

AMNESTY INTERNATIONAL PUBLIC STATEMENT

Date: 13 February 2015
Index: MDE 17/003/2015



Kuwait: Clampdown on freedom of expression coincides with UN review of Kuwaiti human rights record

Amnesty International condemns the series of arrests, intimidation, and harassment of human rights activists targeted for peacefully exercising their rights to freedom of expression, association and assembly prior to and after the review of Kuwait by the Working Group on the Universal Periodic Review (UPR) of the UN Human Rights Council during its 21st Session in Geneva in January 2015. The government's actions show contempt towards the UPR and the 278 recommendations made to Kuwait by other UN member states during the Working Group session, many of which call on Kuwait to guarantee the very rights that were violated in Kuwait around the time of the review.

Amnesty International calls on the government to take urgent action to address the ever-closing space for freedom of expression and assembly in Kuwait, including by immediately and unconditionally releasing people imprisoned for the peaceful exercise of their rights to freedom of expression, association and assembly, and by ending arbitrary arrest, detention, and imprisonment of activists or those seeking to legitimately exercise their human rights. The organization urges the Kuwaiti authorities to convene a comprehensive and inclusive public consultation on the UPR recommendations before Kuwait has to provide its response to these during the 29th session of the Human Rights Council in June 2015.

Amnesty International draws particular attention to recommendations made by 11 reviewing states calling on Kuwait to guarantee the rights of freedom of expression, association and assembly, including by amending its Penal Code and other legislation relating to the media and internet in order to bring these in line with international standards and to "protect human rights defenders, journalists and bloggers against persecution and harassment."¹ Amnesty International urges the Kuwaiti government to accept and implement these recommendations in full and without delay, bearing in mind that to do so will require the amendment of legal provisions that may not be obviously connected to freedom of expression, such as those found in the Misuse of Telephones and Eavesdropping Devices Law and its amendment, of Law Number 40 of 2007; the Audio-Visual Media Law; Protection of National Unity Law and Article 15 of the National Security Law.

¹Human Rights Council, *Draft Report of the Working Group on the Universal Period Review - Kuwait*, A/HRC/WG.6/21/L.14, 30 January 2015, paragraph 5.173 (Australia), 5.174 (Italy), 5.175 (Estonia), 5.176 (Czech Republic), 5.177 (USA), 5.178 (UK), 5.179 (Austria), 5.180 (Norway), 5.181 (Mexico), 5.182 (France) and 5.183 (Uruguay). The quote is taken from recommendation 5.176, which states, in full: Revise the compliance of relevant existing laws, in particular articles 25 and 111 of the Penal Code, with international standards of freedom of expression and protect human rights defenders, journalists and bloggers against persecution and harassment (Czech Republic). [A/HRC/WG.6/21/L.14]

In addition, with respect to freedom of assembly Amnesty International urges Kuwait to review and amend Decree Law No. 65 of 1979 on Public Gatherings and Meetings. The repeated postponement by the Constitutional Court of a ruling on a challenge to this law exemplifies the legal entanglement in which the government is trapped by its failure to bring its provisions in line with Kuwait's obligations as a state party to the International Covenant on Civil and Political Rights.

Amnesty International further emphasises the 17 recommendations states made on statelessness and the right to nationality.² Many of these called on Kuwait to regularize the status of the over 100,000 stateless Bidun³. Some states – including Belgium - urged Kuwait to establish a process to handle requests for nationality, while others - such as Norway - called for outright full citizenship and rights for the Bidun population. In this regard, Amnesty International urges the government of Kuwait to make good on the promise made to the organization in October 2012 to resolve the issue of the stateless Bidun within five years, or by October 2017.⁴

Amnesty International is disappointed that - although a number of states set out recommendations relating to the administration of justice and rule of law⁵ -none addressed torture and ill-treatment other than in terms of removing reservations to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and ratifying its Optional Protocol.⁶ In this regard, Amnesty International reminds Kuwait of its obligation as a state party to the Convention to incorporate into domestic law a definition of torture in line with Article 1 thereof.

Amnesty International is pleased that the review addressed the issue of the death penalty, with more than 20 reviewing states making recommendations - some calling on Kuwait to reinstate a de facto moratorium on the use of the death penalty, and others calling for it to be abolished outright.⁷ Amnesty International urges Kuwait to accept and implement these recommendations, and calls on the government to commute without delay all death sentences to terms of imprisonment.

Background

While the exact numbers and details are not known, between 28-31 January, the authorities issued arrest warrants, announced convictions and arrested 12 individuals.

² A/HRC/WG.6/21/L.14, paragraphs 5.34 (Germany), 5.120 (France), 5.240 (Ukraine), 5.241 (Netherlands), 5.242 (Norway), 5.243 (Belgium), 5.244 (Italy), 5.245 (USA), 5.246 (Slovakia), 5.247 (Czech Republic), 5.248 (Spain), 5.249 (UK), 5.250 (Argentina), 5.251 (Austria), 5.252 (Republic of Korea), 5.253 (Republic of Korea) and 5.254 (Switzerland).

