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Public Statement

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Kuwait: Time to release the remaining prisoners of the 1991 unfair trials

Amnesty International today reiterates its request to the government of Kuwait for clarification regarding the total number and identities of those still arbitrarily detained following the 1991 Martial Law Court and State Security Court trials.

Amnesty International believes it is now time to put a final stop to their plight. Amnesty International is calling on the Kuwaiti authorities to immediately release these remaining prisoners. They have been detained for the past 14 years following manifestly unfair trials, and have not been retried before independent ordinary criminal courts in accordance with international fair trial standards, as previously recommended by Amnesty International (please see: <http://web.amnesty.org/library/Index/ENGMDE170011996?open&of=ENG-KWT>).

The Human Rights Committee (HRC) have said that: "The Committee notes the existence, in many countries, of military or special courts which try civilians. This could present serious problems as far as the equitable, impartial and independent administration of justice is concerned. Quite often the reason for the establishment of such courts is to enable exceptional procedures to be applied which do not comply with normal standards of justice."

Background

Both the Martial Law Court and the State Security Court of Kuwait were special courts. The State Security Court had been established under Law 26 of 1969 to try state security offences. The Martial Law Court was a special court established to displace temporarily the jurisdiction of ordinary courts and the special State Security Court. The Martial Law Court was dissolved on 26 June 1991 and the State Security Court took over the trials of hundreds of defendants accused of collaboration with Iraqi occupation and other crimes. The State Security Court was itself abolished in September 1995 (Law No. 55 of 1995), and all the cases pending before it were transferred to ordinary courts.

Trials before the Martial Law Court and the State Security Court did not meet international standards for fair trial. Those convicted by these two courts were denied the fundamental right to appeal against their conviction and sentence to a higher court, as recognized by Article 14 (5) of the International Covenant on Civil and Political Rights (ICCPR), to which Kuwait is a state party, even though both courts have now been abolished.

Nearly five years ago, in July 2000, the Human Rights Committee (HRC) stated in its concluding observations adopted after the consideration of the initial report of Kuwait to the Committee that:

"The Committee is concerned about the number of persons still detained under prison sentences handed down in 1991 by the Martial Law Courts in trials which did not meet the minimum standards set by article 14 of the Covenant, in particular the principles of equality before the courts, the impartiality of the tribunal, the presumption of innocence, the right to have adequate time and facilities for the preparation of the defence, and other rights of due process under paragraph 14, paragraphs 3 and 5, of the Covenant." (please see CCPR/CO/69/KWT, paragraph 17).

It also stated that:

"The cases of persons still held under sentences described in the previous paragraph should be reviewed by an independent and impartial body, and compensation should be paid pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant, where appropriate" (please see CCPR/CO/69/KWT, paragraph 18).

The detention of more than 33 Iraqi, Kuwaiti and Bidun (stateless people) detained after the 1991 unfair trials by Martial Law and State Security courts on charges of "collaborating with the enemy" is ongoing. Those include Malek Sultan Murdhi Hussein al-Mutairi, Samir Khalaf Abbud, Qassem Saleh Bashir 'Abdallah and many others who received sentences ranging from 15 years imprisonment to life imprisonment or to death. In the years after the conflict, the Kuwaiti authorities released a number of prisoners, who had been detained at the same time and under the same circumstances, after the relations between their countries and Kuwait had been restored. They were pardoned by the Amir of Kuwait.