

HUMAN RIGHTS IN IRAQ AND IRAQI-OCCUPIED KUWAIT

Testimony of Andrew Whitley, Middle East Watch

Before the House Foreign Affairs Committee

Tuesday, January 8, 1991

Thank you for holding this hearing, Chairman Fascell, and for asking Middle East Watch to participate. My name is Andrew Whitley, and I am Executive Director of Middle East Watch, a human rights organization affiliated with Human Rights Watch. The Foreign Affairs Committee has requested that Middle East Watch address the following issues in our testimony this morning: human rights conditions in Iraqi-occupied Kuwait, human rights in Kuwait before the invasion, human rights in Iraq, and U.S. human rights policy in the wake of the invasion.

Human Rights in Iraqi-occupied Kuwait: As the Committee is aware, Iraqi forces have committed extensive and gross abuses of human rights in Kuwait since the August 2nd invasion. Since that time, Middle East Watch has met with over 500 refugees who have recently left Kuwait and conducted over 200 in-depth interviews with people who were involved in community affairs and had direct contact with the occupying authorities. We have also kept in close touch with the Kuwaiti government-in-exile, members of the Kuwaiti opposition, and representatives of Kuwaiti humanitarian and professional groups. When the Kuwaiti government called for the popular conference in Jeddah, Middle East Watch sent a representative. In its final communique, the Conference called upon Human Rights Watch (among other groups) to monitor human rights conditions in occupied Kuwait and to try to prevail on the Iraqi government to allow their representatives to go inside the country.

Middle East Watch has not received permission to conduct a human rights mission in either Iraq or Kuwait. (Indeed, Iraq has not allowed any humanitarian organizations into Kuwait. Mr. Taha Yassin Ramadhan, the Iraqi deputy prime minister, has threatened with mutilation any person attempting to go

Kuwait to investigate human rights without Iraq's permission.) Nonetheless, based on many interviews, our organization has been able to document extensive violations of human rights in Iraqi-occupied Kuwait. A summary of our concerns follows.

*** In the initial takeover of Kuwait, hundreds were killed or wounded and thousands detained. Hundreds of thousands of Kuwaitis and foreign migrant workers fled Kuwait as a result of the invasion. Iraqi soldiers and militia committed countless acts of theft, rape and assault on civilians, and, in the breakdown of law and order, others participated in criminal activity.**

*** During August, Iraq attempted unsuccessfully to find support among Kuwaiti public figures. At the same time, Kuwaiti volunteers took over the running of hospitals, food cooperatives, sanitation work and gasoline distribution. Faced with these challenges and in response to continued armed and peaceful resistance, Iraqi occupying authorities acted swiftly and violently to demonstrate their control in Kuwait.**

*** The rare visits by foreign journalists to Kuwait have taken place only with official escorts, and, as indicated above, human rights observers, including the International Committee of the Red Cross (ICRC), have been forbidden entry.**

*** Scores of people were summarily executed in September and October, including physicians, hospital volunteers, and food distribution personnel -- some of them in front of their families. Scores more were killed in confrontations with Iraqi forces, or in detention under suspicious circumstances. Iraq has yet to give an accounting of people killed in its custody -- either to relatives or to neutral organizations. Middle East Watch estimates that at least 600 people were killed in the first three months of the occupation.**

*** In the first three months of the occupation, more than 5,000 people were arrested. Detainees included political leaders including former members of the National Assembly, Red Crescent and other medical personnel, and community volunteers. Political figures were detained with family members, including children as young as 13 years of age. Arbitrary arrest and detention have continued unabated through the end of the year. So has the practice of holding detainees incommunicado for long periods, and**

the practice of illegally transferring detainees to Iraq. The Iraq government has not yet provided an accounting of detainees.

