

Human Rights Developments Since Liberation

Far from recognizing the importance of upholding human rights standards after witnessing the atrocities committed by Iraqi occupying forces, the reinstated Kuwaiti government disregarded those standards as soon as it returned from exile on February 26, 1991. The pretext for these abuses was a government-inspired quest to root out those who had collaborated with the Iraqi occupiers and to restructure Kuwaiti society to make it more reliable politically. Throughout the year, statements continued to be issued by senior Kuwaiti government officials, including the emir and the crown prince, that amounted to invitations to abuse.¹⁹⁸ The victims, almost uniformly long-term residents of Kuwait, are principally Palestinians, Iraqis and the stateless Arabs known as Bedoons.

The nature of Kuwaiti abuse has changed over time. During March and April, summary executions, as well as deaths in detention caused by beatings and neglect, were the most pressing problem. Scores were killed at the hands of Kuwaiti forces, according to testimony collected by Middle East Watch. Other evidence of the scope of the killings included fifty-four unidentified bodies of victims of post-liberation killings discovered in a mass grave on the outskirts of Kuwait City.

Between May and August, as the trials of suspected collaborators inflamed anti-Palestinian and anti-Bedoon hostility, large-scale arrests and forced deportations became the predominant abuse. Although martial law was lifted on June 26, torture continued until September, when the administration of prisons changed and prison conditions improved. Even then, arbitrary arrests continued,

¹⁹⁷ For discussion of abuses committed during the Iraqi occupation of Kuwait in January and February, 1990, see the chapter on Iraq and Iraqi-occupied Kuwait.

¹⁹⁸ During a violent campaign against suspected collaborators, an April 8 speech by the emir — his first since returning from exile — called for cleansing Kuwait of a "fifth column of Saddam's cohorts." This theme was repeated by the crown prince in his speech before the National Council on July 9 and in an interview on December 12. It was also echoed by Shaikh Ali al-Sabah, minister of defense, on July 5 and November 21.

albeit on a smaller scale. Expulsions of Palestinians, Bedoons and Iraqis also continued, and pressure on these communities to leave Kuwait was unabated.

Although the Kuwaiti government has attempted to place the blame for abuse on forces beyond its control, most were in fact committed by official security forces or by irregular armed groups working closely with official forces. These included many returning exiles intent on revenge who were openly welcomed by an army eager to augment its reduced ranks. Frustrated by the lack of opportunity to fight the Iraqi occupiers, these armed forces redefined the "enemy" to include the above-listed disfavored nationalities. The most notorious source of abuse has been the State Security Investigative Police (*Mabaheth Amn al-Dawla* or SSIP), which reportedly actively recruited hundreds of youths, often of unscrupulous bent, who were granted wide discretion to arrest, beat and hold prisoners incommunicado for long periods.

The highest levels of the Kuwaiti government share responsibility for these abuses in that they have yet to arrest or prosecute any of those responsible, in notable contrast to the vigor with which the government has pursued perceived collaborators with the Iraqi occupiers. To the contrary, the periodic government calls to cleanse Kuwait of a presumed fifth column have, if anything, further inspired this violence.

The government's hand in flouting international standards was most readily apparent in the charade that passed for trials in the martial-law tribunals charged with judging suspected collaborators. The proceedings, several of which were attended by Middle East Watch observers, were fundamentally marred by a series of due-process shortcomings, in violation of international fair-trial standards to which Kuwait has subscribed, including Article 75 of the First Additional Protocol to the Geneva Conventions. In addition to the routine introduction of confessions coerced through torture, defendants were systematically interrogated by the police, the prosecutor and often the court without the benefit of having consulted with counsel; conduct not clearly proscribed by pre-existing criminal law was often penalized; evidence of guilt other than coerced confessions was often slight or nonexistent; no appeal was permitted, and the informal clemency review process, while commuting all death sentences to life imprisonment, reaffirmed every conviction entered by the martial-law courts without even hearing from defense lawyers; and the trial court, on the rare occasion that it showed any willingness to consider the frequently raised defense that the Iraqi occupiers had forced defendants to perform certain tasks, paid little or no apparent heed to the differing duties of loyalty to the Kuwaiti government-in-exile that could fairly be expected from Kuwaiti and non-Kuwaiti citizens. The result was that 118 of the 164 defendants tried were sentenced to harsh prison terms, with no further judicial

recourse. They remain in prison, despite the Kuwaiti government's efforts in other areas to mollify some of the worst abuses of the immediate post-liberation period.

Deportation of long-term residents began shortly after liberation, accelerated during the summer months and continued throughout the year. Although the Fourth Geneva Convention of 1949, to which Kuwait is a party, provides for the protection of Iraqis, Palestinians, Bedoons and others in Kuwait, its terms were systematically flouted in the process of summarily deporting these groups. Stateless Bedoons and Palestinians have been expelled without any provision being made for their acceptance by another country. Refugees who fled persecution in Iraq have been returned to Saddam Hussein's grasp. Expulsions have proceeded without any opportunity to challenge deportation before an independent tribunal.

Promises by the Kuwaiti government-in-exile to reconvene the National Assembly, suspended in July 1986, and restore basic freedoms were broken as soon as the ruling Sabah family was reinstated. Martial law was declared on February 26 and extended until June 26. Pre-existing censorship regulations for the press were resumed, leading to the closure of the first post-liberation newspaper, *February 26*. After months of equivocation, the government called for the election of the National Assembly in October 1992. Meanwhile, it revived the near-defunct National Council, a rubber-stamp advisory body which is considered an affront by Kuwait's growing constitutional movement. National Council members are being groomed to run as government candidates in the 1992 parliamentary elections against an opposition deprived of the right of free assembly or expression.

Despite this dismal beginning, human rights conditions gradually improved as the year progressed as international outrage over the government's conduct mounted. Summary executions largely stopped after the first two months, and prison conditions improved dramatically over the summer. In August and September, procedures for the detention and trial of state security suspects were also revised and improved. The International Committee of the Red Cross (ICRC) was granted access to all detention centers — though not all detainees — and was allowed to interview all those being deported.

Scores of non-Kuwaiti residents were killed in 1991 by Kuwaiti security forces or groups working closely with them. Some of those killed were summarily executed with a bullet to the head while others died in official Kuwaiti custody as a result of torture, denial of medical care or lack of water. Most killings occurred in March and April, but some took place thereafter. Kuwaiti officials have so far failed to provide a full accounting of these killings or bring any of the perpetrators to justice.

One Kuwaiti cemetery, al-Rigga, holds fifty-four "unidentified" bodies of people who have been killed or died in unexplained circumstances since the week after liberation, according to cemetery records. Most of the killings were recorded as having occurred in March, but six were listed as having taken place in April and one in May. Middle East Watch research points clearly to government complicity in these deaths. A report issued by Middle East Watch in September, *A Victory Turned Sour*, identified over forty extrajudicial killings, the majority of Palestinians. Many others who have disappeared may also be dead, but Kuwait has prevented evaluation of these cases by keeping several hundred prisoners in incommunicado detention and by deporting others without notifying their families.

The Kuwaiti government has set up no effective mechanism to trace those who have disappeared since liberation. The Kuwaiti Association to Defend War Victims and a Palestinian group have registered the names of the disappeared. One Palestinian reported to Middle East Watch that he had been subjected to a threatening interrogation by security forces who accused him of compiling a list of detained and disappeared Palestinians.

Because of these difficulties it has not been possible to determine the precise number of those unaccounted for since liberation, but Middle East Watch believes it to be in the hundreds, including some who may have been deported without notice to their family. Middle East Watch was given one list of over one hundred Palestinians who have been missing since their arrest. Other sources have given Middle East Watch scores of additional names.

Cases documented by Middle East Watch of those who disappeared at the hands of Kuwaiti security forces include Bedoons, Palestinians and Iraqis. Among them are individuals who have disappeared since the first days after liberation. For example, Aifan Ali Dhafer al-Enezy, 45, a Bedoon civilian employee of the Ministry of Defense, and his son Abdalla, 23, have disappeared since they were taken from their home on February 27 by a group of armed men and have not been heard from since. Hafez Abdel Haleem, a 55-year-old Palestinian employee of the government power company, has disappeared since March 4.

Torture and ill-treatment were systematic in Kuwaiti places of detention in the first six months after liberation. In the period immediately following liberation, the Kuwaiti military and "resistance" started a simultaneous campaign of arresting people suspected of having cooperated with the Iraqi occupiers or harbored sympathy for Iraq. The "resistance" as used here refers to a heterogeneous grouping that includes some of those who actually fought the Iraqi occupiers as well as ordinary civilians and elements of the regular Kuwaiti army and police who joined following liberation. Young Kuwaitis who returned from

exile and joined the resistance or the army were widely considered to be especially prone to perpetuating abuses. Although there were some differences between the military and the resistance, the two groups often seemed to work cooperatively. Some rank-and-file members worked in both camps.

In the large number of detention centers said by Kuwaiti officials to be outside the control of the military and to be run solely by members of the resistance, summary justice was the order of the day during the first month after liberation. Execution, torture and beatings were meted out against those suspected of having betrayed Kuwait. Survivors were either released or handed over to the military.

In prisons under complete military control, such as the Military Prison, most detainees were held in extremely crowded cells and suffered severe shortages of water, medical care and food, leading to numerous deaths. A relief official who visited the Military Prison in late March and early April told Middle East Watch that detainees were "dying rapidly."

Conditions at the Juvenile Detention Facility, used mainly from early April through mid-August, were better: torture was not as systematic, and the ICRC and families had access to most detainees.¹⁹⁹ One former detainee told Middle East Watch of mistreatment by the guards, including what he described as "night-time beating parties." Another prisoner reported that while this prison was a considerable improvement over the G-1 (National Guard) facility, where he previously had been held, prisoners were still beaten and medical care was inadequate. In incidents reported to Middle East Watch, beatings of prisoners continued even in the presence of outside observers.

The State Security Investigative Police (SSIP) held hundreds of prisoners incommunicado throughout 1991. SSIP has a number of holding cells, some of which are exposed to the harsh Kuwaiti sun, with day-time temperatures that frequently exceed 100 degrees Fahrenheit. When the SSIP was reconstituted shortly after liberation, unemployed youths were recruited, including elements described by human rights observers as unscrupulous, thus increasing the danger of further mistreatment of prisoners. By year's end, SSIP had become the main force implicated in human rights abuses in Kuwait.

While the Kuwaiti government declared that its policy was to protect the rights of detainees, it did not act firmly to enforce this policy. For example, the

¹⁹⁹ Later, the Juvenile Detention Facility was used occasionally as a temporary holding facility for "infiltrators" — people captured while trying to enter Kuwait illegally. Despite its name, this prison was used for detainees of all ages.

government's use of incommunicado detention facilitated acts of torture and mistreatment. From February 26 until March 23, almost all detainees were held incommunicado. On March 23, the ICRC gained access for the first time to a detention facility, the Military Prison. Family visits followed, but most detainees did not see their lawyers until after the martial-law trials started on May 19, when lawyers were allowed to see clients who had been formally charged. The ICRC did not secure access to the Deportations Prison until June 9, and access to the G-1 and State Security Investigative Police detention facilities did not come until August. By December, the government had granted the ICRC access to all known places of detention, but ten months after liberation, the ICRC was still not permitted to see all detainees. Inmates report that some prisoners are hidden during ICRC visits. In addition, under the Kuwaiti practice of briefly holding suspects before deporting them without judicial hearing, some detainees are never visited by the ICRC before they are moved to the Deportation Prison. Released state-security detainees who are persuaded through threats to leave the country "voluntarily" are not usually seen by the ICRC.

In another example of failure to implement stated policy, the Kuwaiti government told Middle East Watch in late March that assistant prosecutors — representing the Ministry of Justice — would be assigned to police stations. However, this process took months to complete, leaving detainees unprotected by any civilian presence. Even when Justice Ministry representatives were on hand, police officers in charge did not always defer to their authority. In the first several months after liberation, nearly all detainees were tortured.

Among detention places where Middle East Watch documented torture as having taken place were the Military Prison, the G-1 facility, and the headquarters of the State Security Investigative Police. Torture also took place at Mubarak al-Kabir Hospital, the Teachers Association Building in the al-Jahra district, private homes, and the Sabah al-Salem, Khaitan, al-Jaberiyya, al-Nugra and al-Jahra South police stations.

The martial-law trials of alleged collaborators exposed the systematic use of torture to extract confessions. Confessions were frequently the only evidence against defendants, and Kuwaiti prosecutors seemed to believe that a confession, regardless of how it was obtained, was "the master of all evidence."²⁰⁰ One military officer defended the treatment of prisoners by saying that "they all confessed their crimes." Another was more blunt: "We have to use force to make them

²⁰⁰ From the prosecutor's presentation in the case of Omar Essayed Muhammed Omar, on June 13.

confess. They would not confess without the use of force." When asked about evidence against alleged collaborators, Abdel Aziz al-Dakhil, deputy minister of justice, said, "Of course it depends on confessions. That is the main method."²⁰¹

For example, Usama Suhail Hussein was sentenced to death (later commuted to life imprisonment) on June 15, for his alleged work in the production of the occupation newspaper, *al-Nida'*. According to family members, he was tortured with live electric wires on sensitive parts of his body. He was made to sit on a lit kerosene heater which so scalded parts of his body that during his trial he could not sit on a chair. His family also reported that he had cigarette burns on his body and that medical care had not been adequate.

Other defendants tried before martial-law courts had broken shoulders, wrists burned by handcuffs through which electric current had been passed, broken fingers, welts from severe beatings, cigarette burns and variety of other marks left by torture inflicted to extract confessions.

Persistent reports of torture in Kuwait by the press and human rights organizations — both local and international — finally moved the Kuwaiti government to order a stop to this systematic official practice. Although there have been occasional governmental reports of investigation into abuses, no one is known to have been brought to justice. Systematic torture appears to have stopped since September, but Middle East Watch has continued to receive reports from family members and foreign reporters visiting Kuwait about individual incidents of torture of detainees held by the State Security Investigative Police.

From March through July, there were persistent reports of rape of Asian women by Kuwaiti forces and other armed men in Kuwait. The women were usually stopped or taken from their homes under the pretext of checking their immigration papers and then raped. Middle East Watch has no evidence to indicate that these rapes were committed as part of a deliberate government policy. However, the Kuwaiti government is nonetheless responsible for these crimes insofar as it did not fulfil its duty to protect residents of Kuwait by vigorously investigating and prosecuting the rapists. This failure is particularly glaring when, as was often the case in these crimes, rape was committed by those in uniform.

A U.S. adviser to the Kuwaiti government was quoted as making the astonishing admission that the reason for the prevalence of rape was a combination of a shortage of police officers to conduct investigations plus the

²⁰¹ Shyam Bhatia, "Kuwaitis pave the way for public hangings," *The Observer* (London), April 22, 1991.

fact that "the police don't care because [the victims] are only Filipinos or Sri Lankans."²⁰² This official indifference transforms what would ordinarily be a common crime into a governmental act of omission in violation of the victims' human rights.

Since liberation, thousands of people have been detained without due process of law. Detainees have been mostly Palestinians, Iraqis and Bedoons, but also include Sudanese, Egyptians, Tunisians and Kuwaiti citizens. Because the government has not given a full accounting, it is difficult to ascertain exactly how many have been detained. Middle East Watch estimates that more than six thousand were detained between February 27 and the end of November.

Although the number of those arrested each day has declined considerably, arrests continue as the Kuwaiti government persists in its articulated belief that there are large numbers of Iraqi agents in Kuwait. In his address to the first session of the National Council on July 9, Crown Prince and Prime Minister Shaikh Sa'ad al-Abdalla said that the government is continuing its quest to "purify the country of the evil elements that constitute a danger to its security."²⁰³ On November 21, Shaikh Ali al-Sabah, minister of defense, told the government daily *Sawt al-Kuwait* that there were still "fifth columnists" in Kuwait. As late as December 12, the crown prince reiterated this position in an interview with the Saudi weekly *al-Majalla (The Magazine)*.²⁰⁴

Most of those apprehended were detained without a warrant or any other mechanism to protect them against arbitrary arrest, and some were then deported. Although the government announced at the end of March that all house searches had to be authorized in advance in writing, no such procedure was required for arrests.

Most of these arrests were plainly arbitrary. For example, Middle East Watch

²⁰² *The Observer* (London), April 14, 1991. In one case mentioned in the article, policemen in a police station refused to register the complaint of a woman raped by two uniformed men who had come into her home to "examine her papers."

²⁰³ From the text of the speech as distributed by the Kuwaiti News Agency and published in *Sawt al-Kuwait*, July 10, 1991.

²⁰⁴ Shaikh Ahmed Humoud al-Jaber al-Sabah, minister of interior, told *The New York Times* (July 7, 1991) that "the biggest internal security threat" is the presence of "Iraqi agents" suspected of hiding in Kuwait. He said that he is making a special effort to round up Iraqi "agents," and that one or two were being arrested almost every day.

representatives witnessed the arrest of several people simply because they were of a nationality deemed sympathetic to Saddam Hussein or because they had answered questions in a manner seen as impertinent by soldiers who themselves were rude and aggressive. Middle East Watch also documented the arbitrary arrest of doctors and other health professionals because of their nationality. Those seen talking to foreign reporters were also arrested.

Detainees formally charged with collaboration often appeared to be held on the basis of dubious evidence. As described below, many of those found guilty of collaboration by the martial-law tribunals were convicted on the basis of confessions obtained by torture. For example, on June 20, the Fourth Martial Law Court sentenced Malek Muhammed Ahmed Mas'ood, a fifteen-year-old Kuwaiti-born Palestinian, to twelve years' imprisonment followed by deportation. He was accused of having joined a Palestinian militia, received weapons' training, and possessed a firearm for the purpose of aiding the Iraqi occupation. Two of his brothers, Ma'moon and Ayman, both in their early twenties, were sentenced to death (later commuted to life imprisonment) in the same case, one of them *in absentia*. According to his family, Malek was tortured to extract a confession used to convict his brothers.²⁰⁵

During the martial-law trials that lasted from May 19 to the end of martial law on June 26, seventy-four cases were resolved involving 164 defendants, 122 of whom were present. One hundred eighteen were convicted and forty-six acquitted. Sentences ranged from one year in jail to the death penalty; twenty-nine death sentences were imposed but later commuted to life imprisonment. The defendants included forty-seven Jordanians or Palestinians with Jordanian passports, six Palestinians with other documents, forty-seven Iraqis, twenty-two Bedoons, twenty Kuwaitis, three Lebanese, five of other nationalities and fourteen tried *in absentia* of unknown nationality. With one notable exception, Kuwaiti defendants received lighter sentences than the others.²⁰⁶

Despite the Kuwaiti government's stated willingness to conduct the trials of

²⁰⁵ An older brother, Samir, a U.S. citizen who had lived in Kuwait most of his life, told Middle East Watch that "all the charges were false: they never joined any Palestinian organization and none of them ever possessed weapons or knows how to use them." He said that a Kuwaiti business partner, who was ready to testify on their behalf, was never allowed to address the court.

²⁰⁶ Ibtissam Bertu Selaiman al-Dakhil, a Kuwaiti citizen, was sentenced to death (later commuted to life imprisonment) in the *al-Nida'* case.

suspected collaborators in accordance with basic standards of fairness,²⁰⁷ the actual proceedings were marred by serious violations of the fair-trial principles set forth in Article 75 of Protocol I to the Geneva Conventions, which Kuwait has ratified. The courts relied primarily on confessions extracted by torture; denied defendants sufficient time to consult with lawyers; and failed to give defendants and their lawyers an opportunity to examine the evidence before trial, to cross-examine prosecution witnesses, or to present witnesses in their defense. The courts also seemingly ignored the varying degrees of loyalty that might legitimately be required of Kuwaiti and non-Kuwaiti citizens toward the Kuwaiti government-in-exile.

A substantial majority of the defendants on trial complained of severe beatings to induce them to confess to alleged crimes of collaboration, and in some cases signs of torture were clearly visible. These complaints were corroborated by extensive testimony collected by Middle East Watch showing the prevalent and systematic use of torture in Kuwaiti detention centers. However, rather than discard all confessions secured by coercion — the minimum required by fair-trial standards — the prosecution and the courts relied on these confessions as their main source of evidence. In very few cases did the prosecution introduce direct evidence against the accused, particularly on the often critical issue of whether the defendant had sufficiently resisted pressure to cooperate with Iraqi authorities.

In several cases, there was no apparent justification for trying the defendants before martial-law tribunals. For example, on June 5, two Yemeni boys

²⁰⁷ For example, on May 23, Minister of Justice Ghazi Obaid al-Sammar told the official Kuwaiti News Agency (KUNA): "The accused are accorded fair trials, with the right of legal defense respected with the help of lawyers. Trials are being conducted in public, with the press and other media present, unless the courts decide to hold secret sessions for the purposes of public order." On May 22, Minister of State for Cabinet Affairs Dhari Abdalla al-Othman told KUNA, "Kuwait is diligent in applying the rule of law and its absolute belief in human rights, regardless of nationality, gender or beliefs." By contrast, despite the clear constitutional presumption of innocence in Article 34 of the Kuwaiti Constitution, some Kuwaiti officials apparently believed that their laws "do not call for customs like...presumption of innocence until guilt is proven." (John H. Cushman, "Courts Watched Closely as Kuwait Resumes Trials," *The New York Times*, June 1, 1991.) Although this view contradicted the public stand of the Kuwaiti government, it more accurately reflected the practice of security officers after liberation, who usually assumed the guilt of suspects and condoned torture to extract confessions to prove that guilt.

aged eleven and twelve were tried for stealing clothes from an apartment. There is no evident reason why such cases could not be tried in the regularly constituted criminal courts.

The courts also violated the right of a defendant to be tried in his or her presence, which is one of the requirements of a fair trial under international law.²⁰⁸ Forty-two defendants, including thirteen who first received death sentences that were later commuted to life imprisonment, were tried *in absentia*, without any public showing that they had been formally notified of the charges against them.

After the first day of trials, the courts generally did appoint defense counsel for those without private counsel, and then adjourned the case to provide the newly appointed counsel an opportunity to consult with the defendant and prepare a defense.²⁰⁹ However, in several cases observed by Middle East Watch, the presiding judge appointed defense counsel and then immediately began vigorously cross-examining the defendant before the defendant had been given an opportunity to meet with counsel.

In the period preceding the martial-law trial, all defendants appeared to have been questioned by the prosecutor or police investigators without the opportunity to consult with counsel or notification of their right to do so. Although Kuwaiti domestic law does not specifically require legal counsel before arraignment, this law and practice violate Kuwait's duty under Protocol I to "afford the accused before and during his trial all necessary rights and means of defense."²¹⁰

Kuwaiti lawyers who announced their intention to defend suspected collaborators were subjected to abuse and threats.²¹¹ Whether because of this intimidation or the unpopularity of the defendants,²¹² only a small number of

²⁰⁸ Protocol I, Art. 75; International Covenant on Civil and Political Rights (Covenant), Art. 14.

²⁰⁹ On the first day, May 19, trials proceeded and ended before counsel for several defendants had an opportunity to consult with their clients.

²¹⁰ Protocol I, Art. 75; see also Covenant, Art. 14.

²¹¹ See, e.g., Lee Hockstader, "Justice Goes on Trial in Kuwait," *The Washington Post*, April 3, 1991.

²¹² U.S. Army reservist Lieutenant Colonel Edward McCarty, a New York State judge who was a legal adviser to the U.S. Combined Civil Affairs Task Force, which advised the Kuwaiti

lawyers were willing to offer their services. Despite the need for additional lawyers, the Kuwaiti government refused to allow lawyers from other countries with similar legal systems to come to Kuwait to defend suspects. The Arab Lawyers Union and the Jordanian Bar Association both tried to send lawyers to Kuwait but the Kuwaiti Embassies in Cairo and Amman refused to grant them visas.²¹³

Under Kuwait's State Security Law, defendants tried before martial-law tribunals had no right of appeal. Their sole recourse was to a purely advisory panel of three "legal counselors" established to advise the crown prince in his capacity as martial law governor on whether to exercise his discretionary powers of clemency.²¹⁴ The exercise of these powers was not guided by clear legal standards and as such could not substitute for a proper appeal, as required by Article 14 of the International Covenant on Civil and Political Rights. Furthermore, review procedures did not allow defense counsel to present arguments on behalf of their clients. In the end, this clemency process yielded reaffirmations of every conviction passed — all on the same day, before any attorney is known even to have submitted petitions for clemency to the Crown Prince. There is no evidence that the "legal counselors" were involved in the process. Most non-Kuwaiti citizens acquitted by martial law courts were later deported without judicial review of the deportation orders.²¹⁵

government on legal matters, told *The Washington Post* (April 3, 1991) that in terms of community reactions to the trials, "this is a child molestation murder case times hundreds."

