
**The National Project to Resolve the Kuwaiti Bedoon Case (Kuwait)
End Statelessness Foundation (Australia)**

1 February, 2019 Report to the UN Expert Mechanism on
the Rights of Indigenous Peoples - Annual Study

**Bedoon Indigenous Rights in the Context of Borders, Migration and
Displacement**

Written Submission to the Human Rights Council Expert Mechanism on Indigenous Rights

EMRIPS efforts to achieve the ends of the

Declaration on the Rights of Indigenous Peoples (UNDRIP) via its

Annual Study on the Rights of Indigenous Peoples Worldwide

1 February 2019 Geneva, Switzerland



Contents

Bedoon indigenous rights in the context of borders, migration and displacement

Part 1: Bedoon claims to indigenous identity and human rights as a northern tribal group

1. Introduction

Figure 1: A Bedouin tent drawn by Abdulasoul al Moosa (1976), based on his fieldwork in the desert settlements inhabited by the Bedoon.

2. The Bedoon's indigenous identity claims - substantive rights in international law
3. The structure of the Bedoon as an ethnic minority of the Bedouin and the Bedoon within the structure of Kuwaiti society
4. Economic subsistence and geographical (land) connections (re: World Bank definition)
5. Bedouin self-identification as indigenous and distinct from the dominant society (re: ILO definition, Article 1(1) and WBD Op.Dir 4.20)
6. The Bedouin ancestral territories and incoming nomadic, semi-nomadic tribes recruited for the oil industry
7. Bedouin of the northern tribes in British protectorate forces, the Arab League Force, the Kuwaiti Military and Police forces
8. Criminalisation, entrapment and creation of the Bedoon minority out of the 'desert dweller' Bedouin including incoming northern tribes military/policy recruits
9. Settler domination leading to citizenship deprivation, National Census expulsion and administrative erasure
10. Government measures removing the Bedouin ethnic identity, national and family identities from the Bedoon (1983-2012)

Figure 2: Removal the Bedouin national and ethnic identity from every level of the ethnic structure (1983-2012)

11. Settler domination enabling the development of Hadar Nationalist 5 Pillar Policy discriminating against the Kuwaiti Bedouin in general, and the Bedoon in particular

Figure 3: 5 Pillar Policy transferred from Kuwaiti intellectuals to government

12. The concept of terra nullius in the stigmatisation of the Kuwaiti Bedouin in general and the Bedoon in particular

Figure 4: Stigmatisation of the Bedouin tribes on grounds of ethnic or racial identity, and culture

13. Capacity to discriminate in Decree 5/1960 determining application of the Nationality Law (1959) to exclude the Bedoon

Figure 5: Decree 5/1960 Criteria enabling citizenship grant by Nationality Committees (from al Anezi, 1989, p.182-193)

14. The Ministry of Interior, Central Apparatus 'final solution' to Kuwait's Bedoon problem

Part 2 The Concept Note - Areas of Focus

A. Reasons and factors behind the movement, including voluntary relocation, displacement, and forced relocation, of indigenous peoples

i. The Bedoon's right to travel and the necessity of free movement including crossing transnational boundaries

ii. Internal displacement related to Bedoon poverty and lack of appropriate housing

iii. Vulnerability of Bedoon housing complexes of historical significance, and of eviction of the Bedoon from these areas

Attempt to engage with the HRC Special Rapporteur on Housing

iv. Ongoing attempts to displace the Bedoon population via whole or part - population deportation to Arab and Western states

B. Current challenges and developments in law, policy and practice regarding trans-border movement of indigenous peoples

i. Barriers to the Bedouin acquiring asylum and refugee status since the Arab Spring (2010-2012), leaving them stranded in different states around the world

ii. Special international agreements impacting Bedoon asylum seekers and refugees

Figure 6: Barriers to the Bedoon obtaining access to asylum and refugee status in the United Kingdom

Turning back Bedoons who seek asylum into the custody of the Central Apparatus

Removing reference to persecution on grounds of ethnic/tribal identity

Northern tribal accent/dialect and 'language testing'

Prohibiting application of the Protectorate Law, United Kingdom

iii. Expulsion from national statistics, exclusion from national development plans and all forms of UN statistical monitoring (UNDP, UNESCO and others)

Remedies and Recommendations

About the authors

Bedoon Indigenous Rights in the Context of Borders, Migration and Displacement

Submission in response to the United Nations Human Rights Council Expert Mechanism on the Rights of Indigenous Peoples call for the study of Indigenous Peoples' rights in the context of borders, migration and displacement.

Part 1: In Part 1, we describe the Bedoon's history in the Arabian Gulf and Kuwait in particular, along with the development of policy targeting the group on the basis of their ethnic and tribal identity.

The policy has already led to administrative expulsion, violent ethnic cleansing and erasure (administrative ethnic cleansing) of the group. This report was submitted in response to the government of Kuwait's announcement in December 2018, that some 90% of the Bedoon population's national identity been erased, and that the remaining 10% would be completed in early 2019. The ethnic identity as Bedouin, and in some cases also individual tribal names and surnames, have also been erased (as per the public policy). To the best of our knowledge, Part 1 of the report constitutes the first extensive claim to indigenous rights asserted by the Bedoon to an organisation of the United Nations and the Human Rights Council in particular. The section is quite lengthy due to the extent of ethnic targeting, and physical and cultural destruction the Bedoon have endured as a result of their ethnic identity and culture, as northern tribes' Bedouin.

Part 2: In relation to the Concept Note, we have set out information we believe to be relevant to the Bedoon case at point 4, 'Focus of Study,' in Part 2. This section is significantly shorter than Part 1, and it does not include reference to each section of the Concept Note.

The Remedies and Recommendations section suggested by the mandate holder will be discussed further in our upcoming report on Bedoon Recognition, Reconciliation and Repatriations. *Quotations in the small boxes on each page comprise Bedoun interview data discussed in the main text.

The *ILO Convention on Indigenous Tribal Populations* (1957) (ILO) [was] prioritised in states of the Arab World as part of UNESCO arrangements for the socio-economic protection of the Bedouin tribes.

Part 1

Bedoon claims to indigenous identity and human rights as a northern Bedouin tribal group

This report was compiled in response to call for input from The report of the UN Expert Mechanism on the Rights of Indigenous Peoples on the implementation of the UN Declaration on the Rights of Indigenous Peoples, focusing on Recognition, Reparations, and Reconciliation (HRC resolution 33/25) and the Context of Borders, Migration and Displacement (HRC resolution 33/25 para 2a).

The exposure of the Bidun to a historic betrayal of the process [of nationality]. After that they were encouraged by the government to leave the life of the desert to shelter them [i.e. the state] for a long time. They were soldiers with external threats and police [who] established internal security, and the participants of oil extraction, the nerve of the economy. They lived [together] generation after generation, the [state] betrayed them and questioned them and left them begging without a decent living. (A Kuwaiti Bedoon, December 16, 2018)

Yes, it is our right as individuals to demand self-determination. This is a legitimate, legal and human rights, and we derive this right as human beings. Every human being has the right to self-determination. We demand the right to self-determination. # UN_Kuwait_Bedoon_Genocide (A Kuwaiti Bedoon, December 23, 2018)



Image 2: A Bedouin desert camp in Kuwait, inhabited by the northern tribes, whom the state of Kuwait would deprive of Kuwaiti citizenship; they would become known as 'Bedoon,' meaning 'without' in Arabic

1. Introduction

The Kuwaiti Bedoon (Bedouin of the northern tribes) have since 1959 and until the present day, lacked the capacity to communicate to the United Nations as a whole group, their rights as indigenous people in international law. These rights were first set out in the *ILO Convention on Indigenous Tribal Populations* (1957) (ILO), and prioritised in states of the Arab World as part of UNESCO arrangements for the socio-economic protection of the Bedouin tribes (Bocco, 2000, 2006). Abdulhakim al Fadhli, the Bedoon signatory to this document, asserts these rights herein on behalf of the Bedoon community in Kuwait and the diaspora. The Australian co-author, Dr Kennedy Nour al Deen, expressed these rights in her research and to the Kuwait Parliamentary Committee on Human Rights directly in 2016. Since then, Kuwait's Central Apparatus of the Ministry of Interior has continued to implement a decades-long program of genocide against the population: it has been 'business as usual' as the state implements ethnic cleansing via erasure.



Image 3: A closer aerial view of the Bedouin desert settlement camps.

The photographs were taken in 1974, as part of an 'investigation' by government that would transform Kuwait's national Bedouin settlement program (aligned with the 1957 ILO Convention on Indigenous Rights and UNESCO's regional goals protecting the Bedouin's social-economic welfare) into 'illegal dwellings.' The strategy criminalising the tribal settlements was a forerunner to the state's criminalisation of all inhabitants of the camps as 'illegal residents.' Today, the government of Kuwait claims to have had no knowledge the group were a homogenous society of stateless Bedouins, or to have had any official connection to their settlement in Kuwait.

According to the government of Kuwait, the ethnic (tribal) and national identity of 90% of the whole Bedoon population, which comprises over 110,000 people, has now been replaced with (fraudulent, i.e. untrue) nationality labels that the state refers to as 'original nationality.' The national identity of the remaining 10% will be erased in early 2019. The public policy also removes individual tribal names and surnames from the Bedoon. Every level of the ethnic structure is

targeted for identity erasure, additional to the application of fraudulent nationality labels. While the actions are typical of blueprints for ethnic cleansing, but the focus on every level of the ethnic structure is unusually comprehensive and indicates the involvement of social scientists aware of ethnic theory, used to design the ethnic cleansing and/or genocide of the Bedoun.

The Bedoon have been subject to organised entrapment in the state of Kuwait since 1959, following the group's permanent settlement in Kuwait within the whole Bedouin community who was at the time, along with Kuwaiti Hadar, stateless. The Bedoon were targeted on the

basis of their identity as they comprised around half the Bedouin population at that time. They were to be left perpetually stateless and subject to 'population restructure' (the state's term for violent ethnic cleansing), for the purpose of achieving the state's goal of 'demographic balance.' The Kuwaiti Bedouin had been identified by Hadar ethnics and Arab nationalists from the 1960s, as an enemy group who sought to share the country; they resented the ruling family allowing the Bedouin to settle in Kuwait. The Hadar sought to maintain their domination over the state regardless of the distribution of votes in National Assembly elections, while Arab nationalists were encouraged to expand their portion of the citizen base at the expense of the Bedouin who would be left stateless, and subsequently become known as the 'Bedoun.' Much of this history of Kuwait has been overlooked, glossed over, minimised or ignored by members of the international academic community who function as policy advisers to Kuwait's elite and foreign state stakeholders. For this reason, much of the information in this report reflects a new sociological theory of the Bedoun's statelessness, and comprises existing data that has been collated in new ways, to argue from the perspective of the Bedoon's indigenous rights and rights as an ethnic minority.

The government of Kuwait has gone to great lengths since the Arab Spring, to ensure that accurate information on the Bedoon situation is suppressed. This goal has been largely achieved within the United Nations and academic circles, while the media and international humanitarian organisations have adopted a somewhat more flexible and up-to-date approach to disseminating information about the Bedoon's experience. A key problem related to the Bedoon's entrapment in the state of Kuwait is that community leaders have been unable travel and gather in public to attend national and international forums held by civil society organisations, particularly humanitarian organisations, which would help the group to disseminate knowledge about their situation. Those Bedoon living in Kuwait have never been able to travel to United Nations forums in Geneva to represent their grassroots civil society organisations, because they are deprived the right to access genuine passports (these are provided only in rare circumstances, and certainly not for the context of

The Bedoon's identity fits within the definitions of indigenous identity set out in Article 1(1) of the Convention concerning Indigenous and Tribal People's in Independent Countries, and the World Bank definitions of 'indigenous peoples' and 'tribal groups.'

human rights, which is strictly criminalised). The extent of violations of human rights against the Bedoon is chilling, and is comparable in scale, intensity and duration to the Palestinian situation in Israel, the Kurds in Iraq and Turkey, the Rohingya in Myanmar, and South African Blacks under the system of Apartheid. The Bedoon of the northern Bedouin tribes have been subject to Administrative expulsion from the National Census and government ministries (1986-1992), violent ethnic cleansing (1990-1995) involving the death, disappearance and deportation of around half the population, judicial and extrajudicial killings, and ethnic cleansing via population attrition until the present day. Some members of government and the parliament (*Majilis al Ummah*) trill issue public threats the group will become subject to further mass expulsion and population transfer (ethnic cleansing), such as expulsion to remote islands and desert encampments, widely reported in the national news media.

A fraudulent passport trafficking scheme was established by the state of Kuwait in the early 1980s, to facilitate mass population transfer (ethnic cleansing). Government claimed the passports were an essential means for it to collect 'proof' of the Bedoon's 'original nationality,' even though the passports were illegal and unrelated to any legitimate attempt to establish the group's identity (such a legitimate function would have been contrary to the purpose of identity theft and erasure). The associated passport trafficking market developed by Kuwait's Ministry of Interior has operated for decades in Kuwait and is now of such dimensions it disturbs the international order by facilitating human trafficking, globally. The scheme and its connection to extortion of the Bedoon and the theft of their collective identity, is widely known by member states of the United Nations, particularly the United Kingdom, the United States of America and Australia. These states have never acknowledged any practical efforts to actually stop the passport trafficking scheme, let alone the program of ethnic cleansing and genocide against the Bedoon. The international community has routinely expressed its disdain over the state of Kuwait's deprivation of the Bedoon citizenship, as the majority of the Bedoon are qualified to receive Kuwaiti citizenship under the state's Nationality law (1959).

Since the Arab Spring (2010-2012), the state has accelerated its program of erasure, while the international community has also, rather hypocritically, cooperated with Kuwait's grandiose promotion of the global human rights agenda. This agenda has been constructed to distract from the *jus cogens* crimes against humanity carried out by the state abasing the Bedoon. The program of ethnic targeting and cleansing against the Bedoon has reorganised and destroyed a significant portion of the Bedoon's culture population and culture. Statelessness is combined with a raft of other public policies designed to oppress and eradicate the group. On the basis of estimated population losses since 1986 alone, the group are subject to genocide by most international standards because they have already lost more than half their population in around 35 years. The Emir al Sabah engages on the issue to direct praise to the Ministry of the Interior's Central Apparatus for carrying out the task, and warning against 'foreign interference' in the matter.

Since 1986, the government of Kuwait has referred to the Bedoon as a separate group of criminalised 'others' to Kuwaitis, in a range of reports compiled by the United Nations, particularly

those formulated for the Treaty Bodies and Universal Periodic Review. After government had referred to and recorded the Bedoon as 'Kuwaiti Bedouin' for decades, while also promising the whole group citizenship would be granted to them in multiple public announcements, legislation and other official commitments, a policy of administrative expulsion was introduced. The group were officially stripped of both their ethnic (tribal) and national identities, and thereafter referred to as 'illegal residents' and citizens of other states (though the group were stateless). However, in 1995 a report by Human Rights Watch (1995) established the Bedoon were actually Kuwaiti Bedouins of the northern tribes, who had been previously fully integrated in Bedouin society and were therefore biologically related to the citizen Bedouin population, a fact that had always been known by Kuwaitis.

Article 1(1) of the
[ILO] Convention...
applies to (a) tribal
peoples in
independent countries
whose social, cultural
and economic
conditions distinguish
them from other
sections of the
national community

Despite this knowledge break-through, the vast majority of (but not all) academic scholars working in Kuwait area studies continued to deny, downplay or manipulate data reported by international human rights organisations that discussed the ethnic, tribal and/or indigenous identity of the Bedoon. Carefully studied methods of misrepresentation, similar to those used historically to conceal genocide of Jews, Roma and Rohingya, were deployed by numerous scholars in Kuwait area studies to obscure the Bedoon's identity and legal claims. Since 1995, expert authors of a variety of United Nations reports have issued strong recommendations to the state of Kuwait urging it to grant the Bedoon citizenship and genuine access to human rights, but few seem to have fully grasped that the Bedoon are an indigenous, tribal minority group, subject to identity erasure and genocide.

For example the United Nations Committee on the Rights of the Child (2013) reported that it was 'deeply concerned' that Bedoon children were deprived of the right to Kuwaiti nationality and were vulnerable to labour exploitation, but it evaded definition of the ethnic and indigenous identity of the Bedoon children, by bracketing them as 'stateless, expatriate and migrant' persons. It urged the state to address 'root causes' of economic exploitation such as poverty, discrimination and statelessness, but did not recognise the 'root cause' of these phenomena was the Bedoon identity *per se*, that is, the ethnic (Bedouin), national (Kuwaiti) and indigenous aspects. It also failed to recognise any permanent changes that the state's oppression of the group might leave on children growing up in the community, such as the impact of cultural destruction.

