

**Mandates of the Working Group on Arbitrary Detention; 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; the Special Rapporteur on minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA KWT 3/2019

23 August 2019

Excellency,

We have the honour to address you in our capacity as Working Group on Arbitrary Detention; 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; Special Rapporteur on minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 33/30, 34/18, 32/32, 34/5, 34/6 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrests and detention of human rights defenders in connection with their peaceful advocacy on behalf of the Bedoon community in Kuwait, as well as allegations of torture and ill-treatment against them.

Messrs. **Hamoud Al-Rabah** and **Reda Al-Fadhli** are journalists, activists and members of the Bedoon minority in Kuwait.

Mr. **Abdulahkim Al-Fadhli** is a human rights defender and member of the Bedoon minority in Kuwait.

Ms. **Alaa Al-Saadoun** and Messrs. **Ahmed Al-Onan**, **Awad Al-Onan**, **Mutaib Al-Onan**, **Abdullah Al-Fadhli**, **Yousef Al-Osmi**, **Ahmed Al-Anzi**, **Yousef Al-Bashig**, **Nawaf Al-Bader**, **Jarallah Al-Fadhli**, **Hamid Jamil**, **Mohammed Al-Anzi** and **Khalifa Al-Anzi** are Bedoon rights defenders who participated in previous sit-ins demanding the rights of the Bedoon minority in Kuwait.

Mr. Abdulhakim Al-Fadhli was the subject of three previous communications sent by various Special Procedures, respectively dated 31 July 2014 (case no. KWT 2/2014), 25 February 2015 (case no. KWT 1/2015) and 7 June 2016 (case no. KWT 2/2016). We acknowledge receipt of the responses from your Excellency's Government to these communications dated 19 September 2014, 8 October 2014, 9 April 2015, 13 June 2016, 17 June 2016, 20 June 2016, 11 July 2016 and 3 August 2016. However, we remain concerned in light of the new allegations detailed below.

A recent communication on the situation of Bedoon rights defenders was addressed to your Excellency's Government by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on minority issues, on 5 July 2019 (case no. AL KWT 2/2019). While we would like to thank your Excellency's Government for the response dated 6 August 2019, we remain concerned given the new allegations below.

According to the information received:

On 10 July 2019, Mr. Mohammed Al-Anzi spoke at a demonstration in support of the rights of the Bedoon minority in Kuwait. On the following day, he was arrested and put in State Security custody. Following his arrest, Mr. Al-Anzi was reportedly physically assaulted by officers of the State Security Bureau, which caused a wound on his head that required three stitches.

On 12 July 2019, twelve Bedoon rights defenders, Messrs. Abdulhakim Al-Fadhli, Ahmed Al-Onan, Awad Al-Onan, Mutaib Al-Onan, Abdullah Al-Fadhli, Yousef Al-Osmi, Ahmed Al-Anzi, Yousif Al-Bashig, Nawaf Al-Bader, Jarallah Al-Fadhli, Hamid Jamil and Ms. Alaa Al-Saadoun, were arrested in Kuwait City. The arrests were carried out in a pre-emptive operation by Kuwait's State Security and Criminal Investigation bureaus in connection with a sit-in Bedoon rights protest planned to take place on the same day on the outskirts of Kuwait City, concerning the suicide of a young Bedoon man who killed himself after being denied identification documents required to access basic public services or work legally in Kuwait.

Those arrested were allegedly targeted as a result of their supposed leading roles in previous sit-ins held in defense of the rights of the Bedoon community. The arrests were carried out on the basis of Article 12 of the Kuwaiti Public Gatherings Law, which bars those who are not Kuwaiti citizens from participating in protests in the country.

During the arrest of Mr. Abdulhakim Al-Fadhli, state security agents entered his house by force and physically assaulted his family members, and threatened them with arrest. They confiscated electronic equipment belonging to the human rights defender and his family, and severely beat Mr. Al-Fadhli upon his arrest and thereafter. They also detained Mr. Abdulhakim Al-Fadhli's family member for six hours.

