

Kuwait Mission Report



WE CANNOT PROMISE FREE SPEECH

Suppression of Advocacy
for the Bedoon in Kuwait

Gulf Centre for Human Rights (GCHR)
October 2024



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1 Summary and Background

In this report, the Gulf Centre for Human Rights (GCHR) examines the Kuwaiti government’s suppression of political advocacy over the past two years, including that relating to the “Bedoon” community. In particular, the government has repeatedly charged people with crimes based on expressions of support for the Bedoon (and other mild political statements) that plainly are protected by international law. Through these and related efforts, the government has largely succeeded in silencing advocacy on behalf of the Bedoon and political dissent generally. Given that the Kuwaiti Amir dissolved Kuwait’s elected parliament in May 2024, assuming the parliament’s authority for himself, it appears that, if anything, the suppression of free expression will only intensify.

“Bedoon” is the term used to describe residents of Kuwait who do not have citizenship there or in any other country; the term is short for “bidūn jinsiyya,” which literally means “without a nationality.” The Bedoon are people to whom the Kuwaiti government did not grant citizenship at the country’s independence in 1961 as well as their descendants, including children who are being born today.⁽¹⁾



(1) Human Rights Watch, *Kuwait: Jailed Bidun Activists on Hunger Strike*, 30 August 2019; see also Human Rights Council, *Written Statement Submitted by International Council Supporting Fair Trial and Human Rights, a Nongovernmental Organization in Special Consultative Status*, U.N. Doc. A/HRC/46/NGO/33, 17 February 2021; Saad Obaid Jafar Al-Hajiri, *The Rights of the Stateless and Their Problems in State of Kuwait*, 3 J. SHARIAH L. RSCH. 177 (2018).

According to the Kuwaiti government, most Bedoon are not actually Kuwaiti, but rather citizens of other countries who live in Kuwait illegally, a position rejected by the Bedoon community and advocates on their behalf.⁽²⁾ In 2014, the Research Directorate of Kuwait's National Assembly (the country's elected parliament) estimated that there were 111,000 stateless people in Kuwait, a country with approximately 1,500,000 recognised nationals.⁽³⁾ Some estimate the number of Bedoon to be substantially higher.⁽⁴⁾

The Bedoon face tremendous challenges due to their purported statelessness to the point that they are denied access to the basic necessities for daily life. In many instances, they are unable to obtain identification documents from the government, which, in turn, leaves them unable to access government services and benefits, including education, employment, medical care, and civil documents, such as birth, marriage, and death certificates. Since the government treats them as illegal residents, the Bedoon do not have



property rights and frequently have difficulty opening or maintaining bank accounts. There have been multiple reports that the government demands individuals sign blank documents on the promise that identification cards will be provided, only to later use those documents (as subsequently completed) to claim the individuals have admitted to being citizens of other countries.⁽⁵⁾

(2) Human Rights Watch, *Prisoners of the Past: Kuwaiti Bidun and the Burden of Statelessness* (2011) (hereinafter Human Rights Watch), at 4, <https://www.hrw.org/reports/kuwait0611.pdf>.

(3) Amnesty International, Kuwait: Submission to the UN Committee on the Rights of the Child, 91st session, 29 August-23 September 2022, at 4, <https://www.amnesty.org/en/documents/mde17/5937/2022/en/>.

(4) Andreas Bjorklund, Salam for Democracy and Human Rights: *The Bidoon in Kuwait, History at a Glance*, October 2020, at 3, <https://salam-dhr.org/wp-content/uploads/2020/10/FINAL.-Bidoon-report.pdf>.

(5) Human Rights Watch at 5-6; U.S. State Department, 2023 Country Reports on Human Rights Practices: Kuwait at 31-32, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices-kuwait/>.

These problems have persisted for years, including after the 2010 creation of the Central Apparatus for Illegal Residents' Affairs (Central Apparatus), which purportedly was established to resolve Bedoon-related issues, and despite repeated government assurances that it is making efforts to resolve issues of statelessness. For example, also in 2010, Kuwait promised to grant Kuwaiti citizenship to Bedoons who could prove they had lived in Kuwait since 1965, a modest step that would have provided relief only to 34,000 Bedoons.⁽⁶⁾ But, as of 2020, even those 34,000 Bedoons had not become naturalised.⁽⁷⁾

More recently, in 2022, seemingly positive efforts were being made to address statelessness. That year, the Kuwaiti Lawyers' Union (an organisation of some 12,000 attorneys) created draft legislation to establish a citizenship pathway. The draft legislation was presented to the National Assembly, where it found some support.⁽⁸⁾ MP Mohammad Hayef said, "Bedoons should not continue to suffer oppression. It is unacceptable for individuals without identity to remain on our streets." MP Abdullah Fahhad described the Bedoon's plight as a "bleeding wound" and criticised the Central Apparatus for treating Bedoons in a "racist manner."⁽⁹⁾

[man-rights-practices/kuwait/](#); GCHR interview with Ahmad Al-Hammadi, 1 May 2024 (attorney who has represented Bedoon in various matters).

(6) Human Rights Watch at 20.

