



DIGNITY HAS NO PRICE IN KUWAIT

Mission Report

April 2014

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I. INTRODUCTION AND SUMMARY

1. Kuwait's reputation is as one of the most democratic states in the Gulf, the state with an elected parliament and the state in which there is a tolerance of freedom of expression and of assembly. All things are relative, however, and the experiments with democracy in the country have long been combined with distinct and targeted repression. Although Kuwait has sought to avoid dissent by distributing its oil revenue to its relatively small population, there have nevertheless been large-scale street protests and vocal opposition to the ruling family in recent years. These protests have been met with a significant and a sometimes violent crackdown, which has seen activists, journalists and intellectuals being repeatedly arrested and imprisoned for expressing their views. The Government of Kuwait has found that it cannot buy the acquiescence of the people. The people are still demanding their dignity.
2. The Bidoon community in Kuwait, an underclass of over 100,000 people, continue to be denied even their basic rights. There have been sizable Bidoon street protests over the last three years in which the main demands are for citizenship and all the fundamental rights that go with it. Prominent Bidoon activists have been arrested and detained in February and March 2014 in relation to these protests and the Gulf Center for Human Rights (GCHR) has received credible allegations of torture of these peaceful political activists.
3. This report seeks to assess the allegations made about the Government's restrictions on freedom of expression within its borders, the misuse of the judicial system to attack human rights defenders and the ongoing failure over five decades to resolve the Bidoon issue.

II. METHODOLOGY

4. The Gulf Centre for Human Rights (GCHR) has monitored the human rights situation in Kuwait over the last two years. It has received frequent reports of abuses against activists and independent journalists and most recently of a campaign of repression against the Bidoon community. British barrister Melanie Gingell, a GCHR advisory board member, conducted a mission to Kuwait in January 2014 in order to research the incidence of violations. The research was carried out over five days during which time a series of face-to-face interviews was carried out with activists, lawyers and journalists. Interviews were also conducted with activists in the United Kingdom. Reference was also made to reports of international organizations such as Amnesty International and Human Rights Watch and to reports in the national and international media. The accounts of each of those interviewed were internally consistent, consistent with one another, and supported by the reports of international organizations. For all these reasons the researcher was left in no doubt that the accounts she was given were honest and accurate as to detail.

III. BACKGROUND TO THE CAMPAIGN FOR GREATER FREEDOM IN KUWAIT

Political context

5. Kuwait became an independent state in 1961 after Britain withdrew from the sheikhdom. Abdullah Al-Salim Al-Sabah was appointed Emir. The new constitution proclaimed that the Al-Sabah family would be the rulers of Kuwait and that all future rulers must come from this family. The prime minister was to be a member of the family and the Emir would appoint fifteen of the sixteen members of the cabinet. Political parties were

banned and the Emir could dissolve parliament if he felt it necessary and then pass emergency laws in the intervening periods. ¹

6. The first two years of statehood were fragile as Iraq staked a claim in the territory, but over the following twenty years the Al-Sabah family consolidated its power. The dynasty has since ruled unopposed except for a brief period of exile during the Iraqi invasion of 1990. Saddam Hussain was ousted by the United States-led multi-national Operation Desert Storm.
7. The region was further destabilized by the Iran–Iraq war in the mid-1980s and Kuwait itself with a series of assassination attempts on the Emir. Parliament was dissolved in 1986 and not reopened until after the invasion in 1991. Parliament was dissolved three times between 2006 and 2012. ²

The protests

8. In 2011 the opposition movements in Kuwait, which pre-date the Arab Spring, seemed to gather strength and inspiration from the protests across the wider region. Following a rally by opposition MPs at the end of 2010, which was violently put down by security forces, a broader section of society including youth groups, nationalists and liberals, became involved. The Government response, in tandem with the policy of issuing payments of approximately US\$3500 to every Kuwaiti national, was the use of the judicial system to oppress, intimidate and take out of circulation those whose opposition was the most vocal.
9. In November 2011 protesters broke into the parliament building and sang the National anthem as part of protests that resulted in the

¹ Roberts, David. Kuwait in Davidson, Christopher M. (ed), *Power and Politics in the Persian Gulf Monarchies* (London: Hurst, 2011)

² BBC World News Middle East, 7 October 2012

resignation of the prime minister, Sheikh Nasser Mohamed Al-Ahmad Al-Sabah.³ The trials of those allegedly involved in this protest are still continuing some three years later with more defendants being added. **Saqr Al-Hashash**, for example, had his name added to the indictment in June 2013. On the face of it, this seems to be an example of the judicial system being used in order to interfere with the lives of activists and to make it difficult for them to hold down jobs and live normal lives. The accounts heard suggested that it is not unusual for an activist to be facing many cases at any one time and to have to attend court hearings on a weekly basis and for these cases to continue for some years.

