

**Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report -
Universal Periodic Review:**

STATE OF KUWAIT

I. BACKGROUND INFORMATION AND CURRENT CONDITIONS

1. Refugees and Asylum-seekers:

Kuwait is not a State party to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). There are no national laws or administrative regulations governing the status of asylum-seekers or refugees.

All non-citizens in Kuwait fall under national immigration laws (also referred to as expatriate law), including refugees and asylum-seekers who register with UNHCR. As per these laws, securing a sponsorship through work, investment, or family link is a prerequisite to obtaining a legal residence in Kuwait. In the absence of a national asylum system in Kuwait, UNHCR carries out all asylum-related activities under its mandate. Local integration possibilities of refugees are limited, as is the potential for voluntary repatriation, in view of the fact that in most cases the situation in the countries of origin are not conducive to safe return. In view of this, resettlement is considered a vital protection tool for cases facing particular protection concerns.

UNHCR carries out refugee status determination in Kuwait. However, despite the absence of a national framework regulating issues related to asylum and although not fully implemented, the Constitution prohibits *refoulement*.

The overall protection environment remains precarious. The authorities continue to impose visa restrictions on six nationalities, representing countries facing severe political and security environments. Because of this restriction, many of people of concern face serious difficulties in renewing their residence permits and/or in extending their visit visa and thus they face not only risk of deportation but also they are denied access to all public services including education, health care and employment. Furthermore, local integration opportunities for refugees are limited. Thus, the stay of recognized refugees is only temporarily tolerated pending the identification of a suitable durable solution, i.e. repatriation or resettlement. Resettlement often takes longer time than expected and leaves refugees in a very difficult situation while waiting for a decision from the resettlement country.

The State of Kuwait hosts a caseload of around 1,800 individuals (asylum-seekers and refugees) who originate primarily from Iraq, Somalia, and Iran among other nationalities. Syrian nationals (over 700) are not included in the number above. . In view of the continuous deterioration of the humanitarian situation in Syria, this number is expected to rise despite the fact that Kuwait immigration policy remains strict towards Syrian nationals. The office continues to conduct RSD interviews and process cases that meet the resettlement criteria, on the basis of a yearly quota of between 200-250 refugees.

The population of concern in Kuwait is primarily urban, the majority of whom possess valid residence permits in Kuwait. UNHCR office continues to issue documentation based on protection needs. The persons of concern with a legal presence in the country enjoy access to all manners of documentation issued by the Government. The majority of asylum applications received originate from Iraqi, Somali, and Iranian asylum-seekers. There are a small number of asylum applications received from additional nationalities such as Ethiopia, Eritrea, Pakistan, Afghanistan and Lebanon.

Naturalization and local integration prospects for refugees (under UNHCR's mandate) are extremely limited. Refugees are only allowed to stay in the country temporarily, pending the identification of a suitable durable solution, such as voluntary repatriation or resettlement. With the absence of local integration prospects or voluntary repatriation in the foreseeable future, resettlement is used strategically as a tool for protection by UNHCR, mainly for persons who have been identified as having legal problems in Kuwait, such as those at risk of losing legal residence as a result of work termination. To grant a permit for refugees to remain in Kuwait beyond the legal residence period requires a special request from UNHCR and is temporary, pending the finalization of resettlement procedures to a third country. Selection missions by resettlement countries are facilitated to examine cases in Kuwait. The departure of accepted refugees to resettlement countries are facilitated through close collaboration between the Ministry of Foreign Affairs, Ministry of Interior, IOM, ICMC and UNHCR.

2. Stateless persons:

Kuwait is not a State party to the *1954 Convention Relating to the Status of Stateless Persons*, (hereinafter referred to as the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (hereinafter referred to as the *1961 Convention*). Kuwait is a home for around 93,000 State-registered stateless persons, commonly known as the “bidoon” which is short for “bidoon jinsiyya”, meaning “without nationality”. The majority of stateless persons in Kuwait have access to basic public services. With regards to the overall situation of stateless persons in Kuwait, little development has taken place, except the adoption of a bill in late 2013 permitting up to 4,000 qualifying stateless individuals to be granted nationality. Implementation of this bill has been limited however, with only some 500 individuals having been naturalized since its adoption.

