



INTERNATIONAL COUNCIL SUPPORTING FAIR TRIAL & HUMAN RIGHTS

Registration No. 2795/2012

OFFICIAL LETTER HEAD OF THE ORGANIZATION

ICSFT – Report on Bedoons, freedom of expression and judiciary in Kuwait

The Convention on the Elimination of All Forms of Racial Discrimination (CERD)¹ was ratified by Kuwait in 1968 however, the State still falls short on its implementation obligations under the Convention, in particular the civil rights guaranteed under article 5. The focus of this report is the discrimination faced by the Bedoon community in Kuwait.

The Bedoon Community in Kuwait accounts for approximately 120,000 of its population. Despite its commitment under article 2 of CERD to eliminate all forms of racial discrimination and to promote understanding among all races, the State continues to target and segregate the Bedoon community. These men, women and children remain 'stateless'-without citizenship and without rights.

The Bedoon face daily discrimination in clear violation of international human rights conventions including CERD as well as the UN Convention Against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). Moreover, those who speak out for the rights of the Bedoon are met with intimidation, judicial harassment and ill-treatment at the hands of the authorities.

1. CERD

The Bedoon people are not afforded the legal protection of CERD as the Kuwaiti authorities have failed to criminalise the incitement of racial hatred (Article 4), to ensure judicial

¹ International Convention on the Elimination of All Forms of Racial Discrimination Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965 entry into force 04 January 1969



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remedies for acts of racial discrimination (Article 6), and to engage in public education to promote understanding and tolerance (Article 7).

Since February 2011, there have been protests for the rights of Bedoon people. However, these have been put down by security forces often using excessive force, tear gas as well as arresting and detaining the protestors. The government's attempts to deter lawful protest are a breach of article 5 (b) which guarantees the right to security of persons and their protection by the State against violence or bodily harm as well as the right to freedom of peaceful assembly and association, freedom of opinion and expression as provided by articles 5 (c) (viii) and 5 (c) (ix). Due to the violence protesters face there has been a noticeable decrease in the number of protests since 2015.

The authorities systematically target Bedoon rights' activists. The case of Abdulhakim Al-Fadhli is an illustration of the discrimination faced by those working for Bedoon rights. Abdulhakim Al-Fadhli is a prominent activist who monitors human rights violations in Kuwait. He has been arrested and detained on a number of occasions and tortured. In January 2015 he was sentenced to one year in prison with hard labour and was subsequently deported for his participating in a demonstration supporting Bedoon rights.

In April 2016, he was arrested by security forces while attending a peaceful gathering at the home of Mussalam Al-Barrak, an MP who was serving a two-year prison sentence for publicly criticising the electoral law as unjust, unrepresentative and discriminatory. Abdulhakim Al-Fadhli was released in August but detained again in September 2016. He remains in detention at the Central Prison in Kuwait where he protested against his detention, the conditions of detention and his ill-treatment at the hands of the authorities by going on four hunger strikes. There is a concern that, when his sentence expires, he will be transferred to Tolha Prison.



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Similarly, Human rights defender Rana Al-Sadoun was charged and sentenced to five years in prison after repeating Mussalam Al-Barrak's speech. The speech echoed the provisions of article 5 (c) of CERD which guarantees political rights and calls for equality to participate in elections.

Interviews carried out by the Gulf Centre for Human Rights (GCHR) highlighted the discrimination faced by Bedoon women. One woman describes the discrimination she faces, before the reforms of 1986, if your mother was Kuwaiti you were allowed to go to school for free. Since 1986, as her father is Bedoon, the whole family is now considered Bedoon and thus she cannot go to university because only Kuwaitis are allowed to enroll and attend'.² Bedoon children also face discriminatory, they are targeted by authorities and subject to physical and verbal abuse. While there have been some improvements the majority of Bedoon people often have no access to education or health care which is a violation of article 5 (d) (iv) and (v) of the CERD.

Due to the way the legal system is set up Bedoon people face a de facto discrimination violating article 5 (a) of the CERD, which requires state parties to guarantee equal treatment rights before tribunals and all judicial organs. Bedoon defendants often have to wait for extended periods of time between the time of their their arrest and their appearance in court without a reasonable justification. In addition, Bedoon defendants are often not even notified of the date of a hearing resulting in a conviction in abstentia. Moreover, the authorities target lawyers who take on Bedoon people's cases³.