Furthermore, the Committee omitted known data about prohibitions on the Bedoon's capacity to found families, which has prevented many in the population from partnering and procreating. The

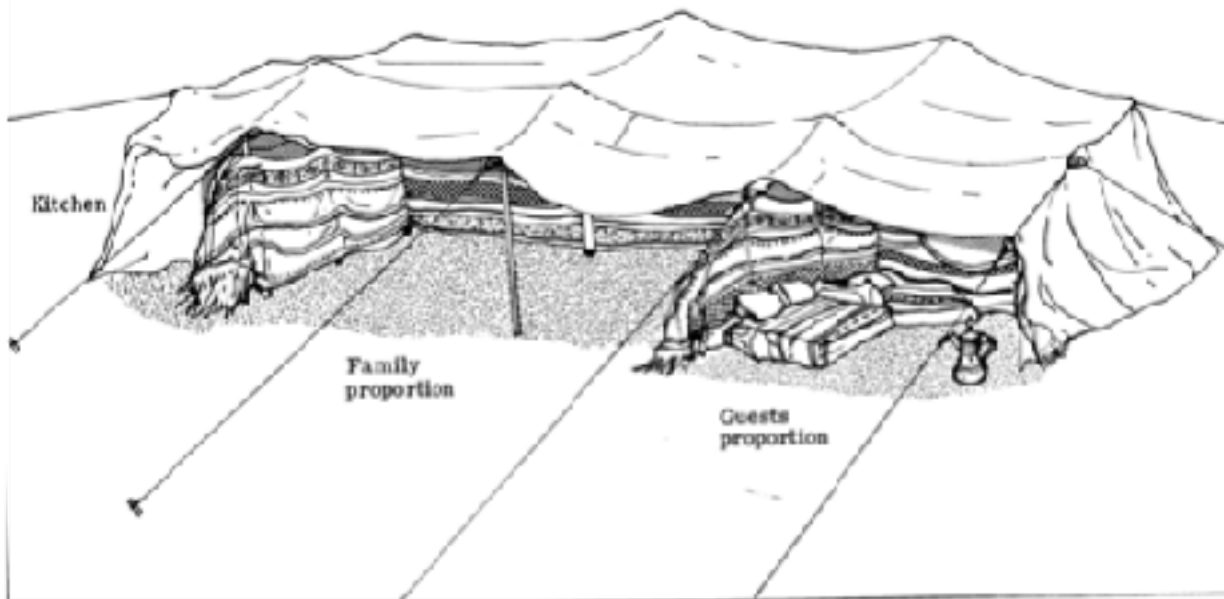
long-term impacts related to discrimination, poverty and statelessness have led to the Bedoon's isolation from citizen Bedouin, leading to the emergence and consolidation of the Bedoon portion of the Kuwaiti Bedouin tribes. The Bedoon have emerged as a new sub-ethnic group as a result of their extraordinary conditions. Furthermore, while Kuwaiti society was studied at the family level by the Committee on the Rights of the Child, and it identified the society as promoting violence against women and children in domestic contexts (owing to patriarchal value domination), the Bedoon's indigenous, ethnic minority status and the impact of violence imposed on the whole group by the state, was not considered at all as to the elimination of violence against children. This meant the the Committee was able to simply gloss over widely known, disproportionate levels of violence committed against Bedoon children and their parents by the state, primarily caused by ethnic conflict and targeting of the Bedoon due to their identity.

In naming the 'root causes' of exploitation, the Committee on the Rights of the Child (2013) had instead (erroneously) identified secondary causes. The primary cause of the Bedoon's situation is ethnic conflict between Hadar and Bedouin, chiefly driven by Hadar elites and intellectuals who have developed state policy marginalising the Bedouin population in general and the Bedoon in particular, since the beginning of the modern state. The Central Apparatus erasure program was omitted from the Committee's (2013) discussion of violations of identity in regard to birth registration and nationality documentation. Only the absence of nationality was noted (i.e. the so-called 'undocumented' Bedoon emphasised by the UK Home Office). The theft of existing Kuwaiti Bedouin identity, and replacement of nationality with fraudulent labelling (which facilitates human trafficking as we have mentioned), has not yet been recognised by the United Nations and its Organisations, despite a growing body of evidence documenting the program since 1989. This is the typical pattern across Treaty Body reports on the state of Kuwait from 2012 until today.

The authors of this report seek to rectify these omissions and errors, by calling on the United Nations and its Organs to recognise the Bedoon's ethnic, national and indigenous identities. We welcome the invitation for submission to the Expert Mechanism on the Rights of Indigenous Peoples, and implore the Mechanism to assist the Bedoun to acquire protections in international law against ongoing ethnic cleansing and genocide implemented by the state, and reinforced by much of Kuwait's citizen society in the form of silent complicity and discrimination. The governments of the United Kingdom, United States and Australia are cogently aware of the program of erasure, as are international humanitarian organisations such as Amnesty International, Human Rights Watch and Gulf Centre for Human Rights.

Sufficient evidence has been available to experts for decades, that would enable international humanitarian agencies to discover ethnic cleansing and indeed genocide of the Bedoon has been taking place since the group were first denied citizenship in the 1960s. The Bedoon's isolation by the state and the state's propaganda misrepresenting the Bedoon's identity has made it more difficult for outsiders to understand the broad scope and complexity of the program, but lack of motivation within the international community has also allowed atrocities against the Bedoon to pile up. For example, after the group were expelled from the National Census by the state, the UNDP

Fig. 2.2 A LAYOUT OF A BLACK TENT



and UNESCO did not require the state to re-instate the group under their previous citizen and nationality designations. This left the group in turn, unmonitored and unreported by the UNDP and UNESCO on Kuwait's population statistics - the very domain where evidence of erasure could be systematically observed and collected. Under-developed reporting on the Bedoon by experts has

Figure 1: The Bedouin home, drawn by Abdulrasoul al Moosa (1976) in his research on Bedouin settlement camps. These comprised a majority of the Bedoon population, along with Kuwaiti citizens who had not yet been moved to urban settlements or who had returned from them, to resume the traditional lifestyle to which they were accustomed.

prolonged the Bedoon's incapacity to assert their claims as an indigenous people entrapped in the state of Kuwait, contributing to their suffering. Furthermore, the United Nations, through the United Nations Compensation Commission (UNCC), made significant errors regarding past compensation (apparently) awarded to the group after the invasion of Kuwait by Iraq. This broader problem of inattention to the Bedoon's situation requires urgent resolution to enable the group's inclusion in UNDP and UNESCO population development and population monitoring systems, in order to prevent further population attrition and to enable the group to participate in the 2030 Sustainable Development Goals as a protective measure, before the group's future development is even seriously considered.

The treatment of the Bedoon by the state of Kuwait means that the themes expressed in the two recent calls for submissions by the Expert Mechanism on the Rights of Indigenous Peoples are so closely connected as to be virtually inseparable in the case of the Bedoon. This is because the state of Kuwait has attempted to erase the Bedoon's indigenous identity prior to the population ever reaching the capability of asserting itself formally through official channels. On the one hand,

the group are indigenous tribal people who have been present in the state for generations and never granted citizenship despite the state's many promises it would do so. On the other hand, the state has imposed a security apparatus over the group and attempted to destroy it, while convincing the outside world the Bedoon are 'migrants' and 'other nationals' who arrived as strangers overstayed their welcome. There is little doubt the state of Kuwait is responsible for *jus cogens*, crimes against humanity against the Bedoon on account of their sheer population decline over the last 35 years alone, and the fact that reliable data on the actual size of the Bedoon population can no longer be obtained from the state due to its efforts to literally 'bury' the group. Of some 250,000 to 300,000 Bedoon prior to the expulsions, there are only around 110,000 remaining. Accordingly, the Bedoon are positioned at the relatively early stages of engagement with the framework of international law, and seek recognition of their identity as an indigenous group and an ethnic minority. They also seek the rights to international travel, to gather in public, and to peaceful self-expression, as essential to enabling them to develop further claims to the rights of self-determination, self-development, reparations (including the right to truth) and reconciliation with the state of Kuwait.

2. Bedoon indigenous identity claims - substantive rights in international law

Although definitions of indigenous identity have at times seemed to be nebulous, the Bedoon's identity readily fits within the definitions of indigenous identity set out in Article 1(1) of the Convention concerning Indigenous and Tribal People's in Independent Countries (hereafter referred to as the ILO Convention), and the World Bank definitions of 'indigenous peoples' and tribal groups.' Specifically,

Article 1(1) of the Convention concerning Indigenous and Tribal Peoples in Independent Countries stipulates that the Convention applies to:

(a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations;

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

ILO Convention No. 169, June 27, 1989, 28 ILM 1382, 1384–85 (1989). (World Bank Operational Directive, 4.10: Indigenous Peoples, July 2005).

The World Bank definition is drawn from its Operational Directive, 4.20, which states:

The terms "indigenous peoples," "indigenous ethnic minorities," "tribal groups," and "scheduled tribes" describe social groups with a social and cultural identity distinct from the dominant society

that makes them vulnerable to being disadvantaged in the development process. For the purposes of this directive, “indigenous peoples” is the term that will be used to refer to these groups.

With regard to more detailed advice by the World Bank, economic and geographical concepts are described. The Bedoon easily conform to the description of standard of living (i.e. impoverishment) and economic activities. In providing more details to operations staff about groups to which the policy applies, the operational directive states:

Because of the varied and changing contexts in which indigenous peoples are found, no single definition can capture their diversity. Indigenous people are commonly among the poorest segments of a population. They engage in *economic activities* that range from shifting agriculture in or near forests to wage labor or even small-scale market-oriented activities.

With regard to geographical areas, the first four points apply strongly to the Bedoon, while the first point, pertaining to ancestral territories, is explained further below.

Indigenous peoples can be identified in particular *geographical areas* by the presence in varying degrees of the following characteristics:

- (a) a close attachment to ancestral territories and to the natural resources in these areas;
- (b) self-identification and identification by others as members of a distinct cultural group;
- (c) an indigenous language, often different from the national language;
- (d) presence of customary social and political institutions; and
- (e) primarily subsistence-oriented production.

The geographical aspect is of critical importance to conceptualisation of indigenous identity in international law, due to the issue of resource claims. In the case of the Bedoon, important resources from which they have been deprived include the use of land, water and oil. Hence, we refer to the definition of ‘Indigenous People’ by James Ananya, which invokes the concept of invader domination, also mentioned in the ILO Convention definition, above. ‘Indigenous’ refers, ‘broadly to the living descendants of pre-invasion inhabitants of lands now dominated by others’ (Ananya, 2004, p.3). ‘Peoples’ refers to communities with an identity that connects them with their past ancestors.

Article 1(1) of the [ILO] Convention... applies to (b) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community... who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions institutions

The Bedoon's isolation due to entrapment in the state and ethnic cleansing via administrative expulsion, and extreme forms of violence and oppression, thus developed slowly out of a national policy that in the first instance, appeared to provide for the Bedouin and would accordingly, grant citizenship to all, rather than half of the tribal population. The impact of this isolation has resulted in, generally speaking, the nurturing of the tribal bond, *asabiya*, and the seclusion of the Bedoon from the mainstream society where the Hadar are present. In reference to the legal definition of indigeneity, in summary, the Bedoon conform to these definitions as follows:

Article 1(1) of the Convention concerning Indigenous and Tribal Peoples in Independent Countries stipulates that the Convention applies to:

- (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (ILO Convention No. 169, June 27, 1989, 28 ILM 1382, 1384–85 (1989).

The Bedoon were identified as an emerging ethnic group in research conducted by co-author Dr Kennedy Nour al Deen, in a thesis of around 700 pages examined by leading social scientists, including one expert on genocide of indigenous peoples. The Bedoon were shown to be emerging from existing indigenous tribes, but while maintaining their connections with those tribes had begun to develop strong solidarity with members of other tribes who were Bedoon, due to their having been expelled and victimised by government and opposing ethnics, the Hadar, and to a lesser extent, members of the southern tribes. The northern and southern tribes had similar appearances but differentiated accents; their cultural conditions were differentiated to the southern tribes except that there were more integrated Sunni-Shia Muslims in some tribes due to greater religious tolerance - this factor reflected their geographical origins.

Their social conditions had changed upon recruitment into the colonial military forces such as the Desert Patrol, such that they were known to be stateless and had experienced greater contact with state authorities as compared to the southern tribes, prior to their permanent settlement in Kuwait. Some of the northern tribes had actually settled within the walls of Kuwait City but were still excluded from citizenship on grounds of their ethnicity. After their expulsion by the state in 1986-1992, their social conditions deteriorated rapidly due to stigmatisation as northern tribespeople and government's association of the Bedoon first as 'Iranians' then as 'Iraqis' (without reasonable evidence of any such national or covert association as was claimed) in order to promote the severing of ties between the Bedoon and their own northern tribes along with other groups in Kuwait citizen society.

On permanent settlement in Kuwait, their economic conditions were initially better than the southern tribes who did not settle until the 1980s, due to their having worked for government authorities while giving up camel stocks comparatively earlier than the southern tribes; but upon arrival of the southern tribes, their economic conditions dramatically deteriorated due to expulsion. The expulsion had the effect of dividing the northern-southern ethnic bond due to fear of

association among the southern tribes of the northern tribes, as the southern tribes had acquired dual Saudi-Kuwaiti citizenship due to arrangements between the Kuwait and Saudi states. Over time, this phenomena led to greater ethnic differentiation between the northern and southern tribes, and between the citizen members of the northern tribes and the Bedoon, but also merging between the Bedoon and other tribes sympathetic to their situation (including intermarriage between tribes), while the Bedoon continued to consolidate and develop a diaspora community comprising Bedoon refugees and others forced to flee who were never granted refugee status.

Tribal peoples... whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations (ILO Convention 169, June 27, 1987)

The Bedoon absorbed the national identity due to their complete assimilation as ethnic Bedouins prior to their expulsion. This national identity remains a strong feature of their identity, though they recognize citizens as 'the Kuwaitis' and themselves as 'Bedoon,' they also refer to their own collective as 'Kuwaitis' in contexts where they compare themselves to non-Kuwaiti nationals of other states. Thus, they have also historically formed, and remain, a sub-national group.

Article 1(1) of the Convention concerning Indigenous and Tribal Peoples in Independent Countries also stipulates that the Convention applies to:

(b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. (ILO Convention No. 169, June 27, 1989, 28 ILM 1382, 1384–85 (1989).

The extent to which the Bedoon retain their own social, economic, cultural and political institutions has been influenced by the state (in a negative sense), as it has attempted to destroy the Bedoon's access to cultural institutions through its program of ethnic cleansing and genocide.

The Bedoon have no formal institutions of their own, due to legal prohibitions on them making their identity status 'illegal' and preventing them from gathering and speaking freely about their identity, or social, economic, cultural and political conditions. They are forced to sign contracts of silence issued by the Ministry of Interior's Central Apparatus, threatening retaliatory actions in response for exercising these freedoms. They retain customary marriage practices, although as this informal institution has been particularly targeted for destruction by the state (as part of the fundamental right to found families, that would enable the Bedoon to sustain their own population), and due to impoverishment (also as a direct consequence of the state program to destroy the group), the practice of marriage has deteriorated since the 1980s.

In other words, their legal status and other state prohibitions and retaliatory actions have intentionally targeted the group's ability to retain ties with their indigenous culture. Even the Bedoons' customary proofs of ancestry have been attacked via the removal of names at every level of the ethnic structure, as discussed elsewhere in this document. Nevertheless, lines of descent and ties to the country remain a predominant feature of the Bedoon's oral history, which has begun to be documented by Dr Kennedy and has been housed in The Bedoon Archive at the Australian Data Archive, Australian National University, Canberra (Kennedy, 2018). As we have mentioned, the aspect of geographical region is discussed further below, see *The Bedouin ancestral territories and factors leading up to settlement in Kuwait*. The tribal structure of the Bedoon today still reflects the historical structure according to a segmentary-lineage system, with contemporary changes leading to the development of the Bedoon as an emerging ethnic group comprising members of multiple northern tribes who have been merged in solidarity and in some cases also inter-marriage, as a consequence of their statelessness and deprivations of human rights including access to development and self-determination.

3. The structure of the Bedoon as an ethnic minority of the Bedouin and the Bedoon within the structure of Kuwaiti society

The structure of the Bedoon as an ethnic minority of the Kuwaiti Bedouin, is as follows. In this description, we will commence with the top of the ethnic structure, and proceed in descending order. The Bedoon are members of the main tribes of Kuwait, who are registered tribes and politically recognised by the state. At the national level, the Bedoon are part of the Bedouin ethnic group. At the regional level, they comprise predominantly members of the northern tribes, although there may be exceptions to this case (Dr Kennedy has never met any non-northern tribal Bedoons, but Abdulhakim al Fadhli is aware of members of the community who are from other backgrounds but belong by virtue of ethnic identification and/or close family ties). At the regional level there are two main groups, the northern and southern tribes, These include individual tribes and multi-tribe groups, called 'confederations.' There are no tribes or confederations that constitute both southern and northern tribes. It is worth noting however, that a problematic aspect for outsider researchers is that different authors in anthropology and/or Middle East Studies describe different clusters of tribal groups as northern or southern - there appears to be some disagreement as to which ones are truly 'northern' and 'southern' however this knowledge gap is purely academic and theoretical and should in no way reflect on the members of any tribe.

At the local level, there is on rare occasions intermarriage between individuals from each group and historically, the northern tribes have been distinguished from the southern tribes by their tendency to tolerate marriage between Islamic religious sects, whereas the southern tribes distinguish themselves more readily with exclusive Sunni membership. This is one area of cultural tension between the tribes today, but the designation of the northern tribes as "Iraqi" nationals has been far more damaging to their population, as it was used by the state as a rationale for the ethnic cleansing of the Bedoon in the early 1990s. Single tribes are sub-ethnic groups of the Bedouin

ethnic group, as they represent individual tribal units; some theorist may disagree on this point, but it is a theoretic point only; they may chose to refer to the northern/southern clusters as sub-ethnic. According to Dr Kennedy's classification, the tribe is thus a sub-ethnic group, while the Bedoon emerge as a micro ethnic group or the sub-ethnic group. Note that this description of structure does not refer to the juridicial or political identity of the modern state, but is limited to the ethnic-cultural aspect of identification - self-attribution by individuals, families and tribes, and external attributions by other tribes, only.

Sufficient evidence has been available to experts for decades, that would enable them to discover that ethnic cleansing and genocide of the Bedoon has been taking place since the group were first denied citizenship in the 1960s

A significant though unexpected factor in the Bedoon identity, which is testament its cultural value within the Bedouin community, is that after Bedoons receive citizenship from either the state of Kuwait or other states abroad, and/or the Bedoon flee to other states to take shelter and acquire permanent residence, they always remain Bedoon. Thus, typical of primary ethnic identity, once born a Bedoon, stays a Bedoon. On the other hand, when Kuwaiti citizen women marry into the Bedoon community, which entails her having to join her husband in his family home, she also tends to adopt a Bedoon primary identity. Women who marry into Bedouin citizen society are more likely to adopt a citizen identity as she moves into a Kuwaiti Bedouin citizen home, although in any case she usually does not have to wait many years prior to conferral of Kuwaiti citizenship, which formally confirms her new identity status.

