

THE BEDOONS OF KUWAIT

"Citizens without Citizenship"

Human Rights Watch/Middle East

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Human Rights Watch/Middle East

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Addresses for Human Rights Watch

485 Fifth Avenue, New York, NY 10017-6104
Tel: (212) 972-8400, Fax: (212) 972-0905, E-mail: hrwnyc@hrw.org

1522 K Street, N.W., #910, Washington, DC 20005-1202
Tel: (202) 371-6592, Fax: (202) 371-0124, E-mail: hrwdc@hrw.org

10951 West Pico Blvd., #203, Los Angeles, CA 90064-2126
Tel: (310) 475-3070, Fax: (310) 475-5613, E-mail: hrwatchla@igc.apc.org

33 Islington High Street, N1 9LH London, UK
Tel: (171) 713-1995, Fax: (171) 713-1800, E-mail: hrwatchuk@gn.apc.org

15 Rue Van Campenhout, 1040 Brussels, Belgium
Tel: (2) 732-2009, Fax: (2) 732-0471, E-mail: hrwatcheu@gn.apc.org

Gopher Address: gopher.humanrights.org port 5000

Citizenship *is* man's basic right, for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen.

—Justice Warren in *Perez v. Brownell*, 1958.

"Citizens without citizenship" is a description given by the Kuwaiti Criminal Court (Felonies Circuit), Dec. 7, 1987, Abdali District.

—"A Bedoon's name is written in pencil; it can be easily erased." Yousif al-Kharafi, Kuwait's (former) Deputy Minister of Interior.

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NOTE ON THE TEXT

The word "Bedoon" is from the Arabic phrase "*bedoon jinsiyya*," literally meaning either "without nationality" or "without citizenship." The term should not be confused with the English word Bedouin, from the Arabic word "*badawi*," meaning nomad (the plural is "*badu*," or the more colloquial "*bidwan*"). Although many of the Bedoons are of Bedouin origin, most of them have long settled in the urban centers of Kuwait, and many have never lived a nomadic life. In Kuwaiti usage, Bedoon is used as a singular or plural noun. To avoid confusion, in this report "Bedoon" is used for the singular and "Bedoons" for the plural.

SUMMARY OF FINDINGS

Kuwait practices a system of institutionalized discrimination against its residents known as Bedoons, long-time inhabitants who have been denied Kuwaiti citizenship and are now being rendered stateless. Barred from employment, denied education for their children, restricted in their movements, and living under the constant threat of arbitrary arrest and deportation; Bedoons are a community of "have nots" in one of the wealthiest countries of the world. At the same time, tens of thousands of Bedoons who fled Kuwait during the Iraqi occupation have been barred from returning to their country.

After decades of treating Bedoons as citizens and repeatedly promising to confer formal citizenship on them, the Kuwaiti government reversed its practice and declared them illegal residents of the only country they have ever known. Although the policy was adopted before the Iraqi invasion, it has intensified since the Kuwaiti government was restored to power following the victory of the Desert Storm military campaign. Kuwaiti authorities have justified their policy on the theory that Bedoons are illegal aliens and therefore are not entitled to live in Kuwait or enjoy the basic rights to which citizens and lawful residents are entitled.

The Human Rights Watch investigation summarized in this report lasted several years and included interviews with over 500 Bedoons in Kuwait and the diaspora. It also included interviews with Kuwaiti government officials, members of parliament, judges, lawyers and others with knowledge on this subject. We also examined Kuwaiti laws, court cases and relevant official documents. We found the following:

- Bedoons today number about 300,000, one third of Kuwait's native population, an estimate based on Kuwaiti official documents. Nearly half of them still reside in Kuwait while the rest are languishing in exile, mainly in Iraq, because Kuwait blocked their return after the war.
- Most Bedoons were born in Kuwait, have lived there all their lives—many Bedoon families have lived in Kuwait for generations—or have close family ties in the country. For decades, they were treated as lawful residents and effectively citizens in every aspect of their lives. They were repeatedly promised formal Kuwaiti citizenship. About 30,000 of them are spouses of Kuwaiti women or children of Kuwaiti mothers. Many others have siblings or other close relatives who are Kuwaiti citizens.
- The policies adopted by Kuwait since 1985 have resulted in widespread dislocation and extreme hardship. Bedoons were dismissed en masse from their government positions, with the exception of few thousand Bedoons

who have been reinstated in the military and police. Bedoons are no longer eligible to work in the private sector or receive most basic government services.

- Classified as illegal residents, they are no longer issued civil identification cards, driver's licenses or travel documents, putting most Bedoons under virtual house arrest. They are not permitted to travel abroad, including for medical emergencies or religious pilgrimage, unless they accept never to return to Kuwait.
- Because their presence in Kuwait has been declared illegal, Bedoons are vulnerable to harassment and exploitation. As they are fearful of the authorities, they refrain from filing complaints and limit their movement to their neighborhoods, where they can avoid checkpoints and harassment.
- Having been denied employment and other sources of income, most Bedoons live in squalid slums threatened with eviction from their homes. Many have exhausted their limited savings and are living on charitable donations, which provide them with little more than subsistence levels of existence—in a land enjoying one of the highest standards of living in the world.
- Kuwaiti law explicitly excludes citizenship and residency decisions from judicial purview, thus preventing Bedoons from challenging governmental decisions denying them citizenship or lawful residence in the country. Because of this exclusion, Kuwaiti courts have only challenged the government's position on the Bedoons in the course of criminal proceedings where citizenship or residency status was relevant. In the few cases where Kuwaiti courts were able to examine the government's treatment of the Bedoons, they ruled that the Bedoons enjoy a special status that immunizes them, for example, from expulsion from the country. The government has ignored these rulings and since the end of the war issued over 24,000 expulsion orders for Bedoons.
- Most Bedoons interviewed possess documents indicating that they would have qualified for Kuwaiti citizenship had the process been applied fairly and transparently. The authority to decide citizenship is reserved for the Ministry of Interior and the Emir of Kuwait. Because this discretionary process has not been open to challenge, many Bedoons were denied citizenship simply due to the fact that the government failed to act on their applications or provide them with an adequate opportunity to prove their claims.

- By successively amending citizenship laws, the government limited the Bedoons' eligibility for citizenship. Many Bedoons were denied citizenship because the government failed to act on their applications in a timely manner, i.e., before the law was changed. The amendments were

implemented retroactively to applications submitted (but not acted upon) before the amendments were adopted.

The totality of the treatment of the Bedoons amounts to a policy of denationalization of native residents, relegating them to an apartheid-like existence in their own country. The Kuwaiti government policy of harassment and intimidation of the Bedoons and of denying them the right to lawful residence, employment, travel and movement, contravene basic principles of human rights. Bedoons clearly have a right to residence in Kuwait by reason of the simple test of their ties to Kuwait and no other—they have nowhere else to turn. Having lived in Kuwait for generations, treated as citizens for decades and repeatedly promised Kuwaiti citizenship, they acquired vested rights which may not be so arbitrarily taken away. It *is* an arbitrary policy that treats children born in Kuwait, including children of Kuwaiti mothers, as illegal residents who should leave the country, simply because their fathers were classified as stateless. This treatment is especially egregious considering that it was often government inaction which resulted in rendering the fathers stateless in the first place.

Denial of citizenship to the Bedoons clearly violates international law which puts wide-ranging and important restrictions on the state's discretion to regulate citizenship:

- Denial of citizenship and lawful residence to Bedoon husbands and children of women who are Kuwaiti citizens violates rules against gender-based discrimination since Kuwaiti men married to Bedoon wives may pass on their citizenship to their spouses and offspring. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which Kuwait has signed, prohibits such discrimination in nationality laws.
- Denial of citizenship to the children of Bedoons, including children of Bedoon fathers and Kuwaiti mothers, violates the United Nations Convention on the Rights of the Child, which Kuwait has also signed.
- Denying Bedoons the right to petition the courts to challenge governmental decisions regarding their claims to citizenship and lawful residence in the country violates the universal right to due process of law and equality before the law.
- By retroactively implementing restrictive citizenship and residency laws, Kuwaiti authorities deprive Bedoons of their vested rights to Kuwaiti

citizenship and permanent residence, which they acquired under more liberal laws.

While international law grants a state the authority to determine conditions governing the acquisition of its citizenship, this discretion may not be arbitrary. The policy must comport with acceptable principles of human rights, including the prohibition against rendering children stateless through invidious discrimination or because of their parents' stateless status.

The Universal Declaration for Human Rights, the International Covenant on Civil and Political Rights, CEDAW, the Convention on the Rights of the Child and the United Nations conventions on the treatment of stateless persons prohibit rendering children stateless. Since citizenship is the conduit through which persons enjoy basic rights, denying them citizenship in this manner is an arbitrary action that excludes them from the protection of the state and deprives them of the ability to enjoy their human rights.

As for eligibility of adult Bedoons who were not born in Kuwait to citizenship, the right to a nationality is enshrined in the Universal Declaration for Human Rights. While the declaration recognizes this right for individuals, the obligation to provide citizenship is imposed on states collectively. Subsequent international agreements were devised to apportion this obligation. Citizenship as a right is akin to the right to seek and enjoy asylum, in that the right is for the individual while the state obligation is collective. The state with the closest ties to the individual has the clearest obligation. There is no doubt that Kuwait is the country with primary responsibility for most of the adult Bedoons, since even if they were not born there, they have lived there most of their lives or have close family or other important ties. This obligation is especially binding on Kuwait since for decades and sometimes generations, Bedoons enjoyed a legal status in the country. They were settled there, granted legal status and given reasonable expectations of being citizens. They have no comparable claims to such rights in any other country.

For all of these reasons, Kuwait is under a clear obligation to end its arbitrary policies towards the Bedoons. Bedoons must be immediately granted the right to lawful residence and be permitted to travel and seek education and employment without discrimination. A fair process of conferring citizenship on those who qualify must also be instituted and be subject to judicial review. This process must also be consistent with Kuwait's obligations under human rights principles, including the treaties which Kuwait has signed, such as CEDAW and the Convention on the Rights of the Child, and those instruments that are part of customary law binding on all nations.

RECOMMENDATIONS

Human Rights Watch calls on the Kuwaiti government to rescind the discriminatory measures it has taken since 1985 towards the Kuwaitis it classifies as Bedoons. These steps have in effect denationalized the Bedoons, depriving them of protection and rights they enjoyed for generations and relegating them to an apartheid-like existence in their own country.

In particular, we urge the Kuwaiti government to take the following measures:

I. For all Bedoons remaining in Kuwait, estimated to be between 150,000 and 180,000, we urge the Kuwaiti government to:

- Restore the Bedoons' right to reside lawfully in Kuwait.
- Release all those who are held without charge or trial or solely by reason of their immigration status.
- Rescind deportation and removal orders, estimated by the government to affect nearly 24,000 Bedoons.
- Permit Bedoons to petition the courts for redress without discrimination.

II. For Bedoons who left the country during the Iraqi occupation or were forced or pressured to leave after the liberation of Kuwait, estimated at between 130,000 and 160,000, Human Rights Watch calls on the Kuwaiti authorities to:

- Permit the return of all those who were assigned Bedoon status before the Iraqi invasion on August 2, 1990.
- Priority should be given to family reunification and hardship cases.
- In the meantime, they should be allowed to collect their back wages and retirement benefits from their past service in the Kuwaiti government.

III. For all Bedoons who were classified as such in 1985 when regulations changed, we call on the Kuwaiti government to rescind all discriminatory measures instituted since 1985. In particular,

- Bedoons should be permitted to travel within and outside the country with a right to return. Kuwait should resume the issuing of travel documents to Bedoons, without requiring them to accept a non-return visa.
- Lift the ban on their driving cars.

- Restore the right of Bedoon children to education, private or public, and their access to health care.

IV. Citizenship

We urge the Kuwaiti government to take immediate steps to normalize the status of the Bedoons and nationalize all those who are entitled to Kuwaiti citizenship by virtue of birth, marriage or long residence in the country. Towards this goal, we call on the government to:

- Revoke the ban on courts hearing cases brought by Bedoons on issues of citizenship and residence. At minimum, the Administrative Court Charter should be amended so that these two issues are not excluded from its jurisdiction.
- Establish open and transparent procedures for hearing petitions for citizenship and permanent residence, subject to judicial review.
- Grant citizenship to children of Kuwaiti mothers and Bedoon fathers, at par with children of Kuwaiti fathers and Bedoon mothers, in accordance with the requirements of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which Kuwait has signed.
- Grant citizenship to those Bedoons who are able to demonstrate that they were eligible for Kuwaiti citizenship under Law 15 of 1959, before it was amended.
- Grant citizenship to those Bedoons born stateless in Kuwait, in accordance with international law, including the United Nations convention on the Rights of the Child, which Kuwait has signed.
- Amend nationality legislation to reduce statelessness in Kuwait by granting citizenship to those Bedoons who have close family ties to Kuwait or lived for a long time there.
- Until their petitions for citizenship are fully adjudicated under standards consistent with the requirement of international law, Bedoons should be allowed lawful residence.
- Those Bedoons who were classified as such in 1985, but are now deemed ineligible for citizenship, should still be permitted to reside in Kuwait permanently, travel freely and seek employment.

For all other Bedoons as well as foreign residents, fair, open and transparent procedures should be established for determining their national or immigrant status. All administrative decisions on these matters must be subject to judicial review.

INTRODUCTION

The violent abuses committed in Kuwait since its liberation in February 1991, such as extrajudicial killings, torture, large-scale arbitrary arrests and summary deportations, have been the focus of many reports, including those of Human Rights Watch and other human rights organizations.¹ Kuwait also practices a somewhat unique system of institutionalized discrimination against its residents known as Bedoons, long-time inhabitants who have been denied the full status of citizens and are now rendered stateless. To our knowledge, this report is the first of its kind to discuss the systematic discrimination against Bedoons.

Denial of employment, freedom of movement and the threat of arbitrary arrest and deportation are some of the problems Bedoons face daily because the government has decided that they are no longer eligible to reside in Kuwait, their own country. At the same time, tens of thousands of Bedoons who fled Kuwait during the Iraqi occupation have been barred from returning to their homeland.

Bedoons number about 300,000 persons, one third of Kuwait's native population. About one half are in Kuwait while the rest are living in exile, primarily Iraq, where they took refuge during the Gulf War. Although most Bedoons have lived in Kuwait all their lives—many Bedoon families have lived in Kuwait for generations—Bedoons are not considered Kuwaiti citizens. In 1985, after decades of treating them as citizens and promising them formal citizenship, the Kuwaiti government suddenly declared them illegal residents, despite rulings to the contrary by Kuwaiti courts, and despite the fact, by reason of the simple test of their ties, Kuwait is their country and they had nowhere else to turn.

Classified as illegal residents, Bedoons no longer could live legally or work in the country, send their children to school or travel. They are no longer

¹See, for example, Middle East Watch, *A Victory Turned Sour: Human Rights in Kuwait since Liberation* (New York: Human Rights Watch, 1991); Middle East Watch and Human Rights Watch Women's Rights Project, "Punishing the Victim: Rape and Mistreatment of Asian Maids in Kuwait," *A Human Rights Watch Short Report*, vol. 4, no. 8 (August 1992); and *Human Rights Watch World Report 1992, 1993, 1994, 1995* (New York: Human Rights Watch).

issued civil identification cards, driver's licenses or travel documents. After treating them for so long as legal residents—albeit an underclass and a pool of cheap labor—the Kuwaiti government embarked on a policy of harassment and intimidation, mass firings and summary deportations, in an apparent attempt to drive the whole community out of the country or dramatically reduce its size.

On the eve of the Iraqi invasion on August 2, 1990, most of the Bedoons had been living in abject poverty, because of the economic deprivation caused by the mass dismissals. They were also under the threat of deportation from their own country. In September 1990, the Iraqi occupation authorities ordered, under the penalty of death, all non-Kuwaiti citizens living in Kuwait to join the Popular Army, the militia that supported the Iraqi Army. Failure to provide evidence of registration with the militia was grounds for immediate imprisonment. Some Bedoons therefore registered with the Popular Army. While some may have joined voluntarily, many felt they did not have a choice. Still many Bedoons joined the Kuwaiti resistance against the Iraqi occupiers and many died at the hands of the occupation forces. Out of 320 people known to have been killed in resistance acts, eighty two were Bedoons.²

Since Kuwait's liberation in February 1991, the policy introduced in 1980s was accelerated in an attempt to drive remaining Bedoon residents out of the country. All the Bedoons who had been employed by the Kuwaiti government were dismissed *en masse*, retroactively from August 2, 1990, the day Iraq invaded. Other

²See Human Rights Watch, *A Victory Turned Sour*, September 1991, p.3, Fn. 3. In addition, hundreds more disappeared after being detained by the Iraqi security forces. In May 1995, the Kuwaiti government estimated the number of disappeared at 625, mostly Kuwaiti citizens. In addition, Kuwaiti human rights groups have accumulated files of over 300 others not included in the official lists. Both lists include many Bedoons.

than those re-instated by the police and the military, very few have been rehired by their former employers. Only a fraction of those who used to serve in the military and security forces have been rehired. In May 1995, it was officially estimated that 25 percent of Kuwait's twenty-thousand-strong army were Bedoons³, from a pre-war high of nearly 80 percent. Kuwaiti officials have made it known that they wish to reduce the number of Bedoons in the armed forces. A senior official called for the armed forces to be "kuwaitized", not by granting citizenship to Bedoons, but by replacing them with Kuwaiti citizens.⁴

Because a few Bedoons joined the Iraqi militia known as the Popular Army—most of whom were in fact coerced by the Iraqi government to join—the whole community has been placed under indictment for collaboration, and under the threat of eviction from Kuwait. When after liberation the Kuwaiti government gave residency permits to foreigners, Bedoons were deemed ineligible for these permits because they could not produce foreign passports. This was a dramatic reversal,

³Nora Boustany, "Peace Has Sour Taste For Many Kuwaitis," *Washington Post*, May 25, 1995. The article cited Defense Minister Shaikh Ahmed al-Humoud al-Sabah for the percentage of the Bedoons and "Defense Ministry officials" for the total size of the armed forces. The article cited other sources putting the total number at 15,000—55% of whom are Bedoons and "at least half as many are tribesmen."

⁴*Ibid.*

since for decades they had been treated as citizens and as such exempted from the need to secure a residency permit. While awaiting their fate, Bedoons are not allowed to work or to receive welfare, and their children are not allowed to go to school. Since they no longer carry valid documents, they are subject to immediate arrest at police checkpoints, forcing many into self-imposed house arrest.

Kuwaiti courts in the past rejected the government's attempts to treat Bedoons as foreigners in the application of the Foreign Residents Act of 1968, and ruled that Bedoons enjoyed a special status that immunized them, for example, from expulsion from the country. However, because government decisions regarding citizenship and residency rights are exempted by law from the purview of courts, Kuwaiti courts have only challenged the government's position on the Bedoons in the course of criminal proceedings where citizenship or residency status was relevant.

ORIGINS OF THE BEDOONS

The word "*bedoon*" is from the Arabic phrase "*bedoon jinsiyya*," literally meaning either "without nationality" or "without citizenship." The phrase was originally the official designation for anyone whose qualification for Kuwaiti citizenship was in doubt. The phrase was later officially replaced with terms such as "Non-Kuwaiti" or "Undetermined Nationality," but Bedoon is still the most common designation. The term should not be confused with Bedouin, from the Arabic word "*badawi*," meaning nomad (the plural is "*badu*," or the more colloquial "*bidwan*"). Although many of the Bedoons are of Bedouin origin, most of them have long settled in the urban centers of Kuwait, and many have never lived a nomadic life.

The Bedoons are a heterogenous group which includes a substantial number of people—perhaps the majority of all Bedoons—who were born in Kuwait and have lived there all their lives. Sometimes they lack citizenship because a male ancestor neglected to apply for it when citizenship regulations were first introduced in 1948 and later in 1959, in anticipation of independence in 1961.⁵

In addition, children of Kuwaiti mothers married to foreign or stateless fathers were denied Kuwaiti citizenship. Unless they were able to acquire the father's nationality, they too were considered Bedoon, thus steadily increasing the number of persons classified as Bedoons.⁶ Members of tribes whose territory once extended between Kuwait and its neighbors, and whose allegiance was traditionally to the tribe were denied citizenship and classified as Bedoons, although large numbers of them have long been settled in urban areas in Kuwait.

Kuwaiti officials also believe that among the Bedoons there are nationals of other states who have hidden their nationality to facilitate staying in Kuwait.

⁵ See Nationality Law 15/1959, creating a period to register for citizenship in 1960.

⁶ Kuwaiti Nationality Law does not give Kuwaiti citizenship to children of a Kuwaiti mother and a foreign father unless the father dies or the marriage is dissolved. Children of a Kuwaiti mother and a Bedoon father are also considered Bedoon.

Because of the alleged existence of this last category, the officials insist, contrary to the facts, that all Bedoons are foreigners and can be expelled whenever the Kuwaiti government chooses to do so. This view has been reiterated repeatedly by officials in private, in meetings with Human Rights Watch and in public.⁷

The Bedoon Population

⁷See the section below on government position.

According to official documents Human Rights Watch obtained from the Kuwaiti Ministry of Planning, there were over 260,000 Bedoons at the time of the Iraqi invasion.⁸ Using a population growth rate of 3.5 percent, the total number of Bedoons in mid-1995 would be over 310,000.⁹ Between 150,000 and 180,000 are in Kuwait, while the remainder are in exile, mostly in Iraq.

Until 1988, the number of Bedoons was included in the total number of Kuwaiti citizens in official population statistics. But starting in 1988, the government subtracted the number of Bedoons from the citizen population and added it to the number of foreign residents.

The Annual Statistical Abstracts, the authoritative statistics issued yearly by the Ministry of Planning's Central Statistical Office, included the number of Bedoons in the total Kuwaiti citizen population until the 1989 statistical year, when their number was added to the alien population. We relied on these official figures to estimate the number of the Bedoons. For example, in the 1988 issue of the Ministry of Planning statistics (published in 1989), the total number of citizens was 767,295 for mid-1988. The 1990-91 issue gave the number of citizens for mid-1988 (the same year) as 527,448. The difference of 239,847 was the number of Bedoons at the time, constituting 31.3 percent of the *native* population, i.e. excluding expatriates. The official statistics show that in mid-1989 Kuwait's population was 2,040,961. The citizens were 545,738, the Bedoons 250,651 and the rest expatriates. Using a growth rate of 3.5 percent, the number of Bedoons in mid-1990 would be 262,324, and in mid-1995 would be 311,559. The 3.5 percent growth rate is a conservative estimate for Kuwait, as the officially calculated rate is

⁸Some experts interviewed by Human Rights Watch believed that this is an underestimation. They believe the total number for Bedoons on the eve of the invasion was close to 300,000. See also David Mangan Jr., "Investments Combine Professionalism with Audacity," *The Oil Daily*, June 11, 1990; he estimated that "perhaps as many as 300,000" Bedoons lived in Kuwait at the time.

⁹See the discussion below on the Bedoon population growth rates.

3.79 percent for the native population. At this rate, the number of Bedoons in mid-1995 would be 315,948.

Although there was sometimes a tendency to undercount them, the number of the Bedoons was not subject to much dispute before the Iraqi invasion. Despite the anti-Bedoon policies adopted in 1985, the Kuwaiti government continued to include the number of Bedoons in the total number of citizens. In late 1988, Kuwaiti officials began to report the statistics separately. In November, in answer to a question in the Parliament, the Minister of Interior said the Bedoons numbered "approximately 200,000." In April 1989, the Minister of Interior reported to the parliament that Kuwaiti citizens were estimated at 540,000 (28% of the total population) and Bedoons at 225,000 (12% of the total population). The remaining residents—estimated at 1,120,000 or 60% of the population—were foreigners. The Ministry of Planning followed suit. In its new statistical series, it subtracted the number of Bedoons from the citizen total and added their number to the foreign population.

After liberation, the government became less forthcoming with estimates of the number of Bedoons still living in Kuwait, issuing conflicting estimates. According to figures provided to the National Assembly by the Ministry of Interior in early 1993, the number of Bedoons remaining in Kuwait was about 123,000 as of January 1993. Using the 3.5 percent growth rate, in mid-1995 the number of Bedoons still in Kuwait would be over 134,000. Using the officially calculated rate of 3.79 percent, this number would be almost 135,000. This figure is believed by Bedoons and experts to be a serious undercount of the number of Bedoons still in Kuwait; they estimate this number to be about 180,000.¹⁰

Although many individual Bedoons are professionals and successful businessmen, the majority of Bedoons live in poor conditions since they do not enjoy the public services, benefits and opportunities for education and employment to which citizens, and to some extent foreign residents, are entitled.¹¹ Since 1985, because of government-imposed restrictions on employment, many Bedoons were allowed to work only for the security forces. Most of those who worked for the security forces before the invasion were dismissed after liberation. Most Bedoon

¹⁰Human Rights Watch interviews, Kuwait, January 1994 and New York, June 1995. A press report in May 1995 put the number at 160,000. Nora Boustany, "Peace Sour...", *Washington Post*, May 25, 1995.

¹¹It is more common for wealthier Bedoons to be granted citizenship.

neighborhoods are squalid slums that are kept under close surveillance by security services.¹²

A majority of Bedoons say that they would qualify for citizenship if they were given an opportunity to prove their entitlement under the law. They point out that many would satisfy the stringent requirements for full (first class) citizenship stipulated in Article 1 of the Citizenship Law: "Kuwaitis are those who settled in Kuwait before 1920 and maintained their normal residence in Kuwait until the publication of this Law." Others would meet the requirements for "second class" citizenship, i.e., citizenship without the right to vote. The main legal requirement

¹²For several years before the Iraqi invasion, Bedoon neighborhoods endured frequent security sweeps that included house searches, the detention of large numbers of suspects and summary expulsions, which usually meant leaving the Bedoons at the Iraqi/Kuwaiti border. After the liberation of Kuwait on February 26, 1991, their neighborhoods, such as al-Sha'biyyat in al-Jahra and al-Sulaibiyya in the west of Kuwait City, came under closer surveillance, as a representative of Middle East Watch (now Human Rights Watch/Middle East) witnessed in March 1991. For example, armed men in plainclothes and in uniform prevented inhabitants of al-Sha'biyyat from being interviewed and told the interviewer to leave the area. Some who were interviewed by Human Rights Watch or by a Kuwaiti group organizing relief work in the area were later interrogated by the Kuwaiti secret police. Another neighborhood, al-Sulaibiyya, was off limits to journalists during much of March of that year. In early 1994 when a Human Rights Watch representative visited al-Jahra, the main Bedoon district, surveillance was in evidence and security checkpoints were common. Every passing person had to produce identification and residence papers; noncitizens were frequently subjected to detailed questioning.

was uninterrupted residence in Kuwait for a set period, depending on national origin and other criteria. Most Bedoons interviewed by Human Rights Watch provided documents showing that they have lived in Kuwait long enough to satisfy these requirements. However, because the qualifying periods were repeatedly increased and the secret procedures for applications were made exceedingly onerous, most of them were denied citizenship.

