



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Concluding observations on the third periodic report of
Kuwait**

Addendum

**Information received from Kuwait on follow-up to the
concluding observations***

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* The present document is being issued without formal editing.



Response to the concluding observations of the Human Rights Committee on the third periodic report of the State of Kuwait concerning the International Covenant on Civil and Political Rights

Paragraph 11:

The State party should: (a) speed up the process of granting Kuwaiti citizenship to Bidoon people, where appropriate; (b) guarantee the right of every child to acquire a nationality; (c) register and provide non-discriminatory access to social services to all Bidoon people residing in Kuwait; (d) ensure that Bidoon individuals enjoy their right to freedom of movement, peaceful assembly, opinion and expression; (e) set aside plans to offer Bidoon people the “economic citizenship” of another country in exchange for a permanent residence permit in Kuwait; and (f) consider acceding to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness and having the related obligations implemented through the State party’s domestic law.

1. It should first be emphasized that there are no so-called “stateless persons” or “Bidoon” in the State of Kuwait, since these terms refer to persons who have no nationality. This is not applicable to the status and concept of illegal residents, who entered Kuwait illegally and concealed the documents indicating their original nationalities owing to their aspiration to acquire Kuwaiti citizenship and its associated benefits.
2. They are officially designated “illegal residents” pursuant to Decree No. 467/2010 concerning the establishment of the Central Agency.
3. The granting of Kuwaiti citizenship is a sovereign matter that the State assesses in accordance with its best interests. It is subject to the conditions and regulations laid down in the Kuwaiti Nationality Act No. 15/1959, as amended, which specifies the cases in which the possibility of granting citizenship may be considered. The Central Agency for Regularization of the Status of Illegal Residents examines, investigates and scrutinizes the situation of such persons on a case-by-case basis, in full transparency and without succumbing to pressure or personal whims, in accordance with the road map produced by the Supreme Council for Planning and Development, approved by the Council of Ministers and promulgated by Amiri Decree No. 1612/2010.
4. With a view to eliminating discrimination among members of society, some amendments were made to the Kuwaiti Nationality Act to expand the scope of entitlement to nationality. They include the following amendments:
 - Act No. 11/1998 introduced article 7 bis into the Kuwaiti Nationality Act, pursuant to which adult children of naturalized persons and their grandchildren can be granted Kuwaiti nationality if they had not been afforded the opportunity to acquire it under the Nationality Act;
 - Act No. 21/2000 permits children of a Kuwaiti woman who is married to a foreigner or an illegal resident to acquire Kuwaiti nationality in the event of the husband’s death, an irrevocable divorce or imprisonment of the husband;
 - As a result, some 16,000 persons who had been illegally resident have been naturalized pursuant to the Nationality Act in recent years. Furthermore, the Central Agency prepared lists of applicants for naturalization and submitted them to the Assessment Committee of the Council of Ministers for consideration.
5. The State of Kuwait issues cards to all its registered illegal residents, which contain personal data and a file number to facilitate procedures with the different State authorities. A total of 96,000 cards have been issued, entitling their holders to all services and facilities specified in Council of Ministers Decision No. 409/2011, for example:

1. Free treatment:

6. Health care for illegal residents is provided free of charge in public clinics and hospitals, and the Charitable Health-care Fund covers all the costs. The number of beneficiaries of the Fund's services totalled 56,457 during 2014/2015 and the estimated budget totalled US\$ 11,436,321.

2. Free education:

7. The State of Kuwait has sought to ensure that the children of illegal residents enjoy the right to education. The Charitable Fund for Education has covered the entire cost of primary and secondary education. A total of 25,821 students were enrolled in the academic years 2014/15 and 2015/16 at a cost of US\$ 14,133,279.

8. The Knowledge Seekers' Welfare project covers all university education costs. The tuition fees of 1,011 students were paid during the academic years 2014/15 and 2016/17 at a cost of US\$ 1,260,234.

9. Furthermore, 546 students were enrolled with the Public Authority for Applied Education and Training during the 2015/16 academic year.

