

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA
KWT 2/2014:

31 July 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 25/2, 24/5, 25/18, and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the use of force by the police during peaceful demonstrations in Kuwait City from 2 to 7 July 2014, including the arbitrary detention of a few dozens of peaceful protesters, and the infliction of serious injuries against at least five peaceful protesters, including one journalist covering the protests.**

Mr. **Abdulhakim Al Fadhli** is a vocal advocate for the rights of the Bedoun community of stateless persons in Kuwait.

According to the information received:

On 2 July 2014, several spontaneous peaceful assemblies took place in the streets in Kuwait City in solidarity with a prominent political activist charged with insulting the judiciary and also to demand financial and political transparency, amongst other demands. From 2 to 6 July 2014, these peaceful assemblies were reportedly violently dispersed. A peaceful protester was reportedly shot at close range with a rubber bullet near the area of Sabah El Nasser. At least four other people were reportedly injured, including one journalist covering the events.

Furthermore, a few dozens of peaceful protesters were reportedly arrested by the police and taken to the Central Prison of Kuwait City.

On 4 July 2014, following the reported mass arrests of peaceful protesters, the Ministry of Interior allegedly released a public statement reaffirming that the Government would “firmly confront any forms of rioting, violence and incitement” and that “the police will also continue to prevent and tackle with all force such practices”.

The multiple arrests that took place on 2 July 2014 reportedly inspired new demonstrations on 7 July 2014 in Sabah El Nasser, near the Central Prison of Kuwait City. The police reportedly dispersed demonstrations with excessive and disproportionate force, such as rubber bullets, sound bombs, tear gas and nitrous oxide gas. One peaceful protester was reportedly shot in the head with a rubber bullet, in the area of the Grand Mosque in Kuwait City, and another protester reportedly fainted due to the use of tear gas by police forces.

Also on 7 July 2014, Mr. Abdulhakim Al Fadhli was reportedly arrested while participating in a peaceful gathering in Sabah El Nasser to demand the release of the protesters detained in the nearby Central Prison. It has been reported that Mr. Al Fadhli was beaten during his arrest. On 8 July 2014, the public prosecutor reportedly charged him with insulting a police officer and ordered his detention. On 16 July 2014, a judicial officer reportedly extended his detention for another 10 days. On 24 July 2014, the Kuwaiti Misdemeanor Court reportedly postponed the trial of Mr. Al Fadhli to 7 August 2014. In separate proceedings, it is reported that Mr. Al Fadhli faces charges of “inciting Bedouns in Kuwait to protest and cause chaos”. Mr. Al Fadhli is currently held in the Central Prison without access to his family and has been on hunger strike since 10 July 2014.

Grave concerns are expressed at the allegations of excessive use of force by the police against peaceful protesters, including a journalist covering the events, particularly at the allegations of police beatings and use of less-lethal weapons at close range. Serious concerns are expressed at the allegations of arbitrary mass arrests and detentions of peaceful protesters. Similar concerns are expressed at the physical integrity and mental condition of Mr. Al Fadhli reportedly on hunger strike since 10 July 2014 to protest his detention.

While we do not wish to prejudge the accuracy of these allegations or to express an opinion on whether or not the detention of peaceful protesters and human rights defenders is arbitrary, the above allegations appear to be in contravention of the right not to be deprived arbitrarily of their liberty as set forth in article 9 of the Universal Declaration of Human Rights (UDHR) and article 9 of the International Covenant on Civil and Political Rights (ICCPR), as well as the right to fair proceedings before an

independent and impartial tribunal, as set forth in article 10 of the UDHR and article 14 of the ICCPR.

Furthermore, the above alleged facts indicate prima facie violations of the rights to freedom of opinion and expression, freedom of peaceful assembly and of association as set forth in articles 19, 21 and 22 of the ICCPR accessed by Kuwait on 21 May 1996.

We also refer to principles 4 and 5 of the UN Basic Principles on the Use of Force and Firearms by Law Officials which call for law enforcement officials to use, as far as possible, non-violent means before resorting to the use of force and firearms and the requirements of a proportional response.

The allegations also appear to contravene the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2 and 12.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned people in compliance with international instruments.

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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Has a complaint been lodged by or on behalf of the alleged victims regarding the allegations of excessive use of force during the peaceful protests?
3. Please clarify the legal grounds for the mass arrests and detentions of the peaceful protesters, and explain how these measures are compatible with Kuwait's legal obligations under the ICCPR.
4. Please provide information as to whether any of the peaceful protesters that were arrested between 2 and 7 July 2014 are still detained to date. If so, please indicate if they were brought before justice, the legal grounds for their continued detention, and if they have access to their lawyers, families and medical personnel.

5. Please indicate what measures have been taken to ensure that the right to meet and assemble peacefully is guaranteed by Kuwaiti legislation, and that the physical and psychological integrity of those exercising this right is guaranteed.

6. Please explain what measures have been taken to ensure that all human rights defenders in Kuwait can carry out their peaceful and legitimate activities without fear of judicial harassment or other restrictions.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

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