During a hearing before the Kuwaiti National Assembly on July 1, 1986, Shaikh Salem Sabah al-Salem al-Sabah, Minister of Interior, said that the Ministry had received the applications of 25,522 Bedoons who claimed they were entitled to citizenship of the first class and 37,689 who said they qualified for citizenship of the second class. These figures did not include dependents of the applicants, which would expand the total number to over 200,000. The Minister further told the Assembly that he believed that "90% of them are lying."¹³ When Law 100 of 1980 opened the registration for citizenship for one year, 72,259 registered for citizenship between December 21, 1980 and December 21, 1981, according to Ministry of Interior's figures, but most applications were rejected without giving reasons.¹⁴

¹³ Proceedings of the National Assembly on July 1, 1986. See also, Abdel Karim Abu Khadhra, "The National Assembly Approves Nationality Law Amendment," *al-Watan* (Kuwait), July 2, 1986, in Arabic.

¹⁴ *Al-Watan* (Kuwait), May 19, 1984. There were two periods for registration for citizenship in Kuwait: in 1960, after Nationality Law 15/1959 was passed, and in 1981, after Law 100/1980 reopened registration for one year. During a hearing in the National Assembly on July 1, 1986, it was revealed that only a small fraction of those registered in 1981 were granted citizenship. No reasons were given for the rejection of individual petitions.

Kuwaiti citizenship was granted only following these brief periods of registration. As a consequence, residents did not have an adequate opportunity to prove their claim to citizenship, especially in the cases of minors and illiterates who were not able to take advantage of the registration process. The committees that heard claims of citizenship were secret internal bodies of the Ministry of Interior whose decisions were final.¹⁵

Statelessness of the Bedoons: An Official Artifice

Most of today's Bedoons fit the definition of the 1954 Stateless Status Convention, in that they are not considered nationals of any state. They arrived at this situation either because of Kuwaiti law or the long-established practice of Kuwaiti authorities. Bedoons were either rendered stateless *de jure*, i.e., by the Kuwaiti citizenship law as stated, interpreted and amended by the government; or *de facto*, when they were excluded in practice from the scope of the law.

The *de jure* statelessness of children born to Kuwaiti mothers and Bedoon fathers is also a pure creation of Kuwaiti law. Other Bedoons were rendered stateless *de facto*, i.e., although they might have been nationals of other states at some point, they were treated by the government as citizens for a long time, thus encouraging them to shed their earlier affiliation and lose their offspring claims to citizenship elsewhere. Unlike most foreigners who lived in Kuwait, Bedoons were treated as citizens while they waited to receive *de jure* citizenship, which they reasonably expected to take place. Children born in Kuwait to Bedoons who were treated as citizens never established a claim to citizenship elsewhere, also became stateless. Frequently, the *de facto* exclusion from the scope of the law became *de jure* when the government amended the law to restrict eligibility and applied it retroactively to those who had qualified for citizenship before the law was amended.

During the period preceding 1985, Kuwaiti authorities treated Bedoons as citizens and distinguished them not only from other foreign residents but also from other groups of stateless residents, such as Palestinians from Gaza who carried Egyptian travel documents. The rights of foreigners, including those with stateless status other than the Bedoons, were governed by legislation regulating foreign residence and employment. Before 1985, there was no attempt to apply those laws to Bedoons.

¹⁵ Article 21, Nationality Law 15 of 1959, as amended; Article 3, Law 100 of 1980.

When Kuwait regulated its citizenship on the eve of independence from Britain, it sowed the seeds of statelessness for thousands of residents. As discussed earlier, in the 1959-1960 period, in preparation for Kuwait's independence in 1961, the authorities attempted to register all residents of the country and identify citizens. The special committees formed to determine the citizenship status of residents were not able to make decisions on many of the applications. Slightly over one third of the native population was recognized as full citizens and another third was granted partial citizenship rights. The remainder were considered "potential" citizens; told that they were being considered for citizenship and issued documents that identified them as "without citizenship," (*bedoon jinsiyya*). Nevertheless, they were treated as Kuwaiti citizens, regarding residence rights, employment and access to social services, including free education and health care.

Bedoon jinsiyya was later shortened to "Bedoon". Most understood the designation to be temporary until their claims were verified. That was how the label was understood by government agencies and the courts, as well as by ordinary citizens. The government repeatedly stated its intention to grant citizenship to the Bedoons. Committees to re-examine their citizenship applications were to be formed. In the meantime, they were to be treated exactly as citizens with the exception of the vote. For these reasons, most people did not pay much attention to the differentiation between citizens and Bedoons and many were not aware of it. Members of the same family had different citizenship statuses: some were "first class", others "second class" and still others were Bedoons.¹⁶ Bedoons for the most part could not be distinguished in their appearance from native Kuwaitis. Nor could they be distinguished by their clan names, since clan members could belong to any of those citizenship categories.

"First class" and "second class" designations are not official designations but the popular phrases in Kuwait. First-class citizens are those entitled to citizenship under Article 1 of the 1959 Citizenship Law. The main legal requirement is to prove that they, or their male ancestors, have settled in Kuwait since 1920. Second class citizens are naturalized; those upon whom the government confers citizenship under other clauses of the law. Second-class citizens may not vote and they may be easily stripped of their citizenship.

Although the Bedoons continued to be treated as citizens and were repeatedly promised formal citizenship, their applications for citizenship were

¹⁶See the detailed discussion below on Kuwaiti citizenship laws.

mostly shelved. The requirement most difficult for Bedoons to meet was to provide proof that an applicant's father was a "settled" resident of Kuwait before 1920 and that he maintained continuous residence in the country until the time of the application. In 1920, most residents of Kuwait's outlying areas were illiterate. Involved in limited agricultural activity, animal husbandry and small scale commodity trading with nomads of the hinterland, these residents, many of whom were nomadic, conducted their business transactions verbally and had no reason to maintain records related to their citizenship. For centuries, they had near complete freedom of movement in what is now Kuwait and the surrounding countries. Requiring them to prove that they were settled in Kuwait before 1920 was in itself a difficult requirement to satisfy. Although thousands of Bedoons who were able during the registration period to provide convincing evidence to satisfy this condition, they were still denied citizenship through the government's failure to act on their applications.

Another key factor in denying Bedoons citizenship was the government's frequent amendment of the Citizenship Law in order to restrict eligibility. By repeatedly amending the Citizenship Law between 1960 and 1987, the government made it successively more difficult to qualify and required Bedoons to satisfy each additional requirement imposed by new amendments. The government rejected the notion that Bedoons acquired vested rights under the law before it was amended, contending that citizenship is a privilege conferred by an administrative decision and not a right acquired merely by satisfying the requirements stated in law.¹⁷ By 1987, thousands of those who could have qualified under the 1959 citizenship law, for example, no longer qualified under the terms of more stringent regulation, which were applied retroactively. One of the most drastic changes was repealing the right to citizenship for children born in Kuwait to stateless fathers and Kuwaiti mothers.¹⁸

¹⁷The government's reasoning for the retroactive application of citizenship laws has been that granting citizenship is fully under the discretion of the government. It is acquired through the particular government decision conferring it, not by force of law, i.e., not through merely fulfilling the conditions set forth in the law. Thus a resident who had applied and fulfilled all conditions but was not granted citizenship before a new regulation was issued was required to reapply and fulfill the additional requirements under the new law. However, as the discussion on international standards below demonstrates, international law places important restrictions on the state's discretion regarding citizenship. In addition, state's discretion, when properly exercised, may not be arbitrary. See the sections below on the Kuwaiti government position and on international standards for more on this issue.

¹⁸See the discussion below on Kuwait's citizenship legislation.

As detailed earlier, until 1988, the Kuwaiti government did not announce the total number of Bedoons, who were counted among the total Kuwaiti citizen population. In late 1988, the government began publicly reporting separate figures for citizens and Bedoons. When government agencies started to treat Bedoons as foreigners, courts overruled government decisions in the few cases brought before the courts involving issues of Bedoon legal status. Since citizenship and residence issues are excluded by law from the competence of Kuwaiti courts, the only time a court could look into the Bedoons legal status was when some other issue was brought before it and where the legal status of the defendant was significant. In 1987, a criminal court acquitted a Bedoon man of the charge of unlawful residence:

[T]he defendant was born in Kuwait without citizenship (*bedoon jinsiyya*), and so were his wife and children [I]ndividuals so described are residents of Kuwait who are commonly perceived as neither citizens nor foreigners. No evidence was presented [to the effect] that the defendant carried Iraqi citizenship or any citizenship other than Kuwaiti citizenship. For these reasons, the court ruled that the defendant's presence in Kuwait was legitimate, just as the residence of all the other citizens without citizenship is legitimate. Since his entry into the country was lawful and his residence thereof legitimate, the court finds the charge he was accused of without basis in the law and he therefore is declared not guilty.¹⁹

In another case in 1988, the Appeals Court rejected the government's attempt to treat a Bedoon as a foreigner in the application of the Foreign Residents Act of 1968, and recognized the special status to which the Bedoons were entitled. In this landmark June 1988 decision, the Appeals Court ruled:

There is no doubt that the foreigner who is subject to deportation according to Article 79 of the Penal Code and the Foreign Residents' Act is the foreigner who belongs to a state other than the State of Kuwait and carries the citizenship of that state. Non-Kuwaiti residents of Kuwait who do not belong to another state and do not hold its citizenship but who are deprived of Kuwaiti

¹⁹Criminal Court (Felonies Circuit), Decision No. 68/87, Dec. 7, 1987, in the case No. 4910/87, Abdali (Translation by Human Rights Watch).

citizenship for one reason or another—but enjoying nevertheless the same privileges as Kuwaiti citizens, except for those privileges that derive directly from citizenship—are treated in a special way that is distinct from the treatment of foreigners. They cannot be legitimately considered foreigners in applying Article 79 of the Penal Code or the Foreign Residents Act.

The government ignored the courts' opinions and continued to issue deportation orders administratively, i.e., without securing court decisions to deport. In order to legitimize its decision ending the equal treatment of Bedoons, the government introduced new labels to describe the Bedoons. Among the terms adopted in the 1980s were "Non-Kuwaiti" and "Of Undetermined Nationality," neither of which were used much outside the bureaucracy: both designations were meant to deny the Bedoons' link to Kuwait as citizens. The labels implied that they were not stateless residents who may be entitled to special consideration. Since 1993, government documents have referred to Bedoons as simply "illegal residents," similar to the other illegal aliens who are citizens of other states and as such liable to immediate imprisonment and summary deportation. In April 1995, the Kuwaiti press reported that since liberation, over 24,000 Bedoons had been issued expulsion orders, according to official sources.

DENATIONALIZING OF THE BEDOONS: 1985

Until the mid-1980s, Bedoons were treated as Kuwaiti citizens with regard to freedom of their travel—they were issued temporary passports²⁰—and eligibility for government employment and services, including education, health care and welfare. Bedoons constituted an overwhelming majority in the army and police; over ninety percent of the rank and file, although not the officers, were Bedoons. Only Kuwaiti citizens and Bedoons were allowed to enlist; foreigners were hired only as advisers, usually on fixed contracts.²¹

In the fall of 1985, the Kuwaiti government adopted a policy proposed by Shaikh Salem al-Sabah, then-Minister of Interior, aimed at driving the Bedoons out of the country. The policy details were kept secret, but its effect was felt as it was implemented gradually over the following months and years.²²

In April 1986, the government restricted eligibility for travel documents (*laissez passers*) which used to be issued to the Bedoons. Under the new rules, these documents, the closest thing to a passport proving a Bedoon's Kuwaiti nationality, were given only to those Bedoons traveling abroad for officially-sponsored medical treatment, in addition to long-term employees of the army and police. All others were made ineligible to receive these travel documents unless they renounced their right to return to Kuwait.

²⁰These *laissez passers*—commonly called Article 17 passports—were issued to Bedoons traveling abroad. They were good for one year or one trip, whichever came first.

²¹See the section below on the Bedoons in the military.

²²Some of the details of the policy and its rationale were revealed when excerpts of a lengthy exposition of its terms given by Shaikh Salem was published in *Al-Azminah Al-Arabiyya*, a United Arab Emirates monthly, May-June 1990. Human Rights Watch obtained a full transcript of the speech.

The crackdown intensified. Later in 1986, the government ruled that all its employees had to produce valid passports or risk losing their jobs. Private businesses were also told to adopt a similar policy. Since Bedoons were not issued passports, thousands were dismissed from their jobs between 1987 and 1990 for failure to produce passports, Kuwaiti or otherwise. Only those Bedoons serving in the army and police were allowed to keep their jobs and were issued residency papers.

In 1987, the Interior Ministry banned the issuing or renewal of driver's licenses to Bedoons, except for those in the military or police. The order also banned the registration of cars to Bedoons. This ban has been more vigorously enforced since liberation in February 1991. In addition to its arbitrary nature, the ban on driving has caused considerable hardships because of the limited public transportation system. Most Bedoons live in areas far from the City of Kuwait, where most services, including hospitals and government offices, are located.

Public education to which Kuwaiti citizens are entitled is denied to the children of the Bedoons, most of whom are too poor to afford private education. Moreover, private schools have been instructed not to accept pupils without valid residency permits. For the time being, some private schools have occasionally overlooked this requirement on a case-by-case basis, thus allowing those families with the means to do so to send their children to school.

In 1988, Bedoons were barred also from attending universities, a ban that has continued since then, depriving thousands of eligible college-age students of university education. Because they no longer receive passports, these students may not leave the country to seek education elsewhere (They can only get passports if they renounced their right to return to Kuwait). This hardship is compounded by the fact that there are no private colleges in the country.

Also in 1988, all Kuwaiti associations, including the Kuwaiti Medical Association and the Lawyers Association, were instructed by the Ministry of Labor and Social Affairs to dismiss their Bedoon members; most of them complied.

Human Rights Watch interviewed scores of Bedoons who were among the early victims of these policies. S. al-Shatti, a Bedoon who provided documents showing that he has lived in Kuwait since 1937, was dismissed from his government job in 1988; his passport was not renewed and his driver's license was withdrawn. These actions were taken without due process of law and despite the fact that since 1959 he has been married to a Kuwaiti citizen (They have two daughters, ages thirty and eighteen years, and three sons, ages twenty nine, twenty three and twelve—all born in Kuwait). Although a citizen, the wife may not pass on her citizenship to her children or husband. In addition, she may not sponsor her husband and adult children for more than one year to enable them to stay in Kuwait legally. Since her

children are also classified as Bedoons and as such may not be issued driver's licenses, only she can legally drive the family car.²³

²³Human Rights Watch interview, Kuwait, January 1994.

Another case is that of F. H., who was born in 1957 in Kuwait to a Kuwaiti mother and a Bedoon father. After her parents divorced in 1958, her mother became her only supporter since the family lost touch with the father soon after the divorce. Although the marriage of her parents was dissolved, F.H. was not granted citizenship as is provided for in the law.²⁴ Moreover, in 1988, she was dismissed from her job at the Ministry of Communications for lack of citizenship papers.²⁵

The case of Ghaleb Hussein Jaber, a Bedoon obstetrician and gynecologist, illustrates some of the forms of harassment inflicted on the Bedoons during the late 1980s. Although the government appeared to have reasons other than his Bedoon status to harass Dr. Jaber, he was vulnerable to retaliation because of his status. He was born in Kuwait in 1954, but since his father was not able to satisfy citizenship committees with proof that he qualified for citizenship, all the family members were classified as Bedoons. In keeping with the practice at the time, Ghaleb, classified as Bedoon, was nevertheless treated as a citizen: he studied in Kuwaiti public schools and, in 1974, was sent abroad on a government scholarship to study medicine, travelling on a Kuwaiti passport. Upon graduating from Egypt's Alexandria University in 1981, he returned to Kuwait and practiced medicine at government hospitals, first at al-Farwaniyya General Hospital, then at the Maternity Care Division of the Ministry of Health, and finally at al-Addan General Hospital.

Dr. Jaber was active in the movement to restore democracy in Kuwait, after the National Assembly was dissolved (in 1976 and later in 1986). He was also active in the Kuwaiti Medical Association, where he expressed public opposition to the Kuwaiti government's support for Saddam Hussein in the war with Iran. He

²⁴Under Kuwaiti nationality law children of Kuwaiti mothers married to non-citizens are entitled to citizenship only if the marriage dissolves.

²⁵Human Rights Watch interview, Kuwait, January 1994.

argued that the Association should provide medical assistance to the victims on both sides.²⁶ This position alienated Dr. Jaber and brought about pressure from the Iraqi government, whose embassy in Kuwait was very influential at the time.

In July 1988, Dr. Jaber was dismissed from his job when he failed to produce citizenship papers. He was also dismissed from the Kuwaiti Medical Association, at the order of the Ministry of Health, for the same reasons. Although he was married to a Kuwaiti citizen with whom they had two children, he was ordered deported.

On August 16, 1988, Dr. Jaber was arrested, his Kuwaiti passport confiscated, and he was taken to the Deportation Prison in Kuwait. He was told that he would be deported to Iraq, where the Kuwaiti government contended his family originally came from. It was obvious that he faced jail or a worse fate in Iraq, if he were to be deported there, since his criticism of Saddam Hussein was well known.

²⁶Dominated by pro-Saddam doctors, the Kuwaiti Medical Association supported the Iraqi side in the war with Iran. Inevitably, Dr. Jaber clashed with top officers of the association over this position and he subsequently published an article in which he criticized the group and these officers for their "blind" support of Iraq.

He spent a month in the crowded, dismal Deportation Prison, where more than 600 other deportees—many of them Bedoons—were held. While awaiting deportation, the South Yemeni government agreed to his request to be deported to Yemen instead of Iraq, and he arrived in Aden on September 13, 1988.²⁷ He was granted a temporary Yemeni passport and was able to practice medicine in Yemen and later the United Arab Emirates. Dr. Jaber was able to avoid the fate of most deported Bedoons—who were left on the Iraqi/Kuwaiti border—because of his marketable skills and connections within Kuwait and abroad.

Since his deportation in 1988, Dr. Jaber has attempted repeatedly, but unsuccessfully, to get permission to return to Kuwait, where he had lived most of his life, where his wife is a citizen, and where many of his close relatives live. In early 1993, he was granted asylum in New Zealand; he expects to get New Zealand citizenship in 1996.²⁸

Some Bedoons dismissed from their jobs following 1985 attempted to secure foreign passports enabling them to return to work, for the government at the time promised that those with foreign passports would be re-hired. Some sought foreign passports to help them emigrate to more hospitable lands. Those Bedoons who were members of clans straddling the borders of neighboring countries—Iraq, Saudi Arabia and Syria—sought to acquire passports from those countries. Some, with family ties in these countries, were able to take advantage of their more liberal citizenship laws. Others, with only dubious links to these countries, probably resorted to questionable means to acquire passports. In desperation, some Bedoons

²⁷To prevent him from being expelled to Iraq, where he faced a grim future, including summary execution, Kuwaiti parliamentarians and others convinced the then South-Yemeni government to grant Dr. Jaber a temporary passport and refuge in Yemen.

²⁸Human Rights Watch interviews in Abu-Dhabi, UAE, October 1990, October 1991 and New York, June 1993 and April 1994.

broke the law and paid large sums to secure foreign passports, apparently illegally in some cases, according to Bedoons interviewed by Human Rights Watch.²⁹ There have been several cases in the United States and Europe in which Bedoons who had been stranded without Kuwaiti travel documents tried to immigrate using apparently false passports, resulting in their detention by immigration authorities.

THE IRAQI OCCUPATION AND THE LIBERATION OF KUWAIT

²⁹A Human Rights representative was told that passports from Afghanistan and Pakistan, apparently acquired under false pretenses, cost around KD1,000 (\$3,350) each in 1994.

On the eve of the Iraqi invasion on August 2, 1990, most of the Bedoons were living in abject poverty, having been dismissed in large numbers from their jobs in the civilian government and private sector. They were also living under the threat of deportation. In September 1990, the Iraqi occupation authorities ordered, under the penalty of death, all noncitizen residents of Kuwait to join the Popular Army, a militia that was formed to support the Iraqi Army. Failure to provide evidence of registration with the militia was grounds for immediate imprisonment. While few Bedoons may have registered with the Popular Army willingly, out of a need for a job or for other reasons, those who joined have convincingly said that they feared for their lives and liberty if they did not register—a fear that Kuwaiti citizens did not have to face since the Iraqi authorities did not require them to register or serve. In addition, some Bedoons who in fact did register and may have collected salaries have pointed out that they never served in the Iraqi militia, which provided support in guard duty in markets and other public places. While none of the Bedoons interviewed by Human Rights Watch said that they joined the Popular Army voluntarily, some said that they knew of others who did "because of the way they had been treated by their Kuwaiti brothers in the five years before the invasion," according to one interviewee, a former military man who stayed in Kuwait during the invasion.³⁰

³⁰Human Rights Watch interview, Kuwait, December 1993.

Seizing on the fact that a few individual Bedoons joined the Popular Army, many Kuwaitis have indicted all Bedoons for collaboration. Anti-Bedoon policies took a drastic turn to the worse and their persecution intensified. In their hunt for collaborators, Kuwaiti authorities and individuals have overlooked the fact that Bedoons fought valiantly against the Iraqi invasion. Close to one third of all native Kuwaitis killed by Iraqi forces were Bedoons. Thousands of Bedoons who served in the military and police were taken prisoner by the Iraqi occupying forces. Many are still missing and others are stranded abroad after their release from Iraqi detention because Kuwait refuses to permit their return. The martial law trials, held in the months following the war, failed to prove the government's often repeated claim that Bedoons as a group collaborated. The prosecutors and the martial law courts utilized draconian measures to convict defendants of collaboration, which was so broadly defined as to include minor acts of association with the enemy. For example, school teachers and nurses who worked during the occupation were charged with collaboration. A martial law court sentenced to fifteen years in prison a man accused of wearing, during the occupation, a T-shirt with a picture of Saddam Hussein on it.³¹ Yet only twenty Bedoons were convicted, a minuscule fraction of the community and a figure comparable to that of the twenty Kuwaiti citizens also convicted of collaboration.³² A twenty-eight-year-old Bedoon man, unemployed since 1984 when he was dismissed from his job in the Ministry of Education, told Human Rights Watch that it was true that there were a few Bedoons who collaborated: "There were Kuwaiti, Bedoon and other collaborators but the Bedoons are always the scapegoats."³³

Some Kuwaiti officials blamed the Bedoons for the army's failure to stop the Iraqi invasion, since the Bedoons constituted the overwhelming majority of rank and file—although not the officers—of the armed forces. These officials privately questioned the loyalty of the Bedoons to Kuwait. But such accusations ignore both basic facts that Iraq's military power was far greater than Kuwait's and that many Bedoon soldiers died resisting the invasion. A Bedoon former government

³¹See Human Rights Watch, *A Victory Turned Sour*, p.35

³²These show trials were universally denounced, for they fell far short of international standards for fair trials. See Human Rights Watch, *A Victory Turned Sour*, September 1991, pp.35-41.

³³Human Rights Watch interview, Kuwait, January 1994.

employee, who stayed in Kuwait throughout the occupation, told Human Rights Watch:

Some Kuwaiti officials may say, and even believe, that most Bedoons have Iraqi origins; but when Iraq invaded on August 2, the Bedoons opposed Iraq. If they had felt loyal to Iraq, they could have fought with Iraq. But in fact, all Bedoons reported to their military bases on August 2 and many of those killed or taken prisoner by the Iraqis were Bedoons. The problem was that officers did not have orders to fight, and that top officers, including the Chief of Staff and his deputy, fled.³⁴

As mentioned earlier, many Bedoons resisted the Iraqi occupation and many fell defending the country; nearly one third of those killed by the Iraqi occupiers were Bedoons. Some risked their lives smuggling arms, sensitive information and government officials in and out of the country. Bedoons who were arrested by the Iraqi occupiers were largely ignored by Kuwait. If they were allowed to return to Kuwait at all, they were not always treated like their citizen brothers. A Bedoon former POW told Human Rights Watch that when the Iraqi government repatriated Bedoon soldiers following the end of the war, the returning POWs were subjected to indignities by Kuwaiti officials. As POWs arrived at the airport and border, the government differentiated between citizens and Bedoons by lining them up separately. Moreover, he said,

³⁴Human Rights Watch interview, Kuwait, December 1993.

We were shocked to find out that our families—unlike the families of our brothers the POWs who were Kuwaiti citizens—had not been taken care of by the government. Our Iraqi jailers treated us the same; at first they tried to separate Bedoons and treat them better, but the Bedoon POWs refused the preferential treatment. We could have escaped or received better treatment if we had said that we were not Kuwaiti. Before we were taken to Iraq, we were kept at the Juvenile Detention Facility [in Kuwait] and the Iraqis asked who was Bedoon; they would have let them go. They [the Bedoons] wouldn't say it; they wanted the same fate as the rest of the Kuwaitis. We celebrated Kuwait's liberation but were shocked at how we were received. We thought that the government and the country had changed. Yet you hear many people talk only about those who collaborated.³⁵

³⁵Human Rights Watch interview, Kuwait, January 1994.

BARRING THE RETURN OF BEDOONS AFTER LIBERATION

During the seven-month Iraqi occupation of Kuwait, most residents of Kuwait fled to neighboring countries to escape the threat of war and the atrocities of the Iraqi occupiers. Most of Kuwait's 570,000 citizens sought refuge in Saudi Arabia and the neighboring Gulf states, while most of the foreign residents went back to their home countries. Lacking travel documents to enable them to leave or travel through Saudi Arabia, most of the 260,000 Bedoons were not able to leave Kuwait, except to enter Iraq. Having annexed Kuwait as its "Nineteenth Province," Iraq naturally did not require passports from those coming from Kuwait.