There are concerns about the number of stateless children being deprived access to public services including education, health care, and employment upon reaching the age of majority employment. Additionally, sources have provide information that many people of concern are

denied access to public services and are not being issued with legal documents, including those related to vital events such as birth and marriage certificates.

II. ACHIEVEMENTS AND BEST PRACTICES

Although Kuwait is not party to the *1951 Convention*, the authorities generally refrain from the deportation of people of concern to territories where safety and health risks persist. The UNHCR country office has access to detention centers where people of concern are detained. Moreover, the authorities continue to be cooperative in issuing exit permits in favor of people of concern, waiving residency related fines made against those who have failed to renew their residency status.

It has also been noted that Kuwait's leadership is very keen to have the issue of statelessness resolved. This was evident through a number of officials' statements made indicating that the process for naturalization of up to 4000 stateless persons is due to start. Further, announcements were also made referring to assisting many of stateless persons to reinstate their legal status through their countries of origin.

III. KEY PROTECTION ISSUES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Refugee Convention and establishment of a national asylum framework

Although, the office has signed a MOU with government of Kuwait, there are no exceptions made for people of concern particularly those who failed to secure a residence permit. For this reason, such individuals are denied access to public services and face threats of deportation. Safe guards in the Kuwait legal system protecting people of concern are lacking. Moreover, there are no exceptions made for people of concern facing a judicial deportation order. With the intervention of the UNHCR country office, such deportation order is only delayed until the office recognizes the case (under UNHCR's mandate) and finds a durable solution.

Accession to the *1951 Refugee Convention* and its *1967 Protocol* would greatly facilitate UNHCR's work, which aims to benefit people of concern.

Recommendations:

- Accede to the *1951 Convention* and its *1967 Protocol*;
- Adopt a national asylum legislation; and
- Ensure full respect of the principle of *non-refoulement*.

Issue 2: Prevention of Statelessness and Protection of Stateless Persons

The State of Kuwait is neither a party to the *1954 Convention*, nor to the *1961 Convention*. Accession by Kuwait to the international statelessness instruments would establish a stronger framework to resolve the existing statelessness issue, prevent and reduce statelessness, and avoid the detrimental effects of statelessness on individuals and society by ensuring a minimum standard of treatment for stateless persons.

The *1954 Convention* ensures minimum standards of treatment for stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to education, employment, housing and public relief. The *1954 Convention* also guarantees stateless persons a right to identity and travel documents and to administrative assistance.

The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties that address the right to a nationality. An increase in the number of State parties to these two *Conventions* is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

Kuwait has ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1994. However, Kuwait maintains a reservation to Article 9(2), and its nationality law restricts the ability of Kuwaiti women to pass their nationality to their children. The resulting inequality is that children born from mixed marriages involving non-Kuwaiti father and Kuwaiti mothers are generally unable to acquire Kuwaiti citizenship. It should be noted that Article 5(2) of the 1959 nationality law allows the children of Kuwaiti mothers and non-national fathers to apply for Kuwaiti nationality upon the “irrevocable divorce” of the child’s parents. In the absence of the right to confer nationality to their children at birth, a number of Kuwaiti women married to non-nationals have reportedly divorced their husbands in the hope of resolving the statelessness of their children.¹ Subsequent to the divorce, however, nationality does not accrue to the children concerned as a matter of right, but rather at the discretion of the State² — thus leaving many such children both separated from their fathers and in a situation of statelessness.³ In addition to failing to uphold the right of the child to acquire a nationality, therefore, this framework also compromises the right of the child to know and be cared for by its parents, and to preserve family relations — as recognized by Articles 7 and 9 of the Convention on the Rights of the Child, respectively.

Depriving Kuwaiti women of the right to confer nationality to their children directly affects the best interest of the child, which is a core principle of the Convention on the Rights of the Child that Kuwait is a party to since 1991. Accordingly, a number of UN Treaty Bodies have recommended reforms to remove gender-discriminatory provisions from the legal framework and from the *1959 Kuwait Nationality Law*.

¹ See generally Women's Refugee Commission, *Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa*, June 2013, ISBN:1-58030-112-6, available at: <http://www.refworld.org/docid/51c02a084.html>

² See UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding Observations of the Committee on the Elimination of Discrimination against Women - Kuwait, 4 November 2011, CEDAW/C/KWT/CO/3-4, at para. 36, available at: <http://www.unhcr.org/refworld/docid/4eea1fa02.html> (noting concern that female Kuwaiti nationals are not entitled to pass on their nationality to their children, except in cases of divorce or death, “and that even in such instances the decision to grant nationality to the child is not automatic.”).

