



State of Kuwait

Submission to the UN Committee on the Rights of Children (CRC)

87th Session of the CRC Committee

Submission by Americans for Democracy & Human Rights in Bahrain (ADHRB), NGO in General
Consultative Status with ECOSOC

Americans for Democracy & Human Rights in Bahrain

1001 Connecticut Avenue NW, Suite 205

Washington D.C 20036,

Email:

habdulla@adhrb.org

Tel: +001 (202) 621-6141

Web: www.adhrb.org

Table of contents

About us.....	3
Introduction.....	4
I. Right to nationality.....	5
II. Right to education	6
III. Right to health care.....	8
IV. Legal Analysis.....	9
V. Recommendations	11

About Us

Americans for Democracy & Human Rights in Bahrain (ADHRB) is a non-profit 501(c)(3) organization headquartered in Washington DC, accredited as a non-governmental organization in special consultative status with the United Nations Economic and Social Council (UN ECOSOC). ADHRB works to foster awareness of, and support for, democracy and human rights in Bahrain and the broader Arab Gulf region.

Introduction

Kuwait is a small but wealthy country located in the Persian Gulf. It is bordered by Iraq and Saudi Arabia. Officially known as the State of Kuwait, the Gulf state is recognized as a constitutional emirate ruled by Emir Sabah al-Ahmad al-Jaber Al-Sabah. Since 2011, Kuwaiti authorities have embarked on a systematic campaign to suppress dissent, taking measures that violate fundamental freedoms and human rights. As a result of these policies, authorities have significantly restricted civil society space, while arresting and jailing human rights defenders and members of the political opposition. Among the government's tools of repression are arbitrary arrest, enforced disappearance, unfair trial procedures and lack of due process, and torture, commonly on charges relating to citizens' exercise of their universal rights to free expression, assembly, and association.

Kuwait has a large stateless population that has faced widespread, systematic repression since the establishment of the State of Kuwait. This population, known in Arabic as *bidoon jansiya*, or "without nationality" (hereafter shortened here as *bidoon*), a minority in Kuwait. They are estimated to represent 10 percent of the population of Kuwait - approximately 100,000 individuals. Prior to Kuwait's independence in 1961, *bidoon* were treated equally as Kuwaiti citizens, and they enjoyed the same freedoms and rights. After independence, they were not included as citizens and various laws stripped them of most of their rights, as they were, and still are, deemed "illegal residents." *Bidoon* in Kuwait lack Kuwaiti nationality for three main reasons:

- i. They have been unable to prove residential ties to Kuwait prior to 1920;
- ii. They failed for various reasons to register as citizens following Kuwait's independence in 1961;
- iii. During Iraq's invasion of Kuwait in 1990, a minority of *bidoon* joined Iraqi forces. As a result, the broader *bidoon* population became perceived as foreign agents of Iraq, leading to a reluctance to accept them as citizens.

Due to these factors, *bidoon* have been deprived of their rights – most notably – their economic, social and cultural rights.

I. Right to Nationality

In paragraph 8 of its report to the Committee on the Rights of the Child (CRC), the Kuwaiti government states its reservation to Article 7, sub-section 1 of the Convention on the Rights of the Child. The article in question concerns a child's ability to acquire nationality, and states "States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference."¹ However, under Kuwaiti law, a child can only receive nationality from their father. Kuwait justifies this by appealing to Kuwait's Nationality Law and by stating that they are acting within the child's best interest.

¹ UN General Assembly, Convention on the Right to Child, September 1990, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

The CRC highlights their concerns about the discrepancy between Kuwait's national law and its international obligations in its concluding observations to the 2013 report, in which they recommend Kuwait:

- i. 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;
- ii. Ensure that identity documents no longer permit the identification of children as being of unknown parentage; and
- iii. Ratify the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

Despite this, Kuwait's country report to the CRC does not address these longstanding issues of nationality and statelessness, nor does it give any solutions to resolve or improve the situation. Instead, Kuwait denies concerns about statelessness by asserting that *bidoon* are foreigners that forfeit their true nationality in order to benefit Kuwait advantageous system.

While Kuwait treats *bidoon* as illegal residents, the majority of them were born and raised in Kuwait, and have familial attachment to the country, for example a Kuwaiti mother, or Kuwaiti relatives. But because they do not have citizenship, they do not have identification papers or residency permits, which are necessary for many essential daily services, including education, work, and health care. Without these identity documents, *bidoon* cannot travel, get a scholarship, disabled children cannot get the proper medical care, and families cannot receive loans or open a bank account, among other problems.