Access to Saudi Arabia was extremely restricted for the Bedoons, who were frequently turned away or interned at the border. Saudi authorities permitted entry into its territory to only those Bedoons who were approved by the Kuwaiti Reception Committee, a committee set up by the Kuwaiti government-in-exile in the Saudi town of al-Khafji, near the Kuwaiti-Saudi border. The committee usually approved only Bedoons who could demonstrate that they had been on active military duty. However, carrying documents showing that a person was in the military or security forces was quite risky. Iraqi occupation forces automatically detained all those found in Kuwait with military identification papers. This led many military Bedoons to limit their movement and hide their military identification papers. Those who fled the country to Saudi Arabia therefore took great risks. They were frequently motivated by a desire to join the liberation forces or take care of medical emergencies.

Once they reached Saudi Arabia, arriving Bedoons were interned at a camp near the border while their requests for admission were being investigated.³⁶ A. al-Adwani, a thirty-eight-old former soldier, fled Kuwait in September 1990 with his wife—a Kuwaiti citizen—and four children, to escape arrest by the Iraqi occupiers. They entered Saudi Arabia through al-Khafji—where most Kuwaitis entered Saudi Arabia—but for four months they were not allowed beyond the border. During the four months, he said,

³⁶A Human Rights Watch representative visited the border camp, located near the Saudi oil town of Khafji, in October 1990.

I, my pregnant wife, and four children had to live from inside our car, in a barb-wire-fence camp which we were not allowed to leave. At some point there were two hundred and sixty families—some 1,500 persons, all apparently Bedoons and most from the military—in this camp. Eventually some 200 families were allowed into the country. The remaining 50-60 families—all Bedoons—could not, including us. Each family was three-to-eight members strong. We were still at the camp when the Iraqis were able to penetrate Saudi defenses and briefly occupy al-Khafji [in January 1991]. Many of the families in the camp took advantage of the chaos and escaped the camp into Saudi Arabia.³⁷

In addition, as a Bedoon who remained in Kuwait throughout the occupation explained to Human Rights Watch, the Iraqi authorities required those who wanted to cross into Saudi Arabia to surrender their passports before being allowed to leave: "Since the Bedoons did not have these documents, the only place to which they could leave was Iraq." Most Bedoons, he explained, stayed until just before the air war started on January 17, 1991, when they sought refuge in Iraqi villages and other remote areas where they thought the fighting would not spread. Besides, many Bedoons have distant relatives—more accurately fellow tribesmen—in Iraq. The two large tribes Shammar and Aneza, to which many Bedoons belong, are spread between Iraq, Kuwait, Saudi Arabia and Syria.³⁸

The overwhelming majority of the Bedoons whose return has been blocked by the Kuwaiti government still express their desire to return to Kuwait, where most were born, lived most of their lives or have close family ties. Some of them have managed to secure refugee status in other countries, but most have not. Frequently, Human Rights Watch received information about Bedoons detained in immigration facilities around the world, because they lack authentic travel documents.

³⁷Human Rights Watch telephone interview, September 1993.

³⁸Human Rights Watch interview, Kuwait, December 1993.

While Kuwaiti citizens returned following the liberation of Kuwait on February 26, 1991, most of the Bedoons who attempted to go back were blocked at the Kuwaiti borders. In the months following liberation, thousands of Bedoons were stranded in refugee camps at the border. A number of them had been detained by Iraqi occupying forces, taken to Iraq during the occupation and then released after the war.

Thousands of Bedoons, refused admission into Kuwait, were stranded for eight months at a displaced persons camp in the middle of the desert at al-Abdali border post. The population at the camp fluctuated, reaching close to 5,000 in May 1991, and included families with small infants. The numbers declined as the majority of its residents decided to wait in more hospitable surroundings in Iraq while the Kuwaiti government deliberated on their fate. Having heard the news about the mistreatment of the Bedoons at the hands of their Kuwaiti brothers, many left the camp because they feared for their safety if they were to enter Kuwait. By the time the camp was dismantled in October, only six hundred residents remained, most of whom were admitted, at the behest of international humanitarian organizations, into Kuwait.

Kuwait's refusal to permit the repatriation of Bedoons interned by the Iraqi government during its occupation of Kuwait is in clear violation of its legal duty under Article 134 of the Fourth Geneva Convention, which requires all signatories, "upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence."

There is no precise figure of how many Bedoons, refused re-entry, are stranded outside Kuwait today; estimates range from 130,000 and 160,000. Kuwaiti statistics put the number of Bedoons at 260,000 at the time of the invasion on August 2, 1990. Using a growth rate of 3.5 percent, the total number of the Bedoons would be about 311,000 in mid-1995. Since the number of Bedoons remaining in Kuwait is estimated at between 150,000 and 180,000, then the number of Bedoons outside the country is in the 130,000-160,000 range. While the majority of the Bedoons stranded outside Kuwait are in Iraq—because it was the only country they could flee to—several thousands are known to be in Iran and smaller numbers in other Gulf states, Canada, the U.S., New Zealand, the U.K., Australia and Scandinavian countries.

Since Kuwait's liberation, thousands of Bedoons have tried to return to Kuwait, but were turned back at the border. In October 1994, several thousand Bedoons living in Iraq assembled near the Kuwaiti-Iraqi border demanding to be re-admitted into Kuwait. Their demands were rejected. Many more have petitioned Kuwaiti authorities but most petitions were denied, including petitions from former

soldiers and spouses of Kuwaiti citizens. Thousands of families have been separated because Kuwait rejects most family re-unification requests.

THE BEDOONS AND THE MILITARY

From the time Kuwait gained its independence, Bedoons formed the backbone of its military and police forces. Many, especially tribesmen, joined the army because they came from a long martial tradition in their tribes. Others joined because the military was the best method for upward social movement, especially for those with modest means or few opportunities to achieve high levels of education. But many joined because officials promised that enlistment was a guaranteed route to citizenship. A Kuwaiti academic interviewed by Human Rights Watch offered yet another explanation for why so many Bedoons joined the army: "Bedoons were used by the government as a shield against its citizens. They were an army of volunteers. It could buy their loyalty, while keeping them isolated from the rest of Kuwaiti society."³⁹ This cynical opinion represents the views of some in the opposition. They believe that the military and security forces have always been trained to be more loyal to the royal family than to the country as a whole.

Until the Iraqi invasion, the overwhelming majority of the rank and file of all branches of the military and police were Bedoon.⁴⁰ When the government adopted its anti-Bedoon policies during the 1985-1990 period, the Bedoons employed in the security forces were exempted from most of the strict and harassing measures. They continued to be issued travel documents, permitted to drive and register cars in their own names and send their children to government schools.

After the invasion, the Kuwaiti government-in-exile dismissed all of its Bedoon soldiers and security personnel, retroactively from the day of the invasion, August 2, 1990. This action was taken despite the fact that Bedoons in the military

³⁹Human Rights Watch interviews, Kuwait, May 1991 and April 1995.

⁴⁰According to Saoud al-Anezi, a Kuwaiti sociologist and human rights activist, some 95 percent of the rank and file in the army—other than the conscripts—were Bedoons. Officers, as well as the conscripted soldiers were all citizens. Non-conscripts comprised three-fourths of the total army. In other words, Bedoons represented some 75% of the total force and 95% of the volunteer non-officer corps. Human Rights Watch interview, Washington, June 1995.

proved their loyalty to Kuwait. Many were killed in resisting the invasion and many more were injured or taken prisoner to Iraq.

After the Kuwaiti government was restored to power in February 1991, it rehired only a small fraction of those dismissed. In May 1995, it was officially estimated that 25 percent of Kuwait's twenty-thousand-strong army were Bedoons⁴¹, down from a prewar high of nearly 80 percent. Kuwaiti officials have made it known that they wish to reduce further the number of Bedoons in the armed forces. A senior official called for the armed forces to be "kuwaitized", not by granting citizenship to Bedoons, but by replacing them with Kuwaiti citizens.⁴²

Kuwait instituted complex administrative procedures for Bedoons wishing to rejoin the army. In addition to investigating whether the person "collaborated" with Iraq, the applicants-- most of them returning soldiers who fought in the war of liberation—have to secure financial and political backing. Two officers of the rank of major or above who are Kuwaiti citizens must testify that the person does not have another nationality and is a known member of their tribe. They must also "guarantee" him financially, politically and morally and be accountable for his actions. Given the natural reluctance of many officers to shoulder such responsibilities, combined with the stigma attached to supporting Bedoon, it is not surprising that most of the Bedoon former soldiers and policemen have not been rehired, depriving the community of its chief remaining source of earning a livelihood.

For those who were rehired, many had to accept salaries drastically reduced from their former levels. In addition, no matter how highly educated and trained they are and how long their service has been, they may not become officers.

⁴¹Nora Boustany, "Peace Has Sour Taste For Many Kuwaitis," *Washington Post*, May 25, 1995. The article cited Defense Minister Shaikh Ahmed al-Humoud al-Sabah for the percentage of the Bedoons and "Defense Ministry officials" for the total size of the armed forces. The article cited other sources putting the total number at 15,000—55% of whom Bedoons and "at least half as many are tribesmen."

⁴²*Ibid.*

According to a Bedoon veteran interviewed by Human Rights Watch, the highest rank a Bedoon can reach in the military is warrant officer; all officers must be Kuwaiti citizens—a policy that was in place before the invasion. A Bedoon with a university degree who joins the army would be appointed corporal, whereas an equivalent citizen would start at first lieutenant.

Bedoon soldiers who have not been re-hired saw their status fall from valued members of the Kuwaiti military who were treated as citizens in most respects, to illegal residents who are denied most basic rights. Human Rights Watch interviewed a twenty-seven-year-old Bedoon former soldier, who is divorced and has been unable to work since his dismissal. He has stopped thinking about re-marriage: "I don't want to create more Bedoons," acknowledging the rule under Kuwaiti law that children of Bedoon fathers are also classified as Bedoons, regardless of whether they are born in Kuwait or whether their mothers are citizens.

Although trained as a psychologist, as a Bedoon the only job he could get was as a corporal in the army, a job that he eventually lost in the mass dismissal of Bedoon soldiers. He said that Bedoons were virtually forced to enter the army as it was their only security. To encourage Bedoons to join the army, the government continually promised that enlistment could lead to citizenship. Kuwaiti citizens, who in general had higher incomes and higher levels of education, would enter the officer corps, but rarely joined as soldiers. Without the Bedoons, the armed forces could not have existed. After liberation, while the army has rehired some of the Bedoon soldiers, it has rejected most. The same source said the government is now pressing Bedoons to enter the state security apparatus, as low rank informers—a job so disliked by most Kuwaitis that it would further stigmatize and alienate Bedoons.⁴³

Saleh, another former soldier, at thirty-four is trying to take care of his own family and his brother's. His brother, a former policeman, has been denied reentry into Kuwait. According to Saleh, "During the Iraqi occupation, my brother, who was in the police, escaped into Saudi Arabia to join the Kuwaiti army there, but he was not taken. So he went to Egypt, where he had family connections; he registered with the Kuwaiti embassy in Cairo and received a three-week training course. But then the Kuwaitis were sent to the front and he was left behind. All Kuwaitis have come to Kuwait, but he's stuck in Egypt." After Saleh himself was dismissed from the army, he has been unable to find other employment elsewhere, as it became

⁴³In a January 1994 interview with a member of the National Assembly, the deputy who requested anonymity, confirmed to Human Rights Watch that the government was pressuring Bedoons to join the ranks of the State Security Police.

illegal to hire Bedoons. When he tries to work as a porter or sell trinkets in the street, he is harassed by "agents of the municipality."⁴⁴

Another military man, a former POW, described the discrimination he faced as a Bedoon when he was repatriated after the war. Jaber Hammad was born in 1961 in Kuwait and joined the navy in 1978. His three brothers are in the air force, army and police. He received advanced training and had a generally successful career, until the war:

When the invasion happened, everything was chaos; no one called me but I volunteered to perform my duty to my homeland. I refused to leave my base and go home even though Iraqis were already in control of most places; I preferred to die. I was rushed into the bunker at the navy base operation department, where normally only high Kuwaiti officers are allowed: I wanted to get on a fast boat to battle the Iraqis but I was called on to run the operations room since no Kuwaitis were qualified. I fired on the Iraqis although I didn't have orders to do so; all out of patriotism. Then we were ordered to surrender and we were taken prisoner. I was released to Saudi Arabia on March 20. There was immediate discrimination: the Kuwaitis were flown directly to Kuwait but we stayed behind in Saudi Arabia. There were foreign journalists there; they felt that something was wrong - asked why we were kept, whether there were any foreigners among us. Our group said: we're all Kuwaitis. We entered Kuwait on March 22. Saudi officials noticed the different treatment and asked why we were discriminated against. The officials called on the current Interior Minister (he was Foreign Minister then), who received all POWs, and asked why they were kept there (he said he didn't know why). In solidarity with the Bedoon POWs, some Kuwaiti POWs refused to leave with the other Kuwaitis and instead stayed with us. Once the Bedoon POWs reached Kuwait, they continued to be segregated from other POWs. Upon arriving at Kuwait airport, the Kuwaitis were allowed to leave the airport immediately but we were delayed six

⁴⁴Human Rights Watch, Kuwait, January 1994 and April 1995.

hours, as planes arrived and other Kuwaitis came and left. Other Bedoons from other flights joined us. Kuwaitis were received by their families. The first group of Bedoons were taken to al-Jahra hospital for six hours, for processing, where families couldn't see them; then to Qurtuba. In the meantime, our families were waiting at Sirra suburb in the public events hall, where the Kuwaitis were taken. When we arrived home, we asked our families—he had his family and his dead brother's family to care for, fourteen members altogether—how the situation was. They said, 'It's a disaster.' During the occupation, they didn't receive money and food (as Kuwaitis did). We went to the Defense Ministry to get papers, allowances, to give power of attorney to finish procedures: they refused to give it to us since we were Bedoons. Now the Bedoons are worse off than foreign nationalities. The children of Kuwaiti wives and Bedoon husbands are better off if their parents are divorced. Thus there is a trend for Bedoons to divorce their Kuwaiti wives but keep living together, as their kids are better off-- they then have access to school, housing, and allowances from the Social Affairs Ministry.

Hammad soon found out that his dismissal from the military was only the beginning of his troubles. In spite of his long military service, he was ordered to leave his government-provided housing and surrender his passport, driver's license and car registration. His children could no longer go to school or receive free health care. He has been declared illegal, subjected to virtual "town arrest" and may not legally work in Kuwait.⁴⁵

⁴⁵Human Rights Watch interviews, Kuwait, January 1993 and February 1995.

THE BEDOONS TODAY

The Deprivation of Rights in Post-War Kuwait

The liberation only intensified the Kuwaiti government's policy of discrimination against the Bedoons. The whole community of over a quarter of a million people has been placed under a cloud of suspicion and the threat of eviction from Kuwait. After decades of being treated as citizens in that they were exempted from the requirement to secure residency permits, they are now denied lawful residence as citizens or aliens. After liberation, while the Kuwaiti government gave residency permits to foreigners, Bedoons were deemed ineligible for these permits because they could not produce foreign passports.

Soon after liberation, all the Bedoons who had been employed by the Kuwaiti government were dismissed *en masse*, retroactively from August 2, 1990, the day Iraq invaded. Bedoon doctors and nurses who continued to work throughout the Iraqi occupation and afterwards were denied their back wages and their contracts were terminated.⁴⁶ Private businesses have also been told not to rehire Bedoons. Loss of income was specially critical for Bedoons since under Kuwaiti law they are not entitled to welfare. Even under normal circumstances, the areas inhabited by Bedoons in al-Jahra, al-Sulaibiyya and Umm al-Haiman were slums, with dilapidated or substandard housing and open sewers—not what would be expected in Kuwait, one of the wealthiest countries in the world. Since liberation, the Bedoon districts have become even less inhabitable as most of their residents are unemployed and the Kuwaiti security forces stepped up their surveillance and petty harassment.⁴⁷ The district of Umm al-Haiman, southwest of Kuwait City was demolished in 1993 and its inhabitants were forced to relocate.

⁴⁶Human Rights Watch interviews, Kuwait, March 1991 and January 1994.

⁴⁷In the months following liberation, security forces and armed vigilantes terrorized the Bedoon neighborhoods. Hundreds of Bedoon residents were abducted, beaten and humiliated.

A Bedoon who used to work in the Ministry of Interior, complained bitterly about the arbitrary manner in which the Kuwaiti government dealt with the Bedoons: "Kuwaiti officials such as former Deputy Minister of Interior Yousif al-Kharafi used to say: 'A Bedoon's name is written in pencil; it can be easily erased.'⁴⁸ The statement illustrates the ease with which the fate of Bedoon families can be decided by a simple bureaucratic procedure: they can be detained, dismissed or administratively deported without judicial recourse.

⁴⁸Human Rights Watch interview, Kuwait, December 1993.

The threat of expulsion is ever present in the lives of Bedoons. Kuwaiti law gives security officials wide discretionary powers to deport non-nationals. Despite the fact that Kuwaiti courts have ruled that Bedoons may not be deported, the Ministry of Interior has continued to issue deportation orders—24,000 orders since liberation, according to official figures.⁴⁹ The overwhelming majority of these are "administrative deportation" orders, explicitly exempted from judicial review. Most of these orders have not been carried out, because there is no country to which Bedoons can be deported. However, an expulsion order means that the person named in it is subject to arrest and detention at any time they encounter a security checkpoint, thus inhibiting his or her movement.

Those arrested are usually held at the Talha Deportation Center, a crowded makeshift detention facility. After a hunger strike by detainees and repeated calls from the National Assembly's Committee for the Defense of Human Rights, the government promised in 1993 to relocate the inmates to more suitable quarters.⁵⁰ However, as early June 1995, conditions have not noticeably improved, according to Ali al-Baghli, member of the parliamentarian human rights committee.⁵¹ Once in

⁴⁹See the discussion below of Kuwaiti law on deportation.

⁵⁰See Human Rights Watch, *World Report 1994*, p. 314, on the conditions under which would-be deportees live in this prison, which is housed in a former school building converted to a detention center.

⁵¹Al-Baghli, who is also a former member of the Cabinet, told the Kuwaiti daily *Arab Times*: "We noticed the increase in the number of detainees," noting that this facility's population had doubled from 300 in November 1994 to 600 in six months. Commenting on the inadequate and crowded facility, he said, "We want to get rid of this black spot on the white robe of human rights." June 8, 1995.

this prison, Bedoons are given the choice of leaving the country with a travel document stamped with a no-return notation, or remaining detained indefinitely. Nearly all expulsion orders are issued by the Ministry of Interior without due process of law. Since under Kuwaiti law these orders are not subject to judicial review, detainees are not entitled to visits by lawyers to help them challenge the expulsion. Some detainees are allowed family visits and a few have been released after the intervention of friends and relatives. Others have been at the deportation facility for years, some as early as April 1991. The poor conditions at the facility and the bleak prospects of an early release have forced some of the detainees to accept no-return stamps, after which they were bused to the Iraqi border. Once outside Kuwait, they became stranded: unable to travel outside Iraq and denied re-entry into Kuwait.

Khaled, a twenty-eight-year-old Bedoon, told Human Rights Watch about the threat of deportation. When his father was dismissed from the army he had to surrender his house, driver's license, laissez passer, ration cards and health cards. If he did not return all these, he could not collect his severance pay. After decades of service in the armed forces, "my father is now under the threat of deportation like the rest of the Bedoons who are not on active duty. If he has as much as a traffic violations, he may be deported."

Another Bedoon told Human Rights Watch about the pressure being put on Bedoons to leave. "Many are afraid of being arrested if they are spotted outside al-Jahra [the main Bedoon area]. They then would be given a choice between expulsion and staying in jail." A thirty-two year Bedoon, a current employee of the Ministry of Defense, said that he was among the lucky few who were rehired after the liberation. His father had joined the Kuwaiti Army in the 1940s, just as the force was being formed. However, his brother who used to work for the Ministry of Interior, has not been rehired and is threatened with expulsion. In 1993, another brother was summarily deported to Iraq after he got into a fight: "There was no court decision in the case; he was just ordered deported by the Ministry of Interior. A friend of mine was deported after a traffic violation and altercation with police officers."

Having been declared illegal residents, Bedoons may not have their marriages certified in Kuwait. While under Islamic law they could get married if they find a willing ma'thoun (a justice-of-the-peace who specializes in conducting marriage ceremonies) and two witnesses, but the marriage may not be recorded. Ali, a twenty-three-year-old recently married Bedoon, told Human Rights Watch about the difficulties he and his bride encountered: "Without connections, you may not be certified. I had to pay [a bribe of] one thousand dinars [\$3,500] to get my

marriage certified. A friend of mine, who is in the military, had his officer talk to a judge to bend the rules and certify the marriage."⁵²

Bedoons are no longer issued laissez passers by the Kuwaiti government unless they accept a no-return exit visa stamped on their travel document. If a Bedoon accepts such a stamp, as some have, they become stranded outside Kuwait, since they have no where else to go. Travel outside Kuwait --even for medical emergencies-- has become nearly impossible for the Bedoons.

⁵²Human Rights Watch interview, Kuwait, January 1994.

Pilgrimage to Mecca, the *Hajj*, has also become nearly impossible for the Bedoons, almost all of whom are Muslim. Unless they accept a no-return exit visa, Bedoons are not allowed to leave Kuwait to perform this religious duty. Being denied the opportunity to go on the Hajj, one of the five pillars of the faith, is a particular hardship for older Bedoons, who feel they may never get a chance to fulfill this religious duty.⁵³ A Bedoon who tried unsuccessfully to go on the pilgrimage told Human Rights Watch, "The Bedoons cannot even go on Hajj to Mecca. Last year, the Emir said he would send the families of martyrs on Hajj at his expense.⁵⁴ However, before the plane left Kuwait, they got orders to remove all the Bedoons regardless of their age or health—old people who had their hearts set on going, men, women and children. Although Saudi Arabia would accept the Bedoons to go to pilgrimage, they were not allowed by Kuwait to board the plane."

While helplessly awaiting their fate, Bedoons are not allowed to work or to receive welfare and their children are not allowed to go to school, except for those who have been reinstated in the army or police. After the Bedoons were barred from sending their children to public schools, many found out that there were great obstacles to sending their children to private schools as well. Private schools are not permitted to register students unless parents could provide valid residency papers, which Bedoons do not have unless they have been rehired by the army or police.⁵⁵ In addition, the cost of sending a child to private schools is prohibitive. Tuition ranges between 250 and 1,000 dinars per year (\$838 to \$3,350), a sum that most

⁵³Human Rights Watch interviews, Kuwait, January 1994.

⁵⁴i.e., families of those killed by Iraqi forces during the invasion and occupation of Kuwait.

⁵⁵According to some sources, some schools are not strict about this requirement. A child may be registered if his parents promise to submit their residency permits at a later date.

Bedoons could ill afford since they are not permitted to work. Many have kept their children at home.⁵⁶

⁵⁶Human Rights Watch interview, Kuwait, January 1994 and January 1995.

To survive, most Bedoons have been relying on savings and charities. Most who were dismissed since the war, are still unemployed or work at a range of low-paying jobs. Some have managed, as one interviewee did, to work informally, driving water trucks or taxis. His brother, a former soldier, is now unemployed: "He tried a little business: selling vegetables and fruits on the street, but the municipality has stopped that." Most have to borrow money from friends and relatives when they exhaust their bank accounts.⁵⁷ Street vending, which is the only activity available to many Bedoons, exposes them to arrest and fines, since such activity is illegal. Umm Abdalla, the widow of a policeman who died in a car accident told Human Rights Watch that she was dependent on the Bait al-Zakat, a religious charity, to support her four teen-age children.⁵⁸ Umm Abdalla also runs an illegal stall from which she sells cheap used and new clothes. Umm Najwa, a single mother, divorced with a ten-year-old daughter, sells cheap clothes in the street but "many times people from the municipality came to the place where the women are selling clothes. They take our merchandise away from us, saying that it is illegal and threaten to take us to jail. But for most of these women, this is their only means of livelihood."⁵⁹

Incredulous that Kuwaiti high officials could tolerate the abhorrent treatment of the Bedoons, one elderly Bedoon interviewed by Human Rights Watch held the hope that the Emir would solve the problem if he knew about it: "If a group of Kuwaitis from respected families went to the Crown Prince and Emir and said the Bedoon issue isn't as complicated as you think—that you can identify impostors and original Bedoons—the Emir would respond immediately."⁶⁰

⁵⁷Human Rights Watch interview, Kuwait, January 1993.

⁵⁸Human Rights Watch interview, Kuwait, January 1993.

⁵⁹Human Rights Watch interview, Kuwait, January 1993.

⁶⁰Human Rights Watch interview, Kuwait, January 1994.

PROFILES OF PERSECUTION AND DISCRIMINATION

Despite promises , there has been no perceptible improvement in the position of the Bedoons since liberation. Other than rehiring a few thousand Bedoons in the armed forces and the police, there has been very little change in the legal status or living conditions of the majority of the Bedoons. In fact, as the government squeezes them to leave, and as many exhaust their meager savings and are turned down by charities because of their status, the general conditions of the Bedoons have worsened over the past four years, as many of those interviewed by Human Rights Watch attest.

- Ibrahim al-Athari, an eighty-year-old former slave who came to Kuwait as a young man and is classified as Bedoon, is now threatened with deportation. He was interviewed in the Talha Deportation facility where he had spent several months after being stopped at a checkpoint. When he failed to produce a residency permit, he was taken to the deportation center. Al-Athari told Human Rights Watch that he was brought to Kuwait sixty years earlier as a slave. He produced the documents of his emancipation from slavery in 1961 and government documents showing his classification as Bedoon. He said that after liberation he was stopped several times at checkpoints and threatened with deportation if he did not produce residency papers. He said he failed to secure new documents as he did not find employers and his former masters, whose name he still carried, were not able to assist him. He speaks only Arabic and does not know which African country he had been kidnapped from as a youth (it happened before the independence of most African nations).⁶¹
- M., a former slave, still employed by a member of the royal family, is classified as Bedoon. He said that there are some twenty others employed in the same royal household in similar situations. While they are being adequately provided for by their (former) masters, he is concerned about the future since they and their children are all classified as Bedoons. If one of them is dismissed or retired, they may be removed from the royal

⁶¹Human Rights Watch interview, Kuwait, January 1994.

household and subjected to the same rules as the rest of the Bedoons.⁶² Representatives from international humanitarian groups in Kuwait told Human Rights Watch that there are still scores of former slaves in Kuwait who are classified as Bedoons. Most do not appear to know their country of origin.

⁶²Human Rights Watch interviews, Kuwait, January 1994.