³ Under this provision of the law, citizenship is granted at the discretion of the Minister of the Interior, and observers have noted with concern that many eligible children have yet to acquire nationality. See generally Refugees International, *Kuwait: Gender Discrimination Creates Statelessness and Endangers Families* (2011) (noting the accounts of “many women who have divorced their husbands in these circumstances and waited unsuccessfully for decades for their children to be granted Kuwaiti citizenship, since citizenship determinations in these cases remain discretionary.”)

Additionally, Kuwaiti women, unlike Kuwaiti men, are generally not permitted to confer nationality to non-national spouses, even if they are stateless. In line with these concerns, the Committee on the Elimination of Discrimination against Women in 2011 urged the State party “[t]o review the Nationality Act to ensure equality between women and men with regard to the acquisition, change and retention of nationality and to enable Kuwaiti women to pass their nationality to their children and to their foreign spouses.”⁴

Recommendations:

- Accede to the *1954 and 1961 Conventions*;
- Amend the *1959 Kuwait Nationality Law* by removing all gender-discriminatory provisions;
- Withdraw the reservation to Article 9(b) of CEDAW and ensure that women enjoy equal rights as men with respect to the passing of nationality to their children;
- Ensure issuance of all legal documents for stateless persons; and
- Expedite the naturalization of the cases that have been found eligible for nationality by Government of Kuwait.

Issue 3: Human Trafficking

Kuwait hosts a large number of foreign workers. Human trafficking is therefore a concern. Kuwait is a destination country for men and women who mainly work in the domestic service, construction, and sanitation sectors. Although most of these migrants enter Kuwait voluntarily, upon arrival their sponsors and labor agents subject some migrants to conditions of forced labor, including nonpayment of wages, long working hours without rest, deprivation of food, threats, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and the withholding of passports.

Many of the migrant workers arriving for work in Kuwait have paid exorbitant fees to recruiters in their home countries or are coerced into paying labor broker fees in Kuwait that, by Kuwaiti law, should be paid by the employer — a practice that makes workers highly vulnerable to forced labor, including debt bondage, once in Kuwait.

Refugees and asylum-seekers may fall victims of trafficking or smuggling due to the vulnerable and volatile situations they often face. The social situation of asylum-seekers and refugees in Kuwait and the absence of special programs to facilitate their local integration in the country make refugees, particularly refugee women, vulnerable to human trafficking for sexual exploitation.

In line with its Guidelines on the application of Article 1A(2) of the *1951 Convention* to victims of trafficking and person at risk of being trafficked, UNHCR stresses the need for mechanisms to ensure the identification of victims of trafficking. There are no appropriate

⁴ UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding Observations of the Committee on the Elimination of Discrimination against Women - Kuwait, 4 November 2011, CEDAW/C/KWT/CO/3-4, at para. 37(a), appended below and available at: <http://www.unhcr.org/refworld/docid/4eeaf02.html>

referral mechanisms to the appropriate authorities responsible for assessing possible needs for international protection in an age-and gender sensitive procedure, in order to respond to their specific needs and to prevent *refoulement*. In this connection, it is important to ensure that individuals who have been trafficked and who fear being subjected to persecution upon return to their country of origin, or individuals who fear being trafficked, and whose claim to international protection fall within the *1951 Convention*, are recognized as refugees and are afforded the corresponding international protection.

Although Kuwait enacted an anti-trafficking law in March 2013, the government did not demonstrate significant efforts to prosecute and convict trafficking offenders using previously existing laws. There was no lead national anti-trafficking coordinating body, and the government did not systematically monitor its anti-trafficking efforts. The government's victim protection measures remained weak, particularly due to the lack of proactive victim identification and referral procedures and continued reliance on the sponsorship system, which inherently punishes, rather than protects, trafficking victims for immigration violations. The government continued to operate a temporary shelter for runaway female domestic workers, though it offered no shelter for male victims of trafficking. The government also did not fulfill other commitments made since 2007, such as enacting a law to provide domestic workers with the same rights as other workers and opening a large-capacity permanent shelter for victims of trafficking.