²¹³ Middle East Watch interview with Farouk Abu-Issa, secretary-general of the Cairo-based Arab Lawyers Union, June 5, 1991; Middle East Watch interview with Asma Khader, member of the executive committee of the Jordanian Bar Association, June 3, 1991. The Arab Lawyers Union is a Cairo-based federation of the national bar associations of most Arab countries, including Kuwait.

²¹⁴ Under Article 75 of the Kuwaiti Constitution, there is also an opportunity for a discretionary pardon by the emir.

²¹⁵ According to Minister of Justice Ghazi Obaid al-Sammar "The Minister of Interior has discretionary authority to deport people who are suspect or whose presence constitutes a danger... [T]hose who have been acquitted will be deported according to this procedure." *Sawt al-Kuwait*, June 26, 1991.

Seventy-two cases involving over two hundred suspects who were charged by the martial-law prosecutor remained unresolved by the time martial law was lifted and martial-law courts disbanded on June 26. These cases were reviewed by the civilian public prosecutor's office to decide whether they should be brought to trial before criminal or state-security courts. By the end of August, there were around 330 Palestinians, Iraqis, Kuwaitis, Sudanese and Egyptians awaiting trial before state-security courts. During August, the public prosecutor's office assumed control over pretrial interrogation of state-security defendants through a special department, the State Security Prosecution Division (*Niyabat Amn al-Dawla*). Muhammed al-Bannai, a newly appointed chief public prosecutor, decided to reinvestigate all pending cases. Some of the 330 defendants were cleared, but the majority were deported administratively. By the end of November, only eighty defendants charged with state-security offenses were left to be tried before state-security courts. No trial date has been set.

In the past, the State Security Court suffered from due process problems similar to those of the martial-law courts. The court was staffed by part-time judges who did not have security of tenure; it usually met in secret; and it issued decisions, including death sentences, that were not subject to appeal.²¹⁶

Following the international outcry over the martial-law trials, the Kuwaiti government in August issued Law 10 of 1991, amending Law 26 of 1969, which had established the State Security Court. Law 10 allowed the formation of more than one state-security court; it also established for the first time the right of appeal, although this right is more limited than from trials in traditional criminal courts. Under the new law, decisions by state-security courts can be appealed directly to the Court of Cassation. Under Law 40 of 1972, the Court of Cassation does not retry cases but examines the application of the law by the original court.²¹⁷

²¹⁶ The State Security Court in the past condemned defendants to death, but the death penalty was never carried out. Although most State Security Court sessions were held in camera, the opening and closing sessions were sometimes open to the press and other outside observers.

²¹⁷ Ordinary crimes can be appealed before the Appeals Court, the decisions of which can then be appealed to the Court of Cassation. Article 8 of Law 10 is ambiguous on whether state security court judgments are to be appealed before a special cassation court or before the already constituted Court of Cassation. The official working paper accompanying the new law, however, refers to the Court of Cassation as the court before which state security cases are to be appealed.

Although the new law still allows the indefinite detention of state-security suspects, detention beyond the first twenty-one days was made subject to the approval of a state-security judge, who also reviews the need for detention once every forty-five days. Hearings on whether to extend detentions are not attended by detainees or their lawyers, a human rights observer told Middle East Watch. In another innovation, the new law allows the release of suspects, on bail or personal recognizance, at the discretion of the state-security prosecutor's office.

Between March and August, more than 1,500 residents of Kuwait were deported, including Bedoons, Iraqis and Palestinians. These expulsions violated several provisions of the Fourth Geneva Convention because of the inhumane manner in which they were carried out, because Kuwait expelled some who said they would face persecution in Iraq, and because some were stateless persons and should not have been expelled. Most of these expulsions took place without review by the ICRC. Since August, thousands have been deported after cursory hearings or were pressured to leave. Methods of pressure have varied from denial of employment to detention to beatings and death threats by State Security Investigative Police.

Most of those deported since liberation seem to have been individuals rounded up, in some cases with their families, as security risks, or as suspects in the campaign against collaborators with the Iraqi occupiers. Collaboration has been broadly defined to include almost any form of dealing with the Iraqi authorities, including keeping schools or shops open during the occupation. As noted above, the methods employed to prove such collaboration have been unreliable and legally unacceptable. Even those cleared of charges without trial or acquitted by martial-law courts have been subsequently deported.²¹⁸ After martial law was lifted on June 26, administrative deportation instead of trials became the favored method used to deal with security suspects.

Expulsions started shortly after liberation. During March, several bus loads of foreign residents were summarily expelled. They were left on the Kuwait-Iraq border without food, water or travel documents. They bore marks of beatings and

²¹⁸ Nahess al-Enezy, a spokesman for the Ministry of Justice, told a government newspaper that those acquitted would be deported. "Just because they were acquitted does not mean they are not still suspect. It only means that there was not enough evidence for their guilt," he explained. (*Sawt al-Kuwait*, June 27, 1991.) Another spokesman for the Ministry of Justice told Middle East Watch on July 6 that the Public Prosecutor's Office (in the Justice Ministry) had ordered the release of those acquitted but that the minister of interior still had discretionary authority to deport them and keep them in jail pending their deportation.

other torture. U.S. troops at the border told reporters that several bus loads of similarly tortured foreigners had been pushed across the border earlier in the month.²¹⁹

In April and May, deportations were on a limited scale, but in June, large-scale deportations started on a regular basis. On June 8, a group of forty-six people — including families with small children — were bused to the Iraqi border. On June 11, a group of 115 Palestinians, Sudanese, Yemenis and Iraqis — including twenty children — were expelled to Iraqi territory, as observers from the U.N. and ICRC looked on. The deportees were given no food, water or sleeping mats; they were forced to walk about one mile in a dark, mine-infested area, without flashlights, to reach the Iraqi checkpoint.²²⁰ Other reports received by Middle East Watch, including one by a Deportation Prison official, confirmed that at least some of those deported were sent against their will.

The Deportation Prison, located in al-Shuwaikh, west of Kuwait City, has been perhaps the busiest of all Kuwaiti prisons in 1991. It is a maximum-security facility, with some of the worst conditions in the country. It has twelve solitary confinement cells and one large wing, which holds as many as six to seven hundred people. There are no beds or mattresses; prisoners are simply given a blanket each. There is only one refrigerator for the prison and no air conditioning. Fans hang from a high ceiling but do not seem to alleviate the unbearable summer heat and poor ventilation.

Because of the large number of people being held pending deportation — averaging one thousand at any given moment — the main Deportation Prison at al-Shuwaikh has been filled beyond capacity. Other facilities are reported to have been opened to handle the overflow, but no information is available on conditions there.

On June 9, the ICRC visited the Deportation Prison for the first time but was not allowed to interview any prisoners. Four hundred more people were deported on June 23. According to Kuwaiti authorities, most were Iraqis, but international

²¹⁹ William Branigin and Nora Boustany, "Rights Officials: Kuwaiti Soldiers Commit Abuses: Arrests, Beatings, Deportations of Palestinians, Others Continue," *The Washington Post*, March 17, 1991; Bob Drogin, "Kuwaiti Reprisal Killings Continue," *The Los Angeles Times*, March 18, 1991.

²²⁰ John Arundel, "Kuwait Expels Foreigners Across Border Into Iraq," *The Washington Post*, June 12, 1991.

observers told Middle East Watch that the deportees were actually Bedoons.²²¹

On July 6, forty-one people accused of collaboration with the Iraqi occupation authorities were expelled. They were described as exhausted and bearing signs of torture.²²² On July 9, around three hundred "Iraqis" were deported, including whole families.²²³ Some 350 more "Iraqis" and others were deported on July 13.²²⁴ Over one hundred more were expelled on July 20 and on August 3, another one hundred were deported.²²⁵

After criticism was voiced by international humanitarian organizations over these summary expulsions, Kuwait allowed the ICRC to interview would-be deportees and monitor the expulsions. Since Kuwaiti law allows administrative deportation, the government took full advantage of its discretionary powers to expel hundreds of Bedoons, Iraqis and Palestinians summarily. Under Kuwaiti law, administrative expulsion orders can in theory be contested before the Administrative Court, but in practice most deportees are not given an opportunity to file such complaints.

Even if complaints were filed, the chances of winning are limited because Article 16 of the Kuwaiti Foreign Residents Act (1968) gives wide discretionary powers to security officials to deport non-Kuwaiti nationals, even if still holding valid residence permits, if the alien has "no visible means of financial support," or if "the Minister of Interior believes that the deportation is mandated by public interest, public security or public morals." In the years 1980-90, before the Iraqi invasion of Kuwait, the Kuwaiti government frequently invoked the public-interest clause of this law to deport summarily thousands of its residents, including

²²¹ *Sawt al-Kuwait*, June 26, 1991; Middle East Watch interview, July 15, 1991.

²²² Agence France-Presse, July 7, 1991; "Koweit: Nouvelle vague d'expulsions," *Le Monde*, July 11, 1991.

²²³ Associated Press, July 9, 1991; *al-Hayat*, July 10, 1991. "Koweit: Nouvelle vague d'expulsions," *Le Monde*, July 11, 1991, reported that the Kuwaiti government authorized the ICRC for the first time to meet with this group of deportees before they were expelled.

²²⁴ Reuters, July 15, 1991.

²²⁵ Reuters, August 5, 1991. Iraq put the number of those expelled on August 3 at 247, listing them as comprising forty Iraqis, eighty-eight Jordanians and 119 Bedoons. Agence France-Presse, August 5, 1991.

Bedoons.

The Kuwaiti government terminated the contracts of all of its Bedoon and foreign employees retroactively from August 2, 1990. This decision meant that besides losing their jobs, Palestinians — as well as other foreigners and Bedoons — were not paid for the period since the Iraqi occupation, unlike Kuwaiti employees who were paid whether they had worked or not. Despite promises that they would be paid their severance pay — generally one month's salary per year of employment — many have yet to be compensated.²²⁶ To encourage Palestinian government employees to leave the country quickly, their severance pay is kept in escrow and not given to them until they complete their departure arrangements.

The retroactive termination of the contract of all foreign-national employees, as well as Bedoons, means that those who are not rehired are deportable under the Foreign Residents Act, on the grounds that they have no "visible means of financial support," (Article 16.2) or because foreign-national government employees, once their jobs are terminated, are required to leave the country (Article 15).

The Kuwaiti government in 1991 initiated a process termed Foreign Residents Re-registration, the stated objective of which is to "regulate and streamline all resident permits, and discover those with expired or forged permits, and those who came during the Iraqi occupation."²²⁷ The Kuwaiti government gave foreign residents until November to re-apply for residency in Kuwait. That period was later extended until the end of the year. After December 31, if it is not again extended, those who have not secured employment risk summary deportation.

The manner in which many of the expulsions have been carried out, as well as in some cases the deportations themselves, are in conflict with Kuwait's legal duties under international law and other international standards. Protected persons under Article 4 of the Fourth Geneva Convention are defined as "those

²²⁶ Foreign employees under class-A contracts are entitled to ninety-six percent of a month's salary for each of the first five years of employment and 144 percent of a month's salary for every year thereafter. Class-B contracts entitle a foreign employee to half of a month's salary for each of the first five years and a whole month's salary for every year thereafter. Per-diem employees and those hired under Class-C contracts are not entitled to severance pay under Kuwaiti Civil Service Regulations No. 6 of 1979 and No. 2 of 1982.

²²⁷ *Sawt al-Kuwait*, May 15, 1991.

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."²²⁸ Accordingly, persons protected by the Fourth Geneva Convention and Protocol I would include Iraqi, Palestinian and Bedoon residents of Kuwait. Most Bedoons and Gazan Palestinians, by virtue of their stateless status, and Iraqis, by virtue of their status as nationals of the principal Kuwaiti opponent in the armed conflict, are clearly protected persons when in the hands of the Kuwaiti government.²²⁹ Other Palestinians, whether citizens of Jordan or deemed to be under the protection of the Palestine Liberation Organization (PLO), are also protected persons since Kuwait has yet to resume normal diplomatic relations with either Jordan or the PLO.²³⁰ The ICRC has explicitly upheld the view that Palestinians in post-liberation

²²⁸ 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. The stateless are also covered, according to the official ICRC *Commentary*, which states that "owing to its negative form the definition covers persons without any nationality." (Jean Pictet (ed.), *Commentary on the Geneva Conventions*, Geneva: ICRC, 1958, Vol. IV, p. 47). This view was made explicit by Article 73 of the First Additional Protocol to the Geneva Conventions, which Kuwait has also ratified.

²²⁹ A senior Egyptian official told Middle East Watch on July 22 that there are about 23,000 Gazan Palestinians in Kuwait with Egyptian travel documents. Sources in the Gazan community in Kuwait estimate the number to be between 20,000 and 30,000. Egyptian travel documents (*Laissez passers*) do not grant their holders Egyptian citizenship or entitle them to residence in Gaza now that Israel is the occupying power. Israel has refused to permit many of these Gazans to return to Gaza.

²³⁰ Even if, despite their tilt toward Iraq, Jordan and the PLO were deemed to be neutral, they have not maintained normal diplomatic relations with Kuwait. The Jordanian foreign minister told the newspaper *al-Dustur* (June 13, 1991) that his government "is ready to open the embassy; however, it has not received Kuwait's approval to do so." As reported in Federal Broadcast Information Service (FBIS), June 13, 1991. The PLO also provided diplomatic protection to Palestinians before August 2, 1990. Although its office was accredited as an embassy in 1988, the Kuwaiti government has refused to reaccredit it since liberation. The Kuwaiti Ministry of Foreign Affairs, in a statement distributed by KUNA and published in *Sawt al-Kuwait* (July 30, 1991), reiterated that "at the present time, there are no Palestinian diplomats accredited with the Ministry."

Kuwait are protected persons.²³¹

For protected persons whom Kuwait does not allow to settle in its territory but who cannot, for any reason, be repatriated, a third country must be found where they will be received and allowed to settle.²³² Until such a country is found, refugees are entitled to the protection of the Fourth Geneva Convention, including the provision requiring Kuwait to ensure the means of subsistence, through paid employment or state allowance.²³³

Article 5 of the Fourth Geneva Convention excepts from protection an individual who is "definitely suspected of or engaged in activities hostile to the security of the state."²³⁴ But exception is allowed under the Convention only for *individuals* suspected of being security risks, while Kuwaiti officials have blanketed whole communities with collective guilt. Throughout the year, they referred to the collaboration with the Iraqi occupiers of the Palestinian and Bedoon *communities*. On November 21, Shaikh Ali al-Sabah, minister of defense, after warning about fifth columnists, said, "[T]he attitudes of certain communities was disgraceful; they cooperated with the occupation army." On December 12, Shaikh Sa'ad, the crown prince, continuing on a theme he began before liberation, warned of dangers from fifth columnists who have to be flushed out.²³⁵

As a result of relentless persecution during the year, the Palestinian community, which numbered more than 350,000 before the Iraqi invasion, was reduced to 80,000 by the beginning of November.²³⁶ Around 23,000 of these are

²³¹ Remarks of François Bugnion of the ICRC legal department, published in the ICRC Bulletin, May 1991.

²³² *Commentary*, IV, 64.

²³³ Article 39 of the Fourth Geneva Convention. See also *Commentary IV*, 249.

²³⁴ Article 5 cautions that "such person shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial." It also calls on the state to grant such person "the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the state."

²³⁵ Shaikh Ali's remarks are from *Sawt al-Kuwait*, November 21, 1991. Shaikh Saad's remarks are from an interview with the Saudi weekly *al-Majalla* (*The Magazine*), December 12, 1991.

²³⁶ From remarks by Shaikh Ali al-Sabah in the government *Sawt al-Kuwait*, November 21,

Gazans carrying Egyptian travel documents that do not entitle them to settle anywhere.

During the Iraqi occupation of Kuwait, around 180,000 Palestinians left Kuwait to avoid the hardships of occupation and war. In many cases, they left behind their homes and property accumulated over decades of residence in Kuwait. Most went to Jordan but some had no country in which they were entitled to reside. After liberation, with very few exceptions, Kuwait has refused to allow any of them to return. The Kuwaiti government has failed to appoint guardians to protect absentee property and, on July 17, the Kuwaiti cabinet approved regulations allowing Kuwaiti landlords to remove furniture and other items from rented premises previously occupied by foreigners who are not being allowed to return.²³⁷

The other community targeted for persecution is the Bedoon, the long-term residents of Kuwait who have been denied Kuwaiti citizenship. They numbered more than 250,000 at the time of the Iraqi invasion, according to official figures. The persecution of the Bedoons, for a long time the undocumented underclass of Kuwait, picked up in 1986 when the government adopted a series of draconian measures to force them to leave the country. Mass dismissal from government jobs, large-scale deportation and restrictive bureaucratic measures were the tools of this policy. Other restrictions included Ministry of Interior Regulation No. 35 of 1987, which banned the issuing or renewing of driver licenses to Bedoons, and Interior Ministry Regulation 177 of 1986, which severely restricted their foreign travel.

After liberation, this community was persecuted because certain of its members were suspected of collaboration with the Iraqi occupiers. Thousands were rounded up and most were thrown across the border to Iraq.

International standards clearly prohibit the expulsion of stateless Bedoons who have lived in Kuwait all their lives.²³⁸ The Kuwaiti courts in the past also rejected the government's attempts to treat Bedoons as foreigners in the

1991.

²³⁷ *Sawt al-Kuwait*, July 18, 1991.

²³⁸ Many Bedoons are also children of Kuwaiti mothers. Under Kuwaiti Nationality Law (70/1966), however, children of a Kuwaiti mother married to a non-Kuwaiti citizen do not automatically acquire Kuwaiti citizenship, unlike children of a Kuwaiti father married to a foreign mother.

application of the Foreign Residents Act of 1968, and recognized the special status to which the Bedoons were entitled.

All Bedoon government employees were dismissed retroactively from August 2, 1990, and few have been rehired. Like Palestinian children, Bedoon children were barred from enrolling in public schools after liberation. Most Bedoons cannot afford to send their children to private schools, especially after the government of Kuwait discontinued its pre-invasion fifty percent tuition subsidy.

As the Kuwaiti government started restructuring its armed forces, whose rank and file used to be predominantly Bedoon, it started rehiring Bedoons on a limited scale. In October, the government announced that it would pay private school tuition for children of Bedoons rehired by the armed forces. In another good-will gesture, the government announced that it would pay tuition fees for Bedoon children of Kuwaiti mothers.

There are about 3,700 persons, mostly Bedoon, who have registered with the ICRC and are stranded in Iraq. Kuwait has so far, with few exceptions, refused to allow these people to return to Kuwait. They registered "on the basis of documents certifying that they had been residents of Kuwait before the war," according to an ICRC official.²³⁹ The names of hundreds of Bedoons were initially submitted to the ICRC by the Kuwaiti government as having been detained by Iraqi occupying forces and taken to Iraq during the occupation. At the time Kuwait demanded their release, but later official lists dropped the names of most Bedoons not affiliated with the Kuwaiti military or police.²⁴⁰

Another group of Bedoons refused admission into Kuwait were those stranded at a displaced persons camp in the middle of the desert at the Abdali border post. The camp population fluctuated, reaching a maximum of near five thousand in late May, including families with small infants. Harsh conditions at the camp and Kuwait's refusal to let its residents enter the country led to a sharp decline in the camp population as most of them decided to seek a less forbidding waiting place in war-ravaged Iraq while the Kuwaiti government decided their fate.

²³⁹ Statement by Angelo Gnaedinger, ICRC Delegate General for the Middle East. ICRC Bulletin, November 1991. He added that the ICRC had forwarded this information to the Kuwaiti authorities, who "want to check each case to make sure that the person is indeed a citizen or resident of Kuwait and that his or her return is not a security problem."

²⁴⁰ For further discussion of this issue, see the chapter on Iraq and Occupied Kuwait.

In early October, the Kuwaiti government allowed the United Nations High Commissioner for Refugees (UNHCR) to supervise the resettlement of those still at the Abdali camp. Close to six hundred were allowed into Kuwait, and the remaining seventy were sent to other countries of their choice.

After the end of the Iran-Iraq war in the summer of 1988, calls for restoration of the Kuwaiti National Assembly intensified. When the Assembly was dissolved on July 3, 1986, the government cited the war as one justification, but then failed to restore democracy when the war ended.²⁴¹ At the same time as the National Assembly was dissolved, the press in Kuwait was put under strict censorship, and public assembly of more than five people was banned. These restraints remained in place when Iraq invaded Kuwait.

After the Iraqi invasion, Kuwaitis — now dispersed in many countries — continued to call for a restoration of formal methods of dialogue between the Kuwaiti government and its people. Former members of the National Assembly and others called on the emir to reconvene the Assembly in exile and form a national unity government. In response, the government convened the Kuwaiti Popular Conference in Jiddah, Saudi Arabia, in mid-October 1990. A compromise was struck. It was decided that while restoration of the National Assembly in exile was not a practical option, constitutional rule would be restored after liberation and, until then, the government would hold formal consultations with Kuwaiti community leaders through the Supreme Advisory Council that was formed shortly after the conference. Headed by the crown prince, it included in its membership a number of opposition leaders. Though never explicitly stated, it was understood that soon after liberation, the 1962 Constitution would be fully restored and the National Assembly would be reconvened.

After the liberation of Kuwait, the Kuwaiti government avoided for over three months setting a date for new elections, despite persistent opposition demands that it do so. All opposition factions cited this delay in their refusal to join the new cabinet formed on April 20 and composed entirely of al-Sabah family members and close allies. As before the Iraqi invasion, al-Sabah family members were appointed to most of the key positions.

On June 2, when the emir announced that new elections for the National

²⁴¹ When members of the dissolved Assembly and their supporters held meetings in 1989 and 1990 to call for its restoration, the government responded violently. Kuwaiti security police used force to disperse the meetings and jailed some former parliamentarians who participated in them. The last of these incidents took place on May 15, 1990 — only ten weeks before the Iraqi invasion of August 2.

Assembly were to be held in October 1992, he also announced the revival of the advisory National Council, the nemesis of the constitutional movement. Until these elections are held, the government, dominated by the royal family, continues to rule by decree, as it has done since July 1986.

The principal Kuwaiti opposition since liberation has been composed of seven factions that include secular, Sunni and Shi`a religious groups.²⁴² An eighth group, the newly formed August 2 Movement of retired military officers, has also appeared on the scene. The seven principal factions articulated the following demands in a number of joint statements:

- o Restoration of the National Assembly through early elections to be held by the beginning of 1992.**
- o An end to restrictions on free speech and assembly, to allow candidates to campaign.**
- o Repeal of the 1986 censorship law to enable all candidates to have a fair chance to express their views.**
- o Dissolution of the National Council.**

In a statement issued on May 15, 1991, the opposition groups criticized the government's human rights practices. They called for the release of all detainees held without charge, permission for relatives and defense lawyers to meet with prisoners, and an increased role for civilian prosecutors at police stations. They also called for open trials attended by international observers as well as judicial investigations into charges of human rights violations committed by security forces.

Considering the important decisions to be made in the twenty months between February 1991 and October 1992, including key decisions on restructuring Kuwaiti society, the opposition found the delay in holding the elections inexcusable. It also pointed out that the government would have an unfair advantage during the campaign since public assembly is still banned and

²⁴² **The seven are the Islamic Constitutional Movement and the Islamic Grouping (two Sunni religious groups), the National Islamic Coalition (a Shi'a religious group), and four secular groups: the Kuwaiti Democratic Forum, the Constitutional Movement, the Deputies Bloc and the Independents.**

expression severely restricted.