*** Detainees have reported being housed in crowded and unsanitary makeshift detention centers. They are systematically tortured to extract information, gain cooperation, mute opposition or to set an example to discourage others. Interviews with former detainees show widespread, and apparently officially sanctioned, ill-treatment of those in custody, such as sleep deprivation, beating with sticks and metal pipes, use of electric shock, mock executions, and threats of execution or harm to family members. Reports of torture and ill-treatment of detainees are still coming to the attention of Middle East Watch, indicating that international protests have been to no avail.**

*** While Iraq has issued an order for Iraqis who moved to Kuwait after the invasion to leave, it has not clarified its position on the return of Kuwaitis to their own country. Kuwaitis have recently been detained when they tried to enter Kuwait -- for peaceful purposes -- through desert routes. One person known to Middle East Watch was arrested in December while trying to return home to bring his aged mother out of Kuwait. Three others were also arrested last month when they tried to enter Kuwait to be with their families. All four have been held incommunicado, raising legitimate fears that they are being tortured to extract information.**

*** The Iraqi invasion and subsequent abuses has resulted in between 300,000 and 400,000 Kuwaitis becoming refugees and caused the displacement of hundreds of thousands of others who made Kuwait their home.**

*** Collective punishment has been meted out in response to individual acts of resistance. Houses have been methodically burned, or deliberately destroyed by tank fire or explosives. Relatives of suspects and wanted public figures have been detained and tortured to extract information about their relatives.**

*** All Kuwait's public hospitals -- which constitute the overwhelming majority of health care facilities -- and some of its private clinics have been taken over by the Iraqi military, making access difficult for Kuwaitis, and next to impossible for victims of official abuse. A number of physicians, a hospital**

administrator, and several medical volunteers were executed on suspicion of helping the resistance. Medical equipment and drugs have been seized and shipped to Iraq in large quantities. There are severe shortages of drugs, including insulin, vaccines, asthma shots, kidney dialysis liquids, blood plasma, pain killers, and drugs for heart attacks and high blood pressure. Deterioration of health care, which has been further aggravated by the flight of most medical personnel, has contributed to the flight of many Kuwaitis to neighboring countries, and to the death of patients for whom the health care system could no longer provide adequate help, including newly born infants.

*** Kuwaiti food stocks have been seized and shipped to Iraq, leading to severe shortages of food, including baby formula. Shortly after the invasion, at least one large commercial bakery is known to have been dismantled and its components shipped to Iraq. Food cooperatives, which are completely owned by Kuwaiti citizens, were taken over by Iraqi administrators, leading to credible charges of discrimination against Kuwaitis. The manager of one food coop and a volunteer at another were summarily executed. Many other volunteers have been detained, some of whom have died while in Iraqi government custody.**

*** Free assembly and expression have been banned by Iraq and those found with illegal leaflets are killed or otherwise severely punished. Only one newspaper, al-Nida', a newly created mouthpiece for the occupation, is allowed to publish. Occupation authorities have taken control of the University of Kuwait campuses, replacing its top administrations and deans with Iraqis and seizing its equipment.**

*** Kuwaiti public property has been seized and shipped to Iraq. There has been large-scale, systematic and officially sanctioned appropriation of property belonging to Kuwaiti government institutions, including means of transportation, office furniture, school and medical equipment, goods in port warehouses, in addition to military and aviation hardware. Private property has been seized by the Iraqi government or looted. Robbery by soldiers and looting have been so extensive and wide-spread that they could only be taking place with official sanction, or else be the result of gross negligence by the military authorities.**

*** Although the Kuwaiti dinar was worth three Iraqi dinars, Iraq decreed parity between the two**

currencies and then declared the Kuwaiti dinar unacceptable tender. All bank accounts were figured according to the new formula, drastically reducing their value.

Middle East Watch takes this opportunity to again call upon the Iraqi Government to grant the United Nations and international humanitarian organizations immediate access to Kuwait to monitor conditions in the country and to provide humanitarian assistance to those in need; to immediately stop summary executions and to provide an accounting of all those killed by Iraqi forces in this manner, and to punish those responsible; to stop the torture and ill treatment of detainees, and to punish those found guilty of prisoner abuse; to provide a complete accounting of all those who have been arrested since the beginning of the invasion, including their names and location, and the charges against them, and allow visits by families and lawyers to detainees; to release at once all those detainees against whom there is no evidence of criminal activity, (particularly, detainees from health care institutions and food-distribution committees should be released, to resume their humanitarian and nonviolent functions in light of the urgent need created by the absence of any other civilian administration); to stop collective punishment against neighbors and relatives of suspects; to safeguard hospitals, make their services available to all in need, and keep the health care system adequately functioning; to safeguard food reserves in Kuwait, ensure adequate food supplies for all residents, irrespective of their nationality, and stop interfering with the existing food-distribution system; to stop confiscating private property in Kuwait, return property illegally requisitioned, and provide the population of Kuwait with protection against illegal seizure of their property by Iraqi troops and others; to allow free travel to and from Kuwait to citizens and legal residents.

