

£IRAQ

@Secret detention of Kuwaitis and third-country nationals

INTRODUCTION

Thousands of Kuwaiti and other third-country nationals were transferred from Kuwait to Iraq by Iraqi forces during the occupation of Kuwait from 2 August 1990 to 26 February 1991. In the months following the cease-fire, large-scale repatriations saw the return of over 7,000 prisoners of war (POWs) and civilian detainees from Iraq. Since January 1992 Iraq has claimed that all prisoners arrested in the course of the conflict have been repatriated in accordance with its obligations under the United Nations Security Council cease-fire resolutions. The Kuwaiti Government, however, disputes this claim and continues to maintain that hundreds of Kuwaitis and third-country nationals captured in Kuwait during the conflict are still missing in Iraq.

Amnesty International is unable to confirm the precise number of Kuwaitis and third-country nationals who remain unaccounted for in Iraq, but there is strong evidence to suggest that many people arrested by Iraqi forces during the occupation, and who were subsequently transferred to Iraq, are still being held. There are also fears that some may have been tortured, and that some may have died as a result of torture or have been executed.

Amnesty International does not make any distinction in the current status of civilians and military personnel who remain unaccounted for in Iraq, but considers their continued imprisonment more than two years after the end of the war, regardless of original reasons for arrest, to constitute arbitrary detention. The organization considers these detainees to be prisoners of conscience who are now held solely on account of their ethnic origin or for their real or perceived association with states which Iraq's government considers to be its enemies. As such, Amnesty International is calling for their immediate and unconditional release.

Following the end of the Gulf conflict, the "disappearance" of detainees in custody was also widely reported in Kuwait, particularly during the period when martial law was in force (26 February to 26 June 1991). Kuwaiti government forces and armed civilians carried out a campaign of arbitrary arrests, torture and extrajudicial killings of hundreds of people suspected of having collaborated with Iraqi forces during the occupation. Scores of those detained subsequently "disappeared", and their fate and whereabouts remain unknown; many are feared dead. Amnesty International has submitted details of such cases to the Kuwaiti

authorities, and repeatedly urged them to account for the fate of those still missing. To date the Kuwaiti authorities have failed to do so.¹

ARRESTS AND TRANSFER OF PRISONERS TO IRAQ

During the invasion and occupation of Kuwait, Iraq captured several thousand Kuwaiti military personnel and arbitrarily arrested thousands of civilians. A variety of factors made it impossible to determine the total number of people arrested by the Iraqi forces during that period. These included the absence of any official figures from the Iraqi Government; the lack of access to detention centres and prisons in Iraq by international humanitarian organizations; and the state of confusion which prevailed in Kuwait at the time.

It is also not known precisely how many of those people arrested were subsequently transferred to camps and prisons in Iraq. A report on the Iraqi occupation of Kuwait, *Report on Iraqi War Crimes (Desert Shield/Desert Storm)*, published by the Government of the United States in March 1993, estimates that around 8,000 Kuwaitis were taken to Iraq during the course of the occupation. The United Nations (UN) Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation gave no precise figures in his January 1992 *Report on the Situation of Human Rights in Kuwait under Iraqi Occupation*. However, he did estimate that the number of arrests might have reached several thousands, "a substantial portion of who were deported to Iraq."²

The arrests of Kuwaiti and third country nationals by the Iraqi occupying forces occurred in three distinct phases:

- a. In the first few days following the invasion thousands of Kuwaiti military personnel were rounded up and held in makeshift detention centres in Kuwait City. Those who were not seized immediately after the invasion continued to be sought by Iraqi troops, and in some instances were arrested from their homes. The majority of detained military personnel were subsequently transferred to Iraq to camps including al-Rashid in Baghdad, Ba'quba camp to the south of Baghdad, and to camps in the towns of al-Ramadi, Takrit and Mosul. Official Kuwaiti sources estimated their total number to have been between 6,000 and 7,000.
- b. The widespread arrest of civilians began in the second and third weeks of August 1990 coinciding with, on the one hand, the emergence of an opposition movement in Kuwait, and

¹ See *Kuwait: Cases of "Disappearance" Incommunicado Detention, Torture and Extrajudicial Execution under Martial Law* (AI Index: MDE 17/02/92).