The placement of the Bedoon within Kuwaiti society is as follows; in this description we will commence at the bottom of the hierarchy and proceed in an ascending order. The Bedoon's primary national identity is Kuwaiti, and they are lowest in the hierarchy of Kuwait's political-juridical structure. Nevertheless, they do remain part of it by virtue of their historical, political inclusion in the state as Kuwaiti citizens waiting for citizenship to be conferred, as the National Census designation had implied. Slightly higher, other members of the northern tribes who are citizens of Kuwait, are found. Above the northern tribes, the southern tribes are found. In Kuwait, these tend to be all citizens, though there may be some exceptions who remain stateless, and are part of the Bedoon community. Above the southern tribes, are the Hadar, who are the ruling ethnic group.

Dr Kennedy is not aware of any publications that have analysed the internal structure of the Hadar ethnics formally against ethnic theory, though there are many narrative descriptions of the Hadar as a 'social group' available, which do not explicitly theorise the group. She has analysed the group informally, but has not yet published on the topic. Essentially, Hadar ethnics comprise some elite Bedouin, such as the ruling family and tribal sheiks and their families in tribes close to the rulers, including by marriage or political affiliation, such as the Ajman who are predominantly a

Saudi Arabian national tribe but have significant Kuwaiti citizen numbers. Some Hadar would however reject this view and only acknowledge non-Bedouins as belonging to the Kuwaiti Hadar. The majority of the group are towns dwelling migrant families from the surrounding states, Iraq, Saudi Arabia and Iran. There are also many inter-marriages which have produced mixed cultural/racial characteristics, particularly owing to marriage with people of the Indian continent and the African continent.

This is not unusual in the Arabian Gulf. Such families were traditionally merchants who came to Kuwait City across the sea from other port-cities abroad, and they are proud of their seafaring culture which is regarded as a symbol of their worldliness and metropolitan sophistication. The Hadar are essentially a multi-cultural group in composition, and different families emphasise their multicultural heritage to different extents. Their ethnic and national solidarity is extreme - such that while they perceive their ethnic Hadar and Kuwaiti national identities as their primary identities, the eradication of the Bedoon has become perceived as a vital element to security of that ethnic and national identity. That the defining elements of an ethnic group is based on projection of psychological exclusion ('Othering') and/or physical exclusion of other ethnic groups, is not unusual but quite typical according to both theories of ethnicity and nationalism.

The rigidity of identity and the tendency toward violent exclusion of the Bedouin (to the extent that the group has been enabled through their intellectual and political classes to expel and cleanse the Bedoon because they are Kuwaiti Bedouin), is inevitably connected to their political power, at the top of the political-judicial hierarchy. The Hadar were able to ascend to this level due to their relatively early development compared to the Bedouin, their economic activities as traders (their elite class is called 'the Chamber of Commerce'), and their relatively early access to education, particularly for men. They tend to symbolise their belonging with the term 'originals' or 'original Kuwaiti.' Hadar intellectuals, who are less affluent and sometimes have to work for their living, tend to emphasise their 'modern' characteristics in comparison to the Bedouin, who they perceive as primitive, symbolised in the term 'urban' or 'urbanite.' The term 'citizens' is also used, usually referring exclusively to the Hadar as a self-attribution of belonging, to the exclusion of the Bedouin citizens who are referred to as 'Bedu.' Usually the classifier 'the' is left off and the capital in Bedu is removed, to make the proper noun into a generalising adjective, to connote derogation of Bedouin citizens as a collective.

The descriptions in this section are based on the structural ethnic theory of Professor Felix Gross, a specialist in tribal ethnicity in the discipline of sociology, derived from *Ethnics in a Borderland* (1978), *The Civic and Tribal State* (1998) and *Citizenship and Ethnicity* (1999).

4. Economic subsistence and geographical (land) connections (re: World Bank definition)

The World Bank definition is drawn from its Operational Directive, 4.20, which states:

The Bedoon are an ethnic group, a tribal group, and indigenous group and a sub-national group (Kennedy, 2016). This social structure and identity is based on analysis of Bedoon tribal structures

and relations, indigenous connections to their tribal ancestral lines and the territory of Kuwait, their national identity and affiliations, and the more recent phenomena of emerging ethnic identity. It was precisely the Bedoon's vulnerability to being disadvantaged in the development process, that led to their exploitation by the state that led them to becoming entrapped in the state from the 1960s, and the success of plans to destroy the group, adopted by the state from at least the 1970s (in recommendations to expel the group from the National Census as 'Kuwaiti' and 'Bedouin'). In providing more details

‘And yianni, Arabic man, not stupid, no, no, not stupid, but he is *light*, yianni. No more think, not more idea, no, no, no for the future. My life, this is my country, this is my camel, never mind, open.... Until this time, I am without.’

to operations staff about groups to which the policy applies, the World Bank Operational Directive states:

Because of the varied and changing contexts in which indigenous peoples are found, no single definition can capture their diversity. Indigenous people are commonly among the poorest segments of a population. They engage in economic activities that range from shifting agriculture in or near forests to wage labor or even small-scale market-oriented activities. (World Bank Operational Directive, 4.10: Indigenous Peoples, July 2005).

With regard to geographical areas, the first four points apply strongly to the Bedoon, while the first point, pertaining to ancestral territories, is explained further below. Certainly the group's poverty, though not evenly distributed, is a compelling factor. They are undoubtedly the poorest segment of the Kuwaiti population comprising Hadar and Bedouin segments.

Permanent settlement in Kuwait was subsequent to and/or coincide with the relinquishment of nomadic and semi-nomadic herds. This process is documented in various rare footage of the Bedouin congregating around desert water holes which were shared between tribes according to tribal customary law. The tribesmen are seen watering their camels, goats and other animals. Different tribes were associated with different animal husbandry practices, according to their cultural traditions. However, as nomadic herding was made impossible by the drawing of state boundaries and confiscation of land by those states to make way for modern development, many of the the fully nomadic tribes or portions of tribesmen within those tribes had to give up their herds.

First the camel herds had to be relinquished (as they required nomadic routes of thousands of kilometres; thus their dirah were comparatively larger), then cattle herds (held in the fertile crescent) and goat herds (held in the fertile crescent and Arabian deserts, like camels) also had to be given up, depending upon the size of land holdings. As a result, camel and goat herds were the last to be maintained by the Kuwaiti Bedouin. Some affluent Bedouin citizens still maintain camels, particularly in the north west of the state where there is space for them to roam, though they are increasingly rare; they are kept for nostalgic purposes, for milk and sport (Kuwait has virtually no tourism due to its security apparatus and preoccupation with social closure, hence there is no camel tourism to speak of as seen in other states of the Arabian Peninsula, and even Saudi Arabia).

Goat herds the last to be maintained by the Bedoon in particular. Some goats could be held after permanent settlement in the compounds in which government directed the Bedoon to live, until the force of the Committee for Illegal Dwellings and later, Illegal Residents, led them to have to give up those herds. Rare photographs show these herds kept in the first brick housing compounds in which the Bedoon lived, as well as in aerial photographs like that shown on the front cover of this report.

A small-scale subsistence economy was described in research conducted in the 1970s in desert camps and new urban housing compounds constructed to house Bedouins of the military and police who were predominantly drawn from the Bedoon of the northern tribes. The Bedoon were actively engaged in a variety of small-scale activities alongside their predominant employment in by the state (i.e. prior to expulsion); for example, they performed in roles as small commercial business operators and attendants, security guards, truck drivers, and farm hands. After the Bedoon were expelled and became impoverished, the community responded by attempting to productively engage in an even broader range of subsistence economic activity.

Today, this type of activity is maintained by the Bedoon, including the selling of fruit and seeds in self-improvised roadside stalls, an activity which is criminalised by the state. In particular, homeless men engage in this activity as they can sell fruit from their cars, while also using their cars as their primary dwellings. Homelessness is also criminalised by the state; thus such men have to move constantly to avoid being arrested, and this also leads to homeless people seeking seclusion in stables, a well-known abode of the most impoverished and marginalised Bedoons. Amidst these hardships, the Bedoons have managed to develop a small leadership class characteristic of a national culture, though its development is severely restricted by the security apparatus. Bedoons excel in literature due to their traditional inclination for poetry and writing; they are actively engaged in human rights activism and social welfare and related academic and

journalistic activities, integral to their attempt to survive (physically and culturally) the state-sponsored programs of erasure, ethnic cleansing and genocide.

5. Bedouin self-identification as indigenous and distinct from the dominant society (re: ILO Convention, definition, Article 1(1) and World Bank Operational Directive 4.20)

A Bedoon community leader shares his own perception of his identity, as connected to the territory of Kuwait and the recollection of ancestral lines with others:

And yianni, Arabic man, not stupid, no, no, not stupid, but he is *light*, yianni. No more think, not more idea, no, no, no for the future. My life, this is my country, this is my camel, never mind, open. I don't want hospital, I don't want schools... After petrol, no, no, no... and begin problems. Until this time, I am without.

'I have paper, but I don't have nationality. Because nationality in Kuwait, take it in nationality, all have city, all have house. I know you are near from me, same street, Mr Plan, Mr, Mr, Mr, and finish.'

You know the Gulf area, all the open for the Arab man. And this is moving, begin my father... But you know what the system for the Arabic people, he don't live in one area. Arabic *Bedu* with the camel, you know with the camel, where is that, what place the area, he live here, maybe one month, two month here, then another, and another and another [place]. Not live in one area.

You know since this time... no cars, no... no, no [not] anything, maybe one month from the desert not come in, maybe one year, one time to pay something to his family... This is Kuwait, this is Saudia, this is Iraq. Before that, open.

At the beginning the government from the U.K., you know, the British, halas, cutting [Kuwait's Independence]. My father, go [in the 1960s] to government work in the forces, army... 1970 and 1980 fine. I am Arabic, I am Kuwaiti, I am... Not begin the problem, after 1985 begin the problems and looks...

After 1980, what happened? Happened the war, the big war, from Iran and Iraq. Saddam Hussein, make this war, [with] this country's security. Are you from camel? Are you from where?

And if I want nationality, it's near – maybe I go and come back tomorrow and I can take nationality.

I have paper, but I don't have nationality. Because nationality in Kuwait, take it in nationality, all have city, all have house. I know you are near from me, same street, Mr Plan, Mr, Mr, Mr and finish. And if I want nationality, it's near – maybe I go and come back tomorrow and I can take nationality, I can write my name, there is legnan [registration], but where is my family? Not coming in the city, maybe come one year, one time. This is big issue for my family.

Are you from, your father... maybe your father from the foreigners... soldier from Iraq and keep here [stayed in Kuwait], and [I say] 'What?' ...[and they reply] 'Maybe your father is from Iraq soldier and keep in Kuwait? ... And because the government again and again in newspaper and media... Yes, yes, yes, they make for your friend, you are different, different... he ask me... are you from where? My father and grandfather from one hundred years here, in Kuwait here, and no exit.'

This is my country. My life, this is my country, my camel, never mind, open. I think no problem with the Bedoon... This is my idea, all the Bedoon one family. Because this is [the]same problem, same, he is coming from the desert and saying, 'Are you...? If I sit with any Bedoon, I can know he is from where... ask him who is your father, I can know his family, and my family maybe married [with them]... I think all the Bedoon are one family. (Interview, Salmiya, Kuwait, 1 April, 2014).

A younger Bedoon male elaborates the distinctiveness of his identity as a Bedouin, by describing the significance of retaining knowledge of one's ancestral lines, in his culture:

Interviewer: What about people's cultural identity, their tribal identity? Are people very proud of their identity?

Respondent: The Gulf countries are Bedouin... The peoples who live in the desert, you know? From 1,000 years ago, you know, the Prophet Mohammed. Yea, especially the bedouin, all of them are pure Arabian.

Interviewer: Yes, I can see that.

Respondent: I now my name to the twentieth grandfather.

Interviewer: Twenty generations back?

Respondent : Yes, I can say the names. And I have a tree of my family. Until the Prophet Mohammed comes, then until Adam. (Interview, Salmiya, 1 April, 2014).

In the below passages, Bedoons identify social conflict arising from others' fear or derision of their identity, due to their membership in the northern tribes, the northern tribal dialect, religious sect, and being perceived as an inferior or untouchable class of people due to stigmatisation of the Bedoon identity negatively affecting social relationships with other groups in Kuwait society, including marriage prospects.

A Bedoon woman explains her experience of the preoccupation of others with her northern tribes identity, due to stigmatisation:

Because [the] Bedoon must come from the tribes, still they [are] coming to look at themselves, look to themselves as modern people and tribal people, like Bedouin people and civilised people.

And even the Bedu people, they look at which country, 'You are from this country? From the north, or the south?' They ask. And, 'If you are from the north, from which part?'

If you are from the north, problem... they look to distinguish the Bedouin, and then to distinguish you [as from] the north [tribes]. This is a problem. I know because some people that try to hide this from others, they are pretending they are from different backgrounds... or from a different sect [i.e. to be Sunni, if they are Shia]. They avoid going into situation that will deal with this [attribute]. Because they feel maybe they will deal with you in a different way.

They think... maybe you're from this background, maybe you don't believe in God. Or if you are from the north, you are not Kuwaiti, or there is nothing that makes you look like [a] Kuwaiti. They will look at you... like you don't have the full right because you have the norther[ern tribes] background, your roots are from the north. So they look to people with... conflict based on [this] background.

I have the right to be different. I don't have to, we don't all have to, look like similar copies, repeating the same lies. I don't have to lie about background or my religion or my beliefs or my thoughts... I have the right to have my own things, and you have the right to argue, to discuss this with me. You can be convinced by it, you can disagree with it, but you can't force me to deny my identity. (Interview, al Rai, Kuwait, 11 April, 2014).

A Bedoon male described how he had been encouraged to hide his identity by his family, due to his belonging to a mixed Sunni-Sunni-Shia tribe:

I was raised as a [child] who should never talk at school, never speak about his actual sect, and never talk his dialect. So we would always talk in the dialect of the other tribes so that other students wouldn't notice who we are. Because people know from the dialect, which tribe and from the tribe, which sect you are in, and you would be bullied all the time at school. So that made us go through all our time, our studies, even high school, always hiding our tribe from our peers. And that would put so much pressure on us, not to talk about our identity.

So these are the effects of the tribe, of being native people... I haven't forgotten that I'm Bedouin, I reflect about it all the time... (Interview, Salmiya, 7 March, 2014).

A younger Bedoon male elaborates on the stigmatisation of those Bedouins of the northern tribe, on the basis of their dialect:

'You know what the system for the Arabic people, he don't live in one area. Arabic *Bedu* with the camel, you know with the camel, where is that, what place the area, he live here, maybe one month, two month here, then another, and another and another [place].' Not live in one area.'

Respondent: I have many friends who speak different dialects. Nobody can deny this, that we don't speak the same.

Interviewer: So there are different dialect for each tribe, is that how it works?

Respondent: No, I wouldn't say for each tribes. The southern tribes use the same dialect. The northern tribes use another dialect.

Interviewer: People of the sea, who live by the sea use a different dialect?

Respondent: Yes, yes.

Interviewer: You mean the Hadar, the people by the sea?

Respondent: Yes.

Interviewer: They have their own?

Respondent: Yes, even in the Badu there are different dialects but they are not that different from each other.

Interviewer: So they are similar but just slightly changed among families?

Respondent: Yes. Hadar always make [the] comment, 'Your language is Iraqi,' It is not. It is not, it is just prejudice. There's nothing wrong with the Iraq language, but they say this specifically about the language to discriminate against us.

When some Kuwaitis make these comments, I think he is trying to prove from this comment that this person is not Kuwaiti he is Iraqi [and] he should not speak this way. I have some friends who speak Kuwaiti dialect better than the Kuwaiti themselves.

And here you have the problem. If you are Bedoon from the northern tribes, if you talk to the Kuwaitis from the southern tribes, he will say, you know, 'Maybe he is Iraqi,' (Interview, Salmiya, 15 March, 2014).

A young man explained the Bedoon stigma which led them to remain secluded from society:

Respondent: I saw most Bedoon like to hide this thing about themselves.

Interviewer: Most?

Respondent: Yes, they didn't say, 'I am Bedoon,' because of the society.

Interviewer: Why do you think that is?

Respondent: Because the people look at them as poor people... I cannot say it in English.

Interviewer: Like they are somehow diminished?

The parents [will] refuse to marry... [into a Bedoon family]... So, everyone keeps quiet about it. It is better for them, for dealing with the community. (Interview, 1 April, 2014).

6. The Bedouin ancestral territories and incoming nomadic, semi-nomadic tribes recruited for the oil industry

The geographical aspect is of critical importance to conceptualisation of indigenous identity in international law, due to the issue of resource claims. In the case of the Bedoon, important resources from which they have been deprived include the use of land, water and oil. Hence, we refer to the definition of 'Indigenous People' by James Ananya, which invokes the concept of invader domination, also mentioned in the ILO Convention definition, above. 'Indigenous' refers, 'broadly to the living descendants of pre-invasion inhabitants of lands now dominated by others' (Ananya, 2004, p.3). 'Peoples' refers to communities with an identity that connects them with their past ancestors. This is discussed further below. The aspect of invader domination is also essential to understanding the government of Kuwait's situation of having endorsed, even organised for the Bedoon to permanently settle in the state of Kuwait nearby the states' capital, Kuwait City, and its subsequent turning on the population and attempt to destroy it. However, we believe that initially, the government of Kuwait did intend to settle the Bedoon and grant them citizenship, in alignment with the ILO Convention, at least at the time the ILO Convention came into power, thus:

'People at here... they have family from same background. So they know the story, they know I have rights here. And they know I am Kuwaiti from where people have [come] from: we are *first*.'