Human Rights in Iraq: Information provided by human rights groups today about Iraqi human rights violations in Kuwait are receiving a great deal of attention from the Bush Administration, and indeed the President himself. We regret that similar attention was not paid to Iraq's well-known record of gross abuses of human rights when the United States was in a position to influence the situation.

Six months before the invasion, Middle East Watch released a full-length report on human rights in

Iraq. We found a consistent pattern of gross violations of internationally recognized human rights, including political imprisonment, torture, political executions, and suppression of all independent civilian institutions by a ubiquitous network of security services and spies who terrorized the Iraqi population into virtual silence. The estimated number of political prisoners was thought to be in the thousands, though no accurate number was possible to obtain because of the lack of access to Iraqi prisoners by human rights groups and humanitarian organizations. Torture techniques included hangings, beatings, rape, and burnings. Hundreds of Iraqi political detainees died under torture, including a number of Kurdish children detained in the mid-1980s. Among the most egregious of abuses by the Iraqi authorities was the destruction of thousands of Kurdish villages and the forcible relocation of their inhabitants, and the gassing of thousands of Kurdish civilians in 1988.

The Bush Administration and the Reagan Administration before it, did not choose to exercise the leverage that the United States possessed. In particular, the Reagan Administration, with the exception of an initial condemnation by Secretary Schultz, was largely silent on the question of the gassing of the Iraqi Kurds in 1988. The executive branch vigorously promoted an extensive program of credits and loan guarantees under the auspices of the commodity credit program and the Export-Import Bank. And the Bush Administration fought efforts in this Committee to condemn the Iraqi government as a "gross violator of internationally recognized human rights."

A notable exception to this policy was the State Department's Human Rights Bureau, which offered sober and realistic testimony before the Senate Foreign Relations Committee last June. Deputy Assistant Secretary Josh Gilder stated that "Human rights as such are not recognized in Iraq. As our report details, the ordinary Iraqi citizen knows no personal security against government violence. Disappearances, followed by executions, appear to be common... We believe that over the past ten years many thousands to tens of thousands ... have been arrested by the secret police on suspicion of opposition to the government." Unfortunately, the US representatives to the UN Human Rights Commission and other fora did not adopt this forthright tone and did not effectively push for public condemnation of Iraq.

The United States's position of providing benefits to the Iraqi regime and the soft pedalling of abuses by some in the Administration was a foreign policy disgrace. This performance did nothing to discourage Saddam Hussein from thinking that the United States would oppose his performance in Kuwait, since it had done little to protest his performance at home.

Human Rights in Kuwait Prior to the Iraqi Invasion: The human rights situation in Kuwait prior to the invasion was not a good one. The National Assembly (dissolved by the Emir of Kuwait in 1986, during the Iran-Iraq war, citing concerns that national security was being compromised by open debate) remained dissolved in 1990, although the war ended in 1988. The ruling al-Sabah family continued in 1990 to resist calls to restore parliamentary rule and to relax the severe restrictions imposed on constitutionally guaranteed freedom of expression and assembly. It continued to rule by decree, to tolerate torture, and to permit the secret trial of security cases by special tribunals whose decisions were not subject to appeal.¹

The beginning of 1990 witnessed intensified calls for the restoration of the National Assembly. When the Emir had dissolved the Assembly, he had also suspended some key provisions of the 1962 Kuwaiti Constitution, including Article 107, which stipulates that when the Assembly is dissolved, elections for a new Assembly must be held within two months. Otherwise, the article mandates, "the dissolved Assembly shall be restored to its full constitutional authority and shall meet immediately as if the dissolution had not taken place. The Assembly shall then continue functioning until the new Assembly is elected." Free of Article 107's constraints, the government took full advantage of Article 71, which allows the government to rule by decree "if the National Assembly is not in session or is dissolved," provided that decrees are not contrary to the Constitution. Opposition members maintained that suspension of Article 107 was unconstitutional, as were government decrees banning or severely restricting free speech and

¹Although the August 2 Iraqi invasion eliminated the Kuwaiti government's power to continue many of these practices, it did not lead to any willingness on the part of the Emir and his government-in-exile to give unequivocal commitments of reform should Kuwait be liberated.

assembly.

