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FOR IMMEDIATE RELEASE
Contact: Susan Osnos or Virginia N. Sherry
212-972-8400

**NOWHERE TO GO:
THE TRAGEDY OF THE REMAINING PALESTINIAN FAMILIES IN KUWAIT**

Kuwaiti State Security Officers Pressure Families to Leave for Iraq

**MEW Condemns Deportation and Forced Departure of Stateless Palestinians, and
Calls on Israel to Allow Repatriation**

This newsletter focuses on the situation faced by an estimated 5,000 to 8,000 stateless Palestinian families -- some 18,000 to 20,000 people -- in Kuwait who hold only Egyptian travel documents. Although many were born in Palestine of the British Mandate or the Egyptian-administered Gaza Strip, they lack the Israeli-issued identity cards that would enable them to return to the Gaza Strip. They typically have resided in Kuwait for decades, and have children who were born in Kuwait but not granted citizenship. As stateless persons, they and their offspring lack the right to residence in any country. Israeli military orders currently in effect preclude them from returning to the land of their birth with their children.

Unlike the Palestinians in Kuwait with Jordanian passports, who had the option of returning to Jordan after the Gulf crisis erupted in August 1990, those who hold only Egyptian travel documents typically have nowhere to go. These families remained in Kuwait throughout the Iraqi occupation and the Gulf war. After Kuwait was liberated, they endured, as did other non-Kuwaiti groups, the state-sponsored campaign of vengeance involving murder, torture, arbitrary detention, trials before unfair martial-law tribunals, and deportation. In addition, most Palestinians have not been allowed to return to their former public-sector jobs and many of those who previously worked for private employers have not been rehired.

As part of the Kuwaiti government's stated goal of restructuring the resident foreign population, the authorities this month have started to take measures to force these Palestinian families to depart for Iraq -- despite public statements to the contrary by top Kuwaiti government officials, including the Crown Prince and Prime Minister. These families face expulsion from Kuwait by November 15, when their temporary residence permits, issued by the Ministry of Interior after liberation, will expire.

Middle East Watch calls on Kuwait to halt the deportation of these stateless Palestinians, who are "protected persons" under the Fourth Geneva Convention. Middle East Watch also calls on Israel to allow the repatriation of stateless former Palestinian residents and their families, who are currently trapped in Kuwait with nowhere to go and who face deportation to Iraq within a few short weeks. Last, Middle East Watch calls on Egypt to state publicly its policy regarding the granting of visas to stateless Palestinians in Kuwait who hold only Egyptian travel documents. Egypt should, in particular, provide a justification for the denial of visas in cases where stateless Palestinians petition to join family members who are citizens or legal residents of Egypt.

A Note on the History of Statelessness

In *The Origins of Totalitarianism*, Hannah Arendt has pointed out that the phenomenon of statelessness first became an issue in international affairs following World War I. The Peace Treaties adopted following the end of the war established "nation-states" in eastern Europe based largely on ethnicity. The League of Nations then promulgated Minority Treaties which were imposed on these newly created nation-states and which required that the League itself had the duty, as Arendt puts it, of "safeguarding of the rights of those who, for reasons of territorial settlement, had been left without states of their own." The League failed in this task, leading embittered minorities to band together to protect their own linguistic, cultural and religious rights in a "Congress of Organized National Groups in European States." This body, which was prominent for a period, declined to insignificance following the Nazi assumption of power in Germany in 1933 as the Jewish minorities from various countries that were members demanded that the Congress protest the treatment of German Jews while the German minorities from Eastern Europe sided with the Nazi regime.

The Nazi state was probably the first to engage in mass cancellation of nationality on grounds of race or ethnic identity. All naturalized Germans of Jewish origin were deprived of their citizenship and subsequently denationalized, rendering them stateless. This spurred a wave of denaturalizations in other European countries, including in a Western democracy such as Belgium. In 1936 Greece cancelled all naturalizations, a move that was particularly directed against 45,000 Armenian refugees who had entered the country following the pogroms in Turkey many years earlier. Arendt wrote that "at the time mass denationalizations were something entirely new and unforeseen. They presupposed a state structure which, if it was not yet fully totalitarian, at least would not tolerate any opposition and would rather lose its citizens than harbor people with different views."

In the post-World War II era, South Africa led the way in using mass denationalization as an instrument of national policy. The Promotion of Bantu Self-Government Act of 1959 and the Bantu Homelands Citizenship Act of 1970 stripped South African blacks of their nationality and assigned them to Bantustans, or "Homelands," on the basis of birth, residence, or linguistic, ethnic or cultural affiliation. The aim was to see to it that there would no longer be any black nationals in South Africa with claims to political rights. Those who remained in South Africa -- the 87 percent of the national territory not assigned to the Bantustans -- even if their families lived there for generations, were considered by law as temporary sojourners, aliens in the land of their birth and the land of their ancestors. In the same period, Indonesia denationalized and expelled its ethnic Chinese population.

Another major episode of mass denationalization took place in 1972 when Idi Amin of Uganda ordered the expulsion of all Asians who were not citizens, regardless of how long they or their families had lived in the country.

-- Aryeh Neier, Executive Director, Human Rights Watch

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INTRODUCTION

The first wave of Palestinian workers who settled in Kuwait arrived in 1948-49.¹ They included teachers and civil servants who "helped create the bureaucratic underpinnings of the new state."² The Palestinian community grew in size over the decades -- by 1965, Palestinians comprised over 16 percent of the total population in Kuwait and almost a third of the foreign-resident population.³ Between 1965 and 1975, the Palestinian population almost tripled, to over 204,000, with almost half of them females.⁴

¹Kuwait's modernization began in the early 1950's, following the discovery of oil in 1938 and the accumulation of substantial revenue from oil exports, which began in 1948. (See Rosemarie Said Zahlan, *The Making of the Modern Gulf States*, Unwin Hyman, London: 1989, at 30-31.)

²Ann M. Lesch, "Palestinians in Kuwait," *Journal of Palestine Studies*, Summer 1991, at 42-43 [hereinafter Lesch].

³Lesch, at 43.

⁴*Id.*

At the time of Iraq's invasion of Kuwait in August 1990, an estimated 350,000 to 400,000 Palestinians lived in Kuwait, the largest Palestinian community in the Gulf. Palestinians played a major role in Kuwait's economic life but avoided political conflict with the government:

[They] performed a wide variety of functions, from key positions in the bureaucracy and professions to a range of services in the banking, commercial, and petty trade sectors The community recognized that even those Palestinians who were born in Kuwait and resident all their lives remained legal aliens, whose presence was technically temporary. They did not challenge their guest-worker status, even if they chafed at the disabilities that they had to tolerate.⁵

* * *

The Palestinians in Kuwait who carry only Egyptian travel documents currently number about 18,000 to 20,000, according to several knowledgeable members of the community in Kuwait interviewed by MEW on October 10 and October 19.⁶ These Palestinians are stateless and do not carry passports. The heads of the families typically were born prior to 1967 in the Egyptian-administered Gaza Strip, or prior to 1948 in Palestine of the British Mandate, in what today is Israel or Israeli-occupied Gaza. Because Egypt never claimed sovereignty over the Gaza Strip after the 1948 Arab-Israeli war, as Jordan did with the West Bank, Palestinian residents of Gaza and the large number of refugees there from other parts of Palestine⁷ were never granted Egyptian citizenship. They could, however, obtain Egyptian travel documents (*laissez-passers*) to facilitate their exit and return to Gaza through Egypt. Jordan, in contrast to Egypt, annexed the West Bank and provided Palestinian residents with Jordanian citizenship and passports. The Palestinians in Kuwait who are the subject of this newsletter still carry their Egyptian travel documents, which they renew on a periodic basis with the Egyptian authorities. Their adult children, even if born in Kuwait, also carry these Egyptian documents.

The heads of these families have no recourse to return to the land of their birth under Israeli procedures currently in effect: only Palestinians who were residing in Gaza after the 1967 war and who registered with the military authorities were issued identity cards, the documents needed for permanent residence in Gaza. The Palestinians remaining in Kuwait who hold only Egyptian travel documents are those who were not physically present in Gaza when the Israeli population census was conducted in the newly occupied territories in September 1967. They therefore never had the opportunity to obtain identity cards from the military authorities, and thereby secure the right to live in the Gaza Strip.

⁵Lesch at 42.