10. In October 2012 tens of thousands took part in the March for Dignity in Kuwait City to try to prevent a change in the electoral laws, which, they argued, would disenfranchise the electorate. The Emir, nevertheless, went on to impose the amendments; reducing the number of votes each voter can cast to one. The effect was that the opposition would be far less likely to win power.⁴

11. The large demonstrations continued through December after the laws were passed. The rallying call was: "This parliament is illegitimate, this [electoral law] amendment is illegal." The police response was reportedly heavy handed with tear gas and sound bombs being used. Over 100 protesters were injured, some seriously. One monitor from the National Committee for Monitoring Violations (NCV) said that the violence was unbelievable: "I couldn't sleep for a week after witnessing it. I saw the riot police, for example, pick up a doctor who was treating someone on the floor and throw him onto the road. No one was spared. They even arrested people at the hospital." As the protests continued, other banners read: "No to violence, enough arrests."⁵

³ *Alarabiya*, 28 November 2011

⁴ *The Guardian* by David Hearst, 2 November 2012

⁵ <http://rt.com/news/kuwait-protests-opposition-government-610/>

12. The Bidoon community organized the first big street protests of over a thousand people in February and March 2011, despite the fact that the constitution denies them the right to mobilize and protest. Security forces put down these demonstrations with excessive force, dispersing protesters with tear gas, water cannons and batons. Dozens of people were arrested and detained for several weeks. The Government responded by promising reforms, all of which are yet to be implemented. The GCHR was told that there are now, in 2014, approximately 400 ongoing cases in the court system arising from incidents in 2011.

IV. FREEDOM OF EXPRESSION

13. “After losing its reputation as the only Gulf state exercising free speech, the authorities have nothing more to lose but state order and will do anything to maintain it,” wrote Mona Kareem of Al Monitor in April 2013.

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14. Kuwait is a party to the International Covenant on Civil and Political Rights and the Arab Charter on Human Rights, and it therefore has a duty to protect rights to freedom of opinion and expression.⁷ The United Nations Human Rights Committee, which is tasked with interpreting the covenant, has stated that “All public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition,” and that there is a need for “uninhibited expression” in public debate concerning public figures.⁸ It further says that “prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant,” except in very limited circumstances.⁹

⁶ Mona Kareem, Al Monitor: *Kuwait's Opposition on trial*, 17 April 2013

⁷ Article 19(2) ICCPR, Article 17 Arab Charter.

⁸ UN Human Rights Committee General Comment 34 para 38.

⁹ UN Human Rights Committee General Comment 34, para 48.

Repeating the speech of Musallam Al-Barak

15. Repeating the speech of **Musallam Al-Barak** has become a known act of defiance to the authorities. The original speech, made in November 2012, was, uniquely, addressed to the Emir himself, calling on him to account for corruption and the increasingly autocratic political atmosphere. It included the words: “We will not allow you, your highness, to take Kuwait into the abyss of autocracy.”
16. It resulted in Al-Barak’s arrest and his being sentenced to five years in prison. Thousands of people gathered in front of the jail demanding his release. They were met with tear gas and injuries but Al-Barak was duly released after one day.
17. Shortly afterwards, 58 people stood outside Al-Barak’s house to repeat the speech, knowing that doing so would be in contravention of article 25 of the Penal Code which outlaws objecting to “the rights and authorities of the Emir or faults him” and could result in a five-year prison sentence. Individuals and groups of activists continue to repeat the speech, defying the consequences.
18. **Rana Al-Sadoun** repeated the speech on YouTube while in London. She has been charged with insulting the Emir and faces five years in prison. She said, “If they let me out on a technicality I will say the speech again. I reject this law, we know our rights to freedom of expression. Kuwait has signed the International Covenant on Civil and Political Rights and it has obligations under this convention to ensure our freedom of expression. I will go to jail if necessary. I will not hide.”
19. **Abdullah Al-Rafdi** also repeated the speech with 17 other people. On hearing that he would be charged for this speech he went to a police

station to hand himself in. He makes it clear that he knew the consequences of speaking the words: "I was thinking about freedom of speech. I was asserting my rights." He points out that so many people have made this stand now, people across the whole social spectrum.