A major source of discontent were restrictions on press freedom, which are formally guaranteed by Article 37 of the Constitution. Since radio and television were owned by the state and usually reflected only government views, Kuwaiti newspapers and the foreign media were the only sources of independent information. Kuwaiti newspapers were privately owned and enjoyed more freedom than in any of the surrounding countries. Once the National Assembly was dissolved, the government enacted a law giving itself the authority to close a newspaper for up to two years or to revoke its license. It also subjected newspapers to a system of strict prior censorship, with prison penalties of up to three years and fines of up to five thousand Kuwaiti dinars (\$17,150) for violators. Prior censorship of newspapers continued in 1990, with a Ministry of Information censor placed in every newspaper office. Censorship also extended to foreign publications. Two Jordanian newspapers, *al-Ra'y* and *al-Dustur*, were banned in January for reporting on the campaign in Kuwait to restore the National Assembly. Gulf Cooperation Council (GCC)² agreements ratified by Kuwait after the National Assembly was dissolved added more restrictions on the Kuwaiti press by banning from all GCC countries publications critical of any member state.

Although Article 44 of the Constitution gives individuals "the right to assemble without permit or prior notification," Law 31 of 1970 subjects to fines and imprisonment "anyone who participates in a mass gathering of at least five people in a public place with the intention of disturbing public safety and who remains assembled after an order by public authorities to disperse is issued." Through a liberal interpretation of the law, the government banned all public assembly, and on January 9, 1990, banned any meeting that discusses "concrete national issues," including those at *diwaniyyas*, the traditional Kuwaiti semi-public living rooms. It threatened legal action against violators.

Despite the government practice of forcibly dispersing them, peaceful public meetings calling for restoration of parliamentary rule continued to be held in 1990. On January 8, two thousand people

²The GCC is made up of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

peacefully assembled in al-Jahra to hear speeches by former members of the National Assembly; they were disrupted by security forces who beat some, including Ahmed al-Shrai'an, a 70-year-old former member of the Assembly. On January 22, another peaceful assembly was forcibly dispersed by the police and ten were arrested; they were released two weeks later without charges having been filed.

Calls to restore democracy continued, and on April 22, the government announced plans to form a 75-member National Council: 25 to be appointed by the Emir and 50 to be chosen in an election to be held in June. The powers and role of the National Council, as outlined in the royal decree, were strictly limited. One of its purposes, according to Crown Prince and Prime Minister Shaikh Saad, was to propose "limitations of freedom," since "an excess of freedom turns into anarchy." Despite promises by the government that the new National Council would not replace the dissolved National Assembly, a May 13 decree by the Emir designated the National Assembly Building as the venue for the new Council, giving credence to opposition fears.

On May 5, twenty-six former members of the National Assembly announced that they would boycott the elections as unconstitutional. On May 7, Ahmed al-Baqer, a former member of the Assembly, and a companion were arrested for distributing leaflets critical of the proposed National Council. The following day, security forces forcibly dispersed a *diwaniyya* meeting assembled to hear Dr. Ahmed al-Khatib, another former member of the Assembly. Eight people were arrested, including Dr. al-Khatib and other former members of the Assembly who were in attendance. Other former members were arrested when security forces dispersed further peaceful meetings on May 14 and 16. They were all released on bail and received a royal pardon without being charged or convicted.

National Council elections took place without incident on June 10. Under the Kuwaiti system of limited male franchise, only 62,123 were eligible to vote -- equivalent to eight percent of all citizens, or three percent of the total population of about two million. Sixty-two percent of this small electorate -- 38,683 men -- took part in the election. Some members won with as few as 150 votes.

