



Home Office

Home Office Response to IAGCI Review Kuwaiti Bidoons CIG, February 2014

17 June 2014

Review Conclusions/ Recommendations	Response
<p>Overview</p> <p>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.</p>	<p>We welcome the generally positive review of the CIG and will take forward the helpful recommendations made by the reviewer.</p> <p>We accept the reviewer’s main recommendation about re-focussing of the 3 sections identified here so as to better relate to the guidance part of the CIG. This will be included in the next update.</p>
<p>Typos and URL errors - general</p>	<p>The typos and any URL sourcing errors indicated by the reviewer will be amended in the next update, where these sources are used.</p>
<p>Minor corrections and inaccuracies: single occurrence</p>	
<p>Page 5, 1.1.1</p> <p>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).</p>	<p>Accepted. This will be reflected in the next update.</p>

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<p>Page 8, 1.1.21 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) <i>A Study of the Role of Nationality in International Law with Special Reference to the Law and Practice of Kuwait</i>. Cambridge, Cambridge. Pages 256-257 as for the role of the nationality committees and the rather untidy process that led to nationality granting.</p>	<p>Accepted. This will be reflected in the next update.</p>
<p>1.1.24 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.”</p>	<p>Accepted. This will be reflected in the next update.</p>
<p>Page 10, 1.2.1 1.2.1 Rather than “at the time of Kuwait’s independence in 1961”, as <i>Human Rights Watch</i> writes, it is more accurate to say “at the time of Kuwait’s implementation of its 1959 Nationality Law.”</p>	<p>Accepted. This will be reflected in the next update.</p>

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<p>Page 11</p> <p>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 <i>were</i> 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.</p> <p>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.</p> <p>See the official booklet: Central System to Resolve Illegal Residents’ Status, Department of Public Relations and Media <i>Illegal Residents: Facts and Data (2013)</i>.</p> <p>Finally, the government statement of 93,000 “registered unlawful residents” should be part of a discussion as for the contested figure. See below.</p>	<p>Accepted. This will be reviewed and amended in the next update.</p>

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<p>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.</p> <p>Moreover, the expression, quoted from the FCO November 2007, for the date of 1996 “those registered with the ECIR by 1996 were given <i>temporary resident rights</i>” (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.</p>	<p>Accepted. We will review this paragraph in the next update.</p>
<p>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 <i>meeting the eligibility requirements</i> for the Kuwaiti nationality” as this phrasing better reflects the position of the government.</p>	<p>Accepted. We will review this paragraph in the next update.</p>

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<p>Page14 1.3.1 the “law in 1986” was, as a matter of fact, a “decree.”</p> <p>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).</p> <p>The content of the 1.3.5 paragraph seems irrelevant to the purpose of the CIG report.</p>	<p>Accepted.</p> <p>The comments regarding paras 1.3.4 & 1.3.5 are noted and will be reviewed and amended in the next update.</p> <p>The inclusion of the content of para 1.3.5 was to highlight the discriminatory laws that affect women.</p>
<p>Page 20 The content of the 1.5.5 paragraph does not seem to provide relevant information serving the purpose of the CIG report.</p>	<p>Accepted. We will delete this paragraph in the next update.</p>

<i>Review Conclusions/ Recommendations</i>	Response
<p>Page 24</p> <p>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.</p> <p>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-bedoon-husbands/</p> <p>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.</p>	<p>Noted. Thank you for your observations. This section will be reviewed in the next update and, where necessary, clarity and context provided.</p>

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.

Accepted. The term ‘security card’ was used because that is how the document is referred to in the relevant caselaw. However, the need for clarification is accepted and will be reflected in the next update.

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<p>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.</p> <p>Secondly, in the next sentence, “stateless” should be replaced by “noncitizen.” Otherwise the statement stands in contradiction to paragraph 1.3.3.</p> <p>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.</p>	<p>Accepted. Reference to using the term “stateless” will be reviewed in the next update.</p>
<p>Pages 3 and 19</p> <p>“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.</p> <p>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.</p> <p>If anything, the opacity of the naturalisation criteria can be highlighted as in the <i>2013 Human Rights Report- Kuwait</i>, 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.</p>	<p>Accepted. This will be amended and clarified in the next update.</p>

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Page 11: 1.2.4, Timeline and Recent events	Noted. The additional sources and observations will be reflected in the next update.
<p>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 exists. 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).</p>	Noted. . The remit of the "Central System" and previous committees will be clarified in the next update.
Page 17 - "security blocks"	Noted, thank you. The issue of "security blocks" will be elaborated upon in the way suggested.
<p>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.</p>	Noted, thank you. We will review this in the next update.

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<p>Page 21</p> <p>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.</p> <p>-the Central System to Resolve Illegal Residents' Status, Department of Public Relations and Media <i>Illegal Residents: Facts and Data (2013)</i> states, page 31 that the cost of health insurance was lowered to 5 KD, as compared to 50KD for the rest of the expatriates.</p> <p>-the UNHRC, CCPR reply from the government of Kuwait, page 8, mentions it at least twice (see below review, page 9).</p> <p>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</p>	<p>Noted. This will be reviewed in the next update.</p>
<p>Comments on the Format.</p>	<p>Noted. The comments and suggestions about unnecessary repetitions will be reviewed in the next update.</p> <p>This was something of a 'pilot', testing our new approach to presenting country information and guidance in a unified document. We have adapted our approach on others, but the feedback on the presentation, layout, structure etc. are welcomed.</p>