In 1957 the fortieth session of the ILO (attended also by FAO, WHO and UNESCO) adopted a 'Convention for the protection and integration of aboriginal and other tribal and semi-tribal populations in independent countries' (Convention no.107). This convention states that 'governments will be principally responsible for undertaking a co-ordinated and systematic program to protect the concerned populations and to integrate them progressively in the life of their respective populations.' (Bocco, 2006, p. 306)

The Bedoon's indigenous identity claims are influenced by the historical development of nations of the Middle East and the circumstances in which the United Nations was first established to impact the region. The Arab Bedouin tribes held traditional lands called *dirah*, across the Middle East. Not only did different tribes wander across different tracts of land, the size of tracts varied considerably depending upon the size and organisation of individual tribes and groups of tribes, making up tribal confederations, as well as their pastoral habits. After the First World War, it became increasingly urgent for modern states to settle the Bedouin tribes permanently, to enhance regional political stability and use the population as a labour resource for national economic

development. Initially, state rulers, elites and protectorate authorities called for Bedouin sheikhs representing all tribes to gather their tribesmen and direct them to Saudi Arabia and Kuwait.

For explanatory purposes, we contrast the situation of the Bedouin of Saudi Arabia with the Bedouin of Kuwait - the relevance of which will become apparent shortly. The Kingdom of Saudi Arabia was established in 1932; the state of Kuwait was established in 1961, but Bedouin were called to service the oil industry in both states from the 1930s. Members of tribes were later called to service other states of the Arabian Gulf as the oil industry was developed in those states, but the majority of Bedouin first went to Saudi Arabia and Kuwait, as tribes were directed there first. It was regarded as incumbent upon states' rulers to call members of a variety of tribes to provide some measure of equal opportunity with regard to economic development, while just as important for incoming tribal social power, called *asabiya*, to be as evenly spread across multiple tribes as possible, so as to prevent any one tribe from concentrating their power. The southern tribes were already present in, or soon settled permanently in, Saudi Arabia, reflecting the ancestral origins of the ruling family. The state distributed citizenship, land and provided the means of livelihood to tribes people settled there, in recognition of their indigenous, tribal identity.

The Bedoon's close attachment to ancestral territories spans traditional, transnational *dirah* established hundreds of years prior to Ottoman and colonial conquest, partially maintained through to the modern era. This includes the territory of Kuwait by virtue of the Bedouin customary law practiced through to the formation of the modern state of Kuwait, which led the al Sabah rulers to specifically recruit the northern tribes via customary methods, to permanently settle in Kuwait. During the transitional settlement phase, the Bedoon maintained their territorial attachments and dependence on natural resources, for example, by settling around traditional Bedouin waterholes under customary land-sharing permission, and transitioning from holding camel herds to goat herds, while still practicing semi-nomadism on a seasonal basis, retreating into the grassland steppe of Kuwait and further inland into the interior desert. The group was observed to exhibit a spiritual connection to the whole of the Arabian Peninsula and psychological attachment distress during this period, attributed to their relinquishment of fully nomadic and semi-nomadic cultural practices under the formal organisation of the state. The state of Kuwait formerly recognised the Bedoon's tribal rights (and Bedouin citizen rights) to wander the Arabian Peninsula until 1987, when it repealed that legislation.

We concede that there may have been some exceptions to the Bedoon of the northern Bedouin tribes relinquishing nomadic or semi-nomadic patterns when they first settled in Kuwait, as some may have lived in urban settlements before reaching the state. Bedouins were recruited into the seasonal pearling industry along the coastline living in the township of Kuwait City and toward the south of the city. But additionally, nomadic wandering including retreat from the large settlements into the interior grassy steppe deserts was observed after settlement. It was understood that the newly settled Bedouins experienced psychological stress from their coerced/enforced settlement in the state. The Australian co-author has met Bedoons with nomadic, semi-nomadic and town-dwelling family origins. However, as the vast majority of Bedouin were housed in desert camps,

initially in tents constructed from goat and camel wool from their own flocks, prior to being sold small prefabricated wood huts with concrete floor slabs by the Kuwait Oil Company. Additionally, families camped in the desert settlements for decades withstanding weather patterns featuring summer heat over 50 degrees, sandstorms and no water or air cooling devices, indicating Bedouin nomadic practices must have been part of the cultural repertoire of such families in order for them to actually survive in such harsh environmental conditions.

7. Bedouin of the northern tribes in British protectorate forces, the Arab League Force, the Kuwaiti Military and Police forces

In the British Protectorate of Kuwait, and later the modern state of Kuwait, the northern tribes' Bedouin in particular were called to relinquish their nomadic and semi-nomadic ways of life and to settle permanently in the state of Kuwait. Obviously not every tribe held nomadic transit routes through Kuwait, but the tribes were present in the territory of Kuwait with the permission of the local tribal ruler, the al Sabah, according to Bedouin customary law, for the purpose of fulfilling the tribal rulers' and the states' economic goals. The northern tribes were permanently settled in Kuwait, reflecting the ancestral origins of the ruling tribe, the al Sabah, who became the ruling family of the modern state of Kuwait. The state managed a national settlement program for the Bedouin, which according to some Kuwaiti scholars, recognised the *Bedoon* (i.e. the stateless members of the ethnic group) as being consistent with the national character, defined by the al Sabah tribal rulers.

As a newly independent state, in 1961 Kuwait experienced a crisis owing to threats issued against its sovereignty by the state of Iraq. Stateless northern tribesmen from Jordan, Saudi Arabia and Syria were recruited to form the Arab League Force deployed to Kuwait. This force has not been mentioned in scholarly accounts about the Bedoon until Dr Kennedy discovered this aspect after she had completed her thesis research. Providing that the Bedoon were channelled into the military and police force to the extent that they dominated these areas of the Kuwait government service, it seems quite clear that the Arab League Force comprised the Bedoon, with the troops stationed in Kuwait redeployed into government service directly, after the Force was disbanded.

We believe that it is very likely there were formal arrangements confirming such a transfer, although we have not yet located evidence of such. Moreover, we believe that these troops were probably already stationed in Kuwait prior to the independence of Kuwait, under British protectorate authorities. This is because the Arab League force was comprised of stateless Bedouin from the same locations as the British Bedouin Desert Patrol, of Jordan, Syria and Saudi Arabia. The militarisation of the tribes should not be read as a purely modernising factor, but also as one integral to the Bedouin's indigenous identity. The Bedouin tribes had been organised to

‘I was raised as a [child] who should never talk at school, never speak about his actual sect, and never talk his dialect... And that would put so much pressure on us, not to talk about our identity.’

serve their tribal rulers for hundreds of years, as described in the *Muqaddimah*, by the fourteenth century north African scholar, Ibn Khaldun. This perspective also explains why the state was able to demand loyalty from the group for so long, without providing them citizenship - tribal loyalty was valued over citizenship, and the purpose of citizenship was not fully understood by such men.

In the 1960s, Kuwait's national settlement program took in the areas where the Bedouin were already camped, on their *dirah*. The land was shared by multiple tribes at this time; later, government limited the number of camps, which made them larger as the population was consolidated in a few key areas. The Bedouin of the northern tribes were at home in Kuwait because their ruling family was also of the northern tribes, the al Aneza tribal confederation; they lived on traditional tribal lands, in tribal formation; and they lived according to tribal customary law. The Bedouin's ability to live as indigenous 'desert dwellers' was fundamental to their survival in Kuwait up until the 1980s. The Bedouin's functional relationship to the land of Kuwait was one of the bases on which they were discriminated by the Hadar on grounds of their ethnic (tribal) identity. Not yet aware they would be deprived of citizenship for this reason, the northern tribes' Bedouin had permanently settled in Kuwait in what was almost entirely an indigenous context, segregated from the towns dwelling Hadar.

8. Criminalisation, entrapment and creation of the Bedouin minority out of the 'desert dweller' Bedouin including incoming northern tribes military/police recruits

Finally in this section, the methods used to entrap the Bedouin in the state were also derived from their indigenous status as 'desert dwellers.' During the 1960s and 1970s, as we have mentioned, the Bedouin were transitioned from inhabitants of desert camps based around traditional watering holes, then designated by government to merge into a smaller number of camps. At this stage, the group were tightly organised but largely managed by their own tribal leaders and those under them, the majority employed in the Ministry of Defence and Ministry of Interior. From 1965, the Bedouin camps were monitored by the Municipality of Kuwait and the Central Statistics Office, with a notable increase in nationalist sentiment arising in the Municipality of Kuwait, according to some Kuwaiti scholars. This sentiment is traceable in scholarly literature and coincided with a policy platform developed by nationalists favouring distribution of citizenship to other Arabs nationals who already held citizenship in other states, in preference for Bedouins. In 1974, the first committee intentionally entrapping the Bedouin was established as the Committee for Illegal Dwellings, which deemed the government settlement program dwellings as 'illegal.' A higher branch of this committee was developed, called the Higher Committee for Shanty Clearance. The name of the committee expressed the intention of government to destroy the tens of thousands of Bedouin homes, some of which are illustrated in the photo on the cover page of this report.

The Committee for Illegal Dwellings conducted a 'special investigation' in 1974 (which appears to have instigated the formation of the higher 'clearance' committee), leading to census expulsion (see below). Following government policy, the Kuwait government Department of Statistics had measured the Bedouin under "Kuwaiti" and "Bedouin," as indicated in the very high proportion of

Bedoons living in campus accounted for in the column on the left ('census data'). The expulsion of the group would lead to the results shown on the right ('committee data'), where they would be renamed "non-Kuwaiti." The recommendation accompanying this diagram was the forerunner of today's 'status adjustment' program of erasure, which attempts to relabel Bedoons to satisfy the need to make them appear to be 'non-Kuwaiti', and to 'lose' the group in national statistics. The study was paid for by the same department responsible for the 'Special Investigation.'

'So these are the effects of the tribe, of being native people... I haven't forgotten that I'm Bedouin, I reflect about it all the time...'

In 1985, the Committee for Illegal Dwellings became the Committee for the 'Study' of Illegal Residents, wherein the inhabitants of the homes were labelled 'illegal' without having committed any offence. This development coincided with the expulsion of the Bedoon across a number of Ministries of government, and the beginning of a more intensive phase of criminalisation of the Bedoon. Formal assertions by government claimed the Bedoon were 'illegal residents' who held citizenship in other states, and 'liars' for not disclosing their 'true' identity. Yet simultaneously, government officials, members of parliament and scholars also accused Bedouin citizens of the same sins, not disclosing their 'real' or 'true' identities as non-Kuwaitis. Kuwait's national settlement program for Bedouins had been located on the Bedouin's traditional tribal lands and had allowed them reasonably comfortable settlement in nature and close to their formerly nomadic and semi-nomadic patterns. But in this way, the designers of the program of ethnic cleansing and genocide transformed the desert camps into an architecture facilitating discriminatory apartheid, enforcing the Bedoon's physical and social seclusion from Kuwait City via the 'illegal' status, and ultimately, facilitating genocide. By 1986, the group were prohibited from travelling out of the state and were entrapped.

9. Settler domination of Kuwait leading to citizenship deprivation, National Census expulsion and the erasure

Unlike the rule of the al Saud family in Saudi Arabia, the control of the state was not politically secure. The rule of the al Sabah family was (and still is) dominated by a limited number of uneducated, urbanised Bedouin and educated, highly politicized merchants from emigrant families who are called the Hadar (the term represents urban Arabs and mixed-race immigrants who believe they are a superior, metropolitan elite). Due to the influence of the Hadar urban elite, they became the dominant occupiers of the state after withdrawal of the British protectorate authorities. All of the Hadar received first-degree Kuwait citizenship with voting rights, including those who lacked documents showing proof of residence and family lines in Kuwait. In contrast, the same reason was used to deny the Bedoon any form of citizenship at all. Only around half of the Bedouin were distributed citizenship, and that citizenship was of the second-class, without

voting rights. This meant that the Bedouin of the northern tribes who were granted citizenship by the state of Kuwait were left politically powerless for more than thirty years (the 'waiting' period for voting rights, which was reached toward the end of life for these tribesmen). Moreover, while only around half of the Bedouin were granted citizenship at all; the other half were left without citizenship, and became known as the 'Bedoon,' meaning 'without' in Arabic. The comparative relationship between the Bedoon, Bedouin citizens and the Hadar thus defined by the nature of their citizenship rights, or lack of them, demonstrating that the state has ultimately sought to segregate the Bedoon legally in on grounds of their ethnic-tribal and indigenous identity in apartheid-like conditions. The relevant Articles of Decree 5/1960 which enabled the Nationality Committee members to exclude the Bedoon, are discussed in a section under that sub-heading, below.

Direct discrimination of the Bedoon leading them to be excluded from Kuwaiti citizenship led to the Bedoon to further consolidating their tribal, indigenous identity in conditions of legal vulnerability and social isolation. Statelessness was enforced upon the Bedoon in 1986, some twenty years after the initial distribution of citizenship to Kuwaitis after the state became independent of Great Britain. The group were administratively expelled from a number of key government Ministries, severed from 'Kuwaitization' (a so-called 'indigenous' economic policy benefitting the Hadar occupiers) and struck off the National Census as 'Kuwaiti' and 'Bedouin' and instead relabelled 'other Arabs, unknown.' The erasure program, called 'status adjustment' in reference to the concept of adjusting one's nationality status on a 'voluntarily' basis (the program is enforced via threats and extortion), commenced prior to the expulsion, in 1983. The rationalisation for the program by the Ministry of the Interior was based on an assumption that fraudulent identity labels could be assigned to different sections of the whole Bedoon population that could then be channeled into national population statistics which already held records of nationals of those states. The Bedoon were no longer monitored by international organisations such as UNDP and UNESCO, once they were struck off the National Census approximately 1992 (although one reliable source reports this actually occurred in the 1980s).

The program designers of the erasure were not only aware of this, they counted on it. The method enabled government to 'lose' the Bedoon population within the broader 'migrant' population pool of expatriate nationals supposedly residing in Kuwait on a temporary basis, on limited work contracts (in reality, some groups of expatriate nationals have been enabled to reside in Kuwait permanently). Unmonitored by the state or international organisations including UNDP and UNESCO, the Bedoon population could and still can, be made to disappear, after official recognition of their ethnic and national identities formerly listed on the National Census, had been stripped. So comprehensively planned was the erasure, individual tribal names and surnames were also stripped as a matter of public policy. The manipulation of the National Census by the Department of Illegal Dwellings Investigative Committee is shown below, as set out in a study by a Kuwait researcher in 1976 who was funded by the same group to complete his PhD justifying the earlier study.

Significantly, the justification for census expulsion was entirely frivolous. For example, the Bedoon were defined as a national security problem on the basis of their tribal culture, yet the most detrimental examples of this 'threat' comprised group social activities enjoyed among families, such as attending weddings. This type of research was not unique among the Hadar but quite indicative of a regional trend which commenced earlier. Ricardo Bocco (2006) studied intellectuals of the Hadar class from a variety of Middle East states who produced

'I saw most Bedoon like to hide this thing about themselves... Because the people look at them as poor people...'

research in the 1950s and 1960s on Bedouin settlement, finding the general influence of Orientalism was projected by Arab researchers seeking to embrace modernization. They projected typically Orientalist values onto the less developed tribal Bedouin, from whom they were ultimately descended.

Thus, the Bedoon's situation as a stateless indigenous group has been brought about not only by government policy which has been positioned against the group's natural development and cultural expansion, but also by those who formulated the policy, who were derived from the Hadar population. The Hadar have functioned essentially as the dominant occupiers of the state of Kuwait and positioned themselves as the opposing, nationalist, ethnic group, working behind the National Assembly to influence national policy (according to Professor Rashid al Anezi and Professor Abdullah Alhajeri). Insofar as they have been represented by political, social and economic leaders, in the 'elite' merchant class (also known as 'the Chamber of Commerce,' comprising a small group of families who made rich on the state's prime resource, oil) and the intellectual class (who function essentially as a promotional agency for the elite), the Hadar ruling classes sought to eradicate the Bedoon simply because they were half of the Kuwaiti Bedouin - that is, on grounds of their ethnic identity, and the nature of that identity, rooted in the indigenous, tribal culture. Hadar intellectuals of Kuwait and other Arab states were responsible for constructing national policy against the Bedoon, thus carrying out the wishes of the merchant class.

10. Government measures removing the Bedouin ethnic identity, national and family identities from the Bedoon (1983-2012)

The Australian co-author Dr Kennedy, has studied this aspect in depth, and has drawn extensively on Kuwaiti research including work by those who formulated, justified and promoted the policies themselves, in order to arrive at her conclusions. While we concede that some Hadar are part Bedouin, this does not discount the former comments in either (academic) theory or practice. These claims of ethnic opposition are not made lightly; they are responsible for the core anti-Bedouin/anti-Bedoon ideology in the state of Kuwait. Such ideologies propagated by scholars accompanied plans for expulsion and/or systematic exclusion of the group, focusing on their identity, culture, collective consciousness and capacity for political mobilization that would be

required to secure their basic human rights and to claim citizenship after it had been intentionally deprived from them for decades. The ideology developed from the 1960s is equivalent to hate speech; it has evolved to counter claims made by the Bedoon population that they are innocent of charges of 'lies' and duplicity they have 'faked' their citizen identities while living in misery under a program of state-sponsored genocide. A diagram showing the nature of this very active and dynamic ideology revealed in study of academic discourse is shown below (the central theme of the Bedoon 'other' provides a static, dogmatic core around which the more active system functions in response to opposition to the ideology).

This ideology, manifest in the erasure program, has removed names of the Bedoon at every level of the ethnic structure. Additionally, the removal of names coincided with the creation of a plethora of other collective names for the group such as 'unknown,' 'unidentified,' 'illegal' as well as the use of other nationality labels such as 'Saudi,' 'Iraqi,' and so on. A catalogue of name changes implemented by government since the 1960s, illustrates how the theoretical aspect of the plan shown in the above, was implemented in practice in even greater detail, as below in the traditional names and contemporary labelling of the Bedoon (Bedouin of the northern tribes) which according to government, constitutes their nationality:

Thus, the erasure program was planned to interfere with and essentially to steal the Bedoon's indigenous identity with a level of sophistication that belies intimate knowledge of social science theory and that perhaps, has not been seen before in the history of state violence (principally related to the ability of the state to continue to program unabated for generations). Simultaneously

Sons of the desert, dwellers of the Kuwait desert, Kuwaiti Bedouin, semi-settled Bedouins of Kuwait, semi-settled Kuwaiti Bedouins, nomadic Kuwaiti Bedouins, semi-desert people, desert people, Kuwaiti, Bedoon, Bedoon jinsiya, non-Kuwaiti, non-Kuwaiti national, unidentified nationality, unspecified nationality, undetermined nationality, unknown identity, unknown citizenship, Iranian, Iraqi, Jordanian, Saudi Arabian, Syrian, Yemeni, Bolivian, Dominican, Eiretreatan, Liberian, Somalian, Comorian 'economic citizens' (and potentially Egyptian)... the stateless Bedoon.

to the adoption of new, vague terms to describe the group, a pattern of removal of names emerged chronologically, attacking the ethnic identity, national identity, and individuals' family identity, as shown on the following page.