3. Issuance of official documents: "birth certificates, death certificates, marriage documents, divorce certificates, testamentary bequests and inheritance documents".**4. Issuance of ration cards, as in the case of Kuwaitis, for "rice, sugar, oil, chicken, tomato paste, cheese, lentils".****5. Provision of employment opportunities in the public and private sectors.****6. Care for persons with disabilities.****7. Housing services:**

- Low-cost housing has been provided, and illegal residents have been accommodated in 4,800 housing units;
- Housing allowances were granted to homeless persons at a cost of approximately US\$ 6 million.

10. Statistical data concerning services offered to illegal residents between January and November 2016 are shown in the following table:

Number of cards issued	91 000	Cards
	5 175	Certificates issued to the persons concerned
Legal documents	689	Marriage documents
	221	Divorce documents
	19	Reinstatement of marriage
	6 612	Official announcements
	206	Inheritance documents
	125	Prenuptial medical certificates
	969	Birth certificates
	43	Death certificates
Education	85	Male and female university students in 2016/17
	52	Male and female students enrolled with the Public Authority for Applied Education and Training (2016/18)

	1 407	Male and female students enrolled in the Arab Open University
Ration-card services	5 358 466	97 335 beneficiaries in 2016
Driving licences	1 865	Licences issued in 2016
Employment opportunities	171	Employed during the period from 1 January to 30 June 2016
	5 407	Total number of employees registered with the Civil Service Commission
	1 072	Number of appointments to the Ministry of Health
	158	Persons appointed to cooperative societies
Adjustment of situation	1 390	Persons whose situation was adjusted
Housing services	32	Housing services from 1 January to 30 June 2016
Persons with disabilities	16	Persons registered with the Public Authority for the Affairs of Persons with Disabilities
Care homes	61	Persons living in care homes

11. With regard to the right to freedom of movement, the Central Agency cooperates with the Ministry of the Interior with a view to issuing drivers' licences to illegal residents so that they can move freely around the country. They are also issued with passports under article 17 of the Passports Act in order to perform the *hajj* or *umrah* pilgrimages or to study or receive medical treatment abroad, in accordance with the applicable regulations.

12. With regard to freedom of expression in the media and the right to peaceful assembly, illegal residents are entitled to express their views in the media and are subject to no restrictions other than those prescribed by law. As peaceful assembly is a form of expression of one's opinion, Kuwaiti law does not discriminate in this regard between Kuwaitis and illegal residents. Accordingly, they enjoy the right of peaceful assembly in order to express their views provided that they comply with the rule of law. In fact, many of them have assembled peacefully and expressed their opinions under the protection of the Kuwaiti security forces.

13. With regard to recommendation (f) in paragraph 11: "consider acceding to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness and having the related obligations implemented through the State party's domestic law":

14. If the idea is that the State should apply the provisions of these Conventions to illegal residents, we wish to point out that many international human rights organizations confuse the terms "stateless" and "illegal residents", although there is an enormous difference between them in both conceptual and legal terms.

15. In conceptual terms, "stateless persons" are persons who are not recognized as citizens under the law of any State, in other words persons without a nationality of their own. This is inconsistent with the concept of "illegal residents", since these are persons who entered Kuwait illegally and concealed the documents indicating their original nationalities owing to their aspiration to acquire Kuwaiti citizenship and its associated benefits.

16. This is borne out by the fact that some 8,000 illegal residents have adjusted their status and produced their original documents confirming their citizenship of other countries.

17. With regard to the recommendation to "set aside plans to offer Bidoon people the 'economic citizenship' of another country in exchange for a permanent residence permit in Kuwait", we wish to point out that economic citizenship is an option offered by many

States with a view to attracting capital. It is not internationally prohibited and does not contravene international law. It is offered by many States and a large number of Kuwaiti and other citizens have obtained economic citizenship from different countries. Kuwait cannot prevent other States from making this option available.

Paragraph 43:

The State party should: (a) ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the Covenant; (b) investigate all allegations relating to the excessive use of force by security forces and ensure that the perpetrators are prosecuted and the victims adequately compensated; (c) increase its efforts to systematically provide training to all security forces on the use of force, especially in the context of demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

18. The State of Kuwait endeavours to avoid violating human rights and is committed to United Nations principles enshrined in instruments ratified by the State of Kuwait. The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were issued at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Havana from 27 August to 7 September 1990. Ministry of the Interior Decision No. 24/2014 concerning the establishment of basic principles governing the use of force and firearms, which was promulgated on 12 February 2014, endorsed those principles.