TORTURE

Bedoon people, peaceful protesters and Bedoon rights activites have been tortured by the authorities in clear contravention of the UNCAT2. The Committee Against Torture (CAT), has raised concerns over beatings and abuse against the peaceful protesters who were detained

² Dignity has no price in Kuwait, Gulf Centre for Human Rights April 2014 <http://www.gc4hr.org/report/view/24>

³ The 'Iron Fist Policy': Criminalisation of Peaceful dissent in Kuwait, Amnesty International, 2015



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during Bedoon protests in February and March 2011⁴. The Kuwaiti authorities failed to address those concerns and instead denied any misconduct or abuse⁵.

Although constitutional and legal provisions criminalising torture and guaranteeing fair trial rights (including prompt access to a lawyer) were implemented, these provisions are routinely ignored when it comes to Bedoon activists, in violation of Articles 1 and 2 of the UNCAT. Human Rights defenders are often intimidated, beaten and arrested without recourse to any legal representation or fair procedures.

As discussed in the previous section, Abdulhakim Al-Fadhli was tortured during his periods in detention and there are concerns that this continues as he is still in detention. In October 2012 he was arrested, tortured and detained for over 100 days. During this time he was beaten, blindfolded and suspended in a stress position for hours. In February 2014, he was arrested along with his brother Abulnasser Al-Fadhli on charges relating to protest in support of Bedoon rights. They were interrogated without the presence of a lawyer. He was eventually released in April following a hunger strike. The brothers told the court that they were tortured while in detention however their allegations have been ignored. In July 2014 he was again arrested and detained for a month before being released pending trial. On this occasion, he was mistreated and physically assaulted; he subsequently commenced a hunger strike in protest. All these allegations of torture he reported remain uninvestigated which is a violation of the UNCAT.

Similarly, ICSFT's director Dashti Abdulhameed, who is a former Kuwaiti MP and an outspoken Human Rights activist was sentenced to nearly 50 years in Prison for "insulting neighboring gulf states". However, the charges were brought against him after he spoke out against the government's Human Rights violations. Indeed, he has been a vocal critic of the

⁴ CAT/C/KWT/QPR/3 para 30

⁵CAT/C/KWT/3 para 117



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Royal Families both in Bahrain and Saudi Arabia as well as against the Saudi intervention in Bahrain in 2011.

CONCLUSION

Although Kuwait is often considered as one of the more democratic Gulf States, it continues to discriminate blatantly against a significant proportion of its population. Despite its ratification of international conventions and repeated calls by the international human rights community it fails in its obligations towards the Bedoon community. ICSFT expresses serious concern at this failure to take steps against discrimination. ICSFT expresses further concern at the continued refusal of the authorities to address the situation as evidenced by its rejection of the UPR recommendations, in 2015, to provide citizenship and rights to Bedoon or to grant them access to social services (157.242-254).⁶ It is imperative that all member states and UN bodies take all the steps available to ensure that Kuwait fully complies with all human rights conventions in particular CERD in its dealings with the Bedoon community.

RECOMMENDATIONS

ICSFT calls on the authorities in Kuwait to:

1. Further develop and implement plans to provide a solution to the longstanding problem of statelessness in Kuwait in accordance with CERD and international legal standards in consultation with Kuwaiti civil society organizations.
2. Cease treating the Bedoon as illegal residents;

⁶ Response to Recommendations and voluntary pledges, Kuwait UPR 2nd Cycle (157.242-254). https://www.upr-info.org/sites/default/files/document/kuwait/session_21_-_january_2015/recommendations_and_pledges_kuwait_2015.pdf



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3. Grant nationality to longstanding residents with claims to nationality, including those without documents;
4. Register all children born within the borders of Kuwait within appropriate time frames and provide birth certificates to all such children. Issue marriage and death certificates, travel documents and driver's licenses to all persons in Kuwait without discrimination;
5. Eliminate discrimination against women in Kuwait in the field of nationality by ensuring that nationality can be conferred on women and men equally regardless of their ethnic background.
6. Introduce appropriate legislation to ensure that all articles of the CERD are fully implemented.