This discrimination affects every aspect of *bidoon's* daily life. Without government proof of their existence many suffer identity crises that can lead to mental illnesses like depression and anxiety. It has a particularly strong effect on children and negatively impacts their sense of belonging and self-worth.

Even though Kuwait has amended its 1959 Nationality Law several time since its passage, the law remains restrictive and discriminatory, as it can result in children being rendered statelessness. In recent years, the law has become even more restrictive, as the government added additional requirements to obtaining citizenship. For instance, Law No. 20 of 2000 permits only 2,000 naturalizations in a year, limiting the ability of *bidoon* to receive citizenship.

Furthermore, Article 2 of the Nationality Law, states "any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be a Kuwaiti national himself." Due to this, women cannot transfer their nationality to their children. Thus, if a Kuwaiti woman is married to a *bidoon* man, the child is born without nationality and is stateless, as the mother cannot pass along her nationality. As a result, the child has restricted access to social services and other basic rights. The only instance in which women can pass along their nationality is if the mother is divorced or widowed. As a result of this policy, however, some families are torn apart and seek divorces so the child can have Kuwaiti nationality². However, even in such cases, nationality is not granted right away and the process can take years - sometimes up to 10 years, or more. Furthermore, under the Nationality Law the process for gaining citizenship is not transparent but is the result of seemingly arbitrary decisions as there is no clear process for gaining citizenship³.

As Kuwait was gaining independence in 1961, and the nationality issue emerged, the government established a mechanism, known as "*bidoon* committee," by which *bidoon* can claim nationality. In 2010, the "*bidoon*

² Refugee International, Field Report "Kuwait : Gender discrimination creates statelessness and endangers families," October 2011, <https://www.refworld.org/docid/4eb24a882.html>.

³ United States Department of State, "Kuwait Country Report 2017," Bureau of Democracy, Human Rights and Labor, 2017, <https://kw.usembassy.gov/wp-content/uploads/sites/157/Human-Rights-Report-Kuwait-2017.pdf>.

committee” became the Central System to Resolve Illegal Residents’s Status (still commonly called the *bidoon* committee). According to the decree establishing the body, it is tasked with “taking all executive procedures to resolve the illegal residents’ situation” and “proposing drafts of laws and regulations deemed necessary to end the illegal residents’ situation.”⁴ Following this, the government announced that this body will pass a decree protecting several rights for *bidoon*, such as access to civil documentation, employment, education and health. Yet, in 2019 the situation has not changed and the government has failed to keep its promise, as *bidoon*’s access to these government services remains impeded.

In addition to noting the Central System to Resolve Illegal Residents’s Status its report to the CRC, Kuwait highlighted the establishment of Central Agency for the Treatment of Illegal Residents, another mechanism ostensibly meant to resolve the issue of *bidoon*. This committee has been tasked with attempting to “resolve the problem of illegal residents.” To this end, it has granted them cards that will allow them access to free services.⁵

The Central Agency was set up in order to review *bidoon*’s claims and through this system *bidoon* can apply to the Agency to obtain civil documentation, including birth, marriage, and death certificates, as well as passports, but the Agency does not have the power to review the *bidoon*’s situation more broadly and to provide further assistance and offer long-term, system-wide solutions. To the contrary, many *bidoon* claims to the Agency remain pending and will be likely refused. As a result, *bidoon* remain without civil documentation. When the Agency has made decisions, many NGOs and activists reports have criticized their actions as arbitrary. Indeed, the Agency bases its refusal on unknown criteria and often claims that *bidoon* hold another nationality. The Agency has arbitrary criteria to determinate if a person holds another nationality and the applicant does not have a chance to see the alleged evidence or to appeal the Agency’s decision. *Bidoon* cannot challenge the Agency’s decisions nor are they able to abandon their “other nationalities” because they are not actually citizens of other states.

These practices and the Kuwaiti government’s broader treatment of its *bidoon* residents violates its constitution, which states that “the people are peers in human dignity and have, in the eyes of the Law, equal public rights and obligations. There shall be made no differentiation among them because of race, origin, language or religion.”⁶

Even as the State of Kuwait’s actions violate its own constitution, the government violates other international conventions like the Convention on the Rights of the Child’s Articles 7 and 8.⁷

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and. as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

⁴ HRW, “Report on the Human Rights Watch Report and Response to its Questions and Inquiries,” 2011, https://www.hrw.org/sites/default/files/reports/Response%20of%20the%20Kuwaiti%20Government%20to%20HRW_0.pdf.