19. The use of force is exceptional and limited to cases in which it is strictly necessary. With regard to firearms, non-lethal incapacitating weapons are used during demonstrations, in accordance with paragraph 2 of the United Nations Basic Principles. The Basic Principles also state that special attention should be given in the training of law enforcement officials to:

1. Alternatives to the use of force and firearms, including peaceful settlement of conflicts, understanding of crowd behaviour, and methods of persuasion, negotiation and mediation;
2. Technical means (including non-lethal weapons and protective clothing for police officers);
3. The General Directorate of the Special Security Forces invariably strives to select its members by means of appropriate screening procedures, ensuring that they have appropriate moral, psychological and physical qualities. They are trained:
 - To exercise restraint in the use of force, to act in proportion to the seriousness of the offence and the legitimate objective to be achieved, to minimize damage and injury, and to respect and preserve human life;
 - All members of the General Directorate of the Special Security Forces are trained to use non-violent means, and they attend constructive, progressive and stimulating courses and participate in training with other countries abroad;
 - Members of the General Directorate of the Special Security Forces are authorized to carry firearms only upon completion of special training in their use, in accordance with United Nations Basic Principle No. 21, which lays down conditions for the selection, training and testing of police officers who are authorized to carry firearms, including the requisite techniques for reducing tension and for reducing the need to use force;
 - Force and firearms are used only after resorting to peaceful means of persuasion, negotiation, mediation and conflict resolution without the use of force.

20. Members of the General Directorate of the Special Security Forces have been informed that arbitrary or abusive use of force or firearms is a criminal offence punishable under national law, in accordance with United Nations Basic Principle No. 8, which

requires the authorities to do their utmost to prevent the unwarranted use of force or firearms.

The importance of exercising caution when using ammunition such as stun grenades, bullets, tear gas, etc. when attempting to control crowds.

21. The General Directorate of the Special Security Forces tries to avoid using tear gas, stun grenades or bullets except in extreme cases and when large crowds are out of control. It does so only after failing to disband the crowds by means of peaceful negotiations.

Police officers should use tear gas and stun grenades only in response to a clear sequence of commands.

22. Stun grenades and tear gas are not used unless the following procedures are followed:

1. A clear warning is given of the intention to use stun grenades or tear gas;
2. Sufficient time is given to respond to the warning.

It should be noted that such procedures can be omitted if they expose the employees of the General Directorate of the Special Security Forces to undue risk or would create a risk of death or serious harm to other persons, in accordance with United Nations Basic Principle No. 9. Moreover, police officers may not be prosecuted for refusing to commit violations or for reporting them.

23. The State of Kuwait, by Ministerial Decision No. 33 of 2001, also issued regulations governing the issuing of orders to open fire and the manner in which they should be implemented. The eight articles specify the following cases in which members of the police force may use firearms:

1. To arrest persons convicted of serious crimes if they resist or attempt to flee;
2. To arrest persons charged in flagrante delicto with serious crimes or misdemeanours if they resist or attempt to flee;
3. To arrest persons for whom a warrant has been issued if they resist or attempt to flee;
4. To arrest prisoners attempting to escape;
5. To disperse a gathering or demonstration of seven or more persons who are planning to commit a crime or who may endanger public security, if the crowd fails to disperse in response to a warning and if attempts to disperse them by other means fail.

24. Articles 4 and 5 of the aforementioned Decision establish the procedures for dealing with convicted or accused persons, prisoners, infiltrators, protesters and demonstrators, so that police officers can determine how to exercise the right to open fire based on the procedures stipulated in the two articles.

25. If a demonstration or gathering is held without an official permit and in breach of the applicable procedures, it constitutes an offence punishable under article 34 of Act No. 31 of 1970 amending certain provisions of Criminal Code No. 16 of 1960, which stipulates that persons who participate in a gathering of at least five persons in a public location, the purpose of which is to commit crimes or to disturb public order, and who fail to disperse in response to an order issued by law enforcement authorities shall be punished by imprisonment for a period not exceeding one year and/or a fine not exceeding 100 Kuwaiti dinars (KD).

