

Joint Submission to the
Committee on the Rights
of the Child on the right of every
child to acquire and preserve a
nationality under Article 7 and 8
CRC in accordance with the
Guiding Principles to the
Convention

87th Pre-Sessional Working Group

28 September – 2 October 2020

Kuwait

01 July 2020



Introduction

1. Salam for Democracy and Human Rights, Rights Realisation Centre, MENA Rights Group, Global Campaign for Equal Nationality Rights and Institute on Statelessness and Inclusion (ISI)¹ welcome the opportunity to make this submission to the Committee on the Rights of the Child (the Committee) regarding Kuwait's compliance towards every child's right to acquire a nationality (Article 7) and preserve their nationality (Article 8). This submission also draws on the Guiding Principles of the Convention, in particular, the freedom from discrimination (Article 2) and the best interests of the child (Article 3). In particular, the submission focuses on:
 - a. The right to nationality of Bidoon children,
 - b. The child's right to nationality and gender discrimination in the nationality law,
 - c. The arbitrary deprivation of nationality and child rights.
2. The right to a nationality is an enabling right, and the denial of the right to nationality, particularly where this results in statelessness, also impedes the child's full realisation of other fundamental rights found in the Convention such as health (Article 24) and education (Article 28). The condition of statelessness is not compatible with the Guiding Principles of the CRC.
3. Statelessness status is not legally recognised in Kuwaiti law, neither are there any regulations specifically aimed at preventing or reducing statelessness or protecting stateless persons.² Many of the challenges raised in this submission are longstanding, and have not been addressed Kuwait despite numerous previous recommendations by the Committee, other human rights treaty bodies, under the Universal Periodic Review, and civil society groups.³ Kuwait has persistently failed to fulfil its obligations to protect every child's right to acquire and preserve their nationality; to avoid statelessness; to not discriminate against children in relation to the exercise of this right on the basis of protected characteristics of the child, their parents or guardians; and to take the best interests of the child as a primary consideration in relation to the exercise of these rights.
4. As this submission sets out (see Annex 2), the Kuwait State report to the Committee is inaccurate and flawed. It obscures the ongoing denial and deprivation of the right to nationality endure by many children in Kuwait, and fails to show any real progress or genuine efforts to address the numerous recommendations made by the Committee and other bodies,.
5. This submission draws on the extensive work and research of the co-submitting organisations. We hope that the Committee will draw on it in developing the **List of Issues for Kuwait**, and towards its **Concluding Observations and Recommendations**. This submission highlights issues that may be included in the List of Issues in text boxes under each substantive section, and recommendations that may be drawn on for the Committees Concluding Observations at the very end of the text.
6. Should the Committee wish to conduct a fuller review of the Kuwaiti Nationality Act, it may access the official Arabic language⁴ version as well as the English translation⁵ online.

¹ See Annex 3 for more information on the co-submitting organisations.

² Report submitted to the United Nations Human Rights Council in the context of the third periodic review of Kuwait, July 2019, available at: https://files.institutesei.org/UPR35_Kuwait.pdf [accessed 1 July 2020]

³ See Annex 1 for more information on relevant previous recommendations made to Kuwait.

⁴ *Kuwait Nationality Law, 1959* [], 1959, English, available at: <http://www.kna.kw/clt-html5/run.asp?id=656>

⁵ *Kuwait Nationality Law, 1959* [], 1959, English Translation, available at: <https://www.refworld.org/docid/3ae6b4ef1c.html>.

7. [Annex I](#) to this submission highlights Kuwait’s international obligations and previous recommendations made to the State by international human rights bodies. [Annex II](#) addresses relevant text of the Kuwait State report to the Committee and [Annex III](#) provides information on the co-submitting organisations.

The right to nationality of Bidoon children

8. In Kuwait the genesis of most cases of statelessness was the failure to comprehensively identify and register all persons entitled to citizenship during the post-colonial period of state formation.⁶ According to UNHCR, Kuwait was home to 92,000 stateless persons in 2018.⁷ However, civil society estimates are much higher, with some placing the figure at 200,000 to 300,000.⁸ The unregistered population and their descendants are called ‘Bidoon’ – which literally translates to ‘without’. The Bidoon have long been marginalised by the government, their treatment deteriorating significantly from the mid-1980s onwards,⁹ with various attempts to secure their citizenship being blocked.¹⁰ Without documentation, the Bidoon are prevented from accessing basic services or rights, as addressed by multiple UN human rights bodies.¹¹ Kuwait’s failures in this regard have created debilitating life conditions for the Bidoon. In 2019, the suicide of a 20-year old Bidoon man who had been denied the civil documentation needed to study and work brought to the fore the conditions of marginalisation and exclusion faced by the Bidoon (including children and youth), and sparked protests, to which the authorities responded with harsh crackdowns, generating further social tension.¹² The CRC Committee previously underlined that:

“a great proportion of Bidoon children continue to be deprived of their right to be registered at birth and to acquire a nationality, which prevents them from having access to health-care services, public schools and any other type of social benefits and services.”¹³

9. The vast majority of stateless Bidoon, fall into three broad categories:

“(a) those whose ancestors failed to apply for nationality or lacked the necessary documentation when Kuwait gained independence in 1961; (b) those recruited from abroad to work in the Kuwaiti army or police force during the 1960s, who settled permanently in Kuwait, along with their families; and (c) children of Kuwaiti mothers and stateless or foreign fathers.”¹⁴