⁶ There have been varying estimates of the number of Palestinians holding Egyptian travel documents who remain in Kuwait. In a story on September 23, 1991, *The Washington Post* put the number at about 24,000. In this report, Middle East Watch is using the lower figures supplied more recently by Palestinian sources in Kuwait.

⁷ "The refugees who fled to the Gaza Strip in 1948 were from the southern region of Israel and in particular from villages and towns in the Beersheba, Ashkelon, and Jaffa areas." Meron Benvenisti, *The West Bank Handbook/A Political Lexicon* (Jerusalem: 1986) at 189.

Since the liberation of Kuwait, despite well-documented and highly publicized gross human-rights abuses against Palestinians and others in Kuwait,⁸ Palestinians holding only Egyptian travel documents typically have been unable to obtain visas to enter any country in the world, including Egypt, the administering power in their homeland at the time when they left for the Gulf. The Egyptian authorities have not explicitly announced that this is official policy; in fact, a government spokesperson publicly stated in August that Egypt treats Palestinians and Egyptians without distinctions (see page 20). Nevertheless, Palestinians in Kuwait with Egyptian travel documents appear to be unable to secure visas from Egypt, and Egyptian officials have stated that Kuwait should allow these Palestinians to remain in Kuwait. It can be argued that Egyptian government's position reflects heightened suspicion of its Palestinian population of approximately 100,000 people.⁹

1. FAMILIES PRESSURED TO LEAVE FOR IRAQ

Middle East Watch has learned from Palestinians still living in Kuwait that since liberation about 2,000 Palestinians have been brought by the Kuwaiti authorities to the Kuwait-Iraq border and deported. They are received by the International Committee of the Red Cross (ICRC) before being handed over to the Iraqi authorities. One source said that the overwhelming majority of these Palestinians have been held in the Deportation Prison -- *sijjin al-ib'ad* -- in al-Shuwaikh.¹⁰ Several thousand other stateless Palestinians have left for Iraq voluntarily, knowing that this country would be their initial destination when their temporary residence cards expire on November 15.

Some of the families who left voluntarily did so because they never received temporary residence cards after liberation. These cards were issued by the General Directorate of Immigration Affairs of the Ministry of Interior. These documents are known officially as Alien Registration Cards, but are popularly described as "security cards."¹¹ According to information received by MEW, beginning in late March and early April, foreign residents were told by the authorities to appear at designated locations in their neighborhoods and to bring with them their travel documents, Kuwaiti identification and two photographs. They were asked to complete and sign an application, and were provided with a receipt and a date and time to report back to obtain new cards. "It took me two months to receive my new card," one Gazan-born Palestinian, a Kuwait resident since 1966, told MEW.¹² "But some families still have not received their

⁸See, for example, Middle East Watch, "A Victory Turned Sour: Human Rights in Kuwait Since Liberation," September 1991 [hereinafter "A Victory Turned Sour"].

⁹One journalist wrote from Cairo during the Persian Gulf war: "Since the Gulf crisis began in August [1990], Palestinians have become *persona non grata* in Egypt....scores of long-term residents have reportedly been denied re-entry after routine trips abroad....Palestinian sources say as many as 50 Palestinians may have been deported since the Gulf crisis began, an estimate based on word of mouth only since there are no official statistics. An undetermined number have had their residence or student status cancelled and have been forced to leave family and friends on short notice." Mitchell Hartman, "Palestinians in Egypt suffer in silence," *Middle East International*, February 8, 1991.

¹⁰ See "A Victory Turned Sour" for additional information about post-liberation summary deportations of Palestinians and other foreign residents by the Kuwaiti authorities.

¹¹Each card contains the person's name, date of birth, sex, profession and citizenship; on the back of the card is an expiration date and the name of the issuing office.

¹²MEW interview, October 19, 1991.

cards. Some went to check with the authorities but were told that their cards were not available. Many of these families decided to leave," he said, rather than risk encounters with the Ministry of Interior.

Palestinians in Kuwait interviewed by MEW said that beginning on October 1, about a dozen stateless Palestinian families carrying Egyptian travel documents have been given two weeks' notice to leave Kuwait. They typically have been visited at home by a member of the security forces, or telephoned and summoned to appear at a police station. There, they are questioned and their travel documents are stamped with an exit visa, requiring them to leave the country within 15 days. "This is happening quietly...there is no coverage in the Kuwaiti media...it is not allowed," one community leader told MEW. "And no Western journalists are here to cover the story."¹³

Middle East Watch interviewed a Palestinian who visited the passport office at the Kuwaiti Ministry of Interior on October 12. "I saw about 50 Palestinians there who were holding the Egyptian travel document and nothing else," he said. "About 20 of them were trying to get more time than the two weeks they had been given to leave the country. I also met some Egyptians and Syrians and Lebanese who were in the same position."¹⁴

These reports stand in sharp contrast to public statements made by Kuwaiti government officials in response to allegations that Kuwait was forcing Palestinians out against their will. Crown Prince and Prime Minister Sheikh Saad al-Abdallah al-Sabah stated categorically on August 5:

Kuwait has not and will not expel the Palestinians. Those of them who want to remain in Kuwait will be allowed to do so, and those who want to leave will have no obstacles placed in their way.¹⁵

The Crown Prince also said: "Speculation that the Kuwaiti government is pressing the Palestinians to leave is contrary to the truth."¹⁶ In September, Information Minister Badr Jassim Yaqoub also denied that the government was forcing Palestinians to leave to Kuwait:

That's not true, because here in the Ministry of Information, the main ministry in Kuwait, there are many Palestinians working with us. If the government sends somebody outside, it's because they have no residence in Kuwait. [It's] the same situation as everywhere. All the Palestinians leaving now are voluntary and they take all rights.¹⁷

¹³MEW interview, October 10, 1991.

¹⁴ MEW interview, October 12, 1991.

¹⁵ The Crown Prince's remarks were carried in the main front-page story in *Sawt al-Kuwait*, the government daily newspaper, as reported in *Mideast Mirror*, August 6, 1991, at 2.

¹⁶ *Id.*

¹⁷ Caryle Murphy, "Palestinians Accuse Kuwait of Harassment Since War," *The Washington Post*, September 23, 1991.

The Kuwaiti government appears to be covering up the deportation of Palestinian families from Kuwait. Middle East Watch calls on the Kuwaiti authorities to explain the indiscrepancies between official public statements and the reality of what is happening on the ground.

2. PRISONERS' FAMILIES: COLLECTIVE PUNISHMENT AS FAMILIES ARE ORDERED TO LEAVE

MEW has learned that the Kuwaiti authorities are also linking the deportation of Palestinian prisoners -- many of whom continue to be held without charges -- and the deportation of their families. One Palestinian in Kuwait told MEW that twice a week approximately 180 Palestinians, most of them prisoners, are being taken to the Kuwait-Iraq border and deported. "They ask their families to be ready and to go with them to the border," he said.¹⁸

Palestinian residents in Kuwait told MEW that the Kuwaiti government is exerting pressure on the families to leave for Iraq voluntarily, with their imprisoned relatives. If they refuse -- and some families have refused -- the authorities then force them to leave, with no legal process and two weeks' notice. This clearly suggests that the authorities are imposing collective punishment on families for the alleged offenses of one of their relatives during the Iraqi occupation.

A long-time Palestinian resident of Kuwait, who asked not to be named, told MEW that the government is not releasing information publicly about the number of prisoners who are deported each week or month. "There are deportations twice a week, on Saturday and on Tuesday," he said. "No one goes to watch because they are afraid, but we know that on each of these days there are about two to three buses of prisoners, and each bus holds about 30 persons." He said that the Kuwaiti authorities have provided no public information about the number of Palestinians held in prison but that "the number circulating on the street is about 3,000." He added that most of these detainees have not been charged and sentenced, and that some of his relatives were among this group. He told MEW that the Deportation Prison is controlled by Kuwait State Security:

Once they have decided to deport a prisoner, they put him in the Deportation Prison. They ask for the names and ages of all the members of his family. Once the date of the deportation is set, a State Security officer usually contacts the family by telephone, a few days before the deportation. He informs the family of the date and time of the deportation, and reads to them the names of all the members of the family. He asks that the family come with their travel documents to the passport branch of the deportation office in al-Shuwaikh.¹⁹

The fear induced by the families' direct contact with State Security officers is enough to force many to follow their instructions and leave the country "voluntarily," he said. "At the passport office, your *laissez-passer* is stamped with an exit visa, allowing you to leave the country." He said that because the Palestinian community is now aware of this procedure, many families are not answering their telephones because they are fearful of receiving calls from State Security officers informing them that a relative is about to be deported.

