



Maat for Peace's Report to the Human Rights Committee regarding Kuwait (September 2023)

General comment:

The State of Kuwait acceded to the International Covenant on Civil and Political Rights on May 21, 1996, and submitted its fourth periodic report under Article (40) of the Covenant in June 2020 to the Human Rights Committee. We commend the constructive cooperation between the State of Kuwait and the Committee, which committed itself to submit its national report on time, in addition to providing the Committee with the required information on the implementation of its recommendations contained in Paragraphs 11 (discrimination against Bidun), 43 (freedom of expression), and 45 (freedom of peaceful assembly and excessive use of force) within the specified period.

However, in contrast, it still has reservations about Article 25 of the Covenant, and it also has reservations about its position on interpretative declarations relating to Articles 2, 1, 3, and 23, this is because the decision to lift reservations or explanatory advertisements is the task of the legislative institution alone. We also noticed the positive responses by the state on the list of issues sent by the Committee. In addition, the State party has sent several explanatory documents to the Committee, such as the special annex showing the activities undertaken by the National Office for Human Rights, including the number of complaints, and a special annex for the courses organized by the Kuwait Institute for Judicial & Legal Studies.

In addition to sending an annex showing the number of complaints and reports received by the Public Authority for Anti-Corruption, an annex for official documents that were issued to illegal residents for the year 2021, an annex explaining the political empowerment of Kuwaiti women, and an annex was also sent regarding the numerical statistics of the prison population on 1/25/2023 about absorptive capacity; As a response from the State Party to paragraphs (2/3/4/5/8/13) of the list of issues, which are data that the State Party rarely responds to in the Convention and send to the Committee; As some countries consider it as their affairs, and with their national security.

Based on the previous, **Maat** submits this report to the Human Rights Committee, within the framework of Kuwait's submission to the Committee during session No. (139); to review the reality of several specific issues; the right to peaceful assembly and association (Articles 2, 21, and 22), discrimination against Bidun (Articles 2, 12, 24, and 26), and exploitation and abuse of domestic workers (Articles 7, 8, 12, and 26) of the Covenant.

First: Right to Peaceful Assembly and Association (Articles 2, 21, and 22)



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Article 44 of the Kuwaiti Constitution stipulates that “Individuals have the right to private assembly without permission or prior notification, and the police may not attend such private meetings. Public meetings, demonstrations, and gatherings are permitted in accordance with the conditions and manner specified by law, provided that their purpose and means are peaceful and not contrary to morals¹.” National legislation also allowed freedom of expression through peaceful assembly, visual, audio, or print media, or social media; For example, Decree Law No. 65 of 1979 regarding public meetings and gatherings came (65/1979); To allow public gatherings in public spaces without requiring advance permission, but for demonstrations and public gatherings held in public squares, a permit must be obtained before it is established, due to organizational reasons, which could potentially disrupt daily life².

In a related context, Decree Law No. 24 of 1962 was issued in the matter of clubs and public benefit societies (24/1962), which stipulates in its Article No. (3) that “the Ministry of Social Affairs and Labor shall undertake the registration of associations and clubs, publicize their establishment in the Official Gazette, and cooperate in achieving their goals in community service, when it meets the conditions stipulated in this law.” In addition to Article (13) of the same law, which allows non-citizens to participate in Public Benefit Associations, stating that “the General Assembly consists of all Kuwaiti members who have fulfilled the obligations required of them according to the association or club’s system, and their membership has passed for at least six months, and non-Kuwaiti members have the right to benefit from the association’s facilities as associate members³.” We welcome the Ministry of Social Affairs has formed a committee dedicated to promoting the activities of associations, and this committee meets on a weekly basis to ensure a speedy response to requests submitted by associations, as well as to involve civil society organizations in the membership of the National Office for Human Rights, the Supreme Council for Family Affairs and the Public Authority for Disability Affairs⁴.

In response to the Committee's recommendations, we commend the State party's participation in an annex clarifying the number of NGOs and licensing applications during 2022. As it received 48 applications to establish a charitable association, 21 applications for charitable causes, and 36 applications for civil associations, but in return, the license was withdrawn - in accordance with the decisions of the Ministry of Social Affairs - from 4 charities under Law No. 24 of 1962 according to judicial rulings⁵. This raises concern about the Kuwaiti legislature granting the Ministry of Social Affairs wide discretionary power to reject or accept, along with the restriction on non-citizens registering civil society associations except under specific controls. In addition to receiving reports indicating that the Kuwaiti authorities are attempting to restrict the right to peaceful assembly of Bidun; Where the Kuwaiti authorities arrested 18 people, including three candidates running for the upcoming parliamentary elections, for their participation in a peaceful demonstration in support of the stateless Bidun community in Kuwait, and on August 31, 2022, the Public Prosecution summoned them for interrogation on charges

¹ The Constitution of the State of Kuwait, all provisions of the constitution can be viewed through the following link: <https://cutt.us/0cc8v>

