

AMNESTY INTERNATIONAL PUBLIC STATEMENT



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Kuwait: Conviction and sentence of Musallam al-Barrak should be quashed

Amnesty International condemns the 18 May 2015 decision of Kuwait's Court of Cassation to uphold the two year conviction handed down to former parliamentarian, Musallam al-Barrak.

If he is returned to prison as a result of this decision, Amnesty International would consider him a prisoner of conscience and call for his immediate and unconditional release.

The organization has repeatedly called on Kuwait to drop the charges against him, which relate to a speech he made in October 2012.

Kuwait's authorities should ensure his conviction and sentence are quashed and that he is not returned to prison.

Amnesty International once again urges Kuwait to bring its laws and practices on freedom of expression in line with its obligations under international human rights law, notably the International Covenant on Civil and Political Rights (ICCPR), which it ratified in May 1996.

Amnesty International reiterates its call to the government of Kuwait to stop the persecution of 67 individuals who expressed solidarity with Musallam al-Barrak by publicly reciting parts or the entirety of the speech for which he has been prosecuted. The authorities must ensure the convictions are quashed of those already tried and condemned for this act and should drop the charges against those still being prosecuted.

The organization likewise urges the authorities to scrap provisions that allow for criminal prosecution for defamation or insult and replace them with legislation that restricts such cases to civil suits.

On 15 October 2012, Musallam al-Barrak addressed a public gathering in Erada Square, adjacent to Kuwait's parliament. He spoke out against government "time-wasting and the squandering of resources" and he criticized the Amir of Kuwait, declaring: "Your highness, in the name of the nation we shall not allow you to engage in autocratic rule.[...] Your Highness, how do you want to go down in history? Do you want it to be recorded that under the rule of Sheikh Sabah al-Ahmed, opinion formers [leaders] were imprisoned?"

Amnesty International believes that the statement made by Musallam al-Barrak did not incite to violence or hatred and that he was peacefully exercising his right to freedom of expression.

Musallam al-Barrak was arrested on 29 October 2012. He was deemed to have "insulted" and "undermined the status of the Amir". The authorities released him on bail four days later, amidst nationwide protests. On 15 April 2013, a lower Criminal Court handed down a five-year prison sentence in connection with his speech. He remained on bail pending his appeal. On 17 April 2013, a solidarity rally was held at his family residence where some 67 people recited the speech before those assembled were dispersed. In January 2015, an appeal court reduced the sentence to two years.

Background

Article 36 of Kuwait's Constitution states that that "Freedom of opinion [...] shall be guaranteed" and that "Every person shall have the right to express and propagate his opinion verbally, in writing or otherwise" but adds, "in accordance with the conditions and procedures specified by law". Article 54,

however, declares the person of the Amir to be “immune and inviolable”, rendering him above criticism.

Article 25 of the Penal Code (1970 amendments) criminalizes all “public criticism” of the Amir and persons convicted could face imprisonment of up to five years.

In contrast, Article 19 of the ICCPR guarantees “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, [...] or through any other media of his choice,” and imposes few limitations on the scope of these freedoms.

The Human Rights Committee, the independent body that reviews states’ implementation of their obligations under the ICCPR has stated that “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,” and that there is a need for “uninhibited expression” in public debate concerning public figures.

It has added that “imprisonment is never an appropriate penalty” in defamation cases, because it will always be disproportionate, and has declared that defamation and insult laws should not be used to shield government leaders from criticism.”

Amnesty International

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