

## **KUWAIT**

### **CLOSES ALL HUMAN RIGHTS ORGANIZATIONS**

#### **SUMMARY**

**On August 6, the Kuwaiti government ordered the dissolution of all unlicensed organizations. Especially targeted were groups following the fate of Kuwaitis disappeared during the Iraqi occupation and believed held in Iraq, as well as human rights groups, including the Kuwaiti Association to Defend War Victims (KADWV), Kuwait's main human rights organization.**

**Despite loud protests in Kuwait, the government has reaffirmed its intention to implement the ban by use of force if necessary. Under a 1988 law adopted without parliamentary approval, the ban is final and not subject to judicial review.**

**The closure is a clear violation of the universally recognized right of free peaceful association, a principle enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Denial of an opportunity to appeal the ban before the courts is a violation of the right to due process of law.**

**The ban violates a National Assembly resolution adopted last December to legalize and support private organizations working on the issue of the disappeared -- a resolution which the government last February agreed to implement.**

**Most immediately affected by the closure are families of the disappeared Kuwaitis. So are victims of human rights abuses committed since the liberation of Kuwait in February 1991, including families of those killed or disappeared, and prisoners tortured and mistreated. Detainees in Kuwaiti prisons will also be affected. Women, Bedoons and naturalized citizens -- all disenfranchised by Kuwaiti law -- will also lose their main advocates.**

**The decision is a serious reversal of the significant steps that Kuwait has taken towards restoration of democracy since its liberation.**

**Despite repeated denials by government officials, it is evident that the closure was intended to preserve the government's monopoly over human rights and humanitarian efforts. Private organizations have succeeded in upstaging official bodies in dealing with the issue of disappeared Kuwaitis. They have also regularly pressed the government and the National Assembly to address specific human rights issues, including prison conditions, discrimination against the Bedoons and the denial of political rights to**

women and naturalized citizens. They also provided humanitarian assistance and legal advice to security and political prisoners.

Although the Parliament as a whole has not taken a position on the closure, its committee on the disappeared has rejected the Cabinet's decision and on August 17 resigned in protest.

The closure puts an end to the pioneering work that Kuwaiti human rights advocates have played in the region. It brings Kuwait in line with its more authoritarian neighbors, all of whom ban human rights activity.

## **RECOMMENDATIONS**

Middle East Watch calls on the Kuwaiti government to reverse its decision banning all unlicensed private associations. In particular, the following human rights and humanitarian organizations should be permitted to operate unimpeded:

- Kuwaiti Association to Defend War Victims,
- Kuwaiti Association for Human Rights,
- League of Families of POWs and the Missing,
- Mutual Assistance Fund for the Families of the Martyrs and POWs,
- Popular Committee for Solidarity with POWs, and
- Pro-Democracy Committee.

We urge the Kuwaiti government to amend the Law of Public Interest Associations, to permit peaceful associations to function unhindered. The law should also be amended so that restrictions on the activities of associations are subject to judicial review.

The 1985 moratorium on the formation of new associations should also be lifted immediately.

Middle East Watch calls on the U.S. government, which enjoys enormous respect and good will in Kuwait, to take a public stand urging the Kuwaiti government to permit the unhindered operation of peaceful associations and to rescind its order to close down human rights and humanitarian organizations.

## **THE CRACKDOWN ON UNLICENSED PRIVATE ORGANIZATIONS**

On August 6, Kuwait's Council of Ministers announced a decree dissolving all unlicensed organizations, which affected all those groups engaged in human rights and humanitarian activities. Most were formed since the liberation of Kuwait in 1991 but have not been formally legalized despite their repeated requests. Although the order was directed at all unlicensed organizations, in justifying it government officials cited only human rights and humanitarian organizations, especially those working on

**the issue of the disappeared. The government has singled out a number of these organizations with criticism and threats of closure.**