² *Report on the situation of human rights in Kuwait under Iraqi occupation*, prepared by Mr Walter Kälin, Special Rapporteur of the Commission on Human Rights. UN Doc.E/CN.4/1992/26, para.93(c).

on the other, the adoption by Iraq of the so called "human shield" policy involving the detention of Western and other nationals.³ Those arrested included individuals holding important posts in the Kuwaiti administration and others engaged in both violent and non-violent resistance against the occupation. The arrests generally took place in people's homes, at checkpoints set up by the Iraqi occupying forces or in other public places after a wanted person was identified. Many other people were arrested at the Saudi Arabia/Kuwait border. Some of those arrested at the border were attempting to flee the country during periods when the border was closed, others were trying to re-enter either to participate in opposition activities or to assist members of their families who had remained in Kuwait to leave the country. Members of the Kuwaiti army and police forces who were still at large were also detained during this second wave of arrests.

In most cases, the arrested person was taken to the police station in the district where they lived or to other sites set up as makeshift detention centres, such as school buildings or abandoned houses. Those detainees who were neither released nor executed at that stage were subsequently transferred to Iraq.

c. A final wave of mass arrests and deportations of civilians to Iraq began on 19 February 1991 in the days just prior to the withdrawal of the Iraqi armed forces from Kuwait. The arrests, which were mainly carried out at check-points or in front of mosques and in other public places, took place over several days. The majority of people arrested were male Kuwaiti citizens of all ages who were transferred to Iraq where some remained in large camps in Basra until they were released or repatriated. Others were transferred to camps near Baghdad or in northern Iraq. Again, the exact numbers of people arrested during this period are unknown. However, in his January 1992 report the UN Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation estimated that it was at least 2,000.

Although the majority of those arrested during the occupation were Kuwaitis, they also included Syrians, Lebanese, Egyptians, Bahrainis, Saudi Arabians, Indians and Pakistanis and other third-country nationals, as well as members of Kuwait's '*bidun*' community.⁴ They

³ During the occupation, hundreds of Western nationals were rounded up in Kuwait City and transferred to Iraq, while hundreds of others working in or visiting Iraq at the time were also detained and transferred to undisclosed locations. In late August 1990, the Iraqi Government announced that some 13,000 Western, Soviet and Japanese nationals would not be permitted to leave Iraq or Kuwait until United States troops withdrew from Saudi Arabia and UN sanctions against Iraq were lifted. However, by mid-December most of these nationals were allowed to leave.

⁴ *Bidun*: literally 'without', i.e., without nationality. They include Arabs from neighbouring countries some of whom had lived in Kuwait for over 25 years, but neither they nor their children born in Kuwait had the right of permanent residence and were denied basic political and civil rights.

are among those transferred to Iraq and believed to be still missing there. Iraqis living in Kuwait who were suspected of being opponents of the Iraqi Government were also arrested and some are believed to have been transferred back to Iraq. However, Amnesty International has been unable to obtain further information regarding their fate or whereabouts.

Article 9 of the Universal Declaration of Human Rights states: "*No one shall be subjected to arbitrary arrest, detention or exile.*" Amnesty International considers the arrest, detention and forcible transfer of civilians by Iraqi occupying forces to have been arbitrary and therefore opposes it. These rights are defined further in Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Iraq is a state party. It states in its first paragraph: "*... No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.*"

Article 49 of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to which Iraq is also a state party, prohibits "*individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power...*". Kuwaiti civilians and civilians from states other than Iraq who were in Kuwait during the occupation were considered protected persons or otherwise fell within the protection of Article 49.

The transfer of POWs is permitted, subject to certain conditions, under the Third Geneva Convention Relative to the Protection of Prisoners of War of 12 August 1949. However, Amnesty International does not make any distinction in the current status of civilians and military personnel who were transferred to Iraq, but considers their continued detention more than two years after the end of war to constitute arbitrary detention.