Kuwaiti apprehension about the government's intentions was fueled by two acts of violence directed at the opposition. On February 28, two days after liberation, an assailant shot prominent opposition leader Hamad al-Jau'an at his home in Kuwait City. The bullet hit his spinal column, paralyzing him. Immediately following the shooting, the Kuwaiti government announced that it had arrested three foreign residents, but it never formally charged them with the shooting. Al-Jau'an himself has emphatically said that his lone attacker was a Kuwaiti. His friends have publicly accused a militia loyal to members of the Sabah family of being behind the shooting. As a member of the National Assembly in 1985, al-Jau'an had led the questioning of a member of the ruling family, Minister of Justice Shaikh Selaiman De'aj al-Sabah, that led to his resignation amid allegations of corruption.

Another suspicious shooting of a government critic came on March 7, nine days after liberation. Hussein al-Bannay, a thirty-eight-year old Kuwaiti man, was shot dead during a political discussion in a *diwaniyya* when a gunman opened fire. While the assailant, who was described as a member of the armed forces or one of their militia allies, was immediately apprehended, he has not been formally charged or brought to trial. When questioned about the incident, Kuwaiti officials told Middle East Watch that the shooting was accidental, an assertion which was contested by opposition figures contacted by Middle East Watch.

The Kuwaiti government has shown little tolerance for criticism of its officials. In at least two cases, defendants faced trials before the martial-law tribunals for their exercise of free speech. Farraj Nassar al-Rekaibi, a former Kuwaiti soldier and a Bedoon who became a hero for his anti-Iraqi resistance activities, was charged by the Kuwaiti government with "resisting the authorities and threatening the peace by spreading rumors" because of his public criticism of government decisions. He was detained for three months before being acquitted on June 3.²⁴³ Another defendant, Hamza Abdel Fattah Ahmed, a Palestinian, was tried and convicted of "insulting the person of the emir."

When prominent opposition leaders met on June 2 with Edward Gnehm, the U.S. ambassador to Kuwait, the official Kuwaiti government newspaper *Sawt al-Kuwait* bitterly criticized the meeting. In a June 7 editorial, the paper ridiculed the

²⁴³ According to the government newspaper *Sawt al-Kuwait* (June 6, 1991), the statements attributed to him included criticism of the government's decision to dissolve the National Assembly and the government's lack of military preparedness on the eve of the Iraqi invasion.

opposition leaders for seeking help from foreign embassies and referred to the U.S. ambassador as the "High Commissioner," a title used by Great Britain for its colonial representatives. The implication was that the opposition and the ambassador had compromised Kuwait's independence. The meeting followed the failure of negotiations between the government and the opposition on elections.

Opposition leaders also wanted a positive U.S. influence that would counterbalance the anti-democratic pressures from Saudi Arabia, which had contributed to the Kuwaiti government's decision to suspend parliamentary life in 1986 and later advised Kuwait to delay its resumption. Semi-official Saudi newspapers, one of which also criticized the meeting between the Kuwaiti opposition and the U.S. ambassador, have regularly attacked the Kuwaiti pro-democracy movement, claiming at one point that Kuwaitis did not genuinely desire a restoration of democracy.

On December 10, for the first time in Kuwait's history, the Kuwaiti Democratic Forum was openly declared a political party, challenging the traditional ban on political parties in Kuwait. The new party announced publicly the names of its twenty-one-member executive committee, which chose from among its members a seven-member secretariat headed by Abdalla al-Nibari, a veteran politician and former National Assembly member. The new party vowed to start pressing for free speech and assembly in preparation for the October 1992 elections. The government has had no public reaction to the announcement.

Kuwait still operates under strict censorship rules that were tightened in a July 1986 decree mandating prior censorship of all Kuwaiti publications. Daily newspapers have censors from the Ministry of Information in their offices who have to approve every item before the newspaper is allowed to publish. Repeal of this system of censorship, which was retained after Kuwait's liberation, has been a key demand of journalists and the political opposition. A meeting in October between the crown prince and Kuwaiti newspaper editors during which the subject was raised has yet to produce any positive results.

In addition to censorship of the print media, the Kuwaiti government owns and operates the television and radio stations, plus a number of newspapers and magazines, all of which express only the government's views and regularly attack its critics. The only local sources of independent information are the privately owned newspapers that resumed publication during the summer but remain subject to clearance by Ministry of Information censors.²⁴⁴

²⁴⁴ Of the major pre-invasion dailies, only the conservative *al-Anba'* has not started publishing inside Kuwait.

Ministry of Information censors are very strict about what is allowed to appear in print. For example, on December 10, a government censor refused to allow the publication of a statement by the Kuwaiti Association to Defend War Victims commemorating the Universal Declaration of Human Rights because it implied criticism of the government.

February 26, a daily newspaper that began publication a week after liberation and received government subsidies, was shut down less than a month later. The newspaper carefully avoided sensitive political issues but nevertheless criticized the slow pace of restoration of basic services. In its place, a more loyalist daily, *al-Fajr al-Jadid* (*The New Dawn*), was started, also with government financial support. The new publication makes no pretence of independence. In addition, the government owns and operates the daily *Sawt al-Kuwait*, published in London and printed by satellite in several countries; every issue extols the virtues of the government and the royal family and often lashes out at the opposition. The opposition points out that since these publications are either wholly or partly financed with public funds, they should reflect a wider spectrum of views, especially in the coming election campaign period.

Kuwait's restrictions extend to foreign reporters. Immediately after the war ended, Kuwait encouraged hundreds of reporters to visit. One month after liberation, probably because of the highly unfavorable press that Kuwait was receiving at the time, the government started restricting access to Kuwait. For the month of April, the Kuwaiti Embassy in Washington told reporters that it was not issuing any visas. The stated reason was that there was not sufficient food or other supplies in Kuwait. This total ban was relaxed in early May as Kuwait initiated a procedure — still in effect — that limited the number of reporters who may be granted visas. Under this procedure, a Kuwaiti sponsor for the applicant is required. In effect, this meant that reporters must be invited by the government itself to obtain a visa.

Once in Kuwait, there have been reports of interference with journalists' work. In late July, an ABC crew filming the Foreign Re-registration Office was stopped by an officer who briefly detained one of the crew, demanded to see a permit that allowed filming, and then confiscated the film to view its contents. In early August, a Dutch film crew was followed by State Security Investigative Police while visiting a Palestinian neighborhood. A family interviewed by the film makers later received threats and one of its members, who had been arrested before and tortured, was redetained and questioned about the interview.

Freedom of expression is restricted outside of the press as well. When opposition leaders tried to hold a press conference on April 22 to voice their views on the newly formed cabinet, government forces disrupted the event and forcibly

dispersed those who had gathered. On May 10 and 11, five members of the Islamic Constitutional Movement — an opposition group — were arrested at Kuwait International Airport because they carried unauthorized signs welcoming Kuwaitis returning from exile. In his comments on the incident, Minister of Interior Shaikh Ahmed Humood al-Sabah said that the men arrested had violated regulations banning the use of unlicensed signs.

Agreements by the Saudi-dominated Gulf Cooperation Council (GCC) have further restricted freedom of expression by banning from all GCC countries publications that are critical of the leader of any member state.²⁴⁵ On December 14, Abdel Latif Mahmoud al-Mahmoud, a Bahraini professor, was arrested at Bahrain Airport upon his return home from a visit to Kuwait. The reason for his arrest, according to a Bahraini official, was that he had given a lecture in Kuwait deemed "contrary to the laws of the land which require people to be respectful to the heads of state in the area."²⁴⁶ It appeared that the official was referring to a December 9 lecture that al-Mahmoud delivered at the University of Kuwait. Entitled "The role of popular participation in political decision-making and the future of democracy in the region," the lecture was critical of the undemocratic nature of the traditional governments of GCC member states.

The Right to Monitor

Kuwait has acceded to only a few key international humanitarian treaties, most notably the four Geneva Conventions and their two additional protocols. Kuwait is not a party to the International Covenant on Civil and Political Rights, or other major human rights instruments relating to refugees and stateless persons.

Since liberation, the Kuwaiti government has refused to legalize the Kuwaiti Association to Defend War Victims. The Association was formed in March 1991 to monitor observance of human rights and provide assistance to families of detainees. Its founders articulated two key goals: documentation of human rights violations committed by the Iraqi occupying forces, and registration of all those who disappeared during the Iraqi occupation. The Association then undertook two additional tasks: to monitor Kuwait's observance of human rights and to provide

²⁴⁵ The GCC, formed in 1981, is composed of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

²⁴⁶ Reuters, December 15, 1991.

relief to detainees and their families. The Association in Kuwait and was told in July to cease its operations, but as of December the government had not moved to forcibly close it down. It continues to operate from a vacant, government-owned school.

Although the International Committee of the Red Cross was allowed in Kuwait immediately after liberation, it was not allowed to visit any places of detention for several weeks. A number of prisons were not accessible to the ICRC until months later. By early December, the ICRC is known to have had access to all places of detention but still had not been permitted to see all detainees.

The United Nations High Commissioner for Refugees was also initially barred from opening an office in Kuwait, and the United Nations Relief and Works Agency (UNRWA) — the U.N. agency charged with Palestinian welfare — has not been allowed to operate.

During the Iraqi occupation, the Kuwaiti government-in-exile solicited the help of international human rights organizations in monitoring violations committed by Iraqi forces in Kuwait. After liberation, the government encouraged these organizations to visit Kuwait to gain proof of Iraq's gross abuses. But when these organizations also condemned abuses then being committed by Kuwaiti forces, the Kuwaiti authorities restricted access to the country. For six weeks, in April and May, the Kuwaiti Embassy in Washington refused to issue visas to representatives from Middle East Watch and the U.S. Committee for Refugees. Thereafter, international human rights organizations obtained access to Kuwait without difficulty.

U.S. Policy

One important factor in the explosion of abuse immediately following the liberation of Kuwait was the allies' failure to assign troops in appreciable numbers to patrol Kuwait City and deter abuses, despite the presence of thousands of troops in the country. Although violent abuses were rampant and, in the initial days following liberation, the Kuwaiti government showed no sign of an ability or intention to stop the violence, the allies made little effort to deploy and authorize troops to intervene to stop abuse. Potential trouble spots in Kuwait City, such as detention facilities and neighborhoods that had been targeted by returning Kuwaitis seeking revenge, should have been watched closely. Instead, applying rigid notions of sovereignty that bore little relation to the Kuwaiti reality at the time, the allies washed their hands of the problem, ignoring their central role days earlier in returning the Kuwaiti government to power. The allies'

passivity, despite the obligation of all parties to the 1949 Geneva Conventions "to ensure respect for the...Convention in all circumstances,"²⁴⁷ stood in sharp contrast to their ongoing active role in providing security against possible renewed aggression from Iraq and in helping to rebuild Kuwait's infrastructure.²⁴⁸

The role that allied forces might have played in curbing abuse was revealed by several witnesses interviewed by Middle East Watch, who described how U.S. troops who happened to have been present stopped Kuwaiti forces from abusing detainees. On other occasions, however, U.S. forces were less effective in combatting abuse, either because of their small numbers in the immediate vicinity or because of their limited authority and mandate. In one case reported to Middle East Watch, U.S. troops witnessing the beating of prisoners did nothing. In another case reported by *The Independent* of London, U.S. troops seemed to condone the beating of a Palestinian youth and to be bothered only by the presence of reporters.²⁴⁹

Upon liberation of Kuwait, the U.S. army deployed 3,500 troops known as Task Force Freedom. They included Special Forces who helped Kuwaiti security forces take over police stations and man roadblocks.²⁵⁰ Special Forces were clearly

²⁴⁷ Common Article 1.

²⁴⁸ An operation undertaken by the U.S. army in Kuwait was described as the largest civil affairs operation since the Second World War. It included the Kuwaiti Task Force, composed of fifty-seven army civil-affairs reservists who started planning reconstruction operations with the Kuwaiti government in December 1990. They included lawyers, doctors, engineers, a judge and other specialties. Later, Major General Patrick J. Kelly of the Army Corps of Engineers, head of the Defense Restoration Assistance Office in Kuwait, undertook the responsibility of supervising the Kuwait Emergency Reconstruction Office, a major reconstruction operation undertaken by the Corps of Engineers (John Kifner, "U.S. Army Doing the Work in Kuwait," *The New York Times*, April 5, 1991.) The Corps of Engineers will remain in Kuwait for some time, according to Colonel Curvee, its Public Information Director in Kuwait, in an interview with *Sawt al-Kuwait* on August 15, 1991. U.S. military officers also advised Kuwaiti legal authorities in the preparation of martial-law trials (Lee Hockstader, "Justice Goes on Trial in Kuwait," *The Washington Post*, April 3, 1991.)

²⁴⁹ Robert Fisk, "Kuwait Palestinians face gunmen's revenge," March 4, 1991.

²⁵⁰ John Kifner, "U.S. Army Doing the Work in Kuwait," *The New York Times*, April 5, 1991.

visible in Kuwait throughout the first month after liberation but their mandate appeared to be a limited one. U.S. Lieutenant Colonel Ron Smith told *The Guardian* of London after he visited a number of detention centers where prisoners were reportedly being mistreated, "All I can do is ask the questions and hope that it has an effect."²⁵¹ Another report by *The Independent* quoted a U.S. military source as saying:

Our people on the ground didn't understand what their role was. Some of our senior officers were not reporting things up the channel. We would find that our Special Forces officers based in Kuwaiti police stations would know people were being tortured there but couldn't prove it. We would have American officers who would hear someone screaming but who couldn't say the man was being tortured because he wasn't witnessing it. So they would not report to us.²⁵²

The need to put an end to human rights violations committed by Iraq in Kuwait was one of the stated reasons that the U.S. Administration went to war against Iraq. In rallying support to wage war against Saddam, President Bush on numerous occasions condemned Iraqi atrocities. In his January 16 speech announcing the launching of Desert Storm, he stated that he could not wait any longer because Saddam Hussein had "subjected the people of Kuwait to unspeakable atrocities, and among those maimed and murdered, innocent children." In the same speech the President also said, "The terrible crimes and tortures committed by Saddam's henchmen against the innocent people of Kuwait are an affront to mankind and a challenge to the freedom of all." In his February 27 speech declaring that "Kuwait is liberated," President Bush said, "This is a victory for the United Nations, for all mankind, for the rule of law, and for what is right."

Since the liberation of Kuwait, however, U.S. senior officials have shied away from publicly criticizing the serious human rights violations committed by Kuwaiti authorities against foreign and Bedoon residents. This reticence comes despite the enormous respect that most Kuwaitis have for the United States as the leading member of the alliance responsible for liberating their country. Moreover, many Kuwaitis believe that they require an ongoing U.S. military presence to ward off a

²⁵¹ Kathy Evans, "Watchdogs on trail of Kuwait abuses," April 14, 1991.

²⁵² Robert Fisk, "US evidence links emirate's ruling family with death squads murdering Palestinians," April 27, 1991.

perceived continuing Iraqi threat.²⁵³

During a June 12 hearing, Senator Ernest Hollings commented to Secretary of State James Baker: "Down in Kuwait...the torture and rape of Saddam continues under the Emir," noting that the proclaimed new international order "looks like...a new world disorder." Secretary Baker responded by emphasizing that the war was fought only to combat Iraqi aggression, suggesting that it was not waged to establish respect for human rights in Kuwait: "What we did...was to mobilize the international community to make it clear that unprovoked aggression by a big country against a little one isn't going to stand up. And we did it...We destroyed Iraq's military capabilities — Iraq, which constituted the greatest threat to the security of the Persian Gulf, and indeed the greatest threat to Israel's security — gone; military threat is destroyed."²⁵⁴ Kuwait "may not be the optimum type of regime," the secretary explained. Although "it does not follow our standards, and it is not a full-fledged democracy," he praised it for its announcement that elections would be held, and its as yet unacted-upon willingness to enfranchise women.²⁵⁵ Most Kuwaitis, however, believe that the October 1992 date that the Kuwaiti government has set for elections is too distant, considering the important decisions that Kuwait must make in the interim. The delay also violates an understanding between the government and the opposition reached during the Iraqi occupation to hold early elections.

On granting women the right to vote, the Kuwaiti government has been even less forthcoming. The only public announcement made by Kuwaiti officials on this issue has been the emir's address to the nation on April 8, 1991, when he said that "the subject of participation of women in parliamentary life will be studied to ensure that women carry out their full role in the building of society and its

²⁵³ Chris Hedges, "A Year Later, Kuwait Sinks Into Malaise," *The New York Times*, August 2, 1991; Comments by Shaikh Sa'ad Abdalla al-Sabah, *Sawt al-Kuwait*, July 3, 1991.

²⁵⁴ Hearing of the Commerce, Justice and State Subcommittee of the Senate Appropriations Committee, June 12, 1991.

²⁵⁵ David Hoffman, "Kuwaitis Defended By Baker," *The Washington Post*, June 13, 1991. In mid-April Secretary Baker described the emir of Kuwait and the crown prince as "very forthcoming," after they told him privately, "There will be elections in 1992 and considerations are being given as well to voting rights for women." John M. Goshko, "Baker Presses Kuwait's Leadership," *The Washington Post*, April 23, 1991.

progress."²⁵⁶ Later statements by Kuwaiti officials, such as the July 9 addresses by the emir and the crown prince to the first session of the National Council, seemed to further downplay the issue.²⁵⁷ In an August National Council meeting attended by the crown prince, a motion to discuss granting women the right to vote was defeated in favor of another motion to postpone the discussion indefinitely.

On May 20, 1991, one day after the beginning of martial-law trials in Kuwait, most of the State Department briefing was spent defending the summary proceedings. Despite universally expressed outrage at the travesty of the previous day's trials, spokeswoman Margaret Tutwiler, after having been briefed by Ambassador Gnehm, dwelled on the few positive aspects of the trials: They had been open, counsel had been present (though largely prevented from playing any meaningful role) and international observers had been in attendance. She did not see fit to note the other grave deficiencies, even after they were raised by reporters: the lack of a right to appeal, to consult a lawyer, to examine evidence prior to trial, to cross-examine prosecution witnesses, or to call defense witnesses. None of these concerns had been raised with the Kuwaiti government, she indicated. Moreover, she was unaware that many of the defendants had been tortured, despite extensive documentation of such torture by human rights organizations and by U.S. Embassy staff in Kuwait. The only criticism she voiced, referring to one of the cases summarily resolved the day before, was that "15 years for wearing a T-shirt is a little steep."

When Kuwait's crown prince decided to commute the death sentences, the State Department praised the move as "evidence that death sentences are given

²⁵⁶ As reported by KUNA, April 10, 1991.

²⁵⁷ While avoiding mentioning the women's vote, the emir said in his address: "We recall the supreme and bright role that women undertook...behind the resistance fighters, as wives and sisters, and even as resistance fighters themselves. They gave examples of heroism that history will admiringly record, and Kuwait will proudly remember. The challenge propelled them in the face of the most difficult circumstances to provide for their homes and for Kuwait as a whole in spite of the siege of the Iraqi aggressors." The crown prince, who also avoided addressing women's right to vote, said in his speech: "The effective patriotic role of the Kuwaiti woman, whose great steadfastness as a mother, a sister, a wife, or as a daughter resisting the occupation inside Kuwait and fighting against it outside, made us proud and grateful. This role undoubtedly entitles her to an even greater role and fuller degree of contribution in the Kuwait of the future." Both addresses were published in *Sawt al-Kuwait* on July 10, 1991.

careful review."²⁵⁸ This comment came despite the crown prince's parallel decision to change all the death sentences to life imprisonment and to ratify unchanged more than one hundred other harsh sentences passed following proceedings lacking the minimum acceptable standards of a fair trial — all without any opportunity for defense counsel to be heard.

After Kuwait expelled 115 of its residents during the night of June 11, State Department spokesman Richard Boucher refused to comment, despite repeated questions from the press.²⁵⁹ Anonymous State Department officials let it be known that they did not believe the expulsions violated the Geneva Conventions,²⁶⁰ even though, as noted above, the deportees, including twenty children, were dumped by Kuwaiti military officers on the border with no food or water and forced to walk a mile in darkness, through a mine-infested area, toward a nation (Iraq) where many justifiably feared persecution²⁶¹ — all in violation of specific provisions of the Geneva Conventions.

The Kuwaiti ambassador to the United States told a reporter that President Bush had said to him during a visit to the White House, "We didn't fight this war for democracy or those trials. Don't be intimidated by what's going on."²⁶² The White House did not contradict this statement. The president himself said later at a July 1 press conference in response to a question about post-war "atrocities" in Kuwait: "The war wasn't fought about democracy in Kuwait. The war was fought about aggression against Kuwait." He said that he understood the rage Kuwaitis felt,

²⁵⁸ From a briefing by spokeswoman Tutwiler on June 27. By contrast, Abdalla al-Nibari, a Kuwaiti opposition leader, attributed the commutation to pressure from Kuwait's Western allies, and added, "It is a political decision. It gives the impression of being made under international pressure, especially from the British government." He added that it was the wrong decision; the trials were defective and therefore defendants should be granted new trials. *Mideast Mirror*, June 27, 1991.

²⁵⁹ State Department briefing, June 21, 1991.

²⁶⁰ David Hoffman, "Kuwaitis Defended By Baker," *The Washington Post*, June 13, 1991.

²⁶¹ A woman deportee cried, "Please don't leave us here! Saddam people will surely kill us." *The Washington Post*, June 12, 1991.

²⁶² Jonathan Broder, "Kuwait will expel most Palestinians, ambassador says," *The Orange County Register*, June 17, 1991.

recalled what had happened in France after the Second World War when "the people that were liberated did not take kindly to those that had sold out to the Nazis," and then added, "I think we're expecting a little much if we're asking the people in Kuwait to take kindly to those that had spied on their countrymen that were left there, that had brutalized families there and things of that nature."²⁶³ It is difficult to imagine a more forceful apology for abuse.²⁶⁴

Criticisms of the human rights situation in Kuwait have not been wholly lacking in official U.S. statements. Ambassador Gnehm has expressed public concern, most notably in a June 6 speech to the Kuwaiti Chamber of Commerce, in which he said: "[T]hose who broke Kuwaiti laws and were parties to Iraqi criminal actions should be prosecuted fairly and fully under the law. But the innocent should not become new victims."²⁶⁵ Another exception was a November 20 statement by Edward Djerejian, the newly appointed assistant secretary of state for Near Eastern and South Asian affairs. He told the House Subcommittee on Europe and the Middle East that the United States was pressing countries in the region, including Kuwait and Saudi Arabia, to move ahead with democratic reform. However, such occasional and welcome statements have been substantially overshadowed by the signals sent by more senior Administration officials, including President Bush and Secretary Baker, that ending human rights abuses in Kuwait is not a primary U.S. concern.

The Administration's failure to provide a strong voice in defense of human rights in Kuwait is even less excusable in light of the substantial, ongoing U.S. presence in the country. Although most of the U.S. forces were withdrawn from Kuwait by the end of May, leaving only about 1,500 regular troops in Kuwait itself by early December, the U.S. commitment to the defense of Kuwait is not in question.²⁶⁶ There are several hundred U.S. Army Corps of Engineers personnel

²⁶³ The text as released by the Office of the Press Secretary at the White House (Kennebunkport, Maine), July 1, 1991.

²⁶⁴ The Kuwaiti government daily *Sawt al-Kuwait* featured the President's comments on its July 3 front page under the headline, "Bush declares his understanding of Kuwaitis' attitude toward collaborators: 'We would be asking a lot if we asked them to show mercy,' he says."

²⁶⁵ Reuters, June 8, 1991.

²⁶⁶ Although these troops are scheduled to withdraw by the end of the year, under the September 19 defense agreement, there will be frequent rotations through regular joint exercises.

involved in various reconstruction projects in Kuwait, and the United States still maintains a sizable military presence in the Gulf, including over 16,000 Navy, 11,000 Army and 5,000 Air Force personnel. The September 20 military agreement signed in Washington by the two countries' defense ministers formalized the U.S.-Kuwait military alliance. This ten-year pact provides for U.S. Navy access to Kuwaiti ports and the prepositioning of military equipment. It also regulates the planned frequent joint military maneuvers.²⁶⁷ According to Kuwait's Defense Ministry officials, who said that not all treaty clauses have been made public, the agreement calls for close U.S. involvement in developing the Kuwaiti armed forces, advising Kuwait on defense matters, training Kuwaiti officers in the United States, and supplying the Kuwaiti military with necessary hardware.