Figure 1: Traditional and contemporary names for the stateless Bedoon, Bedouin of the northern tribes

For this reason, it is improbable that the state’s rulers or bureaucrats constructed this aspect of the program alone. Academic scholars such as those Hadar who had espoused other aspects of the anti-Bedouin/anti-Bedoon ideology appear to be responsible for the Ministry of Interior Central Apparatus erasure program which has been enmeshed with the state security apparatus. This pattern sought to fundamentally to destroy the Bedoon’s indigenous connections to the state and its people, as illustrated by a statement from Kuwaiti Professor Faris al Waqayan in which he affirmed the Bedoon’s identity, thus:

1983	‘Bedoon’	Removal of the term from official identity documents and replacement with other nationality labels (erasure)	The micro-ethnic level
1987	‘Kuwaiti Bedouin’	Removal of the term from official documents in Emiri Decree 41/1987	The ethnic level
1992	‘Kuwaiti’	Removal of the whole Bedoon population from the ‘Kuwaiti’ nationality group on the National Census. Reallocation to ‘other Arab nationals’ of ‘unspecified’ nationality (though specific nationality labels were used from 1983, as above)	The national level
2012	Tribal names	Removal of tribal names required for citizenship ‘registration’ (though the Bedoon had already registered many times for this purpose)	The sub-ethnic level
2012	Family names (name of father and grandfather).	Occurred simultaneously to policy removing tribal names. Government claimed Bedoons had attempted to obtain citizenship by changing their family names.	The family unit-individual level

‘The majority of stateless persons belonging to the Arab tribes, known in the region and from the same fabric of ethnic and historical heritage of the tribes of Kuwaiti citizens... [yet the government of Kuwait claims] they are outside the category of Arab peoples (al Waqayan, 2009, p.38, translation by Mohammed al Anezi).

Figure 2: Removal the Bedouin national and ethnic identity from every level of the ethnic structure (1983-2012), adapted from Kennedy, S., 2016, *The stateless Bedoon in Kuwait society*, Volume I, Table 20.

11. Settler domination and the development of nationalist ideology and 5 Pillar Policy discriminating against the Kuwaiti Bedouin in general, and the Bedoon in particular

A 5-Pillar Policy was developed to deprive all Bedouin with human rights, political rights (the right to nationality) targeted to prevent the Bedouin from becoming an effective part of the citizen base.

Hence all Hadar were granted first-degree citizenship with voting rights, the Bedouin citizens were granted second-class citizenship with no voting rights for 30 years, while the Bedoon were made stateless. A second factor articulated by the policy-makers, was the deprivation of education, in order to obstruct the growth of intellectual capacity and group consciousness required to develop greater political power and access to the broad spectrum of human rights. A third factor was the deprivation of all other human rights, which would lead those affected by the policy struggling to access these rights admits political and citizenship rights, thus limiting and delaying their capacity to acquire citizenship and education. A fourth factor was added, the deprivation of family life. This factor was implemented along with deprivation of other human rights in the 1986 expulsion, when the Bedoon were also re-named 'other migrants' formalising the erasure policy connected to National Census expulsion, denying the Bedoon were Bedouins of the original Kuwaiti national group prior to the state's independence from Great Britain, and the dishonest misrepresentation of the Bedoon as foreign nationals.

A 5-Pillar Policy was developed to deprive all Bedouin with human rights, political rights (the right to nationality) targeted to prevent the Bedouin from becoming an effective part of the citizen base. Hence all Hadar were granted first-degree citizenship with voting rights, the Bedouin citizens were granted second-class citizenship with no voting rights for 30 years, while the Bedoon were made stateless. A second factor articulated by the policy-makers, was the deprivation of education, in order to obstruct the growth of intellectual capacity and group consciousness required to develop greater political power and access to the broad spectrum of human rights. A third factor was the deprivation of all other human rights, which would lead those affected by the policy struggling to access these rights admits political and citizenship rights, thus limiting and delaying their capacity to acquire citizenship and education. A fourth factor was added, the deprivation of family life. This

5 Pillar Policy
1. Deprive the Bedouin of full citizenship
2. Deprive the Bedouin of education
3. Deprive the Bedouin of family life
4. Deprive the Bedouin of other human rights
5. Enforce statelessness on Bedoon

factor was implemented along with deprivation of other human rights in the 1986 expulsion, when the Bedoon were also re-named 'other migrants' formalising the erasure policy connected to National Census expulsion, denying the Bedoon were Bedouins of the original Kuwaiti national group prior to the state's independence from Great Britain, and the dishonest misrepresentation of the Bedoon as foreign nationals.

Figure 3: 5 Pillar Policy transferred from Kuwaiti intellectuals to government

This aspect was critically connected to the fifth pillar of the policy, which extended the pillar of depriving political rights via limiting voting rights to Bedouin citizens for another ten years. The deprivation of family life was designed to minimise solidarity between the Bedouin citizen population and the stateless Bedoon population, while continuing to destroy the Bedoon in particular. It prevented marriage within the Bedoon group and in particular, as articulated in the 1986 policy document, sought to prevent intermarriage between Bedouin citizens and Bedoons. This pillar targeted

‘The parents [will] refuse to marry... [into] a Bedoon family. So, everyone keeps quiet about it. It is better for them, for dealing with the community...’

both the numerical viability of the population as well as their culture as like other Bedouin, they predominantly conformed to consanguineous marriage patterns. With families split between stateless and citizen population, intermarriage promised to provide a means for the Bedoon to sustain themselves economically. Generally speaking, lack of provision of genuine and correctly filled out marriage documents and birth certificates, would ensure that Bedoon marriage was stigmatised.

The enforcement of statelessness on the Bedoon ensured the policy was as effective and efficient as possible in oppressing all Bedouin. The example of the Bedoon demonstrated to citizen Bedouin that punitive targeting could lead them too, to become stateless. This ‘master stroke’ effectively wiped out 50% of the Bedouin citizen base, while guaranteed the complacency and/or silence of Bedouin citizens regarding the Bedoon’s situation, while maintaining the policy status quo - that is, still limiting the Bedouin citizen’s capacity to use education to develop their own political power. To communicate this emphasis to the Bedouin citizen population, the expulsion of the Bedoon, who comprised their own family members, took place just while political rights of Bedouin citizens were extended from a delay of 20 years before voting rights were granted, to 30 years. The Bedoon were referred to as the key impetus for developing this policy, by Kuwaiti scholar Shaman Alessa.

The deprivation of education enabled the Hadar merchant group/Chamber of Commerce (business owners) to focus on exploiting the Bedoon for labour while preventing them from deriving advantages from modernisation. As a result, despite government statements to the contrary (re: Decree 409/2011), the Bedoon are still not provided with access to free education as required in the UN Declaration of Human Rights. This right was attacked from at least the 1970s, and was described as integral to the core principle of depriving the Bedoon of citizenship and enforcing statelessness upon them. Bedoon initiatives to self-educate from the 1970s including adult men’s self-education in literacy for the purpose of security good employment prospects, and loyal, hard-working attitudes that could translate into economic gains for Kuwait, were effectively covered up by Hadar scholars. The initial transfer of state education for non-Kuwaiti citizens to the private sector was introduced to coincide with Bedoon expulsion from public education and employment,

to prevent the Bedoon being able to pay for their own education in the private sector while the Hadar provided the education to new Hadar migrants who were national of other states.

In other words, while the state could have expanded its own education sector, and strengthened the nation and profited as a result, government was convinced by external forces including Hadar intellectuals and those they represented, to devolve the public education system and to specifically, exclude the Bedoon from it. As a result, today the Hadar predominantly seek education in elite private institutions, preferably Ivy League universities in the United Kingdom and the United States. Bedouin citizens are situated in the public sector in what is now a public education system with a dramatically reduced intellectual capital base of employees from school teachers through to high officials in the Ministry of Education (i.e. the system has been 'dumbed down' and is no longer capable of substantial reform, despite funding UNESCO). The Bedoon are largely excluded from all levels of education but for a few thousand, due to piecemeal provision of education funding through the Ministry of Awqaf, under the oversight of the security apparatus in the Ministry of Interior's Central Apparatus. Note that the manifestation of anti-Bedouin discrimination is adjusted to target and effect the Bedoon most detrimentally, has also led to the redirection of Ministry Awqaf funds government claims are for Bedoon education and health services, to citizens of other states of over thirty different countries.

The deprivation of education from the Bedoon for political reasons was a preoccupation of scholars such as Shamlan Alessa and Khadun al Naqeeb. For example, it was expressed in anti-modern terms under the guise of 'modernity,' thus, the Arab nationalist slogan directed toward preventing other groups from developing capacity to self-sustain was: 'Nathir al 'ash laikbar farak' which means 'Destroy the nest before the bird grows up' - indicative of the targeting of children with destruction and/or deprivation of resources. This sentiment, projected onto Kuwaiti Bedouin in general, was similarly explained as targeting the indigenous element of collective consciousness:

'Whoever believes the spread of education and mass media in the long run weakens tribal, sectarian or local geographical allegiances is mistaken, since the opposite is true. The spread of education in the Gulf and Arab countries leads to their becoming more firmly and deeply rooted in what we may call the tribal consciousness... All of this pours into the general channel of the structural crisis which reveals a number of pathological symptoms... undoubtedly the result of the decline of the socialist and Arab nationalist current... when society lost its spirit (al Naqeeb, 1990, p.127-128, italics added).

The publication of this statement occurred on the eve of the invasion of Kuwait by Ba'athist Iraq, and the violent ethnic cleansing of the Bedoon by the state of Kuwait, following the invasion. Note reference to tribal, sectarian and local geographical allegiances indicating the targeting of Bedouin social structure and 'tribal consciousness.' The education of the 'tribal consciousness' was also expressed as the target of oppression by Shamlan Alessa (1981, p.196-110), who articulated that such consciousness would lead the Bedouin dominating the military and police forces (i.e. the Bedoon as the identified ethnic sub-group), and the following generation (i.e. their children, being

the Arab Spring protest generation who were deprived of education in the 1980s and 1990s), rising to secure their human rights and their right to citizenship.

Shamlan Alessa (p.109) cited the indigenous culture of Kuwait was inherently 'barren' (citing Stoakes) and unproductive (here referring to the application of Marxist theories to the Bedouin, i.e. 'the unproductive household thesis'; see Bocco, 2000, 2006). Hence, the deprivation of citizenship of the Bedoon was intended by nationalist ideologists of the Hadar intellectual class, to be a means of oppressing the Bedoon, depriving them

‘And here you have the problem. If you are Bedoon from the northern tribes, if you talk to the Kuwaitis from the southern tribes, he will say, you know, ‘Maybe he is Iraqi.’

of political rights, the right to education and other human rights, to keep them out of the citizenship base of the state of Kuwait. The motivation stated, the tribal, indigenous identity. The Bedoon were targeted more intensively than Bedouin citizens, via the imposition of statelessness. In contrast, the Hadar settlers had sought to educate themselves to the highest levels and at the state's expense since the 1940s, long before the state was granted independence. They used education as a tool to enhance their own social mobility and wealth, to

keep their political opposition, the Bedouin, at bay, while destroying the Bedoon in the process. Just like the expulsion of the Bedoon from the National Census, these policies were adopted by the government of Kuwait in an virtually identical form, but for time delays between policy publication by the authors concerned, and implementation by the state. For this reason, Bedoon reparations must include the recognition of the use of deprivation of education as an essential tool in maintaining the Bedoon's deprivation of citizenship and human rights, on grounds of their identity.

11. The concept of *terra nullius* in the stigmatisation of the Kuwaiti Bedouin in general and the Bedoon in particular

Finally in this section, we point out that a strong theme in the Hadar's extreme nationalist ideology is their conceptualisation of Kuwait as *terra nullius*, which attempts to cancel out any legal claims the Bedoon might have to Kuwaiti citizenship and its natural resources. Kuwait City was and still is, regarded by the Hadar as not only the epicentre of the country, but in fact, *the* country. This is connected to the name of 'Kuwait' which is translated as 'the fort,' which is regarded as protecting the seafaring inhabitants who came from the eastern seaboard (from India and Africa and some from Iran) from the Arab Bedouin, who inhabited the remainder of the territory of the state (al Anezi, 1989, p.174-5; Alhajeri, 2004, p.33-34).

Professor al Anezi, a Kuwaiti constitutional expert explained:

'The indigenous Kuwaitis divided themselves into two groups, the merchants who had lived within the enclosure of the old city of Kuwait (or within the 'walls of the City of Kuwait') and others, including the Bedouins of the desert' (al Anezi, 1989, p.174).

Kuwaiti Professor Abdullay Alhajeri, a Kuwaiti historian, elaborated further:

'Those outside of the wall were primarily the *badu* [Bedouin] of the area, who have been seen by those who lived within the boundary of the wall that they are outsiders and not entitled to gaining a Kuwaiti nationality. Adding to this problem is the attribution of the name of the original town of Kuwait to the state of Kuwait. This increased the feeling of alienation of the *badu* from their being unable to identify with the name [i.e. the fortress they were not allowed to enter]; while aggravating the possessiveness of urban Kuwaitis toward what they considered their own city with their active exclusion of the *badu*' (p.33-34, parentheses added).

The concept of 'Desertization' is an example of how Hadar intellectuals used narrative devices to craft political and social analyses to express the Hadar and Arab nationalist ideology wishing for the exclusion of all Bedouin from the nation invented and applied to the Kuwaiti context to describe the Bedouin. The concept was used by a Kuwaiti scholar Sharfeeq Ghabra and American scholar Mary Ann Tetreuatl for fifteen years. They used the term to disseminate propaganda describing the Bedouin as having wrongfully and disastrously invaded Kuwait City, the antithesis of the 'urban' 'modernity' according to leading Hadar intellectuals, and a catastrophe to the Hadar culture and state. In 'Desertization,' Islam was also attacked as mixing adversely with the Bedouin, despite the Bedouin roots in Islam. The term is a pun on 'desertification,' in reference to an environmental catastrophe, but has been used to attack Bedouin culture specifically, portraying not simply in Orientalist terms, but merging the ideas with a Hadar-Arab nationalist vision of Kuwait, a city-only state. Two excerpts demonstrate the dogmatic nature of the ideology at the hands of particular authors, but the ideology also exhibited a high degree of plasticity in that it was used in different ways by a vast array of scholars, both Kuwaiti and internationally-based, to express discriminatory attitudes toward the Bedouin.

'This process of 'desertisation'... is among the most destructive processes in the Middle East. It undermines modern life by bringing into urban society the ultraconservative values of the desert... The process destroys the hope of a nation-state whose urban centres can assimilate and acculturate newcomers [except Kuwaiti Bedouins, it goes without saying]. It puts the national civil framework at risk, and prevents it from maturing. Desertization of the city and the state entails populism and an increased urban-Bedouin divide. Sharfeeq Ghabra, 1997, p.62, *Balancing State and Society*.

'Desertization' of the city took place along a bedouin-urban divide. Desertization here means the transfer of the desert's customs, traditions, beliefs, dress codes and

mentality not the city. This process was accelerated when the leadership role of the commercial class and the major urban families was weakened in the 1980s... This process destroys those aspects of urban life that allow for the assimilation and acculturation of newcomers and new ideas [although the author had described the Kuwaiti Bedouin as newcomers]. It puts the national, civil framework at risk and prevents it from maturing and coalescing. Sharfeeq Ghabra, 1997, p.367, Kuwait and the Dynamics of Social Change.

‘Hadar always make [the] comment, ‘Your language is Iraqi,’ It is not. It is not, it is just prejudice... but they say this specifically about the language to discriminate against us.’

(Ghabra is one of the founding executives of the American University of Kuwait; he wrote these texts when an Assoc. Prof. At Kuwait University and editor of its Journal of Social Sciences).

Note that both passages above contain self-self-contradictory statements about the flexibility of the ‘urbanite’ Hadar to ‘assimilate newcomers’ and yet the fundamental message is that the Bedouin are excluded from Kuwait City and the nation as a whole, by the author. A range of examples was produced by Abdullah Alhajeri (quoted above) of anti-Bedouin characterisations produced by Hadar scholars and politicians in Kuwait to express such discrimination, all indicative of the same extreme nationalist ideology.

Hadar nationalism is elevated to the extent that the group believes itself to be ‘elite’ and its special form of first-degree citizenship (i.e. their capacity to limit voting rights to their own brethren) so ‘precious’ it should only be beholden by them (al Anezi, 1989); they believe their intellectual strata is so elevated as to the the ‘central urban core’ of Kuwaiti society and are ‘enlightened’ (Sharfeeq Ghabra, 2015). The ‘urbanite’ core is regards as having an exclusive right (i.e. expressed as to the exclusion of the Bedouin) to first-degree citizenship (limiting voting rights to itself), making Kuwaiti Hadar distinct from other national Hadar populations in the Arabian Gulf - (Farah al Nakib, 2014).

The concept of *terra nullius* was thus expressed as a Hadar conception of the state which ignores the majority of the territory of Kuwait, in both local and international scholarly literature in the social sciences. Connected to the concept, was that the Bedouin were inferior to the Hadar, such that they were not worthy of inclusion. Because the Hadar and Arab nationalists dominated the national media, these ideas were able to develop with no competition. Such a conceptual scheme is illustrated below, under ‘Bedouin - citizens and Bedoon generally’.

