

Racialisation in the State of Kuwait

Noor Janahi

“All human beings are born free and equal in dignity and rights...” (Universal Declaration of Human Rights, 1948). As humans we have difficulty with the idea that even if we are all different we indeed should be treated the same. The aim of this article is to explore and critically analyse how racialisation is carried out in the State of Kuwait. The main areas of that will be analysed in this research are: identifying racism in Kuwait focusing on the ‘bidun’ that are the stateless or without citizenship which has been a trending topic and concern globally; patterns of racialisation in Kuwait affecting the bidun’s citizenship which therefore influences education and employment. The research will also tackle the gender discrimination of Kuwaiti women unable to pass on their nationality to their children who are from a bidun father in relation with the national law. Those children are considered bidun, which is a response of sex racism where women do not have equal rights as men with respect to the nationality of their children. Also, throughout the research when examining the cases of racism and racialisation in Kuwait resemblances with other countries will be highlighted.

Kuwait, officially know as the ‘State of Kuwait’ is one of the Arab countries located in the Persian Gulf. It also shares its borders with Saudi Arabia and Iraq. It is also one of the worlds leading oil producers. The State of Kuwait is also recognised by the World Bank as a high-income economy. As 2014, Kuwait’s population was said to be 4.1 million people that include 1.2 million Kuwaitis, 1.1 million Arab expats, 1.4 million expats and 76,698 of which are Africans (Kuwait Government Online, 2014). However, until 1988 the biduns were included in the total number of citizens but now they are added to the foreign residents. Kuwait’s national language is Arabic and Islam is the main religion. From the outset, Kuwait is described, as a country that offers its citizens a high and respectful standard of living however under these perceptions is a country of racialisation to its own citizens with poor standards of education and employment to certain nationalities or in Kuwait’s case the stateless (Al Najjar, 2000). In order to address this issue the term ‘racialisation’ must be defined. According to Garner (2010; p19)“the concept of racialisation is based on the idea that the object of study should not be the ‘race’ itself, but the process by which it becomes meaningful in a particular context”. The aim of this analysis report is to therefore identify and explain how racism is embedded in Kuwait’s society. However, in Kuwait there are different types of racism for example racism against different nationalities and ethnicities like Black or Indian. But this analysis report is going to focus only on the ‘Bidun’ of Kuwait.

In Arabic, the term “bidun” means “without” and is a short form of “bidun jinsiya” which therefore means without citizenship. The word “bidun” symbolizes long-time residents who live in Kuwait or were even born in Kuwait but are stateless (Refugeesinternational.org, 2007). The problem with the term ‘bidun’ is that the handling official and public alike of the term which the state claims that they do not