Since signing the defense pact, the two countries have held a number of high-profile live-fire joint exercises that emphasized the continued presence of U.S. firepower, according to one expert.²⁶⁸ Between October 23 and 24, joint exercises involving land forces were held in al-Rawdhatain in northern Kuwait. Joint U.S.-Kuwaiti maneuvers with live ammunition were again conducted for over six weeks starting on November 6 involving the land, sea and air forces of both countries.²⁶⁹

Brigadier Ali al-Mumin, the Kuwaiti commander of the joint exercises, said that the Kuwaiti armed forces would not be in a position to enter combat on their own for the foreseeable future. Until it is able to augment significantly its ten-thousand-strong army, Kuwait would rely for its defense on the U.S. military and other Gulf forces. To provide for this defense, the two Kuwaiti air bases (Ali al-Salem and Ahmed al-Jaber) would be "inter-operable" with U.S. forces as part of future defense plans.²⁷⁰ These bases are being upgraded by the U.S. Army Corps of

²⁶⁷ Eric Schmitt, "U.S. and Kuwait Sign Pact on Troops," *The New York Times*, September 20, 1991.

²⁶⁸ Rear Admiral Ray Taylor, as quoted in Mark Nicholson, "Kuwait's forces `not ready for combat'," *Financial Times*, November 18, 1991.

²⁶⁹ Agence France-Presse, November 17, 1991.

²⁷⁰ Mark Nicholson, "Kuwait's forces `not ready for combat,'" *Financial Times*, November 18, 1991.

Engineers at a cost of \$350 million, which will be paid by Kuwait.²⁷¹

On September 20, the Kuwaiti Investment Authority, a government fund, signed a \$2 billion export credit agreement with the U.S. Export-Import Bank. The agreement, the first of its kind, would extend credit to American companies signing reconstruction contracts with the Kuwaiti government.²⁷²

In contrast to the Administration's public silence on human rights abuses in Kuwait, a significant number of members of the U.S. Congress voiced their criticism of Kuwait's human rights violations in letters to the Kuwaiti government and to the Administration:

- o On April 19, thirty-five representatives sent a letter to President Bush outlining human rights violations in Kuwait and asking for the president's assistance "because United States civil affairs officers are responsible for maintaining public security in Kuwait." They pointed out that "the U.S. has a direct role to play in ensuring that human rights abuses in Kuwait cease immediately."**
- o On July 16, sixteen senators sent a letter to the emir calling for fair trials and a limit on expulsions.**
- o On September 26, twenty-three senators sent a letter to the Kuwaiti ambassador to the United States expressing their "continuing concern about human rights Kuwait." They also called upon the Kuwaiti government "to take steps to end abuses and prosecute those responsible."**
- o On November 14, twenty-one senators sent a letter to President Bush urging him to issue an executive order providing temporary immigration relief for several hundred families living in the United States who had been airlifted from Kuwait during the Gulf crisis. The president issued the order benefiting primarily Palestinian families with U.S.-born small children whose return to Kuwait was barred by the Kuwaiti government. As mentioned above, Kuwait has denied reentry to the 180,000 Palestinians who left Kuwait during the crisis.**

²⁷¹ *Sawt al-Kuwait*, September 20, 1991.

²⁷² *Sawt al-Kuwait*, September 22, 1991.

The Work of Middle East Watch

During the first two months of the year, Middle East Watch continued to monitor human rights abuses by the Iraqi occupying forces in Kuwait. It also continued its monitoring of Kuwait's constitutional movement. On January 12, Middle East Watch testified before the House Foreign Affairs Committee on four issues on which the Committee had requested testimony: human rights conditions in Iraqi-occupied Kuwait, human rights conditions in Kuwait before the invasion, human rights conditions in Iraq, and U.S. human rights policy in the wake of the invasion. Middle East Watch also provided information to the Committee on the Kuwaiti constitutional movement and voiced concern about the future of democratic reform in Kuwait in light of the Kuwaiti government-in-exile's reluctance to make firm promises about its post-liberation plans.

On March 7, Middle East Watch issued a newsletter, "POWs, Wounded and Killed Soldiers," in which it called on Iraq to release all Kuwaiti detainees captured during Iraq's occupation of Kuwait. It also cautioned against reprisal killings or mistreatment of Iraqi prisoners in allied hands, including those in Kuwait.

During March, Middle East Watch sent a mission to Kuwait to investigate human rights abuses. The mission investigated extrajudicial killings and detention conditions. It also interviewed scores of victims of Iraqi abuse. While in Kuwait, Middle East Watch met with Kuwaiti, American, British and Palestinian officials and coordinated its activities with international humanitarian organizations present in Kuwait at the time.

On March 20, Middle East Watch held a press conference in Kuwait on post-liberation human rights violations. It chose to publicize its preliminary findings because of the urgency of the situation and the need to put an immediate stop to the flagrant abuses then being committed. Middle East Watch also publicized its findings through extensive interviews given to the international media in Kuwait. When the mission returned to the United States, Middle East Watch met with Administration officials to convey its findings and solicit their help in putting an end to Kuwaiti abuses.

In late May and early June, Middle East Watch sent another mission to Kuwait to monitor martial-law trials and update the earlier findings. Its representatives attended a number of key trials and helped in raising international concern regarding the lack of fairness of those proceedings. Their investigation of detention conditions and extrajudicial killings led to the discovery of mass graves in which fifty-four unidentified bodies were buried in al-Rigga cemetery.

On June 11, Middle East Watch presented its findings regarding Kuwait before a joint meeting of the House Subcommittees on Europe and the Middle East and on Human Rights and International Organizations. In addition to information about extrajudicial killings and torture in Kuwaiti prisons, the testimony discussed the official Kuwaiti reluctance to make progress toward restoring democratic rule and freedom of speech.

On June 18, Middle East Watch sent a letter to the emir of Kuwait, later released to the press, detailing the shortcomings of the martial-law trials and deploring the harsh sentences passed by the courts based on dubious evidence. On June 26, the day that martial law was lifted, Middle East Watch issued a statement welcoming the disbanding of the martial-law courts and the commutation of death sentences to life imprisonment. However, the statement criticized the administrative review of martial-court judgments that had ratified all sentences other than the death penalty.

On September 11, Middle East Watch released a report, *A Victory Turned Sour: Human Rights in Kuwait Since Liberation*, which documented human rights violations committed by Kuwaiti forces. In addition to documenting violent abuses of the post-liberation period, the report drew attention to Kuwait's policy of employment discrimination and summary expulsion of its Palestinian and Bedoon residents. A formal request by Middle East Watch to Kuwaiti authorities to discuss its findings in this report was not answered.

On October 23, Middle East Watch issued a newsletter, "Nowhere to Go: the Tragedy of Palestinians in Kuwait," in which it reiterated its concerns regarding Kuwait's harassment of Gazan Palestinians carrying Egyptian travel documents. It pointed to Kuwait's obligation under the Fourth Geneva Convention not to expel these stateless persons.

Throughout the year, Middle East Watch worked with congressional offices attempting to focus the attention of the U.S. Administration and the Kuwaiti government on the human rights violations committed by the Kuwaiti government.

Middle East Watch also has worked with refugee-support groups and lawyers representing hundreds of asylum seekers from among former residents of Kuwait stranded in the United States, Canada and Europe as a result of Kuwait's refusal to permit their return.

Articles by Middle East Watch staff and committee members on human rights in Kuwait appeared in *The New York Times*, *The New York Review of Books*, *The Atlanta Journal/Constitution*, *Middle East Report* and *The Journal of Palestine Studies*. Interviews were also given on major American and foreign radio and television programs. Middle East Watch reports on Kuwait received extensive media coverage worldwide.

MOROCCO AND WESTERN SAHARA

Human Rights Developments

King Hassan II took several dramatic steps affecting human rights in 1991, including releasing hundreds of political prisoners, closing down the secret detention center of Tazmamart, and endorsing a new law limiting the length of incommunicado detention. The public discussion of abuses was also freer than in previous years. While these developments helped to improve the overall human rights picture and raise hopes for continued progress, they did not alter the laws and institutions responsible for the systematic nature of abuses in Morocco.

Repression during and after the Persian Gulf war revealed how tightly authorities continue to restrict political expression. Detainees under interrogation were routinely tortured and subjected to trials that failed to adhere to international standards of due process. Demonstrations and public meetings organized by opposition parties, trade unions and human rights organizations were often restricted, and publications were seized or banned because of their political content.

The Moroccan judicial system is stacked against persons arrested on political or security grounds. Suspects are often tortured by the judicial police (*police judiciaire*) during incommunicado (*garde à vue*) detention until they sign a confession, and are then convicted on the basis of that confession alone. Morocco's judges, who are appointed by the executive branch, tend to dismiss summarily defense motions to examine evidence of torture or procedural irregularities during interrogation.

Abuses of this nature were experienced by many of the suspects arrested in connection with riots that took place in Fez, Tangier and other cities on December 14 and 15, 1990, and by persons arrested for participating in "illegal" pro-Iraq demonstrations before and during the Gulf war.

As of March 1991, some 850 Moroccans had been sentenced to up to fifteen years in prison in connection with the December riots, in trials of up to eighty-five defendants at a time. Most of the defendants had been charged with participating in the looting and violent demonstrations that broke out on December 14, the day that a general strike was declared by two major unions. Many of these defendants, as well as persons arrested for demonstrating during the Gulf war, were subjected to irregularities in arrest and pretrial procedures, and were convicted in unfair trials in which defense lawyers were given almost no time to prepare and judges

dismissed motions to examine evidence of torture.²⁷³

As rare as it may be for a defendant's allegations of torture to be examined by a judge, it is even more unusual for physical abuse to lead to punishment of the responsible parties. Middle East Watch is aware of no member of the security forces who has been charged with using excessive force in suppressing the December 1990 riots or any subsequent demonstration or disturbance. Only one case of abuse in detention led to legal action in 1991: six Casablanca policemen were arrested and charged in connection with the death of Lamseguem el-Hachmi, a thirty-six-year-old peddler and an activist in one of the legal opposition parties, who was arrested in a sweep of street vendors on September 21 and died the same day.²⁷⁴

New limits on the duration of incommunicado detention and preventive detention (when a person is administratively placed in custody but not held incommunicado) were proposed by the officially created Consultative Council on Human Rights, described below, and approved by the king and Parliament in early 1991. To date, however, these reforms have not been promulgated.

The proposed law would make the following changes:

- o Incommunicado detention would be limited to four days except for a single extension for the same period when the investigation involves offenses against the internal or external security of the state. The current legal maximum in nearly all cases involving state security is twelve days. However, a 1971 law would remain on the books and allow authorities to exceed the new eight-day limit for offenses against state security in which the suspects are military personnel, or for certain offenses against state security in which the suspects are civilians.

²⁷³ See Amnesty International, "Morocco: Update on Human Rights Violations," March 1991. The independent Moroccan Organization for Human Rights also denounced unfair trials of both groups of defendants in communiques of January 9 and 23, 1991. The latter describes how, on January 22, a court of first instance in Fez refused a defense motion to order a medical expert to examine marks on the bodies of the defendants who had been arrested four days earlier in a demonstration.

²⁷⁴ *Libération (Rabat)*, November 15, 1991. Morocco has signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the U.N. General Assembly in 1984, but has not yet ratified it.

- o The new law would not give a detainee the right to legal counsel while being held incommunicado, but would allow a lawyer to be present when the detainee is brought before a prosecutor or judge at the end of his incommunicado detention.**
- o The new law would also limit preventive detention to two months, with up to five two-month renewals permitted when the investigation involves a grave crime and an order with an explanation is issued each time by a judge. Currently, preventive detention orders can be renewed indefinitely.**

The proposed law would be a step in the right direction. According to lawyers active in the independent Moroccan Organization for Human Rights (OMDH), the "spirit" of the law has already contributed to a reduction in the mistreatment of incommunicado detainees. However, the proposed legal limit of eight days on incommunicado detention would not by itself eliminate the torture of suspects, which regularly has occurred during the initial days of detention. Even under the new law, no independent persons are allowed access to detainees while they are being held incommunicado. Only enforcement of the procedural and criminal safeguards against torture will deter abuse.

There are several hundred unresolved cases of suspected disappearance in Morocco. Most, but not all, involve Western Saharans, or Sahrawis. The government denies that it is holding any Sahrawis after releasing more than three hundred since June.

The release of the Sahrawis was one of two dramatic improvements in 1991 with regard to disappearances in Morocco. The other was the closure in September of the secret detention center of Tazmamart, where sixty-one military personnel had been transferred in 1973 and held incommunicado since then in appalling conditions.²⁷⁵ These measures were major breakthroughs on two issues that previously the government had refused to address publicly.

However, the breakthroughs were of limited scope. In neither case was any official information provided about those who had died while in secret detention. Furthermore, several hundred Sahrawis remained unaccounted for, and may still be in Moroccan custody, despite official denials.

The inmates at Tazmamart had been sentenced to terms ranging from three

²⁷⁵ One inmate was permitted to correspond infrequently with his American wife. All other letters to the outside world had to be smuggled out. See generally Middle East Watch, "Deaths in a Secret Detention Center," April 1990.

years to life in prison for their roles in two abortive coup attempts in 1971 and 1972. None of them — not even the more than fifty who had completed their terms — was freed.

In September, after years of denying the existence of Tazmamart, officials who insisted on anonymity indicated to the press that the detention center had been razed. Even then, the government continued to stonewall. It did not confirm who had been released and provided no information about the thirty inmates of Tazmamart who are believed to have died during their years of incarceration. Information was difficult to obtain also because the released inmates and their families were terrified to speak to outsiders. While it is known that two prisoners who had not yet completed their sentences were transferred to Kenitra prison, it was still not possible to ascertain as this report went to press how many of the remaining inmates had been released.

Similarly, authorities provided no information when they released more than three hundred Sahrawis in the weeks following the king's declaration of a June 12 pardon for what the official press agency described as "all Sahrawis arrested during military operations or because of their secret agreement with enemies of the Kingdom's territorial integrity."²⁷⁶ They had been arrested between 1975 and 1987, most on the apparent grounds that either they or family members were allegedly members or sympathizers of the Polisario Front, the guerrilla movement fighting for the independence of the Western Sahara. Their release was the first official confirmation that any Sahrawis had been in Moroccan custody.

The disappeared Sahrawis had been held under harsh conditions and deprived of all contact with the outside world. According to Amnesty International, at least forty-three inmates are said to have died at the secret detention center of Qal'at M'gouna, and hundreds more Sahrawis remain unaccounted for.²⁷⁷

Human rights and humanitarian organizations have drawn up lists of Sahrawis who are still missing after the pardons, and have called on Morocco to provide further information on any other unacknowledged prisoners it may have held or is continuing to hold. Morocco's denial that it has any Sahrawis in custody is suspect in view of Morocco's past record of deception concerning these disappearances, and information collected by Amnesty International from recently released Sahrawis.

²⁷⁶ Maghreb Arab Presse, English service, June 13, 1991, as reported in Foreign Broadcast Information Service (FBIS), June 17, 1991.

²⁷⁷ "Morocco: Amnesty International's Concerns, February-June 1991," July 1991, pp. 5-6.

In addition to the Sahrawis, King Hassan pardoned forty political prisoners who had been convicted for politically motivated offenses on August 16, including some of Morocco's longest-held prisoners who had been incarcerated for the peaceful expression of their views. These included Mohamed Srifi and Abderrahmane Nouda, arrested in 1974 and sentenced respectively to thirty years' and life imprisonment in an unfair trial in 1977 for founding illegal Marxist organizations and plotting to overthrow the monarchy; and Ali Idrissi Kaitouni, who received a fifteen-year prison sentence in 1982 on charges related to a book of political poems he had written. He was tried on charges of insulting the king and state institutions, inciting crimes against the internal security of the state, and publishing material liable to endanger public security.

The Ministry of Information announced that the pardon had been granted to prisoners who, "after having strayed from the national consensus, had recognized that the regained Western Sahara was Moroccan, and asked the King to bestow upon them his general benevolence and blessing."²⁷⁸ Twelve of the pardoned prisoners promptly signed a statement denying that they had made any such profession.²⁷⁹

The most prominent prisoner released in 1991 after having been held for the peaceful expression of his views was Abraham Serfaty, the engineer and activist in the outlawed Marxist group *Ila al-Amam (Forward)*, who was given a life sentence in the same trial as Nouda, Srifi and 136 others in 1977 for founding illegal organizations and plotting the monarchy's overthrow. The king had resisted growing international pressure to release Serfaty, insisting that the possibility of a pardon was hindered by Serfaty's refusal to declare that the Western Sahara was Moroccan territory. In July 1991, just two months before changing his mind, the king told a French television interviewer, "As long as this man does not recognize that the [Western] Sahara is Moroccan, there will be no royal pardon for him."²⁸⁰

The manner of Serfaty's release on September 13 occasioned criticism,

²⁷⁸ Agence France-Presse, August 15, 1991.

²⁷⁹ Agence France-Presse, August 22, 1991.

²⁸⁰ "'L'immigration ne doit pas tendre vers l'intégration,' déclare le roi Hassan II," *Le Monde*, July 23, 1991. The Moroccan ambassador to the United States, Mohammed Belkhatat, told Middle East Watch in April that the only obstacle to Serfaty's release was his refusal to ask the king for a pardon, as other political prisoners were said to have done.

since he was summarily expelled the same day to France. The government justified his deportation on the grounds that "a thorough examination of Serfaty's legal status revealed that he could not lay claim to Moroccan nationality," but was in fact Brazilian.²⁸¹ No explanation was provided to explain how this discovery was made after Serfaty had served seventeen years of a life sentence, and most observers dismissed it as a flimsy pretext for removing him from Morocco. Serfaty also protested that three of his political associates who had been tried with him in 1977 — Ahmed Ban Nacer, Abdullah el-Harif and Ahmed Rakiz — remain in prison. (All three are believed to be held for the peaceful expression of their views.)

The OMDH estimates that some 180 political prisoners remain in Moroccan prisons, of whom a majority are prisoners of opinion and a minority were convicted of politically motivated acts of violence. The OMDH list excludes those who had been sentenced in connection with the riots in December 1990 and the Gulf war demonstrations, as well as Western Saharans. The Paris-based Association for the Defense of Human Rights in Morocco (ASDHOM) counts some 750 political prisoners including the OMDH categories as well as those persons convicted in connection with the Gulf war demonstrations and major disturbances that took place in 1981, 1984 and 1990.

The same arbitrary and personalized style of vindictive justice that was reflected in the Serfaty case was even more glaring in the king's treatment of the widow, six children, and cousin of former Defense Minister General Mohammed Oufkir. After General Oufkir was apparently executed for allegedly attempting a coup in 1972, the king put the Oufkir family in indefinite secret detention for no apparent reason other than their relation to the general.

The Oufkir family remained confined for over eighteen years, despite international appeals for clemency. Finally, in March 1991, the government announced that the family was free to leave the farm near Marrakesh where they had been held most recently under house arrest. The Oufkirs moved to Rabat. However, while able to travel inside Morocco, they remain under surveillance, are unable to travel abroad, and face other government-imposed obstacles to resuming a normal life, according to the most recently available information.

The right to travel abroad is one of many rights that are commonly denied to former prisoners who have been convicted of political and politically motivated offenses, including those who have been pardoned. Despite an announcement in 1990 by Minister of Interior Driss Basri that passport application procedures

²⁸¹ Serfaty's grandfather had reportedly lived for a long time in Brazil. *Liberation* (Paris), September 14-15, 1991.

would be simplified, many former political prisoners found that they could not leave the country because their applications were never processed.

The rights of association and assembly were violated frequently in 1991. After committing some 1,300 troops to the U.S.-led military buildup in the Persian Gulf, King Hassan seemed to have been caught off-guard by the intensity of opposition to the war against Iraq. The government allowed a few mass rallies where people could give vent to their feelings, but otherwise sought to muzzle dissent.

In an interview on January 15, the king claimed to have arranged with political leaders to ensure that each party organized its own demonstration in a different city and no party staged a demonstration in a city where a rally organized by another party had already taken place.²⁸² But, the king threatened, "if there is the slightest hint of disorder, we [meaning the king himself] will declare a state of siege, as the Constitution and the law empower us."²⁸³ When some opposition parties began urging the withdrawal of Moroccan troops from Saudi Arabia, he warned that criticism of the army's overseas mission constituted an attack on the morale of the troops and was prosecutable.²⁸⁴

Most applications to hold pro-Iraqi rallies in January and February were either turned down or ignored by the authorities. But, at the last minute, the king decided to allow a general strike called by opposition parties and trade unions in solidarity with the Iraqi people on January 28. Bowing to popular hostility toward the U.S.-led war in the Gulf, the king also authorized a joint march organized by five leading opposition parties in support of the Iraqi people on February 3 in Rabat. An estimated 300,000 persons marched on that day. According to *Agence France-Presse*, a contingent of more than ten thousand highly disciplined supporters of the officially illegal Islamist movement were among the marchers.²⁸⁵

²⁸² The Moroccan League for the Defense of Human Rights and the Moroccan Association for Human Rights protested one week later the government's ban on demonstrations organized by more than one opposition party.

²⁸³ Moroccan television in Arabic, as reported in FBIS, January 16, 1991.

²⁸⁴ *Agence France-Presse*, February 2, 1991.

²⁸⁵ *Agence France-Presse*, February 3, 1991. See also "Moroccans March in Support of Baghdad," *Financial Times*, February 4, 1991.

Most applications to hold pro-Iraqi rallies in January and February were either turned down or ignored by the authorities. A march planned for February 24 in Casablanca by a group of unions and opposition parties was forbidden by the Ministry of Interior on the grounds that it "was of a type that would disturb the public order."²⁸⁶

While various unauthorized demonstrations around the country were permitted to run their course, others were broken up by security forces using truncheons, sticks and sometimes tear gas. Over four hundred people were arrested for participating in demonstrations. According to Amnesty International, most were released after a few hours or days, but about one hundred were brought to trial and sentenced to up to fifteen months in prison on charges that included unauthorized assembly on the public highway and disturbing public order.²⁸⁷

Like demonstrations, public meetings were sometimes prevented by the failure of sponsors to obtain the required permit. Under a 1973 law, meetings can be banned if the responsible authority determines that "the holding of the meeting would disturb or possibly disturb public order." More often, meetings are effectively prevented when authorities fail to respond to the application submitted by the sponsors.

At the beginning of 1991, the *al-Mawahib* (the Talents) cultural association was prevented from holding a colloquium in Casablanca. In March, the Moroccan Human Rights Organization failed to obtain permission to hold a colloquium in Casablanca on the Gulf crisis. In October, representatives of a group of unemployed university graduates were refused permission without explanation to hold a meeting in Casablanca.

Morocco's opposition press continued to test the limits of expression in 1991. It gave increasing coverage to human rights abuses, including the once-taboo topics of Tazmamart, political prisoners, and secret centers of detention. Such boldness incurs risks in a country where it is a punishable offense to advocate political systems other than a monarchy, to question Morocco's claim to the Western Sahara, to insult the king or Islam, or to defame or spread "false news" about public institutions.

While few journalists are sent to prison, many receive suspended sentences

²⁸⁶ Agence France-Presse, February 18, 1991.

²⁸⁷ "Morocco: Update on Human Rights Violations," March 1991.

or are ordered to pay fines. In December 1990, the director and editor of *al-Ittihad al-Ishiraki* (Socialist Unity), the daily organ of the Socialist Union of Popular Forces, a left-leaning opposition party, received suspended sentences for a 1989 article criticizing conditions in Casablanca courts; the two have appealed. On December 20, 1990, Abdelkrim Ghallab, editor of the *Istiqlal* (Independence) Party daily *al-Alam* (The Flag), was charged with spreading false information about the number of casualties during riots one week earlier. His trial was suspended indefinitely a few days later. *Al-Anoual* (Variety), the weekly organ of the opposition Organization for Democratic and Popular Action, received a letter in April from Minister of Interior and Information Driss Basri, threatening legal action for articles critical of Kuwait, Saudi Arabia and certain other Gulf states on the grounds that the articles threatened Morocco's vital interests.