The immediate release of both civilian internees and POWs after the close of hostilities is required by international law. Article 133 of the Fourth Geneva Convention states that "*[i]nternment of civilians shall cease as soon as possible after the close of hostilities*", while Article 118 of the Third Geneva Convention requires that "*Prisoners of war shall be released and repatriated without delay after the cessation of hostilities*". Additional requirements for Iraq to return all third-country nationals are also contained in the UN Security Council cease-fire resolutions agreed by all parties at the end of the hostilities. Thus, continued detention by Iraq of both civilians and POWs is arbitrary since it violates binding legal obligations on the part of Iraq to release such internees. As such, Amnesty International regards all Kuwaitis and third-country nationals who have "disappeared" in detention in Iraq to be prisoners of conscience, detained solely on account of their ethnic origin or for their real or perceived association with states considered by Iraq to be its enemies.

HUMAN RIGHTS VIOLATIONS DURING THE OCCUPATION

During and after the occupation of Kuwait by Iraq, Amnesty International interviewed scores of former detainees who stated that they had been tortured while in the custody of Iraqi forces both in Kuwait and Iraq.⁵ Iraqi personnel at all levels were involved in the infliction of torture on detainees, which was used systematically during interrogation, both in order to extract information and as punishment.

Among those interviewed by Amnesty International was a 17-year-old student arrested in early September 1990 after being found in possession of a gun and leaflets containing information on weaponry. He said he was detained for a total of 36 days, first in Kuwait City and later in Basra, during which time he was subjected to beatings, mock executions, *falaqa* (beatings on the soles of the feet), electric shocks and threatened with sexual torture.⁶ In another testimony a 31-year-old man reported having been arrested on 14 September from his home during a *divaniyya*, a traditional male gathering where social and political issues are discussed. He was detained for three weeks at Farwaniyya and al-Jahra' police stations as well as in a private home in Kuwait City before being transferred to Basra. While in Kuwait he was subjected to beatings, electric shocks, mock execution and was forced to watch his relatives being tortured and was himself tortured in front of them. The torture continued after he was transferred to Iraq where he was initially held in solitary confinement in *Sijn al-Ann al-Siyassi*, Political Security Prison, Basra. According to his testimony he was later put in a cell with 14 other detainees, one of whom died of a heart attack. No medical help had been available.⁷

Examinations of victims by an Amnesty International forensic pathologist during a visit to Kuwait in March/April 1991 also revealed evidence of torture. One victim, a 34-year-old Kuwaiti male, spent a week in custody in September 1990 after being stopped by Iraqi soldiers while driving in Kuwait. During this time he was subjected to beatings on the shoulders with a rifle butt and was stabbed in the back with a knife. He was suspended by his wrists from a wall for a day and cut repeatedly on the arm with a razor-blade, being told that he would "die slowly". Another victim examined by the forensic pathologist was arrested at his home on 28 December 1990. Weapons were found during a search of the house and he was accused of having participated in activities against Iraqi forces. During the first week of detention in Kuwait he was subjected to beatings, electric shocks, *falaqa* and was suspended on the back of a door while being beaten with cables. After one week he was transferred to al-Ahmadi Security Directorate where the torture continued and included mock executions

⁵ See *Iraq/Occupied Kuwait: Human Rights Violations Since 2 August* (AI Index: MDE 14/16/90), pp. 27-40 and 57-69.

⁶ *Ibid*: (testimony A2, page 58)

⁷ *Ibid*: (testimony A8, page 67)

and beatings. On 4 January 1991 he was transferred to the Juveniles Prison and subsequently to al-Nasiriyya in Iraq. There he was held, together with 31 other men, in a cell measuring three meters by four meters. Food consisted of a piece of bread between three men a day and he was deprived of water for up to two days.

