ET BINHRC اللجنة الوطنية لحقوق الإنسان National Human Rights Committee بتاريخ ٥ يونيو ٢٠١٧ استفاق الشعب القطري على اعلان حكومات دول الحصار وهي: (الامارات العربية المتحدة -المملكة العربية السعودية - مملكة البحرين و جمهورية مصر العربية) قطع علاقاتها الدبلوماسية مع دولة قطر وأمرت رعاياها . مغادرة قطر، وطلبت من جميع المواطنين القطريين المقيمين أو الوافدين مغادرة أراضيها خلال ١٤ يوم، وتم حظر كافة الرحلات من والى قطر واغلاق كل من المملكة العربية السعودية والامارات والبحرين مجالاتها الجوية والبحرية ومنافذها البرية، مما انجر عنه آثار على جملة من حقوق المواطنين القطريين، وحتى المقيمين في دولة قطر، وسوف يتم ذكر هذه الآثار في سلسلة تتكون من ٩ بروشورات قام بإعدادها قسم الدراسات والبحوث، ادارة البرامج والتثقيف، بحيث يتناول كل بروشور آثار حق من هذه **EFFECTS OF** أثار الحصار THE BLOCKADE على الحق في التقاضي on the 'right to litigation' المراقبة العربية عبد العزيز، تقاطع ناصر بن خالد، خلف محطة بترول الدوحة ملاء مدرول الدوحة ملاء المراقبة مدرول الدوحة ملاء المدروبية المد Fereej Abdulaziz, Nasser Bin Khalid Intersection, Opposite Doha Petrol Station, Otabi Tower 

On June 5, 2017, the Qatari people has been awaken up to the announcement by the blockading countries (United Arab Emirates - Kingdom of Saudi Arabia - Kingdom of Bahrain and Egypt) of severing diplomatic relations with the State of Qatar. These countries also ordered their nationals to leave Qatar and requested all Qatari citizens or residents to leave their territories within 14 days. All fights from and to Qatar were banned, and the Kingdom of Saudi Arabia, the United Arab Emirates and Bahrain closed their air and sea spaces and land ports. This has affected the Qatari citizens and even residents of Qatar. These effects are highlighted in a series of 9 brochures covering the various violations; prepared by the division of Studies and Research of the Programs and education department at the National Human Rights Committee (NHRC) in Qatar.

Introduction

The 'right to litigation' guarantees responsibility and accountability, contributes to facing human rights abuses and injustice by means of legal instruments, and grants victims of human rights violations the right to recover those rights through national justice. Without recovery of these basic rights, all rights become meaningless. This right constitutes a foundation for other human rights and a human rights agenda.

The right to litigation allows judges or lawyers to resolve disputes and achieve justice in society. If a civil right is violated, litigation will allow for facing the violation. For example, the right to litigation may be used to earn compensation for damage to the right to dispose of ownership or property.



## Definition of the 'right to litigation'

Access to civil justice must be comprehensive, available, financially affordable and accessible to a citizens. The right to litigation must therefore be accessible and affordable so that no one is dethis right due to social or financial status, and this will entail a fair trial. This law is protected i international law and guarantees the equal right to a fair and public hearing before an independ

### States' obligations with regard to the right to litigation

undamental right that should be respected, and which some establish as a natural right before t existence of national and international legislation. It is one of the most effective means  $\sigma$ guaranteeing the enjoyment of basic and civil rights. The principles contained in the Unive between men and women. The Universal Declaration of Human Rights is also considered the primar reference to all rights, including the right to litigation. Article 2 states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind." This means that the Declaration guarantees that everyone will enjoy the rights therein. Article 8 thereof provides tha "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."

The International Covenant on Civil and Political Rights, Article 2, paragraph 3 states that "everyone has the righ that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 22 December 1965, states: "States Parties shall assure to everyone within their jurisdiction effective protection and the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as result of such discrimination,"

#### The violation of the 'right to litigation' by the blockade countries

Due to the repercussions of the blockade imposed on the State of Qatar, citizens and affected residents have not been able to resort to the courts of the blockade states, because they are deprived of the right of movement and forced to leave these countries. This has caused many violations that require resorting to the local jurisdiction of these States to deal with them. Such violations include:

- Violation of the right to property: of those who have property and business resulting from their past work or inheritance. They were prevented from completing the proceedings of litigation, or completing the proceedings

The right to education: of students affected by the decisions of the countries of the blockade, and wo were subjected to violations as a result. Some of them already paid tuition fees, and the fees to stay in nese countries, but did not recover their rights.

Hotel and flight bookings made previously, where victims were unable to recover or receive mpensation for their rights.

e National Human Rights Committee monitored grave violations of the right to litigation. The most ominent aspects of these violations are: preventing Qatari nationals and residents of the State of Qatar om exercising their right of legal recourse before the courts of the blockade states, specifically the UA nd Saudi Arabia. They were not allowed to attend courts because they were not allowed to enter these ountries. This is a violation of their right to due process, and the associated rights, such as the right to defence. Their legal representatives were also prevented from initiating proceedings on their behalf.

The law firms in the blockade countries refuse to empower Qatari litigants and residents. They fail to follow up on the cases they are already entrusted with. The rulings issued in favour of Qatari citizens are not implemented, in addition to the annulment of rulings issued in favour of Qatari citizens and residents because such litigants were unable to follow up on their lawsuits.