hold a nationality of any particular state. Therefore, over time it led in general to form a mental image as well as semi-specific of almost all members of this particular class, which were already divided between the owners of the right and others claiming it (Kuwait Bedoons Movement, 2015). "The country's 1959 Nationality Law defined Kuwaiti nationals as persons who were settled in Kuwait prior to 1920 and who maintained their normal residence there until the date of the publication of the law. Approximately one third of the population was recognized as full-fledged citizens. Another third was naturalized and granted partial citizenship rights. The remaining third was classified as "bidun jinsiya," meaning "without citizenship"(Nationality For All, 2015, p: 15). According to the Human Rights Watch (2015) Biduns are one third of the Kuwait's population, which are around 300,000. Although, half of the biduns live in Kuwait the result of them are suffering in exile mainly in Iraq because the way back to Kuwait after the war was blocked. "The bidoon used to enjoy a status similar to that of Kuwaiti citizens until the law in 1986 changed the status of the bidoon from legal residents without nationality to "illegal residents". As a result, the ability to access government services and employment became more difficult as the bidoon did not possess the necessary identity documents to do so" (Home Office, 2014). Human Rights Watch (1995) claims that most of the biduns were born in Kuwait, lived almost their whole life there, and have families who have lived for generations as well as very close family ties in the nation. For most of their life biduns were treated as lawful and effective residents as well as citizens and were promised formal citizenship. However, this has changed in 1985 and became more effective after the Iraq and Kuwait war that took place in 1991. "Many bidun are descendants of Bedouin tribes such as the Shammar and Aneza that roamed freely across the borders of present day Kuwait, Saudi Arabia, Syria and Iraq. Either because their ancestors failed to understand the importance of citizenship or, given their centuries-old nomadic way of life, demurred at the idea of belonging to any one country, or because they were living outside the city walls, in the desert or "badiya," and often illiterate, they could not furnish adequate proof that they were settled in the country and were consequently classified as stateless" (Kuwait Bedoons Movement, 2015 , p 23). Also, the biduns around 30,000 of them are husbands of Kuwaiti women as well as children of Kuwaiti mothers. Others have close relatives and siblings who have the Kuwaiti citizenship. The policies of 1985 that were adopted by Kuwait caused widespread location and extreme suffering (Longva, 2006). Which also resulted that the biduns are no longer eligible to work neither in the basic government services nor private sectors. Therefore, they are classified as illegal residents that are no longer entitled to be issued with civil identification cards, travel documents nor driving license. They have also been put under virtual household arrest. Also, they are not permitted to leave the country not even for medical emergencies unless they accept to never return back to the country. Therefore, they have been vulnerable to exploitation and harassment as they fear from the authorities which eventually make them limit their movement to neighbourhoods as well as refrain from filing any complaints in order to avoid harassment as well as check points (Longva, 1997).

According to (United Nations Human Right Council, 2009) the constitution of Kuwait that all citizens are equal beforehand the law. According to the Government as following the applications of the law entry of foreigners there are certain groups claiming to be Kuwaiti citizens but haven't been granted the citizenship because they could not demonstrate to be Kuwaiti nationals. The government claims that those individuals are said to have foreign nationalities or passports and have entered Kuwait legally or illegally and hid their passports and want to claim to be Kuwaiti nationals. However according to the Kuwaiti law, those residents are considered illegal residents. Therefore an Executive Committee of Illegal Residents in order to tackle the situation. The Committee that has been appointed by the government states to have recorded around 92,667 cases of illegal residents. Also, the Government of Kuwait indicates that

education as well as health services are meant to be provided and in reach for all residents regardless of their nationality. Also all individuals possess the right of employment, register their marriage, acquire birth certificates, driving license as well as travel documents (United Nations Human Right Council, 2009).

Kuwait established a system of discrimination against residents known as the 'biduns'. The Biduns who have been long life citizens of Kuwait who have been denied education, employment as well as restrict them from movement because of them not owning a citizenship (Human Rights Watch, 1995):

"Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed. There is no universal principle that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspirations can be directed. The urge forward along the path thus plotted is an urge towards a fuller measure of equality, an enrichment of the stuff of which the status is made and an increase in the number of those on whom the status is bestowed" (Marshall, 1950, p:135).

Unfortunately, after decades of promising biduns of citizenship, The Kuwaiti government declared them as illegal residents of the country that those people have only know. Also, the authorities justified policies on the cases of Biduns that they are illegal aliens and so that they are not entitled to live in Kuwait and therefore cannot enjoy the very basic rights of the citizens and legal residents are entitled to (Human Rights Watch, 1995).

According to Open Society Foundations (2011) in most states throughout history there have been discriminatory criteria that defined their citizenry; it was often restricting some particular groups of people because of their ethnicity. However, over time most of the states have removed such provisions from the laws. In contravention of Kuwait's international obligations of the Kuwaiti Nationality act therefore still includes the provisions against individuals regarding their race as well as ethnicity. "Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) guarantees enjoyment of the right to nationality "without distinction as to race, colour, or national or ethnic origin" (ibid.). However, in the case of the Bidun they cannot be identified neither by ethnicity nor race from other Kuwaitis therefore as a result they do not face ethnic discriminations. However, "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 (Human Rights Watch, 1995). Therefore, the above evidence shows that the biduns do not face discriminations of neither race nor ethnicity because they cannot be classified. However, they face discrimination in a national context where they are not entitled to earn the Kuwaiti citizenship even though they were born and raised in Kuwait and know no other country than Kuwait are not eligible to earn the rights of citizens nor residents. They are not qualified to acquire basic needs to live such as health care, marriage, education and employment (Beaugrand, 2011).