¹⁸ MEW interview, October 10, 1991.

¹⁹MEW interview, October 19, 1991.

A Palestinian teacher told MEW of the story of his son, who was arrested on March 4 and held in Qadissiyya for 11 days. He was then taken to the military hospital -- a temporary detention center -- and held there for one month. From there, he was taken to another prison and held for four months. He was never charged with an offense, his father said. "No reason was given for his arrest. He was taken simply because he's a Palestinian. I was allowed to see him only one time, when he was held in the prison for four months. Other than that, we didn't know anything about him."²⁰ The son was finally transferred to the Deportation Prison, from where he was taken by bus in late September with about 150 others to the border with Iraq and deported.

Prior to his son's expulsion, the father told MEW that the Interior Ministry contacted the family "many times" by telephone: "They said we must go with him. We also got telephone calls but no one talked on the line. We lived in fear." The family refused to leave Kuwait voluntarily. "Then they gave us one month to leave. The month ends on October 11. They stamped it on my *laissez-passer*," he said on October 10. He subsequently received a two-week extension from the Ministry of Interior on October 11.

"We all must leave for Iraq," he said with resignation in his last telephone interview with MEW. "We are preparing to bring a big tent, food and a small generator to keep the children warm at night. I don't know what to expect in Iraq." He also noted that, despite the extreme financial need of the remaining families, no Palestinian government employee is able to collect severance pay until he leaves Kuwait. In his case, after 27 years of government service, he is being given 5,600 dinars, instead of the approximately 30,000 dinars he has calculated he deserves.²¹

3. THE SITUATION OF THE FAMILIES: MIDDLE EAST WATCH ACCOUNTS

The following cases typify the situation now faced by the stateless Palestinian families in Kuwait who hold Egyptian travel documents. Some families have already been separated. Some deportations have been carried out or appear imminent. The information below was collected by Middle East Watch in telephone interviews with Palestinians in Kuwait and with family members and others in the U.S. who have spoken to Palestinians in Kuwait by telephone. Relatives have noted that the level of fear is high among the remaining Palestinians in Kuwait and that their family members generally have been reluctant to provide detailed information over the telephone. In all cases, MEW has respected Palestinians' requests for anonymity.

**** Gazan-born teacher, 50, Kuwait resident since 1964, with six Kuwait-born children: "We'd walk to Gaza"**

²⁰ MEW interview, October 10, 1991.

²¹ The employment contracts of all foreign and Bedoon workers in Kuwait were terminated by the government retroactive to August 2, 1990, irrespective of whether they worked during the Iraqi occupation. In contrast, Kuwaiti employees are being paid their salaries for this same period, whether they worked or not. MEW found that despite government promises that foreign employees would be paid their severance pay -- which typically amounts to approximately one month's salary for each year of service -- most workers have not been paid. See "A Victory Turned Sour" at 46.

A 50-year-old Palestinian teacher, M., who lives in the Hawali district of Kuwait City, told Middle East Watch his family's story in a telephone interview.²² "We are in difficult trouble here," he said. "There is no work, no money, no food, no government schools for our children. The owner of our house has asked many times that we leave. There is no place for us to go -- we cannot go to Egypt, to Israel or to Jordan. It is as if we are in a great prison -- we are very miserable."

M. and his wife were born in Khan Yunis, a town in the southern part of the Gaza Strip, in what was then Palestine of the British Mandate. In 1964, he obtained a contract in Gaza from the Kuwaiti Ministry of Education to teach Arabic in Kuwait. He traveled with his wife overland from Gaza to Cairo and then flew from Cairo to Kuwait. Since Egypt was under Egyptian administration at this time, he obtained and traveled on an Egyptian *laissez-passer*, a travel document valid for a five-year period. M. regularly renewed his travel document with the Egyptian Embassy in Kuwait; his current *laissez-passer* is valid.

M's six children were born in Kuwait. His oldest son, 23, was arrested after the ouster of the Iraqi forces, held for six months without charge and then deported to Iraq in September; his parents do not know his whereabouts. The youngest son is studying business at a university abroad. "He has run out of money, I have nothing to send him, and he cannot return to Kuwait. I don't know what is going to happen to him," the father said. Two daughters, ages 9 and 15, are no longer in school; as with other Palestinian children, they are no longer allowed to attend Kuwaiti government schools and M. has no money to pay the tuition for private schools.²³ A married son, whose wife gave birth to their first child just after the war ended in February, also carries an Egyptian *laissez-passer*.²⁴

With no prospects in Kuwait, and living with the fear of imminent expulsion, M. and his family are eager to leave Kuwait and return to the land of their birth. "My big, big hope is to go back to Gaza, where I have a brother, sisters and cousins. If we were allowed, we'd go walking to Gaza," he said emphatically. Since settling in Kuwait in 1964, M. has returned to Gaza five times, "but as a visitor, for a three-month maximum, during summer holiday." (Israeli military regulations allow Palestinians to request permission to enter the occupied territories and visit relatives there for short periods.)

M. has been unable to secure a visa to Egypt to even attempt to enter Gaza as a visitor. Since the liberation of Kuwait, M. has been to the Egyptian Embassy in Kuwait "many times," but his requests for a visa have been turned down. He told MEW that he never got past the secretary, who informed him: "Egypt is closed in your face." He said that other Palestinians with Egyptian travel documents have experienced the same treatment and have been unable to meet with Egyptian officials and submit visa applications. "The Egyptians know our case very well," he told MEW, expressing exasperation that the authorities are unmoved by the dilemma faced by the Palestinian families with nowhere to go.

²² MEW interview, October 9, 1991.

²³Because of overcrowding in Kuwait government schools "the government decreed that only expatriates who had lived in Kuwait since 1 January 1963 could send their children to government schools. Other children had to attend private schools, receiving a 50 percent tuition subsidy from the government. The decree did not affect children who were already enrolled, but it fell hardest on the poorer immigrants who had come after 1967." Lesch at 44.

²⁴ The children of the holders of Egyptian travel documents receive their own *laissez-passers* when they reach the age of majority.

M. also noted that in his view the Kuwaiti authorities have a contractual obligation to facilitate his return to Gaza: "My contract says that the Kuwaiti Ministry of Education should return me to Gaza when the contract is terminated."

**** Designer, 45: imprisoned without charges, then deported; separated from Egyptian wife and three Kuwait-born children**

A resident of Kuwait told MEW the story of his cousin, S., who was born in 1946 in Lydda (Lod, in Hebrew) in present-day Israel.²⁵ S. studied in Egypt and graduated from the Cairo Academy of Fine Arts. S. came to Kuwait and worked in the audio-visual department of the Kuwaiti Ministry of Education since 1968. His three children were born in Kuwait.

S. was detained and interrogated for two to three weeks in August 1991, and held in prison for a total of six weeks. Although he was not charged with an offense, his apparent "crime" was that he remained at his job throughout the Iraqi occupation. According to his cousin, S. was informed that he would be deported, apparently because in his case there were insufficient grounds for formal charges. He was told he would be taken to the Iraqi border unless he could obtain a visa to another country. S. only carries an Egyptian travel document; despite the fact that he is married to an Egyptian citizen, he has no right to residency in his wife's country of birth.

His wife visited the Egyptian Embassy in Kuwait and explained that her husband was detained and would be deported to Iraq unless he could secure a visa to another country. She said that she wanted him to come with her and their children to Egypt. She was told that the embassy was unable to immediately provide her with a visa for her husband, and that the application and review process could take weeks or several months. Other family members tried, unsuccessfully, to obtain visas for S. to go to Germany and Austria, where relatives had legal residence.

S.'s wife and children left for Cairo one week before S. was scheduled to be deported. The family informed the Kuwaiti Ministry of Interior that they had not been able to obtain a visa for S. He was deported to Iraq in early October. His family in Kuwait and his wife in Egypt have not yet learned of his whereabouts or status in Iraq. In Cairo, his wife pursued the request for his visa; the family in Kuwait learned a week before the interview with MEW that her request had been rejected. S.'s wife was told to try again in two to three months because "things maybe will change."