## Cases of violation of the 'right to litigation'

All constitutions and international human rights declarations guarantee the right to litigate; it is a fundamental right that should be respected, and which some establish as a natural right before the existence of national and international legislation. It is one of the most effective means of guaranteeing the enjoyment of basic and civil rights. The principles contained in the Universal Declaration of Hum Rights are in line with Article 55 (c) of the Charter of the United Nations, which promotes "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion," and that no distinction shall be made between men and women. The Universal Declaration of Human Rights is also considered the primary reference to all rights, including the right to litigation. Article 2 states: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind." This means that the Declaration guarantees that everyone will enjoy the rights therein. Article 8 thereof provides that: "Everyone has the right to an effective remedy constitution or by law."

citizens of the State of Qatar from entering these industrial area and some of it is leased." fines and delays in the access of facilities, freezing

" "monthly loss of about 40 thousand Rivals, and a loss of business that exceeds 16 million Dirhams.

#### Case (2)

Mr. (E.A.), who holds Qatari citizenship and was (B., Th., A. and M.), Qatari nationals, submitted their born in 1964, said to the National Human Rights complaint to the National Human Rights Committee private cars in the UAE, and I have to follow up on properties in the United Arab Emirates (Sharjah) and these properties and get financial returns, I also the real estate is still in the name of our deceased However, the blockade and the prevention of the million Dirhams, noting that the property is in the

## انتهاك دول الحصار للحق في التقاضي

عات الحصار المفروض على دولة قطر، لم يستطع المواطنون والمقيمون المتضررون اللجوء إلى محاكم دول الحصار، نظراً لحرمانهم من الحق التنقل واجبارهم على مغادرة دول الحصار، وسبب ذلك الكثير من الانتهاكات والمخالفات التي تستوجب اللجوء إلى القضاء المحلي لتلك الدول لمعالجتها،

ك الحق في الملكية: لمن لهم أملاكا وأعمالا تجارية بسبب أعمالهم السابقة أو الميراث، ومنعوا من إتمام إجراءات التقاضي، أو استكمال مجريات القضايا

عق في التعليم: للطلاب المتضررين من قرارات دول الحصار، وتعرضوا لانتهاكات نتيجته، فمنهم من دفع رسوم الدراسة، ورسوم البقاء في هذه الدول ولم

حجوزات الفنادق والطيران التي مت سابقاً، فلم يتمكن الضحايا من استرداد حقوقهم أو التعويض عنها.

وقد رصدت اللجنة الوطنية لحقوق الإنسان انتهاكات جسمية للحق في التقاضي، ومن أبرز أوجهه: إعاقة المواطنين القطريين والمقيمين في دولة قطر من ممارسة حقهم في التقاضي أمام محاكم دول الحصار وتحديداً بدولتي الإمارات والسعودية، فلم يسمح لهم من الحضور أمام المحاكم نتيجة منعهم من دخول دول الحصار بما عِثل انتهاكاً لحقهم في التقافي، وما يرتبط به من حقوق كالحق في الدفاع، وتعرض وكلائهم القانونيين للمنع والاعاقة، ووضع الصعوبات

ترفض مكاتب المحاماة في دول الحصار توكيل المتقاضيين القطريين والمقيمين لهم، وتتقاعس عن متابعة القضايا الموكلة بها بالفعل، ولا تنفذ الأحكام الصادرة لصالح المواطنين القطريين، إضافة الى إلغاء الأحكام الصادرة لصالح المواطنين القطريين والمقيمين نتيجة عدم تمكنهم من مباشرة دعاويهم وممارسة حقهم في

#### الحالةالثانية

#### الحالةالأولى

### وو مقدمة

يضمن الحق بالتقاضي تحمل المسؤولية والمساءلة، ويساهم بمواجهة انتهاكات حقوق الانسان والظلم باستخدام أدوات قانونية، ويمنح ضحايا انتهاكات حقو الحق قاعدة لسائر حقوق الانسان الأساسية، وأجندة عمل خاصة بحقوق الانسان.

يسمح الحق بالتقاضي الجهات المعنية سواء القضاة أو المحامين بحل الخلافات، وتحقيق العدالة في المجتمع، فاذا تم انتهاك حق من الحقوق المدنية، فان دء الحق بالتقافي سيسمح بمواجهة أي انتهاك، فعلى سبيل المثال يمكن استخدام الحق بالتقاضي لكسب التعويض عن الاضرار بالملكية أو الممتلكات.

## تعريف الحق في التقاضي

# و التزامات الدول ازاء الحق في التقاضي

لكل شخص حق التمتع بالحقوق الواردة فيه، وأهمها الحق في التقاضي، وقد نصت المادة (٨) منه أيضاً على أنه: "لكل شخص الحق في أن

أما العهد الدولي الخاص بالحقوق المدنية والسياسية، فقد نصّت الماذّة الثانية فقرة ثالثة أن "كل فرد من حقه الالتجاء للأجهزة القضائية..." كما نصت المادة الثامنة على أنه: "تتعهد كلّ الأطراف في هذا العهد بأن تكفل توفير سبيل فعّال للتظلم لأي شخص انتهكت حقوقه وحرياته المعترف بها في هذا العهد". أما الاتفاقية الدولية للقضاء على جميع أشكال التمييز العنصري الصادرة في ١٩٦٥/١٢/٢٢، فقد نصت المادة السادسة منها: عنه، على نحو فعّال وكذلك حقّ الرجوع إلى المحاكم المذكورة التماسا لتعويض عادل مناسب أو ترضية عادلة مناسبة من أي ضرر لحقه كنتيجة