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Contacts:
Sarnata Reynolds and Kristen Cordell

KUWAIT: *BIDOUN* NATIONALITY DEMANDS CAN'T BE SILENCED

As many as 100,000 people living in Kuwait are stateless. Called “*bidoun*” over the last twelve months thousands have been gathering peacefully in Taima Square to insist that the government recognize their Kuwaiti nationality. Tear gas, rubber bullets, and beatings have all been used to quell the demonstrators. Refugees International (RI) is calling on the Government of Kuwait to refrain from any further use of violence and to investigate serious allegations of abuse by special security forces. As well, pending applications for nationality filed by the stateless *bidoun* should be fairly and transparently adjudicated as a matter of priority.

BACKGROUND

Although the *bidoun* lived in Kuwait long before its independence in 1961, they are considered by the authorities as “illegal residents” and refused birth certificates, public schooling, marriage certificates, and the right to peacefully assemble. *Bidoun* also face barriers to health care; some *bidoun* can access limited health insurance and others are denied health care altogether.

Most *bidoun* live in two communities of makeshift housing about 18 miles outside of Kuwait City. The communities are so marginalized that one Kuwaiti national who participated in the demonstrations said, “I didn’t know where Taima Square was, I had to use my GPS.” They must rent accommodations, as they have no right to own, sell, or pass property onto their children upon death. Despite their multi-generational presence in the nation, the *bidoun* are not recognized as legally residing in Kuwait, and in almost all circumstances, they are not permitted to leave because the government refuses to issue travel documents.

POLICY RECOMMENDATIONS

- ❑ The Government of Kuwait must end the use of excessive force as a response to demonstrations for *bidoun* rights, address allegations of police abuse, and ensure that the *bidoun* detained during demonstrations are afforded fair, transparent, and expeditious trials.
- ❑ The Government of Kuwait should immediately provide proof of nationality to the 34,000 individuals acknowledged to be Kuwaiti nationals by the *Bidoun* Committee, and recommence adjudication of the more than 80,000 pending applications for nationality.
- ❑ The UN Refugee Agency (UNHCR) and the Office of the High Commission for Human Rights (OHCHR) should make a joint effort urging the Government of Kuwait to address allegations of human rights abuses against members of the *bidoun* community.
- ❑ The embassies of the United States and the United Kingdom should give importance to the issue of the *bidoun* and request regular consultation on progress toward adjudication of pending nationality applications.

EXCESSIVE FORCE USED TO QUELL BIDOUN PROTESTS

Recommencing in December 2011, thousands of *bidoun* have gathered peacefully on Fridays to demand that the government take action on their individual applications for nationality. Prior to and during their protests, the *bidoun* made a concerted effort to counter negative stereotypes about them by donating blood, handing out flowers to the special forces guarding the demonstrations, offering tea and coffee to the police, and cleaning up garbage after the gatherings.

In response to the gatherings, the Government of Kuwait used tear gas, rubber bullets, sound bombs, beatings, detentions, and trials to quell the *bidoun's* peaceful assembly. While these events took place, citizen journalists made videos and took photographs. As a result, many instances of abuse are well documented on Twitter and Facebook, including the beating of a woman. Among the arrested were children, the mentally disabled, and the elderly. One of the arrested *bidoun* was a man who had lost his child because the Government of Kuwait would not permit the six-year-old to travel to Saudi Arabia for cancer treatment, even though transportation to and from the country, as well as all medical services, had been donated. Several male *bidoun* who were detained detailed four consistent forms of grave mistreatment: sexual abuse, beatings, solitary confinement, and as many as 32 people being packed into small jail cells. With little room, they took turns standing for long hours and then sleeping on a cement floor.

While RI was in Kuwait in February, 71 members of the *bidoun* community had already been in jail for more than 40 days due to their participation in demonstrations in December 2011 and January 2012. In late February 2012, the government released 59 individuals. But as of writing, 12 remain in jail. Reportedly the 59 obtained release after a Member of Parliament threatened to file a request for interrogation of the Prime Minister regarding the detention of individuals who participated in the *bidoun* gatherings, as well as others arrested for their critical comments about the government. RI was told that the Prime Minister avoided the appeal by agreeing to an arrangement in which 59 *bidoun* would be released from detention along with unrelated individuals arrested for their critical comments about the government. Bond was set at \$1600, which not all the *bidoun* could afford, so charities and individuals stepped in to help make payments. Within days, the government had arrested three more individuals considered activists and organizers of the gatherings. One of the individuals was arrested at the airport. He had planned to complete the Hajj, a pilgrimage to Mecca.