**** Gazan-born teacher with over 20 years' service and four Kuwait-born children: no place to go**

Middle East Watch interviewed a stateless Palestinian dentist who was born in the Gaza Strip, lived in Kuwait for 16 years and worked for the Ministry of Health. He left Kuwait in November 1990 at the insistence of his parents. He managed to reach the U.S. via Jordan because he had a multiple-entry visa to the U.S. stamped in his Egyptian travel document. He told Middle East Watch the story of his Gazan-born uncle, H., who is still in Kuwait.²⁶

²⁵MEW interview, October 10, 1991.

²⁶ MEW interview, October 9, 1991.

H. worked as a teacher in Kuwait, having been hired by the Ministry of Education in the 1960's. His four children were born in Kuwait. He has not had a salary since September 1990 and has not been allowed to return to work.²⁷ At the time of the Iraqi invasion in August 1990, H. was visiting Egypt with his two daughters, 17 and 23 years old. They were "treated badly" there, according to his nephew, and forced to board a plane to Jordan. Before being allowed to return to Kuwait, they were held at the airport in Amman with other Palestinians who carried Egyptian travel documents. The group was eventually loaded into a bus and driven across Jordan to Iraq; they returned to Kuwait from Baghdad. H. and his family have nowhere to go.

**** Gazan-born engineer separated from Syrian wife and newborn baby**

H.'s oldest son, a 30-year-old engineer, carries an Egyptian *laissez-passer* and is married to a Syrian citizen. Pregnant with their first child, she left Kuwait in July 1990 for a visit to Syria. The child is now eight months old and his father has seen neither the baby nor his wife. He has not been able to obtain a visa from the Syrian authorities to join his wife there. Palestinians cannot acquire Syrian citizenship unless they marry a Syrian male citizen.²⁸ Palestinians living in Syria, who number about 250,000 registered with the United Nations Relief and Works Agency, were refugees from the 1948 and 1967 wars and "are officially considered to be temporary residents."²⁹ They received Syrian identity cards and in 1960 were provided with *laissez-passers* for travel abroad.³⁰ While MEW understands that Syria has allowed the return from the Gulf of those Palestinians who carry Syrian identity cards and travel documents, Palestinians with documents from other states appear to have been denied entry to Syria to join their spouses or other relatives legally resident in Syria.

**** Teacher in Kuwait for 28 years, with five Kuwait-born children**

A., a teacher in his fifties, was born near Ashkelon in Palestine, now present-day Israel. After the 1948 war, he moved to Gaza, which was then under Egyptian administration. In 1963 he obtained a contract to work as a teacher in Kuwait and left for the Gulf on his Egyptian travel document. For the next 28 years he worked as a teacher in Kuwait, employed by the Ministry of Education.

When Iraq invaded Kuwait in August 1990, A. was visiting his mother in Egypt. He was deported to Jordan, which in turn refused to accept him because he lacked a visa to enter the country. His son told MEW that he and about 100 other Palestinians in the same situation were held at the airport in Amman and then driven in a convoy to the Iraq-Jordan border. A. rejoined his family in Kuwait in September 1990 and remained there throughout the occupation and the war.

²⁷See footnote 21.

²⁸U.S. Department of State, *Country Reports on Human Rights Practices for 1990* (Washington, D.C.: 1991) at 1653 [hereinafter State Department Country Report].

²⁹*Id.*, at 1653.

³⁰Middle East Watch, *Syria Unmasked: The Suppression of Human Rights by the Asad Regime* (Yale University Press, New Haven and London: 1991) at 104.

A. is now trapped in Kuwait with his wife and five children, who range in age from eight to 17 years old, all of them born in Kuwait. Another four children are married and living with their families in Kuwait. The family is suffering financially. A. has not been permitted to return to work, despite almost three decades of continuous service. He told MEW that he had not been able to receive his accumulated severance pay, which amounted to \$50,000 to \$60,000, because of this failure until then to obtain a visa to another country.

Since the war ended, attempts by A. to secure a visa for his family to leave Kuwait have proved fruitless. Egypt requires Palestinians originally from Gaza, who hold Egyptian travel documents, to obtain a visa to enter Egypt. His Gaza-born son, who recently returned to the U.S. from Kuwait, told Middle East Watch that his father has tried many times to obtain a visa to Egypt from the Egyptian Embassy in Kuwait City. "Every time, the Egyptians say no way. My father and his friends have been trying for months."³¹

Alarmed by the human-rights abuses against the Palestinian population since liberation, with no prospects for employment in Kuwait and his severance pay blocked until he secures a visa, A. is desperate to leave Kuwait. He told his son that he would eagerly return to the Gaza Strip with his family if he could obtain permission to enter from the Israeli authorities, and to transit there from Egypt or Jordan.

**** Engineer and pharmacist wife: barred from joining wife's mother in Egypt**

Middle East Watch also learned of the case of second-generation members of a Palestinian family originally from Jaffa in present-day Israel.³² The family left Jaffa after the 1948 war and traveled directly to Cairo. They lived in Cairo until the mid-1950's and then moved to Kuwait. Two of the sons now live in Kuwait with their families. Their father died last year; their mother lives in Egypt where she owns a house and a business (she also has permanent resident status in the United States, where one of her daughters is a citizen).

The eldest son, who is an engineer, and his wife, who is a pharmacist, have three children, all born in Kuwait, including a 12-year-old daughter with a serious medical condition. The family holds Egyptian travel documents and has not been able to secure permission from the Egyptian authorities for a visa to Egypt to reside with the son's mother. Because of their daughter's medical problems, they are seeking permission to enter the United States on humanitarian grounds, under the sponsorship of the sister who is an American citizen.

The other son, who carries a valid Egyptian travel document, also was denied a visa to Egypt. In April he left Kuwait and traveled by bus to Jordan. Unlike most Palestinians who hold Egyptian travel documents, he was allowed to enter Jordan because his *laissez-passer* was stamped with a valid multiple-entry visa to the United States. His brother, who has not been able to obtain a visa to any country, remains trapped with his family in Kuwait.

**** Gazan-born administrator, with seven Kuwait-born children**

³¹ MEW interview, September 24, 1991.

³² MEW interview, September 3, 1991.

K., who is now in his fifties, was born in the Gaza Strip, as was his wife. He arrived in Kuwait in 1966. His three daughters and four sons were born in Kuwait; one of his sons is studying at a university in Europe. Prior to the Iraqi invasion, he worked in a private Kuwaiti company as an administrator. He has not worked or received a salary since August 1990. His temporary residency permit expires on November 15. On his card his citizenship is listed as "Palestinian--Egypt." He has not applied for a visa to enter Egypt. "Many of my relatives went to the Egyptian Embassy to seek a visa. Some of them met with the consul personally and were told that they wouldn't receive a visa to Egypt," he said, which discouraged him from even trying. "We don't know what will happen before November 15, on November 15 or after November 15 ... we don't know anything. The government has given us no information. Everyone is tense and nervous."³³

**** Technician, government employee for 10 years, with four Kuwait-born children**

A retired American academic, who taught at the University of Kuwait for over six years and returned to the U.S. in February 1990, told MEW of the predicament of a Palestinian family he had come to know well.³⁴ The husband, who carries only an Egyptian travel document, worked for the Ministry of Electricity for ten years. His wife, also a Palestinian, carries a Lebanese travel document. (Her parents moved to Kuwait in the early 1960's and some of their seven children were born in Kuwait.) This couple, who live in Hawali, has four children, including twins born during the Iraqi occupation. If forced to leave Kuwait, the wife fears she will be separated from her husband because the Lebanese authorities have not permitted him to reside with her in Lebanon.³⁵

**** Palestinian students barred from attending University of Kuwait**

According to information obtained by MEW, over 100 Palestinian students with Egyptian travel documents -- who are still living in Kuwait -- had been enrolled at the University of Kuwait, many of them in their third, fourth and fifth years.³⁶ Eight of the students were in their fourth through sixth years of studying medicine. Another 30 Palestinians with Egyptian travel documents, also current Kuwait residents, had been accepted as first-year students by the university as of August 1, 1990. In addition, among the Palestinian students with Jordanian passports who were matriculating at the University of Kuwait, some 200 are still in Kuwait with their families as of the writing of this report.

None of these students have been allowed to continue or begin their studies when the university reopened at the end of September 1991. "We tried to find a solution," one community leader told MEW.