⁶Institute on Statelessness and Inclusion, The World’s Stateless children, January 2017

<http://children.worldsstateless.org/assets/files/worlds-stateless-full-report.pdf>

⁷ Annex Table 1. UNHCR Global Trends, Forced Displacement in 2018, available at: <https://www.unhcr.org/5d08d7ee7.pdf> [accessed 1 July 2020]

⁸Institute on Statelessness and Inclusion, Stateless In A Global Pandemic, Impact Report, 2020, pg. 31

https://files.institutesi.org/Covid19_Stateless_Impact_Report.pdf [accessed 1 July 2020]

⁹ Minority Rights Group International, ‘Kuwait: Bidoon’, available at <https://minorityrights.org/minorities/bidoon/>

¹⁰¹⁰ Human Rights Watch, ‘Kuwait: Dozens injured, arrested in Bidun crackdown’ (19 February 2011), available at

<https://www.hrw.org/news/2011/02/19/kuwait-dozens-injured-arrested-bidun-crackdown> [accessed 1 July 2020]

¹¹ See, Annex 1 for more details. See also, for example, the recommendation by the Netherlands during the UPR (A/HRC/29/17, 157.241) (28 January 2015); or the concluding observations by the Committee on the Rights of the Child (CRC/C/KWT/CO/2) (29 October 2013)

¹² For more see: Amnesty International, ‘Kuwait: Authorities crackdown on protesters demanding citizenship rights’ (17 July 2019), available <https://www.amnesty.org/en/latest/news/2019/07/kuwait-authorities-crackdown-on-protesters-demanding-citizenship-rights/> [accessed 1 July 2020]

¹³CRC/C/KWT/CO/2, 29 October 2013, para 35, available at: <https://undocs.org/CRC/C/KWT/CO/2>

¹⁴ Human Rights Watch, Prisoners of the Past, June 13, 2011, <https://www.hrw.org/report/2011/06/13/prisoners-past/kuwaiti-bidun-and-burden-statelessness> [accessed 1 July 2020]

10. Until 1986, the Bidoon were provided with a “civil status” that gave them access to basic services (though not equal rights). However, in 1986, the Kuwaiti authorities stripped the Bidoon of their civil status cards, paving the way for growing human rights violations to be committed against them.¹⁵ Bidoon women suffer from multiple forms of discrimination and abuse and find themselves in a particularly vulnerable position. It has also been reported that Bidoon women and girls have faced sexual harassment from government officials while applying for documentation.¹⁶
11. Bidoons in Kuwait do not have legal status. Despite the State party report’s claims, the Kuwaiti government excludes Bidoon children from state education and has banned all donations that contribute to their education. In late 2019, the Ministry of Education effectively halted accepting Bidoon children into public schools, citing budget problems and lack of space, forcing parents to look into more costly, yet inferior private education.¹⁷
12. According to the Ministry of Interior,¹⁸ Bidoon parents have to provide an official document from the Central System for the Remedy of Situations of “Illegal Residents”¹⁹ (Central System), set up in the state by the Amiri Decree No. 467/2010,²⁰ before receiving birth certificates for new-born children. This process requires the parents to confirm that whatever information stipulated in their new IDs is true, in order to obtain the necessary papers to secure birth registration for their children. They are often not afforded the opportunity to read and validate this information. Therefore, many Bidoon parents have no choice but to affirm that information put forward by the Central System – claiming they are nationals of another State – is true. This in turn reinforces the false state narrative, as also articulated in the State party report to the Committee, which underplays the extent of statelessness in the country and undermines the legitimate claim of the Bidoon to be recognised as Kuwaiti citizens.²¹ Signing these consent forms effectively bars them from Kuwaiti nationality and increases the stigmatised perceptions of the Bidoon as having hid their original nationalities to abuse the Kuwaiti system. If they refuse to be coerced by the system, then they are inevitably depriving their child of the rights that flow from legal recognition.
13. With or without an ID from the Central System, it remains difficult for parents to obtain jobs with fair wages and secure the wellbeing of their children. Obtaining an ID does not facilitate better access to rights and services as they are still viewed as ‘illegal’ residents who were trying to trick their way into the system. Moreover, many Bidoon children on the cusp of adulthood are barred from easily accessing higher education. Similar to their parents before them, they must sign away their right to a Kuwaiti nationality by forcibly adopting a fake one. Private universities are costly, and there are limited scholarship seats available in Kuwait’s public university.²² These conditions contribute to the systematic discrimination and exclusion of the group over generations – exacerbating intergenerational statelessness – and depriving children of their basic rights.

¹⁵ Ibid.

¹⁶ Human Rights Watch, Prisoners of the Past, June 13, 2011, <https://www.hrw.org/report/2011/06/13/prisoners-past/kuwaiti-bidun-and-burden-statelessness> [accessed 1 July 2020]

¹⁷ Alanba News, Translated from Arabic original, available at: <https://www.alanba.com/kw/ar/kuwait-news/education/919773/21-08-2019-ايغاف-دخول-ابناء-البيدون-المدارس-الحكومية> [accessed 1 July 2020]

¹⁸ Kuwait Government Online, Issuing Birth Certificates for Newborn Babies, available at: <https://www.e.gov.kw/sites/kgoenglish%5CPages/Services/MOH/IssuanceBirthCertificatesForNewborns.aspx> [accessed 1 July 2020]

¹⁹ It must be noted here, that the co-submitting organisations as a general principle contest the use of the terminology “illegal residents”, which criminalises individuals and communities, who have often endured discriminatory and arbitrary deprivations.