26. If a person is carrying weapons such as knives, clubs or steel tools that are not carried under normal circumstances, the penalty is imprisonment for a period not exceeding three years and/or a fine not exceeding KD 225.

27. If the participants in the gathering block the roads, ignite tyres, prevent citizens from visiting places of worship or commercial areas, cause disturbances in residential areas, or repeat sectarian and racist rallying cries that undermine national unity or insult national symbols or friendly governments, the law enforcement officers must take steps to disperse them in order to maintain law and order and prevent them from committing other crimes or

engaging in activities that undermine security. They do so by directing them to disperse and submitting their demands to the competent negotiator.

28. If demonstrators at any event fail to comply with an order from the police to disperse, the law enforcement officers are authorized to use force with a view to controlling the security situation, arresting persons who resist, and referring them to the investigative and prosecution authorities. The persons concerned retain their right to a defence and to respect for the guarantees enshrined in domestic legislation, the International Covenant on Civil and Political Rights and other human rights treaties.

29. It should be noted that none of the Special Security Forces have detention facilities. The General Directorate of the Special Security Forces has never detained any citizen or resident in its premises, the reason being that freedom of expression is guaranteed to all under the Kuwaiti Constitution, legislation and the applicable regulations and procedures. The General Directorate of the Special Security Forces does not repress or bring pressure to bear on the work of civil society organizations or groups of ordinary individuals. It is in fact an executive body that implements the country's legislation.

Paragraph 45

The State party should: (a) repeal or revise laws restricting the right to freedom of association to bring them into conformity with the Covenant; (b) clarify the vague, broad and open-ended definition of key terms in those laws and ensure that they are not used as tools to curtail freedom of association beyond the narrow restrictions permitted in article 22 (2) of the Covenant; and (c) ensure that civil society organizations can operate free of undue government influence and without fear of reprisals or unlawful restrictions on their operations.

30. The State of Kuwait has taken progressive action with respect to freedom of association since the early 1960s. A special law regulating the activities of public welfare clubs and associations was enacted in 1962. It guarantees many rights and privileges for persons working on behalf of associations. According to article 9 of the Act, the Ministry of Social Affairs and Labour may refuse to register an association or club within one month of the date of submission of the relevant documents and must state the grounds for its refusal. It may also introduce any amendments to the statutes that it deems to be in the public interest. The association or club is entitled to file an appeal against the rejection or amendment with the Ministry of Social Affairs and Labour or with the committees that it appoints for the purpose.

31. Furthermore, the procedures for the registration of public welfare associations were facilitated by Council of Ministers Decision No. 186 of 2004. The approval of the Council of Ministers had previously been required for the registration of an association, but the Ministry of Social Affairs and Labour is now authorized to register civil society institutions. There are currently about 117 diverse registered associations that seek to raise public awareness and provide services for vulnerable groups. It should be noted that steps are being taken, in cooperation and coordination with civil society organizations, to enact a new law concerning public welfare associations. The draft is still being studied and the aim is to enhance the role of civil society institutions.

32. The Government provides support to such institutions in order to assist them in attending meetings, conferences and exhibitions at the local, regional and international level and in order to develop partnerships and cooperation between governmental and civil society institutions in a number of awareness-raising projects, such as the following:

1. Organization of visits to care homes and juvenile care facilities;
2. Implementation of the Waraqati project by the Women's Cultural Society in cooperation with the United Nations Development Programme (UNDP) in Kuwait and the General Secretariat of the Supreme Council for Planning and Development. Kuwait thus became the first Gulf country and the seventh Arab country to implement the project, which aims to promote women's rights and their legal empowerment by means of information technology and by familiarizing them with

their rights enshrined in the Constitution, the legislation of the State of Kuwait and international instruments;

3. Organization of two meetings of the committee that prepares the universal periodic report on human rights with civil society organizations to discuss various international reports;

4. The Ministry of Social Affairs and Labour has organized training and development courses and programmes on human development in cooperation with private-sector institutions.