Twitter

20. Tweeting is a dangerous activity in Kuwait, as it is across the wider region. Dozens of people are facing blasphemy cases for tweeting about religion or the Emir. **Anwar Al-Rashid**, the coordinator of the *Gulf Discussion Forum*, says, "We have some freedoms here, we have a constitution but, since the Arab spring, social media is a problem. There is a big crack down."
21. On 6 January 2013, a criminal court sentenced online activist **Rashed Al-Enzi** to two years in prison for insulting the Emir in several Twitter postings on 23 October 2012.
22. On 29 May 2013, the Kuwaiti Criminal Court sentenced blogger **Sara Al-Driss** to 20-months imprisonment, which was suspended on payment of a 200 KD fine, for posts she made on her personal Twitter account. She was convicted of undermining the status of the Emir, and tarnishing the authority of the royal family.
23. In June 2013, **Huda Al-Ajami** was convicted of insulting the Emir and given an 11-year sentence for expression on Twitter.¹⁰
24. In October 2013, the Kuwaiti Court of Appeal upheld a ten-year sentence of **Hamad Al-Naqi**, who was convicted of insulting the Prophet and the Kings of Saudi Arabia and Bahrain. In November 2013, **Musab Shamsah**

¹⁰ <http://blogs.wsj.com/middleeast/2013/06/10/harsh-sentence-for-kuwaiti-woman-accused-of-insulting-ruler/>

was convicted of insulting the Prophet and sentenced to five years imprisonment.¹¹

25. **Ayyad Al-Harbi** is a journalist who went to jail on 28 March 2013 for re-tweeting a comment that was considered to be critical of the Emir and for an article advocating the “good life.” By this, he explained, he meant he wanted a free life for the people of Kuwait. A life free of the security services, without submitting to the authorities at every moment. He would like a life in a democratic country, without corruption. He has faith in the country but it is hard to be happy, he says. He feels he has a responsibility to work to make things better. He feels he has to be focused at all times. It is hard to relax. He has to be careful at all times. He was released on appeal but is awaiting a date in the constitutional court and faces a two- year sentence if the appeal is not successful.

26. Dozens more people face further cases for expressions of political opinion.

Recommendations to the Government of Kuwait in relation to freedom of expression:

1. Revoke or amend all laws that criminalize, or are used to criminalize, freedom of expression, in particular article 25 of the Penal Code, which sets out sentences of up to five years in prison for anyone who publicly "objects to the rights and authorities of the Emir or faults him," and article 111, which sets out sentences of up to one year in prison for anyone who "mocks God, the prophets and messengers, or the honor of his messengers and their wives," in order to bring them in line with guarantees of free speech in international human rights law;
2. Invite the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to visit Kuwait.

¹¹ BBC Middle East, November 2013

V. JUDICIAL ATTACKS

27. From all the reports the GCHR has received the judicial system appears to have been harnessed to try to stifle protests against government policy and laws seeking to restrict the democratic process. During its mission, the GCHR heard credible allegations of baseless charges, protracted court processes, and repeated court hearings at different levels of court to extend the period of time that people have charges hanging over them. The Courts seem to be engaged in a deliberate attempt to restrict rights to freedom of expression and assembly.
28. Activists who have taken part in protests, and some who did not, are now facing charges and court processes that appear designed to prevent and punish legitimate protest, to silence the wider community and anyone interested in campaigning for human rights. A member of the NCV told the GCHR that many people arrested in relation to the big protests in October 2012, for example, have clear evidence of being elsewhere on the day in question and that the same prosecution witnesses are reused in many protest cases. **Nawaf Al-Bader**, Secretary of the Bidoon Committee, also talks of the security services directly threatening him that they will “make problems for him.” He says, “They have charged me with participating in demonstrations at which I was not present. “
29. The incidence of cases against activists has become so burdensome that the NCV now keeps a schedule of all the cases that will be heard in a particular week so that activists can keep track of when they are required in court. The schedule is published on Twitter.