³³MEW interview, October 19, 1991.

³⁴ MEW interview, July 18, 1991.

³⁵"Lebanon does not grant citizenship to Palestinians and other foreigners....In the wake of the 1982 conflict, many Palestinians encountered difficulty in renewing residence permits and travel documents, and delays still continue." (State Department Country Report, at 1529.)

³⁶ One Palestinian teacher in Kuwait told MEW that the University of Kuwait accepts only those non-Kuwaiti students who achieve 98 percent or higher on the secondary-school matriculation examination, known as *tawjiji*. This is a higher standard of achievement than that required for Kuwaiti citizens. The University maintains a set-aside of seats for non-Kuwaitis (Lesch, at 44).

"This is a tragedy that their studies will be lost. We started to have meetings with the university in June. At a meeting four days ago with Dr. Abdallah Sha'ib, the head of the university, he told us this is a political issue and he's not a politician."³⁷

4. THE PALESTINIANS IN KUWAIT: POPULATION SIZE, STATUS AND STATE POLICIES

The current legal status of Palestinians with regard to citizenship and residency status depends for the most part on where they were living in 1948 and 1967, as explained below. Palestinians typically carry Israeli identity cards and travel documents, Jordanian passports, or are "stateless," holding only travel documents (*laissez-passers*) issued by Syria, Lebanon or Egypt. In the current situation in Kuwait, if the authorities chose to let the residency rights of these stateless Palestinians expire, Kuwait's post-war practices indicate that they will face deportation to Iraq. A senior international relief official based in Amman, Jordan, told MEW in July: "It is clearly a very serious problem. No one knows how it will be resolved. These people have no place to go."³⁸

The Exodus of Palestinians from Kuwait

When the Gulf crisis erupted in August 1990, Kuwait had a Palestinian population of about 350,000 to 400,000, of whom about 70,000 held Israeli-issued identity cards from the West Bank or Gaza Strip.³⁹ By one estimate, there were 150,000 Palestinian wage-earners in this total population, including 30,000 workers with Israeli identity documents.⁴⁰

A leader in the Palestinian-Gazan community in Kuwait told MEW that prior to the Iraqi invasion there were approximately 35,000 stateless Palestinians with Egyptian travel documents; he noted that at the time of the Iraqi invasion in August 1990 some 5,000 of them were out of the country on holiday.⁴¹ The Kuwaiti authorities count a lower number (see page 18).

Beginning with the Iraqi invasion, and continuing throughout the Gulf crisis and then the war, Palestinians joined other foreign nationals in a mass exodus from Kuwait. By September 1991 Jordan reported that it had absorbed over 280,000 Jordanian and Palestinian expatriates with Jordanian passports. Some of these Palestinians traveled on to the West Bank, where they had legal residence. Middle East Watch understands that Israel generally placed no obstacles on the post-war return to the territories of Palestinian families from the West Bank or Gaza who held valid identity cards.⁴² "Those that could leave for Gaza did

³⁷ MEW interview, October 11, 1991.

³⁸MEW interview, Amman, Jordan, July 8, 1991.

³⁹Palestine Human Rights Information Center, "From the Field," September 1990, at 1.

⁴⁰*Id.*

⁴¹ MEW interview, October 10, 1991.

⁴²During the war, however, the Israeli authorities sharply restricted the re-entry to the occupied territories of Palestinians who had crossed into Jordan before the Gulf war. The Jordan River bridges were closed when the war began, as a security measure by the

leave," one Palestinian in Kuwait told MEW this month. "To live you need income. Most Palestinians with Egyptian *laissez-passers* who worked in government institutions, especially the [Kuwaiti] Education Ministry, were not allowed to return to work after liberation. Without work, the rent could not be paid, fees for schools could not be paid. Most people left for financial reasons ...many of them have houses in Gaza."⁴³

By July 1991, only about 100,000 Palestinians remained in Kuwait, some 70,000 of whom had Jordanian citizenship.⁴⁴ Another 30,000 were stateless, with Egyptian, Syrian and Lebanese travel documents but no citizenship or automatic residency rights in these countries or, alternatively, in Kuwait, the land of their birth (Palestine), or the Israeli-occupied Gaza Strip. Of this group, the largest number were Palestinians holding Egyptian travel documents and lacked the Israeli-issued identity cards that would enable them to return to the Gaza Strip. The head of the PLO office in Kuwait, Mohammad Abdeljaber, said in July that of the remaining stateless Palestinians, 27,000 carried Egyptian travel documents.⁴⁵ An official at Jordan's Ministry of Foreign Affairs told MEW in July that there were 20,000 to 30,000 Gazans in Kuwait "who will have difficulties."⁴⁶ Of the remaining Palestinians with only *laissez-passers*, about 4,000 are believed to be holding Lebanese documents.⁴⁷ Middle East Watch is not aware of any estimates of the numbers of Palestinians remaining in Kuwait who hold Syrian *laissez-passers*.

By the end of September 1991, Kuwait's Palestinian population had dwindled still further -- to an estimated 50,000 to 80,000, according to diplomats and Palestinians in Kuwait.⁴⁸ This exodus represented the third major displacement in Palestinian history.⁴⁹

Israeli Defense Ministry (Jerusalem Israel Television Network, January 29, 1991.) B'Tselem, the Israeli human-rights organization that monitors the territories, wrote in its January-February 1991 information sheet: "Approximately 5,000 Palestinians are presently waiting in Jordan for permission to cross over. During normal times, some 30-40 buses cross daily from Jordan into Israeli-held territory. At present, the number of buses has decreased to one, and some of its passengers are usually forced to turn back. Captain Nurit Hochman, assistant to the IDF Coordinator of Activities in the Territories, told B'Tselem on February 11, 1991, that entrance from Jordan is permitted only to religious leaders, members of the press, and 'humanitarian cases.'" (at 10.) By February 20, the Israeli authorities had relaxed the restrictions somewhat, permitting 400 Palestinians a day to cross the two bridges, down from 1,000 people per day, the normal quota for that time of year (*Jordan Times*, February 20, 1991.)

⁴³ MEW interview, October 10, 1991.

⁴⁴ Brewster Grace and Wafa Suliman, "Palestinian Returnees to Jordan/Inadvertent Victims of the Gulf War," American Friends Service Committee, September 1991.

⁴⁵ *Mideast Mirror*, July 25, 1991 at 18.

⁴⁶ MEW interview with Dr. Katanani, director of the Department of Palestinian Affairs, Ministry of Foreign Affairs, Amman, Jordan, July 8, 1991.

⁴⁷ Estimate by Muhammed Milhem, a lawyer who practiced in Kuwait before the war and is chair of the Amman-based Voluntary Committee for the Aid of Palestinians and Jordanians Coming from Kuwait (*Jordan Times*, July 7, 1991).

⁴⁸ Carlyle Murphy, "Palestinians Accuse Kuwait of Harassment Since War," *The Washington Post*, September 23, 1991.

⁴⁹ According to one detailed study, between December 1947 and September 1949, some 600,000 to 760,000 Palestinians became refugees. (Benny Morris, *The birth of the Palestinian refugee problem, 1947-1949*, Cambridge University Press: 1987, at 297-8.) Various United Nations agencies put the total number of refugees at between 726,000 and 900,000. (David Gilmour, *Dispossessed/The*

Trapped: No Right to Return to the Land of Their Birth

The Palestinians remaining in Kuwait who hold only Egyptian, Lebanese and Syrian *laissez-passer* have no documents that would enable them to return to the land of their birth: Palestine of the British Mandate or the Israeli-occupied territories. Under Israeli military regulations in force since 1967, only Palestinians who hold Israeli-issued identity cards, *hawiyyat* in Arabic, have a right to permanent residence in the Gaza Strip or the West Bank. (Children under 16 years old are registered on their parents' identity card.)

Al-Haq, the Palestinian human-rights organization that is the West Bank affiliate of the International Commission of Jurists, described how the June 1967 war affected West Bank *and* Gaza Strip Palestinians who were not physically present in the territories in September 1967:

During the Mandate period, Britain, as the Mandatory Power, issued a Citizenship Order giving Palestinian nationality to all residents of Palestine, irrespective of race or religion. Between 1948 and 1967, Palestinian residents of the Gaza Strip were under Egyptian administration, but retained their Palestinian nationality; Palestinians in the West Bank, including East Jerusalem, were given Jordanian citizenship. Their rights to residency, and to leave and return to their homeland, were guaranteed.