Evidence of torture was also found by the UN Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation. According to his January 1992 report most of the victims were those arrested during the occupation (between the second half of August 1990 and the first half of February 1991). The detention and torture and ill-treatment of detainees followed a general pattern of an initial interrogation at a police station or another building designated as a detention site, during which most of the detainees were heavily beaten or severely tortured. Following this, detainees were transferred to a prison or special interrogation centre in Kuwait where most of them underwent further interrogation which was again accompanied by more heavy beatings or severe torture over a period of several days or weeks. Some detainees remained at these places for prolonged periods while others were either released or taken to prison camps in Iraq. The Special Rapporteur also noted that the torture of some detainees, particularly those who had not admitted guilt or refused to divulge the information requested of them, reportedly continued after deportation to Iraq.⁸

Although some detainees arrested on and after 19 February 1991 were said to have been beaten and otherwise tortured, such treatment was reportedly not systematic. However, on release or repatriation to Kuwait former detainees consistently reported having suffered from severe food deprivation, contaminated drinking water, unsanitary conditions and lack of proper medical care.

Extrajudicial execution of people who had been arrested and detained by the occupying forces was also widespread. Although an unknown number of Kuwaiti military personnel and civilians who took up arms against Iraqi forces were killed in the context of armed clashes, Amnesty International received numerous reports of killings which took place outside of this context. The victims included both civilians and former military personnel who were unarmed at the time of their deaths. Victims of extrajudicial killings were usually also victims of torture. Many of the cases known to Amnesty International involved the suspects being arrested and detained for several days or weeks, during which time their families remained ignorant of their fate and whereabouts. The detainees were routinely tortured while in custody, and in many cases they were then publicly shot outside their homes after a member of their family had identified them.⁹

⁸ *Report on the situation of human rights in Kuwait under Iraqi occupation*, prepared by Mr. Walter Kälin, Special Rapporteur of the Commission on Human Rights. UN Doc.E/CN.4/1992/26, para. 102.

⁹ See *Iraq/Occupied Kuwait: Human Rights Violations Since 2 August* (AI Index: MDE 14/16/90), pp.43-56.

Extrajudicial executions of detainees transferred to Iraq are also believed to have taken place. In his January 1992 report the Special Rapporteur described the case of a 31-year-old police inspector held in a detention centre in Iraq. He was forced to play Russian roulette with a friend who died as a consequence.¹⁰ The Special Rapporteur further noted that conditions of detention or ill-treatment by guards led to the deaths of other prisoners in Iraq. He refers to a report by two civilians transferred to Iraq and detained in Basra, who stated they had seen the body of another detainee who had been beaten by a guard and had suffered a fatal heart attack. Other reports were received by the Special Rapporteur which indicate that some detainees died because of lack of proper medical assistance.¹¹

Amnesty International fears that many Kuwaitis and other third-country nationals who remain in detention in Iraq have been subjected to torture and that others may have been extrajudicially executed or died as a result of the conditions of their imprisonment, and that the risks of such treatment continuing are high.

CEASE-FIRE AND CONTINUED DETENTION

On 2 March 1991 the United Nations Security Council adopted Resolution 686 dictating terms to Iraq for a permanent cease-fire. The resolution included a provision which called on the Iraqi Government to:

*"immediately release under the auspices of the International Committee of the Red Cross, Red Cross Societies, or Red Crescent Societies, all Kuwaiti and third country nationals detained by Iraq and return the remains of any deceased Kuwaiti and third country nationals."*¹²

Many of those detained in Iraq were returned to Kuwait in March and early April 1991 as a result of large-scale prisoner exchanges. However, in Resolution 687 of 3 April 1991, the UN Security Council noted that a considerable number of Kuwaitis and other foreign nationals still remained in Iraq. The resolution noted that:

*"...despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third country nationals are still not accounted for..."*¹³

¹⁰ *Report on the situation of human rights in Kuwait under Iraqi occupation*, prepared by Mr. Walter Kälin, Special Rapporteur of the Commission on Human Rights. UN Doc. E/CN.4/1992/26, para. 131.

¹¹ *Ibid.*

¹² UN Security Council Resolution 686 (1991), adopted on 2 March 1991.

¹³ UN Security Council Resolution 687 (1991), adopted on 3 April 1991.

In paragraph 30 of the same resolution, the Security Council reiterated its demand that Iraq should return all prisoners detained during the occupation:

"...in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third country nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross, providing lists of such persons, facilitating the access of the International Committee of the Red Cross to all such persons wherever located or detained and facilitating the search by the International Committee of the Red Cross for those Kuwaiti and third country nationals still unaccounted for."