(7) Gulf Centre for Human Rights and International Human Rights Law Clinic, Berkeley Law, *Who Will Be Left to Defend Human Rights? Persecution of Online Expression in the Gulf and Neighbouring Countries*, at 131 (November 2021), <https://www.law.berkeley.edu/wp-content/uploads/2021/12/Kuwait.pdf>; U.S. State Department, 2019 Country Reports on Human Rights Practices: Kuwait at 18, <https://www.state.gov/wp-content/uploads/2020/02/KUWAIT-2019-HUMAN-RIGHTS-REPORT.pdf> ("According to the government...813 Bidoon were granted citizenship between 2018 and 2019.")

(8) GCHR interview with Ahmad Al-Hammadi, 1 May 2024, GCHR interview with Hadeel Buqrais, 28 April 2024.

(9) Americans for Democracy & Human Rights in Bahrain, *The Bedoon situation in Kuwait* (20 May 2024), <https://www.adhrb.org/2024/05/the-bedoon-situation-in-kuwait/>.

While not all those involved in the drafting believed the proposed legislation actually would become law, they were hopeful that, at least, it might lead to granting additional rights to the Bedoon. And the fact that the draft legislation could be presented to the Assembly and receive some support showed the political environment had room for Bedoon-related advocacy.⁽¹⁰⁾

Ultimately though, this effort – like all before it – failed for political reasons. For example, the so-called “Group of 80 Patriots,” consisting largely of former security officials, MPs, and government ministers, vehemently opposed the legislation.⁽¹¹⁾ Many in the government began calling not to resolve the status of people without citizenship, but to crack down on citizens who had secured citizenship allegedly through forged documentation. Observers suggest that the government likely recognised political advantages in adopting this hardline approach, particularly due to concerns that influential figures within Kuwait’s power structure would oppose granting citizenship to members of the Bedoon community. In fact, some believe that the environment to address the Bedoon issue has never been worse.⁽¹²⁾

That belief finds support in a review of government actions during 2023 and 2024 in connection with Bedoon-related and other advocacy. In 2023, for example, the government brought cases against a number of Bedoon activists based on nothing more than mild expressions of opinion, including tweets that called for a solution to the problems facing the Bedoon, asserted the Bedoon community would not be ignored, and urged the government to pay attention to a gravely ill activist. None of these statements even hinted at violence or any other activity that legitimately could be considered illegal. Among these activists was Abdulhakim Al-Fadhli, who, in particular, has been targeted repeatedly for prosecution based on advocacy.

(10) GCHR interview with Ahmad Al-Hammadi, 1 May 2024; GCHR interview with Hadeel Buqrais, 29 April 2024.

(11) GCHR interview with Ahmad Al-Hammadi, 1 May 2024; GCHR interview with Mohammed Salem, 27 April 2024.

(12) GCHR interview with a member of the media who must remain anonymous for safety reasons, 30 April 2024; GCHR interview with Ghanim Al-Najjar, 6 May 2024.

Also in 2023, prosecutors brought charges against Takween, a book publisher and seller, in a case that is a paradigmatic example of government suppression of speech. Prosecutors claimed Takween had published and sold two books without preapproval from the Ministry of Information and that these books harmed Kuwait's national interests. The allegedly offending passages included brief discussions of Bedoon issues and, in one instance, a statement by a fictionalised character that he had seen a camp for "illegal immigrants" in Kuwait in 1975. Amazingly, the court agreed with Takween that the law did not require pre-approval, but then pronounced a conviction nonetheless.

If anything, the possibilities for addressing, let alone resolving, Bedoon-related matters have worsened in recent months. This period has seen a general curtailment of political activity in Kuwait, which had enjoyed a reputation of being the Gulf country with perhaps the greatest tolerance for popular participation in politics.

On 20 December 2023, a new Amir, Sheikh Mishal Al-Ahmad Al-Sabah, was sworn in. Immediately, he criticised the National Assembly for "harm[ing] the interests of the country."⁽¹³⁾ In early April 2024, snap elections were held for the Assembly (the third such election in three years), resulting in opposition MPs gaining a majority of seats. Days later, on 10 May 2024, the Amir dissolved the Assembly, which had not even met. He also suspended portions of the Kuwaiti Constitution relating to the Assembly. Both steps were taken, it was said in order to review the "democratic process," an examination that would potentially last until 2028. According to the Amir, he and a royal-appointed cabinet will assume the powers of the Assembly.⁽¹⁴⁾

(13) Emir Mishaal launches his rule over Kuwait with forthright criticism of MPs, government and his predecessor, Gulf States Newsletter, Issue 1183, 21 December 2023, <https://www.gsn-online.com/news-centre/article/amir-mishaal-launches-his-rule-over-kuwait-forthright>.

(14) Few changes after Kuwait holds first parliamentary election under new emir, Al Jazeera, 5 April 2024, <https://www.aljazeera.com/news/2024/4/5/few-changes-after-kuwait-holds-first-parliamentary-election-under-new-amir>; Kuwait: Politician Mesaed al-Quraifa jailed for 'insulting' royal family, Middle East Eye, 28 May 2024, <https://www.middleeasteye.net/news/kuwait-jails-politician-insulting-royal-family>.

The government's suppression of free expression also has continued during 2024. In fact, authorities have charged four former Assembly members based on political statements, including tweets calling generally for the reform of Kuwait's political system and for a rejection of foreign interference in that system. To state the obvious, there is no possibility of political expression or other advocacy in a country that criminalises such statements – and to date three of the four charged



former MPs have been sentenced to jail terms. Also in 2024, the government has continued cases against Abdulhakim Al-Fadhli, including in a matter brought on the basis of allegedly criminal statements that were not even specified in prosecutors' charging instrument.