- Yousef H. was born in Kuwait in 1934 and since 1967 has been married to a Kuwaiti citizen. In November 1990, Ya`qoub, their twenty-year-old son, was killed by the Iraqi occupation forces, having been suspected of resistance acts. They have three other sons, ages twenty-two, seventeen and twelve, and a twenty-five-year-old daughter. Yousef and his four children are considered illegal residents: they have no permits to work or drive the family car, and are threatened with deportation.⁶³
- Muhammed I. was born in 1926 to an unknown father, and has documents proving he has lived in Kuwait since 1942. Since 1958, he has been married to a Kuwaiti citizen and they have five sons ranging in age between twenty-two and thirty-three years of age. In 1990, he was dismissed from his government job and lost his laissez passer and driver's license.⁶⁴
- Abdalla Abbas A. was born in 1933 in Kuwait to a father who had lived in Kuwait before 1920—the year set by the Nationality Law for "first-class" citizenship. He worked in the government between 1950 and 1985, when he was dismissed with the other Bedoon civilians. He later was able to secure a job at the Bank of Kuwait and the Middle East for a few years but was fired, at the government's urging, when he failed to produce citizenship papers. He applied for "first class" citizenship but was rejected for insufficient documentation. Since 1959, he has been married to a Kuwaiti citizen and they have four children: three daughters, ages thirty one, twenty six and twenty three, and one son, age twenty eight. Although the mother is a Kuwaiti citizen, all their children are classified as Bedoons. Since they are all adults, their mother may not sponsor them—or her husband—to stay in the country for more than a year. Since that year has

⁶³Human Rights Watch interview, January 1994.

⁶⁴Human Rights Watch interview, Kuwait, January 1994.

long passed, all of the children and their father are considered illegal residents of Kuwait.⁶⁵

⁶⁵Human Rights Watch interview, Kuwait, January 1994.

- Ammash S. M. was born 1964 in Kuwait to a Bedoon father, served as a soldier in the Kuwaiti Army, and participated in the war to liberate Kuwait. Since 1983, he has been married to a Kuwaiti citizen and they have two daughters, ages ten and eight, and three sons, ages six, five and two, all born in Kuwait. All the children are classified as Bedoons since the husband is a Bedoon. In 1992, he was dismissed from the military without explanation. Before he was fired, he had a laissez passer, a Kuwaiti travel document. Since he no longer has this passport, he is unable to leave the country to accompany his wife, who requires urgent medical treatment outside the country. He has not been able to find employment since his residency is no longer legal. He may no longer drive his car, since the driver's license was contingent on his continued government service.⁶⁶
- Muhammed Saud M. was born in 1960 in Kuwait and worked in the Military Hospital until the mass dismissal of the Bedoons after liberation. The dismissal was retroactive to August 2, 1990, the day of the invasion. He was not rehired after liberation. He and his wife, a Kuwaiti citizen, have a daughter, age ten, and three sons, ages seven, four and three years, all Bedoons. While the wife has been able to sponsor the children until they reach the age majority, her requests to sponsor her husband to stay have been denied. His driver's license and laissez passer have not been renewed and his residence in Kuwait is considered illegal.⁶⁷
- Hasan Muslim A. was born in 1959 in Kuwait and worked as locomotive engineer for the Ports Authority, a government agency. He was dismissed, with all other Bedoons, effective August 2, 1990 but rehired after liberation under a new contract with less than half his former salary. His new monthly salary is KD250 (\$837.50) instead of his former salary of KD700 (\$2,345).⁶⁸
- Halima Muhammed A., 48, is a Kuwaiti citizen. In 1966, she married Abdel-Karim Husain, a Bedoon, who died in 1987. She has five daughters, ages twenty-five, nineteen, fourteen and eight years, and three

⁶⁶Human Rights Watch interview, Kuwait, January 1994.

⁶⁷Human Rights Watch interview, Kuwait, January 1994.

⁶⁸Human Rights Watch interview, Kuwait, January 1994.

sons, ages twenty-six, twenty-four and twenty-two years. All the children are classified as Bedoons, despite the fact that Article 5 of the Citizenship Law clearly entitles them to citizenship since their mother is a citizen and their father deceased. Furthermore, the adult children are still considered illegal residents and therefore unable to work.⁶⁹

⁶⁹Human Rights Watch interview, January 1994.

- Qassem Shadhr al-Shammari was born in 1958 in Kuwait and has since 1986 been married to a Kuwaiti citizen. They have three children, ages seven, six and two. He served for several years as a sergeant in the Kuwaiti army, but was dismissed—together with most other Bedoons—after liberation. He could not find alternative work because he is not a citizen and has no residency permit. Despite his marriage to a Kuwaiti citizen, he feels threatened with expulsion at any time. Neither he nor the children could leave the country since his Article 17 passport was not renewed and the children may not be added to their mother's passport.⁷⁰
- Muhammed Jassem A. was born in Kuwait in 1950. While Muhammed was a child, his father died before obtaining citizenship. He therefore was considered a Bedoon, despite the fact that his mother is indisputably a citizen and so are his brothers and his paternal uncles. Since 1981, he has been married to a Kuwaiti citizen.⁷¹
- Yousef A. was born in Kuwait in 1952 to a Bedoon father (of Iranian origin) who has lived in Kuwait for some seventy years. He was educated in Kuwaiti schools and treated as citizen until 1991, when his work was terminated. Yousef is considered a Bedoon and an illegal resident, despite the fact that his mother is a first-class citizen and that since 1979, he has been married to a Kuwaiti citizen.⁷²
- Ali M. al-Balushi was born in Kuwait 1936 was classified as Bedoon. He was treated as a citizen until July 1991, when he was dismissed from his government job. Since then, he has not been able to find other work because he does not have the necessary papers. In 1972 he married a Kuwaiti and they have three daughters, ages twenty-one, fourteen and four years, and three sons, ages nineteen, sixteen and ten. All the children are Bedoons.⁷³
- Ahmed Ali Muhammed Awadh was born in Kuwait in 1948 and has been married to a Kuwaiti citizen since 1968. They have a thirteen-year-old

⁷⁰Human Rights Watch interview, January 1994.

⁷¹Human Rights Watch interview, Kuwait, January 1994.

⁷²Human Rights Watch interview, Kuwait, January 1994.

⁷³Human Rights Watch interview, Kuwait, December 1993.

daughter and four sons, age twenty-four, twenty-two, twenty and seventeen years—all classified Bedoons. Their adult children have been denied admission into the university and he was dismissed from his government job of sixteen years service at the Ministry of Social Affairs and Labor.⁷⁴

⁷⁴Human Rights Watch interview, Kuwait, December 1993. The mass dismissal was retroactive to August 2, 1990, the day of the Iraqi invasion.

- Fahd Ibrahim Ali Ghuloum was born in 1957 in Kuwait to a Bedoon father and a mother who is a "first-class" citizen. Although his parents were divorced in 1965, he was not granted citizenship, despite the fact that the Citizenship Law clearly states that in the case of marriage dissolution, children of Kuwaiti mothers are entitled to citizenship. In 1980, he married a Kuwaiti citizen and they have three daughters ages twelve, ten and nine, and three sons nine, five, and two—all Bedoon.⁷⁵
- Jassem Ghaleb M. was born in Kuwait in 1940 and has been married to a Kuwaiti citizen since 1963. He left Kuwait during the occupation, but has not been permitted to return since then, despite his wife's repeated petitions to sponsor him to return to Kuwait.⁷⁶
- Ali Hajj Ramadhan Ali was born in Bahrain in 1925 and came to Kuwait in 1945. He was classified as Bedoon in both countries. In 1960, he married a Kuwaiti citizen and they now have eleven children, all born in Kuwait and all Bedoon. He was dismissed from his job in the Ministry of Health without a pension. The adult children are treated as foreigners in regard to residence permit requirements and were not accepted in the university because of their Bedoon status.⁷⁷
- Nasser Sarhan was born in 1940 in Kuwait and has been married to a Kuwaiti citizen since 1969. They have ten children, all born in Kuwait but all Bedoon. He was dismissed from his police job in 1990 and

⁷⁵Human Rights Watch interview, Kuwait, December 1993.

⁷⁶Human Rights Watch interviews, Kuwait, December 1993, and telephone interview February 1994.

⁷⁷Human Rights Watch interview, Kuwait, January 1994.

subsequently lost his license to drive and laissez passer to travel. He is considered an illegal resident.⁷⁸

⁷⁸Human Rights Watch interview, Kuwait, January 1994.

- Abdullah is a 28 year old Bedoon who says he does not belong to any particular tribe. He has been unemployed since 1984, when he was dismissed from his job as a messenger in the Ministry of Education. He said that a government committee subsequently came to his house in 1986 and pressured him to obtain Iraqi nationality which he refused to do. "The pressure began in 1985, when the government said that everybody should have an identity card and the pressure increased when the parliament was dissolved," he told Human Rights Watch.⁷⁹ On the charge that Bedoons collaborated with the Iraqi occupiers he said, "There were Kuwaiti, Bedoon and other collaborators but nobody did anything to them because they protect each other while the Bedoons as a whole are the scapegoats." Abdullah also said, "There is now a lot of pressure on the Bedoons to leave. Many are afraid of being arrested if they are spotted outside al-Jahra. None of the political groups in Kuwait is expressing public support for the Bedoons. Even the fundamentalists aren't taking a clear stand, although it is a purely humanitarian issue. Even charitable organizations such as Bait al-Zakat (the House of Alms) have reduced their assistance to the Bedoons. They are stricter now." He said that he has had enough and wants to leave the country, but that he has no travel documents to enable him to travel. He is currently paying eighty Kuwaiti Dinars in monthly rent which he gets from his friends who are working.⁸⁰

⁷⁹The National Assembly was dissolved in July 1986.

⁸⁰Human Rights Watch interview, Kuwait, December 1993.

- K. al-Adwani, 38, a purchasing agent for a private company in the United States, is a Bedoon who is now also a U.S. citizen. He was born in Kuwait in 1955 to a father from the large Adwan tribe that is spread between Saudi Arabia and Kuwait. He believes that his family, camel herders, came to Kuwait in the 1930s. His father, a Bedoon, worked in the al-Hajjana (cavalry) contingent of Kuwaiti police between 1957 and 1987, but never gained citizenship. Upon leaving the police force, the father lost his government-provided housing because he was a Bedoon. K. has six sisters and three brothers. A brother served twelve years in the army and is married to a Kuwaiti citizen, but was dismissed after the war because he was a Bedoon. Another brother, forty, graduated from Kuwait University in 1981 and worked for the University Housing Department for seven years, until the Iraqi invasion. He was dismissed from his job and there is no promise of reinstatement. He was told that he had to prove his citizenship (Kuwaiti or foreign) before he was allowed to work again. One sister is married to a Kuwaiti citizen, so she and her children were eligible for citizenship before the law was amended. Unless the marriage is dissolved, she is in no danger. But another sister is married to a Bedoon who used to be a chief sergeant in the army. They have seven children. The husband was dismissed after the war and has not been reinstated. "They are all threatened with deportation. In the meantime, they have no income and they are always afraid of being arrested for not having valid residency permits. My two young sisters graduated from Kuwait University just before the Iraqi invasion, but they have no prospect of employment because they are Bedoons. One I believe is on the verge of a nervous breakdown because of the bleak prospects."⁸¹
- Most Kuwaiti citizens and foreign residents fled Kuwait after the Iraqi occupation. Most Bedoons too tried to leave to avoid the brutality of the occupation and the risk of war which was being planned by Kuwait's allies. But many of those Bedoons wanting to leave were not able to do so since they did not have travel documents. According to one Bedoon who did not leave Kuwait, some of those who left were able to do so because they were able to secure foreign travel passports. Some were able to obtain them because they had distant relatives in neighboring countries, especially Iraq, who were able to sponsor their applications. Others paid

⁸¹Human Rights Watch interview, New York, April 1993 and February 1995.

money to get Afghani or Pakistani passports, apparently illegally. Some fled to Saudi Arabia through the desert or used their newly-acquired passports to travel to seek asylum in Canada, Australia, New Zealand or the United States, where some had relatives. Others left because they had in fact joined the Iraqi Popular Army and feared retribution. He said that those who joined the Popular Army did so either out of fear of the Iraqis or as a reaction to the way they were treated before the invasion by their Kuwaiti brothers.⁸²

⁸²Human Rights Watch interview, Kuwait, December 1993.

- A. al-Adwani, thirty eight, a Bedoon, fled Kuwait in September 1990 with his wife and four children to escape arrest by the Iraqis since he had been on active duty in the Kuwaiti army at the time of the invasion. They tried to enter Saudi Arabia through the al-Khafji port of entry—where most Kuwaitis entered Saudi Arabia—but were denied entry. The Kuwaiti Reception Committee, based at the crossing point, recommended denial to the Saudis. Al-Adwani and his family had to live out of their car for four months in a fenced camp which they were not allowed to leave. At one point there were 250 families (all apparently Bedoons, most from the military) in this camp. Eventually some 200 families managed to leave the camp and enter Saudi Arabia but fifty to sixty families (all Bedoons) could not, including A., his pregnant wife, and their four children. They were at the camp when the Iraqis were able to penetrate Saudi defenses and briefly occupy al-Khafji. Many of the families in the camp took advantage of the chaos and escaped the camp into Saudi Arabia. They made it to Dammam, where they were given housing in the al-Aziziyya neighborhood. While the accommodations were good, the families were not allowed to leave the complex. His wife gave birth in al-Aziziyya. They were finally allowed to return to Kuwait in April 1991. But he was not reinstated in his military job and was given residency papers for one year under the sponsorship of his wife, who is a citizen.⁸³
- F. al-Anezy, is a Bedoon married to a Kuwaiti citizen. In 1992, upon finishing his studies in the United States, he attempted to return to Kuwait but was denied entry because his laissez passer had expired. Although he was born in Kuwait and many in his family, including two of his brothers, were Kuwaiti citizens (and high ranking police officers), he was denied entry to be with his wife. Later, he was able to secure Canadian travel documents and was able to return to Kuwait as a foreign resident.⁸⁴
- Hani is a twenty-five-year old high school graduate who has never worked in his life because he is a Bedoon. He was born in Kuwait to Bedoon parents; he has documents dating to the 1950s showing his father had lived in Kuwait for many years before that, but he said the documents were not considered sufficient by the nationality committee. He told an interviewer,

⁸³Human Rights Watch interview, New York, February 1995.

⁸⁴Human Rights Watch interview, New York, September 1994.

"I am not allowed to work or continue my education. I am not even allowed to get married. What kind of future do I have?"⁸⁵

- S. al-Shammari is a thirty-two-year old Bedoon, married with four children. He works at the Ministry of Defense; he was among the lucky who were rehired after the liberation. His father joined the Kuwaiti Army in the 1940s, just as the force was being formed. His brother, who used to work for the Ministry of Interior has not been rehired. In 1993, another brother was summarily deported to Iraq after he got into a fight. There was no court decision in the case; he was just ordered deported by the Ministry of Interior. A friend of his was deported after a traffic violation and altercation with a police officers.⁸⁶

⁸⁵Human Rights Watch interview, Kuwait, December 1993.

⁸⁶Human Rights Watch interview, Kuwait, December 1993.

- M.S. said, "Many of the Bedoons I know were deported administratively. The Minister of Interior cited 'public interest' or some such thing. Checkpoints are erected frequently in areas where Bedoons live --al-Sulaibiyya, al-Hasawi, al-Jahra, Jeleeb al-Shyoukh. Many times I saw them give the children of the Bedoons a hard time at these checkpoints because they do not have identity cards."⁸⁷
- Siham and Salha are two Bedoon sisters in their early twenties. Both used to be university students, but had to drop out because Bedoons were no longer permitted in the university. In 1992, State Security Police arrested their sixty-five-year-old father and put him in Talha Deportation Prison. He was suspected of collaboration with the Iraqi occupiers. He used to work at the Kuwaiti Ministry of Public Works before the invasion and, during the occupation, says that his superior, a Kuwaiti citizen, asked him to retrieve some important papers for him from the ministry building. He was seen at the building and reported as collaborating with the Iraqi authorities. Since he was never tried, he was never able to defend himself and bring forward witnesses, including his supervisor, to attest to his loyalty. Two brothers are married to Kuwaiti citizens, but they are still considered Bedoons and cannot help the rest of the family. One worked for the Ministry of Defense and the other with the police but neither had been rehired, despite their great efforts with the Kuwaiti resistance to the Iraqi occupation. All four children and their father were born in Kuwait. Their paternal grandfather had a Kuwaiti *laissez passer* dating back to 1947, as he used to work as a civilian in the Kuwait Oil Company. His paternal uncle is a Kuwaiti citizen as is his maternal Aunt. The family's attempt to secure residency permits, including efforts by Ahmad Al-Shurai'an, a member of the National Assembly, have been fruitless.⁸⁸
- S., a sixty-one-year-old Bedoon, was awaiting deportation at the deportation center after a neighbor claimed that he had been seen with Iraqi soldiers during the occupation. He provided documents that he had been born in Kuwait and lived there most of his life. He had documents from the 1940s and 1950s which he had submitted to the Citizenship Committee in 1962, but were not accepted, although a brother was given

⁸⁷Human Rights Watch interview, Kuwait, January 1994.

⁸⁸Human Rights Watch interview, Kuwait, January 1993.

citizenship, based on similar documentation. He had worked in the Kuwaiti government as a civilian for thirty years and was treated as a citizen. He has five children living in Kuwait—all Bedoons, and some married to Kuwaiti citizens.⁸⁹

⁸⁹Human Rights Watch interview, Kuwait, January 1993.

- A Bedoon veteran former police officer was not rehired after liberation. He now is very ill, suffering the results of an internal hemorrhage in his leg, but is denied free health care since Bedoons who do not work in the military or police are no longer eligible. He is married to a Bedoon wife and they have nine children, the oldest of whom is thirteen years old. None of them goes to school any longer since Bedoon children are no longer eligible to go to public schools. They live off charity. They are not permitted to drive their cars, nor can they renew its registration because they have no residency permits. Their children are no longer able to attend government schools; they can go to private schools but because their parents are unemployed they cannot afford to pay for their education. They fear the ubiquitous checkpoints when they go to see the doctor; they fear that if the police find out that they no longer have valid permits, they would be taken to the deportation center. He and his wife know many Bedoons who have emigrated. Others have applied for immigration so that they could be eligible for assistance from Bait al-Zakat (House of Alms), but they do not do that because they want to stay in Kuwait "the only home we know and love."⁹⁰
- M.M. is a thirty-year-old former sergeant in the army. He has played on one of Kuwait's major soccer teams for fourteen years and has studied in the U.S. on a government scholarship. He was dismissed—with the rest of the Bedoons—after the war and has not been rehired despite his repeated attempts and the intervention of many notables. "Because the Army refuses to take me back, I won't be able to renew my driver's license or obtain a laissez passer. When I look at all these doctors, engineers, lawyers and Ph.D. holders who are not employed because they are Bedoons, I do not feel so bad; I was just a sergeant. Except for my five children; I have to support them. It is difficult to do that when you haven't worked in more than three years. I am not part of a big family or tribe that may support me." He is of African origin; he was born in Kuwait to a father who was a former slave to the royal family. He added that his uncle, also a former slave, had worked for a member of the royal family

⁹⁰Human Rights Watch interview, Kuwait, January 1993.

"for fifty years but has not been returned to his former job after liberation, because he is a Bedoon."⁹¹

⁹¹Human Rights Watch interview, Kuwait, January 1993.

- M.S. is a thirty-year-old enlisted man in the Army. He was dismissed after the war and was without work for three years. He was rehired through family connections, especially through the family of his wife—a Kuwaiti citizen. He had to use connections to get their marriage registered because Bedoons were no longer allowed to register their marriages. Without this certification, the marriage is not considered valid for official purposes. Although he is married to a Kuwaiti and is employed by the government, the Ministry of Health has not renewed his health cards. "So now, just like the rest of the Bedoons, we have to get private treatment, which is expensive and most of the Bedoons can't afford it because they don't work. The Ministry of Commerce has not renewed our ration cards either... Although I am happy I have returned to work, I feel under constant suspicion; there is no longer any trust between me and my colleagues and superiors. I have become depressed and frequently unable to perform well in my job."⁹²
- Umm Abdalla, widow in her mid-thirties, with four children aged between twelve and eighteen; the oldest is a girl. She was born in Kuwait "in the desert." She is from the large Shammar tribe. Her father's family were "camel herders who followed water and the green grass in the desert." She thinks that her parents may have lived in the Saudi desert before settling in Kuwait, but she has lived in Kuwait all her life. Her husband, a policeman, was killed in a car accident in the 1980s. Because he was a policeman, she lives in government housing, but fear that she may be evicted from it at any time now because she had been told that she was not entitled to government-provided housing because she is a Bedoon. "Or they may cut water and electricity to force us to leave, as has happened to many of my Bedoon neighbors." During the occupation two of her sons assisted in the resistance. She receives one hundred dinars (\$333) monthly from the charity Bait al-Zakat, which she uses to put her children in a private school because they are no longer accepted in public school. In addition, she runs

⁹²Human Rights Watch interview, Kuwait, January 1993.

a stall from which she sells inexpensive used and new clothes, an activity that has been declared illegal by the municipality.⁹³

⁹³Human Rights Watch interview, Kuwait, January 1993.

- Umm Najwa, is a Bedoon divorced mother, with a ten-year-old daughter. She and her four brothers were all born in Kuwait. Her eighty-year-old father was born in the desert, she said; they are from the Shammar tribe. She lives with her extended family—eighteen people, including her father, mother, sisters, brothers and their spouses and children. The family used to live in a government-provided house when one of her brothers was in the military. Because he was not rehired, they were forced out of that house. They moved into their current house, which is smaller and in a poorer district. She sells inexpensive clothes in the street but "many times people from the municipality came to the place where the women are selling clothes. They take our merchandise away from us, saying that it is illegal and threaten to take us to jail. But for most of these women, this is their only means of livelihood."⁹⁴

⁹⁴Human Rights Watch interview, Kuwait, January 1993.

- Umm Sa'ad, in her late forties, was born in Kuwait and is a member of the Shammar tribe. She has been a nurse for twenty six years. She has documents showing that her father, now deceased, was working for the state oil company (Kuwait Oil Company) in 1945. She married a Kuwaiti citizen, but the marriage was dissolved before she could get citizenship. Her twenty-year-old son from that marriage, a Kuwaiti citizen, lives with her. Because she was a Bedoon, she was dismissed from her job after the war and was not reinstated until eighteen months later. "Although I was dismissed from my job, I continued to work as a nurse without pay throughout the occupation and liberation, providing emergency assistance and nursing care, because my job is my only salvation." Her brother was killed by Iraqi occupation forces after he was suspected of being involved in the resistance. He was briefly detained and tortured before he was killed and his body was dumped before their house." She thinks that because her brother, who worked in the security forces, was married to an Iraqi woman—they have five children—the Iraqis targeted him with pressure to collaborate. When he refused, they killed him. "Because my sister-in-law was pregnant, she fled to Iraq with her children to wait out the war. We have had no news from them and would like to bring them back, but we have been told that was impossible. Despite the fact that my brother worked and died for this country, his martyrdom was not recognized. His children are not allowed back into their father's country, where all his family lives." "We do not want citizenship; we just want simple human rights. If we have harmed Kuwait in any way, I wouldn't object to being thrown out. But we haven't. Why are we not allowed to travel? We no longer get laissez passers. Why can't I be allowed to drive my car? Why do I have to register my car under someone else's name because I am Bedoon. I am lucky because my sister is a Kuwaiti citizen so I can register my car under her name; I wouldn't be able to trust strangers."⁹⁵
- Zaina is a thirty-two-year-old Bedoon woman whose mother is a Kuwaiti citizen and whose father is deceased. After she finished her training as a nurse at the Institute of Health Education, she worked at Ministry of Health hospitals. She was dismissed after the war and has not been rehired. She wanted to register in the university but was not permitted

⁹⁵Human Rights Watch interview, Kuwait, January 1993.

because she was a Bedoon. She lives in "constant fear" because she is a Bedoon and considered an illegal resident. Her grandfather should have been granted first class citizenship since he was "one of the people that built the wall protecting Kuwait" in 1920. She has three sisters who are married to Kuwaiti citizens, and will probably eventually become citizens themselves. She has a full brother who is a Bedoon and unemployed and a half brother who is a citizen because his father is a Kuwaiti citizen. Zaina lives with her Bedoon brother and his family, all Bedoons, in a government-provided house under their mother's name, since she is a citizen. However, when she passes away, they will lose their right to the house, which will have to revert to the state. "My main concern now is my brother's small kids. I do not want them to go through what we went through because of my father's ignorance; he believed that because he had lived in Kuwait all his life and was loyal to it, he did not need to prove his citizenship through a piece of paper." Zaina said that she and her family presented their case to a number of committees and officials "but something always happens to cause the decision-making process to break down—a terrorist attack on the Emir, the Iraqi invasion...etc." Referring to the fact that her mother, although a citizen, could not pass on her citizenship to her children, Zaina asked, "Why is it that when a Kuwaiti male citizen marries a non-Kuwaiti, she gets the nationality even if she is an alien to the whole Arab world, whereas a Kuwaiti woman who marries a longtime resident of Kuwait she gets nothing?"⁹⁶

⁹⁶Human Rights Watch interview, Kuwait, January 1994.

- Ali is a twenty-eight-year-old Bedoon former government official. Before the invasion, he held a high-level management position in the Ministry of Communications, from which he was dismissed with the rest of the Bedoons after the war. After liberation, "they wanted me to work as an office boy at a fraction of my previous salary because I am a Bedoon." He refused and tried instead to enroll in the university, but there he was rejected because he is a Bedoon. He is able to support his family because his sister works. "Other Bedoons are not as lucky and they scarcely have enough money to buy milk for their infants," he said. He thought that because during the occupation he worked in the resistance, and his comrades would testify to his loyalty, he would have been treated differently.⁹⁷
- Ayed is a forty-nine-year-old Bedoon former police sergeant. He is living with his brother, who has been rehired by the army. Ayed was dismissed with the rest of the Bedoons after the war and has not been reinstated. He has been unemployed for three years. He also lost his government-provided house since he was not rehired. "I saw many Bedoon families evicted from their military homes, where many are out on the street. Some stay in their homes, even after the government disconnected electricity and water."⁹⁸
- Khaled, a twenty-eight-year-old Bedoon, said that when his father was not rehired by the army, he had to surrender his house, driver's license, laissez passer, ration cards and health cards. If he did not return all these, he could not collect his severance pay. Unlike citizens, Bedoons no longer are entitled to military pensions. Now his father is threatened with

⁹⁷Human Rights Watch interview, Kuwait, December 1993.