The issue was raised again at the United Nations in Resolution 46/135, *Situation of human rights in Kuwait under Iraqi occupation*, adopted by the General Assembly on 17 December 1991. The resolution expressed the General Assembly's "... deep concern for Kuwaiti and third-country national detainees and missing persons in Iraq". It went on to request:

*"...the Government of Iraq to provide information on all Kuwaiti persons and third-country nationals deported from Kuwait between 2 August 1990 and 26 February 1991 who may still be detained and to release...these persons without delay./"*¹⁴

By 30 April 1992 the ICRC had supervised the repatriation from Iraq of 4,299 POWs, the majority (4,233) of whom were Kuwaitis, and of 1,550 civilians. Most of these civilians were returned to Kuwait; however, 159 returned to Saudi Arabia, 11 to Egypt and 13 to other countries. Another group of 1,174 civilians who had been detained in southern Iraq returned to Kuwait without the participation of the ICRC, but were subsequently registered by the organization on their return to Kuwait.

THE CONFLICTING POSITIONS OF IRAQ AND KUWAIT

Since January 1992, the Iraqi Government has denied holding any more Kuwaitis or third-country nationals arrested during the occupation of Kuwait. In a communication to the UN Centre for Human Rights on 2 January 1992, Iraq claimed to have "...meticulously

¹⁴ UN General Assembly Resolution 46/135, adopted on 17 December 1991.

*fulfilled the commitments contained in paragraphs 30 and 31 of Security Council resolution 687 (1991)*¹⁵.

In another letter dated 28 February 1992 to the UN Secretary-General concerning the measures taken by Iraq to meet its obligations with regard to the implementation of paragraphs 30 and 31 of Security Council resolution 687 (1991),¹⁶ Iraq referred to a list provided by the Kuwaiti authorities containing the names of 2,242 people believed still to be in Iraq. Iraq claimed to have taken "*the necessary measures to verify the list on the basis of the information available to them*". It concluded in this letter that 233 people on the list had already returned to Kuwait; and that 59 others were awaiting approval from the Kuwaiti authorities to return to Kuwait. Having denied the previous month holding any more detainees arrested during the occupation, this acknowledgement on the part of the Iraqi Government that at least 59 were still in custody highlights the contradictions in the government's statements, and heightens Amnesty International's fears that others continue to be held in secret detention. As for the rest, the Iraqi Government claimed to have no information, but in its 2 January 1992 letter to the Centre for Human Rights, suggested the following reasons to account for the fact that they were still missing:

- a) They may be living in Iraq with relatives and may have failed to register with the ICRC;
- b) They may have been abroad during "*the incidents in Kuwait*" and have not yet returned;
- c) They may have been killed during aerial bombing attacks on Iraq and Kuwait by the UN coalition forces.

To encourage any missing Kuwaitis and other third-country nationals who might be living freely in Iraq to contact the ICRC or other relevant authorities, the Iraqi authorities undertook to publish a list of 2,101 people believed to be missing by the Kuwaiti authorities. The list appeared in several Iraqi newspapers in early 1992.

Subsequent communications to the UN Secretary-General,¹⁷ the UN Centre for Human Rights, and in statements by the Iraqi delegation to the 49th Session of the UN Commission of Human Rights on 4 and 10 March 1993, also contained denials that

¹⁵ Letter dated 2 January 1992 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights. UN Doc.E/CN.4/1992/64.

¹⁶ Letter dated 28 February 1992 from the Charge d'Affaires A.I. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General. UN Doc.S/23661.

¹⁷ Letter dated 20 April 1992 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General. UN Doc.S/23825.

Kuwaitis and third-country nationals are still detained against their will in Iraq. In its *note verbale* to the UN Centre for Human Rights of 29 December 1992, the Iraqi Government accused Kuwait and other states of using the issue of the missing Kuwaitis as "*a means of political blackmail aimed at perpetuating the iniquitous blockade imposed upon Iraq.*"¹⁸

Despite Iraq's persistent claims to the contrary, the authorities in Kuwait continue to maintain that hundreds of people are still missing in Iraq. Initial figures established by the Kuwaiti Government in the weeks immediately after the withdrawal of Iraqi forces put the numbers of people believed missing as high as 11,700. Following the large-scale repatriations of March and early April 1991, later smaller scale repatriations, and the reunion of families, the list was amended and the government's figure now stands at approximately 750. These unresolved cases are frequently cited by Kuwait as grounds for maintaining the UN sanctions against Iraq first introduced after the invasion in August 1990.