⁵ United States Department of State, “Kuwait Country Report 2017,” supra 3.

⁶ Kuwait Constitution, November 1962, <https://www.wipo.int/edocs/lexdocs/laws/en/kw/kw004en.pdf>.

⁷ UN General Assembly, Convention on the Right to Child, September 1990, supra 1.

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Even though the government of Kuwait has agreed to work towards implementing its obligations under the CRC and international law, the government has not made any significant progress or instituted significant reforms. For example, Kuwait still has not acceded to the 1954 Convention Relating to the Status of Stateless Persons or to the 1961 Convention on the Reduction of Statelessness. Rather, the government continues to discriminate against and marginalize its *bidoon* population. Despite its lack of progress, the government has affirmed its commitment to implement all recommendations made by treaty bodies it is party to, and has iterated its willingness to “implement its international obligations.”⁸

II. Right to Education

According to the Government of Kuwait in its report to the CRC, education is a right enjoyable and accessible to all children in Kuwaiti territory, event to illegal residents. The government has said that it “shall ensure education for all without exception.”⁹ To implement this ambitious project, Kuwait set up a government-funded charity by Ministerial decree that aims to provide support to those in need, including children of illegal residents. The charity finances any fees related to education, from elementary school to high school.¹⁰ As a result of these efforts, the government has asserted that every child enjoys the same level of education – whether it is a Kuwaiti child, foreigner, or an illegal resident.¹¹

Despite its promise to provide education to every resident of Kuwait, under Kuwaiti law, only citizens - or children of a Kuwait mother - have access to free, compulsory education. Education is neither compulsory nor free for *bidoon* children. Because *bidoon* children do not have birth certificates, they cannot enroll in government-run public schools. Therefore, they can only attend private schools, where they must pay 30 percent of all school fees.¹² However, private schools’ level of education can be substandard, with facilities in bad conditions, and classrooms crowded with students. In contrast, government-run schools have 24 students per class.

Moreover, the majority of *bidoon* families cannot afford to send all of their children to private schools, as they face hurdles in legal employment. Therefore, they must choose which child will go to school. Most of the time families choose boys over girls. Because *bidoon* families can often send only some of their children to school in many cases, the other children end up working illegally as street vendors to help support the family.

The education charity also has restrictions on how many children and families can apply. As a result, not all children and families can get covered by the fund. In 2015, 15,000 individuals received funding from the charity.¹³ In most situations, getting access to the charity depends on family, social, and economic connections. If a family is unable to use their connections to gain education coverage from the charity, they must fall into one of seven categories, have a valid security card issued by the *bidoon* committee, and children

⁸ United States Department of State, “Kuwait Country Report 2017,” §75 and §79, *supra* 3.

⁹ *Ibidem*, §56 (B).

¹⁰ *Ibidem*.

¹¹ *Ibidem*.

¹² Minority Rights Group International, *Bidoon*, December 2017, <https://minorityrights.org/minorities/bidoon/>.

¹³ US Department of State, “Kuwait Country Report 2015,” Bureau of Democracy, Human Rights and Labor, 2015, https://photos.state.gov/libraries/kuwait/231771/PDFs/hrr-2015_kuwait.pdf.

must have passed their exams.¹⁴ Even if a family gains coverage through the charity, the charity does not cover all education-related expenses.

In addition to discriminatory practices restricting *bidoon* from applying to, and attending primary and secondary school, *bidoon* face discrimination in higher education. Until 2013, *bidoon* could not enter Kuwait University.¹⁵ Eventually, the government allowed a small number of *bidoon* to apply for entrance to the university. However, *bidoon* attendance remains low, and in 2014, only 150 *bidoon* students were allowed to enroll.¹⁶

Article 28¹⁷ of the CRC states that

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - a. Make primary education compulsory and available free to all;
 - b. Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - c. Make higher education accessible to all on the basis of capacity by every appropriate means;
 - d. Make educational and vocational information and guidance available and accessible to all children;
 - e. Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 30¹⁸ adds to this, stating

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

¹⁴ Refugee International, Field Report "Kuwait : Gender discrimination creates statelessness and endangers families," October 2011, *supra* 2.