**On August 11, in response to strong protests by families of Kuwaitis missing and believed held in Iraq, Jassem Muhammed al-`Aoun, Minister of Social Affairs and Labor, reaffirmed the decision of the Council of Ministers, which he described in a statement to KUNA, the official news agency, as "final and irreversible." He said that he intended to carry it out faithfully by closing down all unlicensed organizations, "especially those dealing with issues related to the fate of those missing, disappeared or detained in Iraq. Despite the fact that they undertake humanitarian work, we have to close them down because they are illegal. It is important to liquidate and dissolve all these organizations, and prevent them from operating any longer." He stressed that, "the main and real reason for the decision is their violation of the law. The law must be applied to all, whether individuals or groups." The Minister also asserted that the objectives for which these organizations were formed had long been satisfied and that "in any case, their work has been very modest." This characterization is of course in dispute. The private associations, including KADWV and the League of Families of POWs and the Missing, have pointed out that the government itself has been dilatory and passive in seeking the release of disappeared Kuwaitis.**

**On August 15, commenting on a meeting of some 500 supporters of the KADWV who protested the closure, Minister al-`Aoun announced that he had contacted the Ministry of Interior to ensure that future meetings of unlicensed organizations would be physically prevented from taking place. Although no meetings have been forcibly dispersed since the ban, gatherings organized by some of these organizations have been subjected to close surveillance by security forces, according to eyewitnesses.**

**On August 16, in further assertion of the new policy, the Minister told the Kuwaiti News Agency (KUNA) that he intended to discipline Dr. `Issa al-Sa`di, director of Juvenile Welfare at the Ministry, for hosting a seminar in which a representative of KADWV was invited to participate. He stated that, although the seminar had been scheduled before the ban on KADWV was announced, Dr. al-Sa`di's action violated the government order. The Minister referred Dr. al-Sa`di to Administrative Investigation for "violating the Ministry's regulations which ban dealing with unlicensed organizations," in this case by hosting a seminar to which Dr. Ghanem al-Najjar, chairman of KADWV, was invited. The Minister described the event as provocative and "a deliberate political move to embarrass the Ministry of Social Affairs and Labor."**

## **Effects of the Closure**

**The Kuwaiti government has notified all unlicensed associations to cease operation. It has indicated that force will be used in the future to disperse meetings of these organizations. Although the order was directed at all unlicensed organizations, in justifying it government officials cited only human rights and humanitarian organizations, especially those working on the issue of the disappeared. Over the past two years, the government has singled out a number of these organizations, especially KADWV, with criticism and threats of closure. Among the groups affected by the ban are the Kuwaiti Association to Defend War Victims, Kuwaiti Association for Human Rights, League of Families of POWs and the Missing, Mutual Assistance Fund for the Families of the Martyrs and POWs, Popular Committee for Solidarity with POWs, Pro-Democracy Committee, Supporters of Single Citizenship Committee, and the Women Married to Non-Kuwaitis Support Association.**

**When the ban includes groups engaged in monitoring human rights violations, its harmful effects are multiplied. The closure deprives victims of human rights abuse and other vulnerable members of society of a viable mechanism to help them exercise their rights and seek redress from government officials, the courts and international organizations.**

**The families of 850 Kuwaitis and others who disappeared during the Iraqi occupation – many believed to be still detained in Iraq – will be most immediately affected by the closure of these organizations. So will victims of human rights abuses committed since the liberation of Kuwait in February 1991. Families of those killed or disappeared, as well as prisoners tortured and mistreated lose a powerful ally when human rights organizations are banned. Detainees in Kuwaiti prisons will also be affected by the absence of the organizations that have provided them with legal aid and humanitarian assistance. Women, Bedoons and naturalized citizens – all disenfranchised by Kuwaiti restrictive election and citizenship laws will also lose their main advocates.**

**The decision is also a reversal of the significant steps that Kuwait has taken towards restoration of democracy since its liberation. Last October, more than six years after Shaikh Jaber al-Ahmad al-Sabah, the Emir of Kuwait, dissolved the National Assembly, Kuwait's elected a new parliament. During the forced absence of the parliament, the Emir and the cabinet ruled by decree. Several laws were amended to restrict civil and political rights. In 1986, the year National Assembly was dissolved, the press laws were amended by decree to introduce prepublication censorship and give the minister of information wide authority to close down publications. Similarly, in 1988, the Law of Public Interest Associations of 1962 was amended to give the government the power to dissolve organizations for any reason without judicial review.**