Post-Iraq invasion literature on Kuwait deals almost exclusively with Kuwait society delimited by Kuwait City, and expresses a generalised, authoritative anti-Bedouin positioning and one-sided historical narrative-making reflective of settler dominance by the Hadar. In 1989, shortly before the war, academic texts began to claim the Bedoon were illegal residents who are lying about their

identity, identical to the July 2, 1986 National Assembly Inquiry into the processing of citizenship applications of the Bedoon. When the Assembly established the Ministry of the Interior had never actually processed the applications, the government replied '90% of them are lying' (Human Rights Watch, 1995, Bedoon: Citizens Without Citizenship). Simultaneously the expulsion policy was formulated to administratively expel the group. Then, also shortly before the invasion of Kuwait, the Bedoon were associated with the 'foreigner' element, first accused by the government of Kuwait of having Iranian identity, and then during and after the invasion of Kuwait, they were accused of being the Iraqi invaders themselves, or their allies.

Thus, a second strand of ideology was created to demonise the Bedoon by attaching greater the identity to contemporary 'threats' to the state. The stereotype of the foreigner helped to disassociate the Bedoon from Kuwaiti Bedouin citizens, weakening tribal solidarity between the northern and southern tribes. This theme is discussed in the next section, while the two themes

Bedouin - northern and southern tribes	Northern tribes - Bedoon in particular
Northern and southern tribes residing outside the city wall	Northern tribes especially, focusing on Bedoon and not citizens
Nomadic Bedouin	Semi-nomadic Bedouin, those of military and police force
Desert dwellers' culture of the Orientalist - exotic but inferior	'Foreign' other, presumed a national of another state
Native to the territory of Kuwait	Transnationalism emphasised, questionable 'origins' presumed to be equivalent to nationality in another state
Tribal culture a threat, danger to the state	Iraqi 'fifth column' threat

are contrasted above for illustrative purposes. Note the relatively close correspondence between each conceptual level of refinement, showing 6 layers of conceptual refinement. Such conceptual refinement enables the ideology to mutate and proliferate, while becoming embedded amongst the masses.

Figure 4: Stigmatisation of the Bedouin tribes of Kuwait on grounds of ethnic or racial identity, and culture

We refer readers back to the Articles of Decree 5/1960 above, whose selection by the Nationality Committees determined the grant of citizenship (or not) to an applicant. Discrimination or positive bias could be expressed by the Nationality Committees via the articles of Decree 5/1960, which listed neutral attributes. Stigmatisation of the Bedoon manifest in the two conceptual themes illustrated above, was projected onto the Bedouin, noting that the Nationality Committees did not actually meet applicants and therefore would have no firm basis on which to assume appearance characteristics, or the sound of their accent - other than to use knowledge of the applicants name to exclude them from citizenship. The applicant did not fit the apparently more neutral criteria - holding a title deed, a passport, looking or sounding like a 'foreigner,' to the extent that an applicant was not personally known to at least two members of the Nationality Committee. Hence, the stigma was projected almost exclusively onto those who lived in the territory of Kuwait outside of Kuwait City, and the principle of *terra nullius* was assumed as the sufficient basis for rejecting Bedouin applicants. In the rare cases of Bedouin who resided inside the City Walls who did not receive citizenship, they were still distinguishable as Bedouins by name, and regarded as outsiders by the Hadar. This is how the Bedoon were deprived of citizenship intentionally due to discrimination based on the nationalist ideology, in the first citizenship rounds in the 1960s, leaving around half of the Bedouin population Bedoons (around 300,000 Bedoons at this time, as stated in Human Rights Watch 1995 report 'The Bedoon: Citizens Without Citizenship'). The other half of the Bedouin were granted second-degree citizenship without voting rights, while 100% of the Hadar (including a comparative small group of Bedouin elite such as the ruling family and their friends) received first-degree citizenship with voting rights.

12. Capacity to discriminate in Decree 5/1960 determining application of the Nationality Law (1959) to exclude the Bedoon

While the Hadar claimed to be 'originals' who showed proof of residence in Kuwait, we find that such proof comprises only one of six articles enables the state to grant citizenship via the Nationality Committees mechanism. Another Article allowed the possession of a valid Kuwaiti passport, was held by Bedoons in the military forces who did not receive citizenship, including those sent to fight in two wars against Israel for the state of Kuwait. The articles were not part of the Nationality Law (1959), but Decree 5/1960, concerning its application to individuals.

The emphasis of the articles was upon Committee members of witnesses' knowledge of the applicant, and the ability for subjective determination of the application of the Law, but for two documentary proofs. The same Articles could be used to discriminate *for* or *against* the applicant. Professor Rashid al Anezi (1989) explained the most common method used:

Since most Kuwaiti people are known through their family-names and little doubt is likely to arise in such circumstances. Furthermore, if members of the Nationality Committees [were], themselves chosen from prominent Kuwaitis whose status had already been proved, were convinced of the nationality of the individual concerned as

stated above, through their own personal knowledge of him, no further investigation would likely be needed. (al Anezi, p.182 n79)

As a Bedoon recalled above above (see section on Bedoon self-identification, p.18) the Bedoon didn't to own houses in Kuwait City in the 1960s, because they were still encamped in the desert in their traditional tent homes, in camps managed by the government of Kuwait. This enabled Article 15 criteria to be applied, probably in the vast majority of cases, to the Bedoon from outside the walls of Kuwait City. Another article requiring documents, Article 16, referred to the Kuwaiti passport. However, Bedoons who had passports were deprived of citizenship by the Nationality Committees (such individuals are known directly by the authors of this report and the same individuals would have also qualified for citizenship under the 1965 National Census, another promise on which government has never delivered).

Article 11	2 members of the Committees submit to personal knowledge of the applicant and his circumstances (see al Anezi, 1989, below).
Article 12	Witness statements could be used to argue for or against an applicant - ie hostile witnesses could somehow be produced to over-ride the authority of a title deed proving property ownership, to deny a grant of citizenship (al Anezi, 1989, p.183, para. 1)
Article 13	Accent and physical appearance
Article 15	Ownership of a title deed for real estate
Article 16	A valid Kuwaiti passport
Article 18	Family name

The remaining articles of Decree 5/1960 concerning grounds for the grant of Kuwaiti citizenship, Articles 11, 12 13 and 18, relied solely upon at least 2 members of the Nationality Committee claiming they either “knew” or did not ‘know” the applicant, their name, their physical or accent through personal knowledge, or the knowledge of witnesses. Al Anezi (1989) pointed out that

Figure 5: Decree 5/1960 Criteria enabling citizenship grant by Nationality Committees
(adapted from al Anezi, 1989, p.182-193)

according to the Explanatory Note, the main clauses to be relied upon were Articles 11 and 18, concerning personal knowledge of an applicant or his name, by a Committee member. The articles were regarded as *the most* authoritative in determining the outcome of a citizenship application, though arbitrary. Hence, although we cannot know the exact numbers of citizenship applications each of the articles were applied to by the selection Committees, it is possible that the Bedouin and

Hadar were discriminated against, and in favour, on the basis of the same Articles of Decree 5/1960. As the Hadar were known personally to each other, they were enabled to apply Article 11 of the law to the letter, to ensure they granted their own family and friends first-degree Kuwaiti citizenship (with voting rights) at the rate of 100%, because the law itself was discriminatory. If they wanted to rule an otherwise valid application out (e.g. an application with a property deed proving residence prior to 1920, or a Kuwaiti passport), the Nationality Committee could invoke Article 12 and obtain hostile witness statements to cancel out Articles 15 and 16. Exactly the same Articles could be used to to invoke inclusion or exclusion. Two Committee members could simply claim they had no knowledge of the individual whose application came before them, in order to deprive them of Kuwaiti citizenship, rendering them perpetually stateless.

‘And even the *Bedu* people, they look at which country, ‘You are from this country? From the north, or the south?’ they ask. And, ‘If you are from the north, from which part?’

Remarkably, accent and appearance, was also highlighted by the Bedoon interviewees when they recalled their experience of discrimination by other social groups in everyday activities. These attributes could be thought of as justifying the two major themes of stigmatisation (above), by the Hadar and in some cases, also members of the southern tribes. It is therefore quite plausible that all of the Articles of Decree 5/1960 described enabled the Hadar to discriminate against the Bedoon on grounds of their Bedouin tribal identity and indigenous cultural practices (e.g. living beyond the wassail of Kuwait City) in the assessment of citizenship grants. These points of discrimination outlined in Decree 5/1960 are compatible with the assumption of *terra nullius*, ‘empty land.’ Further exploration of the status of rejected citizenship claims is beyond the scope of the present discussion, as it appears the Ministry of the Interior never actually processed the vast majority of the Bedoon’s citizenship claims. We outline these points to demonstrate the depth of evidence that can be produced to substantiate the Bedoon’s claims to indigenous identity as Kuwaiti Bedouins, and the extent of the attack of the Bedoon’s ethnic and indigenous, tribal identity which has led to their statelessness, deprivation of human rights, erasure, ethnic cleansing and genocide.

A 5-Pillar Policy was developed to deprive all Bedouin with human rights, political rights (the right to nationality) targeted to prevent the Bedouin from becoming an effective part of the citizen base. Hence all Hadar were granted first-degree citizenship with voting rights, the Bedouin citizens were granted second-class citizenship with no voting rights for 30 years, while the Bedoon were made stateless. A second factor articulated by the policy-makers, was the deprivation of education, in order to obstruct the growth of intellectual capacity and group consciousness required to develop greater political power and access to the broad spectrum of human rights. A third factor was the deprivation of all other human rights, which would lead those affected by the policy struggling to

access these rights admits political and citizenship rights, thus limiting and delaying their capacity to acquire citizenship and education. A fourth factor was added, the deprivation of family life. This factor was implemented along with deprivation of other human rights in the 1986 expulsion, when the Bedoon were also re-named 'other migrants' formalising the erasure policy connected to National Census expulsion, denying the Bedoon were Bedouins of the original Kuwaiti national group prior to the state's independence from Great Britain, and the dishonest misrepresentation of the Bedoon as foreign nationals.

Thus, the Bedoon represent a minority of the Kuwaiti Bedouin who are targeted because they are more vulnerable due to statelessness, but their statelessness is a secondary factor to the vulnerability they have experienced as an indigenous tribal conflict subject to ethnic conflict with a dominant group who has accessed Kuwait's state resources to develop more rapidly and gain power over them. The Hadar's lack of acceptance of the Bedouin as being part of the nation, and more specifically as part of Kuwait City, on grounds of their ethnic (tribal) and indigenous identity, expressed in two major themes of stigmatisation, as well as in the counter-ideology of Hadar privilege, appears to be the main basis of the Bedoon's stateless (beyond more superficial concerns, such as oil dollars). Accordingly, the Bedoon who applied for citizenship were excluded from receiving it, by virtue of provisions in the Nationality Law (1959) and the minor implementing clauses of Decree 5/1960 and the Explanatory Note concerning its application. This points of law enabled Nationality Committees to discriminate and exclude the Bedoon on grounds of their ethnic identity and cultural difference, to the Hadar. Furthermore, no attempt was ever made by the state to actually account for those Bedouin who inhabited the territory of the state but who did not live within Kuwait City walls, for the purpose of distributing citizenship when the state first adopted the Nationality Law (1959) (or the 1948 version that was never used). The application of the *terra nullius* concept to the Bedoon case further explains and substantiates the impact of settler domination on the physical and cultural destruction of indigenous people, the Bedouin in particular.

13. The Ministry of Interior, Central Apparatus 'final solution' to Kuwait's Bedoon problem

During the Arab Spring and in the years since then, the Central Apparatus has touted a 'final solution' involving allocating the Bedoon to their 'original nationalities.' Such nationality labelling simply reflects the attempt by the state to allocate every individual Bedoon who was previously listed on the National Census, to an 'other Arab' nationality. The attempt demonstrates the assumption by Kuwaiti authorities that those observing the Bedoon situation are incapable of recognising erasure (administrative ethnic cleansing) and genocidal intent, even when it is programmed into government policy for decades. On 13 December 2018, the Arab Times reported:

90% of 'Bedoon' hold IDs, original nationality documents

13/12/2018

KUWAIT CITY, Dec 12: Head of the Central Agency for Remedying the Status of Illegal Residents or the so-called Bedoon, Saleh Al-Fadhlah, has said that the agency will not bow to any pressure whatsoever from anyone, reports Al-Anba daily. He said the issue which took about a full year to study and scrutiny to solve it was presented to the Supreme Planning Council during a meeting that included the members of the Council and ministers headed by His Highness the Prime Minister.

The study was also approved by representatives of all tribes and groups. Al-Fadhlah stressed that he is an individual and a citizen of Kuwait keen on the national identity of Kuwait, noting that the central apparatus represented by its president and all its military and civilian personnel will not bow to pressures. "We are going on and we are on our way, as we are told in the plan of action and the road map." He also pointed out that 90% of the Bedoon now hold IDs and this is in addition to their original nationalities.

Attack

Al-Fadhlah added that if there is an 'attack' on us, organized or unorganized, let the deaf hear that we will not bow. As we walk our way, we have a goal and we will not turn back. As for the mechanism of naturalization, Al-Fadhlah pointed to the existence of a committee called the File Evaluation Committee, and "we have the files of 65 census which we send to this Committee, which comprises members from CSRSIR, the Council of Ministers and chaired by the Assistant Secretary General of the Council of Ministers, and undersecretaries of state ministries and state senior officials to review these files and decide, thus CSRSIR has nothing to do with naturalization.

<http://www.arabtimesonline.com/news/90-pc-of-Bedoon-hold-ids-original-nationality-documents/>

In our next report, we will explore the Bedoon's response to this announcement, asserting their consciousness of the government's genocidal intent toward them. We will also explore potential areas for future Bedoon claims with regard to reparations, reconciliation and repatriation.

Part 2

The Concept Note - Selected Areas of Focus

A. Reasons and factors behind the movement, including voluntary relocation, displacement, and forced relocation, of indigenous peoples

(Concept note example including but not limited to: Addressing situations in which contemporary borders divide the traditional lands of indigenous peoples, such that the expression of their lifeways now necessitates crossing transnational or internal political boundaries, e.g., Sami reindeer herders in the Nordic countries or various peoples in the Americas)

i. The Bedoon's right to travel and the necessity of free movement including crossing transnational boundaries

After World War One, the Middle East was divided into states that did not reflect the makeup of or boundaries between, the Bedouin tribes of the Middle East. This is a well-known aspect of the secret Sykes-Picot Agreement (1916). Nation states throughout the region required the Bedouin to settle permanently to assist with the establishment and modernisation of those nation states. The development of rights of indigenous people in international law developed concurrently (the ILO Convention, 1957), and the regional mandate of UNESCO was focused upon the economic and social welfare of the Bedouin. UNESCO jointed forces with the ILO, the Arab League, the World Bank, the FAO, and sovereign states of the Middle East for this purpose, with the task of assuring permanent settlement and protection of some 750,0000 fully nomadic Bedouins and their desert and semi-desert environs, as well as other Bedouin who were semi-semi-nomadic and others already settled in towns. The Gulf States were regarded as part of the Bedouin people and lands who required protection under this program.

The population of the northern Bedouin tribes was broken up and distributed to different states to prevent any one tribe from gaining domination and political advantage over any particular state. Some of these were already familiar with Kuwait by virtue of their seasonal, nomadic wanderings to the territory of Kuwait, trade and marriage arrangements within and across tribal boundaries. Such cultural practice was exemplified by the ruling tribal family, and al Sabah, who became the Head of State in 1961. The historical movement of Bedoons occurred when Bedouins already living on the steppe and desert of Kuwait territory, as well as those recruited by government to settle in the state from the vast areas of traditional tribal lands (*dirah*) which covered the Middle East, around traditional waterholes in the desert and steppe located outside Kuwait City.

The camps grew in size and were then consolidated into official government tribal settlements in three main camps, in order to manage the population. The tribes were recruited from the 1930s to fulfil need for a workforce for Kuwait Oil Company, and to fill local military and police forces in the Colonial Protectorate era, and later in the modern era, after the state asserted its independence

from Great Britain in 1961. The movement of the northern tribes was organised by British Colonial Protectorate, the Arab League, the state of Kuwait and the Hadar elite (the dominant ethnic group who are opposed to and exploit the Bedoon). These tribesmen and their families joined the Bedouin population already living in the territory of Kuwait at the time. All became integrated into the state within the Bedouin community.

The Bedoon community were excluded from citizenship from the outset of citizenship distribution by the government of Kuwait's Nationality Committees. The Committees attempted to ensure a maximum of only half the Kuwaiti Bedouin would receive their right to nationality. Nevertheless, they were permitted across

the state's borders until 1987 according to customary tribal law. The Bedoon were known as Kuwaiti Bedouin until the term was ordered to be removed from the Bedoon on official documents in Emiri Decree 41/1987. However, it appears that the group had already begun to refer to themselves informally as 'Bedoon' meaning 'without' in Arabic. The status of 'without' referred not only to their being without citizenship, but also without official documents such as birth, marriage and death certificates. Until 1987, the state of Kuwait had honoured the customary tribal law enabling Bedouins to travel across the Kuwaiti border according to their own needs, to which Bedoon 'business' was referred (here, we disagree with the interpretation of al Anezi, 1989, which claimed the 'business' referred to was limited to commercial activity; business also included family, social and cultural business).

When this law was overturned (Law 17/1987, Article 25(h)), the Bedoon's entrapment in the state of Kuwait was essentially formalised. However, the process of entrapment had already begun to be planned more than a decade earlier, manifest in the Department of Illegal Dwellings delegitimising the state's Bedouin settlement camps. The repeal of the law came shortly after the administrative expulsion of the Bedoon in December, 1986. The Bedoon were no longer allowed to leave Kuwait without the permission of the Ministry of the Interior, and were only granted such permission for the purpose of accessing education and special health care. Even then, permission was only given in rare cases, and prohibitive costs involved in such travel for the largely impoverished Bedoon (as after 1986, the Bedoon were expelled from the public service but for the military), meant that the vast majority could not even contemplate overseas travel in any case. An exception was for travel to perform Hajj, which was a journey undertaken by car across the land borders of Kuwait and Saudi Arabia. Since the Arab Spring, the Bedoon have periodically been banned from all overseas travel for any reason. Additionally, the Bedoon are no longer granted what was called the 'Article 17' travel document, as they require a proper passport that is internationally recognised, making permission for overseas travel granted by the state of Kuwait, even more difficult to obtain than ever before.