⁹⁸Human Rights Watch interview, Kuwait, January 1994.

deportation "like the rest of the Bedoons who are not on active duty, if he has as much as a traffic violation, he may be deported." [I2]

- S.M, a Bedoon artist, said, like many others, that the problems faced by the Bedoons were exacerbated after the Iraqi invasion. He was born in Kuwait in 1953; his father died before he was born. He graduated from Kuwait University in 1975 to face a major shock: Because he was Bedoon, he could not pursue graduate studies, although he graduated near the top of his class. He became a teacher instead. With the Iraqi invasion, Bedoons became easy targets for the Iraqis. Whereas citizens' IDs did not specify jobs, allowing their bearers to hide their real occupation, Bedoon IDs specified the job. Thus Bedoons who were in the military or security forces were easily picked up by Iraqi checkpoints if they tried to move about the country. He had two nephews who were taken prisoner this way. A third nephew joined the Kuwaiti armed forces based in Saudi Arabia. So during most of the occupation time, he had to care for their families. But the Bedoons did not receive the same assistance that Kuwaiti citizens received from the Kuwaiti government-in-exile; Bedoons had to fend for themselves. He lost a brother who died in the hospital, because of "insufficient food during the occupation." [I5f]
- S, a school teacher, remained in Kuwait during the occupation. On September 1, the day the Iraqi government announced that death was the penalty for not registering with the Popular Army, he called senior officials in the occupation-run Ministry of Education to inform them of his decision to join the boycott of classes that was called for by the Kuwaiti government-in-exile. "I didn't teach for four days. On September 4, at 10 p.m., Iraqi forces came to my house and called me by name." He was detained and severely beaten. He was accused of incitement to civil disobedience. He was released, but threatened with further torture if he did not return to teaching. "I wanted to flee to Saudi Arabia, but Iraqi border guards required that you surrender Kuwaiti IDs and passports, which he didn't have." He subsequently reported to his school for fifteen days, while he tried to find ways to leave. He secured a leave of absence to care for his family, but he was arrested again in November and tortured. In all, he was detained four times by the Iraqis for participation in passive resistance to the occupation. However, because he reported to work for

- fifteen days, some accused him of "collaboration." After liberation, he was told that he could not go back to his job because of that charge."⁹⁹
- "Some colleagues go to Saudi Arabia or Jordan, where they can become citizens if they can identify with a certain tribe and the tribal leader accepts money, or just takes pity on them, to provide help. But this is my country. I've made many sacrifices. Yet my daughter was refused entry to school, although I'm a teacher." This man has a 1959 certificate from the Ministry of Education stating that his nationality is Kuwaiti. "Only human rights groups are concerned with the Bedoons, not political parties, since they can't win on that platform. I don't want to work until I have a nationality. I can forgive my father and mother for not taking citizenship as they were illiterate. But I can't forgive myself (nor will my kids forgive me): I want my kids to remember me and pray for me at the Day of Judgment, not curse me. But my kids will curse me. When my youngest daughter was not able to go to school, she was upset: and I wished I hadn't married and had kids. Should we put our children through what we suffered?"¹⁰⁰

THE GOVERNMENT POSITION

⁹⁹Human Rights Watch interview, Kuwait, January 1994.

¹⁰⁰Human Rights Watch interview, Kuwait, January 1994.

Prior to the change in policy that took place in 1985, the official Kuwaiti position had been that the Bedoons were lawful residents of Kuwait whose claims to citizenship were being considered. Frequently during that period, Kuwaiti officials promised that the Bedoons would soon be granted citizenship. Those promises were repeated especially during times of crisis. According to a Kuwaiti expert, one of the intended goals was perhaps to solidify the home front, since the army and internal security forces were dependent on the Bedoons, who formed the majority of their ranks.¹⁰¹ During the period before 1985, Bedoons were treated as citizens in terms of residence requirements, travel and access to government services. They were also employed by government agencies, especially the military and police, in the same manner as Kuwaiti citizens. Unlike foreign workers, Bedoons were hired on a permanent basis, not on fixed-term contract.

In 1985, when the government adopted its anti-Bedoon policies described earlier in this report, the official position changed overnight. The policy details were kept secret, but its effects were felt as it was implemented gradually over the following months and years.¹⁰²

¹⁰¹Human Rights Watch interview, Washington, DC, June 1995.

¹⁰²Some of the details of the policy and its rationale were revealed when excerpts of a lengthy exposition of its terms given by Shaikh Salem were published in *Al-Azminah Al-Arabiyya*, a United Arab Emirates monthly, May-June 1990. Human Rights Watch obtained a full transcript of the speech.

The new position was that Bedoons were illegal residents who were not entitled to citizenship or residence in the country. Unless they were able to produce citizenship documents, Bedoons were threatened with deportation. Because most Bedoons do not have any citizenship documents, no country could be found to which they could be deported and the government was not able to carry out its threats. During the chaos immediately following the end of the war, several hundred Bedoons were expelled; security forces simply bused them to the Iraqi border and left them in a mine-infested strip of desert.¹⁰³ However, as international monitoring organizations established themselves in Kuwait in the months following the war, the government was not able to carry out additional mass expulsions. Since the end of the war, it has issued 24,000 "administrative expulsion" orders, according to official public statements.¹⁰⁴ But it appears that most have not been carried out.

In interviews with Human Rights Watch, Kuwaiti officials dismissed the issue of Bedoons as one of immigration control. Sulaiman al-Shaheen, Undersecretary for Foreign Affairs, said that there was no such thing as people "bedoon jinsiyya," because everybody must have come from somewhere. In his view, Bedoons came from elsewhere and had Iraqi or other passports. He asserted that although those passports might have 'disappeared', they were registered in government records, an assertion that the Kuwaiti government has so far failed to substantiate. The issue is an internal matter, according to Al-Shaheen, who said that he believed that Kuwait had the right to protect its borders and prevent people, including the Bedoons, from taking advantage of the government's leniency.¹⁰⁵

This view was echoed by another government official who said that the Bedoon "problem" resulted from the leniency on the part of the authorities in the past towards illegal immigration. Because the benefits given to Bedoons were similar to those accorded Kuwaiti citizens, some foreign residents hid their original documents. There were, according to this official, "inconsistent decisions. While the government conferred citizenship on Bedoons who did not qualify, other Bedoons who were more deserving legally were denied citizenship."¹⁰⁶ According

¹⁰³See Human Rights Watch, *A Victory Turned Sour*, pp. 43-54, for details of these expulsions.

¹⁰⁴Administrative expulsion is ordered by the Ministry of Interior without judicial process. It is not subject to judicial review.

¹⁰⁵Human Rights Watch interview, Kuwait, April 1991.

¹⁰⁶Human Rights Watch interview, New York, April 1995.

to another official, the government was planning until the 1970s to grant citizenship to Bedoons, "but when it realized the large numbers of Bedoons involved—everybody wanted Kuwaiti citizenship—it did not go ahead with its plan."¹⁰⁷

Shaikh Saud Nasser al-Sabah, Minister of Information and official spokesman for government policy, summed up the government policy in an interview with a regional newspaper:

¹⁰⁷Human Rights Watch interview, New York, April 1995.

"There is no such people as "Bedoons." Everybody has an origin; no one comes from a vacuum. Every person has a father and a grandfather and comes from a specific family... This Bedoon phenomenon started in Kuwait many years ago when some people were smuggled here from outside. They would throw away their documents—passports and foreign identity cards and live in Kuwait, claiming that they were without any documents, or Bedoon..."¹⁰⁸

In a February 1994 speech before the Foreign Press Association in London, Shaikh Saud repeated this thesis,

"Everybody has a father and a grandfather. Nobody grew out of the desert without an ancestor. They are benefiting from the social services. Many people come across the border and destroy their existing nationality papers and claim they are stateless. If they had to pay income tax and if there was no free medical care or education in Kuwait there would be no more Bedoon. Some people from the Arabian Peninsula may have been denied citizenship unjustly; we will look into those cases and they will be granted citizenship."

Major General Abdullatif al-Thuwaini, who heads the government's central committee on the Bedoons, echoed this view when he too said, "There are no Bedoons in Kuwait, but rather thousands of people who are residing in the country illegally."¹⁰⁹

Brigadier Ya`qoub al-Mehaini, head of the Investigation Department at the Ministry of Interior, the main government agency in charge of implementing policies towards the Bedoons detailed the official view in interviews with Human Rights Watch. He gave the official explanation of the origin of the Bedoon problem: "[T]he problem began in the late 1940s, immediately following the beginning of the oil boom. Because the population was small, the Kuwaiti labor

¹⁰⁸Khalil Matar, "Kuwaiti Information Minister," *Asharq al-Awsat*, January 9, 1993. Similar views were expressed by Sulaiman al-Shahin, Undersecretary of Foreign Affairs, in interviews with Human Rights Watch.

¹⁰⁹Kuwait Review, February 15, 1994.

force was too small to run the expanding economy. Kuwait had to bring people from neighboring countries to work in security posts and other positions. At the time, residency procedures were lenient so one did not need a permit or passport to get residency and many of them came without official documents." He acknowledged that during the period preceding 1985, "these people were given special benefits. Residency regulations were applied to everyone except these people who were treated as Kuwaiti citizens." He said that this policy encouraged more to come to Kuwait. Once they were in Kuwait, they said that they too had no documents.

He justified the new policies against the Bedoons on security grounds: "Currently Kuwait is passing through a very sensitive period. The presence of these people in Kuwait might produce dangerous influences on security and stability, especially since most of them are unemployed."¹¹⁰

Brigadier al-Mehaini agreed that a solution is needed, but explained that the overriding concern is security: "Humanitarian aspects are taken in consideration but we put Kuwait's security and stability first. Regarding Bedoon spouses of Kuwaiti women, he said: "If these men do not commit any crimes they are given a chance to stay, but if they have done something wrong or seem dangerous to the security and stability of the country they are deported. Those about whom there was any doubt that they collaborated with the Iraqi regime were considered dangerous to security and were deported." He also acknowledged that "All [of these] deportation orders were made by the Minister of Interior. They were not necessarily tried before being deported if they were deemed dangerous to the security of the country, although there are exceptions. A would-be deportee or his family may submit a petition to the Minister of Interior before the deportation. Petitions are looked into and based on further investigation the pardon may be granted."¹¹¹

Kuwaiti officials cite the fact that many Bedoons fled to Iraq during the occupation as proof of their Iraqi origins. But Bedoons who stayed in Kuwait throughout the occupation explained to Human Rights Watch why most Bedoons who fled Kuwait during the occupation ended up in Iraq. Most citizens who fled Kuwait left to Saudi Arabia. The Iraqi occupation authorities required travellers to Saudi Arabia to surrender their passports and identification cards at the border.

¹¹⁰Unemployment of the Bedoons is mostly due to government policies denying them the right to work.

¹¹¹Human Rights Watch interview, Kuwait, January 1993.

Since the Bedoons did not have these documents, the only place to which they could leave was Iraq, for no documents were required to enter Iraq proper after it annexed Kuwait as its 19th province. According to those interviewed by Human Rights Watch in Kuwait, most of the Bedoon population remained in Kuwait until just before the war started on January 17, 1991, when they sought refuge in Iraqi villages and other remote areas where they thought the fighting would not spread.

Another reason that many Bedoons ended up in Iraq was that some have relatives among the tribes of Iraq. Shammar and Aneza, the two largest tribes in the region, are spread between Iraq, Kuwait and Saudi Arabia.

One Bedoon interviewed by Human Rights Watch challenged the accusation of Bedoons' sympathies towards Iraq: "Some Kuwaiti officials may say or even believe that most Bedoons have Iraqi origins; but when Iraq invaded on August 2, the Bedoons opposed Iraq. If they felt loyal to Iraq, they could have fought with Iraq."¹¹²

Another Bedoon interviewed by Human Rights Watch believed that "the real reason for denying the Bedoons citizenship is that the government does not want to share the wealth." A minority of Kuwaiti citizens share the government's position on the treatment of the Bedoons and now justify it by blaming the military defeat on the Bedoons—who constituted the majority of rank and file in the army although not the officers.¹¹³

The Kuwaiti official position is also at odds in many of its details with the views of most Kuwaitis interviewed by Human Rights Watch on this subject. Kuwaiti lawyers, academics, human rights activists and ordinary citizens interviewed reject the idea that Bedoons should be treated as illegal residents and denied basic rights. They support measures to provide the Bedoons with a legal status so that they are able to resume their normal lives.

Dr. Badria al-Awadhi, former dean of the College of Law at Kuwait University and a prominent lawyer in private practice, told Human Rights Watch that she believed that the deportation of the Bedoon administratively violated human rights since it violates the Geneva Conventions of 1949. Dr. al-Awadhi, a feminist who also heads the Committee of Women Married to Non-Kuwaitis, said that the Bedoon should be granted their basic human rights as stipulated in the U.N. conventions on statelessness, which she believed were applicable to Kuwait. In addition to basic freedoms, they also lack economic means. Dr. al-Awadhi pointed

¹¹²Human Rights Watch interview, Kuwait, January 1994.

¹¹³Human Rights Watch interview, Kuwait, January 1994 and February 1995.

out that the Bedoons are forced to rely on assistance from charitable organizations and individuals: "I visited a family of twenty six members including three handicapped; all are unemployed and all are living in the same house under poor living conditions," she said in an interview.

After twenty years residency and the fact they are born in Kuwait, the Bedoons should be granted a legal status that could be defined... At the very least, citizenship laws should be applied equitably, Al-Awadhi said. For example, that the nationality law says that the son of a Kuwaiti women is treated as a Kuwaiti until he becomes an adult—a rule that is usually ignored.¹¹⁴

Abdul-Latif al-Du`aij, a liberal columnist who champions human rights, is a founding member of the Kuwaiti Association for Human Rights, a branch of the Cairo-based Arab Organization of Human Rights. He challenged the government's theory on the origins of the Bedoons:

There are three categories of the Bedoon: Families that are half-citizen and half-stateless; nomads, who traveled over open boundaries and did not apply for citizenship when it was possible to do so; and those who pretend to be Bedoons to take advantage of benefits accorded to the Bedoons, such as being exempted from residency fees, getting into government schools, and joining the armed or police forces. Many of the last category hid their original documents and began claiming that they were Bedoons. Because of the open borders, it was easy to move from place to place looking for a better economic situation and a more stable and open political system.

Al-Du`aij pointed out inconsistencies in the application of citizenship laws. For example, citizenship was frequently conferred not on the basis of equal legal entitlement, but in order to increase the number of government loyalists in certain electoral districts. He attributed some of the government's policies to "irrational fear" and obsession with security which Kuwaitis experience following the Iraqi

¹¹⁴Human Rights Watch interview, Kuwait, January 1993.

occupation. Although many Bedoons joined the resistance and defended Kuwait with their lives, the government pays attention to only Bedoons who collaborated.

The solution al-Du`aij suggested was to distinguish between these different categories of Bedoons. The Bedoon who have Kuwaiti relatives and were born in Kuwait should be given citizenship or at least permanent residence. Those who were nomads and settled in Kuwait and lost their sense of belonging to anywhere else should also be given residency permits.¹¹⁵

Dr. Moudhi al-Humoud, former dean of the Faculty of Commerce and a women's rights activist, also disagreed with government policy: "All Bedoons who were registered in the last census before the invasion should be given a nationality. The same for those who have Kuwaiti relatives; families should not be separated."¹¹⁶

¹¹⁵Human Rights Watch interview, Kuwait, January 1993.

¹¹⁶Human Rights Watch interview, Kuwait, January 1993.

Mubarak Al-Adwani, a prominent Kuwaiti journalist and political scientist, told Human Rights Watch that the government's position on the Bedoons borders on racism.¹¹⁷ "The government looks down on them—they say that they are not from here; they have tattoos and dress differently. But rich Bedoons can win citizenship. For example, one Bedoon who was clearly from an Iraqi family was appointed a deputy minister of health. Many of the rich Bedoons were completely assimilated."¹¹⁸

Saoud al-Anezi, a leading Kuwaiti human rights activist and a sociologist who has studied the phenomenon of the Bedoons, also challenged the government's position.¹¹⁹ He attributed the predicament of the Bedoons to Kuwaiti residence and immigration laws, rather than to illegal immigration: "The 1959 Citizenship Law, which is still in effect, was the worst ever. Article 1 said that a person is Kuwaiti if he was in Kuwait before 1920.¹²⁰ Before it was amended, the law used to say that if a person was in Kuwait before 1945, he could be Kuwaiti by naturalization. But that was not honored. Instead, citizenship was granted by bribes, connections and sometimes at random. Most nomads living in Kuwait at the time felt uncertain about the wisdom of applying for citizenship. They feared that it would restrict their ability to lead their nomadic life as before. Most subsequently realized the dangers when Kuwait limited their eligibility to citizenship and the privileges that go with it.

Al-Anezi said that there are some who call themselves Bedoons but are not "real" Bedoons; they infiltrated into Kuwait, especially during the Iran-Iraq war, and claimed to be Bedoons to benefit from that status: jobs, access to schools and

¹¹⁷Kuwaiti officials privately mentioned that one reason for the reluctance to grant the Bedoons citizenship was that such action would affect the "demographic balance," because there are "too many" Bedoons. They also cite the high birth rate among the Bedoons as cause for concern.

¹¹⁸Human Rights Watch interview, Kuwait, January 1993.

¹¹⁹Al-Anezi was one of the founders of the Kuwaiti Association for the Defense of War Victims (KADWV), Kuwait's main human rights organization. KADWV was formed in March 1991, shortly after liberation and was officially dissolved in August 1993, but has continued its activities clandestinely. For more details on the Kuwaiti government's decision to close down KADWV, five other human rights and humanitarian organizations and dozens of other private associations, see Human Rights Watch, "Kuwait Closes All Human Rights Organizations," New York, August 1993.

¹²⁰1920 was the year the Jahra battle took place between Kuwait and the forces of Ibn Saud, who later became the first king of Saudi Arabia.

other benefits. But he emphasized that this small minority among them can be easily distinguished from the real (older) Bedoons by referring to the census, in which they were registered, including the census of 1965. He said that there are well-maintained records documenting who was in Kuwait and when.

The blame lies with the government, which gave Bedoons the hope of becoming citizens. Kuwaiti officials at the highest levels repeatedly promised that the Bedoons would be naturalized. In 1970, the National Assembly authorized the government to grant citizenship to all Bedoons born in Kuwait and who remained in the country until they completed high school. But that was enforced for one year only." In 1985, the government adopted a totally different strategy: to get rid of the Bedoons. This was implemented in the case of those who were not employed in the armed forces or the police. They were dismissed from their jobs, denied national ID cards, denied the right to work or to send their children to school, denied the right to buy property—a drastic squeeze to force them to show their assumed "real" citizenship. Only those who produced foreign passports were permitted to stay legally in Kuwait. Because some did in fact produce foreign passports, the government was encouraged to continue the squeeze. But in fact only a small number of them have foreign passports and identity cards. Now only those in the military or police get access to government schools or medical services.¹²¹

Another expert interviewed by Human Rights Watch argued that the true recent immigrants who are described as "false Bedoons" had already been expelled from Kuwait long before the Iraqi invasion of 1990; "In 1985, there was huge pressure on the Bedoons to produce documents and thousands of false Bedoons were eliminated from civilian ID records—thus the list is already cleared of impostors. Only real Bedoons remain."¹²²

National Assembly

The National Assembly, Kuwait's parliament, was restored in October 1992, after six years during which it was dissolved by royal decree. Since it was

¹²¹Human Rights Watch interview, June 1995.

¹²²Human Rights Watch interview, June 1991.

restored, the Assembly has been quite vocal in a number of areas, especially issues of government malfeasance and mismanagement. On the Bedoons issue, the parliament appears to have deferred to the government, satisfied with the government's promises that it has been working on the problem.

Many deputies have expressed concern about lack of progress; Ahmed al-Sa'doun, the Assembly's speaker, described the problem of the Bedoons as a "time bomb" that needs to be defused. Interviews with several members of the parliament indicate that there is a diversity of views—from pro-government hardliners who support the policy of pressuring all Bedoons to leave the country, to more liberal deputies who support granting citizenship to Bedoons with close family relations in Kuwait and permanent residence to large numbers of the Bedoons. Few support granting citizenship in large numbers, even among opposition deputies. Some in the opposition recall the time when the government allegedly manipulated citizenship decisions to change the structure of electoral districts. Since the Assembly is elected by only a small number of males—only 84,000 in the 1992 election, 14 percent of the citizen population, were eligible to vote—small changes in the number of eligible voters in any of the country's twenty five districts could change the outcome of the elections. Some members won their seats with fewer than a thousand votes cast.

Several deputies have sponsored initiatives to deal with particular humanitarian issues related to the Bedoons, such as calling for residence permits to be given to those Bedoons married to Kuwaiti wives. Privately, deputies interviewed by Human Rights Watch said that solving the problem of the Bedoons is not a priority for most deputies. Whether they are naturalized or not, under Kuwaiti law they would not be granted the right to vote, and as such are not part of the voting constituency of members of parliament. However, since it is quite common to find Kuwaitis (including voting "first-class" citizens) who have close relatives who are Bedoons, providing a solution has been an important electoral issue in some districts.

Bedoons interviewed by Human Rights Watch expressed disappointment that the National Assembly has not done more to address their concerns. One of them told Human Rights Watch,

None of the political groups in Kuwait is expressing public support for the Bedoons. Even the fundamentalists¹²³ aren't

¹²³Islamists from both the Muslim Brothers and Salafi lines represent the largest bloc of votes in the National Assembly.

taking a clear stand, although it is a purely humanitarian issue. Even charitable organizations such as Bait al-Zakat (the House of Alms)¹²⁴ have reduced their assistance to the Bedoons. They are stricter now.¹²⁵

¹²⁴Many Kuwaitis believe that the Bait al-Zakat is under the influence of Islamist politicians.

¹²⁵Human Rights Watch interview, Kuwait, December 1993.

Another Bedoon was especially critical of deputy Abbas Munawir, chairman of the powerful Committee for Defense and Internal Affairs: "During the election campaign, Abbas Munawir [a National Assembly candidate who was later elected] was talking about supporting the Bedoons. Now that he has been elected, he doesn't want to have anything to do with the issue."¹²⁶ After the election of 1992, Munawir, whose committee oversees internal and external security issues, has been quite vocal in his opposition to granting rights to the Bedoons.

Among members of the National Assembly who have questioned governmental policies regarding the Bedoons are Abdalla al-Naibari and Dr. Ahmed al-Khatib, the two deputies representing the opposition party Kuwaiti Democratic Forum, Abdel-Muhsin Jamal and Adnan Abdel-Samad, two independent Shi'a members of parliament.

Abdalla al-Naibari expressed strong criticism of the government policies regarding the Bedoons. He supports ceasing the repressive policies against the Bedoons and proposes granting them temporary residence until the issue is studied more fully. However, citing the lack of accurate information, he does not appear to support granting citizenship on a large scale.

There is a need for more studies, al-Naibari said, but in the meantime, the humanitarian part of the problem should be tackled, "especially after the strict measures that are being carried out against them. These policies have led to the Bedoons' being unemployed; not allowed to drive because their driver's licenses were not renewed; and put under virtually house arrest because they are afraid to go out of their houses and risk getting detained. They do not even have the right to get married officially, because the marriage is not certified if they do not have the proper citizenship documents. They are denied all their basic human rights."¹²⁷

On the issue of citizenship, "they say that they deserve it. But what is their legal status? It is an issue that needs to be studied. We need to know their numbers and specific and detailed information on their conditions. We only have general

¹²⁶Human Rights Watch interview, Kuwait, January 1994.

¹²⁷Al-Naibari pointed out that this condition of "house arrest", for example, does not apply to the Bedoons who are employed by the army and police.

information." However, there is a quick solution which consists of granting them a legal status that enables them to live without pressure, to get married and be employed, in the hope of eventually granting them residency in the country. "I think that they should be granted temporary residency, until their issue is discussed and solutions are found. A committee should be formed to provide long-term solutions and define their legal status." He, however, said that he had no knowledge of any serious effort on the part of the government to change its policies regarding the Bedoons.

On Kuwaiti women married to Bedoons, Naibari agreed that there was an urgent need to rectify their situation. Bedoons who are outside are not being allowed into the country to be with their children, while the children are not allowed to leave the country, despite the fact the mother is a Kuwaiti citizen. He believes that the children of these marriages and the husbands should be allowed residency and opportunities to look for work. "We are not asking that they be granted citizenship, but at least to give them a natural lifestyle and take advantage of their much needed vocational skills."

He strongly objected to the deportation of the Bedoons, which he described as "inhumane and unnatural." He also objected to the practice and conditions of detaining would-be deportees, including Bedoons: "It is not in our interest to detain Bedoons and place them in the deportation center. This is not the proper manner for treating the issue."

The National Assembly's Committee for the Defense of Human Rights has only rarely addressed the issue of the Bedoons. The committee, which was established in late 1992, has a very limited mandate and has frequently complained that the government was not responsive to its requests for information. In May 1995, Muhammed al-Marshad, the committee's chairman, resigned from the committee citing "lack of cooperation on the part of the government." While some committee members interviewed by Human Rights Watch expressed sympathy with the plight of the Bedoons, others, including Ahmed al-Nassar, its rapporteur, appeared less critical.

Al-Nassar appeared to justify the government's policies, except in the case of Bedoons who have close Kuwaiti relatives. "In the 1970s, when we looked at the problem, there were already two or three generations of Bedoons—parents, children and grandchildren. They were employed by the armed forces and police, and were promised many solutions that were never carried out."

Before the Iraqi invasion, the pressure had already begun on the Bedoons, al-Nassar said: "Civilians were being fired from their jobs in various government entities in an attempt to limit the growth of this problem. Ever since the Iraqi aggression, we have had a security dilemma. Now we believe that because of our

security needs, the solution to the Bedoon problem should be primarily based on security considerations. It is very easy to claim to be a Bedoon. The government should differentiate between them so that there will not be any injustice. I think they should refer to the last census taken before the invasion, which was conducted by the Department of Civil Information."

Al-Nassar urged that humanitarian assistance be provided to the Bedoons, whom he called "those with unspecified nationality," using the government's terminology. But he questioned their claims to Kuwaiti citizenship: "Many who have their original [foreign] identification documents are already revealing them. They had hidden their original [foreign] documents because the Kuwaiti government granted them important benefits, such as the same salaries as Kuwaitis, and exempted them from residency fees and many other benefits."