**In October 1992, elections for the National Assembly were held after the Kuwaiti government had bowed to great internal and external pressures to restore parliamentary rule. Despite the limited franchise – less than twelve percent of the native population was eligible to vote – the elections were a welcome indication of the government's willingness to establish the rule of law. Soon after the election, the National Assembly formed a human rights committee which has conducted important investigations and held hearings regarding the ill-treatment of security prisoners and the poor conditions at a detention center for those facing deportation.**

**The activities of the Human Rights Committee of the National Assembly are in sharp contrast to the approach towards human rights that the Kuwaiti government has adopted since liberation. Immediately following the liberation of Kuwait, the government looked the other way as its forces and groups closely allied with them violated the human rights of Kuwait's residents and citizens alike. Since then, it has failed to prosecute fully those officials implicated in the abuse. By closing down human rights organization, voices calling for accountability for all human rights abuses will therefore be further weakened or altogether stifled.**

**If the Kuwaiti government prevails in banning human rights organizations, it will put an end to the pioneering work that Kuwaiti human rights advocates have played in the region. The closure brings Kuwait in line with its more authoritarian neighbors which also ban any kind of human rights monitoring.**

**The Kuwaiti government's action is especially remarkable in light of the great role concern for human rights played in rallying international support to liberate Kuwait from the Iraqi occupation. Closing**

**down human rights organizations brings into question the Kuwaiti government's stated commitment to the rule of law. It may also jeopardize international and Kuwaiti efforts on behalf of those who disappeared during the Iraqi occupation.**

### **REASONS BEHIND THE CLOSURE**

**To justify the closure, Kuwaiti officials have cited the need to uphold the law, pointing out that the targeted organizations are all unlicensed. However, most of these organizations have long applied unsuccessfully for legalization. The government has failed to act on their applications, utilizing a moratorium it imposed on new organizations in 1985. Since it is clear that the main targets of the ban are human rights and humanitarian groups, the real reason lies in the nature of their work, much of it has clearly embarrassed the government. The work of these organizations has brought to attention the failures of the Kuwaiti government in its dealing with the disappeared Kuwaitis and other human rights issues.**

**The government's justification is based on an amendment to the Law of Public Interest Associations No. 24 of 1962. In 1988, during the time the National Assembly was dissolved, the cabinet adopted an amendment that gave the executive branch complete authority over the licensing of associations. The amendment ruled out judicial review of government decisions on withholding licenses. Earlier, in 1985, the Cabinet had placed a moratorium on licensing any new organizations. The few exceptions to the moratorium have been organizations sponsored by members of the royal family or their associates. For example, the Women Volunteer Association, headed by Shaikha Latifa, the wife of Shaikh Sa`ad Abdalla al-Salem, the Crown Prince and Prime Minister, was legalized in 1991.**

**The Law of Public Interest Associations, as amended, bans private groups from undertaking any activity before securing approval of their formation from the Minister of Social Affairs and Labor. In order to get approval, an association is required to submit the names of all of its founders to the Ministry of Interior and secure the Ministry's certification that it does not "object to any of the founders." The association must then submit the names of the approved founders, together with those of the board of directors and copies of its charter and bylaws to the Ministry of Social Affairs and Labor.**

**The law gives the Minister of Social Affairs the authority to reject requests to establish an association, or exercise an effective veto through inaction. The Minister may reject the application for any reason, according to the law, "provided that he notify the founders of his decision within ninety days of the date the application is submitted." Through another amendment, even that notification is waived: The Minister may reject the application simply through failing to act on it within the ninety days. According to Article 9, "If the period of ninety days expires before the Minister issues a decision, this should be considered as a rejection of the application."**

**Although an association whose application is rejected may appeal the Minister's decision to the Cabinet as a whole, there is no judicial appeal. The Law, as amended, expressly denies the founders of an association any recourse before the courts if their application is rejected: "No judicial appeal of any kind is permitted of the Minister's decision," states Article 9.**