'You are from the north? Problem... they look to distinguish the Bedouin, and then to distinguish you [as from] the north [tribes]. This is a problem.'

Due to the tribal cultural connections described above, the Bedoon still require access to cross transnational boundaries. The necessity for the Bedouin of the Arabian Gulf to travel across the region of their traditional tribal lands, which today traverses several land borders (depending on one's tribe) was described in the contemporary context by Alshawi and Gardner (2014). In this research, the authors described the complex, transnational heritage and cultural practices of the Qatari Bedouin. Their families included both citizen and stateless Bedouin family members; families had close relatives living across multiple states of the Middle East. Virtually identical characteristics apply to the Bedouin citizens and the stateless Bedoon of Kuwait, who typically still form families in Kuwait by consanguineous marriage practices.

These cultural practices have continued even though the 1986 administrative expulsion measures included restrictions on Bedouin citizen and Bedoon intermarriage, and these restrictions were enforced even more strictly in 1992 after the invasion of Kuwait by Iraq. Paradoxically, the consanguineous marriage practice between Bedoons and their citizen families persisted because the Bedoon could not access brides from further north into the Middle East associated with their traditional tribal lands because the Bedoon could no longer travel (this phenomena is similar to that of the Palestinians, also due to entrapment). Alshawi and Gardner (2014) are considered an authoritative source by Middle East Studies scholars, although they only referred to a single case while generalising to all Qatari Bedouin. Dr Kennedy Nour al Deen cited seventeen in-depth cases in Kennedy (2016).

The Bedoon are expelled from the National Census and are not included in country statistics sent by the Kuwaiti government to the UN statistical monitoring division, UNDP and UENSCO. Inadequate statistical monitoring of the Bedoon in Kuwait means that government authorities do not know the rate of disease among the Bedoon, and nor are they interested in alleviating community suffering due to disease and other causes of ill health. Due to their tendency to suffer from very serious medical conditions, the Bedoon require facilitation of cross-border travel. Because of the relatively poor health services available to the Bedoon in Kuwait, and their restriction from receiving specialist health care locally as part of the 1986 administrative expulsion, the Bedoon require the ability to travel overseas to access adequate specialist health care. The Bedoon have never been assessed as a whole group for Gulf War syndrome; it is the opinion of Dr Kennedy that the Bedoon suffer from this syndrome, based on her viewing multiple cases of very serious illnesses confirmed by medical practitioners in Kuwait (e.g. there appears to be an unusually high incidence of chronic respiratory diseases, kidney failure and brain tumours among the Bedoon). Because the community is indigenous while also lacking recognition as indigenous people, it is also very likely they suffer from early onset of serious diseases and premature death connected to historical deprivations of citizenship and human rights, and relative seclusion from other social group (e.g. consanguineous marriage practices leading to genetic defects in children).

Furthermore, because the Bedoon of Kuwait are restricted in multiple ways from participating in the formal education sector and economy in Kuwait, they require the ability to travel overseas to undertake education and to seek employment opportunities. They deserve access to these basic

rights as an indigenous tribal and stateless group, whether or not individuals can actually afford to partake of such opportunities. These rights are not only owed to them, if they were available to the Bedoon, they would act as an incentive for individuals and families to set goals for international study and travel, which would in turn help to advance the group's development. Due to the nature of tribal society, they are more likely to be able to take advantage of such opportunities if they can stay with extended family members or in their own tribal areas transnationally, and to access education and/or employment through their family and tribal social contacts.

‘They think... if you are from the north, you are not Kuwaiti, or there is nothing that makes you look like [a] Kuwaiti. They will look at you... like you don't have the full right because your [tribal] roots are from the north.’

Travel is required across the Middle East and throughout the global diaspora as many Bedoons have settled in Western states as refugees since the late 1980s. The group require the opportunity to restore and maintain extended family and tribal community contacts cut off from them since the 1980s. Having been prohibited from overseas travel since the 1980s and entrapped in the state of Kuwait since they were first settled permanently, organised by various oversight committees (such the Nationality Committees and the Department of Illegal Dwellings, which turned the Bedouin settlement camps into illegal areas from 1974), in addition to subjection to administrative expulsion, violent ethnic cleansing and erasure, restrictions on education, freedom of expression and public gathering, all travel restrictions must be removed as a basic step toward the restoration of the Bedoon's basic freedoms protected in international law.

(Concept note example including but not limited to: Addressing the reasons why indigenous peoples are compelled to leave their regions or country of origin [due to] violence and armed conflict, e.g., pastoralists on African continent, migration across the USA/Mexico border, and the situation of climate refugees in the Arctic and elsewhere.)

ii. Internal displacement related to Bedoon poverty and lack of appropriate housing

In the modern era, particularly from the administrative expulsion in December 1986, the Bedoon have fled conditions such as ethnic cleansing and deprivation of human rights that can only be described as dehumanising and degrading. Some individuals have challenged by the most difficult circumstances of life, such as those with little family support, illness, disability, criminal felony history, lack of education, lack of unemployment and so on. For example, there are thousands of Bedoon children, adolescents and adult men and women, who remain illiterate, unschooled, and who have never been employed in their whole lives, through no fault of their own. Government banned stateless Bedoon children from commencing school in 2015, almost simultaneously to the

Emir of Kuwait receiving a 'global humanitarian' award from the United Nations Secretary General Ban Ki moon, in response to large donations made by the state to 'end statelessness' in Syria.

When the most vulnerable individuals lose family and social network supports, they are left with few means of survival, but to flee or commit suicide. A well-known component of the population sells fruit and/or small paper packets of seeds from the roadside. Their fruit is laid out on the pavement or displayed in the back of their car. They are soon observed by the police, who question them and arrest them, or move them on if they are fortunate. These men usually live in their vehicles, as shown in the photographs above. Government claims such people have access to public services and resources called 'human rights,' 'privileges,' 'services' etc., is simply untrue. If this were really the case, the government of Kuwait would have no reason to erase the group using fraudulent nationality labelling, or to and invent exit schemes to deport the population, such as 'the Comoros Plan.'

Furthermore, the government of Kuwait's claim that the state had almost zero percent illiteracy and poverty at the end of the UN Millennium Development was contingent on its exclusion of the Bedoon from its national statistics measuring human development. For this reason, we argue it is critical for the Bedoon to be restored to the National Census according to the pre-1992 status (as recognised 'Kuwaiti' 'Bedouin') in order for the population to be monitored appropriately by the state as well as the UN statistical monitoring division, the UNDP and UNESCO. This is essential for the basic protection of the population from further attrition as the Bedoon are currently subject to ethnic cleansing and genocidal intent. It is also necessary for the state to monitor its own (apparent) implementation of human rights to the Bedoon.

The Ministry of Interior's Central Apparatus and its forerunners are the only agencies to have monitored of the group's population since 1986, until the present day. As the security apparatus implementing erasure (administrative ethnic cleansing), the state's reliance on the Central Apparatus for population data for the purpose of reporting to the United Nations Human Rights Council is not only unrealistic and implausible, it is extremely offensive to the Bedoon community. This terrible situation for the Bedoon, where there has been no meaningful government reform nor community progress toward development for decades, is another, more general reason why the Bedoon have become internally displaced due to poverty and/or have attempted to leave the country and to seek asylum in Western states in particular.

iii. Vulnerability of Bedoon housing complexes of historical significance, and of eviction of the Bedoon from these areas

One other issue we wish to mention with regard to internal displacement is housing. The cost of housing for families is high in Kuwait, remembering that the country is one of the richest nations in the world. It is not culturally acceptable for Bedoon to live alone except by necessity or misfortune,

such as when family members pass away. Much of the Bedoon community live in former military housing compounds in Taima and Sulabiya, and the former Kuwait Oil Company housing compounds in Ahmadi, although others are scattered throughout the citizen community in al Jahara, Ahmadi, al Amadi and elsewhere around Kuwait City such as Farwarniya. The compounds of Taima and Sulabiya contain the houses in which the Bedoon were first settled after they were transferred by the state *en masse* from the desert camps where they were prohibited to live by the Department of Illegal Dwellings after its 'Special Investigation' of 1974.

'I have the right to be different... We don't all have to look like similar copies, repeating the same lies. I don't have to lie about my background or my religion or my beliefs or my thoughts...'

Many of those who live in the housing compounds have been there for generations since their fathers or grandfathers actually paid for the homes in mortgage payments drawn from salaries by the Ministry of the Interior and Ministry of Defence (al Zaher, 1990, in Kennedy, 2016). Nearly all of the homes have become very run down over the years, and the Ministry of Planning has never provided resources to maintain the areas since they were first established. It is likely the areas are tagged for demolition in the Kuwait Development Plan, which extends through to 2035, and is aligned with the UN 2030 Sustainable Development Goals. It is quite obvious that the government of Kuwait will be unlikely to inform the Bedoons of any plans to significantly alter, remove, destroy or otherwise make their housing in the compounds unavailable to them. Nevertheless, it appears likely that in coming years the government will announce all Bedoons have to leave the compounds.

At present, they remain in the compounds because they cannot afford to live anywhere else in the state. Eviction from the housing compounds would likely leave the Bedoon homeless, and would comprise the second eviction from the compounds the group has endured. Homelessness is an offence in Kuwait and the Bedoon are targeted with criminalisation on grounds of homelessness more than other groups in Kuwait (because they are already classified as illegal residents). Homeless men are frequently targeted in Bedoon areas selling fruit from their vehicles, which some of them live in, as shown above. We are also concerned that the potential of eviction or actual eviction from the housing compounds, will be used as an 'incentive' to wrongfully coerce or force the Bedoon to sign documents for 'status adjustment' - i.e. submitting to administrative erasure. It seems reasonable to assume that while the Bedoon remain excluded from the state's National Census, from UNDP and UNESCO statistical monitoring of population development, and from the state's national development plans, that the government of Kuwait can very evicted and/or forcibly removed the Bedoon *en masse* from the compounds, internally displacing the whole group without scrutiny. The potential of such an internal displacement exists in addition to ongoing threats of mass population transfer from Kuwait.

Attempt to engage with the HRC Special Rapporteur on Housing

Having recently discovered the HRC Special Rapporteur on Housing is scheduled to visit Kuwait in the first quarter of 2019, we requested communications with their office 28/01/2019 regarding the dates of the visit. We clarified the status of the Bedoon as indigenous tribal people, and in doing so asserted the Bedoon's right to be treated according to indigenous protocols, such as to be acknowledged and provided the opportunity to meet directly with the Special Rapporteur in Kuwait, and to arrange for her to areas of Bedoon housing in Kuwait directly. Dr Kennedy Nour al Deen has also offered to provide the Special Rapporteur with data and materials it would otherwise not have access to, which would assist her to report on her mandate with respect to Kuwait. The community is in need of the Special Rapporteur's engagement with regard to the potential for mass evictions and international displacement connected to ongoing attempts to transfer the whole Bedoon population to other states, as well as regarding the potential for them to become internally displaced via eviction from the Bedoon housing compounds in Ahmadi, Taima al Jahra and Sulabiya. We have not yet heard back from the office. Re: Reasons for Bedoon flight to from Kuwait - from the individual to the collective oppressed

iv. Ongoing attempts to displace the Bedoon population via whole or part - population deportation to Arab and Western states

We accounted for the process of settlement of nomadic, semi-nomadic and non-nomadic Bedoon in the desert settlements of Kuwait prior to their being transferred to urban areas, in the discussion above. The process of urban settlement was flawed, causing the Bedoon great hardships from which they still suffer today. The program of erasure of the Bedoon has been in place since 1983, removing the ethnic (Bedouin) and national (Kuwaiti) identity of the Bedoon. The replacement of the group's Kuwaiti nationality with the nationality of other states has been used to threaten the population since the Arab Spring, in ways that constituting psychological terrorisation by Salaeh al Fadalah of the Central Apparatus and Major General Mazen al Jarrah the Departments of Citizenship and Passport Affairs of the Ministry of the Interior.

For example, the 'Comoros Plan' was portrayed in the Western news media and to the United Nations as an 'economic citizenship' plan. However, the plan was actually communicated to the Bedoon on national television and national newspapers as a plan to deport the Bedoon to a criminal colon, throughout 2014, 2015 and beyond. Threats to deport all 'illegal' and 'criminal' Bedoons were issued in view that all Bedoons are classified as 'illegals' by the state of Kuwait. Specific threats made by the state also targeted criminalised Bedoon human rights activists, particularly co-author of this report, Abdulhakim al Fadhli. Following claims on May 17, 2016 implicating Abdulhakim al Fadhli's incarceration with the 'acceptance' of the whole Bedoon population by the Comorian Minister of Foreign Affairs, Kuwaiti's Minister of Foreign Affairs was

forced to issue a denial. Additionally, threats to send all (human rights) ‘activists’ to encampments in the desert adjacent to Saudi Arabia were issued in the National Assembly by a member of parliament/. Major General Mazen al Jarrah of the Department of Citizenship and Passport Affairs, intimated that three different countries were evaluated for nationality labelling *en masse*, and whole population transfer to those states. Egypt was one of those states. The three states, therefore, appeared to be the Comoros, Egypt and Saudi Arabia.

‘... and you have the right to argue, to discuss this with me. You can be convinced... you can disagree... but you can’t force me to deny my identity.’

WikiLeaks US Embassy Cables from 2003-2006 indicated that the state of Kuwait has also approached Western countries, asking for assistance in deporting the Bedoon to their states, outside the Arab world. Australian consular officials have confirmed this is indeed the case. The most recent announcement by the Central Apparatus of December 12, 2018, stated that 90% of the population has now been erased, and that the remaining 10% would be erased in early 2019. The announcement indicated that the Bedoon in Kuwait are now extremely vulnerable to further large-scale population reduction through deaths, disappearances, deportations and other forms of human trafficking. The last 10% who have not yet signed a false confession document stating they have citizenship in another country are receiving monetary fines from the Ministry of Interior for not providing confirmation of their ‘original nationality.’

B. Current challenges and developments in law, policy and practice regarding trans-border movement of indigenous peoples

(From the concept note: Addressing the human rights issues faced by indigenous peoples at borders including the separation of children from parents, detention, prosecution, deportation practices, lack of due process (including lack of interpretation and consular assistance), and invisibility of indigenous status and thus lack of data.)

The lack of data on the Bedoon since their administrative expulsion in 1986, as well as the burying of data published prior to 1986 by intellectuals involved in the oppression of the group, has been problematic for the Bedoon. The first in-depth historical and sociological study of the Bedoon population was conducted by the Australian co-author of this report. This study was the first to aggregate a wide range of existing Kuwaiti data on the Bedoon, such that the persecution of both Bedouin citizens and stateless Bedoon portion of the Kuwaiti Bedouin, could be understood as arising from the same cause: ethnic hatred. The Bedoon’s statelessness was then appreciated as just one of many significant attacks on the group, intended to destroy both its population and culture.

Furthermore, due to fear, oppression and multi-generational deficits in education, the group have been unable to conceptualise and assert their indigenous identity to the international community. This is despite their having been previously recognised as such on the National Census and having long functioned within the indigenous, tribal context in Kuwait. In the documents attached, we assert the Bedoon's indigenous, tribal identity in the context of international human rights law. The indigenous status of the Bedoon appears to be known by state-actors and significant non-state actors; it appears that the Bedoon are the last to discover their indigenous rights in international law. This is because the group has been intentionally deprived of such information and appropriate supports by Kuwait and the international community. The reason why the group was deprived of education from the 1970s as part of the '5 Pillar Policy' was because education was regarded as a critical factor that would enable the group to recover their right to citizenship, and other human rights, that had taken away from them.

i. Barriers to the Bedouin acquiring asylum and refugee status since the Arab Spring (2010-2012), leaving them stranded in different states around the world

The Bedoon diaspora have experienced increased international restrictions on travel since the Arab Spring, leading to hundreds perhaps thousands becoming stuck at international borders and unable to obtain asylum. In particular,

- In the United Kingdom, across Europe and including the French-UK border at Calais,
- In Australia during in the Arab Spring as the 'Legacy Caseload' and in the post- Arab Spring years, on Manus Island in Australia
- Northern European states such as Denmark, the Netherlands and Sweden

ii. Special international agreements impacting Bedoon asylum seekers and refugees

We are aware of at least one country, the United Kingdom, entering into special arrangements to deprive the Bedoon of access to asylum procedures and recognition as refugees, and to return the Bedoon to the Ministry of Interior Central Apparatus. Based on the experiences of Bedoons trapped at multiple locations around the world, we believe that other States may have entered into such arrangements with the government of Kuwait. We provide information on a number of key decisions made in relation to the government of the United Kingdom, below, where we believe most Bedoons seek asylum due to the former colonial Protectorate relationship between the United Kingdom and the government of Kuwait.