Recommendations:

- Accede to the Protocol to Prevent, Suppress and Punish Trafficking in Person, especially Women & Children and the Protocol against the Smuggling of Migrant by land, sea and air to supplement the UNCTOC;
- Implement the 2013 anti-trafficking law by investigating and prosecuting trafficking offenses, and convicting and punishing offenders, particularly sponsors who subject domestic workers to involuntary servitude;
- Establish procedures to proactively identify and refer victims of human trafficking (especially among the female domestic workers) who may be in need of international protection;
- Ensure access of victims of trafficking to medical, social, rehabilitative and legal services, including counseling services;
- Create adequate conditions for victims to exercise their right to make complaints, conduct prompt, impartial and effective investigations into all allegations of trafficking and ensure that perpetrators are brought to justice and punished with penalties appropriate to the nature of their crimes; and
- Amend the sponsorship law to protect foreign workers, including domestic workers, from abuse; provide more anti-trafficking training to law enforcement and judicial officials; establish an inter-ministerial anti-trafficking committee

**Human Rights Liaison Unit,
Division of International Protection
UNHCR, June 2014**

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedures' Reports

- Universal Periodic Review:

KUWAIT

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Kuwait.

I. Treaty Bodies

Committee on the Elimination of Discrimination against Women

CEDAW/C/KWT/CO/3-4, 50th Session

8 November 2011

Positive Aspects

9. The Committee also notes with appreciation the adoption by the State party of various institutional and policy measures, in particular:(a) The establishment by the Government, in November 2010, of a central body that is mandated to find a solution for the stateless Bidoun population, members of which are considered as "illegal residents."

Refugee Women

44. The Committee notes with concern the absence of an asylum law which would address the needs of refugees and asylum-seekers registered with the Office of the United Nations High Commissioner for Refugees (UNHCR) in the State party, about 50 per cent of who are women. It also notes with concern that refugees and asylum-seekers that are unable to obtain legal residency have no access to formal employment opportunities or to basic social services. The Committee reiterates its concern that nationality can be acquired and transferred, with few exceptions, only through a husband or father of Kuwaiti nationality, which disproportionately affects stateless persons, including the Bidoun –"illegal residents", and its concern about the lack of birth certificates and other identification documents of children of stateless Bidoun women and men married to non-Kuwaitis.

The Committee urges the State party to enhance its compliance with article 9 of the Convention, in particular by granting women equal rights with men as regards the nationality of their children. It recommends that the State party: (a) Regularize the status of refugees recognized under the UNHCR mandate in order to enable them to avail themselves of basic rights, including health services and education for refugee women; (b) Consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and adopt an asylum law; (c) Review and amend the Nationality Act to ensure equality between women and men with regard to the acquisition, change and retention of nationality and the acquisition of nationality by children at birth; (d)

Consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness; (e) Ensure that birth certificates and other documents are issued to children of stateless Bidoun women and men married to non-Kuwaitis as a means of preventing statelessness; (f) Expedite the adoption of the draft act granting civil and social rights to foreigners in an irregular situation, including access to identification cards; birth, marriage and death certificates; and to health care, education, ownership of property and employment opportunities.

Violence against Women

30. The Committee reiterates its concern about the lack of available data regarding the number of reported cases of domestic and sexual violence against women, criminal investigations, prosecutions and punishments thereof and the remedies, including compensation, provided to victims since 2005, disaggregated by sex, age, nationality and relationship between victim and perpetrator. It is also concerned about the absence of provisions in the Penal Code criminalizing all forms of domestic and sexual violence against women in the family or workplace. The Committee notes with concern the State party's information that under article 186 of the Criminal Code, a sexual offence by a husband is considered a criminal offence only when he commits an "unnatural act". The Committee is also concerned that, according to Kuwaiti legislation, the court is obliged to provide lawyers only to the accused, but not to the victims of criminal acts. In this context, the Committee recalls the need to guarantee human rights to all women victims of violence, particularly the right to be represented by an attorney. The Committee is also concerned that no shelters are available for married women victims of violence and that the Care Centres attached to the Ministry of Social Affairs and Labour refuse to accommodate girls under 18 subjected to family violence. It notes with concern the lack of clarity about the burden of proof with respect to injury as a result of domestic violence for filing a petition for divorce, which reportedly requires two male or one male and two female witnesses. The Committee is also concerned about the so-called "honour crimes" and the extremely lenient penalties those acts attract under article 153 of the Criminal Code. Under that article, men suspected of murder for adultery can face a penalty of up to three years in prison or a fine of up to 3,000 rupees, as compared to women, who can receive a life sentence. The Committee also notes with concern the practice of placing female detainees under male supervision in pre-trial detentions and remand prisons.