²⁰ Decree establishing the central agency, 2010, available at: <https://www.carirs.gov.kw/News/المرسوم-الأميري> [accessed 1 July 2020]

²¹ Al Jazeera, Translated from Arabic original, available at: <https://www.aljazeera.net/news/politics/2018/12/14/البيدون-الكويت-صالح-الفضالة> [accessed 1 July 2020]

²² Alaraby, Translated from Arabic original, available at: <https://www.alaraby.co.uk/society/2019/9/9/1-الطلاب-البيدون-في-الكويت-معاناة-لا-تنتهي> [accessed 1 July 2020]

14. Article 1 of Code No. 77/2019 also significantly inhibits the number of non-Kuwaiti people eligible for naturalisation to a maximum 4,000 persons a year.²³ Given the large Bidoon population in the country and the fact that many people with citizenship also apply for naturalisation, this arbitrary limitation serves as a real barrier to realising the right to nationality of all stateless persons, including children.
15. The above assessment demonstrates the cost of denial of the right to nationality of Bidoon children and contradicts Kuwait's Report to the Committee ([Annex II](#)), which mentions that the children of "illegal residents" enjoy all the rights enshrined in the Convention, and that they are guaranteed the same rights in education and documentation without any discrimination.

16. In light of the intergenerational statelessness and related deprivations experienced by the Bidoon community and their children, the Committee is urged to ask Kuwait:

a. On what basis does Kuwait discriminate against the Bidoon, thereby denying children born into these communities the right to a nationality and excluding them from state education?

b. Why does the Kuwaiti nationality law not contain a comprehensive safeguard to ensure against statelessness for any child born on its territory who would otherwise have no nationality?

c. To provide disaggregated data on the number of stateless Bidoon in Kuwait, including the number of children born into these communities who have been denied the right to acquire Bahraini nationality over the last 5 years.

d. To explain why Kuwait requires Bidoon parents to confirm inaccurate information on ID cards in order to secure birth registration for their children, without affording them the opportunity to contest such information, in a manner which does not prejudice the child's right to immediate birth registration and to acquire a nationality.

The child's right to nationality and gender discrimination in the nationality law

17. Gender discrimination in the nationality law, which denies women the right to pass their nationality to their children in most circumstances, further contributes to childhood statelessness. Article 2 of Kuwait's nationality law states that "*any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be Kuwaiti national himself*". Kuwaiti women who marry foreigners are not allowed to pass on their nationality to their children and spouses, other than in exceptional circumstances.²⁴ Article 2 undermines women's status as equal citizens and contradicts the Kuwaiti

²³Code No. 77/2019, Translated from the Arabic original, available at: <https://raqib50.s3.amazonaws.com/uploads/legislation/file/174/77-2019.pdf> [accessed 1 July 2020]

²⁴ Article 2 of the Kuwaiti Nationality Act provides: "Any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be a Kuwaiti national himself." In addition, article 5 states: "Any person upon his attaining his majority who was born to a Kuwaiti mother and who has maintained his residence in Kuwait until reaching the age of majority and whose foreign father has irrevocably divorced his mother or has died. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals in all respects until they reach the age of majority." Nationality Law, 1959 [], 1959, available at: <https://www.refworld.org/docid/3ae6b4ef1c.html> [accessed 1 July 2020]

Constitution, which stipulates in Article 29 that “*all people are equal in human dignity and in public rights and duties before the law...*” and in Article 7 that “*justice, liberty and equality are the pillars of society...*”.²⁵ It also denies women the right to enter in marriage with Kuwaiti men as equals, per Article 16(1) of CEDAW, and limits their freedom to choose a spouse.²⁶

18. Several amendments to the Kuwaiti Nationality Act since it came to force in 1959 “*have made the regulation of nationality progressively more restrictive – such as by adding a prohibition for non-Muslims to apply for naturalisation and restricting the circumstances in which women can transfer their nationality to their children*”.²⁷ More specifically, Article 3, amended in 1980, further eroded Kuwaiti women’s nationality rights by providing that the children of Kuwaiti women and non-citizen fathers, or where the father is unknown, are only eligible to become Kuwaiti by approval of a decree by the Minister of Interior, and upon attaining majority.²⁸ Article 3 also addresses the situation of foundlings.²⁹
19. Moreover, Kuwaiti women cannot pass their nationality to a non-citizen spouse, a right reserved for Kuwaiti men. As such, the non-citizen spouse has limited access to employment and public housing provisions. Foreign husbands also have no legal right to remain in the country without a residency permit. In contrast, foreign women married to Kuwaiti men are granted residency automatically and qualify for citizenship after 15 years of marriage.³⁰ However, there are ongoing discussions on to increase this to 18 years,³¹ though Arab women from the Gulf and Bidoon women may be exempt from such an increase.³² Children in this context may be forced to live away from their fathers due to challenges of foreign male spouses acquiring residency permits, or away from their mothers, if the father is such situations take the children away from the mother and back to their own country.³³
20. Article 11 of the Nationality Act provides for the derivative loss of nationality, in contravention of Articles 8 and 2 of the CRC. Accordingly, the child of a Kuwaiti national man, being a minor, shall also lose their Kuwaiti nationality if their father naturalises as the citizen of another country and the child acquires ipso facto the nationality of this other State. Such children shall reacquire Kuwaiti nationality upon informing the Minister of the Interior within two years following their attaining the age of majority of their wish to do so.³⁴