Unfortunately, for the stateless education is limited everywhere in the world. In Kuwait, children are not allowed to attend public schools because they do not have any birth certificates as well as identities to prove they are the citizens of the country also parents of those children cannot afford to put them in private school as they do not have the money for it. In Kuwait, education is a free commodity to all citizens (Burney and Mohammed, 2002). "Despite the provision of Article 22 of the Convention

relating to the Status of Stateless Persons that stateless individuals should receive the “same treatment as is accorded to nationals with respect to elementary education”(Belton, 2005, p: 86). Also, the same situation in Egypt where around 400,000 children are not able to attend public schools as well as public universities because they are stateless (ibid.). Therefore, it appears that in order to receive an education the individuals should be a legal resident or a citizen in order to receive any education at all or at least an equal education. For example: Two Bidun ladies named Siham and Salha who are in their earlier twenties and both were university students who had to drop university because they were no longer permitted to study. Even though they and their other brothers and sisters were born in Kuwait as well as their father used to work for the Kuwait Ministry Public of Works however was detained because he was accused of have had collaboration with some Iraqi occupiers (Human Rights Watch, 1995). Another example to be taken in consideration is, a bidun former police officer that is married to a bidun wife and has nine children where the eldest is of thirteen years old and none of them manage to go to school as the biduns are not permitted to be part of any government schools. However, they can attend private schools but their parents are not employed and they live of charity therefore they cannot afford to pay the fees of private school education (ibid.).

In September 2014, where children were getting ready to start their new academic year in Kuwait, around 1000 children of the bidun were not permitted to enter the premises of the school with the rest of their class mate and that was because the lack of birth certificate (Global Voice, 2014). Where the State of Kuwait refuses to issue those children birth certificates because they deny their existence from the moment they were born. Also, the barring of those bidun children from entering their primary (elementary) schools has also happened in the schools where the bidun girls were the top high school graduates. Even though those students had exceptionally high grades they were not allowed to continue their further study and be permitted an undergraduate degree at the Kuwait University. Therefore, by barring children from pursuing their education may result in an entire generation to drug dealing, resentment and paving they're way into unemployment. In the following month of October a protest took place where the children of the bidun stood there in front of the Ministry of Education while wearing their school uniforms carrying posters when they will usually be in their classrooms studying with their classmates (ibid.).

Due to the biduns being illegal in the State, and have no form of citizenship as well as no sort of documentation from the Kuwaiti government allowing them to work and reside they are unlikely to find jobs in the formal sector. Since, the formal sector is where the jobs that provide better job security as well as wages however, the stateless find themselves working in jobs if they find any that does not allow them escape poverty (Belton, 2005). For example in Kuwait a thirty-year-old former sergeant in the army who once played for fourteen ears in the major soccer team of Kuwait and has studied has undergraduate degree in the United States funded by the government. He has been dismissed like the rest of the biduns after the war and was not able to be rehired again even though he repeated attempts and asked for intervention of many notables. He is also a father of five children but of African origin and was born in Kuwait and also his father was a former slave that worked for the royal family (Human Rights Watch, 1995). Another example is another thirty year old man enlisted in the army and was dismissed after the war. Even though he was married to a Kuwaiti citizen and also managed to get his marriage registered where as other biduns are not able to get their marriage registered and therefore their marriage is not considered legal without official documentations. However, after being dismissed from work he could not get his health cards renewed therefore has to use the private sector hospitals and does not have the money to pay for it (ibid.) Similar examples in another part of the world “ where less