Publications deemed to threaten "public order" are subject to confiscation or banning by decree of the minister of interior. A new Arabic bi-weekly, *al-Mouatin* (The Citizen), which gave prominent coverage to the issue of the Tazmamart prison, found its first two issues seized and future issues forbidden by a decree on August 1. No explanation was provided. An Islamic-oriented magazine, *as-Sabi* (The Path), was also banned by decree.

Issues of foreign publications often have been banned when they covered human rights issues. In September, authorities seized the issue of the Paris daily *Libération*, which had given page-one coverage of the release of Abraham Serfaty. In July, issues of the French weekly *L'Événement du jeudi* and the satirical weekly *Le Canard enchaîné* were confiscated.

Morocco television viewers continue to be deprived of TV-5, one of the most popular news sources before 1991. Reception of the foreign-based station, which packages French-language broadcasts from France, Belgium and Canada, has been all but impossible since government-controlled facilities stopped retransmitting it to Moroccan viewers in 1990. The apparent motive at the time was the government's fury at the media's interest in Gilles Perrault's savage biography of the king, *Notre ami le roi* (Our Friend the King).²⁸⁸ Although the government started retransmitting TV-5 briefly in late 1990, the broadcasts were again halted during the Gulf war and have not resumed.

Morocco's independent television channel, MI2, continues to be available to viewers by subscription. Although it is owned by a relative of the king and provides only a mild alternative to state television, it is nevertheless one of the very few privately owned television stations in the Middle East and Africa.

²⁸⁸ Éditions Gallimard, 1990.

The government has launched a number of initiatives that reflect its growing sensitivity to its human rights image. In 1990, the king created the Consultative Council on Human Rights (CCDH) to advise him on human rights, and has endorsed a number of proposals that it submitted to him. However, despite its recommendations for limiting incommunicado and preventive detention as well as other recommendations described below, the CCDH has yet to show that it is a major force for the promotion of human rights in Morocco. There is no evidence that any of its initiatives have pressured the government to take actions beyond what it was already prepared to adopt.

With the ministers of interior and justice and other officials as members, the CCDH operates under close government supervision, despite the participation of two of Morocco's independent human rights organizations, the OMDH and the Moroccan League for the Defense of Human Rights (LMDDH). The CCDH has been in session only a few times since its formation.

In 1991, its credibility was harmed by its silence about the riots of December 14-15, 1990, despite having announced on December 31 that it had formed a commission of inquiry to investigate the events. The OMDH, by contrast, accused security forces of employing disproportionate force, declaring that "the use of firearms cannot be justified on the grounds that certain individuals were wielding clubs or iron bars, or were throwing stones or even setting fires."²⁸⁹

The CCDH, in addition to its above-described proposals for reforming detention laws, submitted to the king proposals for bettering prison conditions and creating a network of "administrative courts." The CCDH also prepared a memorandum on the pardon of prisoners, to which the king alluded in announcing the release of forty political prisoners in August.²⁹⁰ Unlike Morocco's independent human rights organizations, however, the CCDH has never publicly urged the release of all political prisoners being held in Morocco.²⁹¹

It was not possible to evaluate the effect of the CCDH's recommendations on Morocco's generally poor prison conditions. According to the Moroccan

²⁸⁹ " *Rapport additif sur la situation des droits de l'homme au Maroc*," May 8, 1991.

²⁹⁰ *Maghreb Arab Presse in English*, August 15, 1991, as reported in FBIS, August 16, 1991.

²⁹¹ The OMDH and the LMDDH have urged a general amnesty for political prisoners since at least 1988. "Maroc: pour une amnistie des détenus politiques," *Le Monde*, December 28, 1988. The OMDH urged their release on repeated occasions, for example, its " *Communiqué du bureau national, à l'occasion du deuxième anniversaire de l'OMDH*," December 10, 1990.

representatives before the United Nations Human Rights Committee (UNHCR), the CCDH's recommendations had been approved by the king and implemented, and would lead to improved living conditions for prisoners.²⁹²

The CCDH proposal on administrative courts was ostensibly intended to provide citizens with more access to the court system to challenge the actions of local authorities. The proposal has been approved by Parliament but not yet promulgated as law.

The government's human rights offensive was also in evidence in its increasingly serious presentations before the UNHRC, which between November 1990 and October 1991 was engaged in its second periodic review of Morocco's compliance with the International Covenant on Civil and Political Rights. Even at their best, however, Morocco's answers were evasive and disingenuous.

Morocco's response to critical questions about Tazmamart were indicative of its evolving approach. At the opening session, the Moroccan representative claimed that Tazmamart existed only in the allegations of international human rights organizations.²⁹³ The presentation was full of arrogant denials and attacks on Amnesty International and "hostile" media, leading the committee to take the unusual step of continuing its scrutiny of Morocco at its next session, and asking, among other things, for clarifications on secret detention centers. At the final session in October 1991, Moroccan delegate Ali Atmani, president of the Chamber of the Supreme Court, asserted as an official in the Ministry of Justice that no secret detention centers existed *under the jurisdiction of that Ministry* (emphasis added), and added that the affair of the army officers (i.e., those at Tazmamart) was on its way to being settled.²⁹⁴

²⁹² Human Rights Committee, 43rd Session, Summary record of the 1094th meeting, October 22, 1991, p.3. In November 1990, Morocco's representative had told the committee that the Moroccan Ministry of Justice was working on a new law regulating the conditions in detention that would be completely compatible with all U.N. regulations on minimum conditions for prisoners. (Cited in "Examen du deuxième rapport périodique du Maroc," *Libération* weekly (Rabat), June 21, 1991.) According to the OMDH, the only concrete improvements made so far have been the closing of two of Morocco's worst prisons and the opening of a new facility in Salé. The OMDH told Middle East Watch in December 1991 that Morocco's prisons hold four times their capacity.

²⁹³ "Human Rights Committee Suspends Consideration of Moroccan Report," United Nations Press Release, November 9, 1990, p. 8.

²⁹⁴ Human Rights Committee, 43rd Session, Summary Record of the 1094th Meeting,

In between these two sessions, Morocco was briefly considered at a session in July 1991, but the delegation from Rabat protested the presence of French television cameras in the chambers and, when the committee ruled that the cameras could stay because its deliberations were public, walked out. The embarrassing episode led the Moroccans to take a more cooperative approach. When the next session convened on October 22 in Geneva, the television cameras were back in the room, but the Moroccans did not walk out.

The members of the UNHRC were clearly well-prepared. They asked tough questions and rebutted the Moroccan presentations on secret detention centers, the Oufkir family, freedom of expression, incommunicado detention, and discrimination against women²⁹⁵ and the tiny Bahai minority.²⁹⁶

The Moroccan representatives stressed recent positive developments, such as the activities of the CCDH, the reform of the detention laws, the release of prisoners, and purported improvements in prison conditions. The representatives claimed that there was no gap in Morocco between law and practice, although mistakes were occasionally made by the police, as in other countries.²⁹⁷ Still,

October 22, 1991, pp. 13 and 16.

²⁹⁵ Among the issues discussed at the UNHRC hearings were the all-male composition of Morocco's Parliament (although a handful of women candidates ran unsuccessfully in the last election), and the Family Code which bars a Muslim woman from marrying a non-Muslim man unless he converts, but imposes no such condition on Muslim men in their choice of spouse. (Human Rights Committee, 43rd Session, Summary Record of the 1096th meeting, October 23, 1991, pp. 4-5.) It is also worth noting that a married woman cannot obtain a passport without her husband's permission. (See "Human Rights Committee Suspends Consideration of Morocco Report," UN Press Release, November 8, 1990, p. 4.)

²⁹⁶ The Moroccan representative confirmed to the UNHRC that Morocco's Bahais, estimated by the State Department's *Country Reports on Human Rights Practices in 1990* to number 150 to 200, cannot practice their religion in public. He said that Baha'ism is a departure from Islam and a by-product of British colonialism in the Middle East. (Human Rights Committee, 43rd Session, Summary Record of the 1096th meeting, October 23, 1991, p.3.) According to the *Country Reports*, Bahais also encounter difficulty when they apply for passports.

²⁹⁷ Human Rights Committee, 43rd Session, Summary Record of the 1094th meeting, October 22, 1991, p.17.

Morocco's overall presentation before the UNHRC was, relative to its earlier approach, an indication of heightened concern for its human rights image.

In a field where most governments tend to dissemble, Morocco's penchant for stone-walling and lying about human rights matters continues to astonish. A few examples will indicate how far Morocco must go if it wishes to adopt a more productive discourse on human rights:

- o For the eighteen years that sixty-one military personnel were secretly imprisoned at Tazmamart, officials never publicly acknowledged the existence of the prison.²⁹⁸ Even as anonymous officials were leaking reports in September to the press about Tazmamart's demolition, Interior Minister Driss Basri claimed, "As far as Tazmamart prison is concerned, I repeat, as His Majesty has said recently, it exists only in the minds and imagination of people who wish Morocco ill."²⁹⁹**
- o Just as the authorities never acknowledged the existence of the secret prison at Tazmamart, they never admitted to holding any of the Sahrawis who had disappeared since 1975. Even after it released over three hundred disappeared Sahrawis in 1991, the government continued to insist that it had nothing to do with the problem, telling the UNHRC that the alleged disappearances dated back to a period when Morocco had had no administration over the Western Sahara.³⁰⁰**
- o As for political prisoners, the king said that Morocco had none in a July 21 interview with French television, just as he and his ministers have done both previously and subsequently. Yet, the king saw nothing incongruous about stating in the same interview, "To declare that a part of the territory is not Moroccan is a crime against the state's security, to be judged by a military tribunal." He added that the Moroccan press was free except "the one thing**

²⁹⁸ For an account of Amnesty International's unsuccessful efforts over ten years to obtain any substantive response to its inquiries on Tazmamart, see its report, *Morocco: A Pattern of Political Imprisonment, 'Disappearances' and Torture*, March 1991, pp. 46-47.

²⁹⁹ Agence France-Presse, September 18, 1991.

³⁰⁰ Human Rights Committee, 43rd Session, Summary Record of the 1094th meeting, October 22, 1991, p.17.

that it is forbidden to do is ridicule the king."³⁰¹

- o Official lies surrounded the case of Abraham Serfaty both while he was in prison and upon his release. In his July 21 interview with French television, King Hassan asserted that Serfaty had been imprisoned for "laying bombs," when in fact Serfaty's conviction of offenses against "state security" did not mention his participation in any acts of violence.**
- o No less dubious was the official death toll for the riots in Fez, Tangier and other cities on December 14 and 15, 1990. While various human rights groups and reporters who culled hospital data estimated the deaths at between twenty-eight and over one hundred, the government has not budged from its official total of five dead.**

The Right to Monitor

The climate for human rights monitoring has been steadily improving in Morocco, although many obstacles remain. Since 1990, Morocco's three human rights organizations have spoken out with increasing regularity and frankness about abuses.³⁰² They have conducted their own investigations, sent observers to trials, and provided legal defense in political cases. Their work has been covered by the local opposition and foreign press, and has contributed to the growing awareness worldwide of Morocco's human rights record. One remarkable achievement was the October 1990 release by the Moroccan Organization for Human Rights of a nineteen-page "counter-report" to the government's submission to the U.N. Human Rights Committee in Geneva.

A telling sign of the improved climate was the lifting of the taboo against speaking publicly about the fate of the detainees at Tazmamart. In November 1990, after years of not daring to speak out, families of eleven inmates at Tazmamart

³⁰¹ A text of the interview appears in *Maroc soir*, July 22, 1991.

³⁰² They are the Moroccan Organization for Human Rights, founded in 1988; the Moroccan Association for Human Rights, founded in 1979; and the Moroccan League for the Defense of Human Rights, founded in 1972. The three organizations, together with the Association of Moroccan Jurists and the Moroccan Lawyers Association, signed a National Charter of Human Rights in December 1990.

addressed a letter, later made public, to the Justice Ministry asking for an end to their ordeal. Human rights organizations joined their call, and newspapers covered the mounting demands.

Despite these encouraging signs of growing tolerance for criticism, the Moroccan government continued to impose limits on what could be said and done concerning human rights. Journalists, in particular, had to exercise self-censorship when criticizing human rights abuses, since, as explained above, they risked prosecution for the offenses of "defaming" or "spreading false news" about public institutions.

Human rights organizations and their members faced no prosecutions or physical violence. In general, authorities neither harassed them nor cooperated with them. Officials rarely responded to letters or reports from the OMDH. Both the OMDH and the Moroccan Association for Human Rights (AMDH) reported that their investigations into the riots of December 14-15, 1990 were stymied by local officials of the Interior Ministry and Health Ministries who refused to make available to them any information relating to the events. One result, the OMDH reported, was that it could not definitively establish the number of casualties that had occurred, at a time when, as noted above, the government was giving an unrealistically low figure.³⁰³

In a rare act of intimidation, the names of four members of the OMDH's national bureau appeared on a list of approximately thirty names that Moroccan authorities in July sent to the offices of opposition parties. The authorities claimed that the individuals named had had relations with persons abroad who were hostile to Morocco's policies. Rejecting the government's "attempts to sow doubt about the nature of the legitimate struggle being waged by the OMDH," the organization affirmed on October 23 that any human rights activities conducted by the four members had been carried out on behalf of the organization. No further steps were taken by the authorities.

The authorities also occasionally have blocked meetings called to address human rights or political issues. In March 1991, the OMDH was effectively denied permission to hold a colloquium on the Gulf crisis and international law. The colloquium was to have taken place in Casablanca, with the participation of the Tunisian and Algerian Leagues for Human Rights. Although no explanation was provided, officials apparently chose to ignore the OMDH's application because of the government's sensitivity to criticism of its military participation in the U.S.-led

³⁰³ " *Rapport additif sur la situation des droits de l'homme au Maroc*," May 8, 1991, pp. 2-3. See also *Solidarité*, the newsletter of the AMDH, April 1991, p. 8.

alliance against Iraq. It was not the first time that the OMDH was prevented from holding a public event because the required permission was withheld.

Foreign human rights monitors continue to encounter obstacles to working in Morocco. Amnesty International has been denied access to Morocco since March 1990, when a research team was asked to leave the country. Repeated requests from Middle East Watch since 1990 to conduct a formal mission to Morocco have gone unanswered.

A delegation of three European doctors who sought to examine inmates recently evacuated from Tazmamart was allowed into the country but was unable to meet with any of the them. The Justice Ministry refused to allow the physicians to visit the two inmates who had been transferred to Kenitra prison, while the inmates who had been given their freedom were too afraid of reprisals to meet the delegation.

Two months before the release of her husband Abraham Serfaty from Kenitra prison, French citizen Christine Daure-Serfaty was told that she could no longer set foot in Morocco. Daure-Serfaty, who often had criticized Morocco's human rights record, particularly the secret prison of Tazmamart,³⁰⁴ was denounced by King Hassan in an interview with French television on July 21. Denying the existence of Tazmamart, the king said, "Testimony is only as good as the witnesses, and the main witness in this case is a person who has used and abused our hospitality. I have, by the way, informed [Daure-Serfaty] that she will no longer have the right to enter Morocco."³⁰⁵

As for Serfaty himself, his summary expulsion to France upon his release from prison was also a blow to human rights monitoring in Morocco. The engineer and Marxist activist had, during his seventeen years in prison, issued public appeals on Tazmamart, prison conditions and other human rights issues.³⁰⁶ His voice, particularly on the issue for which freedom of expression remains most circumscribed — the Western Sahara — will now only be heard from abroad.

³⁰⁴ See, e.g., Christine Daure-Serfaty, "Les morts-vivants de Tazmamart," *Le Monde*, July 21, 1991.

³⁰⁵ "L'immigration ne doit pas tendre vers l'intégration," déclare le roi Hassan II," *Le Monde*, July 23, 1991.

³⁰⁶ See, e.g., *Le Monde*, December 18, 1990, which carried a description by Serfaty of conditions in which political prisoners are held.

U.S. Policy

In 1991, the Bush Administration played a role in the mounting international pressure on Morocco to improve its human rights record. The U.S. signaled its growing displeasure in its tough and frank assessment of Moroccan abuses in the State Department's *Country Reports on Human Rights Practices in 1990*, released in February 1991, and in a restatement of those concerns in testimony before subcommittees of the House Foreign Affairs Committee in June. Although these were the only prominent public criticisms of Morocco's human rights records, it is widely believed that these statements and more discreet U.S. pressure helped to persuade the king, in the month preceding his September visit to Washington — his first official visit since 1983 — to release Morocco's best-known political prisoner, Abraham Serfaty, together with forty other political prisoners, and to close the notorious secret detention center of Tazmamart. Events toward the end of 1991, however, raised doubts about whether the Administration intends to maintain pressure on Morocco over the continuing abuses that are less well known but systematic, now that the king has resolved, at least partially, some of the highest-profile and anomalous cases.

The more aggressive stance on the part of the United States had been long awaited by Europe-based advocates of human rights in Morocco. They maintain that the king, who has stubbornly resisted human rights interventions from Europe, would be susceptible to pressure from Washington, which gives Morocco some \$110 to 125 million in aid annually and enjoys excellent relations with the government.

For fiscal year 1992, the Administration has requested \$113 million for Morocco. This includes \$40 million in foreign military financing (a long-term concessional loan), \$1.1 million for the International Military Education and Training program, \$12 million in Economic Support Funds (budgetary support for the government), \$23 million in development assistance, and \$36.7 million in food aid. The Administration justifies aid to Morocco on the grounds of good bilateral relations, the country's strategic location, the Moroccan government's tolerance of multipartyism and advocacy of market economics, and its moderate views on regional issues, notably the Arab-Israeli conflict.³⁰⁷ In 1991, moreover, Morocco sent a small contingent of troops to participate in the U.S.-led coalition against Iraq.

³⁰⁷ See the Department of Defense's presentation to Congress on security assistance programs for fiscal year 1991.

The charter on Morocco in the State Department's *Country Reports* for 1990 accurately depicts both the range and magnitude of human rights abuses, and clearly reflects the work of Moroccan and international human rights organizations. In some respects the report is more critical than the already blunt report for 1989. For example, it devotes a paragraph to the notorious secret prison of Tazmamart, which went unmentioned in the 1989 report. The section on torture is presented in the voice of the State Department, unlike the 1989 report, which tended to attribute the allegations of abuse to others.

Regrettably, the chapter omits the issue of the hundreds of Sahrawis who reportedly are being held secretly in Moroccan detention centers.³⁰⁸ The section on disappearances states dismissively that "there have been few permanent disappearances in recent years, and none was reported in 1990," as if unresolved disappearances are of interest only if they occurred recently.

The chapter's overall candor was admirably reproduced in congressional testimony by the Administration on June 19. Speaking before the House Subcommittees on Africa and on Human Rights and International Organizations, James Bishop, senior deputy assistant secretary of state for human rights and humanitarian affairs, spoke of political reforms that "did not materialize," restrictions on free speech, the "brutal" conditions at Tazmamart, unfair trials of suspected participants in the violent riots of December 14-15, 1990, and "continuing credible reports of torture and mistreatment of persons held under detention, particularly during the period of incommunicado, or *garde à vue*, detention."

There have been few visits by senior Administration officials to Morocco in recent years. On August 3, Secretary of State James Baker had long meetings with King Hassan in Rabat, primarily on the subject of the forthcoming Middle East peace talks. Although Baker and his staff did not use the occasion to comment publicly on human rights concerns, *Le Monde* reported that he had pressed privately on human rights matters,³⁰⁹ at a time when the king's subsequent visit to Washington had already been announced.

In the seven weeks between Baker's visit and the king's arrival in Washington, the king took the above-mentioned dramatic steps on a number of Morocco's most notorious human rights cases. It is probably no coincidence that the only Tazmamart inmate whose release was publicly confirmed before the king's departure for Washington was Lieutenant M'barek Touil, whose wife is a U.S. citizen.

However, all of these steps were doubled-edged. Political prisoner Abraham Serfaty was released, but immediately expelled from his country on the false

³⁰⁸ See, e.g., Amnesty International, "Morocco: 'Disappearances' of People of Western Saharan Origin," November 1990.

³⁰⁹ According to Jacques de Barrin, "La mort d'un baigne fantôme," *Le Monde*, September 22-23, 1991, Secretary Baker reportedly stressed to officials the importance that the United States attached to the speedy resolution of the Tazmamart problem. A State Department official refused to confirm this account to Middle East Watch.

pretext that he was Brazilian. The secret detention center of Tazmamart was closed and several of the inmates were released, but no accounting has been provided of the thirty military men believed to have died there. Some forty political prisoners were pardoned on August 16, but a far larger number of prisoners detained for peaceful expression of their opinions remain behind bars in Morocco.

In light of these qualifications, and the above-described very limited accomplishments to date of the Consultative Council on Human Rights, President Bush sent the wrong signal when in his welcoming speech in Washington on September 26 he saluted without qualification the king's human rights accomplishments:

Morocco is also responding to the call to all governments to recognize the rights of their people. In this regard the United States applauds Your Majesty's recent release of political prisoners, your establishment of the Royal Consultative Council on Human Rights in Morocco, and I know Morocco will not be deterred from this courageous course.

Such unqualified praise gave the impression that the United States would be satisfied with the partial resolution of some of the high-profile human rights cases, and willing to ignore Morocco's more mundane, systematic abuses.

At no occasion during the king's visit did the Administration dispel that impression. Nor was it dispelled during congressional hearings two weeks after the king's visit, when Ambassador Bishop, who had testified so forcefully on Moroccan abuses in June, gave an indifferent presentation at a hearing on the Western Sahara before the same two subcommittees. The State Department's written testimony ignored the issue of the Western Saharan disappeared, and in his oral remarks, Bishop commented only that:

We understand that some 250 to 300 Western Saharans were freed from Moroccan prisons (in June 1991). The Moroccans said that that was the total number who were confined. We do not know whether indeed that was the case. We're attempting to refine our information.

Asked what the State Department was doing about the problem, Bishop replied, "We have expressed our concern and we have asked the Moroccan government for further information."

Ambassador Bishop should have voiced greater skepticism about Morocco's claim that it had freed all the Western Saharans it was holding, particularly since,

neither before nor after releasing groups of them in 1991, has Morocco publicly acknowledged or provided information about the Sahrawis in its custody. Like many detained Moroccans, the released Sahrawis had been held in secret detention centers under harsh conditions, some since 1975. Amnesty International charges that Morocco may still be holding some of the several hundred Sahrawis who remain unaccounted for.

The Bush Administration may have eased human rights pressure on Morocco in the fall because of the delicate international initiatives getting under way to resolve the Western Saharan and Arab-Israeli conflicts. Morocco is, of course, central to the former and a potential U.S. ally in the latter. But to soft-pedal human rights at this time would jeopardize the prospects for continuing recent improvements in human rights in Morocco and, in the case of the Western Sahara, threaten to undermine the foundation on which a durable peace can be built.

U.S. pressure in 1991 was particularly timely because it complemented growing pressure from Europe to improve Morocco's human rights record. In 1990, the king's poor record on this score was front-page news in France when Gilles Perrault's unflattering profile of the king, *Notre ami le roi* became a bestseller. Sales of the book were helped by the clumsy and unsuccessful efforts by Moroccan officials to prevent it from being distributed or even covered by the French media.

The European Parliament has condemned human rights conditions in Morocco on several occasions, including a November 21 resolution calling for the release of all political prisoners and protesting the refusal of authorities to permit a team of European doctors to visit the two former inmates of Tazmamart who had been transferred to Kenitra prison.

The parliament's activism on human rights in Morocco prompted the dispatch of a delegation from the king's Consultative Council on Human Rights to attend parliamentary deliberations on this subject in November 1990. Concerned about its economic ties with Europe, Morocco can ill afford to ignore what happens at the Parliament in Strasbourg.