**Government denials notwithstanding, it is evident that the government targeted private human rights and humanitarian organizations to put an end to their efforts, which have brought to light the**

**inadequacy of work undertaken by government agencies on behalf of the disappeared Kuwaitis and other victims of human rights abuses. Private organizations have succeeded in upstaging official bodies in dealing with the issue of disappeared Kuwaitis. A number of them pressed the government and the National Assembly to address specific human rights issues, including prison conditions, the treatment of the Bedoons and denial of political rights to most Kuwaiti citizens including the right of women and naturalized citizens to vote. They also provided humanitarian assistance and legal advice to security and political prisoners. Efforts by Kuwaiti human rights advocates contributed to the formation in the National Assembly of a human rights committee that enjoys wide support among Kuwaiti legislators. Although less than ten months old, the Parliament's Human Rights Committee has conducted important investigations of human rights conditions in Kuwait.**

**On December 15, 1992, the National Assembly adopted the recommendations of its Committee on the POWs and Hostages. It urged the government to:**

- 1. Provide financial support to the popular associations working on behalf of POWs, to enable them to carry out their noble mission.**
- 2. Legalize those organizations according to the Law of Public Interest Associations.**

**In its February 18 response to the Parliament's decision, the government appeared to agree with the Assembly. Although it voiced concern that NGOs may complicate the government's work abroad on behalf of the disappeared, especially with the U.N. Security Council, which has included the issue in resolutions it has adopted against Iraq, the Cabinet's letter nevertheless expressed its appreciation of "the great and sincere efforts of the private associations to secure the release of POWs and hostages, as we believe that this is a national cause of concern to both official and unofficial bodies." The government also undertook to consult closely "with the families of POWs and the missing and with all concerned parties." There were numerous meetings between the government and representatives of NGOs to coordinate their efforts.**

**In late July and early August, the Council of Ministers discussed the activities of human rights and humanitarian groups. In particular, the Council debated the need to curb those organizations which had held meetings or issued statements critical of the government's handling of the issue of the disappeared and detained Kuwaitis. Since most of those organizations were unlicensed and the Law of Public Interest Associations gives the executive full discretion over licensing, the Council moved to close them down, taking advantage of splits over the issue among political groups represented in the National Assembly. The timing coincided with criticism in the Kuwaiti press, some believed to be inspired by the government, of attempts by some of these organizations to enlist the help of the PLO, Jordan, Sudan and Tunisia in securing the release of missing Kuwaitis.**

**Although the National Assembly has taken several decisions in support of the private organizations active in human rights and humanitarian areas, there were recently disagreements over some of those organizations. For example, liberal lawmakers called for strict regulation of fundraising activities of Islamic charities. During the debate over the budget and fundraising activities of Bait al-Zakat, a major religious charity, deputies proposed that religious charities be required to register just as other private nonreligious groups are. Islamist deputies believed that this proposal was meant to restrict the fundraising capacity of their political grouping which rely on religious charities for their activities and**

political organization.

In addition, the closure may be seen as part of an attempt by the government to reassert its influence vis a vis the opposition in and out of the National Assembly. It is also a sign that divisions among the opposition groups – especially between Islamist and secular lawmakers – can be exploited to provide support to a clearly nondemocratic move, such as the closure of peaceful humanitarian groups.

In an August 11 statement distributed by KUNA, the Minister of Social Affairs described as baseless accusations that the reasons for the closure have been narrow political interests or these organizations' competition with government agencies: "The government supports popular work through those licensed public interest organizations which the government supports financially and morally and provides with all their needs and requests. But when work is chaotic and outside the law, we will undoubtedly move against it. The licensing procedure is governed by the high interest of the nation, not personal conflict. The government has no vendetta against any person in particular. Our conflict is with those who do not obey the law."

