rights Violations at Australia's Asylum Seeker Processing Centre, on Manus Island, Papua New Guinea, December 2013.

<http://www.amnesty.org/en/library/asset/ASA12/002/2013/en/b2f135dc-3353-420d-b587-05d2b3db6e2f/asa120022013en.pdf>

Open Society Foundations:

“I Am Kuwaiti.” 8 January 2013 <http://www.opensocietyfoundations.org/voices/i-am-kuwaiti>

After the 3 February 2014 cut-off date:

Human Rights Watch

World Report 2014.

<http://www.hrw.org/world-report/2014/country-chapters/kuwait?page=2>

Kuwait: No Response to Torture Allegation: Detainees Told Prosecutor of Beatings, April 2, 2014.

<http://www.hrw.org/news/2014/04/02/kuwait-no-response-torture-allegation>

Kuwait: Room for Free Speech Dwindles: Address Rights of Stateless Residents, February 4, 2014.

<http://www.hrw.org/news/2014/02/04/kuwait-room-free-speech-dwindles>

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<http://www.amnesty.org/en/library/asset/MDE17/005/2012/en/08ef957d-fcc5-43f4-96fd-4738375a2da4/mde170052012en.html>

Urgent Action: Seven Stateless Men Arrested, Ill-Treated 6 March 2014.

<http://www.amnesty.org/en/library/asset/MDE17/001/2014/en/e28eb1e0-3302-47dd-be00-6fbf76763993/mde170012014en.html>

Urgent Action: Four Bidun Men Released, Three Still Detained, 10 March 2014.

<http://www.amnesty.org/en/library/asset/MDE17/002/2014/en/87a722de-fa23-4f91-b17b-8f362c0c7cc2/mde170022014en.html>

Urgent Action: One More Bidun Man Released, Two Detained, 1 April 2014.

http://www.amnestyusa.org/sites/default/files/uaa04714_1.pdf