



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Report on follow-up to the concluding observations of the Committee\*

#### Addendum

#### Evaluation of the information on follow-up to the concluding observations on Kuwait\*\*

<i>Concluding observations (117th session):</i>	CCPR/C/KWT/CO/3, 8 July 2016
<i>Follow-up paragraphs:</i>	11, 43 and 45
<i>Follow-up reply:</i>	CCPR/C/KWT/CO/3/Add.1, 27 April 2017
<i>Committee's evaluation:</i>	Additional information required on paragraphs 11[E][C][B][C][E][E], 43[C][B] and 45[C][B]
<i>Information from non-governmental organizations:</i>	Alkarama, 1 November 2017 <sup>1</sup>

#### Paragraph 11: Discrimination against Bidoon people

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.

#### Summary of State party’s reply

There are no stateless persons or Bidoon in Kuwait; these terms refer to persons without nationality and are not applicable to persons who entered Kuwait illegally and

\* Adopted by the Committee at its 125th session (4–29 March 2019).

\*\* The assessment criteria are available at [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/INT\\_CCPR\\_FGD\\_8108\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/INT_CCPR_FGD_8108_E.pdf) (in English).

<sup>1</sup> Submission available from [https://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CCPR&Lang=en](https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/FollowUp.aspx?Treaty=CCPR&Lang=en) (in English).



concealed the documents indicating their original nationalities to acquire Kuwaiti citizenship (officially designated as illegal residents pursuant to Decree 467/2010).

*Reply relating to paragraph 11 (a)*

The State party reiterates information provided in its replies to the list of issues (CCPR/C/KWT/Q/3/Add.1, p. 4) regarding the granting of citizenship, which is a matter of sovereignty.

*Reply relating to paragraph 11 (b)*

The State party reiterates information provided in its replies to the list of issues (CCPR/C/KWT/Q/3/Add.1, p. 4) on amendments to the Nationality Act of 1959 that expanded the entitlement to nationality to certain categories (Acts No. 11 of 1998 and No. 21 of 2000) and on the ensuing naturalization of some 16,000 illegal residents.

*Reply relating to paragraph 11 (c)*

Cards containing personal data and a file number are issued to all registered illegal residents and entitle them to access to all services, facilities and opportunities specified in Council of Ministers Decision No. 409/2011, for example free health care and education, issuance of official documents and ration cards, employment opportunities, care for persons with disabilities, and housing services. Data are provided on, *inter alia*, services provided between January and November 2016.

*Reply relating to paragraph 11 (d)*

Illegal residents obtain driving licences and passports issued for them to perform the hajj or umrah pilgrimages, study or receive medical treatment abroad. They are entitled to freedom of expression in the media without any restrictions other than those prescribed by law.

The law does not discriminate between Kuwaitis and illegal residents in the enjoyment of the right to peaceful assembly, and views may be expressed provided that those expressing the views comply with the rule of law. Many illegal residents have in fact exercised such rights under the protection of the security forces.

*Reply relating to paragraph 11 (e)*

“Economic citizenship” is an option offered by many States with a view to attracting capital and is neither prohibited nor contrary to international law.

*Reply relating to paragraph 11 (f)*

As to the possible application of the provisions of the two statelessness conventions to illegal residents, the State party refers to the conceptual and legal difference between stateless persons and illegal residents, and reiterates that illegal residents are persons who entered Kuwait illegally, by concealing documents that indicated their nationalities, to obtain Kuwaiti citizenship, as proven by the fact that some 8,000 illegal residents adjusted their status and produced their original documents confirming their citizenship of other countries.

**Information from non-governmental organizations**

The term *Bidoon* refers to people who at the time of independence were not given Kuwaiti nationality. In 1961, about one third of the population were given nationality, another third were naturalized as citizens, and the rest were considered *bidoon jinsiya* (“without nationality”). Kuwait started referring to this category of stateless persons as illegal residents, particularly after Operation Desert Storm (1991). It should not consider all stateless individuals illegal residents and should not reject recommendations to address their situation.

It is regrettable that the State refers to its sovereign right to decide on matters of citizenship in order to reject the recommendations contained in paragraph 11 (a), (c) and (e)

and does not assume responsibility for facilitating the flawed acquisition by Bidoon of “economic citizenship” of third countries.

*Information relating to paragraph 11 (d)*

The State party’s statements regarding freedom of expression and peaceful assembly of illegal residents and the lack of discrimination in the enjoyment of those rights are contradicted by article 12 of the 1979 law on public gatherings, which bars non-Kuwaitis from participating in public gatherings.

**Committee’s evaluation**

**[E] (a):** While acknowledging the State party’s sovereign rights regarding the granting of citizenship, the Committee regrets that the State party continues to deny the existence of stateless Bidoon and treats all of them, not only those who entered Kuwait illegally by concealing documents indicating their nationalities to obtain Kuwaiti citizenship, as illegal residents despite some having no link with any country other than Kuwait. The Committee also regrets that the State party provided no information on measures taken and progress made since the adoption of the concluding observations towards granting citizenship to Bidoon individuals, where appropriate. The Committee reiterates its recommendation.

**[C] (b):** The Committee notes that the amendments to the Nationality Act of 1959 referred to by the State party were adopted before the concluding observations and regrets the lack of information on concrete measures taken after the adoption of the concluding observations to guarantee the right of every child to acquire a nationality. The Committee reiterates its recommendation.

**[B] (c):** The Committee appreciates the information on services and facilities provided to registered illegal residents; however, it requires information on measures taken after the adoption of the Committee’s concluding observations to register all Bidoon people residing in the State party and to provide non-discriminatory access to social services to all.