Two Kuwait-based organizations have been responsible for collecting data on Kuwaiti and third-country nationals missing in Iraq. One, the Kuwaiti National Committee for Missing and Prisoners of War (POW) Affairs, is an official government agency. It currently has a list containing the names of approximately 750 people. A second list, containing the names of about 850 people, has been compiled by the non-governmental Kuwaiti Association to Defend War Victims (KADWV). Both organizations have independently compiled data based on information received from relatives of the missing people; witnesses to their arrests by Iraqi occupying forces; and from former prisoners in Iraq who reported sighting others in detention in Iraq.

The majority of the names of missing Kuwaitis contained in both lists are the same. The discrepancy in numbers between the two is attributable to the fact that the KADWV list also contains the names of scores of third-country nationals still missing, including Syrians, Lebanese and Iranians as well as Palestinians and members of the *bidun* community. The National Committee for Missing and POWs Affairs, on the other hand, has largely excluded non-Kuwaiti nationals from its list. The National Committee told Amnesty International that it is primarily concerned with Kuwaiti nationals, and although it has taken up the cases of some third-country nationals in the past, any new cases which come to light will not be added to its list.

Individual files containing detailed information on over 680 of those still unaccounted for have been transmitted by the Kuwaiti authorities to Iraq via the ICRC. Iraq has apparently undertaken to respond in full to each case including details of the investigation procedures. According to the Kuwaiti authorities, the information they submitted includes

¹⁸ *Note verbale* dated 29 December 1992 from the Permanent Representative of the Republic of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights. UN Doc.E/CN.4/1993/79.

documents left behind by Iraqi occupying forces in Kuwait which are said to provide evidence of Iraq's policy of widespread arrests during the occupation. Amnesty International has requested copies of these documents from both the National Committee for Missing and POWs Affairs and the KADWV, but at the time of writing they had not been received.

A number of factors have made it impossible for Amnesty International independently to verify the details of those individuals whose names appear on either the KADWV's or National Committee's lists. These include: the absence of information on the exact number of people arrested in Kuwait and subsequently transferred to Iraq; persistent denials by Iraq that it is still holding foreign nationals arrested during this period; and the lack of access to Iraqi prisons and detention centres by international humanitarian organizations.

Despite these problems Amnesty International believes there is strong evidence to suggest that hundreds of Kuwaitis and other nationals remain in detention in Iraq. This evidence includes numerous eyewitness accounts of the arrest by Iraqi occupying forces of individuals who are still unaccounted for. Many others have been reportedly sighted in detention in Iraq by former prisoners who have since been repatriated. Of the 850 people contained on the KADWV list, for example, around 200 were reportedly witnessed being taken by Iraqi forces in Kuwait, and approximately 300 have allegedly been seen in detention in Iraq.

As further evidence that Iraq is still holding prisoners arrested during the occupation of Kuwait the KADWV cites the cases of 14 people who, it claims, escaped from detention in Iraq after January 1992, the date upon which Iraq first claimed that it had completed its obligations to repatriate Kuwaitis and other third-country nationals. According to the KADWV, the 14 returned without the assistance of the ICRC and were therefore not registered by the organization. Since April 1992 the ICRC has registered 73 civilians who have returned from Iraq, of whom 13 had been reported as missing by the Kuwaiti authorities. However, according to the ICRC none of the 73 had actually been detained while in Iraq.¹⁹

¹⁹ Following the withdrawal of Iraqi forces from Kuwait in February 1991 and the closure of the border between the two countries, an estimated 3-4,000 people from Kuwait were stranded on the Iraqi side of the border. Among them were individuals who had travelled from Kuwait to Iraq in an attempt to visit their detained relatives who were among the POWs and civilian internees arrested during the occupation. After the conflict ended, the Kuwaiti authorities refused to re-admit most of this group into Kuwait, with the exception of Kuwaiti nationals and some *bidun* linked by marriage to Kuwaitis. The rest have remained in Iraq and are living in towns and villages in the south of the country. The vast majority are believed to be members of the *bidun* community, many with relatives still in Kuwait and with little hope of being reunited with them. The Iraqi Government has called on Kuwait to allow these people to return.