¹⁵ Minority Rights Group International, *Bidoon*, December, *supra* 12.

¹⁶ US Department of State, *Kuwait Country Report 2015*, *supra* 13.

¹⁷ UN General Assembly, *Convention on the Right to Child*, September 1990, *supra* 1.

¹⁸ *Ibidem*.

Calling attention to Kuwait's failure to respect its obligations under the Convention on the Rights of the Child, the CRC recommended that Kuwait:

- i. Take immediate measures to put an end to the segregation between Kuwaiti and *bidoon* children in schools and ensure that the latter have full access to public schools without discrimination. Until all *bidoon* children are included in the public school system, the State party should take interim measures to ensure that *bidoon* children have effective access to private schools for the school year 2013/14 without any fee being requested from their families;
- ii. Repeal without delay all provisions that prevent married girls from attending day schools and ensure that their rights are respected therein; and
- iii. Properly address cases of sexual harassment in schools by taking preventive measures and ensuring that child victims and children who harass their peers are provided with psychological support and counseling.

The Kuwaiti government has made many promises to address discrimination in education between citizens and *bidoon*. However, the government's efforts have fallen short and many of the mechanisms the government has established have not been empowered to address root causes of discrimination. Even when the government has taken steps to address the situation, it has not fully implemented many of its own policies.

III. Right to Health

The Government of Kuwait has asserted that all children - even illegal residents and non-citizens - should receive medical care without any fees, and should be treated for all kind of diseases and surgeries. The government has also stated that illegal residents and non-citizens do not need to pay fees, and that a charity has been funded to help support families in need, and these families can access these benefits with a "special card." Indeed, non-citizens can get help from Zakat House, which issues its own private health insurance cards that cover all fees and offer full health care.¹⁹

Full, free access to Kuwait's health care and welfare system is significant as the state has an excellent welfare and health system. However, despite officials' promises, full and free access to this system is reserved for Kuwaiti citizens. *Bidoon* who have security cards and who are thus documented can gain access to limited care. Those who do not hold such cards as issued by the *bidoon* committee and who are thus undocumented, cannot access Kuwait's health and welfare systems, because they are not allowed to purchase health insurance.

Even if *bidoon* can gain access to health care, they must pay for private insurance in order to cover basics medication. Private insurance does not include many forms of treatment, medical care, or surgeries.

But this discrimination goes deeper and particularly impacts individuals in vulnerable situations. Women who give birth but do not have a marriage certificate have limited access to proper medical assistance. Without a government-issued marriage certificate, women cannot give birth in a public hospital. Children over 6-years-old can obtain a birth certificate if they undergo a DNA test that proves their relation to their parents,²⁰ however this process can take years, and in that time the child remains unregistered and in a vulnerable situation.

¹⁹ United States Department of State, "Kuwait Country Report 2017," §58, *supra* 3.

²⁰ Refugee International, Field Report "Kuwait : Gender discrimination creates statelessness and endangers families," October 2011, *supra* 2.

While the State of Kuwait gives assurances that all children have access to health and medical care, many *bidoon* interviewed have said that they have been denied care, because of their stateless status. Without access to government-run care, they must go to private hospitals, where they pay for substandard treatment. The Committee on the Rights of the Child highlighted this problem in their concluding remarks, when they urge “the State party to take immediate measures to ensure that all *bidoon* children receive without delay all medical care and treatment required by their health condition.” However, Kuwait has not addressed the problems *bidoon* children face nor have authorities implemented policies to rectify this situation.

IV. Legal Analysis

Though the State of Kuwait acceded to the UN-CRC in 1991, it has failed to fulfill its international obligations under the Convention.

Violations of Arts. 2, 7, 24, 28 and 29

Article 2 - Non discrimination

Article 2 of the CRC provides that “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin[...].”²¹ Article 2 calls upon states to not discriminate against children because of who they are, including their affiliation with a specific ethnic group. This article is considered one of the four “General Principles” - together with Articles 3, 6 and 12 - of the CRC, which help to interpret all other articles²². As such, it should be the foundation for Kuwait's implementation of the Convention.