Since most secular deputies supported human rights and humanitarian associations, the government was able to enlist the support of a number of religious deputies for its decision, persuading them that these organizations support only secular members of Parliament. Some Islamist lawmakers joined the government's traditional supporters in the Parliament in supporting the ban. Jassem al-Aoun, the Minister of Social Affairs, who is spearheading the government's campaign against unlicensed organizations, is himself a deputy who represents *al-Salaf*, one of the main Islamist coalitions in Parliament. Other Islamist deputies have rejected the government's argument. For example, Mubarak al-Duwaila, an Islamist parliamentary leader, has strongly criticized the closure. As chairman of the Parliament's Committee on the POWs and Hostages, he resigned in protest, when the full parliament failed to join in his Committee's opposition to the closure.

However, the Minister betrayed his own political interest when he commented in the same statement on the motives of those opposed to the closure. He referred to a recent parliamentary discussion of activities of *Bait al-Zakat*, an Islamist charity, during which secular deputies, notably Dr. Ahmad al-Khatib, called for the strict supervision of fundraising activities of unlicensed groups. Recalling that some deputies had called for closing some of those charities, the minister said, "In our judgment, charities and volunteer organization should be treated the same way. Why should charities be closed and not the other private organizations which they would like to see continue despite their illegality because they agree with their objectives and leanings."

One of the most contentious issues between the government and the private associations has been over work outside Kuwait on behalf of the disappeared. The Kuwaiti government has consistently rejected suggestions that it deal directly with the Iraqi government or enlist the help of powers close to the Iraqi government, such as the PLO or Jordan. Private organizations, especially KADWV and the League of Families of POWs and the Missing, have taken a different approach. The two organizations have recently stated that when it became clear to them that enthusiasm in the West for the cause of Kuwaiti POWs had not sufficient in securing their release, they started to make contacts with what is labeled in Kuwait as the "anti-Kuwait camp" states – a reference to their governments' positions during the Iraqi occupation. The KADWV and the League have repeatedly emphasized that their humanitarian efforts had no connection to attempts to restore diplomatic relations with those states. Families have also accused the government

that "initiatives by Gulf governments and others to release Kuwaiti detainees are being ignored by the government," according to a statement they published in *al-Watan* on August 17.

The government went to considerable lengths to discredit the work of groups working on behalf of the disappeared Kuwaitis. It took advantage of criticism in Kuwait of tactics used by some of those organizations in mobilizing international help to secure the disappeared Kuwaiti, including contacts they made with PLO officials and meetings they held in Sudan and Jordan. On August 16, to dispel these accusations, a meeting was held at the Graduates Association by a number of associations affected by the ban. At the end of the meeting, the conference sent a letter to Ahmad al-Sa'doun, the speaker of the National Assembly, asking that the Parliament end its silence over the government's decision. The letter also refuted allegations against officers of the closed organizations about their work on behalf of the disappeared Kuwaitis.

The letter to the parliament discussed two examples of disinformation which government supporters used to discredit private association. One was an item from the May 27 issue of *al-Quds al-Arabi*, copies of which were widely distributed in the Kuwaiti Parliament. The Palestinian daily, which is known for its critical coverage of Kuwait, reported that a Palestinian-Kuwaiti-Jordanian committee had been formed, including in its membership Dr. Ghanem al-Najjar, the KADWV chairman and a member of the executive bureau of the Popular Committee for Solidarity with POWs and the Missing. The August 16 letter to the National Assembly Speaker denied that either the Popular Committee or Dr. al-Najjar had any connection with such a body.

The second example used to discredit the popular organizations was a statement, also widely distributed in Kuwait, announcing the formation in Jordan of a Palestinian-Jordanian committee aiming at "securing the release of Kuwaiti POWs and those Jordanians and Palestinians who were duped to work with the Iraqis." This committee also planned to "work to secure the payment of back wages and other rights owed to workers" formerly employed in Kuwait. It named as possible members several Kuwaitis prominent in human rights and humanitarian work. But the letter to the Parliament denied any basis to the claim that those named Kuwaitis had been involved in that venture and cast doubts about the aims of those spreading these obviously false statements.

## **Reaction to the Closure**

The government's decision appears inconsistent with the National Assembly's resolution of December 1992 urging it to legalize and support private organizations working on the issue of the disappeared. The closure also contradicts a promise that the government conveyed last February to the Parliament to comply with the resolution. When the National Assembly's Committee on POWs and the Hostages submitted its resignation on August 17, it cited these contradictions as grounds for opposing the government's action. The resignation letter decried the unilateral nature of the Cabinet's decision which was taken without consultation with leaders of the parliament or committee members.