Turning back Bedoons who seek asylum into the custody of the Central Apparatus

On 29-30 October, 2014, the United Kingdom Home Office (led by Phillip Duffy), entered into an agreement with the Kuwait Ministry of Interior Central Apparatus to 'further enhance the close

Special international agreements obstructing the right to asylum in the United Kingdom
1. Turning back Bedoons who seek asylum into the custody of the Central Apparatus
2. Removing reference to persecution on grounds of ethnic/tribal identity
3. Northern tribal accent/dialect and 'language testing'
4. Failure to apply British Protected Persons status to the Bedoon

Figure 6: Barriers to the Bedoon obtaining access to asylum and refugee status in the United Kingdom

cooperation between the UK and Kuwait in the area of migration and visas.' The purpose of the visit was exclusively connected to the Bedoon population's attempts to obtain asylum in the United Kingdom, revealed through the appointment of persons on the receiving committee, Major General Mazen al Jarrah of the Department of Citizenship and Passport Affairs, and Saleh al Fadal, the head of the Central Apparatus. Arrangements were made to automatically return Bedoon asylum seekers from the UK to Kuwait, breaching the international law of non-refoulement provided for in The Refugee Convention (1951) and Protocol (1967):

The principle of non-refoulement as provided for in Article 33(1) of the 1951 Convention does not, as such, entail a right of the individual to be granted asylum in a particular State. It does mean, however, that where States are not prepared to grant asylum to persons who are seeking international protection on their territory, they must adopt a course that does not result in their removal, directly or indirectly, to a place where their lives or freedom would be in danger on account of their race, religion, nationality, membership of a particular social group or political opinion.¹³ As a general rule, in order to give effect to their obligations under the 1951 Convention and/or 1967 Protocol, States will be required to grant individuals seeking international protection access to the territory and to fair and efficient asylum procedures (Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, para 8, p.3).

The arrangements were made amidst public discussion on the introduction of the Comoros Plan. The same Apparatus officials, Mazen al Jarrah and Saleh al Fadal, threatened to send the Bedoon to the Comoros Islands and other states on grounds of their 'criminal,' 'illegal' or 'activist' status, as discussed above. In Kuwait, the families of individuals who had left Kuwait to seek asylum in the UK, were located by the Central Apparatus as a result of the cooperative data sharing practices between the two countries. Bedoon families in Kuwait were called to account to the Apparatus. Such families were issued security restrictions and deprived of access to state resources including so-called 'human rights reform' measures in Decree 409/2011 (supposed to

provide access to basic public resources including food rations and basic schooling) until the missing individual reported in person, to the Apparatus. These arrangements worsened conditions for both the Bedoon families in Kuwait and their family member/s who had sought asylum in the United Kingdom; vulnerability to state violence was increased, where the asylum seeker was owed protection and due process by the United Kingdom. Many Bedoon asylum seekers had left Kuwait due to such violence in the first instance.

Removing reference to persecution on grounds of ethnic/tribal identity

In 2013-2014, the Chief Inspector of Borders and Immigration and the Independent Advisory Group on Country Information (IAGCI) reviewed the UK Home Office Country Information and Guidance on Kuwait (Bedoon). The IAGCI, headed by Dr Laura Hammond (SOAS), commissioned Dr Claire Beaugrand (LSE) to review the Home Office advice on Kuwait (Bedoon). Dr Beaugrand demonstrated her fieldwork by the production of a special policy document by the Central Apparatus called 'the official booklet: Central System to Resolve Illegal Residents' Status, Department of Public Relations and Media, Illegal Residents: Facts and Data (2013).' Dr Beaugrand used the opportunity to review the existing Country Information and Guidance on Kuwait (Bedoon) (which is solely devoted to the question of Bedoon asylum claims), to attempt to delete reference to the cause of the Bedoon's flight to the United Kingdom: ethnic persecution by the state of Kuwait. The recommendation was made under 'Minor corrections, inaccuracies and typological errors' of 'single occurrence.' Yet such persecution was set out at point 1.1.1 of the Advice, under 'Basis of claim.' The evaluation of ethnic persecution as the cause of Bedoon asylum claims had developed into legal precedent concerning refugee caselaw involving Bedoon applicants.

Dr Beaugrand ignored the Bedoon case law precedent set in the UK immigration courts, as she believed that invoking the concept of ethnicity was 'misleading for readers, right at the beginning of the report.' Dr Beaugrand's recommendations and minutes from the subsequent IAGCI meeting circulated on the internet, indicated that she had never actually substantiated her suggestion to remove 'ethnic' from the advice during the meeting with the review panel. Despite her impression 'Ethnicity has played very little role in the issue for the Bedoon since its emergence,' she proceeded to justify the point by speculating that 'if there were some Persian Bedoon,' they would not be discriminated against due to their ethnicity (but there is no category of Persian Bedoon). Despite the lack of clear reasoning and evidence for the recommendation, the review panel agreed to accept the recommendation to delete the reference to 'ethnic' as the 'basis of claim,' due to Dr Hammond's endorsement of it (IAGCI minutes 25 June, 2014).

Dr Beaugrand's attempt to delete or downgrade reference to the ethnic persecution of the Bedoon was troubling, because previous Home Office advices had made clear reference to ethnic and tribal persecution forming the basis of asylum claims put forward by the Bedoon. This was reflected in references to the case law provided in the documents which were underlined and

clearly stood out in the text, for example, in Home Office Country and Information Guidance of 2009 and 2014. Both Dr Beaugrand and Dr Hammond seemed to be totally unfamiliar with the relevant caselaw. Dr Beagurand did not take into account the distinctive weight of evidence used to arrive at the decision to feature ethnic persecution at point 1.1.1 of the Country Advice, and the absence of evidence justifying her attempt to remove it. Ethnic and tribal persecution had been accepted as the reason Bedoons fled Kuwait and sought asylum in the United Kingdom, as a result of direct testimony from Bedoon asylum seekers and evaluations of evidence put forward by asylum seekers' solicitors, evaluated by immigration tribunals. Point 1.1.1 of the Country Advice communicated a critical point of law: ethnic persecution was '*the* basis' of Bedoon asylum claims (italics added). No other UK Country Country Information and Guidance stated the name of an ethnic group in the title - clearly the ethnic identity of the group was important, or it would not have been reflected in the title. On these points of argument, we can assume that the ethnic identity of the Bedoon held very considerable weight in the UK government's position on the Bedoon up until that time.

The Bedoon have been subjected to Administrative expulsion from the National Census and all government ministries (1986-1992), violent ethnic cleansing (1990-1995) involving the death, disappearance and deportation of around half the population, judicial and extrajudicial killings, and ethnic cleansing via population attrition

For these reasons, the recommendation issued by Dr Beaugrand was rather unusual to say the least. The Australian co-author of this report, Dr Kennedy Nour al Deen, wrote an article about the problem that was published in a minor journal. She simply sought to express her evaluation of the Home Office actions in order to warn solicitor of Bedoon asylum applicants of the developing barriers to their claims. The attempt to delete the reference to the Bedoon's ethnic persecution by Dr Beaugrand reflected the government of Kuwait's policy to remove reference to the Bedoon's ethnic and national identity in Kuwait. Dr Kennedy Nour al Deen was the only scholar at the time, studying this aspect of the Central Apparatus program in Kuwait. Dr Beagrand does not appear to have ever studied the Central Apparatus system *per se*. The Kuwait Country Advice publication was delayed for some 2 years. A 'version 2.0' was finally published without Dr Beaugrand's recommendation in 2016.

Nevertheless, the next Home Office Country Information and Guidance on Kuwait (2016) was edited so as to emphasise the difference between so-called 'documented' and 'undocumented' Bedoons (an abstract categorisation of the Bedoon first raised in a letter to the UK Home Office from the Foreign Commonwealth Office (2007), in a Kuwait Operational Guidance Note (2009)). This strategy strengthened emphasis on the notion that the so-called 'documented' Bedoons were

'not at real risk of persecution or breach of... human rights due to their ethnicity' like 'undocumented' Bedoons were. In theory, this emphasis would enable the UK immigration office to reject Bedoon claims if the applicant's identity could be established by UK authorities through data-sharing arrangements with the Central Apparatus in Kuwait. UK immigration authorities would simply claim the individual was 'registered' and 'documented' in Kuwait and therefore not subject to ethnic persecution. This latter policy appears to have been adopted by Sweden since 2016.



Images 4 & 5: Bedoon homes in Taima, al Jahra

Despite the tiny size of the homes, they often house two or three generations of a family. Bedoon military and police personnel paid for these homes, in mortgage contracts provided by government of Kuwait. The right of home ownership was only granted to Kuwaiti citizens. Bedoon were expelled from these homes after the invasion of Kuwait by Iraq, and then some years later were forced to move back into them, paying to rent them from via their citizen relatives who were allowed to hold the leases. In 1990, Ajeel al Zaher's research warned that government was attempting to manipulate the Bedoon servicemen, and might evict them claiming the mortgage contracts were invalid. The Bedoon servicemen were evicted from the homes within 2 years. They were never compensated for the lost mortgages.

Once again, the scenario being presented by the UK Home Office was very closely aligned with the Central Apparatus policy on the Bedoon. In other words, officials appeared to be trying to achieve the same effect as removing reference to ethnic persecution. The notion that the majority of the Bedoon population (i.e. those who were 'documented') were not persecuted on grounds of their ethnic identity in Kuwait, is misinformed. The capacity of the FCO (2007) located in Kuwait City, to make such evaluations about Bedoon claims, was never questioned by the Home Office. It should have been. The UK Home Office advice on the Bedoon had begun to increasingly reflect the Kuwait government's domestic policy on the Bedoon, indicating the Bedoon were subject to discrimination and persecution on grounds of their ethnic and tribal identity, in the United Kingdom as well as Kuwait. Staff in the UK Home Office appeared to be actively cooperating with the Central Apparatus to deny Bedoon asylum claims and to force asylum seekers to be turned back to Kuwait, into the custody of the Apparatus. At the same time, the UK Home Office appeared to be capable of committing similar violence on the Bedoon identity, as the government of Kuwait.

Northern tribal accent/dialect and 'language testing'

Additionally, around this time, the UK Home Office began to seek avenues to block the acceptance of asylum claims from Palestinians, Syrians and Kuwaiti Bedoon, on the grounds of an apparent failure on language tests. New legislation was passed in the UK, demanding asylum seekers claiming they were from any of these three states undergo language tests, should undergo language testing. Some commentators complained that those charged with conducting the tests and assessments were potentially biased, because they were either native speakers of Arabic from other Arab states or cultures. They did not necessarily have a native-level proficiency or even a general type of familiarity with the dialects they were responsible for assessing. The failure of such tests and/or assessments would lead to the rejection of refugee claims, including Kuwaiti Bedoon applicants.

Perhaps ironically, the fact that the three groups of asylum seekers could potentially share a) ethnic identity insofar as they could be members of Bedouin northern tribes and b) likely exhibited to some extent, shared characteristics as to tribal dialects and/or accent, did not appear to be observed by any party involved in the emergence of language testing requirements for Palestinian, Syrian and Bedoon asylum seekers. Those implementing the new legislation, performing the tests, rejecting the asylum seekers due to inadequate test results, or even those who critiqued the new procedures, all seemed to lack awareness that asylum seekers from the 3 nations involved, could in theory, all be Bedouins of the northern tribes and related to each other through extended family networks. Although we may be mistaken, it did not appear that language experts on the northern tribal accent expressed by the Bedoon, such as William and Fidelity Lancaster or Bruch Ingham, were ever consulted in such policy development.

It should be noted that the Bedoon's northern tribal accent and dialect are quite significant markers of the Bedouin's ethnic identity. These have functioned as bases of discrimination of the Bedoon and have been used to justify the deprivation of Kuwaiti citizenship, historically from the 1960s, and up until the present day. This basis for denying the Bedoon citizenship is explained in detail in the section on 'Bedoon indigenous rights' herein. Dr Kennedy Nour al Deen has explained that this point of bias is actually included in Decree 5/1960, which is an instrument of law that determines how the The Nationality Law (1959) is implemented: to either grant Kuwaiti citizenship, or not (the latter being the case of the Bedoon).

Thus, the factor of tribal dialect and/or accent, is significant not only in the eyes of the Bedoon, but also in the eyes of those who continue to deprive the group of Kuwaiti citizenship. Once again, we see the Kuwait government policy reflected in the latter development of UK Home Office policy on the Bedoon. From the point of view of those who know the Bedoon case intimately, it appears that the UK Home Office's cooperation with Kuwait's Ministry of Interior Central Apparatus and the government in general, amounts to ethnic targeting of the Bedoon in the United Kingdom as well as in Kuwait. Due to the dissemination of the policy abroad, it is possible such policy has been

absorbed by other states. This would mean that the discrimination against the Bedoon has been transferred from Kuwait into the international context. Bedoon asylum seekers seem to be met with the horror of finding the Central Apparatus policy reflected in the refugee assessment regimes of the states to which they have fled, hoping for a fair hearing of their claims, based on the principles of International law.

Prohibiting application of the Protectorate Law, United Kingdom

Finally, it appears that the United Kingdom has had the opportunity to assist the Bedoon by providing asylum seekers with British citizenship in the event that the new state did not provide the Bedoon inhabitants of the state with citizenship, leaving them stateless. However, it has chosen not to apply its laws for this purpose, which could have supported the Bedoon to avoid ethnic cleansing and genocide, if such laws were to be applied to all Bedoon.



Images 6 & 7: Many Bedoons are homeless, which is criminalised in Kuwait.

Such people are forced to live in vehicles and animal stables to avoid authorities, but some attempt to make an honourable living selling fruits, vegetables from the roadside. Some are so poor they can only sell seeds in tiny, home-made packets. Many Bedoon children work because they are unable to go to school, while the state of Kuwait claimed it had achieved its UN Millennium Development Goals due to its almost flawless performance of near - 100% literacy and 0% poverty rates.

iii. Expulsion from national statistics, exclusion from national development plans and all forms of UN statistical monitoring (UNDP, UNESCO and others)

The Bedoon were excluded from the UNDP-UNESCO Millennium Development Goals. They remain excluded from the 2030 Sustainable Development Goals and statistical monitoring by Population Division, Social and Economic Affairs, and reporting mandates linked to the UNDP and UNESCO. In this respect, the state of Kuwait has achieved success at wrenching the Bedoon away from the international organisations that set out to protect their indigenous rights, decades ago.

Since the years of administrative expulsion of the Bedoon in December 1986 and the National Census Expulsion in 1992 (backdated to 1985), the Bedoon are no longer monitored by international organisations such as UNDP and UNESCO. The United Nations has allowed the state to fail to monitor the development progress of the whole Bedoon population, including children who would otherwise be reported to monitor all those who attend school regularly, those who don't and those who are not schooled at all. As a result of these omission, the state of Kuwait's claims to having achieved international development benchmarks such as Literacy for All and zero percent poverty, are inaccurate. The results reported by the state are contingent upon the exclusion of the Bedoon; the Bedoon must be omitted from reports for the state to achieve the international benchmarks it claims, including the Millennium Development Goals (2015). In other words, the state is not as developed as it appears, while it also fails to implement important aspects of the Universal Declaration on Human Rights, such as providing free, universal education for all children.

The expulsion of the Bedoon population from the National Census as 'Bedouin' and 'Kuwaiti' has enabled government to 'lose' the Bedoon population within the broader migrant population pool of expatriate nationals residing in Kuwait on a (supposedly) temporary basis on limited work contracts (in reality, some groups of expatriate nationals have been enabled to reside in Kuwait permanently). While the vulnerable, stateless population goes unmonitored by international agencies, the Central Apparatus has been tasked with removing the ethnic and national identities and replacing the Bedoon's national identity with a national label it has chosen. It is not yet known if the population is reallocated to the states the Apparatus claims matches with 'original nationality' or if individuals are simply deleted from official government records. As we have mentioned above, this situation is potentially disastrous as it makes the Bedoon population extremely vulnerable to large-scale human rights atrocity events, or smaller scaled attrition of the population. The Bedoon can be made to literally disappear via erasure. So comprehensively planned was the erasure, that individual tribal names and surnames have also been removed from some Bedoon as a matter of public policy. We have recently submitted a report to the Human Rights Council on the 2030 Agenda for Sustainable Development, highlighting this problem and requesting the HRC to ensure that the Bedoon are included in country reporting statistics going forward. It is hoped that the Bedoon can be included in Kuwait's national development programs going forward, in respect to the 2030 agenda which seeks to 'empower people, ensuring inclusiveness and equality.'

Remedies and Recommendations

We will report on desired remedies and recommendations in a broader discussion of Bedoon recognition, reparations and reconciliation in our next report to the Expert Mechanism.



Image 8: A homeless Bedoon man in Taima, al Jahra

This man was kind enough to allow Dr Kennedy Nour al Deen to photograph him on her first fieldwork trip to Kuwait. He sells fruit from the roadside. He showed us his vehicle, which was in urgent need of repair, and also functioned as his primary dwelling. Living in one of the richest states in the world, the Bedoon suffer enormous humiliation by the opposing ethnic group, the Hadar, and increasingly by citizens of both the northern and southern tribes. While much of the citizen Bedouin community of the northern tribes absorbs the economic impacts of the Bedoon's statelessness, family relations are easily strained and the Bedoon are increasingly left to their own devices, despite facing extraordinary levels of oppression and social control such that genocide is indicated on population numbers alone, even without consideration of the state's planned cultural destruction of the group.

About the authors:

Abdulahkim al Fadhli is the most prominent community leader in the Bedoon community in Kuwait. He is the Director of the *National Project to Resolve the Kuwaiti Bedoon Case (Kuwait)*. He is a well-known civil rights activist and human rights defender in the Arabian Gulf region, having been active in the Bedoon case since the Arab Spring (2010-2012). He was a finalist in the Frontline Defenders human rights prize in 2017. He has contributed to many academic research studies on Kuwaiti society across a variety of social science disciplines, and is a community custodian of The Bedoon Archive. He is frequently interviewed in the television and news media in Kuwait and the Arabian Gulf and is regarded as the leading local expert on the Bedoon situation.

Dr Susan Kennedy Nour al Deen is the Co-Director of *End Statelessness Foundation (Australia)*. She has studied the Bedoon situation since 2012. She has worked with Abdulhakim al Fadhli since 2015. In 2017, she completed her doctoral studies at the University of Adelaide, South Australia; the project was called *The Stateless Bedoon in Kuwait Society: A study of Bedouin identity, culture and an intellectual ideal*. In her research, she established the Bedoon are a sub- ethnic group of the Kuwaiti Bedouin tribes, are undergoing ethnic cleansing, and exhibit signs of a broader pattern of genocide. She also studied the group's intellectual leadership, capacity for creative cultural expansion and future development. She is the founder of The Bedoon Archive, a public archive created for the northern tribes Beoduin of Kuwait, housed at the Australian Data Archive, Australian National University, Canberra.