The Committee urges the State party: (a) To compile data regarding the number of reported cases of domestic and sexual violence against women, the number of criminal investigations and prosecutions, and the sentences imposed on perpetrators, as well as regarding the remedies, including compensation provided to victims since 2005, disaggregated by sex, age, nationality and relationship between victim and perpetrator; (b) To adopt specific legislation to criminalize acts of domestic and sexual violence, including the amendment to article 186 of the Criminal Code to criminalize marital rape, seeking inspiration from other countries with similar cultural specificities which have taken steps in this regard; (c) To assist women victims to report incidents of domestic and sexual violence to the police, including by providing legal, medical and psychological assistance and rehabilitation, including adequate shelters; (d) To ensure that all reported incidents of domestic and sexual violence are promptly and impartially investigated and prosecuted, and that victims thereof receive adequate remedies; (e) To provide regular training for the police, prosecutors and judges on effective investigation, prosecution and punishment of acts of domestic and sexual violence

against women, including on the guarantees of the right to be represented by an attorney of one's own choice, and to inform the general public on the criminal nature of such acts; (f) To review the existing legal provisions relating to divorce in case of injury as a result of domestic or sexual violence, with a view to facilitating divorce of women victims of such acts, and to provide legal aid to non-citizen women seeking divorce from Kuwaiti men based on the grounds of domestic violence; (g) To amend article 153 of the Criminal Code in order to remove diminished criminal liability and provide more stringent penalties for men who commit so-called "honour crimes"; (h) To further amend the Criminal Code so as to provide equal sanctions for both men and women in relation to killings motivated by adultery; (i) To ensure that women are under the supervision of female guards in all places of detention; (j) To provide for a sufficient number and sufficient quality of shelters for all female victims of violence without restrictions linked to age or marital status.

Trafficking

32. While welcoming the information about the submission to the National Assembly of a draft act against trafficking in persons and the smuggling of migrants, and the prohibition for employers in the civil and oil sectors to withhold the travel documents of employees, the Committee notes the lack of clarity about the envisaged definition of trafficking in persons in the draft act and expresses its concern about the explanation provided by the State party regarding the maintenance of stringent standards of proof applied by the courts and the Criminal Investigation Division for determining whether women are forced into prostitution against their will, in particular the evidence of coercion, such as locked doors and barred windows. The Committee is also concerned at the information given that noncitizen women who are victims of forced prostitution are granted residence permits only if a sponsor is available for the victim and the victim's innocence is proven.

The Committee recommends that the State party : (a) Include in its draft act against trafficking in persons a definition of trafficking, as well as safeguards for investigation, prosecution and punishment of such acts in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; (b) Establish a centralized national mechanism to coordinate efforts aimed at preventing and combating trafficking in persons and protecting its victims, and adopt a national plan of action in that regard; (c) Relax the stringent standards of evidence of coercion and allow for the consideration of the whole set of circumstances in cases of forced prostitution, and consider granting residence permits on humanitarian grounds to non-citizen women who are victims of trafficking and forced prostitution; (d) Collect data on acts of trafficking and on victims who have been detained, prosecuted or deported since 2005 for acts such as prostitution or absconding; (e) Address the root causes of trafficking, including its close link to prostitution and sexual exploitation of women and girls, including foreign domestic workers.

Committee on the Elimination of Racial Discrimination

CERD/C/KWT/CO/15-20, 80th Sessions

4 April 2012

Positive Aspects

5. The Committee notes with interest that since the consideration of the thirteenth and fourteenth periodic reports of the State party, the latter has acceded to or ratified international and regional instruments, such as: (b) The establishment in November 2010 of the Central Bureau for Illegal Residents with a view to resolving the issue of the Bedoun (stateless persons).