Perhaps unsurprisingly, many in Kuwait now report that they do not see any space in which to engage in advocacy or other political activity. Given current events, it is entirely unclear if or when things will change.

2 Methodology

The Gulf Centre for Human Rights (GCHR) has reported on issues relating to the Bedoon and free expression generally in Kuwait since 2012⁽¹⁵⁾. Most recently, United States-based human rights lawyer **Joshua Colangelo-Bryan**, a member of GCHR's Advisory Board, visited

Kuwait in April and May 2024, interviewing human rights advocates, people who have been subjected to political prosecutions, defence attorneys, journalists, and others. Certain people spoke to us on the condition that we not identify them. GCHR conducted all interviews in English, or in Arabic with the assistance of a translator. GCHR also reviewed documents and records generated by Kuwaiti courts and the Public Prosecution Office.



(15) Kuwait, Country Summary, The state of human rights in Kuwait, Gulf Centre for Human Rights (2024), <https://www.gc4hr.org/kuwait/>.

3 Legal Framework

Kuwait is a party to international treaties that protect the right to free expression, including the International Covenant on Civil and Political Rights (ICCPR).⁽¹⁶⁾ The ICCPR provides that “[e]veryone shall have the right to freedom of expression,” including “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”⁽¹⁷⁾

The United Nations Human Rights Committee, which monitors compliance with the ICCPR, has concluded that “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties, albeit public figures may also benefit from the provisions of the Covenant. Moreover, 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.”⁽¹⁸⁾

(16) Kuwait acceded to the ICCPR in 1996. UN Treaty Body Database: Ratification Status for Kuwait, OHCHR.org.; International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 U.N.T.S. 171.

(17) ICCPR, art. 19(2).

(18) Human Rights Commission, General Comment No. 34: Article 19: Freedoms of Opinion and Expression, 38, U.N. Doc. CCPR/C/GC/34, 12 September 2011, (hereinafter HRC General Comment No. 34).

As a UN member State, Kuwait is also bound by the UN Charter and has pledged to adhere to the Universal Declaration of Human Rights (UDHR), including article 19, which enshrines the right to free expression.⁽¹⁹⁾ Under both article 19 of the ICCPR and the UDHR, criminal laws that restrict freedom of expression must be sufficiently precise so as to enable individuals to determine how to comply with the law and to limit the discretion conferred on authorities enforcing it.⁽²⁰⁾ The UN Human Rights Committee has interpreted ICCPR article 19 to require that “the application of criminal law should only be countenanced in the most serious of cases, and imprisonment is never an appropriate penalty.”⁽²¹⁾

The UN Human Rights Committee and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression also have cautioned that laws on defamation in particular should be crafted carefully so that they do not restrict freedom of expression, and have recommended the decriminalisation of defamation.⁽²²⁾ The UN Human Rights Committee also has stated that defamation laws should include the defence of public interest in the subject matter of the criticism, the defence of truth, and, at least in the case of expression related to public figures, the defence of error.⁽²³⁾

(19) World Conference on Human Rights, Vienna Declaration and Programme of Action, pmbl. at 20-21, 1(1), 1(3), 1(8), U.N. Doc. A/CONF.157/24 (Part I), 13 October 1993; Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/810, at art. 19, 10 December 1948.

(20) HRC General Comment No. 34, 25; David Kaye (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, 7, U.N. Doc. A/HRC/32/38, 11 May 2011; Working Grp. on Arbitrary Det., Opinion No. 71/2019 Concerning Issa al-Nukhefi, Abdulaziz Youssef Mohamed al-Shubaili and Issa Hamid al-Hamid (Saudi Arabia), 73, U.N. Doc. A/HRC/WGAD/2019/71, 14 February 2020, (“[V]aguely and broadly worded provisions ... which cannot qualify as *lex certa*, violate the due process of law undergirded by the principle of legality in article 11 (2) of the Universal Declaration of Human Rights.”); UDHR, arts. 11, 19; ICCPR, art. 19.

(21) HRC General Comment No. 34, ¶ 47.

(22) HRC General Comment No. 34, ¶ 47; see also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, 36, U.N. Doc. A/HRC/17/27, 16 May 2011, (“defamation should be decriminalized”).

(23) HRC General Comment No. 34, 47; see also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Report of the Special

Kuwait also is a party to the Arab Charter on Human Rights (Arab Charter),⁽²⁴⁾ which “guarantees the right to information and to freedom of opinion and expression, as well as the right to seek, receive and impart information and ideas through any medium, regardless of geographical boundaries.”⁽²⁵⁾

While Kuwait is not a party to the Convention on the Reduction of Statelessness, which requires States to grant nationality to those born therein who would otherwise be stateless and to provide a period in which Stateless residents can apply for citizenship,⁽²⁶⁾ the ICCPR provides that all children have the right to a nationality.⁽²⁷⁾

Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, 83-88, U.N. Doc. A/HRC/20/17, 04 June 2012.