However, he said special consideration should be given—on a case by case basis—to those Bedoons with close Kuwaiti relatives or who have applied for citizenship but whose applications are still being processed.

CITIZENSHIP LEGISLATION

Since the parliament appears to have deferred to the executive branch, the details of the Kuwaiti government's policy are found in the citizenship and foreign residence laws, and in the practice of government agencies in treating the Bedoons. During the period government officials were promising to soon confer citizenship on the Bedoons, the government was passing laws and enforcing practices that made such an outcome more difficult. While Bedoons were being treated as citizens, their eligibility for formal citizenship was made more remote.

The citizenship and residency regulations in Kuwait represent a large body of laws that have been continually amended since Kuwait gained its independence in 1961. In almost all cases, amendments progressively restricted eligibility for Kuwaiti citizenship. Most of these regulations have rarely been seriously questioned by the National Assembly. In its public statements and replies to deputies' questions in parliament, the government defended the prerogative of the executive branch to establish the rules regulating all aspects of life for the Bedoons. The National Assembly, which has frequently challenged the government's financial policies and practices, appears to have relinquished its right to oversee the government's handling of the issues of citizenship and foreign residency.

The government agency charged with setting and implementing the Bedoon policy is the Ministry of Interior, which supervises the internal security apparatus. The following sections detail the changing law and practice regarding the Bedoons; how their status evolved from treatment as citizens in most aspects of their lives to what it is today—considered as illegal residents in their own country.

Principles of Kuwaiti Citizenship

Kuwaiti law is based mainly on a restrictive male-oriented doctrine of blood link (*jus sanguinis*), whereby citizenship is passed through a Kuwaiti father, but not mother, to offspring. This is consistent with local traditional kinship customs—a patrilineal system in which the familial and tribal identity is passed through the male. However, while most citizenship laws in the region make special provisions to prevent or reduce statelessness, Kuwaiti law does not.

The link to territory (*jus soli*) was considered mainly in determining the "founding citizens" of 1920. Only in the case of foundlings did the law recognize the territorial link as a criterion for conferring citizenship: "Kuwaiti citizenship is conferred on any person born in Kuwaiti to two unknown parents. A foundling is

considered born in Kuwait unless proved otherwise" (Article 3 of the Citizenship Law, as amended).¹²⁸

Kuwaiti citizenship laws became exceedingly restrictive through numerous amendments clearly aimed at denying citizenship to all but a small group of original Kuwaiti city inhabitants. All citizenship decisions are made by a special secret committee whose decisions are explicitly made exempt from judicial review.

The British Protectorate Period: the Law of 1948

In 1899, Mubarak al-Sabah, then ruler of Kuwait, signed a treaty with Great Britain accepting Kuwait's status as a "protected state" of Britain, thus severing Kuwait's tenuous ties with the Ottoman Empire. Until 1961, when it gained full independence from Britain, Kuwait enjoyed self-rule, including the authority to enact laws regulating internal matters.

During most of British rule, there was no specific law for Kuwaiti citizenship. For foreign travel, rulers of Kuwait issued passports and similar certificates identifying their bearers as associates of the Emir of Kuwait, thus facilitating their travel in neighboring states. Based on such papers, the British High Commissioner in Kuwait issued travel documents identifying their bearers as "British protected persons," i.e., nationals entitled to the protection of the British Crown. Kuwait's residents could then freely travel, without a visa, to Commonwealth countries, including Britain itself.¹²⁹

¹²⁸This is the text of the law as amended in 1980 and 1987. The implication of the current text is that such persons should petition to acquire citizenship, thus giving the government discretion on whether they may qualify. Citizenship acquired as such is of the second class, i.e., without political rights. Originally (in the 1959 text), a foundling was considered a citizen of the first class by force of law.

¹²⁹Clive Parry, *Nationality and Citizenship Laws of the Commonwealth and of the*

In December 1948, Shaikh Ahmed al-Jaber, then-ruler of Kuwait and father of the current Emir, issued a decree on citizenship, believed to be the first issued by Kuwaiti authorities defining citizenship.¹³⁰ Prior to that, loyalty to the Emir was the primary requisite for de facto citizenship. The borders of Kuwait were ill-defined and residents of the areas outside the city of Kuwait were nomads who for centuries traveled freely between the countries of the region.¹³¹ The ancestral lands of these tribes extended across modern day borders of Kuwait, Saudi Arabia, Iraq, Jordan and Syria. As the ruler of the city of Kuwait, with military assistance of Great Britain, the Emir extended his rule beyond the walls of the city to several thousand square miles; the ancestral lands of many tribes became parts of the territory of Kuwait. However, the Kuwaiti authorities were reluctant to extend Kuwaiti citizenship to these nomads and citizenship legislation clearly reflects this

¹³⁰According to a government document, this law was modeled after the Egyptian nationality law of 1929 and was never fully implemented (*The Collected Kuwaiti Legislation*, published in Arabic in Kuwait by the Department of Law, the Council of Ministers, 3rd Edition, Vol. 5, p. 219).

¹³¹Originally, "Kuwait," which means a small fortress, referred only to the town of Kuwait, a small trading port on the Persian Gulf where traders from the Arabian hinterland and met traders from India, Africa and Europe. From the 19th century, Kuwait gradually included large adjacent areas, mostly desert inhabited by nomads. The area of the state of Kuwait also incorporated a number of rural settlements in the north and south, such as Jahra, Wafra and Abdali. The final borders were not agreed upon until the 1960s. A border dispute with Iraq is still not fully resolved, although in 1993 the United Nations imposed a border that generally tracks the 1963 Iraq-Kuwait border agreement.

position. Only those who *settled* in Kuwait prior to 1920 were considered citizens by law. Nationality laws thus excluded from the beginning nomads who did not live a settled life.

Post-Independence Citizenship Law: the 1959 Law

Although the 1948 law put stringent conditions on acquiring citizenship, compared to the legislation that followed it remains the most liberal of Kuwait's citizenship regulations. In 1959, this law was superseded by Law No. 15, which made it more difficult to obtain citizenship. Law 15 continues to serve as the legal basis for Kuwait's citizenship legislation. Later amendments adopted in 1966, 1980 and 1986 added further obstacles to that process.

Article 2 of the Judiciary Organization Law of 1959 states that "Courts may not consider sovereign actions of the state." The government has long maintained that "sovereign actions" include citizenship questions. In the opinion of the Office of Legislation at the Council of Ministers,

Citizenship is a political and legal link between individuals and the state by which they are obligated to be loyal to the state and the latter is obligated to provide them protection. Therefore, any questions related to citizenship emanates from the very sovereignty of the state. By virtue of this sovereignty, the state alone determines who may be in its population. The state alone creates citizenship, and determines the conditions for conferring citizenship or obtaining it...It follows from this that questions related to citizenship are at the heart of the internal matters of the state. In addition, control of citizenship is a sovereign realm because it is closely related to public order. Therefore, under accepted general principles of law, domestic law has absolute freedom in regulating citizenship in the manner deemed appropriate to the welfare of the community.¹³²

¹³²April 29, 1974 memorandum (translated by Human Rights Watch). The Kuwaiti government view on citizenship as a purely sovereign issue is at odds with the prevalent principle stated in the 1919 Polish Minorities Treaty, the Treaty of Versailles, and the Hague Convention of 1930, and reiterated since by the International Court of Justice. Under that principle, although citizenship is a matter of domestic jurisdiction or reserved state domain, it is not an exclusive jurisdiction: the right of the state is conditioned by binding international law.

National Assembly members interviewed by Human Rights Watch expressed surprise at such views, which in effect meant that only the executive branch decided citizenship issues. Some questioned the advisability of shielding government decisions from judicial review. Others, cautious of expanding the power of the judiciary relative to parliament, advocated first streamlining the legislation itself.¹³³ Since most citizenship legislation was in fact issued by executive decree before the parliament was elected or during periods of its dissolution, they called for first revising the laws and strengthening parliamentary scrutiny of government decisions. Those interviewed agreed that there should be limits on the authority of the executive branch.¹³⁴

When government agencies started to treat Bedoons as foreigners, courts overruled government decisions in the few cases brought before them involving issues of Bedoon legal status. Since citizenship and residence issues are excluded by law from the competence of Kuwaiti courts, the court's only opportunities to look into the Bedoons legal status were when it related to some other issue brought before it. For example in 1987, a criminal court discussed legal status in the course of a criminal proceeding against a Bedoon:

¹³³They pointed out that judges are appointed by the executive branch, which exercises great influence on the conditions of their employment.

¹³⁴Human Rights Watch interviews with deputies Abdel-Muhsin Jamal, Adnan Abdel-Samad and others, December 1993 and January 1994.

It was established from the documents presented by the defendant's agent at the trial...that the defendant was born in Kuwait without citizenship (*bedoon jinsiyya*), and so were his wife and children... It is also known that individuals so described are residents of Kuwait who are commonly perceived as neither citizens nor foreigners. No evidence was presented [to the effect] that the defendant carried Iraqi citizenship or any citizenship other than Kuwaiti citizenship. For these reasons, the court ruled that the defendant's presence in Kuwait was legitimate, just as the residence of all the other citizens without citizenship is legitimate. Since his entry into the country was lawful and his residence thereof legitimate, the court finds the charge he was accused of without basis in the law and he therefore is declared not guilty.¹³⁵

In another case in 1988, the Appeals Court rejected the government's attempt to treat a Bedoon as a foreigner in the application of the Foreign Residents Act of 1968, and recognized the special status to which the Bedoons were entitled. In an important decision in June 1988, the Appeals Court ruled:

There is no doubt that the foreigner who is subject to deportation according to Article 79 of the Penal Code and the Foreign Residents' Act is the foreigner who belongs to a state other than the State of Kuwait and carries the citizenship of that state. Non-Kuwaiti residents of Kuwait who do not belong to another state and do not hold its citizenship but who are deprived of Kuwaiti citizenship for one reason or another—but enjoying nevertheless the same privileges as Kuwaiti citizens, except for those privileges that derive directly from citizenship—are treated in a special way that is distinct from the treatment of foreigners. They cannot be legitimately considered foreigners in applying Article 79 of the Penal Code or the Foreign Residents Act.

¹³⁵Criminal Court (Felony Circuit), Decision No. 68/87, Dec. 7, 1987, in the case No. 4910/87, Abdali (Translation by Human Rights Watch).

Although Kuwaiti courts did occasionally look into citizenship claims, when considering criminal cases where the nationality of a defendant was relevant, courts in general adhered to the government's policy. They refrained from hearing cases contesting official decisions related to citizenship.

In 1981, in response to a growing need to settle disputes arising from government decisions, the Administrative Court was established. However, Article 1 of the decree establishing this court explicitly excluded from the court's competence questions related to "citizenship and the residence and deportation of aliens."

Immune to judicial review, the government freely amended citizenship regulations to make obtaining citizenship progressively more difficult or deny it altogether to those it deemed not suitable to be citizens. Once more restrictive amendments were adopted, the government denied citizenship to those residents who had qualified under previous laws, despite the fact that it was usually government inaction which resulted in their not obtaining citizenship. In response to the pressure of a growing number of applicants fulfilling legal requirements for citizenship, the government repeatedly amended the law make it successively more difficult to qualify.

Holding to an unusual understanding of the origin of the right to citizenship, the government maintains that this right is established by government decree conferring citizenship. It rejects the notion that the right to citizenship is vested by the law itself and not by the governmental action implementing it. The government consequently maintains that these amendments, which strip individuals of vested rights, were in fact not applied retroactively, since there were no rights vested before they were adopted:

The general rule is that the new law applies immediately to events occurring and legal statuses forming after it is issued. Citizenship status is in fact created by the specific decree conferring citizenship on the individual. Therefore, the status of an applicant who has fulfilled all legal requirements for citizenship may be changed by law at any time. This applicant may not argue that he has acquired a right to be treated according to the old law, under which he fulfilled legal requirements, since no decree was issued granting the applicant specifically the right to be a citizen prior to the promulgation of the new law.¹³⁶

¹³⁶Opinion of Legal Bureau, April 1974, translated by Human Rights Watch.

The frequent amending of the law progressively stripped previously qualifying large groups of residents of their right to citizenship. The Kuwaiti citizenship law is one of the most frequently amended of Kuwaiti laws: The 1948 law was replaced by the 1959 law which was subsequently amended in 1960, 1965, 1966, 1972, 1980, 1982, 1986, 1987 and 1993. Some of the key amendments were:

- An amendment adopted in 1980 denied citizenship to children of Kuwaiti women and stateless fathers. The new rule was applied to those children who were born before the amendment, despite the fact that the 1959 law explicitly stated that a child born to a Kuwaiti mother is considered a citizen "if the father is unknown, his paternity unproven, of unknown nationality or stateless."
- 1948 law authorized the granting of citizenship to certain classes of foreigners if they maintained residence in Kuwait for five years. This period was increased to eight years in 1959, to ten years in 1966 and to fifteen years in a 1980 amendment.
- Under the 1959 law, eligibility to vote for naturalized citizens was obtained ten years after acquiring Kuwaiti citizenship. This period, during which these citizens may not vote or run for office, was extended to twenty years in a 1976 amendment and to thirty years in 1986 and 1987 amendments. The result has been that since Kuwait gained its independence in 1961, no naturalized citizen was ever permitted to vote, regardless of how long he had lived in Kuwait or for how long he had been a citizen. All women in Kuwait, whether or not "first class" citizens, are denied the vote.

Classes of Citizenship

Kuwaiti law recognizes eligibility for full citizenship (in contrast to a right to citizenship per se) to only a small group of individuals who satisfy an elaborate set of conditions. Others may be granted a lower grade of citizenship with circumscribed rights that may be stripped fairly easily.

Under Article 1 of the 1959 Citizenship Law Kuwaiti citizens (of the first class) are those who had settled in Kuwait prior to 1920, and their descendants, provided that the father is a Kuwaiti citizen of the first class. Children of Kuwaiti mothers and foreign or stateless fathers are not considered citizens of Kuwait. According to the official interpretation of the Citizenship Law, the year 1920 was chosen because in that year, residents of Kuwait erected a wall around the city to defend it against nomadic militias (supported at the time by Ibn Saud, King of Saudi

Arabia).¹³⁷ The interpretation reveals the government's belief that those who lived outside the walls of the city, but within the territory of the country, were not entitled to full Kuwaiti citizenship.

The requirement of settlement, instead of simple residence, is in contrast to most citizenship laws of the region. It was also a departure from the 1948 law, which required only residence. While continued residence could be relatively easy to demonstrate, settlement requires a more complicated proof, as it is related to intention. This distinction, which was emphasized early on by the Legal Bureau of the Cabinet, resulted in the rejection of many applicants because, although petitioners could prove continued residence in Kuwait, they were nomadic, moving around in the desert, following the annual pasture cycle. Others were rejected because they could not prove that they *intended* to settle in Kuwait. The decisions were made by a committee in the Ministry of Interior whose decisions were final. According to former committee members, the committee relied on informal methods such as quizzing applicants about the names of their neighbors or the imams of their mosques. If the applicant could not remember or appeared to have been coached, he was turned down. This arbitrary method resulted in anomalies whereby one man was accepted as citizen of the first class, his brother received second class citizenship and a third was rejected for citizenship altogether. Similarly, some individuals were accepted as citizens but their adult children were not, even when the children were born in Kuwait and lived with their fathers all their lives.

Applicants were informed if they were approved. If they did not satisfy the committee, they were either declared foreigners or issued documents stamped "*Bedoon Jinsiyya*" (without citizenship). By virtue of this classification (shortened later to Bedoon, or without), Bedoons were permitted to live in Kuwait and treated

¹³⁷The year 1920 was also significant for the signing of the treaties between the First World War allies and Turkey that ended the latter's claims to most territories in the Middle East. Before these treaties, residents of these countries were in general entitled to Ottoman citizenship. The Allies attempted to fill the citizenship vacuum by encouraging emerging states and mandate powers to grant citizenship to residents of their territories.

as citizens regarding residence, employment, travel and military service. They were also treated as citizens in receiving free education, health care and welfare.

Procedures for Citizenship Applications

Since 1960 the government has formed ad hoc committees to consider applications for citizenship. While the structure of these committees changed several times, their basic mandate and authority has remained unchanged. Under current regulations, applications for citizenship are submitted first to the Minister of Interior who has full discretion whether to refer the application to a committee to examine the application. If this committee deems the applicant deserving of citizenship, it issues a recommendation to another committee headed by the Minister of Interior, whose decision is final. While the lower committee reportedly concentrates on evidentiary and legal aspects, the higher committee examines political and security considerations. Regulations governing these committees give them near complete discretion and shield them from any form of judicial review. The first committee was formed by the Emir's Decree No. 5 of March 1960, which has been amended several times. A significant amendment issued in 1980 (still in effect) stipulated that applications should be submitted first to the Minister of Interior, who was given full discretion to reject the application or refer it to the advisory committee. Other than during brief periods in 1960 and 1980, these committees have been inactive. Most applications were simply received by the Ministry of Interior and shelved.

Successive Amendments to Limit Eligibility

Had the 1948 Citizenship Law or the more restrictive Citizenship Law of 1959 been implemented in good faith, without successive amendments aimed at denying qualified applicants their right to citizenship, most of today's Bedoons would probably have been naturalized a long time ago:

- Before it was amended, Article 3 of the 1959 law gave first class citizenship to those born in Kuwait or abroad to Kuwaiti mothers, when the father was stateless or of unknown citizenship. This provision, which apparently was never applied before it was repealed in 1980, would have recognized the right of a large proportion of the Bedoon community to citizenship.
- Article 4 would probably have provided for the naturalization of most of the Bedoons had it been implemented before it was amended. Originally, a foreign resident could qualify for citizenship of the second class if he maintained residence in Kuwait for fifteen years, reduced to eight years for

an Arab resident. Since there was never a dispute that most Bedoons had resided far longer than the periods stipulated, they could have qualified easily, had this provision been put in force. Instead, when it was found that many Bedoons could qualify under Article 4, the conditions were made more difficult and, starting in 1966, naturalization under Article 4 was stopped altogether.

- Article 5, which regulated "exceptional" naturalization could have benefited thousands more Bedoons. Instead, its provisions were first only sporadically applied, then amended several times to prevent this outcome. For example, Section 3 of Article 5 gave the government discretion to grant citizenship to "those born in Kuwait who maintain their normal residence in Kuwait until they reach the age of majority, provided that they complete secondary education in Kuwaiti schools, are of good character and reputation and possess no other citizenship." However, in 1980, after 294 Bedoons were naturalized under its terms, section 3 was repealed altogether. To justify its repeal, the government cited "serious ill effects resulting from this provision".
- Article 5(2) authorized conferring citizenship on children of Kuwaiti mothers who were widowed or divorced.¹³⁸ According to a Kuwaiti academic who has studied this phenomenon, this provision was rarely applied¹³⁹—a fact confirmed by Human Rights Watch interviews with many Bedoons who are children of Kuwaiti mothers.¹⁴⁰

Naturalization

Decree No.5 of March 1960 requires that an applicant for citizenship be eighteen or older, although some exceptions are provided for. The effect of this is that minors could not seek to prove their citizenship or have petitions made on their behalf, thus remaining stateless for an important period of their lives, denied the rights and privileges accorded to citizens. If the law was amended during this waiting period, as was frequently the case, it was made even more difficult for them to qualify once they reached the age of majority.

¹³⁸Before it was amended, this provision applied to estrangement as well, i.e., separation without divorce. A 1980 amendment dropped this provision.

¹³⁹Interview, Jan. 1994, with a Kuwaiti authority on this phenomenon.

¹⁴⁰See the section above on case studies.

Naturalization is governed by articles 4, 5 and 8 of the Citizenship Law. Article 4 regulates "normal" naturalization; Article 5 "extraordinary" forms and Article 8 the right of foreign women married to Kuwaitis to acquire citizenship. In all of these cases the law gives the government complete discretion on granting citizenship: it must be confirmed. The text was revised several times to make eligibility more difficult. Article 4 in its present form authorizes the granting of citizenship under several conditions, including the following:

- Lawful residence in Kuwait for twenty consecutive years or fifteen for citizens of an Arab League country, up from fifteen and eight in earlier versions.
- Applicant must be Muslim by birth. If Muslim by conversion, residence eligibility period begins five years after conversion.¹⁴¹
- Applicant must know Arabic.

¹⁴¹Islam as a condition was added in a 1982 amendment.

The law emphasizes lawful residence. Unlawful residence, no matter how long, does not count for eligibility for citizenship, according to the government interpretation.¹⁴² Before the government changed their status, the Bedoons were of course considered legal residents. In a letter to the parliament, Shaikh Salem al-Sabah, Minister of Interior said:

Since stateless residents are exempted from the Foreign Residence Act of 1959 and its subsequent amendments, they are considered to have resided in Kuwait lawfully, despite the fact that they do not carry valid foreign travel documents or Kuwaiti residence permits.¹⁴³

In practice, only a limited number benefited from Article 4. Between 1966 and 1980, for example, the law limited the number to be naturalized under this article to fewer than fifty. According to Kuwaiti officials, only a handful have been naturalized after 1966 under the terms of Article 4.

Most naturalization took place between 1960 and 1966 under the terms of articles 5 and 8, before they were amended. Article 5 regulates "exceptional", extraordinary naturalization, which permits naturalizing:

- Those who provided significant services to Kuwait.
- Children of a Kuwaiti mother whose foreign husband is dead or whose marriage is dissolved, upon their reaching the age of majority, provided that the children maintain continued residence in Kuwait until they reach

¹⁴²According to the authoritative Interpretative Memorandum of Citizenship Law, published by the Council of Ministers in the *Collected Legislation*, Vol. 5, p. 224

¹⁴³In response to a question from the National Assembly on the meaning of "lawful residence" as it applies to the Bedoons (letter No.339/6/8, dated January 11, 1986).

majority and that they are Muslim and know Arabic. If they were not born in Kuwait or did not maintain continued residence in Kuwait until the age of majority, these children do not qualify.

- Foreigners who have maintained continued residence in Kuwait since 1930 (the year is 1945 for citizens of Arab League countries), provided that they are Muslim and know Arabic.¹⁴⁴

The right of foreign women to acquire Kuwaiti citizenship through marriage to Kuwaitis also went through significant changes. In the 1948 law, a woman had the right to Kuwaiti citizenship immediately following the marriage. The 1959 law required a one year waiting period, extended to five years in the 1966 amendment. In a major 1987 amendment, the waiting period was extended to *fifteen years from the date a woman declares her desire to acquire Kuwaiti citizenship*.

¹⁴⁴Islam was added as a condition in by Decree No. 100 of 1980, which required that the applicant was either born Muslim or converted to Islam at least five years prior to applying.

Prior to adding Islam as a condition to acquiring citizenship, fewer than one hundred non-Muslims had been granted Kuwaiti citizenship, according to government sources.¹⁴⁵ The small number of Kuwait Jewish families had all emigrated by the mid-1950s, according to Kuwaiti officials interviewed by Human Rights Watch. If a naturalized citizen converts from Islam, citizenship is revoked retroactively, according to amendments to articles 4 and 5. This means that the convert's dependents, who may have acquired Kuwaiti citizenship through him, lose their citizenship, regardless of their religion.

As mentioned earlier, in 1972, the National Assembly adopted one of the few amendments that aimed at easing the conditions of acquiring citizenship. It authorized the conferral of second class citizenship to Bedoons born in Kuwait, provided that they maintained uninterrupted residence in the country until the age of majority and attended school until the end of secondary education in Kuwait. In 1980, after the parliament was dissolved, this law was repealed by decree. Only 294 Bedoons benefited from the law while it was in effect.

¹⁴⁵In 1982, the Minister of Interior informed the Parliament that by the end of 1981, only ninety one non-Muslims had acquired Kuwaiti citizenship. Of those, six had either lost their citizenship, died or converted to Islam.

Until 1980, Kuwaiti law was premised on the notion that a married woman's nationality is essentially that of her husband's, regardless of where they may choose to live.¹⁴⁶ A Kuwaiti woman automatically lost her Kuwaiti citizenship if she married a foreign husband: "A Kuwaiti woman who marries a foreigner shall be considered of her husband's nationality. If the law of her husband's state does not permit such acquisition, she may petition within a year of marriage to retain her Kuwaiti citizenship" (Article 10). Although this rule was amended in 1980 to permit Kuwaiti women to retain their original citizenship regardless of their husband's nationality, the original rule still appears to underlie other provisions related to the different legal treatment for Kuwaiti males who marry foreign spouses. The citizenship of minors is determined by the status of the father only: if a Kuwaiti father becomes a citizen of another country, his minor children lose their Kuwaiti citizenship, regardless of whether their mother retained her Kuwaiti citizenship.¹⁴⁷

Political Rights of Naturalized Citizens

Naturalized citizens, i.e., those who acquire citizenship according to articles 3, 4, 5, 7 or 8 of the Citizenship Law, may not vote in any parliamentary election post before thirty years from the date they obtained Kuwaiti citizenship (or July 6, 1966, whichever comes later).¹⁴⁸ An amendment to the Citizenship Law further stipulated that naturalized citizens may not be appointed or elected to any parliamentary position, regardless of how long they have had Kuwaiti citizenship. This has been understood to mean a complete and indefinite ban on naturalized

¹⁴⁶The principle of "family unity" in citizenship, whereby the husband's citizenship status was applied to the whole family was until recently the predominant doctrine in the Middle East, notwithstanding the 1957 U.N. Convention on the Nationality of Married Women, which enshrined in law the principle that a woman's citizenship status may not be altered because of marriage without her choice.

¹⁴⁷Within two years of reaching the age of majority, these children may petition to restore their Kuwaiti citizenship (Article 11, as amended).

¹⁴⁸In the 1959 original text, the waiting period was ten years. It was extended to twenty years in a 1966 amendment and to thirty years in a 1986 amendment. The 1986 amendment was passed by the National Assembly only few days before the Assembly was dissolved on July 2, 1986 and the right of all Kuwaitis to vote was cancelled, until October 1992, when new elections were held.

citizens from ever holding a seat in the parliament, the cabinet or municipal bodies of the country.¹⁴⁹ The unrestricted language of Article 6, stipulating the curtailment of political rights, includes those who are not usually thought of as naturalized citizens, such as foundlings or children of Kuwaiti mothers whose fathers are unknown.