²⁵Submission to the UN Universal Periodic Review Thirty-fifth Session of the UPR Working Group of the Human Rights Council, January - February 2020, pg 2 para 4, available at: https://files.institutesi.org/UPR35_Kuwait_with_Equality_Now.pdf

²⁶ Article 16(1) of CEDAW states: “States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women”

²⁷ Z. Albarazi, Regional Report on Citizenship: The Middle East and North Africa (MENA), RSCAS/GLOBALCIT-Comp. 2017/3, November 2017, http://cadmus.eui.eu/bitstream/handle/1814/50046/RSCAS_GLOBALCIT_Comp_2017_03.pdf (accessed 20 June 2020), pg.7

²⁸ Nationality Law, 1959 [], 1959, Article 3(1), available at: <https://www.refworld.org/docid/3ae6b4ef1c.html> [accessed 1 July 2020]

²⁹ Article 3 of the Kuwaiti Nationality Act provides: “Kuwaiti nationality is acquired by any person born in Kuwait whose parents are unknown. A foundling is deemed to have been born in Kuwait unless the contrary is proved”. Nationality Law, 1959 [], 1959, available at: <https://www.refworld.org/docid/3ae6b4ef1c.html> [accessed 1 July 2020]

³⁰ Decree No. 40/1987, Article 8, available at: <http://www.kna.kw/elt-html5/run.asp?id=656> [accessed 1 July 2020]

³¹ Aljarida Newspaper, Translated from the Arabic original, available at: <https://www.aljarida.com/ext/articles/print/1565107982222625100/> [accessed 1 July 2020]

³² AlRai Digital, Translated from the Arabic original, available at: https://alraimedia.com/Home/Details?id=270e6e19-de77-4b77-b574-5630d0dd9039_ [accessed 1 July 2020]

³³ Equality Now, Campaign to End Sex Discrimination in Nationality and Citizenship Laws, 2013 (updated 2018), http://www.equalitynow.org/sites/default/files/NationalityReport_EN.pdf [accessed 1 July 2020]

³⁴Submission to the UN Universal Periodic Review Thirty-fifth Session of the UPR Working Group of the Human Rights Council January - February 2020, pg.2 para 3, available at: https://files.institutesi.org/UPR35_Kuwait_with_Equality_Now.pdf

21. Such gender discriminatory provisions results in a range of other human rights violations impacting children. These include the denial of the right to a nationality and resultant statelessness over generations (Art.7 CRC); education (Art.28), healthcare (Art.24) and family life (Art. 9).

22. In light of the above information, the Committee is urged to ask Kuwait in its List of Issues and also in its review:

a. On what basis does Kuwait continue to deny women equal rights with men to convey nationality to their children, and what steps is Kuwait taking to remove gender discrimination in the Nationality Law 15/1959 to ensure that the child's right to a nationality is not undermined?

b. What steps has Kuwait taken to implement the previous recommendations of the CRC, CEDAW and UPR on this issue, and to also fulfil the ambition set out in the Arab League Declaration?

c. What necessary steps is Kuwait taking to ensure that all children of Kuwaiti women on their territory can access rights on an equal basis, especially in relation to access to education and healthcare?

The arbitrary deprivation of nationality and child rights

23. Article 13 of the Kuwaiti Nationality Act provides overly broad and vague grounds for the deprivation of nationality of individuals and their dependents, allowing for arbitrary interpretation and abuse (targeting human rights defenders for example).³⁵ Acts which “*involve the higher interests of the State or its foreign security*”, or where the authorities consider the individual has “*promoted principles that will undermine the social or economic system of the country*” can result in citizenship deprivation. Such decisions are made with no regard for due process and are not subject to judicial or administrative oversight. They contravene international standards, as articulated in the Principles on Deprivation of Nationality as a National Security Measure.³⁶ It has been reported that between 2014 and 2016, at least 120 people, including a newspaper publisher, were arbitrarily deprived of their nationality.³⁷

24. It remains unclear how many additional persons have been deprived of nationality since 2016. This practice has a detrimental effect on the enjoyment not only on the child's right to a nationality, where their parents have been stripped of citizenship but also of other rights under the CRC such

³⁵ Accordingly, nationality might be revoked “*where naturalization has been acquired by virtue of fraud or on the basis of a false declaration; where within 15 years of the grant of naturalization, a person is convicted of any honour related crime or honesty-related crime; where, within 10 years, a person is dismissed from public office on disciplinary grounds for reasons relating to honour or honesty; and where the competent authorities have evidence that a naturalized person has disseminated opinions which may tend seriously to undermine the economic or social structure of the State or that he is a member of a political association of a foreign State*”. Nationality Law, 1959 [], 1959, available at: <https://www.refworld.org/docid/3ae6b4ef1c.html> [accessed 1 July 2020]

³⁶ See the Principles on Deprivation of Nationality as a National Security Measure, (2020), <https://files.institutetsi.org/PRINCIPLES.pdf>. The Principles restate or reflect international law and legal standards under the UN Charter, treaty law, customary international law, general principles of law, judicial decisions and legal scholarship, regional and national law and practice, and were developed in consultation with over 60 international experts.