(24) League of Arab States, Arab Charter on Human Rights, May 22, 2004, reprinted in 12 International Human Rights Rep. 893 (2005) (entered into force 15 March 2008); League of Arab States: Key Legal Texts, Int’l Ctr. for Not-for-Profit L., 25 September 2021.

(25) *Ibid.*, Article 32(1).

(26) Convention on the Reduction of Statelessness art. 1, opened for signature Aug. 30, 1961, 989 U.N.T.S. 175. See also Working Grp. on the Universal Periodic Rev., Report of the Working Group on the Universal Periodic Review: Kuwait—Addendum—Views on the Conclusions and/ or Recommendations and Voluntary Commitments and Responses by the State Under Review, 4, recommendation 157-30, U.N. Doc. A/HRC/29/17/Add.1, 4 June 2015 (explaining Kuwait will not ratify the Conventions on Refugees and Stateless Persons because Bedoons are illegal residents, so the definition of stateless does not apply to them).

(27) ICCPR, art. 24(3).

4 Serial Violations of the Right to Freedom of Expression

Over the years, members of the Bedoon community and others on their behalf have engaged in protests, sit-ins, online advocacy, and other activities to press the statelessness issue. As outlined in this report, throughout 2023 and 2024, Kuwaiti authorities intensified their crackdown on Bedoon-related advocacy, as well as any speech deemed unfavourable by the government.

These efforts have violated internationally recognised rights, including the right to free expression. Pursuant to the law addressed above, restrictions on expression are permitted only if the expression amounts to “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.”⁽²⁸⁾ As such, even expression that could be deemed insulting to public figures – by itself – is not actionable.⁽²⁹⁾

Nonetheless, the Kuwaiti government regularly charges advocates and others with offences such as insulting the Amir, harming Kuwait’s reputation, and spreading false news based on expression that in no way advocates hatred, violence or the like. Through these political prosecutions, the government has rendered principles of freedom of expression meaningless and outlawed almost any speech critical of authorities.

(28) ICCPR, art. 20.

(29) UN Human Rights Committee, General Comment 34, para. 38.

A Political Prosecutions and Suppression of Advocacy in 2023

The U.S. State Department reported that, in 2023, “the government continued to arrest individuals on charges such as insulting the amir, leaders of neighbouring countries, or the judiciary, or for ‘spreading false news.’ The courts issued final verdicts for seven cases and 28 nonfinal rulings in cases of individuals charged with insulting the amir. Some defendants were acquitted, while others received prison sentences ranging from one to 15 years.”⁽³⁰⁾

Prosecutions of Activists

As GCHR previously reported, **Fadel Farhan Saket (Abu Turki)**, an activist who regularly advocates for the Bedoon community, posted a tweet on 7 August 2023, stating: “Oh, government, there must be a solution to our case #Kuwaitis_Bedoon.” He also called for the abolition of the Central Apparatus. Three days later, police arrested him.



According to news reports, former MP Mohammed Al-Juwaihel had filed a complaint against him due to his tweets.⁽³¹⁾

(30) U.S. State Department, 2023 Country Reports on Human Rights Practices: Kuwait at 10-12.

(31) Bedoon rights activist Fadel Farhan (Abu Turki) detained, Gulf Centre for Human Rights, 08 November 2023, <https://www.gc4hr.org/bedoon-rights-activist-fadel-farhan-abu-turki-detained/>. Under Kuwaiti law, a private individual may submit a complaint to prosecutors, including anonymously. After investigating the complaint, prosecutors may dismiss the matter or refer it to the court for further proceedings. Even if prosecutors dismiss the complaint, the private individual is permitted to make a submission to the court claiming there was a crime, and the court may dismiss the complaint or direct prosecutors to pursue it. It is reported that private individuals offended by news articles or other public statements often utilise these procedures. GCHR interview with a member of the media who must remain anonymous for safety reasons, 30 April 2024; GCHR interview with Ahmad Al-Hammadi, 01 May 2024; GCHR interview with Hadeel Buqrais, 29 April 2024.

In a similar case, the State Security Apparatus arrested **Mohammed Al-Barghash**, a longtime activist who founded the National Bloc of Kuwaiti Bedoons. Local reporting indicated that the basis for the arrest included social media activities such as the fact that Al-Barghash’s Twitter account had a banner stating: “Our message must be clear, we will no longer accept being ignored.”⁽³²⁾ Al-Barghash was later convicted.



Al-Barghash’s family reports that Al-Barghash was not in custody at the time of his conviction. In looking for Al-Barghash, authorities searched his father’s house without a warrant and even arrested Al-Barghash’s wife, holding her evidently without charge. They also arrested Al-Barghash’s nephew and held him for two days allegedly for selling fireworks. Only after Al-Barghash turned himself into the police did this harassment stop. However, Al-Barghash’s family report that often they have been unable to communicate with Al-Barghash in prison as would normally be permitted. Further, Al-Barghash is being held in Prison Number 4, which typically houses members of Al-Qaeda and Daesh.⁽³³⁾

(32) Freedom for Bedoon community rights defender Mohammed Al-Barghash, Gulf Centre for Human Rights, 09 June 2023, <https://www.gc4hr.org/freedom-for-bedoon-community-rights-defender-mohammed-al-barghash/>.