During the arrest of Mr. Abdullah Al-Fadhli, state security agents forced him into a car and took him to an unknown location. He was interrogated for three days

and held in solitary confinement, without access to his family. The State Security Bureau refused to release him on bail.

On the day of their arrests, the twelve individuals were brought before the Public Prosecutor, under investigation on charges of threatening the state, spreading false news, harming the reputation of friendly countries and misuse of telephones. While Ms. Alaa Al-Saadoun was released at approximately midnight on the day of her arrest, the remaining defenders continued to be detained in solitary confinement at the State Security Bureau. Whilst held in State Security custody, the human rights defenders were reportedly subjected to ill-treatment, including restricted access to sunlight and lengthy interrogations. They were only allowed to contact their lawyers during the interrogations.

On 14 July 2019, during his interrogation at the Public Prosecutor's Office, Mr. Al-Bader showed signs of torture. His face reportedly looked swollen and he appeared to be disoriented when asked questions. During the interrogation, the Public Prosecutor rejected Mr. Al-Bader's request for referral to the Forensic Medicine Department for the purpose of an investigation into the reported acts of torture against him. The human rights defender was interrogated about a Twitter account allegedly used by him to defend the rights of the Bedoon community.

On the same day, Mr. Mohammed Al-Anzi was also interrogated at the Public Prosecutor's Office. During the interrogation, he requested to be transferred to the Forensic Medicine Department for the purpose of an investigation into the acts of torture reportedly committed against him. The interrogation lasted for the whole night. In the early morning, his request for referral to the Forensic Medicine Department was rejected.

The State Security Bureau reportedly attempted to hide the evidence of torture against the detainees by replacing their prison clothes showing signs of blood with clean clothing before their interrogations at the Public Prosecutor's Office.

On 18 July 2019, Mr. Abdulhakim Al-Fadhli's father filed a complaint against the State Security Bureau with the Public Prosecutor, concerning the raid at his house and the harassment of his family. The family had reportedly previously tried to lodge a complaint at the police station in Al Jaberya, Kuwait City, but it was rejected by the head of the police station. The complaint filed with the Public Prosecutor was also rejected.

On 24 July 2019, the Bedoon human rights defender and journalist Mr. Hamoud Al-Rabah was abducted while at a restaurant in central Kuwait City. He was taken from the restaurant by a group of several persons in civilian clothes and forced into a car, which proceeded to drive away under the blare of a siren typical of

vehicles of the State Security Bureau. The abduction of Mr. Al-Rabah followed a call he had made on Twitter for the release of the 12 above-mentioned Bedoon rights defenders. Following his abduction, he was allegedly put in State Security custody.

At 1.30 pm on the 24 July 2019, Mr. Khalifa Al-Anzi was seized by a large number of individuals in front of his place of work, placed in handcuffs and driven away in a civilian car. He was allegedly put in State Security custody.

On 25 July 2019, Mr. Reda Al-Fadhli was seen at the Public Prosecutor's Office. His whereabouts had been unknown for the previous two days. Following his appearance at the Public Prosecutor's Office, he was allegedly kept in State Security custody.

On 29 July 2019, following a request made by the Public Prosecutor, the Magistrate's Court extended the detention of Messrs. Abdulhakim Al-Fadhli, Ahmed Al-Onan, Awad Al-Onan, Abdullah Al-Fadhli, Mutaib Al-Onan, Mohammed Al-Anzi, Yousif Al-Osmi, Nawaf Al-Bader, Hamid Jamil, Yousif Al-Bashig, Jarallah Al-Fadhli, and Ahmed Al-Anzi for an additional 21 days. They were transferred to the Kuwaiti Central Prison, where they are currently detained. The Court also reduced the charges against them to misuse of the phone, calling for an unauthorised gathering, and joining an unauthorised gathering. On 14 August 2019, the Magistrate's Court extended the detention of the 12 human rights defenders and activists until 25 August 2019.

The lawyers of the detained human rights defenders have reportedly been denied private visits with their clients.