**[C] (d):** While taking note of the general information provided concerning the issuance of driving licences and passports and the enjoyment of the freedoms of movement, expression and peaceful assembly by Bidoon individuals, the Committee regrets that no specific information has been given in relation to: (a) whether passports can be used, in practice, for travelling purposes other than studies, medical treatment or pilgrimage abroad; (b) the compatibility with articles 19 (3) and 21 of the Covenant of the restrictions imposed on the exercise of freedom of expression and peaceful assembly, given, inter alia, that article 12 of the 1979 law on public gatherings, prohibiting participation in public gatherings by non-Kuwaitis, is still in force. The Committee reiterates its recommendation.

**[E] (e):** The Committee regrets that the State party does not appear to have abandoned plans to offer Bidoon people the “economic citizenship” of another country. It requires information on any relevant developments, including on measures to ensure that the Covenant rights of Bidoon individuals are fully respected. The Committee reiterates its recommendation.

**[E] (f):** Cognizant of the distinction between stateless persons and illegal residents, the Committee regrets that the State party’s response to the recommendation contained in paragraph 11 (f) appears to maintain its position regarding stateless Bidoon and, as a result, to infer that acceding to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness is legally irrelevant. The Committee reiterates its recommendation.

**Paragraph 43: Freedom of peaceful assembly and excessive use of force**

**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.**

**Summary of State party's reply**

*Reply relating to paragraph 43 (a)*

Demonstrations or gatherings held without an official permit and in breach of applicable procedures constitute an offence under article 34 of Act No. 31 of 1970 amending certain provisions of the Criminal Code of 1960.

Information is provided on circumstances requiring dispersal of an assembly, on the ensuing actions in case of non-compliance, such as authorized use of force and arrest of persons who resist, and on procedures for the use, in extreme cases, of stun grenades and tear gas to control crowds. Ministry of the Interior Decision No. 24/2014 endorses the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and limits the use of force to exceptional cases where it is strictly necessary. Only non-lethal incapacitating weapons are used during demonstrations.

Ministerial Decision No. 33 of 2001 specifies the cases in which firearms may be used, including to disperse a gathering or demonstration of seven or more persons who plan 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.

*Reply relating to paragraph 43 (c)*

Members of the General Directorate of the Special Security Forces undergo training, *inter alia* on the use of force in compliance with the necessity and proportionality principles and on non-violent means, and are authorized to carry firearms only upon completion of special training.

**Information from non-governmental organizations**

*Information relating to paragraph 43 (a)*

Article 12 of the law on public gatherings bars non-Kuwaitis from participating in public gatherings, and article 16 prohibits public gatherings without obtaining a licence prior to the event (also prohibited under the Criminal Code) and provides for punishment of up to two years of imprisonment.

*Information relating to paragraph 43 (b)*

The State party provided no information on investigations and prosecutions of, or compensation for, excessive use of force by law enforcement agents.

**Committee's evaluation**

[C] (a) and (b): The Committee takes note of the information on the regulation of the freedom of assembly, but regrets that the State party's response addresses the right of assembly mainly from the criminal activity viewpoint. It provides no information on measures taken after the adoption of the Committee's concluding observations to ensure that the exercise of the right to peaceful assembly is not subject to restrictions contrary to the Covenant, including as regards the requirement of prior authorization of the Ministry of the Interior for holding public gatherings and the prohibition of participation of non-Kuwaitis in public gatherings (article 12 of the law on public gatherings). The Committee requires such information, along with specific information on the implementation in practice of existing rules and procedures to prevent the excessive use of force in the context of demonstrations, and clarification as to how the use of firearms pursuant to Ministerial Decision No. 33 to disperse a gathering or demonstration of persons who plan to commit a crime or who may endanger public security complies with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, in particular principle 14. The Committee reiterates its recommendations.

The Committee regrets the lack of information on the investigation of all allegations of excessive use of force by security forces, and on ensuring the prosecution of perpetrators and adequate compensation for victims, and requires such information. The Committee reiterates its recommendation.

**[B] (c):** The Committee takes note of the information provided on the training of security forces in the use of force, but requires additional information on the duration and periodicity of the training on this subject, the number of persons trained since the adoption of the concluding observations, and clarification on whether such training is restricted to members of the General Directorate of the Special Security Forces or is also mandatory for other law enforcement officials.

#### **Paragraph 45: Freedom of association**

**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.**

#### **Summary of State party's reply**

##### *Reply relating to paragraph 45 (a)*

In accordance with article 9 of the 1962 act regulating the activities of public welfare clubs and associations, the Ministry of Social Affairs and Labour may refuse to register an association by providing the grounds for refusal within one month of the submission of documents. It may amend associations' statutes if deemed in the public interest and appeals against such refusals or amendments are available. Council of Ministers Decision No. 186 of 2004 facilitated registration by removing the requirement of approval by the Council of Ministers for the registration of an association.

##### *Reply relating to paragraph 45 (c)*

A new draft law concerning public welfare associations, aimed at enhancing their role, was being studied in cooperation with civil society organizations. The State provides support to associations to attend meetings and conferences and facilitates partnership and cooperation between governmental and civil society institutions in a number of awareness-raising projects.

#### **Committee's evaluation**

**[C] (a) and (b):** The Committee regrets that the State party reiterated the existing procedure for registration of associations under the act of 1962 and Council of Ministers Decision No. 186 and its facilitation of registration without providing further information, and that no measures appear to have been taken since the adoption of the concluding observations to implement the recommendations of the Committee. The Committee therefore reiterates those recommendations.

**[B] (c):** The Committee takes note of the information on the new draft law concerning public welfare associations, and requires specific information on the content of the new draft or newly adopted legislation on public associations, on their compatibility with the Covenant, and on the participation of non-governmental organizations during the drafting process.

**Recommended action:** A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be addressed in the State party's next periodic report.

**Next periodic report:** 15 July 2020.