(33) GCHR Interview with Talal Al-Barghash, 29 April 2024. Al-Barghash’s father served in the Kuwait army and was imprisoned by the Iraqis during the 1990 invasion of Kuwait. Upon his release, he was expelled from the army. Several years ago, the Central Apparatus rejected his application to renew his identification card. Without that card, Al-Barghash’s father is unable to secure employment or hold a bank account. Ibid.

As noted, Abdulhakim Al-Fadhli is a well-known Bedoon activist. He has a long history of being accused of criminal activity based on conduct that, in fact, is nothing more than political or human-rights advocacy. While, to their credit, courts have acquitted him of such charges in certain cases, the fact that authorities persist in seeking penalties for Al-Fadhli's peaceful expression is quite telling. By way of example, in 2019, prosecutors charged Al-Fadhli and 15 other activists with establishing a terror organisation, i.e., the Council for the Bedoon. Al-Fadhli and all other defendants ultimately were acquitted of these transparently political charges, but not before he spent seven months in jail.⁽³⁴⁾ Moreover, the defendants were made to sign agreements that they would not commit offences in the future (as if they had committed offences previously).⁽³⁵⁾

This pattern persisted in 2023, with Al-Fadhli being tried on charges that he had harmed Kuwait's reputation and spread false news. The charges were based on Al-Fadhli's tweets, including one that asked people to urge the National Office for Human Rights to visit Bedoon prisoners, including **Hamad Al-Mudath** who was suffering from leukaemia. Another tweet referred to the Kuwaiti government's persecution of those prisoners. In addition, the government alleged that Al-Fadhli had referred in tweets to accounts of international human rights groups such as Frontline Defenders.⁽³⁶⁾

In April 2023, the court acquitted Al-Fadhli of these charges, specifically, because the government had not proven that Al-Fadhli himself posted the tweets at issue.⁽³⁷⁾ The government appealed this decision, which was affirmed by the appellate court. The appellate court found simply that there were no errors in the trial court's findings and that prosecutors had not raised any new issues to undermine those findings.⁽³⁸⁾

(34) Kuwait: Criminal Court Issues Rulings Against Human Rights Defenders from the Bedoon Community, GCHR, 29 January 2020.

(35) GCHR interview with Ahmad Al-Hammadi, 01 May 2024.

(36) Trial Court Verdict, 12 April 2023.

(37) Ibid.

(38) Court of Appeal Decision, 19 June 2023.

Remarkably, neither the trial court nor the appellate court even mentioned the most fundamental problem with the prosecution, i.e., how can a call for non-violent political advocacy or a reference to the findings of human rights groups be criminal? In fact, both courts appear to have simply accepted the government's theory that such conduct – if engaged in – would constitute crimes. This theory plainly violates international law regarding free expression.

In 2023, prosecutors also continued a case against Al-Fadhli based on his alleged defamation of Colonel Mohammed Rashid Al-Sharaf, a director of the Central Apparatus.⁽³⁹⁾ Specifically, prosecutors claimed Al-Fadhli tweeted that Al-Sharaf had abused his position to extort women from the Bedoon community.⁽⁴⁰⁾ The trial court found that prosecutors had failed to prove the account at issue belonged to Al-Fadhli, thus acquitting him.⁽⁴¹⁾ However, in November 2023, an appellate court summarily ruled that the account had belonged to Al-Fadhli, thereby reversing the acquittal.⁽⁴²⁾ Incredibly, the court engaged in no analysis of whether the alleged statement was false, even though a statement, if true, cannot be the basis for liability. Nor did the court examine possible defences of public interest or error.⁽⁴³⁾ As such, the conviction underscores the perils of expressing one's views in Kuwait if those views are disfavoured by the government.

(39) The case began with a complaint by Al-Sharaf.

(40) Public Prosecution Office Charge Sheet, 06 February 2022.

(41) Trial Court Verdict, 1 September 2022.

(42) Circuit Appeals Court, Judgment, 21 November 2023.

(43) HRC General Comment No. 34,47; see also Frank La Rue (Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression), Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank La Rue, ¶ 83-88, U.N. Doc.A/HRC/20/17, 04 June 2012.

Prosecution of Takween, a Publisher and Bookseller

Also in 2023, prosecutors brought blatantly political charges against **Bothayna Al-Essa**, a founder of the Takween bookstore and publisher.⁽⁴⁴⁾

Takween describes itself as a “cultural organisation that seeks to contribute to a societal, cultural transformation through the soft power of questions, words, and ideas.”⁽⁴⁵⁾ Consistent

with that mission, Takween has held events to draw attention to the plight of the Bedoon community. For example, it held reading “marathons” in public spaces, including bookstores. Participants brought Bedoon-related books to these events and were paid by sponsors based on the number of pages read, raising money for Bedoon children who were not allowed to attend public schools and did not have funds for private schools.⁽⁴⁶⁾



(44) Bothayna Al-Essa, Little Cash, Lots of Censorship: Bothayna Al-Essa on Opening a Bookstore in Kuwait, Literary Hub, 03 April 2024, <https://lithub.com/little-cash-lots-of-censorship-bothayna-al-essa-on-opening-a-bookstore-in-kuwait/>.

(45) Takween Bookstore & Publishing House, LINKEDIN, <https://www.linkedin.com/company/takween-bookstore-publishing-house/>.