Since the government's decision was based on a 1988 amendment of the 1962 Law of Public Interest Associations that was passed by decree without parliamentary approval, the National Assembly may also challenge the Cabinet's decision on constitutional grounds, as some lawmakers have indicated they would do.



Although the Parliament as a whole has yet to take a position on the closure, its committee on the disappeared has rejected the cabinet's decision and subsequently resigned en masse in protest. On August 14, in an emergency meeting the Committee of POWs and Hostages in the Parliament strongly criticized the ban. Mubarak al-Duwaila, the Committee's chair, asked the cabinet to reconsider its decision, emphasizing that the committee supported these private organizations and called for legalizing them. He also pointed out that the cabinet's decision was in violation of a National Assembly decision and contradicted a written promise the government gave to the Parliament. Deputy Abdel Muhsin Jammal, the Committee's secretary, and Abdalla al-Nibari, a member, both denounced the decision as arbitrary.

On August 17, a group of several hundreds representing families of POWs and supporters of KADWV attended a parliamentary session during which deputies sitting on the Committee of POWs and Hostages requested a floor discussion of the closure. When the motion was defeated, the audience erupted in protest and reportedly verbally abused deputies opposed to holding the discussion. Protesting the parliament's failure to act, Mubarak al-Duwaila, Chairman of the Committee of POWs and the Hostages, announced that his committee's resignation, which was subsequently submitted in writing to the speaker and signed by all the members of the Committee. In addition to al-Duwaila, the Committee is composed of Abdalla al-Nibari, Ahmad al-Shraï`an, Mishari al-`Osaimi, Shari` al-`Ajmi and Abdalla al-Rumi.

In response to the popular outcry against the government's decision, the Minister of Social Affairs has proposed that all groups dealing with human rights and humanitarian issues be combined in one large organization which the government could then look into legalizing. The affected organizations have rejected this suggestion as impractical and counterproductive. They also pointed out that it violates their right to free peaceful association as guaranteed in the Kuwaiti constitution.

In an Op-Ed published in *al-Qabas* (August 17), Mubarak al-Adwani, chair of the human rights committee of the KADWV, rejected as a red herring the government's forced unification proposal. According to al-Adwani, "Proposing the unification, when the government knows that it cannot be accepted by the other side, is a deliberate escalation of the conflict."

Al-Adwani pointed out that while coordination between the groups is useful -- as the Popular Committee, whose task is coordination, has demonstrated -- unification will neither be possible or helpful in advancing their goals. Organizations have different goals and mandates; some deal with POWs, others deal with human rights or with both and others have single issues that are not easily combined with others such as the National Union of Kuwaiti Students, Pro-Democracy Committee, and Supporters of Single Citizenship Committee. Having organizations with different mandates strengthens the work of each one. For example, KADWV's work in human rights supports its work on POWs. Similarly, although the Mutual Assistance Fund adopts a different philosophy from that of the KADWV, its work in providing welfare to the families of martyrs supports its work on other issues.

The KADWV and the League of Families of POWs and the Missing, have made it clear that they intended to continue to operate despite the ban. On August 23, KADWV and the League issued a joint statement strongly criticizing the government's decision. While declaring their readiness to enter into "genuine and sincere dialogue" with the government, they accused officials of inconsistency and of playing a "destructive role in the POWs issue. We still cannot discuss everything, especially not facts which may harm the cause of the prisoners. We have explained all these in some 170 letters we have sent

to the government and the Parliament." The statement defended private efforts in the search for prisoners, since "this issue is a humanitarian issue that should not be politicized, inside or outside the country."

The KADWV and League's joint statement pointed out the inconsistent approach the government has taken towards KADWV. While inviting them to participate in international conferences, formally seeking their assistance and including them in the official National Committee for POWs and the Missing, the government refused to legalize the organizations and "provoked problems behind the scenes."

