

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; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL
KWT 7/2015:

17 December 2015

Excellency,

We have the honour to address you in our capacities 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; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the sentencing and initiation of processes for the revocation of the citizenship of a human rights defender.

Mr. **Abdullah Fairouz Abdullah Abd al-Kareem** is a human rights defender, writer and journalist. He is a member of the Kuwaiti Human Rights Society, a non-governmental organisation which aims at protecting and promoting human rights in Kuwait.

According to the information received:

On 9 April 2013, Mr. Abdullah Fairouz Abdullah Abd al-Kareem was arrested by the Criminal Investigation Department of Kuwait, on the order of the Attorney-General and on charges of insulting the judiciary. The charges were based on a series of statements made by Mr. Al-Kareem in blog posts and on the social media website Twitter, in which he had raised concerns about sentences by Kuwaiti courts imposed, in absentia, against defendants who had not been notified of their hearings. While detained, requests to visit Mr. Al-Kareem by colleagues at the Kuwait Society for Human Rights were allegedly denied without explanation. On 15 April 2013, Mr. Al-Kareem was released upon payment of 200 Kuwait Dinars (approximately 658 USD).

On 4 November 2013, Mr. Al-Kareem was arrested by state security officials, without the presentation of an arrest warrant, on the basis of comments he had

made on Twitter, allegedly insulting the Emir. During the arrest, he was allegedly beaten by the arresting officers, who focused their beatings on his head.

On 9 January 2014, Mr. Al-Kareem was sentenced to five years' imprisonment and subsequent deportation at the Court of First Instance. He was subsequently detained in the Central Jail in Kuwait. The sentence against him was upheld at the High Court of Appeals on 5 June 2014.

Whilst serving his prison sentence, Kuwaiti authorities have reportedly initiated the process to revoke Mr. Al-Kareem's Kuwaiti citizenship.

Grave concern is expressed at the arrest of Mr. Al-Kareem, given the alleged violence during its course, as well as his subsequent sentencing and imprisonment, which appear to solely relate to his human rights activities and legitimate exercise of the rights to freedom of expression and association, as enshrined in Articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Kuwait on 21 May 1996, and articles 19 and 20 of the Universal Declaration of Human Rights (UDHR). Further grave concern is expressed at the allegations of Mr. Al-Kareem's potential revocation of citizenship, which will force him into a situation of statelessness, in contravention of the right to freedom of movement, as provided in article 12 of the ICCPR and article 15 of the UDHR.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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. Please provide information concerning the legal grounds for the sentencing of Mr. Al-Kareem, indicating how the measures taken against him are compatible with abovementioned international norms and standards.
3. Please provide information concerning the legal grounds for the revocation of Mr. Al-Kareem's citizenship and how those measures are compatible with abovementioned international norms and standards.

4. Please indicate what measures have been taken to ensure that human rights defenders are able to carry out their legitimate work and to realize their fundamental right to freedom of expression in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

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(s) responsible for 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.

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

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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer to articles 15, 19 and 20 of the Universal Declaration of Human Rights (UDHR) and articles 12, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Kuwait on 21 May 1996, which provide for the right to freedom of movement, which includes the right not to be arbitrarily deprived of nationality, and the right to freedom of expression and of assembly.

We would like to refer your Excellency's Government to the fundamental principles set forth in 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, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 8, para.1, which provides for the right to effective and non-discriminatory access to participation in public affairs;
- article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would like to refer to Human Rights Council resolution 22/6, which urges States to acknowledge publicly the important and legitimate role of human rights defenders in the promotion of human rights, democracy and the rule of law (OP 5).

We would finally like to refer to Human Rights Council resolution 24/5 (OP 2) which “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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.”