(46) GCHR interview with an individual familiar with these events who requested anonymity. Other events, such as a Bedoon cultural week that Takween had planned in 2019, were cancelled by the Ministry of Interior. U.S. State Department, 2019 Country Reports on Human Rights Practices: Kuwait, at 19-20, 28, <https://www.state.gov/wp-content/uploads/2020/02/KUWAIT-2019-HUMAN-RIGHTS-REPORT.pdf>.

Among the titles published and sold by Takween were *Stateless in the Gulf, Migration, Nationality and Society in Kuwait*, by **Claire Beaugrand**, and *Stateless Literature of the Gulf, Culture, Politics and the Bidun in Kuwait*, by **Tareq Alrabei**. On 28 December 2022, Ministry of Information officials performed an inspection of Takween, looking for books that were the subject of government bans. Although the two books referenced above had not been banned, an official directed bookstore personnel to remove them from the shelves. After staff objected, the inspector simply took the books.⁽⁴⁷⁾

The Ministry of Interior subsequently filed a complaint based on Takween's having sold these titles. That complaint led to two prosecutions against Bothayna Al-Essa, one for each book.

In the case involving *Stateless Literature of the Gulf*, prosecutors charged Al-Essa with not receiving advance permission from the Ministry of Information to sell the book, which was said to undermine national interests, harm the social and political systems of Kuwait, and "incite violation of public order." The defence argued, in part, that 2020 revisions to Kuwaiti law had nullified the previously existing requirement of obtaining pre-clearance to publish any imported book and created a system by which the Ministry of Information has to affirmatively seek court approval to ban imported books it deems offensive. The court agreed with this description of the law and found that the prosecutors had brought charges based on superseded and thus invalid statutes. The court did not acquit Al-Essa on this basis, however.⁽⁴⁸⁾

(47) These events were recounted in various charging documents and court opinions.

(48) Trial Court Verdict, 25 January 2024.

Instead, the court determined that, without prior notice to Al-Essa, it could simply amend the charges to remove prosecutors' allegations that she had failed to obtain pre-clearance and convict her nonetheless based on the book's content.⁽⁴⁹⁾ It is, of course, a bedrock principal of law that an accused is entitled to notice of the charges against her.⁽⁵⁰⁾ There is no clearer violation of that principle than for a court to amend charges in an indictment after the trial has been completed. Yet, the court took just that step without any discussion of these fundamental notice issues.

Moreover, the court's conclusion that the book contained illegal content demonstrates that even raising issues that might mildly reflect poorly on the government can be met with legal consequences. Specifically, the court based its verdict on three passages from the book: (i) one discussing a Ministry of Justice proposal for "Bedoon persons be granted an economic citizenship issued by the Union of the Comoros in exchange for investments in Kuwait"; (ii) another stating, "many Bedoon were forced to join under military or economic pressure; as there are those who joined voluntarily as a reaction to the ill treatment they were subjected to prior to the invasion to liberate Kuwait in 1990, and the Bedoon were branded disloyal on suspicion of them having joined the Popular Army"; and (iii) a portion of a fictional story that read, "I named myself Bedoon because of the memory of a disturbing trip I made in the fall of 1975 to Kuwait, during which I came across fifteen kilometres from the capital, a camp in which the Kuwaiti government kept illegal immigrants who were stateless [Bedoon]..."⁽⁵¹⁾

(49) Ibid,

(50) ICCPR, art. 9(2).

(51) Trial Court Verdict, 25 January 2024.

According to the court, these statements were illegal because “the author demonstrates that Kuwait practises actions of administrative violence and that it is an oppressive state, which undermines public order and tarnishes the reputation of the State of Kuwait.”⁽⁵²⁾ Putting aside that the statements scarcely criticise the government,⁽⁵³⁾ the statements plainly do not advocate violence or national, racial or religious hatred and, therefore, cannot be the basis of liability.⁽⁵⁴⁾

Underscoring the infirmities in these decisions is the fact that the case relating to Stateless in the Gulf, Migration, Nationality and Society in Kuwait, by Claire Beaugrand, resulted in an acquittal. In that matter, heard by different judges, the trial court acquitted Al-Essa because – as discussed – Kuwaiti law no longer requires a book seller to get clearance from the Ministry of Information before offering a book. Moreover, the trial court determined that nothing in the relevant book constituted a threat to Kuwait’s social or political order. An appellate court affirmed the acquittal⁽⁵⁵⁾. In an unusual move, the government filed an appeal to a higher-level court, indicating its unyielding determination to secure another improper guilty verdict. That appeal is pending as of this writing.

(52) Ibid. An appellate court affirmed this verdict without substantive discussion. Sixth Criminal Court Judgment, 28 April 2024.

(53) The statement about potential offers of citizenship in the Comoros does not critique the (highly dubious) proposal as opposed to simply reporting its existence. The meaning of the book’s statement about events in the early 1990s is not particularly clear as quoted by the court.