³⁷ The Economist, To silence dissidents, Gulf states are revoking their citizenship, 26 November 2016, <https://www.economist.com/middle-east-and-africa/2016/11/26/to-silence-dissidents-gulf-states-are-revoking-their-citizenship> [accessed 1 July 2020].

as the right to healthcare (Article 24) to the right to education (Article 28) and the right to privacy, family and home (Article 16). Further, it must be noted that:

“States must protect the rights of the child and the best interests of the child must be a primary consideration in all proceedings affecting the nationality of children, their parents and other family members;”

and that *“the derivative deprivation of nationality is prohibited”* under international law.³⁸

25. In light of the government’s punitive deprivation of nationality of Kuwaiti nationals, the Committee is urged to ask Kuwait:

a. How many children have been born stateless as a result of their parents being deprived of their Kuwaiti nationality?

b. What impact do such deprivation measures have on other child rights including the right to privacy, family and home?

c. Is there a safeguard against statelessness to protect these children’s right to acquire and preserve their nationality?

d. What steps is Kuwait taking to ensure that no child will be deprived or denied their right to acquire and preserve their nationality, in situations where a parent has been deprived of nationality?

Recommendations

26. The co-submitting organisations urge the Committee to address the multifaceted issue of the deprivation of the child’s right to a nationality and the rights of stateless children in Kuwait, and to consider making the following recommendations to the State party:

I. Respect, protect and fulfil the right to nationality of Bidoon children without discrimination by providing them with birth certificates, granting them citizenship and taking further measures to ensure appropriate protections of their rights.

II. Put an end to discriminatory laws, policies and practices against members of the Bidoon community, particularly women and children.

III. Facilitate independent research into, and initiate clear procedures to identify and determine the number and profiles of all children who have been denied their right to nationality in Kuwait and are therefore stateless, particularly the Bidoon communities.

IV. Ensure that all necessary steps are taken to amend the Kuwaiti Nationality Act to enable Kuwaiti women to transfer nationality to their children and spouses without restriction, on an equal basis with men, in accordance with international standards.

³⁸ Principles on Deprivation of Nationality as a National Security Measure, (2020), Principles 9.7 and 9.8., available at: <https://files.institutesi.org/PRINCIPLES.pdf>

V. Amend the Kuwaiti Nationality Act to ensure that no child will be deprived or denied their right to acquire and preserve their nationality in situations where a parent has been deprived of nationality, and to introduce comprehensive safeguards against childhood statelessness.

VI. Remove Kuwait's general reservation to the Convention and its declaration on CRC article 7, and ensure full compliance with the entirety of the convention. Also remove reservations to other treaties including CEDAW article 9 on equal nationality laws and CRPD article 18 on the right to acquire a nationality.

VII. Accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Annex I – International Obligations and Previous recommendations to Kuwait

Kuwait's International obligations

1. Kuwait has not acceded to the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. However, it has various international obligations to protect the right to a nationality and the rights of stateless persons on the basis of other UN and regional treaties to which it is a party. These include, among others, the CRC, International Covenant on Civil and Political Rights,³⁹ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁴⁰ the Convention on the Rights of Persons with Disabilities (CRPD),⁴¹ the International Convention on the Elimination of All Forms of Racial Discrimination (CERD),⁴² and the Cairo Declaration on Human Rights in Islam (Cairo Declaration).⁴³ Moreover, the right to a nationality is protected under article 15 of the Universal Declaration on Human Rights (UDHR).
2. Kuwait has ratified relevant Treaties in which the right to a nationality is enshrined, though, with reservations to essential provisions. These include reservations to Article 7 of the CRC, Article 18 of the Convention on the Rights of Persons with Disabilities and Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women, which recognises women equal rights with men to acquire, change or retain their nationality and equal rights with respect to the nationality of their children.

Previous recommendations to Kuwait

3. Given the longstanding failure of Kuwait to provide for these important enabling rights in a non-discriminatory manner, and in light of the disproportionate impact this has on Bidoon children in Kuwait, the **Committee** in its previous review of Kuwait during the 64th Session in 2013, urged the government to:

*implement as a matter of utmost priority its recommendations relating to **Bidoon children** contained in the concluding observations on the State party's initial reports under both the Convention and its two optional protocols...*

and to

*take all necessary measures to address those recommendations that have not been implemented or not sufficiently implemented and in particular those related to child marriage, **non-discrimination, nationality, domestic violence and juvenile justice.** (emphasis added).⁴⁴*

The Committee also made the following specific concluding observations and recommendations to Kuwait:

³⁹ Article 24(3)

⁴⁰ Article 9

⁴¹ Article 18

⁴² Article 5(d)(iii)

⁴³ Articles 5 and 19.