A longstanding campaign by the Kuwaiti government against Shi'a community activists continued

in 1990. Following bomb attacks that left one man dead during the annual Muslim pilgrimage in July 1989, Saudi Arabia arrested hundreds of Shi'a pilgrims, including many Kuwaitis; sixteen Kuwaiti nationals were later executed in Saudi Arabia, on September 21. In protest, Kuwaiti Shi'as demonstrated in Kuwait demanding the return of the bodies of those killed and family visits for those still in detention. The Kuwaiti government responded by arresting more than 20 Shi'a leaders in September and November. Seyed Muhammed Baqer al-Musawi, a religious leader, was arrested, charged with planning terrorist acts and held incommunicado for most of his time in jail from September 23, 1989 until he was acquitted -- with three other defendants -- by a state security court on June 18, 1990. There were credible reports that the four were subjected to torture and ill-treatment by the State Security Intelligence Service before their subsequent release.

Thirteen more Shi'a leaders were arrested on February 14 and 18, and released on bail on March 3, without being formally charged with any crime. Detainees included relatives of the sixteen Kuwaitis executed in Saudi Arabia and two members of the dissolved National Assembly: Hassan Habib al-Salman and Abdel Muhsen Jamal.

In September 1989, the government dissolved the board of directors of the Social and Cultural Association -- the only officially sanctioned philanthropic Shi'a society in Kuwait. Its deputy director, Khalil Musa al-Musa, was later arrested, on November 13, 1989, and detained for a month without charge, then rearrested in February 1990 and released in March on bail, again without ever being charged with a crime.

Concerns of the Kuwaiti Opposition in Exile About Kuwaiti Democracy: Despite the depressing human rights situation in Kuwait at the time of the invasion, it is important to note that Kuwait had a fervent and informed opposition movement seeking the most basic of democratic reforms for their country. Discussion of political participation and constitutional rights were flourishing in Kuwait up until the invasion. In view of the fact that the previous government of Kuwait is likely to be restored to power at some point in the future, it is important for US policy makers to be attentive to the democratic aspirations of the Kuwaiti people. It should be a goal of US policy when Kuwaiti authority has been restored, to

encourage democratization and political participation, as the US does elsewhere in the world. Specifically, the US should be pressing for an end to restrictions on freedom of assembly and expression, and for a widening of the present highly restrictive franchise, to include all Kuwaiti citizens, men and women.³

The Constitutional Movement, which includes 32 former members of the National Assembly, and the Committee of Forty-Five, a group of Kuwaiti business leaders, intellectuals, professors and former members of the National Assembly has led the movement for democratization both before and after the invasion. These groups have challenged restrictions on basic freedoms and the failure to reinstate the National Assembly.

The Kuwaiti opposition, while rejecting all of Iraq's claims in Kuwait and strongly resisting its attempts to divide Kuwaitis, nevertheless voiced its criticism of the way in which the government has handled the present crisis. Partly in response to these criticisms, the Kuwaiti government-in-exile called for a popular conference to be held in Jeddah, Saudi Arabia, between October 13 and 16. It was attended by 1,200 Kuwaitis from all walks of life. At the conference, the opposition reaffirmed its loyalty to the al-Sabahs as the legitimate rulers of the country, and stated that national liberation was the primary and most urgent national task. At the same time, the opposition has called for democratic reforms to begin now, including restoration of the 1962 Constitution and the 1986 National Assembly. They have also called for an expanded national-unity coalition government -- accountable to the reconvened National Assembly -- to formulate an effective policy to liberate Kuwait and to help Kuwaiti refugees.

The opposition program enjoyed wide support, even among religious groups and senior government officials. In his opening speech on the first day of the conference, the Crown Prince said that, after liberation, "guided by the Constitution of 1962, Kuwait will take the necessary measures to consolidate democracy and allow for more extensive participation on the part of the masses." This was

³Some opportunity for citizenship should also be considered for long-term Kuwaiti residents, at present denied any opportunity of gaining citizenship. Before the invasion, such persons constituted over one third of Kuwait's two million population.

one of the few concessions that the government made to the opposition, though it was not delivered in terms as strong as the opposition would have wanted. In the same speech, however, the Crown Prince argued that the critical situation in Kuwait precluded open debate and democratic reform, making clear that these would have to await liberation. The government-in-exile apparently continues to oppose the key demand of the opposition: the restoration of the National Assembly, a body which had briefly played its proper role of acting as a check on the executive.