The situation changed following the 1967 Israeli occupation of the West Bank, Gaza Strip, and East Jerusalem, during which hundreds of thousands of Palestinians fled from their homes as a direct result of the war. A census of the population in these areas was conducted, under curfew, by the new Israeli administration in September 1967....

After the census, new military orders made possession of an identity card a condition for permanent residency in the Occupied Territories. *Only those people aged 16 or over, who were counted in the census and registered by the Israeli authorities, were given the right to obtain an identity card.* Children under the age of 16 were also counted and entered, and could thus obtain an identity card when they turned 16.⁵⁰

Al-Haq also noted that it was difficult for Palestinians to return to the territories after the war:

Further measures to control the make-up of the local population were taken in the immediate aftermath of the 1967 war. Military Order No. 5 (West Bank), issued in June 1967, declared the West Bank a closed military zone and made entry and exit subject to permission by the military Regional Commander.⁵¹

Ordeal of the Palestinians, Sphere Books, London: 1980, at 74.) From June to September 1967, an estimated 200,000 Palestinians left the West Bank (Benvenisti at 89); an additional 11,000 left the Gaza Strip for Egypt (David McDowell, *Palestine and Israel/The Uprising and Beyond*, University of California Press: 1989, at 84.) McDowell calculates that by December 1987, 245,000 Palestinians from the West Bank and Gaza Strip had fled to Jordan, in addition to those Gazans who had fled to Egypt (*Id.*).

⁵⁰ Candy Whittome, "The Right to Unite/The Family Reunification Question in the Palestinian Occupied Territories: Law and Practice," (Al-Haq: 1990) at 2-3. (Emphasis added)

⁵¹ *Id.* at 3.

Israel's Policy: Only Those with Valid Papers May Return

Since the Gulf crisis began, Israel has admitted some 30,000 West Bank Palestinians and another 7,000 Gazans who had been living and working in Kuwait and Saudi Arabia.⁵² In response to a letter from Middle East Watch, the Israeli Ministry of Defense reiterated Israel's long-standing policy concerning the right of Palestinians to return to the occupied territories:

Generally, we allow entry to residents of Judea-Samaria [the West Bank] and Gaza that hold *valid papers*. Concerning persons whose papers are no longer valid, there are procedures whereby such persons may refer their case [to] the relevant authorities within the framework of a specific committee that was created for that purpose. That committee studies each case according to the specific circumstances therein before reaching its decision.

A resident that leaves the Area through a border station must return through the same border station, because all his papers await him at the station from which he left.⁵³

While this policy covers the situation of Palestinians with valid identity cards and Israeli travel documents, Middle East Watch also inquired in its letter if Israel would allow the return to the West Bank or Gaza of those Palestinians who were born there, and their children, who are stateless. The Ministry of Defense did not answer this question in its letter of reply.

Kuwait's Policy: Only the Stateless Palestinians Are "Palestinians"

For its part, Kuwait publicly has acknowledged the special status of Palestinian residents in the country who carry only travel documents and lack passports. In July, as part of an attack on the PLO for accusing the government of abuses against the Palestinian population, Kuwait's charge d'affaires in Amman, Faisal Mukhaizem, said:

Kuwait treats expatriates on its territory in line with the passports they carry, regardless of their origins. The Kuwaiti government rejects the PLO's assertion that Jordanians resident in Kuwait are Palestinians. They are Jordanians, by virtue of the passports they hold.⁵⁴

He stated that only those holding refugee travel documents from Syria, Lebanon and Egypt were recognized as Palestinians by Kuwait, and said that the total number of such people in Kuwait had numbered 26,000 prior to the Iraqi invasion. Middle East Watch was provided with a significantly lower figure of stateless

⁵² *Al-Hamishmar*, September 16, 1991. The Israeli Consulate in New York told MEW that between 35,000 and 40,000 West Bank and Gazan Palestinians returned home from the Gulf since August 1990 (MEW interview, October 18, 1991).

⁵³ Undated reply to MEW letter of August 22, 1991, from Brig. Gen. Freddy Zach, Deputy Coordinator of Government Operations in Judea-Samaria and the Gaza Area, Ministry of Defense (emphasis in original).

⁵⁴ Quoted by KUNA, the Kuwaiti government news agency, as reported in *Mideast Mirror*, July 25, 1991, at 18.

Palestinian residents -- "under 10,000" -- by a senior Kuwaiti Foreign Ministry official soon after the country's liberation.⁵⁵

Kuwaiti officials publicly have denied that any Palestinians are being forced to leave Kuwait. In August 1991, the charge d'affaires at the Kuwaiti Embassy in Jordan said he was surprised by the "constant cacophony being raised by the Jordanian media about the so-called expulsion of Jordanians from Kuwait" and added that those leaving Kuwait were doing so "entirely of their own free will."⁵⁶ He said that Palestinians were leaving Kuwait because their children could no longer attend Kuwaiti schools, and that those workers who remained behind "are not being subjected to any harassment or demand to leave the country."⁵⁷

Jordan's Policy: A Pan-Arab Solution Is Needed

Jordan has sought an extension of the looming November deadline for the expiration of foreign residency permits in Kuwait. As of September 1991, over 280,000 Jordanians and Palestinians returned to Jordan since Iraq's invasion of Kuwait in August 1990.⁵⁸ Crown Prince Hassan charged last month that Kuwait was "throwing human suffering at us." He also stated: "The November deadline regarding foreign nationals will directly affect the future of Palestinians, Jordanians and Jordanian document holders. We have been trying through different channels to impress upon them [Kuwaiti officials] that effectively this deadline should be extended."⁵⁹

In July, Middle East Watch conducted interviews in Jordan about the government's policy regarding the entry of Palestinians with Egyptian travel documents. A senior international relief official told MEW that he believed that there were no Gazan Palestinians from Kuwait in Jordan: "They have not been allowed into Jordan."⁶⁰ A PLO official also stated that this was his impression of Jordan's policy.⁶¹ Azzam Tamimi, an aide to MP Ahmad Al-Azaidah, the chairman of the Public Liberties Committee of Parliament, concurred with these assessments, but also indicated that there have been a few exceptions to the general policy:

Such citizens are not allowed to pass through Jordan for fear that they will settle in this country. So, there is no access to Gaza except through Egypt by plane. Even if Gazans had a visa to enter Egypt, it is difficult to get a transit visa to Jordan. Some people applied for transit visas and they were denied. Mr. Al-Azaidah intervened in a few special cases and arranged for transit

⁵⁵MEW interview with Suleiman Shahin, Under-Secretary, Ministry of Foreign Affairs, Kuwait City, March 21, 1991.

⁵⁶Mr. Mukhaizem's statement was published in *Sawt al-Kuwait*, the Kuwaiti government daily newspaper, as reported in *Mideast Mirror*, August 19, 1991, at 18.

⁵⁷*Id.*

⁵⁸*Jordan Times*, September 7, 1991.

⁵⁹*Jordan Times*, September 7, 1991.

⁶⁰MEW interview, Amman, Jordan, July 8, 1991.

⁶¹MEW interview with Abdallah Abu Zaiter, director of the Cultural Department and chief of the Gaza group, PLO office, Amman, Jordan, July 9, 1991.

visas for those who were elderly or proven to be going to Gaza. Mr. Al-Azaidah called the Interior Minister by phone and put pressure on him to help these people.⁶²

Jordan's Interior Minister, Jawdat al-Subul, outlined Jordan's policy toward the Gazan Palestinians in July: "The issue does not concern the Jordanian Interior Ministry or the Jordanian government alone. It is a question that has to be dealt with at a pan-Arab level." He stated that Jordan would admit only those Palestinians holding Jordanian passports: "Jordan will receive all those who possess Jordanian passports, including West Bank residents who carry temporary Jordanian passports. We will facilitate the return to the West Bank of the temporary passport holders and extend help wherever possible."⁶³ However, the *Jordan Times* reported that Jordan was reluctant to accept sole responsibility for Palestinians with Egyptian travel documents:

Highly informed sources said that Jordan will not allow itself to be singled out to shoulder the responsibility of the Gazans while other Arab countries which have much larger resources were turning a deaf ear to the problem.⁶⁴

Egypt's Policy: Kuwait Should Allow the Gazans to Stay

At a meeting in July 1991 in Cairo, a senior adviser to President Mubarak told a Middle East Watch representative that there were 23,000 Palestinians in Kuwait who held Egyptian *laissez-passers*. He stated that Egypt's position with regard to this population was that Kuwait should allow them to remain in the country and return to their jobs.