Kuwait Constitution, dating from 1962²³ ostensibly provides equal rights, stating that “people are peers in human dignity and have, in the eyes of the Law, equal public rights and obligations. There shall be made no differentiation among them because of race, origin, language or religion.”²⁴ However, Kuwait discriminates against *bidoon* children. By doing so, the State of Kuwait is in breach of its obligation under the CRC, which requires the equal application of all rights across different populations.²⁵

Article 7 - Right to acquire a Nationality

Article 7 of the CRC provides that “[every] child shall be registered immediately after birth and shall have the right from birth to a name and the right to acquire a nationality [...]. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”²⁶ The Committee on the Rights of the Child has expanded the understanding of the right to acquire a nationality, clarifying that children have a right to nationality in their country of birth if they do not acquire another nationality from birth.²⁷

The principle of non-discrimination informs the scope and content of Article 7, particularly, when assessing if States ensure equal rights for all parents to pass their nationality on to their children, without

²¹ UN General Assembly, Convention on the Right to Child, September 1990, *supra* 1.

²² Samantha Besson, “The Principle of Non-Discrimination in the Convention on the Rights of the Child,” *The International Journal of Children's Rights*, 13: 433-461, 2005, <https://core.ac.uk/download/pdf/20656988.pdf>.

²³ Constitution of Kuwait, 1962, reinstated in 1992, https://www.constituteproject.org/constitution/Kuwait_1992.pdf?lang=en.

²⁴ *Ibidem*.

²⁵ Save the Children, “A starter Pack for Country Programmes. Reporting to the UN Committee on the Rights of Child,” 2007, <https://resourcecentre.savethechildren.net/node/3460/pdf/3460.pdf>.

²⁶ UN General Assembly, Convention on the Right to Child, September 1990, *supra* 1.

²⁷ Institute on Statelessness and Inclusion, “Addressing the Right to a nationality through the Convention on the Rights to Child,” June 2016, http://www.institutesi.org/CRC_Toolkit_Final.pdf.

distinction based on gender, ethnicity, race, religion, disability or marital status of parents. This prohibition on discrimination includes a prohibition on the creation of distinct categories of citizenship which result in discrimination, stigmatization, or the denial of certain rights²⁸. The realization of Article 7 is therefore fundamental to children's ability to exercise many of the other rights provided for by the CRC.

The State of Kuwait made a reservation to Article 7 of the Convention, stating that "the State of Kuwait understands the concepts of this article to signify the right of the child who was born in Kuwait and whose parents are unknown (parentless) to be granted the Kuwaiti nationality as stipulated by the Kuwaiti Nationality Laws."²⁹ This declaration excludes the *bidoon* from the possibility of enjoying the rights included in Article 7 by placing Kuwait's Nationality Law over and above the Convention's articles. As a result, Kuwait reserves the right to withhold nationality on the basis of an individual's illegal status in the country. This stance is in contravention of Article 7 of the CRC.

The situation of Kuwait's stateless *bidoon* population is exacerbated by the country's restrictive nationality laws, through which citizenship is transmitted only through a Kuwaiti father³⁰. Children born with a Kuwaiti mother and a *bidoon* father are thus denied nationality in contravention of the Article 7 of the CRC, in addition to provisions of the Convention of the Elimination of All Forms of Discrimination Against Women.

Questions of nationality aside, human rights, including children's rights, are generally not contingent on the possession of nationality. The CRC Committee underlined³¹ that state parties' obligations apply to each child within the state's territory and the enjoyment of rights stipulated in the Convention are not limited to children who are citizens of a state party and must be available to all children, irrespective of their nationality, immigration status or statelessness.

Moreover, the ad hoc Committee pointed out that the realization of universal birth registration features in the Sustainable Development Goals, specifically in the Goal 16.9, aim to "by 2030, provide legal identity for all, including birth registration." This goal cannot be achieved without the full implementation of CRC Article 7.

The State of Kuwait should accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness - as recommended by the Committee of the Rights of the Child in their previous 2013 concluding observations. The Committee's observations, together with the Convention, provide a more extensive and comprehensive protection framework for all children in Kuwait.

Article 24 - Right to Health

Article 24 of the Convention provides that "States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services [...]."

In relation to the right to healthcare, the CRC Committee noted its serious concern "that *Bidoon* [stateless] families continue to face obstacles that, in many instances, result in their being deprived of access to adequate health care, including post-surgery rehabilitation treatment". In the light of its General Comment

²⁸ UNICEF, "Implementation Handbook for the Convention on the Rights of the Child," September 2007, <https://www.refworld.org/pdfid/585150624.pdf>.

²⁹ Convention on the Rights of Child, Kuwait' Declarations, <http://indicators.ohchr.org/>.