⁴⁴ CRC/C/KWT/CO/2, 29 October 2013, para 6, available at: <https://undocs.org/CRC/C/KWT/CO/2>

- a. The Committee expressed concern that Kuwait’s general reservation to the Convention and its declaration on Article 7 had not been withdrawn, and urged the State Party “to review its general reservation to the Convention and its interpretative declarations with a view to withdrawing them”.⁴⁵

- b. The Committee noted with concern that:

*“despite the establishment by decree of the Central System to Resolve Illegal Resident Status in November 2010 and Council of Ministers Decision No. 409 of 2011, a great proportion of Bidoon children continue to be deprived of their right to be registered at birth and to acquire a nationality, which prevents them from having access to health-care services, public schools and any other type of social benefits and services.”*⁴⁶

- c. The Committee also expressed concern that:

“children born to Kuwaiti mothers and non-Kuwaiti fathers do not inherit citizenship unless the mother is divorced or widowed, which leads many children to be stateless”;

and that:

*“identity documents provided to children nationalized in accordance with article 3 of the Nationality Act clearly mention that these children are of unknown parentage, thus exposing them to stigmatization”.*⁴⁷

- d. In a demonstration of the deeply entrenched nature of Kuwait’s failures to protect every child’s right to nationality, the committee referred back to its previous (unaddressed) recommendations to Kuwait from 1998 (CRC/C/15/Add.96, para. 20), to urge the State party to:

*“abide by its obligation to ensure that all children within the State party’s jurisdiction have the right to be registered at birth and acquire a nationality, irrespective of the child’s or his or her parents’ or legal guardians’ sex, race, religion or ethnicity, social origin or status.”*⁴⁸

- e. In particular, the Committee urged the State party to:

*take **immediate** action to: (a) Ensure gender equality in the 1959 Nationality Act in order for all children born to a Kuwaiti mother and non-Kuwaiti father to automatically acquire their mother’s nationality; (b) Ensure that identity documents no longer permit the identification of children as being of unknown parentage; and (c) Ratify the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.*⁴⁹

⁴⁵ Ibid. Paras 7 & 8.

⁴⁶ Ibid. Para 35

⁴⁷ Ibid. Para 35 (a) & (b)

⁴⁸ Ibid. Para 36.

⁴⁹ Ibid. Para 36 (a), (b) & (c).

4. Kuwait's poor track record in protecting every child's right to a nationality and related child rights, has also been systematically raised by other human rights treaty bodies, through the Universal Periodic Review, and by UN agencies and civil society groups.
 - f. The persistent **gender discrimination** under the Nationality Act and its detrimental impact on Kuwaiti women married to non-Kuwaiti men as well as the denial of the right of women to acquire, change, retain and transmit their nationality on an equal basis with men have been noted by the **Committee on the Elimination on all forms of Discrimination Against Women (CEDAW)**. Highlighting the large number of stateless **Bidoon** in the country, CEDAW urged Kuwait to accede to the 1954 and 1961 Statelessness Conventions, amend the Nationality Act and regularise the situation of Bidoon.⁵⁰ In addition, CEDAW recommended Kuwait to ensure that birth certificates and other documents are issued to Bidoon women, men and children as a means of preventing statelessness.⁵¹
 - g. The **Committee on the Elimination of Racial Discrimination (CERD)** has also expressed its concern regarding the situation of **Bidoon** who are deemed "illegal residents" and do not enjoy equal access to social services, due process and legally valid civil documentation, including birth registration documents.⁵² In this regard, it has called on Kuwait to "*(a) find a durable solution to the problems faced by Bidoon, including by considering naturalising those who have lived in Kuwait for long periods and have a genuine and effective link to the State; (b) put into place immediate administrative procedures to allow all Bidoon to obtain official documents, including birth registration documents; (c) consider providing residence permits and temporary legal status to all non-citizens as appropriate; (d) guarantee access for all to adequate social services and education on an equal footing with nationals of Kuwait; (e) ensure that applications for Kuwaiti nationality are assessed through written, reasoned decisions that may be appealed; and (f) accede to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.*" The CERD has also urged Kuwait to "*modify the Nationality Act to allow Kuwaiti women married to foreigners to pass on their nationality to their children and spouses on an **equal footing with Kuwaiti men.***"⁵³
 - h. Kuwait was most recently reviewed at the 35th Session (third cycle) to the Universal Periodic Review (UPR), in January 2020. Some of the co-submitting organisations made submissions to the UPR in relation to the right to nationality and statelessness (and other issues) in Kuwait, contributing towards Kuwait receiving a total of **22 UPR recommendations** on the right to a nationality and statelessness.⁵⁴ The recommendations mainly focussed on addressing gender discriminatory provisions under the Nationality Act and the right to nationality of the Bidoon community.⁵⁵

⁵⁰ CEDAW/C/KWT/CO/5, 22 November 2017, para 33, available at: <https://undocs.org/CEDAW/C/KWT/CO/5>

⁵¹ Ibid. Para 45 (b)

⁵² CERD/C/KWT/CO/21-24, 19 September 2017, para 27, available at: <https://undocs.org/CERD/C/KWT/CO/21-24>

⁵³ Ibid. Para 32

⁵⁴ See Institute on Statelessness and Inclusion & Mena Rights Group, Kuwait UPR Submission, July 2019, available at: https://files.institutesi.org/UPR35_Kuwait.pdf, and Institute on Statelessness and Inclusion, Global Campaign for Equal Nationality Rights, Equality Now, Abolish 153 and Kuwaiti Women Without Limits, Kuwait UPR Submission, July 2019, available at: https://files.institutesi.org/UPR35_Kuwait_with_Equality_Now.pdf

⁵⁵ For an overview and analysis of the recommendations, see Institute on Statelessness and Inclusion, UPR 35th Session, overview and analysis of recommendations on nationality and statelessness, January 2020, available at: https://files.institutesi.org/UPR_35_recommendations_analysis.pdf.