¹⁴⁹In the original 1959 text, naturalized citizens were not banned indefinitely from holding elected or appointed parliamentary office. It set a waiting limit of ten years, similar to that for the right to vote. The 1966 amendment introduced the indefinite ban, which was reiterated in the 1986 and 1987 amendments to Citizenship Law.

The law, as it stands now, permits citizens who have been naturalized for thirty years to participate in elections taking place after July 6, 1996. The next elections for the National Assembly, the most important parliamentary body in the country, are scheduled for October 5, 1996. However, the Election Law requires that voters be registered in February. Requests to be included may be considered until March 20, and the final list of voters is to be published in the official gazette between April 6 and 15, 1996.¹⁵⁰ Unless these strict rules are changed or reinterpreted, none of Kuwait's naturalized citizens will be able to vote in the 1996 National Assembly elections.¹⁵¹

Involuntary Loss of Kuwaiti Citizenship

The Citizenship Law gave the government wide discretion to denationalize second class citizens. While some of the grounds on which one can be stripped of citizenship may be considered reasonable, such as fraud in the application, most are

¹⁵⁰Article 13 gives the right to contest the decisions of the Elections Committee to "persons with standing and voters listed in the list of voters in the district in question," no later than April 20. A judge seconded by the chief judge of a primary court decides these objections, no later than the end of June 30. Naturalized citizens could probably contest their exclusion before this judge, but it is not clear that such hearings could result in ruling in their favor, since their eligibility to vote will come after the period allowed for making these determinations.

¹⁵¹In addition, in the past, amendments were introduced to citizenship laws just as large groups of naturalized citizens became eligible to vote, to lengthen the waiting period, preventing them from participation.

not. For example, Article 13 was amended to authorize depriving a citizen of his Kuwaiti citizenship, "if the high interest of the state or its external security required that." Similarly, the law authorizes denationalization of a citizen "when the competent authorities possess indications that he has advocated ideas that may lead to the dismantling of the economic or social system of the country, or that he has joined a foreign political organization." In either case, dependents may also be denationalized.¹⁵² Following liberation in February 1991, many Kuwaiti citizens of Palestinian origin were arbitrarily stripped of their Kuwaiti citizenship under the authority of Article 13.

¹⁵²Even if they were not involved in the conditions leading to the denationalization.

GENDER DISCRIMINATION IN KUWAITI CITIZENSHIP LAW

Under Kuwaiti law a woman's right to citizenship is limited and contingent: She acquires it through her father or husband and may not pass it on to her offspring or spouse.¹⁵³ Decree No. 5 of March 1960, issued pursuant to Article 20 of the Citizenship Law of 1959, explicitly excluded married women from applying directly for citizenship. Only after they were widowed or divorced could they apply. Kuwaiti citizenship law, while largely based on the *jus sanguinis* principle, recognizes only the right of male citizens to pass on citizenship to their offspring. Similarly, while a foreign woman may be naturalized when she marries a Kuwaiti husband, a Kuwaiti woman may not petition to have her foreign or stateless husband naturalized.

Article 2 considers as a citizen a child "born in Kuwait or abroad to a Kuwaiti father." However, children of Kuwaiti mothers and foreign fathers are not considered Kuwaiti citizens. Citizenship (of the second class) may be conferred, under stringent conditions, on these children only if the marriage is dissolved: Article 5, as amended, authorizes the conferring of citizenship to "a child of Kuwaiti mother, who maintained residence in Kuwait until the age of majority, if his foreign father has died or divorced his mother."¹⁵⁴ In practice, as many who were

¹⁵³ A Kuwaiti woman's right of citizenship is limited in other ways as well. For example, regardless of the type of citizenship she has, a Kuwaiti woman may not run for elected office or vote in elections.

¹⁵⁴ Although the law is stated for male children, it applies equally to female children. However, Article 5(2), although stated in general terms, has been interpreted by the government to apply very narrowly. The limited exemption authorizing the naturalization of children of a widowed or divorced Kuwaiti mother does not extend to children of mothers of the second class citizenship, according to a legal opinion issued by the Legal Bureau of the Council of Ministers (No. 2818/2, February 12, 1978).

interviewed by Human Rights Watch testified, Article 5 was frequently ignored; children of Kuwaiti mothers were denied citizenship even if their parents' marriages were dissolved. Some interviewed admitted that they chose to divorce in order to protect the children, only to find out that this legal rule was not honored by government agencies.

The rule sanctioning a different treatment for the offspring of female citizens imposes a special hardship for children of Kuwaiti mothers and stateless fathers. Until 1980, Kuwaiti law gave those children the right to be citizens. Before it was amended, the original Article 3 of the 1959 Citizenship Law, provide for a child born to a Kuwaiti mother to be considered a citizen "if the father is unknown, his paternity unproven, *of unknown nationality or stateless*."¹⁵⁵ Although this rule did not eliminate all aspects of discrimination against women in citizenship rights, it provided citizenship rights to those children born to stateless fathers and Kuwaiti mothers. Although in practice before 1980 this right was recognized selectively, those children were in general treated as citizens. After Article 3 was amended in 1980, omitting the phrase "of unknown nationality or stateless," the government gradually began to treat children of Kuwaiti mothers and stateless fathers as foreigners.

The different treatment is also evident in the ability of a Kuwaiti citizen to petition for naturalizing a spouse. While a man can, a woman may not (Article 8). In addition, according to Article 10, a Kuwaiti woman automatically loses her Kuwaiti citizenship if she takes on her foreign husband's citizenship.

Although Kuwait has signed the United Nations Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW), it has yet to amend its laws to end gender-based discrimination in citizenship rights. Human Rights Watch interviews in Kuwait indicate that there is no plan to implement CEDAW's provision mandating equality in citizenship rights.

Kuwaiti Women Married to Bedoons

Out of a sample of about 5,000 cases studied by the Committee to Support Women Married to Non-Kuwaitis, nearly 54% were those of Kuwaiti citizens married to Bedoon husbands. The Committee, which was headed by Dr. Badriyya

¹⁵⁵This provision is standard in citizenship laws of many countries in the Middle East and elsewhere, including, for example the laws of Egypt and Saudi Arabia. Even before international agreements specific to statelessness were adopted, the principle of obtaining citizenship through one's mother if the father is stateless was universally accepted (see for example the Hague Convention of 1930), even by countries that did not accept the general principle of acquiring citizenship through one's mother.

al-Awadhi, a prominent Kuwaiti lawyer and former dean of the School of Law, started its work and held meetings with government officials before the Iraqi invasion. In July 1992, several dignitaries submitted the Committee's report to Shaikh Sa`ad, but no action was taken on its recommendations.¹⁵⁶ Instead, government officials stated publicly their belief that women married to non-citizens should consider either divorcing them or joining them out of Kuwait.

¹⁵⁶According to those interviewed by Human Rights Watch who were closely involved in the project, the delegation included, in addition to Dr. al-Awadhi, Dr. Hasan al-Ibrahim, former Minister of Education, and Firyal al-Furaih, a woman activist.

In late 1992, following the failure of the first effort to induce the government to act, another women's group, the Cultural Social Association, started a new effort on behalf of these families.¹⁵⁷ In February 1993, a new study articulating their demands was submitted to each member of the National Assembly, which discussed the matter in open session in the same month. At the Assembly's suggestion, the government formed a five-member ministerial committee headed by the Minister of Education. The ministerial committee met with representatives of the families in May 1993, but nothing further happened. On November 6, Jassem al-Aoun, Minister of Social Affairs and Labor and a member of the ministerial committee, said publicly that he still believed that "women must always follow their husbands." This was interpreted as meaning that women married to non-citizens, and their children, should be treated the same way as their husbands, without the right of citizenship for the children or the right of the wife to sponsor her husband and children for either residence or citizenship. In December 1993, Dr. Buthaina Maqhawi and Salama al-Zauman, two women leaders, submitted their demands to the Petitions Committee of the Parliament. Members of the Petitions Committee who met with the women advised them to re-submit their complaints to the specialized committees of the National Assembly instead.¹⁵⁸

Before the Iraqi invasion, the main problems associated with the stateless status of these children were the obstacles posed to their university education and travel. After liberation, the urgent problems included the right of residence itself to husbands and children, who overnight were considered foreigners. Pre-college education and free health care also became off limits to non-citizens.

¹⁵⁷Although it failed to prod the government into action, the earlier committee nevertheless was successful in gathering a large body of evidence and articulating the demands of the families before the government and in the press.

¹⁵⁸Only two members (out of five) of the Petitions Committee attended the December meeting: Muhammed Dhaifalla Sharar and Adnan Abdel-Samad, probably the two members most sympathetic to the cause of these families.

In the government's housing system, ownership is transferred from the housing authority to private individuals upon the payment of a set number of monthly installments, the total sum of which is usually lower than the market cost of comparable housing. However, this applies only to male citizens. Unless they are married to Kuwaiti men, female citizens are granted the right to use these government-built houses only during their lifetime. Unlike in the case of their male counterparts, ownership does not transfer to female citizens upon completing payment for the house. Nor does ownership revert to their children, since the children are considered non-citizens under the provisions of citizenship legislation.

Male Bedoons working for the military or security forces were traditionally granted a form of subsidized housing of a lower quality but at a higher cost than housing made available to citizens. Starting in the 1980s, residence in these houses by Bedoons was made contingent on continued employment. Once they lost their jobs, Bedoon occupants were usually evicted from these subsidized houses. This problem became especially acute upon liberation in February 1991. All Bedoon government employees were dismissed from their positions in the government. Gradually, several thousands of them were rehired on fixed contracts at lower wages. The majority, who were not hired, were asked to leave their government housing.

The mass dismissal of Bedoons from their positions was combined with the government's announcement in 1985 that the Foreign Residence Act does apply to Bedoons, in contradiction to court decisions to the contrary. This application would result in making their residence illegal when they are not employed. This applies to those Bedoons married to Kuwaiti women as well, regardless how long they have been married. Unlike a Kuwaiti male married to a Bedoon or a foreign wife, a Kuwaiti woman married to a Bedoon may petition to "sponsor" her husband for only one year. If they are not able during the year to find work, their continued residence becomes illegal. The treatment is similar for children of Kuwaiti mothers and Bedoon fathers. Once they reach the age of majority, they are required to secure residence permits to stay in the country. For the first year after reaching this age, the mother may sponsor her child, but after that the child's stay in Kuwait is contingent on employment.

Until 1987, Kuwaiti universities accepted Bedoons. Once they were declared illegal residents, they were not permitted to register. An exception was made for children of Kuwaiti mothers and Bedoon fathers. Although they are considered Bedoon, they were permitted to continue to register in the university under the same conditions foreigners are allowed to register—within certain quotas for the college of their choice. Minimum scores in placement exams are higher than those of Kuwaiti citizens.

Starting in 1993, Bedoons were required to pay fees to utilize the previously free health care centers. An exception was made in early 1994 for children of Kuwaiti mothers and Bedoon fathers. The mothers were no longer required to pay fees to receive health care for their minor children.

If State Security Police suspect that a Bedoon is a national security risk, he is expelled regardless of whether he is married to a Kuwaiti citizen or has children born in Kuwait. At any given time, there are several Bedoons married to Kuwaiti women held at the Talha deportation facility slated for expulsion—at one time in 1993 there were fifty such men. A large number of Kuwaiti women had to leave the country because of the expulsion of their husbands. The deportation is mostly effected through the discretionary authority of the ministry of interior, without trial or judicial review.

Family reunification for those Bedoons whose wives or mothers are Kuwaiti citizens, but who left the country during the Iraqi occupation is difficult to arrange.¹⁵⁹ When granted, the wife sponsors her husband or child for one year and he is allowed to return provided that State Security does not object.

It is estimated that some 4,000 Kuwaiti citizens are married to Bedoon husbands, their families including over 20,000 individuals. Of this total, 16,000—the husbands and children—are considered Bedoons under Kuwaiti law. Children of Kuwaiti mothers married to Bedoon or foreign fathers are considered Bedoons unless they are included in the foreign father's citizenship, in which case they are considered aliens. Since a Bedoon father has no citizenship, his children are automatically classified as Bedoons regardless of the citizenship status of the mother. The law gives the Minister of Interior discretion to grant these children Kuwaiti citizenship only upon the death of the father or the dissolution of the marriage. However, this discretion is exercised only in limited circumstances. For example, the three children of Noura al-Mehaini, a Kuwaiti woman formerly married to a Somali man, are still treated as stateless despite her repeated petitions. So are the children of many others in the same category interviewed by Human Rights Watch.¹⁶⁰

On December 20, a delegation from the women married to non-citizens met with two members of parliament: Muhammad Dhaifalla Sharar and Adnan Abdel-Samad, in the presence of a senior official from the Minister of Interior. The

¹⁵⁹If the Bedoon's husband or father is a citizen, it is usually easier to secure family reunification.

¹⁶⁰Human Rights Watch interview, Kuwait, January 1994.

deputies declined to discuss with the delegation the issue of naturalization for the children of these mixed marriages, but agreed to discuss "humanitarian and practical" issues, such as granting their children and spouses the right to reside in the country and the right to obtain driver's licenses. Effecting change on the issue of citizenship, the women were told, would be extremely difficult since "powerful interests" were opposed to such changes.¹⁶¹

¹⁶¹Human Rights Watch interview, Kuwait, January 1994.

DENIAL OF THE RIGHT TO LAWFUL RESIDENCE

Since liberation, Kuwaiti authorities have issued 24,000 expulsion orders for Bedoon residents. Although most have apparently not been carried out, the government insists that it has the authority to expel Bedoons administratively—without judicial sanction. Despite court decisions to the contrary, the government maintains that Bedoons may be deported regardless of how long they have lived in Kuwait or how many family and other links they have to Kuwait. Under rules put in place after liberation, an annual fee of two hundred dinars (\$770) is required for a foreign dependent to reside in Kuwait. The Bedoons were included among those required to pay the fees.

Many of those who were in fact deported since liberation seem to have been individuals who were rounded up, with their families in some cases, as security risks, or as suspects in the campaign against collaborators with the Iraqi occupiers. "Collaboration" has been broadly defined to include almost any form of dealing with the Iraqi authorities. Some were brought before martial law and state security courts, but the majority were deported without being tried. Even some of those who were acquitted by the courts have been deported or are being held pending deportation. A spokesman for the Ministry of Justice told a government newspaper that those acquitted would be deported. "Just because they were acquitted does not mean they are not still suspect. It only means that there was not enough evidence for their guilt," he explained.¹⁶² Expulsions started shortly after the liberation of Kuwait and have continued since.

Kuwaiti law gives wide discretionary powers to security officials to deport non-Kuwaiti nationals. Article 16 (as amended) of the Foreign Residents' Act (17/1968) stipulates:

¹⁶²Nahess al-Anezy, a spokesman for the Ministry of Justice, in *Sawt al-Kuwait*, June 27, 1991. Another official from the Ministry of Justice told Human Rights Watch that although the Public Prosecutor may order the release of those acquitted by the courts, the Minister of Interior still has discretionary authority under the law to deport them or keep them in jail pending deportation.

"The Minister of Interior is authorized to issue a written order to expel any foreigner, even if still holding a valid permit to reside in the country, in the following cases:

1. If the foreign resident is sentenced and the court orders his deportation.
2. If he has no visible means of financial support.
3. If the Minister of Interior believes that the deportation is mandated by public interest, public security or public morals."

The Minister of Interior can also order that all costs of deportation be borne by the deportee (Art. 21). Article 22 gives the would-be deportee, upon posting an acceptable bond, the right to a period of time to take care of his unfinished affairs. That period is determined by the Minister of Interior, but cannot exceed three months. In the years 1980-90, before the Iraqi invasion of Kuwait, the Kuwaiti government frequently invoked the public-interest clause of the law to deport summarily thousands of its residents, including Bedoons.

After liberation, criteria for deportable offenses were eased to give officials a freer hand to deport residents without having to show that the deportation is mandated by the needs of public security or the public interest. Traffic violations or even unemployment can be grounds for deportation, since the law requires that foreign-nationals, once their jobs are terminated, leave the country within a period to be determined by the Minister of Interior but not exceeding three months.¹⁶³

The Ministry of Interior's position is at odds with that of Kuwaiti courts which in the past rejected the Kuwaiti government's attempts to treat Bedoons as foreigners in the application of the Foreign Residents Act of 1968, and recognized the special status to which the Bedoons were entitled. However, since administrative deportation orders are exempted from judicial review, the Ministry's decisions do not come up for review, unless they are relevant to a particular criminal case being decided.

In 1992, residence fees were waived for children of Kuwaiti women. However, Kuwaiti women were permitted to sponsor their husbands and adult children for only one year, after which they must secure the sponsorship of an

¹⁶³Article 15 of Law 17/1968.

employer. According to several mixed couples interviewed by Human Rights Watch, this requirement has led many to sign fictitious contracts with Kuwaiti citizens or corporations to enable them to provide evidence of employment sponsorship.

Eligibility of the wife or mother to sponsor her husband or adult children is predicated on her earning enough to provide for them; minimum standards are set by the government for what is considered adequate.¹⁶⁴ Sponsorship by the Kuwaiti wife or mother may be extended if the husband or adult child is disabled. However, they may not sponsor them to stay more than one year after retirement.¹⁶⁵

¹⁶⁴Standards are revised periodically and distinguish between employers in the public and private sectors.

¹⁶⁵Human Rights Watch interview, Kuwait, January 1994.

INTERNATIONAL STANDARDS

Nationality is a principal link between the individual and the law. People invoke the protection of the state by virtue of their nationality. In addition, international law is based on a view that "nationality is the essential condition for securing to the individual the protection of his rights in the international sphere."¹⁶⁶

Because citizenship is the normal conduit through which individuals are enabled to exercise many of their rights under international law, protection of this right is essential for the enjoyment of all other rights.

Statelessness became a specially urgent issue in international affairs following the first world war. The peace treaties adopted following the end of the war established "nation states" in eastern Europe based largely on ethnicity. The League of Nations then adopted the so-called minority treaties which required the newly created states and the League itself to "safeguard the rights of those who were left without states of their own."

In the inter-war period, the League and the European states failed in safeguarding stateless minorities, leading stateless communities to establish the "Congress of Organized National Groups in European States." But nationalist fervor which was stirred in Europe by the Nazis and similarly jingoistic groups overwhelmed these efforts, resulting in further erosion of the rights of the stateless. The Nazi government denationalized large numbers of German citizens, including German Jews. A number of Eastern European countries followed the German example. Greece and Belgium both introduced similar regulations; Greece, for example, denationalized 45,000 Armenians who had been admitted and naturalized following the Armenian massacres of 1915 in Turkey.

In the period since the Second World War, there have been several examples of large-scale statelessness brought about either as a result of war or through government regulations denationalizing certain classes of residents. The most glaring examples have occurred in South Africa, Palestine and Kuwait. In

¹⁶⁶ Paul Weiss, *Nationality and Statelessness in International Law* (Hyperion Press, Inc., 1979), p. 166.

the Middle East, in addition to the Palestinians and the Bedoons of Kuwait, statelessness is a problem in a number of countries, including Syria, Bahrain and Lebanon.

South Africa effectively denationalized most of its black population after 1948. The Promotion of Bantu Self-Government Act of 1959 and the Bantu Homelands Citizenship Act of 1970 stripped all South African blacks of their citizenship and assigned them to Bantustans, or homelands, which constituted a mere 13 percent of the land. The aim seemed to be to eliminate the presence of black nationals within South Africa with claims to political and economic rights. Those who remained, worked or traveled in South Africa, i.e. outside the homelands, were considered aliens, even if they were born there and their ancestors had lived there for generations.

As a result of the Palestine war of 1948, the majority of its Palestinian population was left stateless. The June 1967 war and Israel's subsequent occupation of the West Bank and Gaza Strip increased the number of stateless Palestinians. Many more Palestinians were left stateless because of the intricate restrictions imposed by Israel on maintaining legal residence in the territories. Today, out of the total world-wide Palestinian population of 5.5 million, only some 45 percent minority (2.50 million) are citizens of any state.

Citizenship

The Kuwaiti government has stated the view that conferring citizenship is a sovereign right that is not subject to international scrutiny. It cites international instruments such as the Hague Conventions of 1930 as granting states full discretion in determining who should be their nationals. However, while this principle is accepted as a general rule¹⁶⁷, it has been also widely accepted that certain limits do pertain to this discretion.¹⁶⁸ For example, limitations are set on involuntary termination of nationality, both to prevent statelessness and in recognition that

¹⁶⁷Oppenheim, L. *International Law*, London, 1952, p. 668, represents this view, "Because stateless persons do not enjoy the nationality of any state, the means by which they may utilize international law are non-existent. They therefore do not enjoy the protection accorded in international law." However, as the discussion below will demonstrate, statelessness has been recognized as a subject of international law, since its effects are felt across borders. In addition, state discretion is limited by an increasing number of measures aimed at preventing statelessness and regulating the status of stateless persons.

¹⁶⁸ Louis Henkin, Richard Crawford Pugh, Oscar Schacter, and Hans Smit. *International Law*, Third Edition, (St. Paul: West Publishing Co.,1993), p.396.

denationalization can be an instrument of discrimination based on race, color, gender, language, religion, political or other opinion, national or social origin, property, birth, or other status.¹⁶⁹

Kuwait's Citizenship Law clearly discriminates against women when it denies them, but not men, the right to pass on citizenship to their children. This practice, which has contributed significantly to the problem of the Bedoons, violates the ban against again gender-based discrimination contained in several international instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child, both of which have been signed by Kuwait.

¹⁶⁹These categories are included in Article 2 of the International Covenant on Civil and Political Rights.

The Bedoons believe that denying them citizenship in what is clearly their own country through measures which strip them of rights previously enjoyed and which constituted a de facto recognition of their Kuwaiti nationality is both discriminatory and a violation of Article 15 of the Universal Declaration of Human Rights, which provides that no person should be "arbitrarily deprived of his nationality."¹⁷⁰ Similarly, they point out that the International Covenant of Civil and Political Rights, which Kuwait has not ratified but which is the leading source of human rights standards, having been ratified by over one hundred nations, provides in Article 12(4) that "[n]o one shall be arbitrarily deprived of the right to enter his own country."

To avoid citizenship vacuums, international standards have been developed that impose an obligation on states to grant citizenship to stateless people who are not recognized as citizens of any other state. The International Covenant of Civil and Political Rights addresses this issue by providing in Article 24(3) that "[e]very child has the right to acquire nationality." Similarly, Article 1 of the Convention on the Reduction of Statelessness provides that "[a] Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless." Although neither convention has been ratified by Kuwait, they represent a broad international acceptance of standards suggesting that Kuwait should grant citizenship (and certainly residency rights) to otherwise stateless Bedoons.

In the case of the Bedoons who were born and have lived most of their lives in Kuwait, international standards impose special obligations on Kuwait to recognize their citizenship. Most nations in the Middle East, including Kuwait, determine citizenship not according to one's place of birth but according to the nationality of one's father.¹⁷¹ Thus, under Kuwaiti law, those born in Kuwait to a father of another nationality are considered to be members of that nationality. Because most Bedoons are born to fathers who themselves were Bedoons, they have been relegated to a permanent stateless limbo. They have no legitimate claim to

¹⁷⁰According to Restatement of the Foreign Relations Law of the United States (§ 211, Comment e), there is a growing recognition of a human right to nationality.

¹⁷¹As in, for example, Articles 2 and 3 of the Kuwaiti Nationality Law, as amended.

citizenship anywhere other than Kuwait, but Kuwait refuses to grant them citizenship.

Development of the Right to a Nationality

The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws is frequently cited as the most important basis for granting states full discretion in conferring and regulating citizenship. But this League of Nations' treaty clearly imposes restrictions on that right. While Article 1 of the convention recognizes the then-widespread view that citizenship is the province of national law, it nevertheless established an important principle governing this right: citizenship laws have to be consistent with international standards.

It is for each state to determine under its own law who are its nationals. This law shall be recognized by other states in so far as it is consistent with international conventions, international customs and the principles of law generally recognized with regard to nationality.¹⁷²

In addition, Article 15 of the convention provides that a child born stateless to parents having no nationality or of unknown nationality may obtain the nationality of the county where he or she is born. This general principle was nevertheless qualified by giving governments the authority to determine conditions governing the acquisition of citizenship. These conditions must comport with the principles of reasonableness, including not being invidiously discriminatory.

The Protocol on Statelessness, also adopted in the Hague in 1930, required states to give citizenship to children born in their territory, if the mother is also a citizen. Although Kuwait, which became independent in 1961, was not a member of the League of Nations or party to these two conventions, Kuwaiti officials frequently referred to them as the basis for their belief that states have unfettered

¹⁷²Article 1. The Convention was adopted by the League of Nations' Hague Codification Conference, which also adopted a Protocol Relating to a Certain Case of Statelessness and a Special Protocol Concerning Statelessness. The Convention and the Protocol entered into force (for the countries ratifying it) in 1937, having been ratified by some twenty states each.

The Special Protocol entered into force in 1973, but went out of force after China withdrew its ratification in 1974. The Special Protocol only regulates the readmission of citizens denationalized while abroad.

discretion on citizenship matters. While Kuwait is not bound directly by conventions it has not joined, these instruments establish an evolutionary trend by which their core principles are increasingly being recognized as part of customary international law binding on all nations.

While limited in scope and the range of rights they accord stateless persons, these two conventions codified the right to citizenship as a subject of international law, not merely the province of domestic law. By requiring that the state's discretion be consistent with "international conventions, international customs and the principles of law generally recognized with regard to nationality," they make it clear that state discretion is not unfettered. Its decisions regarding citizenship are subject to all relevant international instruments and general principles of law. One such principle is that state's discretion must not be arbitrary. In domestic as well as international law, discretion is properly exercised in individual administrative acts as well as in general legislation, when it is bound by reasonableness. This criterion requires that the government explain the higher policy objective to be achieved by the measure and why the measure is the means to the end that is least intrusive of the rights of persons.

In 1948, the Universal Declaration of Human Rights recognized the right of every individual to have a nationality and to change it, while denying the state the authority to arbitrarily deprive a citizen of his or her nationality.

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality (Article 15).