³ Also spelled Bidoon or Bidoun. The full expression is 'Bidun jinsiyya' or without citizenship

⁴ Amnesty International's recommendations to Kuwait are made in *Suggested recommendations to States considered in the 21st round of the Universal Periodic Review, 19-30 January 2015* - Index Number: IOR 41/038/2014; 28 November 2014, <http://www.amnesty.org/en/library/info/IO41/038/2014/en>

⁵ A/HRC/WG.6/21/L.14, paragraphs 5.141 (France), 5.160 (Nicaragua), 5.161 (Cuba), 5.162 (Cote d'Ivoire), 5.163 (Bosnia and Herzegovina), 5.164 (Poland) and 5.166 (Serbia).

⁶ A/HRC/WG.6/21/L.14, paragraphs 5.8 (Austria), 5.9 (Costa Rica, Denmark, Honduras), 5.10 (Brazil), 5.11 (Estonia) and 5.17 (Chile).

⁷ A/HRC/WG.6/21/L.14, paragraphs 5.2 (Slovenia), 5.3 (Slovenia), 5.5 (Namibia), 5.10 (Brazil), 5.121 (Slovenia), 5.122 (Spain), 5.123 (Rwanda), 5.124 (Italy), 5.125 (Uruguay), 5.126 (Togo), 5.127 (Belgium), 5.128 (France), 5.129 (Sweden), 5.130 (Greece), 5.131 (Montenegro), 5.132 (Bulgaria), 5.133 (Namibia), 5.134 (Portugal), 5.135 (Chile), 5.136 (Germany), 5.137 (Switzerland), and 5.138 (Ukraine).

Each individual's conviction relates principally to the exercise of his right to peaceful expression and assembly. A number of individuals have faced other, minor charges. At the time of writing, one man is still believed to be held.

Mohammad al-'Ajmi, known also by his Twitter name Bu 'Asem, is a human rights activist and member of the grassroots body the National Committee for Monitoring Violations (NCV) previously detained in 2014. At 6pm on 28 January 2015, Mohammad al-'Ajmi left his house in Kuwait City. A short time later, he was stopped and arrested by officials from Kuwait's State Security. Officials did not give him a reason for his arrest and his family was not notified. His mother learned of his arrest only when State Security officials came to their home at 10pm and asked to collect his medicine. The officials told his mother that he was being held at the headquarters of State Security and that he had been arrested because of tweets he wrote following the death of King Abdullah of Saudi Arabia. His lawyer and members of his family were not given access to him while in detention. He was released on bail on 2 February, but no date has been set for his trial.

Musa'ed al-Musayleem and **Naser al-Smays** were reportedly arrested and accused of undermining Kuwait's relation with other states, which is a crime under Kuwait's Penal Code. The authorities released Naser al-Smays on 28 January 2015.

Journalist Flayeh (Fulayeh) al-Azmi was arrested in connection with a tweet concerning the death of King Abdullah of Saudi Arabia, but he was released on bail on 2 February. It is not known whether he has been charged or whether he will be tried.

Press reports on 29 January indicated that an appeal court upheld a five-year sentence handed down to **Abdulaziz Jarallah al-Mutairi** for insulting Kuwait's head of state, the Amir. He has reportedly been under a travel ban since 2013. While Amnesty International does not know the exact date of his arrest, unconfirmed reports indicate that he was ill-treated in custody.

In the last week of January, the Appeals Court upheld a conviction sentencing **Ahmed Abdulaziz** to four years of labour, allegedly for having managed a Twitter account called '*Only The Constitution*' (Ila al-Dastour). A four-year prison sentence handed down to **Ahmed Fadhel**, sentenced for "insulting judges", was also upheld.

According to reports on 29 January, the authorities also announced sentences in connection with stateless Bidun, activists, including **Abdullah Atallah**, who was sentenced to five years' imprisonment with labour, followed by deportation; **Abdulahkim al-Fadhli**, who received a one-year prison term with labour and deportation. **Abdullah al-Enezi** had been sentenced to five years' imprisonment for insult to the Amir, but has reportedly fled the country after spending around three months in prison.

Around the same time, arrest warrants were issued for two activists in connection with statements allegedly made on Twitter. One human rights activist, **Nawaf al-Hendal**, was in Geneva for the UPR when he learned informally that an arrest warrant was issued for him on 27 January. On 31 January, the authorities withdrew the arrest warrant against him.

On 29 January, Amnesty International wrote to Kuwait's Attorney General, expressing concern over the arrest of 'Abdulaziz al-Mutairi, Musa'ed al-Musayleem and Naser al-Smayt as well as the arrest warrant issued against Nawaf al-Hendal. At the time of writing, the organization had not received a reply.

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