

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 minority issues

Ref.: AL KWT 1/2024
(Please use this reference in your reply)

30 April 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; 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 minority issues, pursuant to Human Rights Council resolutions 52/4, 52/9, 50/17 and 52/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the arrest and conviction of human rights defender **Mohammed Al-Barghash** in relation to his peaceful advocacy on behalf of the rights of the stateless Bedoon community in Kuwait.

Mr. **Mohammed Al-Barghash** is a human rights defender and a member of the Bedoon community in Kuwait. He founded the Bloc of Kuwaiti Bedoons, which addresses the problems facing them and advocates for their resolution.

The Bedoon (*Bedoon Jinsiya*, in Arabic, meaning without citizenship) are a stateless minority in Kuwait and on other parts of the Gulf region. Bedoon persons face difficulties in obtaining official documents, finding employment and accessing healthcare, education and social services provided to Kuwaiti citizens, leading many to live in poor economic conditions and children to use unsuitable private schools.

Communications on Bedoon rights defenders by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on minority rights, amongst others, were addressed to your Excellency's Government in the past four years. They include UA KWT 3/2019 sent on 23 August 2019, and AL KWT 2/2019 sent on 5 July 2019. We thank Your Excellency Government for the response, dated 6 August 2019 regarding the right to freedom of expression and the situation of the Bedoon minority.

According to the information received:

On 3 September 2023, Mohammed Al-Barghash was arrested by Kuwaiti State Security forces who arrived in seven cars at his workplace in the al-Sulaibiya neighbourhood of al-Jahra province, after blocking the road leading to it. They had an arrest warrant issued by the Public Prosecutor, and he was taken to Kuwait's Central Prison where he was kept pending investigation. He was able to access his family and a lawyer. His arrest came after an interview on 11 August 2023 with Nabaa TV, a Saudi opposition channel broadcasting from Lebanon, in which he complained about the government's lack of political will

to resolve the Bedoon problem. He had also been posting regularly on the social media platform X, formerly Twitter, asking the Kuwaiti ruling family for justice for the Bedoon minority.

During his detention, Mr. Al-Barghash was allegedly taken blindfolded and handcuffed to the Interior Ministry's State Security Apparatus in Kuwait City where he was interrogated, intimidated, and threatened with torture by six officers.

On 27 October 2023, a criminal court acquitted Mr. Al-Barghash of all charges, namely those of spreading false news, harming the State's reputation, and misusing a telephone device. He complained to the judge about the ill-treatment he was subjected to, after which he suffered extreme fatigue and general weakness and had to be hospitalised for some hours. No action was taken by the court to follow up on these complaints.

The Public Prosecution appealed the court's decision within 30 days of its pronouncement.

On 17 January 2024, the Court of Appeal held a hearing to consider the Public Prosecution's appeal. The case was adjourned to 31 January 2024.

On 31 January 2024, the Court of Appeal convicted Mr. Al-Barghash of spreading false news, harming the State's reputation, and misusing a telephone device to organise activities in support of the Bedoon community. He was sentenced to three years in prison.

On 21 February 2024, Mr. Al-Barghash reportedly turned himself in to the authorities and he is currently serving his sentence in Kuwait's Central Prison.

Mr. Al-Barghash has previously been subjected to harassment in relation to his peaceful human rights work. On 27 July 2021, Mr. Al-Barghash appeared at the State Security Apparatus in Kuwait City after receiving a summons the day before. He was questioned for six hours about his participation in weekly sit-ins at Al-Irada Square, across from the National Assembly, demanding fundamental human rights and a just solution to the Bedoon community problems. He was also questioned about a video that he posted on Twitter about one month earlier in which he called on the then Prime Minister Sabah Al-Khalid Al-Sabah urging him to address the Bedoon issue. He was released after signing a pledge to reduce his online activities.

On 7 February 2022, he participated in a peaceful sit-in at Al-Irada Square that demanded an end to corruption. He also distributed leaflets calling for a sit-in on Bedoon rights to be held on 11 February 2022. He was arrested the same evening by persons affiliated with the Criminal Investigation Directorate and was held for two hours at the Salhiya Police Station and allegedly forced to sign a pledge to desist from distributing leaflets in Kuwait.

On 26 August 2022, he was arrested along with 21 other person who had participated in a peaceful demonstration calling for Bedoon rights in the majority-Bedoon neighbourhood of Taima. He was fined 200 dinars (approximately USD 650 at the time).

Without wishing to prejudge the accuracy of the information received, we express serious concern at the arrest and subsequent sentencing of Mr. Mohammed Al-Barghash, which appear to be a direct result of his activities in the defence of Bedoon community rights. We are also concerned by the alleged violation of his right to freedom of peaceful assembly and freedom of expression. We are further concerned at the information received regarding the ill-treatment and intimidation of Mr. Al-Barghash while under interrogation, as well as at the intimidation and harassment he has been subjected to in relation to his peaceful work in defending and advocating for Bedoon rights.

If confirmed, the facts alleged would appear to contravene the International Covenant on Civil and Political Rights (ICCPR), to which Kuwait acceded on 21 May 1996, which provide for the right not to be deprived arbitrarily of liberty, the right to a fair trial, the rights to freedom of expression and freedom of peaceful assembly. They would also contravene the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that cruel, inhuman, or degrading treatment has been committed.

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

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/or comment(s) you may have on the above-mentioned allegations.
2. 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 cruel, inhuman, or degrading treatment. If no enquiries have taken place, or if they have been inconclusive, please explain why.
3. Please indicate what measures have been taken to ensure that Mr. Al-Barghash and other human rights defenders and civil society organisations in Kuwait are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any kind.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Nicolas Levrat
Special Rapporteur on minority issues

Annex

Reference to international human rights law

In connection with above alleged facts and concerns we would like to refer to your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), to which Kuwait acceded on 21 May 1996.

We recall article 19 of the Covenant, which enshrines the right to freedom of opinion and expression and guarantees that everyone shall have the right to freedom of expression, which includes the rights to receive and impart information regardless of frontiers and through any media of one's choice. As stated by the Human Rights Committee, "Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights," CCPR/C/GC/34, para. 3.

In accordance with article 19(3), any restriction on the right to freedom of expression must pursue one of the exhaustively enumerated aims of the provision, it must be provided by law, and it must be necessary and proportionate. The State has the burden of proof to demonstrate that any such restrictions are compatible with the Covenant. An attack on a person because of the exercise of his or her freedom of opinion or expression, including arbitrary arrest, torture, threats to life and killing, cannot be compatible with Article 19. (CCPR/C/GC/34, para. 23) In this connection, we also recall that the Human Rights Council, in its resolution 12/16, called on States to refrain from imposing restrictions which are not consistent with article 19(3), including: discussion of government policies and political debate; reporting on human rights; engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We also recall article 21 of the ICCPR, which protects the right to peaceful assembly. The Human Rights Committee has confirmed that article 21 "protects peaceful assemblies wherever they take place: outdoors, indoors or online; in public and private spaces or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins," (CCPR/C/GC/37, para. 6).

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 draw to the attention of you Excellency's Government 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. We would also like to refer to article 11 which states that everyone has the right to the lawful exercise of his or her occupation or profession.