



Kuwait: No Response to Torture Allegation

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A Kuwaiti prosecutor's failure to investigate torture allegations raises questions about whether the alleged abusers of two detained brothers will escape justice.

The detainees, Abdelhakim and Abdul Nasser al-Fadhli, told the investigating prosecutor on their first appearance before him on February 26, 2014, that the police had beaten them in custody, Abdelhakim al-Fadhli told Human Rights Watch on March 25. But neither has since been examined for signs of abuse. The two brothers are active in the Bidun community, people who have lived in Kuwait for many years but are considered stateless. The brothers have been detained since late February on charges revolving around an "unlawful" demonstration in February to support Bidun rights.

"Instead of ordering an investigation when these defendants said they had been tortured, the prosecutor ordered them back to detention," said Eric Goldstein, deputy Middle East and North Africa director at Human Rights Watch. "When a prosecutor ignores torture allegations, it sends the message to police that abuse will go unpunished."

On March 31, a judge renewed the detention of Abdelhakim al-Fadhli for another seven days, and convicted Abdul Nasser al-Fadhli of a minor offense. He has yet to be sentenced but the Kuwait Human Rights Society president, Mohammed al-Humaidi, one of the lawyers involved in the case, said that Abdul Nasser al-Fadhli could be sentenced to a maximum of three years in prison. Authorities have been holding a third Bidun activist, Abdullah Attallah al-Enizi, since February in connection with the same demonstrations and on March 31 extended his detention until April 6. Kuwaiti law prohibits non-Kuwaiti nationals from holding demonstrations.

Police arrested the al-Fadhli brothers on February 24 and interrogated them without a lawyer present, which the police are permitted to do under Kuwait's Code of Criminal Procedure No. 17 of 1960. Police brought the men before the public prosecutor on February 26. At that hearing, each of the brothers said the police had tortured him in custody, and Abdulhakim al-Fadhli requested a medical examination, he and the brothers' lawyer, Salah al-Shammiri, told Human Rights Watch.

The prosecutor did not respond, and neither has had any medical examination to check for signs of abuse, Abdulhakim al-Fadhli said.

Al-Shammiri attempted to enter the courtroom for the February 26 hearing, but guards kept him out until the session was nearly finished. Under Kuwaiti law, a defendant can ask the court to postpone questioning until a defense lawyer can be present. But Abdulhakim al-Fadhli told the court that he preferred to finish the questioning, even in the absence of a defense lawyer, so he could be transferred to Kuwait Central Prison instead of State Security Headquarters, since he feared continued beatings if returned there.

Al-Shammiri told Human Rights Watch he observed bruises on Abdul Nasser al-Fadhli's hands at that hearing.

Bidun activists held protests on February 18 to mark the third anniversary of large-scale Bidun protests demanding citizenship. Al-Enizi, a Bidun activist detained for 103 days in 2012, gave a speech at a protest in the suburb of Taima, in which he criticized the Emir, saying, "We used to think that you did not know of our plight, but now there is media exposure, so I want to tell you that you are to blame for this." Al-Enizi was arrested on February 19 and appeared that night before the public prosecutor, who ordered him to be detained pending an investigation on charges of insulting the Emir.

In response to the arrest of al-Enizi and to press their demands for Kuwaiti citizenship for Bidun, activists continued to protest between February 19 and 24. Al-Shammiri told Human Rights Watch that the police summoned Abdulhakim al-Fadhli to the Taima police station on February 20 for questioning but released him. State Security agents pursued the brothers as they drove down the street on February 24 and then arrested them, family members said. They said that Abdulhakim al-Fadhli had been detained in May 2012 for 10 days, and again from December 11, 2012, until March 24, 2013, during which time he went on a hunger strike for 73 days.

Abdulhakim al-Fadhli, who called Human Rights Watch from prison on March 25, said of the most recent arrest:

They beat me severely in the car on the way to their headquarters. They interrogated me at the state security headquarters for four hours. During that time they hit me all over my body with their hands and used a stick to hit me in the chest and back. They demanded that I write and sign a confession to the charges against me that they would dictate to me. I refused and when they realized that they could not force me to, one officer pushed me against the wall and said, "Do what we say, or we will rape you." I refused and demanded to see a court order for my arrest and the ID cards of the officers interrogating me. They refused.

He said that during the first night and second day of his detention he refused to eat, demanding that the police bring him before the prosecutor. That night, he said, the security officers took him to Jaber Al Ahmed Armed Forces Hospital, where doctors examined him in the officers' presence.

He said he told the first two doctors who examined him that state security officers had beaten him to extract a confession, and that the doctors said they would not address this allegation but would check his overall health.

Doctors attempted to convince him to eat, he said. He spent the night in the hospital chained to the bed. One doctor said that if he did not eat anything, the medical staff would force-feed him glucose, though they did not. He remained in the hospital between the first and second court hearing, but then was returned to state security headquarters even though he had told the prosecutor on February 26 that he had been tortured there, where he continued his hunger strike.

On March 1, the authorities transferred all three men to the Central Prison. A judge renewed their detention orders on March 3, March 17, and March 24, pending further investigation. All three have been on hunger strike since March 17, al-Shammir told Human Rights Watch on March 31. Abdulhakim al-Fadhli is due in court on April 8 for another extension hearing and Abdullah al-Fadhli on April 6.

Al-Shammiri told Human Rights Watch that Abdulhakim al-Fadhli is charged with incitement to participate in an unlawful demonstration, damaging security vehicles and assaulting security officers. His brother was initially charged with damaging security vehicles and assaulting security officers, as well as participation in an unlawful demonstration, harboring a fugitive, and reckless driving. He was acquitted of all criminal charges on March 31 when he was instead convicted of a minor offense.

Authorities arrested four other men at the protests between February 19 and 24: Hussein Jabr, Youssef Matar, Ahmad Sa'ad and Mush'el Mut'eb. They were released on bail on March 10. All four face charges of participating in an illegal gathering, local human rights activists who are monitoring their cases told Human Rights Watch.

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