² Decree Law No. 65 of 1979 regarding public meetings and gatherings (65/1979), lawyer, available through the following link: <https://cutt.us/RatOK>

³ Decree Law No. 65 of 1979 regarding public meetings and gatherings (65/1979), lawyer, available through the following link: <https://cutt.us/67DNV>

⁴ Kuwait, UN Treaty Body Database, CCPR - International Covenant on Civil and Political Rights, State party's report CCPR/C/KWT/4, List of issues CCPR/C/KWT/Q/4 And Reply to List of Issues CCPR/C/KWT/RQ/4, 23 Nov 2020, 18 Nov 2022 And 4 May 2023. <https://cutt.us/CaJu0>

⁵ Ibid



that may carry a penalty of up to nine months in prison, and ordered their detention pending further investigations, which contradicts the articles of the Covenant, especially Article (21), which stipulates guaranteeing the right to freedom of peaceful assembly⁶.

Recommendations:

- Modernizing the Kuwaiti legislative system; to provide more guarantees without restricting basic rights and freedoms, especially the right to peaceful assembly and the right to form associations.
- Studying amending the Kuwaiti Public Gatherings Law; to remove the requirement for prior permission to hold public gatherings, including protests.
- Providing programs and training courses for law enforcement officials to deal with human rights issues in compliance with the human rights promotion framework during demonstrations, reinforcing the report of the State party with information that includes the number of programs and training courses during the last three years.
- Updating Law No. 24 of 1962 regarding Clubs and Public Benefit Societies (24/1962); this makes it compatible with the articles of the International Covenant on Civil and Political Rights.
- The immediate release of those detained on the grounds of peaceful demonstrations.

Second: Discrimination against Bidoon (Articles 2, 12, 24, and 26)

The State party issued Decree No. 467 of 2010 to establish the Central Agency. It included the accreditation of the so-called "illegal residents" and mandated the Agency to address their situation under legal and humanitarian frameworks. In addition, the Council of Ministers issued Decree No. 915 of 2013, circulating to all government agencies the obligation to comply with the official name (illegal residents) in all correspondence. Following coordination with all government agencies, the Agency has obtained documents indicating the existence of nationalities of many of them. The name "stateless" or "Bedoon" is incorrect as adopted by the State party. In addition, approximately 17,692 illegal residents were naturalized from 1992 to the end of 2021. Under Ministerial Decision No. 409/2011, the Central Agency for Addressing the Situation of Illegal Residents has taken many operational actions to facilitate their access to humanitarian and civilian services. The Agency issued a check card for its registrars and a health guarantee card for the unregistered, which allows them to enjoy public services, including free education, free treatment, extraction of official documents, access to subsidized ration materials, driver's licenses and treatment of persons with disabilities⁷.

In a related context, 13,327 students in community schools who are illegal residents benefited from the charitable fund for education for the 2020-2021 school year, at 4,783,024 Kuwaiti dinars, besides benefiting 21,375 students - who are illegal residents - in government schools. During 2022, the State party's relevant authorities issued 67,439 audit cards and 4,234 health insurance cards to illegal residents, in addition to issuing 1126 birth certificates, 299 death certificates, 1142 marriage contracts, and 520 divorce contracts for illegal residents during 2021. In 2011-2022, 3311 illicit residents and registered women were appointed through the Service Office, 925 males/females were appointed to cooperative societies, and 2,915 males/females were appointed to the Ministry of Health from 2019-

⁶ The arrest of activists who abort the aspirations of the Bidun in Kuwait for a new era that will do justice to them, Rawabet Center for Research and Strategic Studies, September 5, 2022 <https://cutt.us/J4nxQ>

⁷ Kuwait, UN Treaty Body Database, CCPR - International Covenant on Civil and Political Rights, State party's report CCPR/C/KWT/4, List of issues CCPR/C/KWT/Q/4 And Reply to List of Issues CCPR/C/KWT/RQ/4, 23 Nov 2020, 18 Nov 2022 And 4 May 2023. <https://cutt.us/CaJu0>



2021. In 2020, 82 were appointed to the Ministry of Endowments, and 2021, 198 males/females were appointed from those registered in the workforce system⁸.

Although the Kuwaiti Council of Ministers announced in November 2022 that it was addressing the situation of bedoon within two years and naturalizing the eligible, we have concerns about the lack of recent official statistics on the numbers of illegal residents. Although more than 100,000 people are available, this is disproportionate to the number of people who were naturalized as illegal residents. Furthermore, the law does not provide persons living illegally (bedoon/stateless) with a clear path to citizenship. The State party's judicial system now lacks the power to judge the situation of illegal residents, which has further complicated the process of acquiring citizenship, which may affect their access to services, in addition to the complexity of the situation for their children, especially concerning access to education and health services⁹.