In August, an Arab League official issued a statement at the organization's Cairo headquarters, calling on Arab states to "treat their Palestinian residents on a par with their own nationals, taking into account the circumstances under which the Palestinian people have to live."⁶⁵ The statement reportedly was in response to information received by the Arab League from "Palestinians in certain Arab states complaining that their mistreatment has escalated recently, notably in terms of the closure of labor markets and the failure to grant them visas to countries in which their families live." (The statement, which contained no references to states responsible for these measures, reportedly was the first public response of the Arab League to the post-war plight faced by Palestinians in the Gulf.⁶⁶) An Egyptian government spokesman responded to the statement as follows: "Palestinians are treated in the same way as Egyptians, irrespective of the PLO attitude to the Gulf crisis."⁶⁷ He also noted that a top PLO official had discussed "certain problems faced by

⁶²MEW interview, Amman, Jordan, July 13, 1991.

⁶³ *Jordan Times*, July 14, 1991.

⁶⁴ *Jordan Times*, July 14, 1991.

⁶⁵The statement was made by Muhammed al-Farra, the Arab League's assistant secretary-general for Palestine affairs, and reported in *Al-Hayat*, August 16, 1991.

⁶⁶*Mideast Mirror*, August 16, 1991, at 18.

⁶⁷*Id.*

Palestinians in Egypt" during a visit and that the Egyptian Interior Minister had promised that these problems would be addressed.

Middle East Watch first discussed the issue of Egypt's policy toward Palestinians in Kuwait holding only Egyptian *laissez-passers* with the Egyptian Ambassador to the United States, Mr. El-Sayed Abdel Raouf El-Reedy, at a meeting in Washington, D.C., on April 25, 1991. During the preparation of this report, MEW on October 10 contacted the Egyptian Interior Ministry in Cairo and the Egyptian Embassy in Washington, D.C., with requests for information about the government's policy regarding the entry of Palestinians holding Egyptian *laissez-passers*. As of the date of the publication of this newsletter, we have not received a reply, despite follow-up requests on October 17 and October 18.

5. THE LEGAL STANDARDS

Kuwait's deportation of stateless Palestinians runs counter to its legal duties under international law as well as general human-rights principles embodied in international instruments. Israel's long-standing policy of denying permanent residence to Palestinians who left what is now the occupied territories or Israel proper before 1967 or were not present in the territories during the one-day post-war census conducted in 1967 and therefore do not hold Israeli identity documents, is similarly contrary to principles embodied in human rights instruments.

The deportation of stateless Palestinians who have not secured permission to enter any other state clearly contravenes the Fourth Geneva Convention, which Kuwait has ratified. Article 4 of the Fourth Convention defines Protected Persons as "those who . . . find themselves, in the case of conflict or occupation, in the hands of a party to the conflict or Occupying Power of which they are not nationals." Excluded from this definition are nationals of states not bound by the Fourth Geneva Convention, nationals of neutral and co-belligerent states with whom normal diplomatic relations are maintained, and persons protected by the three other Geneva Conventions of 1949. According to the official ICRC *Commentary*, "owing to its negative form the definition covers persons without any nationality."⁶⁸ The ICRC has explicitly upheld the view that Palestinians in post-liberation Kuwait are protected persons.⁶⁹ Article 73 of Protocol I Additional to the Geneva Conventions, which Kuwait acceded to on January 17, 1985, affirms this view absolutely, confirming the application of the Fourth Convention to stateless persons:

Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, *in all circumstances and without any adverse distinction*. (Emphasis added)

⁶⁸Jean Pictet (ed.), *Commentary: IV Geneva Convention*, (Geneva, ICRC, 1958), 47 [hereinafter *Commentary IV*].

⁶⁹"Foreign nationals in a country at war who do not benefit from the diplomatic protection of their country of origin are protected by the Fourth Geneva Convention. The Palestinians in Kuwait fall into this category and the ICRC has approached the authorities concerned on a number of occasions with a view to providing the Palestinians with its protection." Remarks of Francois Bugnion of the ICRC legal department, published in the ICRC Bulletin, May 1991, at 2.

The Fourth Convention continues to apply to Kuwait both because military operations in the area are not closed, and because all protected persons have not been finally released, repatriated or reestablished.⁷⁰ Military operations, presently governed by the United Nations cease-fire resolution of April 3, 1991,⁷¹ cannot be considered closed. There are some 36,000 U.S. military personnel in Saudi Arabia, Kuwait and vessels in the Persian Gulf and surrounding waters.⁷² The United Nations has not ended its inspection and supervision of Iraqi disarmament. Kuwait has complained on several recent occasions to the U.N. Security Council about alleged Iraqi border infractions, including an incursion on Bubiyan Island on August 28. And, as recently as September, the United States threatened to resume air assaults against Iraq in response to Iraqi resistance to the United Nations weapons-inspection mandate.

In addition, quite apart from the state of current military operations, the Fourth Convention continues to apply as long as Protected Persons have not been able to "resume a normal existence, especially if they have to be repatriated or assisted to resettle."⁷³ The policies which Kuwait has imposed on those residents without Kuwaiti citizenship places Kuwait under the auspices of Article 6. Most Palestinian government employees, for example, have been unable, since the end of the Iraqi occupation, to return to their former jobs in ministries, schools and hospitals. Their children have been barred from attending public schools. Most important, stateless Palestinians face deportation from Kuwait by November 15 if their temporary residence permits are not renewed. Accordingly, they clearly have not been finally released, repatriated and reestablished as required for the Fourth Geneva Convention to cease to apply to their case.

Under the Convention, measures taken by Kuwait that result in the deportation of stateless Palestinians constitute a violation of the Fourth Convention. Article 36 of the Convention prohibits deportation unless there is provision for "satisfactory conditions" as regards safety, hygiene, sanitation and food. These conditions are *per se* unsatisfactory if there is no accepting country.

In the case of stateless Palestinians who are denied entry visas by all countries, Kuwait is the only Power involved and is therefore singularly responsible under Article 36 for ensuring that the conditions the Palestinians face are satisfactory:

Whatever the circumstances, the State of residence must take all necessary precautions to avoid endangering the life and health of the protected persons and to ensure that their journey takes place under satisfactory conditions as regards food and health.⁷⁴

⁷⁰Fourth Geneva Convention, Art.6; Protocol I, Art. 3(b).

⁷¹The United Nations Security Council passed Resolution No. 687 by a vote of 15 in favor, one against (Cuba) and two absents (Ecuador and Yemen). Iraq accepted the terms of the resolution on April 6, 1991.

⁷²Of this number, 16,167 are U.S. Navy, almost 11,000 are U.S. Army and over 4,700 are U.S. Air Force personnel. "Still in the Gulf," *The New York Times*, September 19, 1991.

⁷³*Commentary IV* at 64. Paragraph 3 of Article 6 states: "Protected persons whose release, repatriation or re-establishment may take place after such dates [the general close of military operations for parties to a conflict and one year after the general close of military operations for occupied territories] shall meanwhile continue to benefit by the present Convention."

⁷⁴*Commentary IV* at 240.

Stateless Palestinians without entry visas to other countries are simply being deported by the Kuwaiti authorities to the Iraqi border. Given the harsh conditions in Iraq as a result of the allied bombing campaign and the ongoing U.N.-mandated embargo, Kuwait has no basis to assume that Palestinians sent in the direction of Iraq are being received in satisfactory conditions. Statelessness itself adds to the Palestinians' lack of safety, since there is no "country of destination" or "Power whose nationals are benefited" to supervise their well-being.⁷⁵

Moreover, the commentary to Article 6, covering the beginning and end of the Fourth Convention's application, explains that for "protected persons who cannot be repatriated for one reason or another and are not allowed to settle permanently in the country where they are living... *another country must be found where they will be received and allowed to settle.*"⁷⁶ Kuwait, therefore, has an affirmative duty to locate a country that will accept the Palestinians and cannot deport them legally until such a country is located. Instead, according to information received by Middle East Watch this month, Kuwait has commenced the deportation of stateless Palestinian families who have nowhere to go.