In December 2012, a judge dismissed charges against 31 *bidoun* arrested for peaceful assembly in February 2011 because he said that the *bidoun* had been “gathering”, and the Kuwaiti constitution permits all “individuals” to gather. Legal counsel and human rights groups do not expect that the upcoming trials will result in a similar decision.

AN INTERNATIONAL FAILURE OF ACCOUNTABILITY

Unfortunately, neither United Nations agencies nor the international community have publicly expressed concern for the *bidoun*. At the same time as the *bidoun* were being arrested, in Geneva the UN commended the Government of Kuwait for its strides towards eliminating racial discrimination. Inside Kuwait, no UN agency has stepped forward publicly to demand that the human rights of the *bidoun* be respected and protected. Neither the United States Embassy nor the United Kingdom Embassy has made any public statement in support of the *bidoun*.

On February 17, 2012, the Government of Kuwait provided a statement assessing its efforts toward eliminating racial discrimination to the Geneva-based United Nations Committee on the Elimination of Racial Discrimination. In its statement, the government asserted that 93,000 individuals had been registered as unlawful residents, and a “central body was created to address the needs of unlawful residents, such as free medical care, free education and issuance of birth, death, marriage and divorce certificates, and driver’s licenses.” Despite recent documentation demonstrating excessive use of force against peaceful demonstrators, the failure to meaningfully implement any government benefits, and no movement on nationality files since 2009, the Country Rapporteur and the Committee considered Kuwait’s progress toward implementing the provisions of the Convention satisfactory. This finding is in direct contradiction to the *bidoun* experience and by not confronting Kuwaiti government on the actual treatment of the *bidoun*, the Committee was derelict in its duties.

Kuwait is currently a member of the United Nations Human Rights Council. As a member, it is “responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them.” Membership in the Council provided an opportunity for Kuwait to implement policies consistent with the human rights of the *bidoun* by treating them as nationals with rights equal to those of other Kuwaitis. During the nomination process the UN Human Rights Council did not request this action.

Inside Kuwait, UN agencies have failed to engage the Government of Kuwait in discussions that would advance *bidoun* rights. Despite a mandate that includes the protection of stateless persons and the authority to take up individual protection claims by individual *bidoun* members, the UN Refugee Agency does not have direct interaction with the *bidoun* community. Moreover, no public outcry has been forthcoming from the international community. Lacking any public criticism, Kuwait's government may continue its crackdown on the *bidoun* with total impunity, to the great danger of the *bidoun* and at exceptional harm to the credibility of the international system of protection. Reflecting on the situation, one *bidoun* told RI, "We're behind square one."

Both the United States and the United Kingdom have a strong diplomatic presence in Kuwait, but neither has prioritized the rights of the *bidoun* to nationality, nor followed up with Kuwait's Parliament regarding the processing of nationality applications. Engagement with the Kuwaiti government, Parliament's *Bidoun* Committee, and the stateless themselves is critical in moving forward the rights of the *bidoun*.

THE UNFULFILLED PROMISE OF NATIONALITY

Over the last 12 years more than 80,000 applications for nationality have sat before the Kuwait government's "*Bidoun* Committee." *Bidoun* with Kuwaiti mothers are included in this queue because Kuwait's nationality law is discriminatory and does not permit a woman to confer nationality on her children or spouse. On rare occasions, the committee has conferred nationality on some *bidoun*, a few hundred in 2006, 2007 and 2008, and 1800 in 2005. Since 2009 the *Bidoun* Committee has not conferred nationality on any *bidoun*. The arbitrary nature of these adjudications keeps many *bidoun* in a constant state of fear, and some *bidoun* were opposed to the demonstrations as a result. They were afraid that by asserting their rights, the goal of nationality would be lost for themselves and their families.