Morocco has been in the spotlight partly because of the stepped-up efforts, particularly by the United Nations, to end the sixteen-year conflict in the Western Sahara and to organize a referendum in 1992. Morocco's human rights record has also received greater attention due to the rapid evolution of its neighbor, Algeria, from a relatively repressive state to one far more tolerant than Morocco of political expression and activism. The last two years have revealed limits to King Hassan's stubbornness in the face of international action on human rights. Meaningful improvements have taken place under simultaneous pressure from the United States and Europe. However, for the much-needed institutionalization of

reform in Morocco, such pressure must be maintained.

The Work of Middle East Watch

In June, Middle East Watch testified on human rights in Morocco before the House Subcommittees on Africa and on Human Rights and International Organizations. Shortly before King Hassan's visit to Washington in September, Middle East Watch issued a newsletter criticizing Morocco's denial of passports to former political prisoners.

France's expulsion of the Moroccan dissident Abdelmoumen Diouri in July prompted a letter of protest to French authorities from Middle East Watch and a short newsletter. The French Interior Ministry had been pressuring Diouri to limit his political activity in France and to refrain from publishing in France, *A Qui Appartient le Maroc?* (*Who Owns Morocco?*), his manuscript on King Hassan's vast wealth and financial dealings. Diouri's expulsion order, which many believed was issued to please King Hassan, was later rescinded, and Diouri was permitted to return to France. Both French and Moroccan authorities denied that the two countries' bilateral relations were a factor in the expulsion.

Middle East Watch met in the course of the year with several prominent members of the Moroccan Organization for Human Rights. In December 1990, Middle East Watch brought the president of the Moroccan Association for Human Rights, Mohamed el-Hihi, to New York and Washington as part of a week-long program to honor human rights monitors from around the world.

SAUDI ARABIA

Human Rights Developments

Saudi Arabia is a party to only three international human rights instruments: the Genocide Convention, the Slavery Convention and the Supplementary Convention on the Abolition of Slavery. Indeed, the kingdom was one of only a handful of countries — South Africa and former Soviet Bloc countries were the others — that did not vote for the Universal Declaration of Human Rights when it was adopted by the United Nations General Assembly on December 10, 1948. Saudi Arabia's stated reservations to the Universal Declaration were that its call for freedom of religion violated the precepts of Islam, and that the human rights guaranteed by the Islamic-based law of Saudi Arabia surpassed those secured by the Universal Declaration.³¹⁰ These two arguments were later repeated to explain Saudi refusal to sign most other human rights documents, including the International Covenant on Civil and Political Rights.³¹¹ The only other pertinent international treaties that Saudi Arabia has adhered to are the four Geneva Conventions of 1949 and thirteen (of more than 170) conventions of the International Labor Organization.

Saudi Arabia does not have a written constitution or an elected legislative body. There are no elections of any kind. All political parties are banned, as are most forms of association. All critical political expression is forbidden. The press is strictly regulated, and assembly is severely restricted.

In theory, the legal system is based on *Shari'a* (Islamic law). However, secular legislation is frequently proposed by the Council of Ministers. It becomes law after it is ratified by royal decree (*marsoom*). The king can directly issue a royal order (*amr*) which in practice has the same weight as a decree. Senior ministers also have broad authority to enact legislation. Secular courts specialize in commercial and labor disputes and interpret government-issued secular laws.

³¹⁰ Ministry of Information, *Proceedings of Conference of Saudi Scholars and European Lawyers on Islamic Law and Human Rights*, Riyadh: Ministry of Information Press, 1972, p. 15 (in Arabic).

³¹¹ Ministry of Foreign Affairs, Diplomatic Studies Institute, *Human Rights: Western Claims and Islamic Authenticity*, Riyadh, 1986.

But most courts are based on the strict Hanbali school of *Shari`a* law. There are no codified laws; the courts rely mostly on commentaries written in the Middle Ages, especially by the thirteen-century jurist, Ibn Taimiyya.

Frequently, the government bypasses the court system altogether, disposing of suspects either by administrative action or by forming closed-door summary tribunals to try them. In 1980, for example, then-King Khaled ordered the execution, without any judicial proceeding, of sixty-three suspects captured by government troops after bloody clashes with a radical Islamic group in which more than two hundred government forces were killed. While executions without trial are exceptional, lesser administrative sentences are common, including lengthy prison terms and flogging.

A royal pardon issued in June, resulting in the freeing of most prisoners held for politically motivated offenses without due process was the only notable improvement in human rights in Saudi Arabia in 1991. However, despite King Fahd's declarations since late 1990 that he would soon approve a draft constitution and appoint a consultative assembly, neither promise has been fulfilled. The hopes for positive change that were encouraged by international exposure during the Persian Gulf crisis were quickly dashed as soon as the war was over and access by the international press was once again restricted.

Saudi arrest and detention procedures are governed by Imprisonment and Detention Law No. 31 of 1978, which places few restrictions on the grounds or duration of pretrial detention of suspects. However, Article 4 waives *all* restrictions for "crimes involving national security," giving the Minister of Interior untrammelled discretion over these cases.

A judicial procedures act — the first of its kind in Saudi Arabia — was passed by the Council of Ministers and ratified by King Fahd in June 1990. This welcome law established guidelines for protective custody and pretrial detention and also clarified the sometimes problematic jurisdictional division between the *Shari`a* and secular courts. Two months later, however, King Fahd repealed the law, asserting that there was "need of further study," and once again leaving detainees with virtually no protection against arbitrary arrest and detention, especially at the hands of the secret and religious police.

During the first two months of 1991, the Saudi government continued its roundup of scores of opponents of the Gulf war, most of whom were members of various religious groups. Nearly all were released after the war and were never charged with any crime. In accordance with standard Saudi practice, most of these detainees were held in prolonged incommunicado detention without access to family or legal counsel. Only after the initial interrogation were some allowed legal counsel and, in the case of foreign detainees, visits by embassy

representatives.

Hundreds of foreign residents, mostly Arab nationals, were arrested after an armed attack on a bus carrying U.S. military personnel in Jiddah on February 3, 1991. Most were released after the authorities were satisfied that the main suspects had been apprehended. While in custody, nearly all were held incommunicado.

The royal pardon referred to above resulted in the release of most detainees held without due process for nonviolent political offenses. Granting amnesty is customary around Eid al-Adha, the Muslim feast of sacrifice, but in 1991 it included more prisoners than in previous years, perhaps in celebration of the Desert Storm victory and as an attempt to mend fences with the opposition. Those pardoned included prisoners suspected of membership in the secular Arab Socialist Action Party and two Shi`a organizations, Hizbollah of Hijaz and the Islamic Revolution Organization. However, the amnesty did not mean immediate rehabilitation of all prisoners. Security prisoners were given a five-year probationary period when they cannot travel abroad or hold government jobs.

A number of long-term security prisoners did not benefit from the sweeping amnesty. They include twenty people arrested in 1988 on suspicion of bombing oil installations in the eastern oil town of Abqaiq. Denied legal representation during their trial, the twenty-six suspects were subjected to severe torture, according to credible reports from family members. Four of the suspects were executed under the terms of Regulation No. 148 of 1989, an ex-post-facto regulation issued after their arrest, in clear violation of the principles codified in Articles 6(2) and 15 of the International Covenant on Civil and Political Rights.³¹² Two others were

³¹² Despite the Saudi government's contention that this regulation was not a new law but merely an interpretation of existing *Shari'a* prohibition against terrorism, many in Saudi Arabia believed that it was a departure from long-standing practice. The regulation allowed judges to impose the death penalty on those who commit acts of sabotage against "essential utilities such as oil pipelines and oil installations whose functioning is essential for the safety of citizens or the security of the nation." The regulation did not require that the sabotage result in loss of life for the death penalty to be imposed. While the Qur'anic phrase on which the regulation relies is admittedly ambiguous, it had been long-standing practice that the range of punishments for armed insurrection (*heraba*) spelled out in the Qur'an (ranging in severity from exile to execution) be calibrated to the severity of the harm caused, with the maximum penalty reserved for acts of insurrection that result in loss of life. (Middle East Watch interviews, August 1990; Muhammed Mufti and Sami al-Wakil, *Islamic Political Theory of Human Rights*, Qatar: Al-Umma Publications, 1990, p. 43, in Arabic.)

released. The remaining twenty are still detained under the authority of the same regulation. The regulation was issued after the government secured a religious opinion (*fatwa*) from the Council of Senior Scholars, the highest religious authority in Saudi Arabia, which redefined armed insurrection to include acts of terrorism and sabotage.

Others in detention without trial who did not benefit from the June 1991 royal pardon include five Shi'a students accused of setting a fire in their dormitory at King Saud University in Riyadh in July 1989.

Apart from security-related offenses, Saudi Arabia continues to hold scores of Saudi and foreign prisoners in defiance of international law, some of them for over a decade. Most of those held in these cases were not tried for criminal offenses, and some were never tried at all. They are imprisoned solely because of bankruptcy or failure to fulfill other contractual obligations, in clear violation of principles set forth in the International Covenant on Civil and Political Rights.³¹³

In August 1991, Neville Norton, a British businessman, was released after five years in detention without trial because of a business dispute with members of the royal family. In the ten years preceding his detention, Norton's passport was confiscated, effectively preventing him from leaving the country. This was the latest in a string of similar cases involving foreign businessmen who had fallen afoul of their Saudi partners or members of the royal family. Some reported that they had been tortured during detention. Most foreign governments refrain from intervening for fear of jeopardizing economic ties with Saudi Arabia.

Both the use of force to elicit confessions and harsh conditions of detention aimed at punishing prisoners are common in the Saudi security system. While the Imprisonment and Detention Law 31 of 1978, for example, prohibits "any assault whatsoever on prisoners and detainees" (Article 28), the same law explicitly sanctions methods of discipline that violate international standards, such as flogging, indefinite solitary confinement and deprivation of family visits and correspondence (Article 20).

Even the limited protection offered by the Imprisonment and Detention Law does not extend to "crimes involving national security." Article 4 gives the Minister of Interior — already granted broad discretion to arrest and detain — virtually unlimited authority over state security suspects, with no judicial review of any kind. Nor, in practice, does this law apply to detention by the religious police.

³¹³ Article 11 of the Covenant provides, "No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation."

Despite royal orders instructing detention authorities not to torture prisoners — usually issued after the death of a detainee — there were numerous reports in 1991 of torture in Saudi detention facilities, especially those of the secret and religious police. The secret police, known as the General Investigation Directorate (*al-Mabaheth al-`amma*) has close to 150 detention facilities and unidentified "safe houses." The religious police, known as the Association for the Propagation of Virtue and the Deterrence of Vice (*Hai'at al-Amr bil-Ma'ruf wa al-Nahi `an al-Munkar*), popularly termed "the Zealots" (*al-Mutawe`a* or *Mutawwa`in*), maintains more than two hundred stations throughout the kingdom.

Unpunished use of torture by members of the royal family was also reported in 1991. In July, the New York City police rescued Turki al-Yaqouti, a thirty-six-year-old Saudi member of the staff of Prince Khaled ibn Talal — a nephew of King Fahd — who was visiting New York at the time. According to a police account, al-Yaqouti "had clearly been tortured," with burns on his chest and both forearms and wrists. "It looked like somebody did a job on him," said one police official. The victim was taken to the New York Hospital Burn Center, but since he decided not to press charges, and since the police thought that the torture had probably taken place in Saudi Arabia, no charges were filed.

Three incidents of harassment of foreign workers in Riyadh were also reported to Middle East Watch. In all three cases, roving bands of junior princes and their bodyguards were responsible. Victims who reported the incidents to the police complained of official inaction.

While there were no reports of extrajudicial killings in Saudi Arabia in 1991, judicially ordered executions resumed in May after an eight-month moratorium following the Iraqi invasion of Kuwait. Although no official reason was given, the timing of the suspension suggested that it was designed to avoid the scrutiny of hundreds of foreign reporters and television cameras allowed into the country throughout the Gulf crisis. In May and June alone, twenty-two were executed, suggesting that a backlog of death sentences had built up in previous months. Those condemned to death had been convicted of murder or drug trafficking.

All judicial executions carried out in 1991 violated internationally recognized due process guarantees. The only procedural rights allowed under Saudi regulations are the right to legal counsel before trial — if a suspect asks and can pay for it — and the right to confront one's accusers and contest one's pretrial confessions. However, defendants are not allowed legal representation in the courtroom, in clear violation of the principle set forth in Article 14(3)(d) of the International Covenant on Civil and Political Rights.³¹⁴ Most of those condemned to

³¹⁴ However, defendants in nonpolitical cases are allowed legal counsel outside the

death in 1991 were first held in prolonged incommunicado detention for interrogation before family visits and meetings with legal counsel were allowed, and some never received legal counsel, either because they did not ask for it or because they could not afford it. A number of the drug-trafficking death sentences were grossly disproportionate to the alleged crimes, which did not involve loss of life.

Corporal punishment continued in 1991 for political offenses as well as common crimes. For example, in June, Zuhair al-Safwani, a twenty-seven-year-old student, was sentenced to four years in jail and three hundred lashes for allegedly maintaining contacts with opposition groups outside the country. On December 6, two men (one Saudi and one Yemeni) accused of stealing a safe had their right hands amputated in Jiddah, Saudia Arabia, thus resuming another pre-crisis practice of amputating the hands of convicted thieves.³¹⁵

During the Gulf crisis, Saudi authorities banned all public criticism of the government's policies. A number of prominent clergymen and theologians were prevented from speaking out, including Shaikh Safar al-Hawali and Shaikh Salman Fahad al-Awdah. Shaikh al-Awdah was arrested several times in 1991 and then restricted to the Qasim region, three hundred kilometers north of Riyadh, in an effort to enforce the ban. While the restriction of his residence has not been rescinded, it was not strictly enforced after the end of the war. Dr. Muhammed al-Mas`ari, a professor at King Saud University who was sympathetic to the fundamentalist religious movement, was also prohibited from speaking publicly and for several months suspended from teaching.

Since October 2, Muhammed Shams al-Din Abdalla al-Fassi, a Saudi who is related by marriage to the royal family, has been held incommunicado after being arrested in Jordan and turned over to Saudi authorities.³¹⁶ His family, which fears

courtroom, and a defendant who does not speak Arabic is allowed to have a translator in the courtroom who in practice can be a lawyer.

³¹⁵ *Le Monde*, December 10, 1991, quoting the Saudi daily *Arab News* of Jiddah.

³¹⁶ Muhammed al-Fassi's sister is married to Prince Turki ibn Abdel Aziz, King Fahd's brother and a former deputy minister of defense. Shams al-Din al-Fassi, Muhammed's father, had been detained in Saudi Arabia for several years without charge, reportedly for holding unpopular religious views. In October 1983, a plot to kill Shams al-Din al-Fassi was uncovered in London. In October 1984, Walter Martindale, a former U.S. State Department official, was convicted in U.S. federal court on several gun-possession charges in connection with the plot, and was sentenced to ten years in prison. Martindale maintained

for his life, reports that he has been tortured and denied family visits and legal counsel. Al-Fassi incurred the displeasure of the Saudi government for, among other things, broadcasting on Radio Baghdad his critical views of the Saudi government during the Gulf crisis.

In an unprecedented move, Saudi Arabia granted visas to more than one thousand foreign reporters during the Gulf crisis. But the Saudi government and the Pentagon issued strict orders regulating the transmission of press reports. In addition to military censorship, reporters were instructed not to cover Saudi domestic issues.

Both Saudi and foreign reporters were arrested for unauthorized news coverage. Saleh al-Azzaz, editor-in-chief of the monthly *Tejarat al-Riyadh* (*Riyadh Commercè*) and regional editor of the weekly *al-Majalla* (*The Magazine*), was arrested on November 6, 1990 and held until March 4, 1991 — shortly after the end of the war. He was accused of attempting to pass to Western news organizations reports of the November 6 demonstration by Saudi women demanding the right to drive. There were numerous incidents in which reporters were beaten by Saudi forces or had their copy confiscated or film destroyed when they veered from the approved itinerary. Shortly after the war ended, Saudi Arabia returned to its precrisis practice of denying most visa requests from foreign reporters.

On March 22, Saudi National Guardsmen forcibly dispersed a two-thousand-strong peaceful demonstration that took place in al-Qatif, a predominantly Shi`a town, in support of Grand Ayatollah Abu al-Qasem al-Khoei. Imam al-Khoei — one of the highest-ranking Shi`a clergymen in the world and highly revered by the Saudi Shi`a population — had just been detained by the Iraqi government. The demonstration was thus against Saddam Hussein and could have been construed as supportive of Saudi government policy. This purpose notwithstanding, the official Saudi government ban on all demonstrations, especially those organized by the Shi`a community, meant that many of the participants in the demonstration were beaten and arrested. A similar, but smaller, demonstration organized in the eastern city of al-Dammam on March 29 met with a like response from security forces.

On May 28, in preparation for the annual Muslim pilgrimage *al-Hajj*, Saudi Minister of Interior Prince Nayef ibn Abdel Aziz issued a ban on using, displaying or bringing into the country "books, photographs, and leaflets of political, propagandistic or ideological aim." Aimed primarily at the Iranian pilgrims,

during the trial that the plot had been masterminded by Prince Nayef ibn Abdel Aziz, the Saudi minister of interior and another brother of King Fahd.

permitted to return to the country for the first time since 1987 when a major disturbance left over four hundred dead, the ban was strictly enforced against all political literature and Shi'a religious documents.

On November 14, Abdel-Rahman al-Hassani, a Moroccan journalist and editor-in-chief of the weekly *Hadihi al-Dunia* (*This World*), was expelled from Saudi Arabia without being informed of the reasons.³¹⁷ He attributes the expulsion to a combination of suspicion that he was distributing publications deemed politically objectionable to Saudi authorities and requests by the Moroccan government to expel him because of a critical column he had written in 1986 about Moroccan judges. The article had prompted the Moroccan Ministry of Interior to file formal criminal charges. According to an order issued in 1989 and apparently still in force, he is accused of "affront to the supreme dignity of Moroccan justice" and his name "is at all times and from now on officially listed at all Moroccan borders."

Long-standing discrimination against Saudi Arabia's Shi'a Muslim minority, which intensified after the 1979 Iranian revolution and the subsequent Iran-Iraq war (1980-1988), eased during 1991. Shi'a are the largest minority in the country; estimates range from two to seven percent of a total population of fifteen million, although there has been no official census.³¹⁸ Shi'a are concentrated in the oil-producing Eastern Province, where their share of the relatively small native population is more significant.³¹⁹

There were several reasons for the easing of repression. Shaikh Ali Hassan al-Saffar, a leading Saudi Shi'a cleric, supported the Saudi war effort against Iraq in speeches broadcast from his place of exile in Syria. Improved Saudi-Iranian relations and the Saudi government's need to close ranks at home also played a role.

As a result, close surveillance of Shi'a towns, raids by security forces, intimidation and public humiliation, all of which had been common, were stopped during 1991. Saudi Aramco, the government-owned oil company and the largest

³¹⁷ The newspaper was started in Morocco in 1966. In 1986, it moved its offices to Greece. During 1990-91, its editors were in Saudi Arabia and Greece but it was printed in Athens and distributed from there.

³¹⁸ Unofficial estimates suggest that the native population of Saudi Arabia is close to two-thirds of the total population. Three to eleven percent of the native population is Shi'a.

³¹⁹ There are also smaller Shi'a communities in `Asir Province near the Yemeni border and in Medina, the second holy city.

employer of Shi`a in the country, reopened its recruitment offices in Shi`a towns after years of inactivity. However, the number of new recruits was small despite the vast expansion of oil production and the flight of many foreign oil workers. Moreover, the policy started in the mid-1980s of displacing senior Shi`a executives at Aramco continued, according to Aramco employees interviewed by Middle East Watch.

Two petitions submitted to King Fahd by Shi`a clergymen in 1991 complained about a ban on the use of religious tracts required for the exercise of Shi`a religious rites. The clergymen also protested restrictions imposed on Shi`a university admissions, the ban on military service by Shi`as, and the difficulty faced by the community in trying to secure jobs with government agencies or government-owned companies.³²⁰

On September 30, Shaikh Abdalla ibn Jibreen, a member of the government-appointed Council of Senior Scholars, issued a *fatwa* that Shi`as are "idolators deserving to be killed." The *fatwa*, for which he has not been censured publicly, reflects the view of the Sunni religious establishment, although not necessarily the government as a whole.

Non-Muslim residents in Saudi Arabia also face official discrimination. They are not allowed to practice their religion in public, display religious symbols, or import religious books. During the Gulf war, this matter was one of the thorniest restrictions on U.S. and allied troops, although special exemptions were allowed to accommodate the foreign armies camped on Saudi soil for up to nine months.

There was no improvement in 1991 in the official Saudi policy of discrimination against women in employment, education and travel. By law, women are not allowed to travel within the country or abroad without being accompanied by a male relative. Women are also banned by law from employment in most public and private enterprises, except in those few circumstances in which the employer is able to provide a completely gender-segregated work environment. Technical and vocational training is off-limits to women except in health trades. Access to university education is controlled by strict quotas in almost all fields, with most professional schools completely barred to women.

Before November 1990, women had been banned in practice, but not by law, from driving in Saudi Arabia. However, when forty-seven mainly professional

³²⁰ The complaint about job discrimination mentioned Aramco (the oil company), Petromin (the oil-distribution network), SABIC (Saudi Arabian Basic Industries Company, the petrochemical conglomerate) and the Eastern Province Power Company.

women challenged this custom on November 6, 1990 by driving their own cars in Riyadh (having secured driver licenses in other countries), the move backfired badly. All the women were arrested. Released the same day into the custody of their male relatives, the women had their passports confiscated and were suspended from any public job they had held, including a number of university professorships. Faced with uproar at the protest from the religious establishment and other fundamentalists, Prince Nayef, the minister of interior, later issued an order formally banning driving by women, thus making a hitherto implicit ban explicit in law.

In November 1991, passports were returned to the women and, according to reports received by Middle East Watch from those personally familiar with the case, the women were quietly given back pay and promised that they would be able to return to their former positions. It remains to be seen whether this promise is actually carried out. Moreover, the government has made clear that it will continue to punish those who try to challenge the officially sanctioned policy of gender-based discrimination.

An officially sanctioned campaign against Yemeni residents of Saudi Arabia, begun the previous year, persisted in 1991. The campaign was waged in retaliation for the Yemeni government's tilt toward Iraq during the Gulf crisis and in response to Yemeni press criticism of Saudi policy in the crisis. On September 22, 1990, the Saudi government abruptly ended the preferential treatment previously extended to Yemeni guest workers, including permission to work without a sponsor (*kafal*) and to operate businesses without a Saudi partner. The workers were given one month — later extended by another month — to find a sponsor, and businessmen were given three months to find Saudi partners. Close to one million out of the 1.5 million Yemenis in Saudi Arabia — many of them having lived most of their lives in the kingdom — were not able to adjust their status in accordance with the new procedures in the short time allowed and were ordered out of the country. Departing Yemenis were also forced to leave behind much of their property.³²¹

Under the new procedures, thousands of Yemeni workers were detained in 1991 and most were deported without the opportunity for judicial review. Residents of Riyadh reported to Middle East Watch that Yemenis are still being arrested on sight, even if they hold valid permits. Those able to prove their compliance with the new requirements are usually released, but many of them

³²¹ Saudi border guards required proof of purchase for items taken out of the country. To make sure that the goods were for personal use and not resale, the quantities allowed across the border were limited.

are subjected to ill-treatment while being interrogated.

On November 8, 1990, in a surprise move clearly dictated by the unprecedented international scrutiny to which Saudi Arabia was being subjected at the time, King Fahd announced that he had approved the formation of a long-awaited consultative assembly. He promised that the assembly would be established "as soon as the final touches are made on a final draft of a basic law for the kingdom," which had been submitted to him by a special committee headed by Prince Nayef, the minister of interior and the king's brother. The announcement was the king's second in ten years that a consultative assembly and a basic law — the rough equivalent of a constitution — were about to come into existence.³²²

Buoyed by King Fahd's announcement and by the international attention resulting from the presence of half a million U.S. troops in Saudi Arabia, forty-three leading Saudi figures from all walks of life and political leanings sent an open letter to the king suggesting the introduction of democratic reforms and the observance of basic liberties. The letter, which began circulating in the country clandestinely during the first half of December 1990, called on the king to expedite the appointment of a consultative assembly and the promulgation of a constitution. It also suggested reforming the judicial system and granting freedom of the press. Although security forces questioned a number of signatories to identify the petition's instigators, the government largely ignored the issue.