PROFILES OF INDIVIDUALS BELIEVED TO BE HELD IN IRAQ

The majority of people still believed to be detained in Iraq are Kuwaiti males. However, among those who remain unaccounted for are women and children as well as nationals from other countries including Bahrain, Iran, Lebanon and Syria. The names of 140 people believed to have "disappeared" in detention in Iraq are contained in Appendix A of this document and photographs of 112 of these are contained in Appendix B.

Among those who are still believed to be held in Iraq are:

- **Bashar Muhammad Hussain 'Abdallah** (Appendix A, no. 2) - born on 20 August 1974, he was a secondary school student and member of Kuwait's national judo team. He was arrested in November 1990 and held at the Juveniles Prison in Kuwait where he was visited on several occasions by his aunt. Later the same month his aunt was informed by Iraqi soldiers that her nephew had been expelled to Saudi Arabia. However, a prisoner who later returned from Iraq said that they had been detained together in al-'Amara before being transferred to Baghdad where they were separated;
- **Samira 'Abd al-Ghaffar Mansur Muhammad Zaman Ma'rifi** (Appendix A, no. 72) - Born on 24 July 1964, she was a third year student at Kuwait University's Faculty of Commerce. She was arrested on 10 November 1990 at a checkpoint and was held at various police stations as well as the basement of the Regency Hotel and in the Juveniles Prison in Kuwait. She was able to send letters to her family via released prisoners and her last letter, addressed to her mother, contained her brother's watch which she had been wearing when she was arrested. In the letter she said that she was to be transferred to Basra. She was last seen at the Juveniles Prison, Kuwait.
- **Faisal 'Abd al-Hamid 'Abd al-Aziz 'Abd al-Hamid al-Sane'** (Appendix A, no. 112) - Born in 1937, he is married with four children. A graduate of Baghdad University in 1964, he was a member of Kuwait's National Assembly (Parliament) and an entrepreneur. He was arrested at his home on 21 September 1990 together with all his male relatives and friends who were present at the time. All of them were transferred to Iraq where they were taken to the General Security Directorate in Basra. Most of them were released in the following weeks, including Faisal al-Sane's son, who was released on 18 January 1991. However, three of his relatives, 'Abd al-'Aziz Sa'ud 'Abd al-'Aziz al-Sane', Khaled 'Abd al-Latif 'Abd al-Hamid al-Sane' and Nasser 'Abd al-Majid 'Abd al-Hamid al-Sane' (Appendix A, nos. 111, 113 and 114 respectively) also remain in detention. The precise reason for Faisal al-Sane's arrest is not known although it is believed to be because of his refusal to cooperate with the Iraqi occupying forces.
- **Hashem 'Abd al-Muttaleb Sayyid Mahdi Al-Musawi** (Appendix A, no. 133) - A *bidun*, born on 7 February 1967, he was arrested together with a friend on 12 August 1990 after

running away from a checkpoint. Arms and pro-Kuwait leaflets were discovered in their car after their arrest. It is not known where Hashem al-Musawi was detained in Kuwait, but he was last seen in al-'Amara in Iraq.

- **Maysar Izzidin 'Arab Oghali** (Appendix A, no. 140) - A Syrian national, he was born in 1931. He is married with five children and was arrested while attempting to get his family out of Kuwait. Prior to the occupation he was an employee of the Kuwaiti Ministry of Interior. He suffers from a heart condition and high blood pressure. The last sighting of him was by a prisoner who returned to Kuwait in May 1991 who saw him Abu Ghraib Prison near Baghdad.

RECOMMENDATIONS

A. Recommendations to the Iraqi Government

Amnesty International believes that several hundred civilians and POWs arrested and transferred to prisons or detention camps in Iraq must be accounted for and must not remain in secret unacknowledged detention. Although the organization fears that some of them may already have been executed or died under torture, others remain at serious risk of torture or other forms of ill-treatment and of execution.