Refugees

20. The Committee is concerned that refugees recognized by the Office of the United Nations High Commissioner for Refugees (UNHCR) and asylum-seekers who are unable to regulate their status in accordance with the current legal framework regulating the employment of foreigners and the sponsorship system remain without legal residence in the country. It is also concerned that the Ministry of the Interior has reinstated the daily overstay fines for refugees not lawfully staying in Kuwait. The Committee is also concerned that refugees recognized under UNHCR's mandate cannot avail themselves of basic rights, including health services and education for refugee children because of their lack of regularized status (arts. 5 and 7).

In light of its general recommendations No. 22 (1996) on article 5 and on refugees and displaced persons and No. 30 (2004), the Committee recommends that the State party provide legal residence in the country to refugees recognized by UNHCR and asylum-seekers in accordance with the legal framework regulating the employment of foreigners. It also recommends that the Ministry of the Interior annul the daily overstay fines for refugees not lawfully staying in Kuwait as a gesture of support towards them and UNHCR. The Committee recommends that the State party regularize the status of refugees recognized under UNHCR's mandate so that they can avail themselves of basic rights, including health services and education for refugee children.

Statelessness

11. The Committee is concerned at the failure of the State party to accede to the 1954 Convention relating to the Status of Stateless persons and to the 1961 Convention on the Reduction of Statelessness (art. 2).

The Committee invites the State party to reconsider accession to the 1954 Convention relating to the Status of Stateless persons and to the 1961 Convention on the Reduction of Statelessness.

17. The Committee is concerned about the situation of the Bedoun (stateless persons), some of whom have lived in Kuwait for a long time, have a strong claim to nationality, have a genuine and effective link to the State or have served or serve in the police, army and other State institutions, as well as with the situation of children born in Kuwait to foreigners and stateless persons. While taking note that a Roadmap has been drawn up and that the Central Bureau for Illegal Residents will submit two lists of candidates for naturalization to the Cabinet, the Committee is concerned at the low rate of naturalizations and in particular by the situation of the unregistered Bedoun who do not have security cards. The Committee is also concerned that not all Bedoun enjoy some basic human rights such as the right to obtain civil

documentation, as well as access to adequate social services, education, housing, property, business registration and employment. It is also concerned that they are not always able to return to Kuwait, in contravention of the right to freedom of movement (arts. 2, 5 and 6).

In light of its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party implement the existing Roadmap and provide a just, humane and comprehensive solution to the situation of the Bedoun, with respect for their dignity. The Joint Committee on the Granting of Kuwaiti Nationality should consider naturalizing the Bedoun, in particular persons who have lived in Kuwait for a long time, who can prove a genuine and effective link to the State, or have served or serve in the police, army and other State institutions, as well as children born in Kuwait of foreigners and stateless persons. The State party should consider providing residence permits and temporary legal status to non-citizens, including the unregistered Bedoun who do not have security cards. The Committee recommends that the State party issue civil documents to all persons in its territory and provide access to adequate social services, education, housing, property, business registration and employment to the Bedoun. It recommends that the State party ensure that the Bedoun enjoy the right to freedom of movement and are able to return to Kuwait.

18. The Committee is concerned that current legislation does not allow Kuwaiti women who marry foreigners to pass on their nationality to their children and spouses on an equal footing with Kuwaiti men. (arts. 2 and 5)

Recalling its general recommendations No. 25 (2000) on gender-related dimensions of racial discrimination, No. 29 (2002) on descent and No. 30 (2004), the Committee recommends that the State party enact amendments to the Nationality Act that would allow Kuwaiti women married to foreigners to pass on their nationality to their children and spouses on an equal footing with Kuwaiti men.

Trafficking

13. While taking note that a draft Law against Trafficking in Persons and the Smuggling of Migrants has been submitted to the National Assembly, the Committee is concerned that there is no definition of trafficking in persons and that the draft law criminalizing it has not been enacted to date (arts. 2 and 6).

The Committee recommends that the State party define and criminalize trafficking in persons and promptly enact legislation against human trafficking and smuggling of migrants in conformity with international standards.

Human Rights Committee

CCPR/C/KWT/CO/2, 103rd Session

18 November 2011

Statelessness

12. The Committee is concerned about discrimination between Kuwaiti men and women with regard to the ability to transmit Kuwaiti nationality to their children, and is also concerned that children who are born in Kuwait to stateless parents may not acquire any nationality. The Committee is concerned about the lack of transparency in the process of acquiring Kuwaiti nationality, in particular with respect to the failure to communicate the reasons behind the denial of such nationality, and about the absence of a review process, which fosters arbitrary decisions. (arts. 2, 3, 24 and 26)

The State party should guarantee the right of every child to acquire a nationality, in compliance with article 24, paragraph 3 of the Covenant, and end discrimination between men and women in the transmission of nationality. The State party should guarantee that applicants are officially informed of the reasons why they were denied Kuwaiti nationality, and should also implement a review procedure.