During the Second UPR Cycle, Kuwait received 32 relevant recommendations,⁵⁶ and it received 10 recommendations during its first UPR review.⁵⁷

- i. The importance of the eradication of statelessness has also been expressed by the UN High Commissioner for Refugees through the #IBelong campaign.⁵⁸ further, the UN Sustainable Development goals, which are premised on the basis of leaving no one behind and reaching the furthest behind first, aspire to achieving legal identity for all, including birth registration – by 2030.⁵⁹
- a. Kuwaiti Women Without Borders, the Global Campaign for Equal Nationality Rights, and Equality Now (a Steering Committee member of the Global Campaign) have previously called on Kuwait to give women equal citizenship rights to men by comprehensively amending the Nationality Law to uphold the principle of non-discrimination enshrined in the Constitution, and comply with its international legal obligations and commitments, including SDG Targets 5.1 (the elimination of gender discrimination in law), 10.3 (ensure equal opportunity and reduce inequality) and 16.9, among other SDG targets.⁶⁰

Such reforms would align with regional efforts to ensure women right to confer nationality on children and spouses on an equal basis with men, as outlined in the Arab Declaration on Belonging and Legal Identity, endorsed at an Arab League ministerial meeting in February 2018.⁶¹ The Declaration further calls upon Member states to ensure, without exception, that all children, including unaccompanied children are registered upon birth and are able to acquire a nationality. It also urged Member States to make every effort to reduce statelessness in the context of the international obligations of Member States and the application of the Sustainable Development Goals.

- j. In 2015, the Kuwait Society for Human Rights published a report tracking the conditions of Kuwaiti women over the past 5 years and called on the government to grant Kuwaiti women the right to pass on citizenship to their children from non-Kuwaitis unconditionally.⁶²
5. Despite these numerous recommendations, commitments and reiterations of Kuwait's failures to protect every child's right to acquire a nationality, as set out in this submission, the situation in Kuwait remains deeply concerning, as children are routinely deprived of their right to nationality as a result of discrimination against Bidoon and on the basis of sex.

⁵⁶ A/HRC/29/17, 13 April 2015, available at: <https://undocs.org/A/HRC/29/17>

⁵⁷ A/HRC/15/15, 16 June 2010, available at: <https://undocs.org/A/HRC/15/15>

⁵⁸ The UNHCR #IBelong campaign aims to eradicate statelessness by the year 2024, see further: <http://www.unhcr.org/ibelong/>.

⁵⁹ The Sustainable Development Goals, Target 16.9.

⁶⁰ Global Campaign for Equal Nationality Rights, Kuwait: Give women equal citizenship rights to men, available at: <https://equalnationalityrights.org/news/90-kuwait-give-women-equal-citizenship-rights-to-men>

⁶¹ Arab Declaration on "Belonging and Legal Identity", available at: <https://equalnationalityrights.org/images/zdocs/Final-Ministerial-Conference-Declaration-on-Belonging-and-Identity---English.pdf>

⁶² The New Arab, Kuwaiti women still battling for legal and political recognition, 11 May 2016, available at: <https://english.alaraby.co.uk/english/society/2016/5/11/kuwaiti-women-still-battling-for-legal-and-political-recognition>

Annex II - The report of Kuwait to the CRC Committee

1. The government of Kuwait submitted its combined third to sixth reports to the Committee,⁶³ in which it has provided the Committee with the State's perspective on, and justification of the enduring situation in the country, in relation to every child's right to a nationality. In this report, the government maintained that the

*“reservation entered by the State of Kuwait to article 7 concerning the child's right to acquire a nationality was due to its incompatibility with the Kuwaiti Nationality Act, which stipulates that children's nationality shall be acquired from their father.”*⁶⁴

2. Kuwait also argued that:

*“the children of illegal residents enjoy all the rights enshrined in the Convention. [...] They are guaranteed the same level of education as their Kuwaiti peers. Since the establishment of the Central Agency, the Government has guaranteed comprehensive treatment services for illegal residents in all governmental health-care centres and hospitals free of charge. [...] The acquisition of all kinds of civil registration documents is an inalienable right of all persons residing in the territory of the State, in accordance with Act No. 36 of 1969 concerning the registration of births and deaths.”*⁶⁵

It must be noted here, that the co-submitting organisations as a general principle contest the use of the terminology “illegal residents”, which criminalises individuals and communities, who have often endured discriminatory and arbitrary deprivations.

3. The State inaccurately stated that:

“the Kuwaiti Nationality Act [...] adopts the principle applied in the majority of such laws throughout the world, namely the granting of nationality on the basis of jus sanguinis in the light of the father's nationality”,⁶⁶

when in reality, only 25 countries in the world still maintain nationality laws which discriminate against mothers, in relation to their right to pass on citizenship to their children. The government further clarified that:

*“the Nationality Act grants Kuwaiti nationality to the children of Kuwaiti women on humanitarian grounds under specific conditions”, namely that “Anyone born within or outside Kuwait to a Kuwaiti mother and a father who is unknown or whose paternity has not been legally established shall be a Kuwaiti.”*⁶⁷

The State also referred to article 5 (2) of Act No. 100 of 1980 amending the Kuwaiti Nationality of Act No. 15 of 1959, according to which “Kuwaiti nationality is granted to the children of

⁶³CRC/C/KWT/3-6, 16 March 2020, available at: <https://undocs.org/en/CRC/C/KWT/3-6>

⁶⁴Ibid. Para 8.

⁶⁵Ibid. Para 28.

⁶⁶Ibid., Para 36(a).

⁶⁷Ibid., Para 36(a).

