

**NATIONS UNIES  
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**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association  
and the Independent Expert on minority issues.**

REFERENCE: AL Assembly & Association (2010-1) Minorities (2005-4)  
KWT 1/2012

6 March 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Independent Expert on minority issues pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 15/21 and 16/6.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **undue restrictions to the right of peaceful assembly of persons belonging to the Bidun minority.**

According to the information received:

On 12 and 13 January 2012, security forces used water cannons, tear gas, smoke bombs, and stun grenades to break up demonstrations organized by Bidun in the cities of Jahra and Sulaibiya.

Allegedly 61 people, who had been arrested during or after these demonstrations, were kept in detention for 21 days in the central prison of Kuwait city and further charged with "participating in an illegal gathering."

On 12 January 2012, the Ministry of Interior issued a statement prohibiting illegal residents to organize any rallies, gatherings, sit-ins or demonstrations regardless of their nature, objective and mission. This statement is allegedly based on article 12 of the Law No. 65 of 1979 which bans Non-Kuwait Citizens from participation in demonstrations.

The information received further indicates that the latest statement forms part of an increasingly hostile environment towards Bidun. At the end of 2011, 48 Bidun, who had allegedly participated in demonstrations in March 2011, were reportedly charged with "assaulting policemen", "participating in a gathering of more than five people in a public space with the intention to commit crimes and disturb

public security”, “participating in an unlicensed gathering and noncompliance with police orders” and “destroying police vehicles.” On 6 February, 31 of them were reportedly acquitted.

According to information received by the Independent Expert on minority issues (contained in the report of her mandate A/HRC/7/23 relating to minorities and the discriminatory denial or deprivation of citizenship), persons belonging to the Bidun (which literally means “without” in Arabic) have been disproportionately affected by amendments to laws on nationality following State reconstruction in the Gulf region and the independence of Kuwait, which effectively renders them stateless. In Kuwait there are an estimated 130,000 Bidun whose rights were revoked by law in the mid-1980s and who have since been unable to naturalize. They reportedly live in appalling conditions, are denied the right to employment, travel, education, free medical care, to register marriages or in most cases to hold a driving licence.

Should this information be corroborated, concern is expressed that the aforementioned allegations of excessive use of force by law enforcement officials against peaceful protesters could be related to their dissenting views and their legitimate exercise of fundamental freedoms. Concern is further expressed that the Government statement severely restricts the right of peaceful assembly as enshrined in international human rights law. Concern is expressed that such a statement may discriminate against Bidun and could lead to further isolate and silence them.

While we do not wish to prejudge the accuracy of these allegations, we wish to appeal to your Excellency's Government to take all necessary steps to ensure the right of peaceful assembly as recognized in article 21 of the International Covenant on Civil and Political Rights (ICCPR), which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interest of national security of public safety, public order (ordre public), the protection of public health or morals of the protection of the rights and freedoms of others.”

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

The Independent Expert on minority issues draws the attention of your Excellency's Government to the report of her mandate A/HRC/7/23 relating to minorities and the discriminatory denial or deprivation of citizenship, in which it is noted that information was received relating to “the situation of the Bidun in Kuwait. The

Independent Expert is concerned that the situation regarding the legal status of persons belonging to the Bidun in Kuwait has reportedly not improved with implications for all their rights, including in the present case, the right to peaceful assembly and association. The Independent Expert notes that policies relating to the recognition and rights of minority groups must be assessed as against the State's obligations under international human rights law. Article 27 of the International Covenant on Civil and Political Rights establishes that "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language." The question of the existence of minorities within a State is addressed by the Human Rights Committee in its General Comment number 23, stating "the existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria". Based on the information received, the Independent Expert is concerned that the Bidun constitute a minority in Kuwait, the members of which are being denied or deprived of citizenship as a means to deny them full enjoyment of their rights as equal citizens.

In addition, we draw attention to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities that require under article 1.1 that "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity." In addition, article 4.1 of the Declaration establishes that: "States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law."

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by the alleged victims?
3. Please provide information concerning the legal grounds for the use of force and how these measures are compatible with international human rights law.
4. Please indicate what measures have been taken to ensure that the legitimate right to peaceful assembly is respected and enjoyed by all without any discrimination.
5. Please provide information regarding any measures taken or envisaged to improve the legal status of the Bidun and their access to citizenship.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration. We would appreciate an answer from your Excellency's Government within 60 days.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

IZSÁK Rita  
Independent Expert on minority issues