

URGENT ACTION

KUWAITI BIDUN RIGHTS DEFENDER IMPRISONED

On 20 September, the Misdemeanours Court of Cassation upheld a sentence of one year's imprisonment and deportation of 'Abdulahkim al-Fadhli, a defender of the rights of the stateless Bidun community in Kuwait, for charges relating to a peaceful demonstration held in 2012. On 24 September, 'Abdulahkim al-Fadhli turned himself over to the authorities. He is a prisoner of conscience.

In a letter to Amnesty International dated 10 March 2016, the government of Kuwait stated that 'Abdulahkim al-Fadhli "incited and directed [others] to participate in gathering in a public square in Taima in 2012... through his twitter account", a gathering whose purpose was to call for citizenship rights for Kuwait's stateless Bidun community. The letter stated that a lower criminal court had sentenced him in his absence on 29 January 2015 to one year's imprisonment followed by deportation and that, on 3 February 2015, an appeal court had rejected his appeal. The Supreme Judicial Council subsequently converted the case to a misdemeanour. On 20 September 2016, the Misdemeanours Court of Cassation upheld the conviction of one year's imprisonment to be followed by deportation. Rather than be arrested, 'Abdulahkim al-Fadhli turned himself in and was taken to the Central Jail.

The UN Human Rights Committee (HRC) noted in August 2016 that the law relating to gatherings, on which 'Abdulahkim al-Fadhli's arrest is partially based, was flawed since it does not permit non-Kuwaitis, such as the Bidun, the right of peaceful assembly. Amnesty International considers 'Abdulahkim al-Fadhli a prisoner of conscience. His prosecution for tweets posted in connection with a peaceful gathering on 10 December 2012 in a defined, open space – the main square in Taima, west of Kuwait City – violates his rights under Article 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Kuwait is a state party.

The HRC observed that the government of Kuwait restricts the Bidun community's right to peaceful assembly, opinion and expression and has offered many people "economic citizenship" in exchange for residency rights. It has not provided any independent process by which the Bidun can obtain citizenship. The government has not stated to which place it would deport 'Abdulahkim al-Fadhli.

Please write immediately in English or Arabic or your own language:

- Calling on the Kuwaiti authorities to immediately and unconditionally release 'Abdulahkim al-Fadhli, and overturn his deportation order, as he is a prisoner of conscience, being punished solely for the peaceful exercise of his rights to freedom of expression, association and assembly;
- Urging them to review all laws that impinge upon the right to freedom of expression and assembly, and amend, and where necessary repeal, these laws to ensure and facilitate the effective exercise of the rights to freedom of expression and assembly in accordance with Kuwait's international human rights obligations and commitments.

PLEASE SEND APPEALS BEFORE 17 NOVEMBER 2016 TO:

Amir of the State of Kuwait
His Highness Sheikh Sabah al-Ahmad
al-Jaber Al Sabah
Al Diwan Al Amiri, P.O. Box 1,
al-Safat 13001, Kuwait
Fax: +965 2243 0559
Email: amirsoffice@da.gov.kw
Salutation: Your Highness

First Deputy Prime Minister
His Excellency Sheikh Mohammed
Khaled Al-Hamad Al-Sabah
Ministry of the Interior
P.O. Box 12500, Shamiya 71655
Kuwait
Fax: +965 2249 6570
E-mail: info@moi.gov.kw
Salutation: Your Excellency

And copies to:
Chairperson
Parliamentary Human Rights Committee
National Assembly
P.O. Box 716, al-Safat 13008, Kuwait
Email: ipu-grp@kna.kw
In subject line:
FAO Chairperson of the Parliamentary
Human Rights Committee

Also send copies to diplomatic representatives accredited to your country. HIS EXCELLENCY MR KHALED AL-DUWAISAN GCVO Embassy of the State of Kuwait, 2 Albert Gate SW1X 7JU, 020 7590 3400/3406/3407, <http://www.kcok.org/contact-us>
Please check with your section office if sending appeals after the above date. This is the fourth update of UA 102/16. Further information: <https://www.amnesty.org/en/documents/MDE17/4611/2016/en/>

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ADDITIONAL INFORMATION

Bidun human rights defender 'Abdulhakim al-Fadhli has faced numerous charges and convictions in relation to his activism, both on behalf of the stateless Bidun community in Kuwait and in respect to government conduct and the political process in Kuwait. He has served repeated prison terms, and the Kuwaiti authorities have ill-treated him in the past.

Freedom of expression in Kuwait is curtailed by legal restrictions on the right to peaceful assembly, which limit people's ability to express dissent as part of a protest or rally. Several provisions of the 1979 Law on Public Gatherings and Meetings, used in the conviction of 'Abdulhakim al-Fadhli, unduly restrict exercise of the right to peaceful assembly. The authorities have used the Law on Public Gatherings and Meetings to ban, declare illegal or disperse rallies and demonstrations, including those organized by stateless Bidun in 2011 and 2012. In August 2016, the HRC expressed its concern about the 1979 law on public gatherings, as it bars non-Kuwaitis from participating in public gatherings, and about the overly broad prohibition on public gatherings without the prior authorization of the Ministry of the Interior. It declared that Kuwait should ensure that the exercise of the right to peaceful assembly is not subject to restrictions other than the ones permissible under the ICCPR.

Law 31 of 1970, also used in the case against 'Abdulhakim al-Fadhli, contains laws relating to national security, defamation and insult. It restricts freedom of expression, association and assembly. An assessment of these are set out in the report, *The 'Iron First Policy': Criminalization of peaceful dissent in Kuwait* (<https://www.amnesty.org/en/documents/mde17/2987/2015/en/>).

More than 100,000 stateless Bidun people live in Kuwait. Many were born there and belong to families who have lived there for generations. Despite reforms announced by the government in 2015, the stateless Bidun community face severe restrictions on their access to employment, health care, education and the state support enjoyed by Kuwaiti citizens. When Bidun people have protested to demand their rights, they have often faced violence and repression. In August 2016, the HRC expressed concern over the slowness of "the process of granting Kuwaiti citizenship to Bidoon people"; "the situation of stateless Bidoon who remain unregistered and are not able to obtain civil documentation and access to adequate social services" and at the fact that "Bidoon people face restrictions to their rights to freedom of movement, peaceful assembly, opinion and expression"; and that Kuwait [was] considering offering them the "economic citizenship" of another country in exchange for a permanent residence permit. They called on Kuwait to, amongst other measures, "ensure that Bidoon individuals enjoy their right to freedom of movement, peaceful assembly, opinion and expression" and "set aside plans to offer Bidoon people the 'economic citizenship' of another country".

The naturalization process, administered by a government body, the Central System to Resolve Illegal Residents' Status, is opaque and based on shifting criteria. The Central System assesses cases and makes recommendations to the Higher Committee of Citizenship, a government body that decides whether nationality will be granted. In September 2013, Amnesty International called on Kuwait to enable Bidun residents of Kuwait to have access to the courts or another form of independent tribunal with the force of law to challenge decisions made by the authorities and to make the case for their registration as Kuwaiti nationals. This has not yet taken place. See the September 2013 publication: *The 'Withouts' of Kuwait: Nationality for stateless Bidun now* (<https://www.amnesty.org/en/documents/mde17/001/2013/en/>).

Further information on UA: 102/16 Index: MDE 17/4926/2016 Issue Date: 6 October 2016