In 2021, the State Party's Council of Ministers issued two decisions extending the duration of the central agency of illegal residents by two additional years and reappointed the President of the Authority. Bedoon residents, bedoon rights defenders, parliamentarians, and human rights activists protested against the decision, arguing that the agency was ineffective in resolving bedoon issues and that the conditions of the Bedoon population had deteriorated considerably in the presence of the central agency. We are deeply sorry that many members of the Bedoon community have died by suicide in recent years. Reports referred to poor social and economic conditions as a contributing factor, as well as the refusal of the central agency to renew the identity papers of some of the State party's illegal residents¹⁰.

Recommendations:

- The need to pass more legislation to ensure the right of all children born in Kuwait, particularly Bidoon children, to obtain Kuwaiti nationality.
- Ensuring respectful and humane dealings with Bidoon who wish to renew their identity cards, and immediately stop asking them to give up Kuwaiti nationality applications in exchange for renewal.
- The importance of ensuring that Bidoon, their children, and their families have access to health, educational, and employment services, travel documents, and other services provided to the public without discrimination.
- Accelerating the development of effective mechanisms to address the situation of illegal residents and their families in the State Party.

Third: Exploitation and Ill-Treatment of Domestic Workers (Articles 7, 8, 12, and 26)

We welcome the General Authority for the Workforce's efforts to disseminate legal culture to society to raise awareness of the rights and obligations of domestic workers and to emphasize the commitment of employers under the provisions of Act No. 68 of 2015 on domestic labor. We also welcome the fact that domestic workers are given priority as the weakest party in this contractual relationship, as well as the preparation of model employment contracts approved by the General Labour Force Authority and the obligation of domestic workers' contractors (domestic workers, employers, owners of domestic workers' offices and recruitment companies) to those contracts and the need to abide

⁸Ibid.

⁹ Naturalization of the Bidoon in Kuwait... A government effort to address their situation and frustration with "empty promises", Al-Hurra, November 28, 2022. <https://cutt.us/Z54GJ>

¹⁰ Bidoon in Kuwait: The suicide of the young Hamad Obaid renews the discussion about their suffering, BBC Arabic, February 16, 2022. <https://cutt.us/7jIDz>



by them. The Authority revised the Executive Regulation of Act No. 68 of 2015 on Domestic Labour to impose protection of domestic workers and other contracting parties' rights. Ministerial Decree No. 22 of 2022 on the Implementing Regulations of Law No. 68 of 2015 on Domestic Labour was issued, in addition to preparing awareness-raising brochures for domestic labor on rights and duties in Arabic and an interpreter of languages (English, Urdu, Philippine, and French). The Authority also launched awareness-raising and mentoring campaigns at various intervals to raise legal awareness about the rights and obligations of domestic workers and domestic workers' contractors (domestic workers, employers, and office holders) by posting on electronic media and social media sites¹¹.

In a related context, we welcome the State party's review of the number of labor complaints received by the Department of Domestic Labour Recruitment Regulation from 1 January 2022 to 31 December 2022, which reached 5,993 complaints¹² but did not indicate the fate of those complaints and the results of the investigations carried out into those complaints. The report also lacks prosecutions and penalties for those involved in the exploitation or ill-treatment of domestic workers and redress and rehabilitation measures available to victims. While the State party is attempting legislative reforms, acts involving exploitation and ill-treatment of domestic workers are widespread in the State party. Domestic workers are subjected to physical, sexual and psychological abuse and inhumane working conditions, such as working long hours with limited access to health services. Domestic workers' The Philippine Government's estimates indicated that more than 24 thousand reported incidents of abuse in the State party¹³.

In addition, in January 2023, JR told a Filipino domestic worker working in the State party that she feared her employer's 17-year-old son and, in less than 24 hours, her charred body and skull were found next to a desert road; this is a situation in several cases where legal protection is lacking, and they may not have access to support networks or the ability to communicate with others. Most of them are isolated in poor living spaces that are inappropriate for human life, in addition to the denial of wages, restrictions on movement and the fear of domestic workers to report violations; because of fear of retaliation¹⁴.

Recommendations:

- The need for amendments to legislation related to migrant workers and the importance of including domestic workers.
- Develop effective mechanisms to reduce the spread of exploitation and abuse of domestic workers.
- The need to improve enforcement of existing laws related to domestic workers, raise community awareness of domestic workers' rights, and provide effective mechanisms for workers to report abuse and seek help.
- The importance of including the results of investigations into complaints filed against business owners/offices and the penalties imposed on those involved in such violations, redress, and rehabilitation measures.

¹¹ Kuwait, UN Treaty Body Database, CCPR - International Covenant on Civil and Political Rights, State party's report CCPR/C/KWT/4, List of issues CCPR/C/KWT/Q/4 And Reply to List of Issues CCPR/C/KWT/RQ/4, 23 Nov 2020, 18 Nov 2022 And 4 May 2023. <https://cutt.us/CaJu0>

¹² Ibid.

¹³ Reports of violations... Tension between the Philippines and Kuwait over workers' rights, Deutsche Welle, June 2023. <https://cutt.us/IDsTv>

¹⁴ Domestic Helpers in Kuwait: Types of Abuse They Endure, Pioney-Ofw, 12 Feb 2023. <https://cutt.us/oQFcj>