Prior to the time an accepting country is found, protected persons are entitled to a means of subsistence, provided by the Kuwaiti government through paid employment or state allowances.⁷⁷ Article 39 states:

Protected persons who, as a result of the war, have lost their gainful employment shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the power in whose territory they are.

Where a party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said party shall ensure his support and that of his dependents.

The government of Kuwait has ignored this mandate by preventing many Palestinians from returning to their former jobs in the public sector, without making alternative arrangements for their economic survival.

Beyond the Fourth Geneva Convention, Kuwait's deportation of stateless Palestinians violates principles embodied in several international human-rights instruments. In the most general sense, by withdrawing the rights of Palestinians to live in Kuwait, the Kuwaiti government has issued a decree penalizing a group, without findings as to any individual group member (see section 2, above). Such a

⁷⁵Article 36 provides: "All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited."

⁷⁶Commentary IV at 64 (emphasis added).

⁷⁷Commentary IV at 249.

decree constitutes deportation without trial or an opportunity to contest the ruling, contrary to the standards established in Article 13 of the International Covenant on Civil and Political Rights.⁷⁸ Article 13 states:

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in issuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

More specifically, it appears that the deportation of Palestinians is based not on alleged individual actions, but rather on their status as non-citizens of Kuwait in general and their Palestinian nationality in particular. Such apparent discrimination on the basis of national and ethnic origin, deemed by many a response to the Kuwaiti government's perception of Palestinians as Iraqi collaborators and supporters, runs afoul of the principles articulated in Article 7 of the Declaration on Human Rights of Individuals Who Are Not Nationals of the Country in Which They Live.⁷⁹ The article proclaims that "individual or collective expulsion of [aliens lawfully in the territory of a state] on the grounds of race, color, religion, culture, descent or national or ethnic origin is prohibited." Although an exception is recognized for "compelling reasons of national security" (Article 7), Kuwaiti officials have publicly proclaimed that they would not deport stateless Palestinians or force them to leave the country suggesting that no security rationale justifies the deportations that nonetheless have occurred and are threatened.

The international principles that "everyone has the right to a nationality"⁸⁰ and that "every child has the right to acquire a nationality"⁸¹ add a further obstacle to the deportation of Kuwait-born Palestinians. These principles underscore a special duty on the Kuwaiti government not to expel stateless individuals who were born on Kuwaiti soil.

For all of these reasons, Kuwait's policy of deporting stateless Palestinians is illegal under both international humanitarian treaties ratified by Kuwait and basic principles of human rights recognized by the international community.

Israel also bears some responsibility for the Palestinians' plight. Israeli military orders prevailing in the West Bank and Gaza Strip, which require identity cards issued by Israel after the 1967 war as a precondition for permanent residence in the occupied territories, compromise the right of stateless Palestinians to return to their homeland. That right, in the form of the right to enter one's country, is set forth

⁷⁸ Although Kuwait has not ratified the International Covenant of Civil and Political Rights, it is the leading source of human rights standards, having been ratified by some 90 nations.

⁷⁹ This Declaration was adopted by affirmation by the United Nations General Assembly on December 13, 1985, Res. No. 40/144.

⁸⁰ Universal Declaration of Human Rights, Article 15 (1).

⁸¹ International Covenant on Civil and Political Rights, Article 24 (3).

in the International Covenant on Civil and Political Rights (ICCPR), which Israel recently ratified,⁸² and in the Universal Declaration of Human Rights.

Article 13(2) of the Universal Declaration of Human Rights states that "everyone has the right to leave any country, including his own, and to return to his country." Article 12(4) of the ICCPR holds that "no one shall be arbitrarily deprived of the right to enter his own country." The Palestinians born in Egyptian-administered Gaza, and those born in the part of British Mandate Palestine that is now Israel proper, have, under these provisions, the right to return to their native land. Their return, however, is barred because they were not present in the Gaza Strip when the Israeli post-war census was conducted in the territories in September 1967, and therefore do not possess Israeli identity cards.

The application of the identity-card requirement is unwarranted in this situation and highlights the shortcomings of overly broad security justifications used to deny displaced Palestinians entry to the territories. In tens of thousands of individual cases since the Israeli occupation of the territories began, stateless Palestinians have received permission from the Israeli military authorities to return regularly to the West Bank and Gaza to visit family members for short periods. Yet, these Palestinians typically are unable to secure the legal right to reside permanently in the territories. In the cases of these temporary "visitors," security concerns did not prevent their entrance to the territories, yet security concerns are used to justify the long-standing policy that bars stateless Palestinians from returning and permanently residing in the place of their birth.

6. RECOMMENDATIONS

The crisis posed by Kuwait's deportation of stateless Palestinians presents a disquieting regionwide human-rights problem that demands immediate, creative and benevolent responses. Middle East Watch believes it is incumbent on all states in the region, in addition to fulfilling their obligations under international law, to recognize that the pressing humanitarian nature of this problem requires swift and extraordinary action.

Middle East Watch calls on the government of Kuwait to:

- o Refrain from the collective punishment of Palestinian families remaining in Kuwait.
- o Stop the deportation or forced departure of stateless Palestinians who held valid residence permits in Kuwait prior to August 1990.
- o Ensure that all "protected persons" under the Fourth Geneva Convention and Protocol I, in this case stateless Palestinians, are either permitted to work or given support to allow them to care for their dependent families, pending their orderly departure from Kuwait.
- o In the event that individual deportations must be carried out for demonstrable security reasons, ensure that

⁸²The date of ratification was October 3, 1991.

othe deportations do not take place summarily, and would-be deportees are given an opportunity to contest the order before an independent tribunal;

othose ordered deported are given an adequate opportunity to take care of their financial and personal affairs before leaving the country;

othe deportations are conducted in a humane manner, ensuring that any detention does not involve overcrowding or inadequate food, shelter or medical care, and ensuring that those deported are not left in dangerous areas or abandoned without adequate provisions; and

othe deportees are sent to a country willing to receive them under satisfactory conditions.

oDemonstrate restraint and compassion, allowing stateless Palestinian families to remain and work at their former government jobs in Kuwait until a country can be found for them to go.

oFind another country where stateless Palestinians will be received and allowed to settle, in order to facilitate the departure of those families who wish to leave.

Middle East Watch calls on the government of Israel to:

oAllow the repatriation of Palestinians born in British Mandate Palestine, in the Egyptian-administered Gaza Strip, or in the Israeli-occupied Gaza Strip, as well as their stateless children.

oEnd the requirement that Palestinians who departed from Gaza via Egypt return through the same border-crossing point. This would enable Jordan to allow the transit of these individuals to the West Bank over the Jordan River bridges and then on to the Gaza Strip.

Middle East Watch calls on the government of Egypt to:

oPublicly state its current policy regarding the issuance of visas to stateless Palestinians in Kuwait who hold only Egyptian travel documents and who face deportation to Iraq when their Kuwaiti temporary residence permits expire in November.

oProvide information about the guidelines used by the Ministry of Interior to evaluate, and approve or deny, visa applications submitted by stateless Palestinians in Kuwait.

oDisclose generally the basis for the denial of visa requests, particularly in cases where spouses or relatives of the applicants are citizens or legal residents of Egypt.

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The principal author of this newsletter is Virginia N. Sherry, associate director of Middle East Watch. John Valery White, an Orville Schell Fellow with Middle East Watch, wrote the legal section. Eric Rosenthal, a legal intern with Middle East Watch during the summer of 1991, conducted the July 1991 interviews in Amman, Jordan, that are cited in the report.

Middle East Watch was created in 1989 to monitor human rights practices in the Middle East and North Africa and to promote respect for internationally recognized standards. The chairman of Middle East Watch is Gary Sick, and the vice chairs are Lisa Anderson and Bruce Rabb. Andrew Whitley is executive director, Eric Goldstein is research director, Virginia N. Sherry is associate director, Aziz Abu Haimad is the senior researcher, John Valery White is the Orville Schell Fellow, and Christina Derry is the associate.

Middle East Watch is a division of Human Rights Watch, a non-governmental organization which is also composed of Africa Watch, Americas Watch, Asia Watch, and Helsinki Watch. The chairman of Human Rights Watch is Robert L. Bernstein, the vice chairman is Adrian W. DeWind, the executive director is Aryeh Neier, the deputy director is Kenneth Roth, the Washington director is Holly J. Burkhalter, and the press director is Susan Osnos.