On 8 August 2019, the Magistrate's Court extended the detention of Messrs. Hamoud Al-Rabah, Khalifa Al-Anzi and Reda Al-Fadhli until 25 August 2019. They were transferred from State Security custody to the Kuwaiti Central Prison, where they are currently detained.

We express serious concern at the arrests and detention of the Bedoon rights defenders, which appear to be a direct result of their activities in defence of the rights of the Bedoon minority as well as their exercise of the rights to freedom of peaceful assembly and freedom of expression. Further to this, we express concern that the human rights defenders appear to be targeted for their belonging to the Bedoon minority. We are also deeply concerned at the allegations received indicating that torture and/or cruel, inhuman or degrading treatment may have occurred during the detention of the defenders. We further wish to express our concerns over the alleged restriction of the ability of the human rights defenders to have contact with their lawyers and families.

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, we would like to refer to articles 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Kuwait on 21 May 1996, which provide for the right not to be deprived arbitrarily of liberty, the right to a fair trial, and the rights to freedom of expression and freedom of peaceful assembly.

We would also 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, 2 and 5 of the Declaration.

Furthermore, we would like to refer to Human Rights Council resolution 24/5, which "[r]eminds 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 [...] persons espousing minority or dissenting views or beliefs [and] human rights defenders [...], 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."

We would like to bring to the attention of your Excellency's Government the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the International Covenant on Civil and Political Rights and to the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), adopted by the General Assembly in 1992, which in its article 1 refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end. Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that "States will 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".

We would like to stress the obligation of your Excellency's Government to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Article 2 of the CAT provides that "[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.", while article 12 of the CAT requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed.

Concerning allegations received as relevant to the conditions of detention in which the human rights defenders have been held, we would like to refer your Excellency's Government to the United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as the Nelson Mandela Rules, adopted in General Assembly resolution 70/175. In particular, we would like to recall rule 42, which refers to general living conditions in detention as laid out in the resolution, including those related to light, and their application to all prisoners without exception.

Finally, we would like to refer to the Concluding Observations on the third periodic report of Kuwait by the Human Rights Committee, emitted on 11 August 2016 (CCPR/C/KWT/CO/3), and to paragraph 11 in particular, concerning the State's obligations to respect, protect and fulfil the rights of the Bedoon community in Kuwait.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://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 persons in compliance with international instruments.

As 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 as to the legal and factual basis for the arrests of Ms. Alaa Al-Saadoun and Messrs. Abdulhakim Al-Fadhli, Ahmed Al-Onan, Awad Al-Onan, Mutaib Al-Onan, Abdullah Al-Fadhli, Yousef Al-Osmi, Ahmed Al-Anzi, Yousef Al-Bashig, Nawaf Al-Bader, Jarallah Al-Fadhli, Hamid Jamil, Mohammed Al-Anzi, Hamoud Al-Rabah, Khalifa Al-Anzi and Reda Al-Fadhli. Therein, please provide detailed information as to how their arrests comply with the obligations of your Excellency's

Government under international human rights law, and in particular articles 9, 19 and 21 of the ICCPR.

3. Please provide information as to the status of any investigations opened against the above-mentioned individuals.
4. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to reported allegations of torture and/or cruel, inhuman or degrading treatment. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. Please provide information as to any investigative action that has been undertaken into the alleged abduction of Mr. Hamoud Al-Rabah. If no investigative action has been initiated, please explain why this has been the case.
6. Please provide information as to steps taken to implement the recommendations of the Human Rights Committee concerning the Bedoon community.
7. Please provide detailed information as to the specific measures that have been put in place to ensure human rights defenders in Kuwait can carry out their legitimate work in a safe and enabling environment without fear of judicial harassment of any kind, along with specific information as to steps taken to support and promote the right to peaceful assembly in the country.

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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted an urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. Such appeals in no way prejudice any opinion the Working Group may render. The Government is required to respond separately for the urgent appeal procedure and the regular procedure.

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

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Vice-Chair of the Working Group on Arbitrary Detention

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