³⁰ Nationality Law, Kuwait, 1959 <https://www.refworld.org/docid/3ae6b4ef1c.html>.

³¹ CRC Committee, General Comment No. 6: Treatment of unaccompanied and separated children outside their country of origin, 1 September 2005, para. 12, <https://www.refworld.org/docid/42dd174b4.html>.

No. 15 (2013)³² on the right of the child to the enjoyment of the highest attainable standard of health, the Committee clarified that Article 24 explicitly mentions primary health care, an approach to which was defined in the Declaration of Alma-Ata and reinforced by the World Health Assembly,³³ which emphasizes the need to eliminate exclusion and reduce social disparities in health and to integrate health into related sectors.

State parties have an obligation to ensure that children's health is not undermined as a result of discrimination, which is a significant factor contributing to vulnerability. Under this article, states should identify and eliminate barriers to children's access to health services, including financial, institutional and cultural barriers. The Committee also underlined that universal free birth registration is a prerequisite³⁴, however, Kuwait does not comply with these international provisions and has consistently failed to provide legal documentation of birth to *bidoon* individuals. In this way, the State of Kuwait has creating and continues to maintain direct and indirect barriers to *bidoon's* ability to access free health care.

Articles 28 and 29 - Right to Education

Article 28 of the Convention provides that "States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: (a) Make primary education compulsory and available free to all [...] and make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need [...]."³⁵ However, under the Nationality Law, only citizens enjoy free and compulsory education. Non-citizens are systematically denied legal documents, including birth certificates, thereby making it almost impossible for *bidoon* to access social services, especially education.

During Kuwait's second review under the Universal Periodic Review mechanism in 2014, the Office of the High Commission for Human Rights (OHCHR)³⁶ and several civil society stakeholders highlighted that children in Kuwait can be deprived of the right to education if their mothers were divorced or widowed. Under Kuwaiti law, divorced women are not entitled to enroll their children in school without the prior consent of their father or guardian. Moreover, reports by OHCHR and other civil society stakeholders note that *bidoon* are denied equal opportunity to access free and obligatory primary education. *Bidoon* can only access government-run schools if their mother is Kuwaiti and their father has valid government-issued documentation. Without this, *bidoon* can only attend private universities whose tuition fees may exceed the financial ability of middle-class families. Consequently, *bidoon* who are of a lower income status are not able to enroll in private schools. The only free public university, Kuwait University, accepts very few *bidoon*.³⁷

V. Recommendations

Through its treatment of its *bidoon* population, the Kuwaiti government violates a number of international laws and treaties. In order to rectify this, ADHRB recommends the State of Kuwait:

- Amend its Nationality Law in order to allow women to transfer their nationality to the child and to grant all children born in Kuwait Kuwaiti nationality;

³² CRC Committee, General Comment N.15: On the right of the child to the enjoyment of the highest attainable standard of health, April 2013, <https://www.refworld.org/docid/51ef9e134.html>.

³³ Ibidem.

³⁴ CRC Committee, Concluding Observations on the second periodic report of Kuwait, October 2013, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqkKV0xrUf%2BC9C%2F9uTI230ixwWkdJgZEzWINC20%2FCcqb9NrxwgM9B9sS8ZKRwBAZ9RQjtdPpjtVEZApU90hTsRcOqQXc3n3MwtzpX7eidFwm>.

³⁵ UN General Assembly, Convention on the Right to Child, September 1990, *supra* 1

³⁶ General Assembly, Working Group on UPR, January 2015, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/193/56/PDF/G1419356.pdf?OpenElement>; and "Submission to the UN Human Rights Council concerning the UPR of the State of Kuwait", National Society for Protection of Children, January 2015.

³⁷ Ibidem.

- Immediately accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- Immediately end its reservations to the Convention on the Rights of the Child;
- Take serious measures to document all *bidoon* and to grant them citizenship;
- Ensure that all children have the right to nationality;
- Take necessary measures to ensure free and compulsory education to all children residing in Kuwait;
- Take steps to improve the level of education in private schools and to lower tuition fees;
- Eliminate Kuwait University's quota of *bidoon* students and allow for unfettered access to higher education for all children and students residing in Kuwait
- Ensure that all Kuwaiti residents have ready access to affordable and accessible health care – especially children;
- Amend all relevant national laws to accord with Kuwait's obligations under international laws and international treaty bodies.