13. While taking note that a Central Body was established in November 2010 to find a solution for the stateless Bedoun currently viewed by the State party as a category of “illegal residents,” the Committee remains concerned about the stereotypes and widespread discrimination they suffer. The Committee is also concerned about the practice of withholding documents, including some certificates to which all persons born or married in the State party’s territory are entitled. It is also concerned about reports of arbitrary application of Kuwaiti nationality law to Bedoun. (arts. 2, 23, 24, 26 and 27)

The State party should put an end to discrimination against the Bedoun, including in the application of its nationality law, and should ensure that all persons in its territory enjoy the rights set out in the Covenant.

Trafficking

17. The Committee is concerned that the State party’s current penal laws do not reach all forms of trafficking in persons. The Committee is also concerned that statistical information on trafficking in persons is not available. (art. 8)

The State party should enact legislation on trafficking in persons, ensuring its full compliance with the principles of the Covenant. The State party should set up an official database on the number of cases of trafficking in persons, their characteristics, their treatment by judicial authorities, and the remedies and reparations made to the victims.

LGBTI

30. The Committee is concerned about the criminalization of sexual relations between consenting adults of the same sex, and also about the new criminal offence of “imitating members of the opposite sex”. It is also concerned about reported acts of violence against lesbian, gay, bisexual and transgender (LGBT) persons, including reports of harassment, CCPR/C/KWT/CO/2 arbitrary arrest and detention, abuse, torture, sexual assault and harassment of individuals on the basis of their sexual orientation or gender identity. (arts. 2 and 26)

The State party should decriminalize sexual relations between consenting adults of the same sex, and repeal the offence of imitating the opposite sex, in order to bring its

legislation in line with the Covenant. The State party should also take the necessary steps to put an end to the social stigmatization of homosexuality and send a clear message that it does not tolerate any form of harassment, discrimination or violence against persons based on their sexual orientation or gender identity.

Violence against Women

15. The Committee is concerned about the lack of statistical information on cases of domestic and sexual violence, and about the lack of provisions in the Penal Code criminalizing domestic and sexual violence against women in the family or workplace. The Committee is also concerned about the non-criminalization of marital rape. (arts. 2, 6 and 7)

The State party should criminalize acts of domestic and sexual violence, including marital rape. It should also create a database to gather comprehensive information on reported cases of domestic and sexual violence, their criminal investigation and prosecution, the sentences imposed on perpetrators, and the remedies granted to victims.

Committee against Torture

CAT/C/KWT/CO/2, 46th Session

28 June 2011

Refugees

16. The Committee notes that in spite the existing cooperation with the UNHCR, the State party has not yet ratified the 1951 Refugee Convention and its 1967 Optional Protocol.

The State party is encouraged to consider becoming a party to the 1951 Refugee Convention and its 1967 Optional Protocol.

Non-Refoulement

15. The Committee regrets the lack of information to item of the State party's responses to the Committee's list of issues on statistical information for the past five years (2005 – 2010) on asylum applications, in particular, those submitted by asylum-seekers who had been tortured or might be tortured if returned to their country of origin (art. 3). Under no circumstances should the State party expel, return or extradite a person to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or ill-treatment. The Committee requests the State party to provide information, in detail, on the precise number of asylum applications received, the number of successful asylum applications, the number of asylum-seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin, the number of deportations with an indications of (a) the number of deportations relating to asylum-seekers, and (b) the countries to which deportations have been carried out.

Detention

9. The Committee takes note of the statement in the replies to the list of issues that, according to the Judiciary Reorganization Act (23/1990), Act No. 26 of 1962 and article 56 of decree-

law No. 23 of 1990, the Kuwaiti legislation guarantees several types of control and supervision over prisons. However, the Committee is concerned at the lack of systematic and effective monitoring of all places of detention, including regular and unannounced visits to such places by national and international monitors (art. 2).