While no opposition member was allowed to address the conference, Abdel Aziz al-Saqr, chairman of the Kuwait Chamber of Commerce and a former speaker of the National Assembly, said that popular participation based on freedom of dialogue and majority rule was fundamental for the remaking of Kuwait. Popular participation, he said, was clearly enshrined in the Constitution, which also separates the three branches of government and limits their powers. He also said that "a free Kuwaiti press is a prerequisite for dialogue, to play the important role of a true medium between the people and the government, to oversee the execution of policy and to express the message of a free Kuwait to the world." In a symbolic gesture, the government accepted that al-Saqr's speech would be considered an official document of the conference.

In the final communiqué, the conference affirmed the leadership of the al-Sabah family. In its only reference to the Constitution, it also said that Kuwaiti society, after liberation, would be based on "our national unity and legitimate system that we have chosen and accepted, strengthened by consultation, democracy and popular participation and guided by our 1962 Constitution." Many, though not all in the opposition, were disappointed by the government's subordination of democratic concerns.

The Bush Administration has not associated itself with opposition calls for democratization of the Kuwaiti government-in-exile. In a televised interview with David Frost taped on December 16, President Bush was asked about US support for democratic reform in Kuwait once the nation was liberated. The President responded by noting US support for democracy generally, but carefully avoided any critical reference to Kuwait. He then dismissed the issue, noting that none of the countries in the region were a

democracy, and stating that the real issue was Iraqi aggression.

The Impact of the Invasion on US Human Rights Policy: It is unfortunate that in its effort to enlist international support for United States policy in the Gulf, the Bush Administration has minimized human rights concerns in some of the countries it is courting. We regret, for example, the new cozy relationship with Syria. After 13 years in which no US President would shake his hand, Hafez al-Asad won a personal audience with President Bush for Syria's contribution of a small military force to combat its long-time enemy. Not a word was publicly uttered about human rights. I might also note that when Syrian soldiers in Lebanon and their Lebanese militia allies captured and murdered in captivity about 240 Lebanese civilians and soldiers on October 13 and 14, there was no word of public protest over this shocking violation of the Geneva Conventions.

The US has been similarly silent about Saudi violations. For example, no word of public protest was uttered when Saudi Arabia summarily and arbitrarily changed the conditions of residence of Yemeni guest workers, in the wake of Yemen's announced support for Iraq, forcing as many as 750,000 to return home. Many were maltreated by Saudi officials after the announcement by Riyadh.

The US has even participated in restrictions on freedom of expression by censoring the material which US servicemen and women can receive. US acceptance of Saudi Arabia's extreme restrictions on the press sends a very poor signal indeed to that country and others about what our country stands for.

Similarly, the US has been largely silent about a stepping of up Turkish abuses against its own Kurdish population, including the burning of Kurdish villages and forcing of villagers into military service as guards against a Kurdish guerrilla organization, the Turkish Workers Party (PKK.)

Even Ethiopia, a regime which has long been anathema to the US received a boost when Secretary Baker met twice with its Foreign Minister. These meetings, the first such high level meetings in 17 years, were apparently in response to Mengistu's strong anti-Iraq posture.

Perhaps the biggest beneficiary of this policy of downgrading human rights considerations has been China. In a death blow to the US policy of limiting high level contacts with China, Chinese Foreign

Minister Qian Qichen met with Secretary Baker in November in Cairo, and was invited to Washington to meet with Secretary Baker and President Bush in late November. No mention was made about China's announcement of its intention to charge and try two pro-democracy activists for treason. This formal ending of the limit on high-level contacts, put in place due to outrage over Tiananmen Square, was clearly a reward for China's abstention at the Security Council on a critical resolution related to the Gulf crisis.

Middle East Watch does not take a position on U.S. policies outside the issues of human rights, and we do not take a position on the use of US force against Iraq. We do wish to express our regret, however, at the United States's sacrificing of human rights concerns in its efforts to obtain international support for other foreign policy goals.

Thank you.