The statement reported several meetings with the Emir, the Crown Prince and the Minister of Social Affairs in which they appeared to be supportive of their private work. "The official blessing appears to have been only lip service. Official incitement against popular work came in the attempt to divide those who were engaged in it. We discovered only lately that there had been no desire on the part of the government to have popular work on the POWs," the statement charged.

The two groups concluded by announcing that they were not part of any political alliance and that they intended to "continue working on behalf of POWs. We do not need the approval of the government to undertake this work."

Lawyers in Kuwait have also objected to the closure. Riyadh al-Saneh, Secretary General of the Kuwaiti Lawyers Association, told *al-Qabas* on August 17 that the "decision by the Council of Ministers to close the associations working in the field of POWs indicates a factual and legal misguidance. Since the government failed to stop these organizations from working at the time they started operating, it may not try to stop them long after these organizations have been established, because it refuses to legalize them." Al-Saneh called for an amendment of the law, to limit the absolute power granted to the Minister of Social Affairs and Labor to refuse any organization for any reason, and to deny applicants a recourse before the courts. Badr al-Mousa, chairman of the League of Families of POWs and the Missing, pointed out that the decision violated the wish of the Parliament and broke a promise given by the cabinet earlier in the year to respect that wish.

## **INTERNATIONAL STANDARDS**

Closing down Kuwaiti human rights and humanitarian organizations is a clear violation of the universally accepted right to freedom of peaceful association. The Universal Declaration of Human Rights provides that "Everyone has the right to freedom of peaceful assembly and association." Similarly, Article 22 of the International Covenant on Civil and Political Rights, states that "Everyone shall have the right to freedom of association with others."

Kuwait's Law of Public Interest Associations is clearly in violation of freedom of association. In addition, the denial of judicial recourse when an association is banned is a violation of due process of law. The mere failure of a peaceful organization to secure a license does not justify restricting its activities, especially when the failure is due to government inaction. As Article 22 of the Covenant on Civil and Political Rights makes clear, restrictions have to be justified on specific substantive grounds:

**No restrictions may be placed on the exercise of [the right to freedom of association] other than those which are prescribed by law and which are necessary in a democratic society**

**in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals, or the protection of the rights and freedoms of others.**

**Since none of the targeted organizations is accused of adversely affecting national security, public safety, order or health, their closure is inconsistent with this principle.**

**Moreover, the unlimited power of veto that the Law of Public Interest Associations gives to the authorities through the default of inaction and the denial of judicial appeal clearly violates due process of law.**

**In fact, most of the organizations targeted by the ban have long sought, unsuccessfully, to obtain licenses. For example, the Kuwaiti Association to Defend War Victims submitted its first application in 1991 but received no response. This despite the fact that government officials have had regular contacts with KADWV, including joint missions abroad and numerous meetings inside the country, implying tacit approval of its activities.**

**There is no justification for restricting the activities of an organization unless there is clear evidence that it engages in violent activities or otherwise endangers public health or the survival of the nation. In those cases, when there is a need to restrict the activities of an organization because there are reasonable grounds for suspecting that it has committed violent acts, restrictions should be explicit and reasoned. They must also be subject to judicial review -- a review that is expressly precluded in the Kuwaiti Law of Public Interest Associations.**

**A complete ban or a temporary closure is of course even more objectionable under international law than placing specific restrictions, since a ban or closure constitutes an outright denial of the fundamental right of free expression. By dissolving these associations, the government is reversing the considerable progress that Kuwait has achieved towards a more open society since the restoration of parliamentary rule in October 1992. Freedom of association is a fundamental right and a vital component of the civil society that many Kuwaitis have been advocating since their liberation from the Iraqi occupation.**

**Because of their work on behalf of victims of official abuse, there is a growing international recognition that human rights and humanitarian organizations need special protection. For example, the Conference on Security and Cooperation in Europe has laid down safeguards for the rights of human rights monitors. To prepare an international instrument on their protection, the U.N. has mandated a committee to draft such an agreement. The efforts of the U.N. Working Group on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which has prepared a draft of a comprehensive declaration on the rights of human rights monitors, enjoy the support of a growing number of nations.**

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