When, two months later, some two hundred religious scholars, including the senior hierarchy of the religious establishment, circulated a similar petition, the government took note. The king summoned a number of key signatories of the petition and criticized them for circulating it. After the meeting, some of the most prominent petitioners — including Shaikh Abdel Aziz ibn Baz, the highest religious authority in the country and probably the most significant name on the petition — publicly criticized the leaking of the document to the press and expressed their complete trust in the government.

In an important speech on November 7, 1991, King Fahd again said that the formation of an advisory council and the adoption of a basic law were imminent — "within a period of no more than a month or a month and a half." This was the most specific the Saudi government has been in setting a firm timetable, but given the government's thirty-year record of evasion and procrastination on this sensitive

³²² In 1980, King Fahd, then crown prince, made a similar announcement, saying that a draft constitution had been completed.

matter, most observers are skeptical about the prospects of democratic reform in Saudi Arabia in the near future.

Illustrating its true sentiments, the Saudi government is widely acknowledged to have been the main source of pressure on the Kuwaiti royal family to delay the reconvening of Kuwait's National Assembly, which was dissolved in 1986 in part at Saudi instigation. Pro-democracy activists in Bahrain and the United Arab Emirates believe that Saudi pressure also lies behind their governments' opposition to democratic reform.

The Right to Monitor

There was no change in 1991 in Saudi policy banning the formation of local groups to monitor human rights. Membership by Saudi citizens in foreign-based human rights organizations is not allowed without authorization from the Ministry of Interior, which is rarely given.

During the Gulf crisis, Saudi Arabia allowed international human rights organizations relatively free access to interview refugees from Kuwait. Access to Iraqi refugees has been more restricted but not banned in principle.

The International Committee of the Red Cross (ICRC) was not allowed to visit Iraqi soldiers who surrendered between August 1990 and January 17, 1991. After the start of the war, the ICRC was given full access to prisoners-of-war.

U.S. Policy

A special relationship of over fifty years between the United States and Saudi Arabia was cemented by the war effort to oust Saddam Hussein from Kuwait. President Bush's original justification for dispatching U.S. troops to Saudi Arabia, in August 1990, was the alleged threat of an Iraqi invasion of the kingdom. Post-war cooperation has involved extensive contacts between the two countries on future security arrangements in the Gulf, Saudi defense plans, the fate of the Iraqi regime led by Saddam Hussein, and the Arab-Israeli peace process.

Pledges to work toward a curb on all arms sales to the Middle East notwithstanding, the U.S. drive to arm Saudi Arabia with U.S.-made weapons accelerated in 1991 and is projected to continue over the next several years. On November 8, Pentagon officials announced the Administration's plans to provide Saudi Arabia with a large package of advanced weapons. The \$3.3 billion sale, if approved by Congress, would include seven hundred ground-to-air missiles for

fourteen defensive Patriot missile batteries, to be added to six batteries sold in the fall of 1990. In addition, Saudi Arabia has ordered seventy-two F-15 fighter planes from McDonnell Douglas, at a cost of \$4 billion, according to an announcement by the company in November 1991. The two deals are part of a \$14 billion arms package that Saudi Arabia is seeking to purchase from the United States for delivery in 1992 and 1993.

The U.S. government is also negotiating long-term arrangements with Saudi Arabia for the use of Saudi military facilities and the right to preposition a substantial cache of U.S.-owned weapons in the kingdom. The U.S. arming of Saudi Arabia, and the tremendous good will which the Saudi government has for the Bush Administration following the liberation of Kuwait, provide the Administration with a special opportunity to encourage Saudi respect for human rights.

Despite this opportunity, respect for human rights in Saudi Arabia has never been a priority for the Bush Administration or its predecessors. The State Department's *Country Reports for Human Rights Practices in 1990*, released in February 1991, catalogued in some detail human rights abuses in Saudi Arabia. But the Administration has chosen not to follow its own findings with public statements indicating displeasure with those abuses.

With respect to political participation, there was only one reference in 1991 indicating a degree of U.S. concern about the absence of democracy in Saudi Arabia. On November 20, in a lengthy statement read by Edward Djerejian, the newly appointed assistant secretary of state for Near Eastern and South Asian affairs, before the House Subcommittee on Europe and the Middle East — his first appearance before the subcommittee since his appointment — he avoided mentioning human rights as a component of U.S. policy toward the region. Questioned later on the subject of political participation, Secretary Djerejian said that the United States was "pressing all countries in the region, including Kuwait and Saudi Arabia, to make democratic reforms."³²³

During the entire seven-month crisis in the Gulf, the United States treated the Saudi government with kid gloves. Saudi Arabia had refused to treat as prisoners of war Iraqi soldiers who surrendered before the start of the war on January 16, 1991. Classifying them as "military refugees" who did not fall under the protection of the Third Geneva Convention of 1949, the Saudi government did not allow

³²³ The text of the prepared ten-page statement was provided to Middle East Watch by the State Department but the transcript of the hearing was not available as this report went to press. The quoted answer was provided to Middle East Watch by a reporter who had attended the hearing.

prisoners to contact their families and prevented visits by the International Committee of the Red Cross. U.S. officials told Middle East Watch at the time that they considered these soldiers to be prisoners of war entitled to protection under the Third Geneva Convention. They also told Middle East Watch that the two governments had signed an agreement — the provisions of which were classified — to spell out the treatment of prisoners of war in accordance with the Geneva Convention. Despite this disagreement, and the joint responsibility of the two governments to ensure compliance with the Third Geneva Convention, the United States refrained from publicly commenting on the issue.

The Work of Middle East Watch

During the Gulf crisis, Middle East Watch dispatched two missions to Saudi Arabia to interview Kuwaitis and others seeking refuge in Saudi Arabia during the Iraqi occupation of Kuwait. Later, in May 1991, a Middle East Watch delegation visiting Kuwait at the time went to Rafha, in northern Saudi Arabia, to visit the main Saudi camp for Iraqi refugees there. A separate request, submitted to the Saudi Embassy in Washington for permission to send a human rights mission through Saudi Arabia on the way to the then U.S.-controlled zone of southern Iraq, met with no response.

Throughout the crisis, Middle East Watch followed the treatment by Saudi Arabia of Iraqi prisoners of war. On March 7, it issued a newsletter, "POWs, Wounded and Killed Soldiers," criticizing the conduct of the principal parties to the Gulf war — Iraq, Saudi Arabia and the United States — in their treatment of prisoners of war.

In June, in testimony before the House Subcommittees on Europe and the Middle East and on Human Rights and International Organizations, Middle East Watch criticized Saudi Arabia's pressure on the Kuwaiti government to postpone parliamentary elections. In August, Middle East Watch communicated to the Saudi government its concern over reports that Iraqi refugees in Saudi Arabia were denied access to the outside world. We also called on Saudi Arabia to facilitate refugee relocation to other countries. In September, Saudi Arabia formally asked the United Nations High Commissioner for Refugees to help in the resettlement of Iraqi refugees who did not wish to be repatriated.

In our report on human rights violations in Kuwait, issued on September 11, Middle East Watch criticized the Saudi government's refusal to allow Palestinians wishing to leave Kuwait by land to pass through Saudi territory on their way to Jordan. The effect of this policy, for those who did not want to risk the dangerous

passage through Iraq, was to limit the possessions that they could take with them to items that could be carried as personal luggage on an airplane. The policy, which Saudi Arabia instituted upon the liberation of Kuwait on February 26, was amended by the end of October, according to reports received by Middle East Watch from Kuwaiti officials. However, as of mid-November, Middle East Watch was still receiving reports that Palestinians leaving Kuwait were not allowed to pass by land through Saudi territory.

On November 1, Middle East Watch wrote to the Saudi government expressing its concern over the incommunicado detention and reported mistreatment of Muhammed al-Fassi, who had been arrested in Jordan and turned over to Saudi Arabia in early October. No reply was received to this or previous such protests.

On November 17, in its report entitled *Needless Deaths in the Gulf War*, Middle East Watch documented Iraqi missile attacks on Saudi Arabia. The report condemned as indiscriminate the Iraqi attacks on population centers in Saudi Arabia.³²⁴

SYRIA AND SYRIAN-CONTROLLED LEBANON

Human Rights Developments in Syria

During 1991, Syria took steps to improve its long dismal human rights record. In May, the government of President Hafez al-Asad released around 1,500 Palestinian detainees, and between November 28 and December 18, it pardoned over 3,500 Syrian political prisoners. It is too early to determine whether these releases mark a new trend, since Syria continues to hold without trial over 2,500 detainees — some held since President Asad assumed power in November 1970.³²⁵

³²⁴ The findings of the report are discussed in the above chapter on Iraq.

³²⁵ Middle East Watch's estimate of the number of political prisoners held in Syria is conservative. In its annual report issued on December 13, the major Syrian human rights group, Committees for the Defense of Democratic Freedoms and Human Rights, put the number of political detainees at 14,000, over and above an estimated 3,000 suspected dissidents who disappeared without trace.

The Syrian government still denies the freedoms of expression and association to its twelve million citizens and puts severe restrictions on democratic participation in government. Despite recent gestures of political liberalization, real power remains in the hands of President Asad, who was confirmed for a fourth seven-year term (1992-99) by an officially reported 99.98 percent of the vote in a December 2 referendum in which he was the only candidate.

The government in 1991 succeeded in concluding two pacts with the Lebanese government of President Elias el-Hrawi that, in effect, recognize Syria's hegemony over Lebanon. Ostensibly limited to security and foreign-policy issues, the accords in practice give Syria the opportunity to restrict a range of human rights.

The state of emergency declared in Syria in March 1963 when the Baath Party first seized power and extended regularly thereafter gives Syrian security agencies free rein to arrest and detain suspected political opponents. Using a complicated web of martial-law regulations enacted under state-of-emergency powers, Syrian security forces have detained without trial thousands of prisoners, many of whom have been held in prolonged incommunicado detention. The scope of the state of emergency and martial law regulations was narrowed in 1990 and 1991 to permit the civilian courts to treat cases of embezzlement, smuggling, rations violations and other economic crimes as well as cases of official corruption — offenses which previously would have elicited the death penalty for serious offenders. However, cases relating to "state security" are still governed by martial-law rules. State-security crimes are loosely defined to include speaking out critically about the regime or joining outlawed political organizations such as the Muslim Brotherhood and the Party for Communist Action (PCA). Entrusted with carrying out the government policy of stamping out dissent are a dozen secret-police organizations employing thousands of agents and informers throughout Syria and Lebanon.

The release in May of some 1,500 Palestinian detainees was apparently a result of the growing detente between the Syrian government and the Palestine Liberation Organization (PLO) in preparation for the Middle East peace talks. During the first ten months of the year, a total of 182 Syrian political detainees — 127 from the banned Party for Communist Action (PCA) and thirty from the Muslim Brotherhood — were also released.

The pardon of 3,500 Syrian political detainees near the end of the year was unprecedented. In the last week of November, some seven hundred detainees were released, immediately before the December 2 popular referendum on

President Asad's fourth term. According to preliminary reports received by Middle East Watch, those released included opponents of the Persian Gulf war detained earlier in the year, four Jews detained in 1990 and 1991 for trying to emigrate without permission, and other recent detainees. Among the released were over thirty women arrested between 1984 and 1987, including Mona al-Ahmar, Sana' Huwaijeh, Wafa' Idris, Zahra Kurdiyeh, Rana Mahfouz, Lina al-Mir and engineer Hind al-Qahwaji.

On December 17, Muhammed Harba, Syria's minister of interior, announced that President Asad had pardoned 2,864 prisoners who had been detained "for acts committed against the state's security." Those pardoned were to be freed immediately. Diplomatic sources told Reuters that most of those pardoned were members of the fundamentalist Muslim Brotherhood who had committed armed attacks against the state.³²⁶ Syrian officials contacted by Middle East Watch put the number pardoned at 2,826. They also confirmed that the pardoned included Muslim Brotherhood and PCA members. Among those released were artists and writers associated with PCA, including Ali Sabr Darwish, Qassi al-Jundi, Ali al-Shehabi, Mustafa Lathegani and Abdel-Hakim Qtaifan. Thirty leaders of the Popular Nasserist Organization, an opposition group, including lawyer Muhammed Dakkou, journalist Abdel-Karim Jabr, Dr. Khaled al-Nasser, Dr. Mahmoud al-Oryan, and engineers Badreddin Fattal and Ali Ghabshah, were also pardoned.

Senior officials of the pre-Asad regime — some in detention for over twenty years — were not included in the amnesty. For example, Ahmed al-Swaidani, a former leader of the ruling Baath Party, entered his twenty-third year in prison, while former Syrian President Nour el-Din al-Atasi and twelve of his ministers and senior supporters entered their twenty-first year in prison; none has been tried. In addition, dozens of long-term convicted political prisoners await release long after their sentences have expired. One is Mustafa Khalil Brayez, who was abducted in 1970 while in self-imposed exile in Lebanon and sentenced to fifteen years in prison for writing *Suqut al-Jaulan* (*The Fall of the Golan Heights*). The book blamed Hafez al-Asad, then minister of defense, for the military defeat at the hands of Israeli forces in June 1967. After Brayez's sentence expired in August 1985, his family lost contact with him and his whereabouts were unknown for several years. In November 1991, Middle East Watch received reports that he was being held in the general wing of al-Mezze prison in Damascus.

New political prisoners in 1991 include four members of the Workers

³²⁶ Reuters, December 17, 1991; Associated Press, December 17, 1991; the official Syrian Arab News Agency, December 17, 1991.

Revolutionary Party and twenty-nine from the Arab Socialist Union Party (ASU). They were arrested even though the parties themselves are legal, apparently because they had distributed leaflets criticizing the Baath Party's monopoly of power. Among the ASU members arrested were Ahmed al-Khatib, a lawyer; his son, Tha'ir; and Najib al-Derdem, also a jurist. Hassan Isma`il Abdel Azim, a member of the ASU Politburo, was detained for two months during 1991 and then released. ASU publishing equipment was also confiscated.

With the Syrian government having joined the anti-Iraq alliance in the Persian Gulf conflict, scores of people were arrested and some detained for opposition to the Gulf war. In late January 1991, when fifty-three members of the Syrian Lawyers Association signed a statement criticizing the war, they were summoned before security officials and questioned, and some were arrested. The same fate befell fifty-two writers and artists who signed an anti-war protest.

Torture is routinely used in Syrian prisons to extract confessions. It is also used as a form of extrajudicial punishment that can be applied throughout a detainee's incarceration, leading to death or permanent injury in many cases. As in previous years, there were a number of deaths in custody, or soon after a prisoner's release from injuries believed to have been sustained while in prison. Jamal Hassino, a PCA member, was arrested in April 1990 as he was distributing leaflets protesting the death in detention of Khedher Jabar, another member of the party. Hassino was released in July 1991 but died a month later at the age of forty. Syrian human rights monitors believe that Hassino died as a result of severe torture received while in custody. Cases of death in custody in 1991 reported to Middle East Watch by Syrian human rights activists include those of Adnan Sa`ud, detained since September 1990, and Hussein Zaidan, who had been in prison since 1970. In neither case was an independent investigation conducted to determine the cause of death.

Reports from released prisoners describe unsanitary and overcrowded conditions in most Syrian prisons, with substandard food and bedding. It can take months, and even years, for the family of some political prisoners to be notified that their relative is in custody. Family visits are denied for many, especially those in military prisons. The largest and most notorious military prison is at Tadmur, where its 2,500 inmates are rarely allowed family visits. No improvement in these conditions was reported during the year.

Although the scope of political participation improved modestly during the year, as described below, the Syrian government's legendary ruthlessness in stamping out opposition continued to lead political opponents either to cease public adversarial political activity or to go into exile. Political opponents still remember the drastic actions taken by the Syrian government from 1980 to 1982

against the Muslim Brotherhood and the PCA. During the spring of 1981, after some Muslim Brotherhood elements were suspected of committing terrorist acts against government and party officials, security forces swept through the city of Hama, a stronghold of the Brotherhood, and killed hundreds of suspected members. When that did not end the Brotherhood's opposition, the Syrian army laid siege to the city in January and February 1982, and then shelled its residential neighborhoods. The historic downtown area was flattened, and other areas were similarly savaged. Approximately ten thousand residents are believed to have been killed and many more made homeless.

Members and sympathizers of the Muslim Brotherhood are still persecuted — even though some of its influential leaders, mainly in the Aleppo branch, were permitted to issue public statements supporting the government's controversial stand in the Gulf war. During 1991, thirty people were known to have been arrested and accused of belonging to the Brotherhood. By December, about 2,500 were believed to be in Syrian prisons on suspicion of belonging to this organization.

As the second most significant opposition group, the PCA continued to encounter persecution, particularly of its grassroots members. During the year, 129 are known to have been arrested for alleged membership in the party, making a total of seven hundred party followers who are believed to remain in detention. Most PCA leaders, who were arrested in 1980 and 1981, are still being held.

The Syrian Ministry of Information owns and runs most of the media outlets, including all television and radio stations and most newspapers. The closely monitored media practice self-censorship to adhere closely to the prescribed government line. Syrian journalists and writers, most of whom are on the government payroll, are kept in line through a combination of threats and rewards. Books and films, whether published in Syria or abroad, are heavily censored.

Foreign reporters' access to Syria is extremely limited and, when allowed, tightly controlled. Over the past decade, intimidation has been used to censor the foreign press, including by assassinating a number of leading foreign journalists. Syrian agents are believed to have been behind the 1980 assassination of Riad Taha, president of the Lebanese Journalists Association; the 1981 killing of Selim al-Lawzi, editor-in-chief of *al-Hawadeth (Events)*, a widely circulated conservative Lebanese weekly; and the 1985 murder of Michel al-Nimri, the Palestinian editor-in-chief of *al-Nashra (The Bulletin)*, a pro-PLO monthly published in Greece. All three journalists were vocal critics of the Asad regime. Syria is also assumed to have been behind the 1985 abduction in Lebanon, and the subsequent death in captivity, of the French writer Michel Seurat, who gathered considerable evidence of Syrian human rights abuses.

A number of writers and journalists have been held without trial for many years. Mustafa Khalil Brayez, discussed above, has been in prison since 1970. Marwan Hamawi, former head of the official Syrian news agency, has been held since 1975 on suspicion of pro-Iraqi Baath sympathies. Anwar Badr, Ridha Haddad and `Imad Naddaf, all journalists previously with official media organs, are in detention for their alleged sympathy for the banned PCA.

During the Gulf war, as mentioned earlier, a group of writers critical of Syria's participation in the anti-Iraq alliance were questioned and some briefly detained. The government's reaction was remarkable only in that it was milder than its reactions to similar protests in the past, especially whenever sympathy to the rival Iraqi Baathist regime was suspected. Because of the controversial nature of Syria's decision to join the alliance, and President Asad's apparent awareness of the need to placate substantial public opposition to the U.S. stance in the Gulf war, the Syrian leader toured the country to defend his policies at public rallies.

Freedom of association traditionally has been severely limited in Syria. The government exercises tight control over the granting of operating permits for any organization. Professional groups, such as the lawyers and medical associations, have been terrorized by the security apparatus when they have voiced the mildest criticism of the regime.

However, changes for nonpolitical associations may be in the offing. In late 1991, the official Syrian press ran unprecedented calls for democratization of the trade unions and popular organizations. It remains to be seen whether these calls, expected to be taken up by the forthcoming Baath Party quadrennial meeting in early 1992, will lead to genuine freedom of operation for these associations. But the signals indicate a willingness to loosen controls.

Political life in Syria is highly restricted, with the Baath Party dominating virtually all institutions, including the country's tame parliament. With the exception of the parties that make up the National Progressive Front, political organizations are not allowed to operate legally in Syria. Of the twelve traditional opposition parties, the activities of only two minor parties are tolerated: the Arab Socialist Union and the Revolutionary Workers Party.³²⁷

In May 1990, in the most recent national elections for the People's Assembly, nine thousand candidates ran for office. But opposition parties were not allowed to field candidates and more than forty independent candidates were forced by

³²⁷ Although the two parties are allowed to operate, thirty-three of their members are known to have been arrested in 1991 for distributing documents critical of the ruling Baath Party.

the government to withdraw. Only the Baath Party, which is headed by President Asad, and its junior partners in the National Progressive Front were allowed to hold campaign rallies. The turnout was poor — only forty percent of the eligible voters, according to official figures — and the balloting was fraught with irregularities. Of the 250 seats contested, the Front won 166, including 134 by the Baath Party, guaranteeing that the People's Assembly would continue to be a rubber stamp for President Asad's policies.

These elections were nevertheless significant in that independents won eighty-four parliamentary seats — an unprecedented one-third of the People's Assembly. It was also significant that the Baath Party gained barely half the seats, less than in any previous parliamentary election.

While these elections showed a limited official willingness to widen political representation, presidential elections remain mere formalities. On November 17, 1991, the People's Assembly unanimously approved President Asad, who was the only candidate, for a fourth seven-year term after his current term expires on February 29, 1992. Through a recent constitutional amendment approved at the behest of the ruling Baath Party, the election was moved forward from January 1992 to November 1991 to coincide with the anniversary of the 1970 coup that brought Asad to power.³²⁸

In the four presidential elections since Asad came to power in 1970, he won 99.2 percent of the vote in 1971, 99.6 percent in 1978, and 99.9 percent in 1985, according to official tallies; on December 2, 1991, the officially reported percentage in favor of ratifying a new presidential term for Asad was 99.98. In each election, Asad was the only candidate.

In a further indication of what may be a desire to open up the Syrian political process without a loss of actual power, President Asad alluded in a June speech to the need to "increase popular participation in political decision-making." This issue is on the agenda of both the Baath Party's forthcoming quadrennial meeting and the National Progressive Front's first-ever convention, both expected in early 1992. The Front, which is dominated by the Baath Party but includes a number of smaller parties, is reported also to be studying the possibility of expanding its membership by allowing new parties and independent individuals to join.

³²⁸ Syria's 1973 constitution mandates holding a presidential election every seven years but no earlier than sixty days before the expiration of the president's term. Since Asad's current term ends on February 29, 1992, elections would have to have been held after January 1. The constitutional amendment allowed holding a new election within 120 days of the end of the previous term, making it possible to hold the election on November 17, 1991.

During 1991, without granting formal permission, the government appeared to tolerate the activity of two new small parties: the Arab Democratic Party (*al-Hizb al-Democrati al-Arabi*) and the National Solidarity Party (*Hizb al-Tadhamun al-Watani*). Their meetings were not disrupted and their members were able to distribute leaflets without adverse consequences. Both parties, which have announced their loyalty to President Asad, favor more economic liberalism and political pluralism than the Baath Party.

In preparation for the forthcoming Baath Party meeting, the official press has published proposals to enhance the role of the People's Assembly in scrutinizing government action and producing legislation. Toward the end of 1991, phrases such as "political pluralism," "parliamentary scrutiny" and "requirements of the changed circumstances" regularly appeared in the government-run media, indicating a degree of at least tacit official approval of these concepts. Another proposal would give permission to the minor parties of the National Progressive Front to publish their own newspapers.

Also scheduled for discussion before the Party meeting is a proposal for "energizing trade unions." Trade unions — currently mere extensions of the formal government and Baath Party structure — are being called upon to exercise internal democracy and to include in their ranks independents and members of parties other than the Baath and its Front partners. How far this process will be permitted to go, especially if the new blood challenges the ruling political orthodoxy, remains to be seen.

Although the Syrian government is not formally based on sectarian lines, most of the senior positions in the government, especially in the military and security fields, are dominated by members of the Alawi sect, a mainly Syrian-based offshoot of Islam that is close to the Shi`a branch. The Alawis constitute only twelve percent of the population; seventy-six percent of Syrians belong to the mainstream Sunni branch of Islam, with sizable Christian and Druze communities accounting for an additional eight and three percent. Most Syrians feel, with some justification, that Alawis, who for centuries had been an underclass, now enjoy undue influence and the fruits of a deliberate government policy of favoritism.