than 40% of the Crimean Tatars who have been able to return to Ukraine are employed the Kurdish regions of Turkey and Iran suffer extremely high unemployment rates compared to other regions in those States”(Belton, 2005, p: 88). Therefore, employment is significantly hard to come by unless there is presence of official documentations such as birth certificate, passports and resident permit so many of the stateless never owned. Therefore, this means without proper documentations the biduns are unable to find proper jobs and consequently they cannot afford the services needed to obtain those documentation which would allow them to work in order to rise from lack of education that the biduns often suffer from which is another hindrance for them obtaining a decent employment (Belton, 2005).

Under the national Kuwaiti law a woman's right of citizenship is contingent and limited: where she acquires it from her father or her husband however may not pass it on her spouse or offspring (Human Rights Watch, 1995). However, in 1960 the Citizenship Law excluded women who are married from directly applying for the citizenship unless they are divorced or widowed (ibid). However, Home Office 2014 in their analysis discussed policies that were put forward by the government such as:

1. “Children born to a Kuwaiti woman and a bidun man are considered stateless. Kuwaiti women can pass their nationality on to children only when the father is unknown or has failed to establish legal paternity, when the couple are divorced, or upon the death of a stateless husband” (Home Office, 2014, p: 14).

2. “In July 2010 the Interior Ministry submitted an amendment to the National Assembly that would allow Kuwaiti women married to non-Kuwaiti men to sponsor their husbands and children to acquire Kuwaiti nationality provided they have been married for ten years. At the time of writing the Home Office could not confirm whether this amendment to the law had been ratified” (Home Office, 2014, p: 14).

Therefore, the above evidence suggests that the law in the 1960's where the women should only claim the Kuwaiti citizenship from either her father or mother, if she was married to Bidun or was a Bidun she was eventually excluded from the citizenship for her children if she was Kuwaiti and for her and her whole family if she was a Bidun. If she were said to be a Kuwaiti she would therefore claim the citizenship for her children if she got a divorce or is widowed. Since, that has been in place a significant amount of Kuwaiti mothers who are married to Biduns have decided to get a divorce just in order for the children to live a respectful life and be recognised by the national law. Also, in 2010 there was a submission of amendment where Kuwaiti women would be able to sponsor their husbands as well as children if they were eventually married for ten years. But however until this day the law has not been approved. Thus, this is a result of gender discrimination because if a Kuwaiti is married to a Non-Kuwaiti the children eventually take after their fathers citizenship and his wife would be able to obtain the Kuwaiti citizenship after five years of their marriage. Also, the denial of the citizenship of the Biduns children which come from a Kuwaiti mother and a Bidun father disobeys the United Nation Convention on the rights of the child which Kuwait was a part of and signed for. As well as, the denial of lawful residents and Bidun fathers and Kuwaiti citizen mothers children violates the rules against gender based discrimination where Kuwaiti men who are married to Bidun wives can easily pass their citizenship to their children as well as wife. Such discrimination in nationality laws is prohibited where Kuwait signed to The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Human Rights Watch, 1995).

The Kuwaiti authorities in general consider the bidun as a security problem rather than it being a human right issue. However, instead of the Human Rights

Committee being responsible for the bidun issues the Interior and Defence Committee is held responsible instead. According to the Government the inclination in the previous few years has increasingly been in order to offer residency to those people instead of naturalisation. However, in 2007 the Kuwaiti parliament approved a law in order to grant citizenship to almost 2007 biduns, which their names were to be announced soon (Home Office, 2014).