Recommendation to the Government of Kuwait in relation to judicial attacks:

1. Ensure that all detainees are charged with an internationally recognizable criminal offence and receive a fair trial in accordance with international standards.

VI. THE KUWAITI BIDOON

30. "One of the main weaknesses in Kuwait's human rights reputation at the United Nations is the Bidoon situation. It has become necessary to resolve this issue. There must be action to match the many words coming from officials on this question," says **Dr Ghanim Al-Najjar**.¹²

31. "Nationality is a legal bond between a person and a State. Nationality provides people with a sense of identity but, more importantly, enables them to exercise a wide range of rights. The lack of any nationality, statelessness, can therefore be harmful, in some cases devastating to the lives of the individuals concerned," said António Guterres, United Nations High Commissioner for Refugees.¹³

32. The Kuwaiti Bidoon are a group of over 100,000 people who are long term residents of Kuwait but who do not have citizenship. Bidoon translates as "without." There are Bidoon in all countries across the Gulf but the problem is greatest in Kuwait. Their predicament stems from three sources:

- (1) Many of them are the direct descendants of tribal people who freely existed in the territory since before independence in 1961 and for various reasons did not claim citizenship at the requisite time.

¹² Speaking to GCHR in London in February 2014.

¹³ <http://www.unhcr.org/4ca5937d9.pdf>, 2010.

(2) Others were recruited into the military and police force during the 1960s and 1970s and then permanently settled in Kuwait.

(3) The other category of Bidoon is a category recognizable in other Gulf countries: these are children of Kuwaiti mothers who are married to foreign fathers and thus have no citizenship because citizenship is patrilineal, passed on only through fathers.

33. The Kuwaiti constitution of 1962 does not define nationality beyond that it is defined "by law." The law referred to predated the formation of Kuwait itself, and was promulgated by the British in 1959. The essential requirement remains to this day, that there must be residential ties to the country prior to 1920, the date of the battle of Jahra, when significantly, Kuwait held back Saudi expansionism. The Nationality Act 1959 created different layers of Kuwaiti citizens, with full rights only being granted to Article 1 and 2 citizens, or "original citizens." The existence of different layers of citizenship is something that is open to abuse and discrimination.

34. In international law, nationality is recognized in Article 15 of the Universal Declaration of Human Rights, which states that: "everyone has the right to a nationality" and that "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality." An individual's legal relationship to a particular state through citizenship remains in practice an essential prerequisite to the enjoyment and protection of the full range of human rights.

35. In 1986 the Government began to apply the Alien Residence Act 1959 to the Bidoon, which stripped them of the basic rights they had enjoyed and reclassified them as illegal residents.

Case study: Bedria

36. A Bidoon woman named **Bedria** says, “I am 33 years old. What can I do with my life? In the beginning I was able to go to school because my mother is Kuwaiti. You could go to school for free if your mother is Kuwaiti. But my father is Bidoon and after the changes of 1986 the whole family was designated Bidoon. They didn’t need us after that. Now I can’t go to college because that is only for Kuwaitis. If I had money I could go to a private college but we survive on my mother’s income from the Ministry of Health, it is not enough. She gets a fraction of the wages that a Kuwaiti would get. My father has no pension despite the fact that he worked for a government transport company as a mechanic. My father worked in the harbor since 1951. He started out working for the British, before there even was a Kuwait. He still has papers to show that.”
37. **Dr Rana Al-Abdullarazaq** of *Group 29*, a civil society group working for Bidoon rights, told the GCHR: “The Bidoon have been discriminated against for 50 years, trashed in the media. There is no understanding of their plight in the wider Kuwaiti society. We have documentary evidence of people being here since the 1920s, with civil ID cards or employed by the police service, the documents say Kuwaiti. I have seen these papers myself.”
38. Dr Al-Abdullarazaq continued: “In the invasion so many people left, Bidoon and Kuwaiti. 70% of Kuwaitis left. I stayed, I was 21. The expats left, running for their lives. Many came back but the Bidoon couldn’t come back. So many people became stateless in other Gulf countries at that time. There is a case of a young Bidoon man who was killed fighting for Kuwait in the invasion. His family left as they were targeted and went to Jordan, they are still stateless and living in poverty. Their son died fighting for Kuwait but they cannot come back.”