The Committee calls upon the State party to establish a national system to effectively monitor and inspect all places of detention and follow up on the outcome of such systematic monitoring. This system should include regular and unannounced visits in order to prevent torture and other cruel, inhuman or degrading treatment or punishment. The State party is encouraged to accept monitoring of places of detention by relevant international mechanisms.

19. The Committee welcomes that a Bill has been submitted to amend article 60 of the Criminal Law Procedure of 1960 in order to reduce the maximum period of police custody without written order from four days to 48 hours maximum. However, the Committee is seriously concerned at the general conditions of detention in all types of detention facilities (arts.11 and 16).

The Committee requests the State party to provide detailed information on general conditions of detention, including the rate of occupancy in all types of detention facilities. The State party should take urgent measures to bring the conditions of detention in all detention facilities into line with the Standard Minimum Rules for the Treatment of Prisoners, improving the food and the health care provided to detainees and strengthening the judicial supervision and independent monitoring of conditions of detention.

Trafficking

24. The Committee is concerned at the lack of specific legislation to prevent, combat and criminalize human trafficking. The Committee is further concerned at the lack of information on trafficking in persons, including the existing legislations and statistics, particularly the number of complaints, investigations, prosecutions and convictions of perpetrators of trafficking, and the lack of information on practical measures adopted to prevent and combat such phenomena, including medical, social and rehabilitative measures (arts. 2, 4 and 16).

The State party should combat trafficking in human beings by adoption and implementation of specific anti-trafficking legislation ensuring that trafficking is defined as a crime in the State party in accordance with international standards. These offences should be punishable by appropriate penalties. The State party should provide protection for victims and ensuring their access to medical, social, rehabilitative, counseling and legal services.

LGBT

25. The Committee is concerned at reports that vulnerable groups such as lesbian, gay, bisexual and transgender (LGBT) persons are subjected to discrimination and ill-treatment, including sexual violence, both in public and domestic settings. (arts. 2 and 16)

The State party should investigate crimes related to discrimination directed towards all vulnerable groups and pursue ways in which hate crimes can be prevented and punished. The State party should also promptly, thoroughly and impartially investigate all cases of discrimination and ill-treatment of these vulnerable groups, and punish those responsible for these acts. The State party should conduct awareness-raising campaigns for all officials who are in direct contact with victims of such violence, as well for the population at large.

Statelessness

26. The Committee expresses its concern at the situation of at least 100,000 people, who are not legally recognized by the State, known as the “Bidun” (without nationality) and allegedly victims of various types of discrimination and ill-treatment (art. 16).

The State party should enact specific legislation in order to protect “Bidun” people and recognize their legal status. The State party should adopt all adequate legal and practical measures to simplify and facilitate the regularization and integration of these persons and their children. It should ensure that these persons enjoy all human rights without discrimination of any kind. The State party should also adopt the necessary measures to guarantee that these persons are informed of their rights in a language they understand and have access to the fundamental legal safeguards from the moment they are deprived of their liberty, without any discrimination

Committee on the Rights of the Child

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Data Collection

5. The Committee welcomes the efforts made by the Ministry of Social Affairs and Labour to update its data collection system to collect information on the number of prosecutions and convictions for offences covered by the Optional Protocol.

However, the Committee regrets that reliable data on the extent of the sale of children, child prostitution and child pornography and on the number of children involved in these activities is very limited, mainly due to the absence of a comprehensive data collection system as well as to prevailing taboos in society surrounding this issue.

The Committee recommends that the State party establish a comprehensive data collection system in order to ensure that data, disaggregated inter alia by age, sex, minority groups, vulnerable children, including migrant children and stateless children (Bidoon), and socio-economic background, is systematically collected and analysed as it provides an essential tool for measuring policy implementation. Data should also include information on the number of prosecutions and convictions for such offences, disaggregated by the nature of the offence. The Committee encourages the State party to seek the assistance of United Nations agencies and programmes in this regard, including UNICEF.

9. The Committee notes with interest that the State party conducts special courses for social workers and psychologists and personnel involved in caring for special categories of children. **The Committee recommends that the State party: (a) Continue and strengthen systematic education and training on the provisions of the Optional Protocol for all relevant professional groups; (b) Strengthen measures to disseminate the provisions of the Optional Protocol among its population, especially children and parents, by using school curricula and appropriate material specifically for children, with priority given to migrant children and stateless children (Bidoon).**