However, the Human Rights Watch (2015) claims that the Kuwaiti Government has come up with a solution to the problem of the bidun's who are unfortunately lacking citizenship has led to criticism globally. The solution however is to pay other countries in order to accord the rights of the Bidun which Kuwait themselves will not. Kuwait started negotiating with other countries in order to naturalize Kuwait's Biduns in exchange for economic benefits. It also seemed that Kuwait wants to strike a deal with Comoros, which is an island republic in the Indian Ocean. Similarly the United Arab Emirates (UAE) struck a deal with Comoros in the previous years. "Everyone has the right to a nationality under international law, which lets countries decide who may be entitled to citizenship but with qualifications, particularly when an individual would otherwise be stateless. The former UN special rapporteur on the rights of non-citizens, David Weissbrodt, said, "At the very least, a person should be eligible for the citizenship of the country with which she or he has the closest link or connection" (Waltz, 2004). As well as, the international law binding of the State of Kuwait requires the countries to contribute rights to children that are born there or otherwise will be left stateless. However, Kuwait has not yet met the obligation for their stateless apparently because of the high price tag that the citizenship carries. After the international pressure as well as protests of 2011, the Bidun were granted certain benefits as well as services by the government that they were struggling to get such as free health care, registration of marriage and death certificates as well as birth certificates. However, some have reported that certain Biduns are still administrative hurdles in order of getting these benefits. "The United Nations Declaration on Human Rights Defenders provides that countries should "take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action" as a result of their participation in human rights activity"(Human Rights Watch, 2015, p: 22). The International Law indeed protects the right to family life. Therefore, deporting an individual under conditions where they have to leave their family without their will and go to a place with it would not be suitable for the family to move around would violate that right (ibid.). Thus, this deal would ensue some possible violations as there is a risk that the initiative by the State of Kuwait would encourage other governments in order to see economic citizenship as a process of by passing their obligations toward residents that are stateless. However, instead Kuwait should therefore recognize the pawning off the Bidun society on any another state which will not make its obligations withdraw, in fact it will increase the responsibility for all the resultant violations (Human Rights Watch, 2015).

In conclusion, the empirical evidence in this report evaluated the different processes of racialisation that in fact function in the State of Kuwait. It is evident that the Biduns of Kuwait often discriminated with regards to their citizenship where they do not have any official documentations such as birth and marriage certificates neither any identity that help them to live a respectful life. Therefore, they are discriminated and violated and are as well considered as illegal residents even though they were born and raised in Kuwait and also have family that live there. Even though the Bidun groups were promised citizenship in fact they did not get any. Also, with regards to education the Biduns are not allowed into basic education as for being illegal as well as not having any official birth certificates. The research also covers the example of the Bidun children that were confiscated from schools, which have caused segregation

as well as exclusion between those children. The research also highlighted the effect on employment where biduns were not allowed to work in basic government jobs neither in the private sectors. Even though the some of the Biduns that managed to get a job were dismissed from their work place. Therefore, this may have caused them to participate in crimes such as stealing and drug dealing etc. in order to be able to make some money and help their families in order to live. As discussed there is also seen to be gender based discrimination where the women are not able to pass their citizenship to their children even though they are a Kuwaiti citizen who is married to a Bidun and their children are not entitled to get the citizenship and are considered as Bidun. Therefore, are not eligible to engage in schools as well as employment. However, a Kuwaiti man who is married to a Bidun automatically passes his citizenship to his wife as well as children and receives all the basic services such as health care, education as well as employment. Also, the women can only pass her citizenship to her children if she gets a divorce or is widowed which therefore had an impact on many Kuwaiti women in order for their children to live a respectful life. Ultimately, Kuwait has found the solution to pay off the Biduns where they would like to pay other countries in order to accord the rights of the Bidun which Kuwait themselves will not. Kuwait started negotiating with other countries in order to naturalize Kuwait's Biduns in exchange for economic benefits. However, instead Kuwait should therefore recognize the pawning off the Bidun society on any another state which will not make its obligations withdraw, in fact it will increase the responsibility for all the resultant violations. Ultimately, the evidences that have been outlined in this report reveals working opportunities as well as conditions that are pre determined by a persons race, which therefore reveals in the present how racialisation is in the State of Kuwait.

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