(54) ICCPR, art. 20. It is worth noting that, other than the fictionalised description of travelling to Kuwait in 1975, the other two statements relate to matters that have been well reported. Kuwait’s stateless Bidun ‘offered Comoros citizenship’, BBC News, 10 November 2014, <https://www.bbc.com/news/world-middle-east-29982964>; Adam Taylor, The controversial plan to give Kuwait’s stateless people citizenship of a tiny, poor African island, The Washington Post, 17 May 2016, <https://www.washingtonpost.com/news/worldviews/wp/2016/05/17/the-controversial-plan-to-give-kuwait-stateless-people-citizenship-of-a-tiny-poor-african-island/>; Human Rights Watch at 13-15; Andreas Bjorklund, Salam For Democracy and Human Rights: The Bidoon in Kuwait, History at a Glance, October 2020, at 9, <https://salam-dhr.org/wp-content/uploads/2020/10/FINAL.-Bidoon-report.pdf>.

(55) Circuit Appeals Court, Judgment, 01 August 2024

B Political Prosecutions and Suppression of Advocacy in 2024

Observers have noted that the environment for political protest and advocacy, if anything, worsened after the dissolution of the National Assembly in May 2024. One attorney noted that lawyers simply cannot “promise free speech rights” for their clients or the public generally at this point.⁽⁵⁶⁾

One example of this dynamic was seen on 2 March 2024, when protestors announced they would demonstrate in Freedom Square, Al-Jahra regarding human rights violations taking place during the Israeli assault on the Gaza Strip. There had been several previous demonstrations in that same location in connection with Gaza. No permit had been secured for those earlier demonstrations, pursuant to a 2006 Constitutional Court decision which held that permits are not required for fixed-location protests, unless they are in the street. Indeed, the earlier protests had been attended by government officials, including the Minister of Trade and Minister of Treasury. It was reported that Kuwait’s prior Minister of the Interior actually had instructed police to aid protestors at such demonstrations, if needed.⁽⁵⁷⁾

On 2 March 2024, however, the then-recently appointed Minister of the Interior, Sheikh Fahad Yusuf Saud Al-Sabah, announced that the demonstration was banned and anyone attempting to demonstrate would be arrested. Police then detained people who were walking toward Freedom Square, taking their identification. Frightened by the police’s actions, the leaders of the demonstration negotiated for the return of people’s identification in exchange for leaving the area.⁽⁵⁸⁾ As such, the government succeeded in quashing the planned protest.

(56) GCHR interview with Ahmad Al-Hammadi, 01 May 2024.

(57) *Ibid.*

(58) *Ibid.*

Prosecutions of Former National Assembly Members

The government also has engaged in a spate of prosecutions against former members of the Assembly. On 23 April 2024, authorities arrested **Mesaed Al-Quraifa**, a former MP. It was reported that he was prevented from meeting with his family or lawyer. Approximately a month later, Al-Quraifa was sentenced to a four-year prison term for “insulting the authority of the amirate.” The conviction,



evidently, was based on tweets stating that Kuwait “is not a testing ground for members of the ruling family” and that “[t]he continuation of the current situation is a danger to the future of the country...The political system must be reformed so that it is effective and the people have their role and say in forming the government.”⁽⁵⁹⁾

On 12 May 2024, authorities arrested another former Assembly member, **Walid Al-Tabatabai**, apparently based on a tweet accusing unidentified countries of interfering in Kuwait’s affairs. Prosecutors issued a statement that Al-Tabatabai had attacked “the rights and authority” of the Amir.⁽⁶⁰⁾ Subsequently, Al-Tabatabai was convicted and – like Al-Quraifa – sentenced to four years in prison.⁽⁶¹⁾

(59) Kuwait: Politician Mesaed al-Quraifa jailed for ‘insulting’ royal family, Middle East Eye, 28 May 2024, <https://www.middleeasteye.net/news/kuwait-jails-politician-insulting-royal-family>.

(60) Kuwait arrests former MP who criticised dissolution of parliament, The New Arab, 13 May 2024, <https://www.newarab.com/news/kuwait-arrests-former-mp-after-dissolution-parliament>.

(61) Khitam Al Amir, Former Kuwaiti MP Walid Al Tabtabai sentenced to four years over controversial tweet, Gulf News (25 June 2024), <https://gulfnews.com/world/gulf/kuwait/former-kuwaiti-mp-walid-al-tabtabai-sentenced-to-four-years-over-controversial-tweet-1.103281749>.

On 20 June 2024, yet another former Assembly member, **Amad Al-Olayan**, was sentenced to prison. Reportedly, Al-Olayan received a two-year term for “violating the powers of His Highness the Amir, criticising official decisions, and misusing communication devices.”⁽⁶²⁾

Moreover, prosecutors charged former MP **Hussein Al-Qallaf** for a post containing the word “regime” that criticised the Ministry of Interior’s procedures in relation to Shiite rituals during the month of Muharram. Al-Qallaf was acquitted, reportedly when he stated that he had been referring to the government rather than the Amir when he used the word “regime.”⁽⁶³⁾

All of these cases violate free expression rights, including the principle that “the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.”⁽⁶⁴⁾ That includes the Al-Qallaf matter, which resulted in an acquittal, but only because of a finding that the relevant statement did not refer to the Amir.

(62) State security case: Ex-MP Hamad Al-Olayan sentenced to two years, Arab Times Kuwait, 20 June 2024, <https://www.arabtimesonline.com/news/state-security-case-ex-mp-hamad-al-olayan-sentenced-to-two-years/>.

(63) Former MP Hussein Al-Qallaf acquitted in state security case, Arab Times Kuwait, 25 July 2024, <https://www.arabtimesonline.com/news/former-mp-hussein-al-qallaf-acquitted-in-state-security-case/>.