Amnesty International is calling for the immediate and unconditional release as prisoners of conscience of all Kuwaitis and third-country nationals who were seized and forcibly transferred to Iraq in the course of Iraq's occupation of Kuwait.

In order to clarify the fate and whereabouts of hundreds of persons still missing in Iraq, Amnesty International makes the following specific recommendations to the Government of Iraq:

1. Immediately clarify the whereabouts of the 140 individuals referred to in Appendix A of this document and of all other Kuwaitis and third-country nationals arrested and forcibly transferred to Iraq between 2 August 1990 and 26 February 1991 who remain unaccounted for;

2. Provide immediate access to international human rights and humanitarian organizations (including Amnesty International and the International Committee of the Red Cross), as well as the United Nations (in particular the Special Rapporteur on Iraq and the Working Group on Enforced or Involuntary Disappearances) records relating to arrests and forcible transfer of Kuwaitis and third-country nationals to Iraq during this period.
3. Immediately inform international human rights and humanitarian organizations (including Amnesty International and the International Committee of the Red Cross), the United Nations (in particular the Special Rapporteur on Iraq and the Working Group on Enforced or Involuntary Disappearances) and the families of the prisoners, of the exact place of detention of Kuwaitis and third-country nationals arrested during this period, and make available to them accurate information about any subsequent transfers to other prisons and detention centres;
4. Allow the detainees immediate and regular access to their families, to lawyers and to representatives of international humanitarian organizations;
5. Provide information about the health of the detainees and ensure that they receive prompt and regular medical treatment as necessary; take steps to ensure that they are not being subjected to torture or other forms of ill-treatment;
6. Immediately and unconditionally release, as prisoners of conscience, all Kuwaiti and third-country nationals seized in the course of the occupation and detained solely on account of their ethnic origin or because of Iraqi policy towards their country of origin.
7. Provide information about the reasons and legal basis for the arrest of the detainees and for their continued detention, as well as any legal proceedings that may have been followed in their cases (including trial and sentencing);
8. Where the Iraqi authorities maintain that a prisoner may have been released, they should provide reliable verification of this. Or, if they are to be released, they should be released in a way that allows reliable verification of their release and ensures their safety.

Amnesty International also urges the Iraqi Government to demonstrate its opposition to enforced "disappearance" by taking the following measures:

9. Make it clear to all members of the police, military and other security forces that "disappearance" will not be tolerated under any circumstances;
10. Ensure that prisoners are held only in publicly recognized places of detention. Up-to-date registers of all prisoners should be maintained in every place of detention and centrally. The information in these registers should be made available to relatives, lawyers, judges, official bodies trying to trace people who have been detained and to others with a legitimate interest. No one should be secretly detained.

B. Recommendations to the Kuwaiti Government

Amnesty International calls upon the Kuwaiti Government to make available immediately to Amnesty International all documents left behind by Iraqi occupying forces which relate to the arrest of Kuwaitis and third-country nationals by the Iraqi forces. The government should also provide a complete list of all Kuwaitis and third-country nationals it believes remain in detention in Iraq, together with relevant information pertaining to their cases.

C. Recommendations to the Member States of the United Nations

Amnesty International has repeatedly called upon the UN to establish verifiable international guarantees to ensure that Iraq adheres to its international obligations in the field of human rights. The organization has urged the international community to take all necessary steps to put in place the mechanisms and institutions needed to restore the rule of law and to ensure that fundamental human rights in Iraq are respected. Among the mechanisms called for by Amnesty International is the establishment of a UN human rights monitoring operation in the country.

In view of the large numbers of Kuwaitis and third-country nationals arrested and forcibly transferred to Iraq during the course of the occupation of Kuwait who remain unaccounted for, and of the critical human rights situation in Iraq in general, Amnesty International calls again on the member states of the UN to:

Secure the establishment of a UN human rights monitoring operation in the country as an integral part of the other measures being undertaken by the UN to ensure full compliance by Iraq with its obligations both under international law and under the UN Security Council cease-fire resolutions.