Kuwait has set a precedent of using security concerns to block nationality claims. Originally intended to deny nationality to those *bidoun* who fought alongside Iraq during the 1991 occupation, the use of a "security block" has grown exponentially to include activists and others, often without their knowledge or the reason for the block. A security block prevents access to a variety of government services, and makes the acquisition of nationality almost impossible. RI was told by a human rights organization that 850 individuals have a security block due to perceived collaboration with the Iraqis, but that the list is likely greater than 3000. Some believe the list includes as many as 30,000 individuals. RI was also told that even within the 850 there are surely errors

as many Kuwaitis were used as "moles" on the Iraqi side as an intelligence mechanism and therefore should not be considered collaborators. No application for nationality should be denied due to a security block unless it is demonstrated that the person actively supported Iraq during the 1991 invasion.

Kuwait's government publicly warned activists that participation in demonstrations would result in a permanent security block on their nationality files and possible deportation. But for many of the *bidoun* RI met, this carrot and stick approach to nationality had lost its force. As one man told RI, he was willing to sacrifice his own opportunity to gain nationality if it meant his two-year-old daughter may acquire it some day. RI learned that since Kuwait could not deport stateless individuals, because no other country has an obligation to accept them, it would use "deportation" jails. If ordered deported, a *bidoun* could spend years in jail, awaiting an "amnesty" that may or may not come. It is unknown how many *bidoun* individuals are in this situation, but it is exactly the type of information that the UNHCR should easily be able to acquire and address. At the same time, the government said it would confer nationality on the 34,000 individuals already recognized as Kuwaiti nationals without documentation. This is a promise that the government has asserted before but has yet to fulfill.

ACCESS TO GOVERNMENT BENEFITS

In the meantime, the Government of Kuwait has asserted that *bidoun* have access to 11 government benefits (sometimes referred to as "facilities" or "rights") such as education, birth certificates and health care. RI was told that the *bidoun* may receive about \$360 toward payment of private school tuition, but this covers only half the cost. As a result, some families still can't afford education and other families are making choices between children. Addressing the absence of opportunities to attend school, one *bidoun* woman explained, "Growing up knowing you have no future – your brain is limited." Some access to health care does seem to be available to those *bidoun* with identification, but because reportedly 70 percent of the population does not have documentation, this is a small benefit. Kuwait is not issuing *bidoun* birth certificates. Instead it may issue a "birth statement", which explicitly states that the newborn's nationality is "illegal". The *bidoun* are permitted the right to work for NGOs, which make up a small portion of Kuwait's workforce, and some may be employed by the civil service and the military. RI was told that other benefits promised by the government are entirely inaccessible, or unevenly enjoyed by *bidoun* depending on personal connections.

FAILURE TO COMPLY WITH COURT DECISIONS

In March 2009, the Court of First Instance, Kuwait's trial court, ordered that a marriage certificate be granted to a *bidoun* woman married to a Kuwaiti citizen. In the following months, the same court found that a *bidoun* man has the right to both a marriage certificate and to birth certificates for his children. Neither the Ministry of Justice nor the Ministry of Health has complied with these orders.

In March 2010, the National Assembly's Health and Labor Committee ordered the Ministry of Health to issue birth certificates within two months to *bidoun* newborns. Additionally, based on a 2009 Court of First Instance ruling on marriage certificates, in May 2010 the Council of Ministers, an advisory body to the Emir, passed a resolution that would require the issuance of birth certificates to all children of Kuwaiti citizens married to *bidoun* women. Again, the Ministries of Health and Justice failed to comply without consequence.

CONCLUSION

The Government of Kuwait has everything to gain by recognizing and conferring nationality on the *bidoun* who have valid claims to Kuwaiti nationality. The government has a legitimate interest in knowing who resides in the country, and conferring nationality on *bidoun* who are descendants of Kuwaitis, married to a Kuwaiti, born in Kuwait, and those who are longstanding residents. A naturalization process would promote security while also improving the country's human rights record. In February 2012, Kuwait's government had a surplus of more than 47 billion dollars. With this surplus, incorporating the *bidoun* into the state of Kuwait would be no financial burden. The *bidoun* are a longstanding population who continue to serve as loyal members of the civil service and the military. RI was told multiple times by *bidoun* individuals that they were proud to be Kuwaiti. It is time for Kuwait to acknowledge their rights to nationality.

Sarnata Reynolds and Kristen Cordell traveled to Kuwait to assess the needs of stateless bidoun in February 2012.