(64) UN Human Rights Committee, General Comment 34,38.

Continued Prosecutions of Abdulhakim Al-Fadhli



As addressed, in November 2023, an appellate court had summarily reversed a trial court’s acquittal of Al-Fadhli in a case brought by Colonel Mohammed Al-Sharaf, without engaging in any substantive analysis of whether the relevant statement was true or false or otherwise actionable.⁽⁶⁵⁾ On 13 May 2024, Al-Fadhli was directed to pay 2,000 Kuwaiti Dinars (approx. 5949 EUR) to Al-Sharaf as damages in that case.⁽⁶⁶⁾

In yet another matter, prosecutors accused Al-Fadhli of tweeting phrases “that would offend Ahmed Nabil Al-Fadl,” a former Assembly member. Critically, however, the charging instrument did not even specify the allegedly offending statements.⁽⁶⁷⁾

GCHR observed trial proceedings in this matter on 30 April 2024 that ultimately did not involve any substantive developments, but required Al-Fadhli to be in court once more. On 14 May, 2024, the trial court found Al-Fadhli guilty and directed him to pay 2,000 Kuwaiti Dinars (approx. 5949 EUR) to the government.

(65) Circuit Appeals Court, Judgment, 21 November 2023.

(66) GCHR interview with Abdulhakim Al-Fadhli, 03 August 2024.

(67) Public Prosecution Indictment, February 2022.

This verdict suffers from fundamental flaws. First, it is axiomatic that a defendant must have notice of the charges against him. ⁽⁶⁸⁾ Moreover, a fundamental guarantee of a fair criminal trial is the presumption of innocence.⁽⁶⁹⁾ This means that a defendant must be treated as innocent unless and until convicted of a recognisable crime in accordance with fair trial standards. And the state must prove a defendant's guilt of the charges beyond a reasonable doubt to secure a conviction.⁽⁷⁰⁾

In each of the cases described above, the statements at issue did not constitute incitement to violence or hatred. Rather, as detailed, they constituted legitimate advocacy or political expression, including on behalf of the Bedoon community. As such, it is clear that anyone who exercises the right to free expression in Kuwait in a manner displeasing to authorities can expect harsh consequences. Put differently, Kuwait has effectively outlawed human-rights and pro-democracy advocacy.

(68) ICCPR, art. 9(2).

(69) UDHR, art. 11(1) ("Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."); ICCPR, art. 14(2) ("Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law."); Arab Charter, art. 16 ("Everyone charged with a criminal offence shall be presumed innocent until proved guilty by a final judgement rendered according to law . . .")

(70) UN Human Rights Committee, General Comment No. 32, para. 30.

5 Conclusion

Put simply, the government's efforts to silence dissent and freedom of expression have worked. Many activists have retreated from advocacy entirely or have reduced their advocacy because of government prosecutions, including those of Mohammed Al-Barghash, Fadel Farhan Saket (Abu Turki), and Abdulhakim Al-Fadhli. As a result, there were fewer voices for the Bedoon community among advocates, even before the 2024 crackdown.⁽⁷¹⁾ The same was true for politicians who had taken up Bedoon causes.⁽⁷²⁾ And, perhaps needless to say, the great majority of Bedoon appear to believe it impossible for the Bedoon community to take political action in Kuwait.⁽⁷³⁾

These dynamics became only more pronounced after the recent dissolution of the Assembly and usurpation of its functions by the Amir. Indeed, there have been no notable protests about the Amir's action, underscoring the absence of any space for criticism of the government. Given this, it is hard to see how any meaningful progress will be made for the Bedoon community in the foreseeable future.

(71) GCHR interview with Hadeel Buqrais, 29 April 2024; GCHR interview with Abdulhakim Al-Fadhli, 03 August 2024; GCHR interview with Ahmad Al-Hammadi, 01 May 2024; GCHR interview with a member of the media who must remain anonymous for safety reasons, 30 April 2024

(72) GCHR interview with Ebtehal Al-Khateeb, 27 April 2024.

(73) Salam for Democracy and Human Rights and The Institute on Statelessness and Inclusions, "Nothing But A Pen And A Word": Voices From The Stateless Bidoon Community In Kuwait During The Covid-19 Pandemic (2023), at 33, <https://salam-dhr.org/wp-content/uploads/2023/01/ISI-SALAMDHR-Impact-of-Covid-on-Stateless-Report-English.pdf>.

6 Recommendations

To the Government of Kuwait:

- Expunge all convictions based on the exercise of the rights to freedom of expression, association, or peaceful assembly.
- Release immediately all individuals who have been detained or convicted solely for the exercise of the rights to freedom of expression, association, or peaceful assembly.
- Revoke provisions of Kuwaiti law that are used to prosecute individuals for the exercise of the rights to freedom of expression, association, or peaceful assembly, or amend such articles so that they comply with international law.
- Create a pathway to citizenship for Bedoon residents and, in the interim, grant them the rights and privileges that other Kuwaiti citizens enjoy, including access to government services and benefits, such as education, employment, medical care, and civil documents

To the Kuwaiti Public Prosecution Office:

- Terminate ongoing prosecutions and do not institute future prosecutions against any individual based solely on the exercise of the rights to freedom of expression, association, or peaceful assembly.



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