While the Universal Declaration was arguably not intended to be a binding treaty, many of its provisions have acquired the status of customary law. Article 15 has been invoked repeatedly in national court cases as part of that consensus.¹⁷³ It

¹⁷³Humphry, "The Universal Declaration of Human Rights: Its history, impact and juridical character," in Ramcharan (ed.), *Human Rights: Thirty Years after the Universal Declaration* (Hague: Nijhoff, 1979), p. 21. Article 15 was cited, for example, in cases in the United States, Italy, and Germany. See the quotation below from the U.S. Supreme Court decision on *Kennedy v. Mendoza-Martinez*.

does not specify *which* state has the obligation to grant citizenship. An interpretation that it recognizes a right that no state is obligated to honor would render the article meaningless; a more appropriate interpretation is that the right to citizenship is recognized for individuals but the obligation is imposed on the states collectively. Subsequent international instruments were devised to apportion this obligation.

Citizenship as a right is in this manner akin to the right to seek and enjoy asylum. In both cases, the right is one of the individual and the obligation is collective. However, the state with the most immediate points of contact with the individual wishing to exercise that right has the primary obligation. In refugee and asylum law, that country is the one where the person has arrived fleeing persecution, or that exercises jurisdiction over him or her. In nationality law, the country with primary responsibility is the one where the person has lived for more years or generations than anywhere else, where he or she has family and other contacts, or where he or she at one time enjoyed legal status, settled and was given reasonable expectations of being a citizen. This obligation is especially binding on the host country if the individual has no comparable claim to such rights in any other country.

The phrase "arbitrarily deprived" used in Article 15 should not be interpreted in the narrow sense of outside or in violation of the national law. Since Article 15(1) recognizes citizenship as subject to international law, arbitrariness in denationalization should be interpreted to include violations of internationally recognized norms. As the U.N. Human Rights Committee advised in a 1988 opinion, "the expression 'arbitrary interference' can also extend to interference provided for under the law. The introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the covenant and should be, in any event, reasonable in the particular circumstances."¹⁷⁴ Thus not only is discrimination on the basis of race or sex arbitrary, but certain actions that would render someone stateless are arbitrary in that they violate Article 15(1) of the Universal Declaration for Human Rights.

Statelessness Conventions

¹⁷⁴The Committee's opinion was regarding the definition of arbitrariness in Article 17 of the Covenant on Civil and Political Rights, but the general principle is the same. U.N. Human Rights Committee, 32nd Session, 1988. *International Human Rights Review* Vol.1, No.2 (1994), p. 18.

The key limit to state discretion is the one related to preventing statelessness. Special measures were introduced to prevent the incongruence between national citizenship laws from causing statelessness. The 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness were adopted to deal with this legal vacuum. Although the two conventions are not in themselves binding on states not party to them, they are an authoritative source for interpreting provisions regarding statelessness in other binding law.

Even before the adoption of the Universal Declaration, the United Nations formed committees to study statelessness with a dual aim of improving conditions for the stateless and eventually eliminating statelessness altogether. In a 1948 Secretary General's report on the subject, he proposed two basic principles: every child should have a nationality at birth and no person should lose his or her nationality until he or she has secured a new one. After years of debate, the Convention on the Status of Stateless Persons was adopted in September 1954. It was intended to recognize the status of stateless individuals and provide temporary measures aimed at alleviating the difficulties they must live under in an international system predicated on the states as the main players through which individual citizens may gain protection. The Convention on the Reduction of Statelessness, which was adopted in August 1961, was intended to provide gradual measures to reduce and finally eliminate statelessness.

The 1954 Convention on the Status of Stateless Persons defined a stateless person as "a person who is not considered as a national by any state under the operation of its law" (Article 1). The convention provided special protection from expulsion for stateless persons. Article 31 banned expulsion save on grounds of national security or public order, and provided that such action be made "with due process of law" (Article 31).

Under the 1954 convention, stateless persons are given free access to courts (Article 16) and employment (Article 17) and engagement in liberal professions (Article 19). They are also entitled to food rationing, housing, public education, "public relief" and social security (articles 20-24). Since 1985, Kuwait has denied Bedoons all of these rights.

The 1961 Convention on the Reduction of Statelessness established several steps towards eliminating statelessness, including the state obligation to grant its nationality to those born on its territory if they would otherwise be stateless. Under Article 1,

1. A contracting state shall grant its nationality to a person born in its territory who would otherwise be stateless. Such nationality shall be granted:

(a) At birth, by operation of law, or

(b) Upon an application being lodged with the appropriate authority, by or on behalf of the person concerned, in the manner prescribed by the national law. Subject to the provisions of paragraph 2 of this article, no such application may be rejected.

The convention also regulates state discretion regarding citizenship for those stateless who have lived for long periods in a territory, who were not born there. While it recognizes the state's authority to determine the process and conditions under which citizenship is conferred in such cases, it establishes important limits. For example, while a state may impose a residency requirement, the period required may not exceed "five years immediately preceding the lodging of the application nor ten years in all" (Article 1(2)). Furthermore, no such restrictions should apply to a child born in the territory of the state to a mother who has the nationality of that state. These children should be granted nationality at birth if they otherwise would be stateless. A state may not deprive a citizen of his or her nationality if such action would render them stateless.

Article 4 recognizes the obligation of the state to grant its nationality to a person, not born in its territory, who would otherwise be stateless if one of the parents is a national of the state. Article 8 bars the state from depriving a person of his nationality if such deprivation would render him or her stateless, except under very strict conditions. Article 9 bars states from depriving any person or groups of persons of their nationality on racial, ethnic, religious or political grounds.

Although the convention has been ratified by a relatively small number of states, it elaborates upon the general obligations stated in Article 15 of the Universal Declaration, an article that has gained universal acceptance.

Although Kuwait has not joined either of the two statelessness conventions, many of their principles make up the customary law binding on all nations. The two conventions constitute authoritative interpretations of the general rule stated in Article 15 of the Universal Declaration, which, as stated earlier, is binding on all nations as a matter of customary international law.

The International Covenant on Civil and Political Rights

The 1966 International Covenant of Civil and Political Rights recognized that "[e]very child has the right to acquire a nationality" Article 24(3). The U.N. deliberations regarding this article and the 1959 Declaration of the Rights of the

Child made it clear that there was already a universal consensus on the right of a child to have a nationality at birth, regardless of whether the parents are stateless or not. This consensus was later reflected in the 1989 Convention on the Rights of the Child, which has been ratified by over 150 countries, including Kuwait.

Article 12(4) of the International Convention on Civil and Political Rights imposed a further restriction on state authority to exclude its nationals from an essential right of citizenship: "No one shall be arbitrarily deprived of the right to enter his own country."

Regional Conventions and Practices

The 1969 American Convention on Human Rights provides one of the clearest statements on citizenship. Article 20 grants the right to every person to have a nationality. It imposes an obligation on the state to grant its nationality to stateless persons. The state is obligated to give citizenship to any person born in its territory if he or she does not have the right to any other nationality. Stateless persons not born within a state's territory are also entitled to citizenship if their place of birth is known. Reflecting the growing recognition of the right to nationality, the Inter-American Court of Human Rights ruled in 1984 that,

It is generally accepted today that nationality is an inherent right of all human beings. Not only is nationality the basic requirement for the exercise of political rights, it also has an important bearing on the individual's legal capacity. Thus, despite the fact that it is traditionally accepted that the conferral and regulation of nationality are matters for each State to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the States in that area, and that the manner in which States regulate matters bearing on nationality today may not be deemed within their sole jurisdiction; those powers of the State are also circumscribed by their obligations to ensure the full protection of human rights.¹⁷⁵

In this landmark opinion, the Court dismissed traditional views of citizenship:

¹⁷⁵ The Inter-American Court of Human Rights *Re Amendments to the Nationalization Provisions of the Constitution of Costa Rica*, Advisory Opinion of 19 January 1984, para. 34, *Human Rights Law Journal*, 1984, Vol. 5, p. 161.

The classical doctrinal position, which viewed nationality as an attribute granted by the state to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the state as well as human rights issues.

Citing Article 15 of the Universal Declaration and Article 20 of the American Convention, the court ruled that while domestic law is the primary authority for setting conditions and procedures for acquiring citizenship, it must do so within limits set by international law:

[T]he conferral and regulation of nationality fall within the jurisdiction of the state, that is, they are matters to be determined by the domestic law of the state, with the further principle that international law imposes certain limits on the state's power, which limits are linked to the demands imposed by the international system for the protection of human rights.

While the 1950 European Convention on Human Rights does not include the right to nationality, the Council of Europe has adopted several measures dealing with specific issues of citizenship.¹⁷⁶ For example, in 1977 the Council recommended that a state should grant nationality at birth to children if one parent has the nationality of that state and to provide all children born on its territory, up to age twenty two, with facilities to acquire its nationality. It also urged member states to ratify the Convention on the Reduction of Statelessness and act to reduce statelessness among nomads and refugees residing in their territories. Since 1988, the Council of Europe's Committee of Experts for the Development of Human Rights has worked on developing a special protocol on the right to nationality. For this purpose, it has sent detailed questionnaires to member states about the law and practice in each state regarding nationality. In particular, the committee has sought to document the treatment of statelessness in each of its members states.

The practice on conferring citizenship varies. In North and South America, one's nationality mainly depends on the territory in which he or she was

¹⁷⁶ A draft European Convention on Statelessness and Multiple Nationality has been on the Council's parliamentary assembly since 1954.

born (*jus soli*). U.S. courts have by now established the principle that, in the words of Justice Warren,

Citizenship *is* man's basic right, for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen.¹⁷⁷

In *Trop v. Dulles*, the Supreme Court ruled that, "[t]he American concept of man's dignity does not comport with making even those we would punish completely 'stateless'—fair game for the despoiler at home and the oppressor abroad, if indeed there is any place that will tolerate them at all."¹⁷⁸ Statelessness is "a condition deplored in the international community of democracies."¹⁷⁹ In *Kennedy v. Mendoza-Martinez*, the Supreme Court stated,

¹⁷⁷*Perez v. Brownell*, 356 U.S. 44, 64 (1958), p.64 (emphasis in original). In *Afrovim v. Rusk*, the Supreme Court adopted Justice Warren's view, 387 U.S. 253 (1967), p. 253. In the 1958 decision, Warren's opinion was a dissent.

¹⁷⁸*Trop v. Dulles*, 356 U.S. 86, 101, note 33

¹⁷⁹*Ibid*, p. 102

The drastic consequences of statelessness have led to reaffirmation in the United Nations Universal Declaration of Human Rights, Article 15, of the right of every individual to retain a nationality.... The evils of statelessness were recognized in the Report of the President's Commission on Immigration and Naturalization (1953) 241, and the treatise writers have unanimously disapproved of statutes which denationalize individuals without regard to whether they have dual nationality.¹⁸⁰

Practice in Europe varies. Most European nations base their law on a mixture of the two principles of *jus soli* and *jus sanguinis* and as such recognize the right of a stateless person to acquire the nationality of the state of birth.¹⁸¹ Some of the countries adopting the *jus sanguinis* principle, including Denmark, Germany, the Netherlands and Norway, also recognize the right of stateless persons born in their territory to citizenship.

While there is less agreement among European states on the right of stateless adults to acquire the citizenship of their state of residence, there is still recognition of the need to confer citizenship on large classes of stateless adults. Conditions vary but include either birth in the country or residence requirements of between three and ten years.

Gender-Based Discrimination in Citizenship Laws

While Article 1 of the Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws recognizes the then-widespread view that citizenship is the province of national law, it nevertheless established an important principle governing this right: citizenship laws have to be consistent with international standards.

¹⁸⁰*Kennedy v. Mendoza-Martinez*, 377 U.S. 144, 160-62 (1963), p. 161.

¹⁸¹These include Belgium, France, Greece, Ireland, Portugal, Spain and Italy. Although their laws are mixtures of the two rules, it can be argued that some, such as Belgium, France, Greece and Ireland, rely more heavily on *jus soli*, while Spain and Italy rely more on *jus sanguinis*, with provisions added to moderate its effect. For example, children of Italians and Spaniards born abroad are entitled to Italian and Spanish citizenship (*jus sanguinis*), while their nationality laws recognize the right of stateless persons to acquire their nationality if born on their territory.

One such standard is the rule of non-discrimination on the basis of gender. The rule against gender discrimination is enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, three major instruments of international human rights law. Although Kuwait is not party to either covenant, the prohibition against gender-based discrimination is part of customary law binding on all nations. In addition, Kuwait is party to both the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child, both of which bar gender-based discrimination in the granting of citizenship.

It is clear that the rule in Kuwaiti Citizenship Law which denies Kuwaiti women—but not men—the right to pass on their Kuwaiti citizenship to their children discriminates against women. In addition to its violation of international law by "creating" statelessness—children of Bedoon fathers and Kuwaiti mothers are classified as Bedoons in Kuwaiti law—it violates CEDAW, which bars all forms of sex discrimination, including in matters of nationality. Article 9 specifically provides that "states parties shall grant women equal rights with men with respect to the nationality of their children."¹⁸²

The Convention on the Rights of the Child, to which Kuwait is a state party, protects children from discrimination of any kind "irrespective of the child's or his or her parent's ... sex, birth or other status."¹⁸³ Article 7 also guarantees all children the "right to acquire a nationality."

¹⁸² CEDAW, U.N. GA Res. 34/180, U.N. Doc. A/34/46; art. 9; adopted December 18, 1979; entry into force September 3, 1981).

¹⁸³ Convention on the Child, U.N. GA Res. 44.25; art. 2; adopted November 20, 1989; entry into force September 2, 1990.

In fact, the rule against gender-based discrimination has been upheld in many jurisdictions around the world. In Botswana, the courts struck down a rule discriminating against women in passing on their citizenship to their children. In 1990, Unity Dow, a citizen of Botswana, initiated a legal challenge to Botswana's Citizenship Act as discriminatory, because it denies women married to foreign men the right to pass citizenship on to their children. Such children can only remain in Botswana if they are granted a residence permit. In contrast, Botswana men married to foreign women automatically pass citizenship to their children.¹⁸⁴ These conditions are nearly identical to those imposed by Kuwait's Citizenship Law.

¹⁸⁴ Section 6 grants citizenship to adopted children only if the male adopter is a Botswana citizen at the time of adoption. Section 12 reduces the residency requirements for naturalization by over seven years for foreign women who marry Botswana men. It also grants them temporary citizenship until naturalization is complete. No such provisions apply to the alien spouses of Botswana women.

In a June 11, 1992 decision, Botswana's Court of Appeal found that section 4 of the Citizenship Act is unconstitutional and inconsistent with international human rights standards. The decision focused exclusively on the right of Botswana women to pass their citizenship onto children born in wedlock within Botswana, regardless of the father's nationality.¹⁸⁵ In the words of the court,

It is plain and beyond any controversy, in my view, that the effect of section 4 of the [Citizenship] Act is to accord an advantage or a privilege to a man which is denied to a woman. The language of the section is extremely clear and the effect is inconvertible, namely that whilst the offspring of a Botswana man acquires his citizenship if the child is born in wedlock such an offspring of a Botswana woman similarly born does not acquire such citizenship. A more discriminatory provision can hardly be found.¹⁸⁶

¹⁸⁵While the Court of Appeal held that section 15(1) of the constitution shall be interpreted to prohibit sex discrimination generally, it recognized that, in accordance with section 15(4)(c), any law "with respect to adoption, marriage, divorce, devolution of property on death or other matters of personal law" is excluded from the general non-discrimination prohibition. See, *Attorney General vs. Unity Dow*, pp. 36, 46; and Human Rights Watch, "Botswana," p. 4.

¹⁸⁶Judgement of T. A. Aguda, Judge of Appeal in *Attorney General vs. Unity Dow*, certified judgement of the Court of Appeal Civil Appeal, No. 4/91, Botswana, June 11, 1992, p. 73. See Human Rights Watch, "Botswana: Second Class Citizens: Discrimination Against Women Under Botswana's Citizenship Act," New York, September 1994.

In reaching its conclusion, the Botswana Court of Appeal took into consideration standards set forth by Botswana's constitution, the African Charter, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child in making this interpretation. According to the judge,

Botswana is a member of the community of civilized states which has taken to abide by certain standards of conduct, and unless it is impossible to do otherwise, it would be wrong for its Courts to interpret its legislation in a manner which conflicts with the international obligations Botswana has undertaken.¹⁸⁷

¹⁸⁷ *Attorney General vs. Unity Dow*, pp. 53-54.

The Court of Appeal upheld the High Court's decision that Unity Dow had been denied her rights to equal treatment of the law and freedom of movement, as a result of section 4 of the Citizenship Act.¹⁸⁸ The Court further held that custom and tradition must yield to the Constitution of Botswana, and that legislation should be interpreted in a manner which is consistent with international standards of human rights.¹⁸⁹ Thus, section 4 of the Citizenship Act has been declared *ultra vires* the Constitution and section 15 of the Constitution is to be interpreted to prohibit discrimination on the basis of sex.

The United Nations Human Rights Committee ruled that the bar on gender discrimination is binding even when it is not specified in a convention. When twenty Mauritian women challenged their country's immigration and deportation laws¹⁹⁰, the United Nations Human Rights Committee ruled that states were bound by this universal rule regardless of whether the right in question is recognized by the covenant. Or if the covenant recognizes a right but permits a state to restrict it, these restrictions may not discriminate on the basis of gender. Under the Mauritian laws being challenged, an alien husband of a Mauritian woman lost his residence status and was required to apply for a residence permit, which is granted or withdrawn at the discretion of the government. An alien husband may be ordered deported by the Ministry of Interior administratively, with no judicial review. By

¹⁸⁸ *Ibid.*, pp. 65-66. The rights infringed are those guaranteed by the Constitution of Botswana, 1966, sec. 3 (on fundamental rights and freedoms), sec. 14 (freedom of movement), and sec. 15 (protection from discrimination).

¹⁸⁹ *Ibid.*, pp. 26, 53-54.

¹⁹⁰ In the case, *Amaroid & Nineteen Other Mauritian Women*, the complainants challenged Mauritius' 1977 Immigration Amendment Act and the 1977 Deportation Amendment Act (Comm. No. R.9/36, 36 GAOR Supplement (No. 40), UN Doc. A/36/40).

contrast, alien wives of Mauritian men had the right to legal residence by virtue of their marriage. The committee agreed with the complainants that such discrepancy in the treatment of foreign spouses constituted discrimination, in violation of articles 2, 3, 17, 23 and 26 of the International Covenant on Civil and Political Rights. According to the committee, "whenever restrictions are placed on a right guaranteed by the Covenant, this has to be done without discrimination on the ground of sex." While the committee appeared to agree with the Mauritian government that the right to reside in the country was not recognized by the covenant, the committee nevertheless found that the laws constituted unlawful state interference with the family life of these women and their spouses.

A more sweeping conclusion was reached by the Inter-American Court of Human Rights. In 1984, it issued a far-reaching ruling on a proposed change to the Constitution of Costa Rica to grant foreign women married to Costa Rican husbands the right to acquire Costa Rican citizenship after two years of marriage and residence in the country. No similar provision was proposed for women. The court ruled that the proposed amendment was unjustifiable and discriminatory, in violation of Article 24 of the American Convention of Human Rights which requires equality before the law without discrimination.¹⁹¹ In that the language of Article 24 of the American Convention is very similar to that of Article 2 of the Universal Declaration barring discrimination, the court's interpretation is valuable to understanding the scope of the obligation created by the Universal Declaration.

Effects of Citizenship Discrimination on Other Rights

The Kuwaiti government's continued enforcement of the Citizenship Law has discriminatory effects that are not limited to a woman's right to pass nationality onto her children. The deleterious effects of the law include the deprivation of many fundamental rights which are guaranteed to women and children under international standards of human rights.

Freedom of Movement and Travel

The Citizenship Law and the Foreign Residents' Law violate the spirit, if not the letter, of international law which guarantees that women shall have the right to leave and return to their country without undue restrictions. Kuwaiti law requires the adult children and spouses of Kuwaiti women married to Bedoons and foreign men to secure residence permits, which can be obtained only through employment.

¹⁹¹Inter-American Court of Human Rights, *Re Amendments* ..., p. 161.

The mother can sponsor her husband and children for one year. The freedom of the mother to enter Kuwait to live and to leave when she wishes is indirectly controlled by these rules. Kuwaiti women who have married Bedoon men are unable to exercise their right to travel freely in and out of the country without leaving their husbands and children behind. They must choose between their guaranteed rights and their families. Kuwaiti law has made the rights of the child and, by extension, the mother to freedom of travel entirely dependent upon the rights of the father. Since Bedoon fathers are themselves denied the right to travel, the right of their Kuwaiti wives is also affected.

Interference with Freedom of Marriage

In 1986, Kuwait made it illegal to register Bedoon marriages. The rule is applied where both spouses are Bedoons. It applies in other cases only if the husband is a Bedoon. Existing marriages are indirectly affected. Since citizenship depends solely on the father's status, children of Kuwaiti mothers and Bedoon fathers are classified as Bedoons. The law does allow for naturalizing children of mixed marriages only if the marriage is dissolved. The law thus puts pressure on marriages, leading to divorces motivated solely by the need to protect the children. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee women equal rights with men "as to marriage, during marriage and at its dissolution."¹⁹² In fact, Kuwaiti citizenship and foreign residence laws may be construed as encouraging divorce and out-of-wedlock birth, a taboo in Kuwait.¹⁹³

Degrading Treatment

The continuing denial of citizenship to Bedoons has increased their social alienation and caused incalculable psychological damage, according to Kuwaiti psychologists who have studied their condition. The cumulative impact on the Bedoons and their Kuwaiti relatives can be reasonably regarded as degrading treatment, which is prohibited under international human rights law.

¹⁹² Universal Declaration, art. 16. ICCPR, art. 23.

¹⁹³In Human Rights Watch interviews with members of the Committee for Kuwaiti Women Married to Non-Kuwaitis, they said that there was a clear official message in Kuwait encouraging Kuwaiti women to leave the country with their foreign or Bedoon husbands or divorce them.

Denial of Children's Rights

The consequences of the Citizenship Law are especially severe for the children who are denied citizenship under its discriminatory provisions. They are denied basic human rights because of the fact of their birth to a stateless father and because the law discriminates against their mothers. The Convention on the Rights of the Child prohibits discrimination against children on the basis of their parent's sex.¹⁹⁴ Children born to Kuwaiti women married to Bedoons are classified as Bedoons and they suffer the consequences of being stateless in their mothers' country of citizenship. Most were born in Kuwait and have never resided in any other country.

Creation of Stateless Children

¹⁹⁴ Convention on the Child, art. 2.

Kuwait's Citizenship Law denies children the right to Kuwaiti citizenship if their fathers were foreign or Bedoon. The Universal Declaration of Human Rights, the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights and the Convention on the Reduction of Statelessness recognize a right for children to citizenship of the country in which they are born, especially if denying them citizenship would render them stateless.¹⁹⁵ Children born to Kuwaiti women who have married Bedoons are classified as Bedoons themselves. Children of Kuwaiti women married to foreign men would also be considered as Bedoons if their fathers were unable to grant them their citizenship. The law makes their citizenship totally dependent on the law of the foreign country, which may require residence in its territory. The result may be that the child may be rendered stateless unless he or she emigrates to the father's country, which may not be feasible or safe in the case of political refugees.

Freedom of Movement

The children affected by the Citizenship Law also face strict limitations on their external travel as they may not be entitled to any country's passport. This is specially the case of Bedoon children, whose right to travel is limited because their fathers do not have travel documents to enable them to travel.¹⁹⁶

In some cases, the inability to travel outside the country could become potentially life-threatening if a child were to require medical treatment outside the country.

¹⁹⁵ Universal Declaration, art. 15. Convention on the Child, art. 7. ICCPR, art. 24(3). Convention on the Reduction of Statelessness, art. 1(3), U.N. GA Res. 896(IX), adopted August 30, 1961, entered into force December 13, 1975.

¹⁹⁶ Universal Declaration, art. 13(2). ICCPR, art. 12. Convention on the Rights of the Child, art. 10.

Denial of Political Rights

Children of Kuwaiti women married to Bedoons (or foreign men) are treated as Bedoons (or aliens) in Kuwait. They are, therefore, denied basic political and civil rights available to (first-class) citizens such as the right to vote and to hold certain public offices.¹⁹⁷

Other Rights of the Stateless

In addition to the right of stateless persons to petition for citizenship of the country of their habitual residence, stateless persons enjoy protected rights similar to those of refugees under international law. These include the rights to which aliens are entitled, such as liberty and security of the person, freedom of speech, worship and association. They also include freedom of movement, due process protection and access to courts and to travel documents. Stateless persons are also eligible for employment and education on the same basis as nationals. The Bedoons have enjoyed neither the protections accorded to truly stateless people under international law, nor the prerogatives of citizens or other nationals residing in Kuwait.

¹⁹⁷ Universal Declaration, arts. 21, 23. ICCPR, art. 25.

In violation of Kuwait's legal obligation, Kuwaiti law and practice clearly discriminate between Kuwaiti women and men in their ability to pass citizenship to their offspring.¹⁹⁸ The 1979 U.N. Convention on the Elimination of All Forms of Discrimination Against Women, to which Kuwait is party, explicitly calls on governments to "grant women equal rights with men with respect to the nationality of their children."¹⁹⁹ This discrimination, which affects tens of thousands of children born to Kuwaiti mothers married to non-citizens, is specially egregious in the case of those born to Bedoon fathers, since it renders them stateless.

Denial of citizenship to children born to Kuwaiti mothers and non-citizen fathers, especially Bedoon fathers, also constitutes a failure to fulfill the state's obligation to protect the family, since depriving Bedoon children of citizenship has resulted in the separation of many families where the fathers—whether themselves Bedoon or foreigners—were denied reentry to Kuwait following liberation.²⁰⁰ So, too, has the refusal to register marriages of the Bedoons.

Discrimination against Bedoon children, including, for example, denial of education to school-age children, is a violation of the 1989 U.N. Convention on the Rights of the Child, to which Kuwait has acceded. This convention prohibits discrimination against children "irrespective of the child's or his or her parent's or legal guardian's race, color, sex, language, religion, political or other opinion, property, disability, birth or other status." It explicitly bans discrimination "on the basis of the status, activities, expressed opinion, or beliefs of the child's parents, legal guardians, or family members."²⁰¹ It also recognizes the right of children to education "on the basis of equal opportunity."²⁰²

¹⁹⁸Prohibition against discrimination is explicit in Article 2 of the Universal Declaration, Article 2 of the International Covenant on Civil and Political Rights and Article 3 of the International Covenant on Economic, Social and Cultural Rights.

¹⁹⁹Article 9(2).

²⁰⁰Article 16(3) of the Universal Declaration and Article 23(1) of the International Covenant of Civil and Political Rights.

²⁰¹Article 2.

²⁰²Article 23.