39. The majority of Bidoon people live in neglected run down areas outside the boundaries of wealthy Kuwait City. Taima, the biggest Bidoon area is about 20 minutes' drive from the city. The GCHR visited this community and saw the potholed, unpaved streets and the roughly constructed box houses constructed with breezeblocks and corrugated iron. Children can be seen selling watermelons or CDs on the street late at night. **Ahmed Al-Khlofi**, a local resident, told GCHR: "It is not the sort of place you should keep a dog, let alone families. There are so many children there with no education, no health care. Children working in the street, at the age of seven or eight to help their families. There are no basic services there. And all this exists in such a rich country as Kuwait."
40. Dr Abdullarazaq told the GCHR of a recent case: "On one occasion five children, three of whom were Bidoon, aged between 15-17 were taken off the street by police at midnight. One was punched in the face, dragged along the road. He had stitches. They were beaten and verbally humiliated. We tried to go and see them. We saw blood on the floor. They were only released after five days of interrogation."
41. **Nawaf Al-Bader** is the secretary of the *Bidoon Committee*. This is an unofficial group, not an organization, as it is illegal for the Bidoon to mobilize and organize. He is a prominent spokesperson for Bidoon rights and as a result he is now facing three cases against him and his father was threatened with forced retirement from his job in a government department.. He recalled the demonstrations of January 2012, which were "big and angry." The police response was violent and 72 people were arrested over two days with another 29 being called in for investigation, including Al-Bader. All of the Bidoon areas were closed down with police roadblocks for two weeks. There were check points set up so that police could question everyone going in and out. They checked all phones for twitter accounts. If anyone refused they were arrested. 92 people were brought to court in relation to the protests. Al-Bader served 39 days in jail before he was released following the intervention of an MP. The case was

dropped against all defendants. However, this year the authorities reinstated the case. The first hearing was on 2 February 2014. All 92 people will be tried again.

42. There was another large Bidoon protest on 2 October 2012, deemed the Day of Non-Violence. Al-Bader was arbitrarily arrested and detained for 18 days. Al-Bader says that he personally is treated with a modicum of respect since 2012 as he has become a national figure, but he recalls 2009 when he reports he was beaten in the security police station, hit in the face, slapped and abused. He told the GCHR that other Bidoon people continue to be tortured in police stations, beaten and suspended in stress positions.
43. Even the lawyers who represent Bidoon activists report being attacked by the authorities. **Abeer Hadad** is one of approximately 15-20 lawyers who work for the Bidoon without payment. She believes that the security services have encouraged clients to cancel contracts with her. She is constantly told to stop this work. Her son has not been allowed to graduate; his graduation has been postponed twice for no apparent reason.
44. Hadad runs her own office and says she is committed to the cause. She concludes that one of the biggest problems for the Bidoon defendants is that the time from arrest to a court hearing is very long, sometimes many weeks. The charges are always the same and the cases are often heard in the absence of the accused as they are not aware of the date and are therefore denied the chance to be represented. They are then suddenly called to go to prison months later because they have been convicted in their absence.
45. The protests continue; shortly after GCHR visited Kuwait there was a major Bidoon demonstration in February 2014 to commemorate the first big protests in 2011. Prominent Bidoon activists, brothers **Abdelhakim**

Al-Fadhli and **Abdul Nasser al-Fadhli**, were arrested on 24 February 2014, as were **Hussein Jabr, Youssef Matar, Ahmad Sa'ad** and **Mush`el Mut`eb** between 19 and 24 February. The latter four have been released on bail and are facing charges of participating in an illegal gathering.

46. Credible allegations have been received that Abdulhakim Al-Fadli has been mistreated in detention. Al-Fadli has been detained on eight previous occasions and has conducted a hunger strike of 73 days in 2012. In October 2012 Al-Fadli was detained after the protests. While in detention, he alleges that he was tortured. He was hit in the stomach and chest, all over his body. He was blindfolded and beaten. He was suspended in a stress position for about three hours. He reported he was held incommunicado for four days and then held in prison for another 103 days.

47. The Kuwaiti authorities have failed to conduct investigations into any of the allegations of mistreatment. As of the date of writing this report (8 April 2014) Al-Fadli is again on hunger strike following the failure to investigate the further allegations of torture and mistreatment during the current period of detention. The trial is taking place at the time of writing this report.

Recommendations to the Government of Kuwait in relation to the Kuwaiti Bidoon:

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