The largely Sunni Kurds, at eight percent, constitute the largest ethnic minority. For many years, Syria's 950,000 Kurds bore the brunt of the government's policy of "Arabization." Thousands were arbitrarily deprived of their Syrian citizenship in the 1960s, and many others were forcibly resettled in the 1970s and replaced by an "Arab belt" near Syria's northern border. While the resettlement policies have been discontinued, cultural expression by Kurds is limited to their villages. Political expression is tolerated only for Kurds opposed to the Iraqi and Turkish governments. In the 1990 elections, however, a significant number of

Kurdish politicians were elected to the People's Assembly, for the first time in a generation. Among them was Hamid Haj Darwish, secretary of the Syrian branch of the Kurdish Democratic Party, the principal standard-bearer of Kurdish nationalism throughout the region.

The Jewish community, which has shrunk to less than four thousand, is subject to close surveillance, and its political activity and freedom of emigration are tightly restricted. In May 1991, Eli and Selim Swed, two Syrian Jewish brothers arrested in November 1987, were sentenced after a secret trial to six-and-a-half years in prison, including the years they had spent in detention prior to trial, for allegedly having visited Israel — an illegal act under Syrian law.

On November 28, 1991, two Syrian Jewish citizens, Rahmoun Darwish and Joseph Sabato, were released. They had been held without trial since September 25, 1990, when they were arrested with their families as they were trying to flee Syria. Also, on November 28, Syrian Jewish brothers Subhe and Sa`id Kastika were released after being detained without trial since May 1, 1991 for trying to leave the country without permission. Their wives and children, who were arrested with them, were released in late May.

Human Rights Developments in Syrian-Controlled Lebanon

The Lebanese government, headed by President Elias el-Hrawi, was installed in November 1989. Until October 1990, however, it was forced to coexist with the rival government of General Michel Aoun, the Maronite army leader appointed prime minister by former President Amin Gemayel in the last hours of his administration. The rivalry between the two feeble governments in West and East Beirut marked the nadir of the long Lebanese descent into near anarchy that began with the outbreak of civil war in April 1975.

The fifteen-year civil war wreaked havoc on the once flourishing Lebanese civil society, destroying what had been the cultural center of the Arab world, a haven of free speech and coexistence between different ethnic and religious groups. Human rights values were a chief victim of the internecine fighting, which was epitomized by spates of hostage-taking, first among rival Lebanese factions and later from the Western expatriate community.

In June 1976, with at least tacit encouragement from the United States, Syria sent its army into Lebanon as part of Arab League efforts to stop the fighting and preserve the Maronite-dominated status quo. Since then, Syrian forces — today some forty thousand — have effectively controlled most of Lebanese territory. Their human rights practices in Lebanon mirror their government's behavior in

Syria itself, although in recent years the record of violations in Syrian-controlled Lebanon has been worse than in Syria.

Syrian forces in Lebanon have detained without trial thousands of Lebanese and Palestinian opponents, close to 1,500 of whom are believed to remain in prison. Many are known to have been transferred to Syrian prisons, in violation of international law prohibiting their transfer outside occupied territory.³²⁹ Syria has never allowed the International Committee of the Red Cross or any other independent organization to visit its detention centers. Neither has it provided any accounting of those detained by its forces.

During 1991, Lebanon took significant steps toward restoring normal life. Most government agencies resumed operation and the parliament met regularly after the appointment of forty new deputies in June to fill vacancies.³³⁰ Although the Lebanese government has yet to re-establish effective control outside the perimeter of Beirut, it has sanctioned Syria's close involvement in Lebanese affairs through three major documents: the October 1989 Ta'if Accord, the May 1991 Lebanese-Syrian Brotherhood, Cooperation and Coordination Treaty, and the September 1991 Lebanese-Syrian Security Agreement.

On October 16, 1991, the Security Agreement was endorsed at the first meeting of the newly formed Lebanese-Syrian Higher Council. The Council is headed by the presidents of the two countries and includes the highest officials of each government. In implementing the Ta'if Accord, the bulk of Syrian forces are scheduled to be redeployed outside Greater Beirut, where most of Lebanon's population is concentrated, before the end of 1991. But as of early December, the redeployment had not taken place. Even if it occurs, the redeployment is not expected to diminish Syrian influence on security matters in Lebanon, including in the Beirut area.

In October 1990, Syrian forces and a pro-Syrian Maronite militia led by Eli Hobeika took joint action against rebel General Michel Aoun. In retaliation for alleged unwarranted killings by Aoun's forces of Syrian troops involved in the retaking of Aoun's last stronghold, scores of his supporters were executed on the spot and others left to die. Both the Syrian and Lebanese governments continue to

³²⁹ See Article 49 of the Fourth Geneva Convention of 1949, which both Lebanon and Syria have ratified.

³³⁰ The Lebanese government is acutely strapped for the funds needed to resume normal operations. In August 1991, it announced that its new budget of LL 1,153 billion (the equivalent of \$1.28 billion) will have a projected deficit of sixty-two percent.

refuse to investigate the circumstances of these killings, and have stymied family efforts to obtain independent verification of the causes of death.

Michel Aoun took refuge in the French Embassy on October 13, 1990 and was allowed to leave for France on August 29, 1991, two days after the Lebanese government granted him a conditional pardon. Two of his close aides, `Isam Abu Jamra and Edgar Ma`louf, were also pardoned. However, during much of 1991 suspected Aoun supporters were regularly rounded up by Lebanese security forces, aided, according to Lebanese sources, by Syrian intelligence officers. In late July, about forty were arrested in Kesrouan, north of Beirut, following the distribution of leaflets supporting Aoun and criticizing President Hrawi and the Maronite patriarch. Also in late July, other arrests of some twelve people accused of distributing illegally produced Lebanese banknotes carrying pictures of the ousted general took place in the port city of Jounieh. On August 1, a further fifty-eight Aoun supporters were arrested as they held a demonstration in Ashqout. There have been credible reports from their families that those detained have been tortured; the families also complain that the prisoners have been denied legal counsel and family visiting rights.

On August 26, 1991, the Lebanese Chamber of Deputies, Lebanon's parliament, approved a controversial amnesty for crimes committed during the civil war. The amnesty applies to all crimes committed before March 28, 1991, except for massacres and assassinations or attempted assassinations of political leaders, religious figures and diplomats. The amnesty thus absolves all those responsible for a range of killing, torture, hostage-taking and other abuses.

In addition to Aoun supporters, Syria still detains close to 1,400 other Lebanese and Palestinian residents of Lebanon. The Lebanese government has failed to press publicly for their release or trial under Lebanese law.

Syrian forces in Lebanon have been implicated in the murder of a number of Lebanese leaders and journalists who dared to challenge Syria's policies. These forces used kidnapping and assassination to silence critics — with considerable success. A dozen highly publicized assassinations of prominent politicians, journalists and scholars who spoke critically of the Asad regime took place between 1972 and 1989. In May 1989, Subhi al-Saleh, an independent and widely respected Lebanese Muslim scholar, was reportedly killed by Syrian agents, apparently because of his support for the reunification of a Lebanon independent of Syria. As a result of this terror campaign, the Lebanese press, once the least restrained in the Arab world, has been forced to toe a Syrian-drawn line, leave Syrian-controlled Lebanon, or cease functioning.

During 1991, the Lebanese government did Syria's bidding by exerting pressure on the local press to refrain from criticizing Syria. In September, Maurice

Khawwam, Lebanon's chief public prosecutor, sent a letter to the Lebanese Journalists Association giving notice of the prosecutor's intention to reactivate restrictive press laws. Khawwam reminded journalists:

(O)ne of the forbidden topics explicitly banned in Legislative Decree No. 104 of June 3, 1977 is the critical discussion of the president of the Lebanese Republic or of presidents of foreign countries. Such criticism has caused Lebanon in the past many negative repercussions which we want to avoid repeating. I especially would like to draw your attention to Article 23 of Decree 104, which stipulates that 'Should a publication critically discuss the person of the president of a foreign country, the public prosecutor shall initiate prosecution even when there is no complaint from the aggrieved party.'

The public prosecutor served notice on the editors that he intended to prosecute violators vigorously. It was widely understood by journalists that the main object of this directive was to stop criticism of Syrian policies in Lebanon.

The recently signed, but still officially secret, Lebanese-Syrian Security Agreement stipulates a ban on "all military, security, political and media activity that might harm" either country, according to texts published in Lebanese newspapers. The agreement also reportedly requires both countries to "refuse to give refuge to, facilitate the passage of, or provide protection to persons and organizations that work against the other state's security." These terms may be intended primarily to prevent Syrian exiles from operating in Lebanon. The ban on "political and media activity" provides additional legal cover for the *de facto* ban that Syria has enforced in most of Lebanon since 1976 on political opposition to Syria.

Parliamentary elections in Lebanon were last held in 1972, prior to the outbreak of the civil war. Between 1972 and 1991, the Chamber of Deputies lost thirty-one of its ninety-nine members, mostly to natural causes. On June 6, 1991, the Lebanese government filled these vacancies. It also appointed nine additional deputies to occupy the seats created by the Ta'if Accord of 1989, to redress the imbalance between Christians and Muslims in the sectarian-based allocation of seats. The total number of seats was increased from 99 to 108, divided equally between Christians and Muslims, instead of the old five-to-four Christian-to-Muslim ratio. However, the accord left intact the traditional sectarian division of government employment, which in the past led to charges of discrimination against the smaller of the fourteen recognized sects.

Although no date has been set, the Lebanese government has promised new

elections in the summer of 1992. The conduct of these elections will be an important indicator of Lebanon's (and Syria's) commitment to democracy in Lebanon.

Stateless residents of Lebanon — the Wadi Khaled Arabs in northern Lebanon, the Maslakh Arabs of Beirut and long-term Kurdish residents of Lebanon — are denied Lebanese citizenship and the rights and privileges deriving from citizenship, such as the right of political participation and the right to freedom of travel, as well as authorization to seek employment without a work permit. In the past, successive Lebanese governments promised to resolve the legal limbo of the stateless in Lebanon but nothing transpired. In a positive development, on July 3, 1991, the Lebanese government abolished a 1983 regulation forbidding non-Lebanese from working in fifty-one specified trades.

Most Palestinians in Lebanon came as refugees displaced by the creation of Israel in 1948. Prior to the Lebanese civil war, they were treated as foreign residents for the purpose of employment and other aspects of their lives. In addition, their movement was restricted and they were subjected to arbitrary arrest and intimidation by Lebanese security forces.

As the Lebanese government prepares to reassert its control over all of Lebanon, the Palestinian community is justifiably concerned about a return to pre-civil war practices. Despite promises by the Lebanese government to improve Palestinian access to employment and to form a Lebanese-Palestinian committee to study other civil rights, the 300,000-strong Palestinian community in Lebanon is apprehensive about the future. The heavy-handed manner in which the Lebanese army wrested control, in early July, of Palestinian-dominated areas of southern Lebanon around Sidon and Tyre, where large refugee camps are controlled by Palestinian armed factions, resulted in fifty-two killed, 184 wounded, and 574 Palestinians taken prisoner during three days of fighting; most of these appear to have been combatants.

Most Palestinians arrested during the Lebanese army's takeover of the south have been released, but that only partially reassured the Palestinian community. On July 30, Palestinian representatives met Lebanese Prime Minister Omar Karamah and Speaker of the Parliament Hussein al-Husseini. Meetings with other senior officials followed on August 16 but have yet to produce a consensus on Palestinian civil rights in Lebanon. As a result, the potential for conflict between the Palestinian community and the Lebanese army, backed by Syria, remains high.

The fifteen-year civil war led to the emigration of hundreds of thousands of Lebanese, many of whom are now trying to re-establish themselves in Lebanon. The war also caused the internal displacement of more than 200,000 persons, as Lebanese of different sects left their homes to avoid collective retaliation.

Christian families fled Muslim-dominated areas such as Damour, south of Beirut, and mountainous villages in the Druze-dominated southern Shouf region. Muslims fled the suburbs of East Beirut and other Maronite-dominated areas. Muslims also fled southern villages in Israel's self-declared security zone and the surrounding areas. Return of the displaced persons to their previous homes is hampered by the still-shaky truce among the different militias, and the seemingly low priority given to this matter by the Lebanese and Syrian governments.

The Right to Monitor

On December 10, 1989, an independent group, Committees for the Defense of Democratic Freedoms and Human Rights in Syria, was established. While it has been able to operate active branches in Paris and Geneva, the group has had to maintain a clandestine presence in Syria itself. Since April 1990, it has published a regular Arabic-language bulletin, *Saut al-Democratiyya* (Voice of Democracy).

There are also a number of external organizations that monitor human rights of specific groups in Syria, such as Kurds and Jews. There are also monitoring committees specializing in prisoners of particular political groups, such as the Muslim Brotherhood, the Party of Communist Action, and the Baath Party-Iraq Branch, as well as Palestinian prisoners. All of these groups are based outside the country, as the Syrian government does not permit the open operation of any human rights organization.

Although Syria has ratified several key human rights instruments, including the International Covenant on Civil and Political Rights, it does not allow independent monitoring of its compliance with these instruments. Similarly, although it has signed the four Geneva Conventions, it does not allow the International Committee of the Red Cross to visit its Lebanese and Palestinian detainees captured in Lebanon.

Independent Lebanese human rights groups usually operate outside the country for fear of almost-certain Syrian retribution. A center for human rights, which prefers not to publicize its identity, is based at one of Lebanon's universities but has had to conduct most of its activities abroad. Another group, Lebanon Information Processing Service, gathers and distributes information on Lebanon through a monthly bulletin, paying particular attention to humanitarian and human rights issues; it is based in London to maintain its freedom of operation. The Council of Lebanese American Organizations, based in the United States, represents those loyal to ousted General Michel Aoun and reports on human rights abuses by Syrian forces in Lebanon from a Maronite viewpoint.

Middle East Watch's repeated efforts to visit Syria or to solicit information from the Syrian government have been met by a wall of silence. As a result, most of Middle East Watch's reporting on Syria has been based on exile testimony and on an unofficial visit to the country.

U.S. Policy

U.S. policy toward Syria in 1991 appeared driven by three overriding factors. Paramount during the first two months of the year was the goal of maintaining the alliance formed the previous fall to drive Saddam Hussein from Kuwait. For the rest of the year, U.S. policy was principally guided by the goals of assuring Syria's participation in the Middle East peace process and securing the release of American hostages held in Lebanon. In working toward these three goals, U.S. officials refrained from voicing public criticism of most human rights violations by the Syrian government, whether in Syria or in Lebanon.

U.S.-Syrian relations have improved considerably under the Bush Administration. The two governments worked closely in Lebanon, both in opposing General Michel Aoun's rebellion and supporting the Ta'if Accord concluded in October 1989 to settle the Lebanese civil war. They also supported the presidential candidacy of René Mou`awwadh and, after he was assassinated, the candidacy and presidency of Elias el-Hrawi. U.S. support — against the wishes of its allies France and Israel — was key in garnering international recognition of the Syrian-backed Hrawi government.

Syria's decision to join the anti-Iraq military coalition further improved bilateral relations. In November 1990, to consolidate the new alliance, President Bush met in Damascus with President Asad, the Syrian leader's first meeting with a U.S. president since 1977. In addition to committing its forces to fight alongside U.S. troops, hitherto unthinkable, Syria helped to convince its ally Iran to remain on the sidelines of the conflict.

Syrian cooperation with the United States in the release of Western hostages held in Lebanon was acknowledged by U.S. officials throughout the year. In a September 19 press conference in Damascus held jointly by U.S. Secretary of State James Baker and Syrian Foreign Minister Farouq al-Shara`, the only human rights issue mentioned by either official was the release of Western hostages. According to Secretary Baker, "President Hafez al-Asad pointed out that he and the Syrian government will do their best to help obtain the release of the hostages without conditions. He will keep us informed in case of any developments." This

cooperation was crowned with the release of Terry Anderson, the last American hostage, on December 4, 1991. During none of Secretary Baker's seven visits to Damascus in 1991 did he comment publicly on any human right violations by the Syrian government.³³¹

In an apparent indication of the Bush Administration's desire not to upset relations with Syria, the Syrian government has been cleared, for the time being at least, of involvement in the bombing in 1988 of the Pan Am passenger plane over Lockerbie, Scotland, which killed 270. Until the indictment of two Libyan intelligence officers in connection with the bombing, Syria had been deemed the state most likely to have been responsible. The Popular Front for the Liberation of Palestine-General Command (PFLP-GC), led by former Syrian army officer Ahmed Jibril, was the main suspect named by British and German investigators. The PFLP-GC is based in Damascus and has many of its facilities in Syria and the Syrian-controlled parts of Lebanon. It also has close ties to the Iranian government. The Asad government has consistently rebuffed U.S. efforts to secure the closure of the PFLP-GC's bases, which the U.S. government regards as terrorist training facilities. According to Syria, the organization is engaged in legitimate military activity against Israel.

In May 1991, Morris Busby, a counterterrorism adviser to Secretary Baker, led a high-level delegation to Syria to discuss "the general question of terrorism." Despite press speculation that Syria may be dropped from the U.S. list of states supporting terrorism, it remains on the list along with Cuba, Iran, Libya and North Korea. In September, a U.S. State Department official told Middle East Watch that the United States and Syria have "great differences on the issue of terrorism," explaining that the Syrian government "has kept the entire terrorism structure intact both in Syria and in the areas under its control in Lebanon." In a November 20 hearing before the House Subcommittee on Europe and the Middle East, Edward Djerejian, assistant secretary of state for Near Eastern and South Asian affairs, said that the United States was not planning to remove Syria from the list of terrorist nations.

The Bush Administration's quiet but assiduous cultivation of President Asad

³³¹ According to a report in the French daily *Liberation*, U.S. officials provided the Syrian government with a list of 1,900 political prisoners and requested their release. (Daniel le Gac, "Le dilemme du général Assad," November 7, 1991) But State Department officials contacted by Middle East Watch denied the report. They did confirm that the issue of political prisoners was raised by the United States in a formal démarche, in which a small number of long-term prisoners were named.

gained a considerable reward when Syria agreed to attend the U.S.- and Soviet-convened Middle East peace conference, which opened in Madrid on October 30. In the November 20 House subcommittee hearing, Secretary Djerejian made clear that this goal had been paramount in the Administration's policy toward Syria. His lengthy opening statement outlining U.S. priorities in the region made no mention of human rights.

Responding to questions raised during the hearing — his first since he became assistant secretary after years as ambassador to Syria — Secretary Djerejian said that the Administration's "level-headed" approach to Syria had been based on asking the "fundamental questions." These, he spelled out, were: "Do we have any mutuality of interests in the Gulf? Do we have any mutuality of interests in Lebanon? Do we have any mutuality of interests in the Arab-Israeli peace process?" As a result of this pragmatic approach, he said, three things were achieved: the signing of the Ta'if agreement, Syria's joining the U.S. alliance in the Gulf, and Syrian attendance at the Madrid Middle East peace conference. In answer to a question, Secretary Djerejian also mentioned that the United States had obtained a commitment from the Syrian government to permit family reunification by easing travel restrictions for its Jewish citizens.

Syria reaped significant benefits from its role in the Gulf crisis. It was able to crush the rebellion of General Aoun in October 1990, and impose its choice of government in Lebanon, without censure from the United States for the excessive loss of life that occurred. Syria also received substantial economic aid from U.S. allies in Western Europe, Kuwait and Saudi Arabia.

In April 1991, Saudi Arabia agreed to finance a \$1 billion arms package to provide Syria with advanced Scud-C missiles, SU-24 fighter planes, M-9 missiles and T-72 tanks from a number of sources including China, Czechoslovakia, North Korea and the Soviet Union. U.S. pressure on Czechoslovakia to back down from the deal prompted the official Syrian press to criticize the United States in terms not heard since the formation of the alliance between the two countries during the Gulf crisis. Despite the reported U.S. pressure, Czechoslovakia in May reiterated its intention to go ahead with the deal.

There are also indications that U.S.-Syrian trade was encouraged by the improved atmosphere. In April 1991, it was announced that Baxter International, a large U.S. medical-supply company, had reached agreement with Syria to build a pharmaceutical plant to supply the Syrian armed forces' hospitals with intravenous solutions.

Demands by U.S. labor groups to deny Syria trade privileges under the General System of Preferences (GSP) have yet to produce results. Since 1988, the AFL-CIO has petitioned the U.S. trade representative under Sections 502 and 504 of

the U.S. Trade Act of 1974 to remove Syria from the list of GSP-eligible countries for its failure to adhere to minimum worker-rights standards and because of its links with terrorism. In April 1991, in response to the AFL-CIO's 1990 petition, the White House ordered a review of Syria's eligibility. Two months later, U.S. Trade Representative Carla Hills ruled in Syria's favor, the fourth consecutive rejection of the AFL-CIO's petition.

Since 1989, the United States has intensified its pressure on the Syrian government to curtail drug trafficking from Syrian-controlled areas of Lebanon in which Syrian army officers have been implicated. In 1991, these efforts included an August visit by a congressional delegation led by Representative Charles Rangel to discuss the problem of drug trafficking. A State Department official told Middle East Watch that until Syria cracked down on the drug trade, there would not be any U.S. aid or multilateral loans to Syria, meaning that the United States would use its influence or its veto to block loans to Syria by international lending agencies. Probably as a result of these pressures, the Syrian authorities made several announcements during the year of major drug raids in Lebanon and the confiscation of drugs smuggled from Lebanon into Syria. On September 2, Syrian and Lebanese troops conducted a concerted operation to destroy hashish plantations in the western Beqa` valley.

The Work of Middle East Watch

Following the release of its major September 1990 report, *Human Rights in Syria*, which documented human rights violations in Syria under the Asad regime, Middle East Watch continued to monitor the observance of human rights in Syria and Syrian-controlled Lebanon. In September 1991, Yale University Press published an updated version of the report under the title, *Syria Unmasked: the Suppression of Human Rights by the Asad Regime*.

In October 1991, Middle East Watch sent a letter to Vice President Abdel Halim Khaddam asking for clarification of the case of Eli and Selim Swed, the two Syrian Jewish brothers who were convicted and sentenced in a secret trial to six-and-a-half years in prison for reportedly traveling to Israel.

On October 28, Middle East Watch released a newsletter, "The Madrid Peace Conference: The Human Rights Record of the Principal Regional Parties," which included chapters on Syria and Lebanon. The newsletter documented human rights abuses by the conference participants and called on them to include a discussion of human rights in their bilateral negotiations.

During the conference, Middle East Watch representatives contacted various

delegates to impress on them the importance of human rights as an element of the peace process. An informal meeting was held with members of the Syrian delegation, including Nusrat Haider, head of the Constitutional Court, the country's top judicial official, who offered to discuss Syria's legal system with Middle East Watch representatives if they came to Syria.

Despite this invitation, it was unclear whether visa approval would be granted to a Middle East Watch mission to enter the country. By the end of 1991, there had been no opportunity to test the offer. However, on July 18, Middle East Watch had written to Ambassador Waled al-Moualem in Washington asking permission to conduct a mission later in the year; no reply was ever received, just as no reply was given to earlier attempts to contact the Syrian government during research for our September 1990 report.

During 1991, Middle East Watch worked closely with the New York-based Committee to Protect Journalists to help secure the release of the Western hostages being held in Lebanon and of all other detainees being held outside the framework of law. Regular meetings were held on the subject with U.S. officials and with Washington- and New York-based foreign diplomats; the subject was also raised in meetings in Tehran with senior Foreign Ministry officials. An opinion article was published in *The New York Times* in July calling for all illegally held detainees in Lebanon to be put on the same footing in the carefully orchestrated package deal then being worked out with all parties to the hostage affair by U.N. Secretary-General Javier Pérez de Cuellar.

On December 5, Middle East Watch issued a public statement welcoming the release of Terry Anderson, the last American hostage held in Lebanon. The statement called for the release of all Lebanese (and Palestinian residents of Lebanon) being held illegally by Syria and Israel. It called on Syria and Israel to allow immediate visits to all detainees by family members and the International Committee of the Red Cross. Middle East Watch also called on the Hrawi government to establish a tracing agency for the thousands who disappeared during the Lebanese civil war and are still missing.