Kuwaiti women who have been irrevocably divorced or whose husbands are deceased or prisoners of war.”⁶⁸

4. The State report further noted that:

“Article 16 of Act No. 21 of 2015 concerning the rights of the child requires the Ministry of Social Affairs to attribute a triple name to a child of unknown parentage and record the data in its birth files. The health authority sends a copy of the documents to the Ministry of Health so that the child’s data may be recorded in the birth register.”⁶⁹

However, there remain concerns about the non-discriminatory implementation of these provision, to members of the Bidoon community.

5. Kuwait also inaccurately argued that:

“many international human rights organizations persistently confuse two separate issues, statelessness and illegal residency” and that the situation is different for those who “entered Kuwait illegally and concealed the documents indicating their original nationality with a view to settling in Kuwait, enjoying its services and benefits, and obtaining Kuwaiti nationality.”

According to the report:

“approximately 91,000 persons decided to adjust their status, revealing their nationality or leaving for their country of origin, during the period since the Iraqi invasion in 1991. Accordingly, they cannot be regarded as stateless persons, and the fact that the State of Kuwait has not acceded to the instruments in question has no impact on their situation, since the provisions are not applicable to the persons concerned.”⁷⁰

6. As this submission has set out, the Kuwait State report to the Committee is inaccurate and flawed. It obscures the ongoing denial and deprivation of the right to nationality endure by many children in Kuwait, and fails to show any real progress or genuine efforts to address the numerous recommendations made by the Committee and other bodies, over the past number of years.

⁶⁸ Ibid., Para 36(a).

⁶⁹ Ibid., Para 36(b).

⁷⁰ Ibid., Para 36(c).

Annex III - About this submission and the co-submitting organisations

SALAM for Democracy and Human Rights (SALAM DHR) is an NGO that endeavours to preserve universal principles of dignity and respect by shielding democracy and human rights. In the pursuit of this vision, SALAM DHR aims to influence British, European and UN representatives to improve the situation in the Middle East, and foster awareness of human rights and democracy. To accomplish these goals, SALAM DHR conducts monitoring and analysis, produces reports, develops recommendations on policy and legislation, organises advocacy campaigns, conducts trainings, and builds effective coalitions. SALAM DHR is actively involved in international cooperation for human rights and democracy, including the production of alternative reports on key human rights topics, coordinating coalitions, lobbying for reform of flawed institutions, and articulating NGO positions at the UN Human Rights Council, the European Parliament, and various domestic bodies.

The Rights Realisation Centre is an independent charitable organisation registered in 2018 in the United Kingdom. It seeks to promote and protect international human rights standards in states in the Middle East and North Africa, and Horn of Africa regions.

The MENA Rights Group is a Geneva-based legal advocacy NGO, focusing on the protection and promotion of fundamental rights and freedoms in the Middle East and North Africa. Adopting a holistic approach, we work at both the individual and structural level. We provide legal counselling to victims of human rights violations through recourse to international law mechanisms. In addition, we assess the human rights situation on the ground and bring key issues to the attention of relevant stakeholders to call for legal and policy reform.

The Global Campaign for Equal Nationality Rights mobilises international action for the removal of gender discriminatory provisions from all nationality laws, through its coalition of national, regional and international organizations and activists. Campaign steering committee members include Equal Rights Trust, Equality Now, Institute on Statelessness and Inclusion, Women’s Learning Partnership and Women’s Refugee Commission.

The Institute on Statelessness and Inclusion is an independent non-profit organisation committed to an integrated, human rights-based response to the injustice of statelessness and exclusion through a combination of research, education, partnerships and advocacy. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. Addressing childhood statelessness is one of the core thematic priorities of the Institute. As part of this work, ISI has made over fifteen country submissions to the Committee,⁷¹ developed a range of resources on the child’s right to a nationality and childhood statelessness, including a Toolkit on Addressing the Right to a Nationality through the Convention on the Rights of the Child⁷², Statelessness Essentials Booklets on Childhood Statelessness,⁷³ the Convention on the Rights of the Child⁷⁴ and other related issues,⁷⁵ The 2017 World’s Stateless Report: Children,⁷⁶ and a range of resources for children, which can be found online.⁷⁷ ISI has also contributed its expertise and information towards General Recommendations of the Committee as well as Joint General Recommendations by the Committee and the CMW.

⁷¹<https://www.institutesi.org/core-activities/human-rights-advocacy-crc>

⁷²Institute on Statelessness and Inclusion, Addressing the right to a nationality through the Convention on the Rights of the Child: A Toolkit for Civil Society, June 2016, available at: https://files.institutesi.org/CRC_Toolkit_Final.pdf

⁷³Institute on Statelessness and Inclusion, Statelessness Essentials, Childhood Statelessness, 2018 available at: <https://files.institutesi.org/childhood-statelessness.pdf>

⁷⁴Institute on Statelessness and Inclusion, Statelessness Essentials, Statelessness & Human Rights, The Convention of the Rights of the Child, 2018, available at: <https://files.institutesi.org/statelessness-and-CRC.pdf>

⁷⁵ For all the Essentials Booklets, see: <https://www.institutesi.org/core-activities/statelessness-essentials-booklet-series>.

⁷⁶Institute on Statelessness and Inclusion, The World’s Stateless children, January 2017, available at: <https://files.institutesi.org/worldsstateless17.pdf>

⁷⁷<http://kids.worldsstateless.org/>