

THE 'IRON FIST POLICY'

CRIMINALIZATION OF PEACEFUL
DISSENT IN KUWAIT

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Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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EXECUTIVE SUMMARY

“... there is no doubt that men are free by nature to have their thoughts and opinions, to come and go, individually or congregationally, no matter their number, so long as they do not harm others. The freedoms and rights of human beings have become an integral part of global consciousness and have defined what it means to be human.”

Excerpt from a 2006 ruling by Kuwait's Constitutional Court

Since the 1960s Kuwait has gained a reputation within the Gulf for granting its citizens greater political freedoms than their counterparts in other countries in the region.

The press has been able to operate with a degree of freedom relative to neighbouring countries, and citizens have generally been able to speak, write, comment and even criticize the government without fear of arrest. Kuwaiti women face legal and other discrimination, but have also enjoyed greater rights to political participation than in most other Gulf states, including rights to vote and stand as candidates in elections to parliament. There are still very serious human rights concerns – not least entrenched discrimination against residents of Kuwait not considered citizens, known as the Bidun, and the exploitation and abuse of foreign migrant workers – but holders of Kuwaiti citizenship, at least, have enjoyed freedoms that remain all too rare elsewhere in the Gulf.

But since 2011, in the face of increased criticism and amidst a volatile regional context, the authorities have taken a series of steps which have seriously eroded human rights, with the right to freedom of expression among the main casualties.

Initially, the popular protests that broke out across the Middle East and North Africa in 2011 appeared to have little impact in Kuwait. This changed in 2012, however, when popular opposition to a new electoral law and concern over corruption in government saw thousands repeatedly take to the streets of the capital, Kuwait City in a series of rallies entitled *Karamat Watan* (“Nation's Dignity”).

The controversial electoral changes and the government's reaction to the Nation's Dignity rallies, which included the forcible dispersal of peaceful protests, opened up divisions in Kuwaiti society

which the government exacerbated by reacting with increasing sensitivity to and intolerance of criticism and dissent. In July 2014, in response to opposition protests, the cabinet pledged “an iron fist policy and a decisive and firm confrontation with whatever could undermine the state, its institutions and constitution”.

The government has used existing laws and adopted new ones to target its critics, including human rights defenders and political opponents, and ultimately close down space for dissent. Judicial authorities have ordered the suspension or closure of newspapers and other media platforms. The government has invoked the country's nationality law to strip some of its critics of their citizenship, sending a stark warning to others of the consequences of speaking out. Members of Kuwait's Bidun community, who are denied Kuwaiti nationality, have been among those arrested and imprisoned for peacefully exercising their right to freedom of expression.

Amnesty International has visited Kuwait three times in the last four years, interviewing dozens of individuals, including people facing prosecution on charges related to their peaceful exercise of rights to freedom of expression, human rights defenders, journalists and lawyers. Researchers have analysed relevant international and Kuwaiti laws, reviewed UN reports relating to Kuwait and closely monitored media coverage of court cases and other developments affecting the right to freedom of expression. The organization met a senior state prosecutor, members of parliament, and senior members of the Kuwaiti government, including the Prime Minister, and subsequently invited the government to respond to its findings in an April 2015 memorandum. At the time of finalizing this report, the authorities have not responded to this memorandum.

Based on this research, this report documents the deepening erosion of the right to freedom of expression that has occurred in Kuwait during the past four years. It details the authorities' arrest, prosecution and imprisonment of peaceful online and other critics or commentators using laws that breach Kuwait's obligations under international law. Amnesty International considers a number of those prosecuted to be prisoners of conscience, jailed solely for the peaceful exercise of their right to freedom of expression.

The authorities have used vague and sweeping criminal defamation laws to punish and deter criticism of the Amir, other state officials and their policies or conduct, and also to target those who openly criticize leaders of other Arab states with which the government maintains close relations. The use of such laws has increased markedly since 2011. In the last two years, more than 90 cases have been reported in Kuwaiti media of people facing charges in court in relation to such offences.

People accused of these offences have often faced arbitrary detention and court processes in which they frequently spend months waiting for the trials to open or close due to frequent court adjournments.

Many have faced multiple cases simultaneously. At one point in 2014, former parliamentarian Musallam al-Barrak, for many years one of the government's most trenchant critics, speaking out against a perceived lack of government transparency and criticizing the Amir and the judiciary, was facing 94 ongoing separate criminal prosecutions. He is currently serving a two-year jail sentence. Hamad al-Naqi, meanwhile, is serving a 10-year jail sentence for posting comments on Twitter criticizing the leaders of Bahrain and Saudi Arabia and for making comments considered derogatory to the Prophet Mohammad and other religious figures.

A web of laws is used to prosecute critics and opponents of the government. These include articles of the Penal Code and other laws that criminalize expression deemed to insult the Amir or undermine his authority or that of the government or judiciary, or which threaten Kuwait's national security or relations with other states, such as criticism of leaders of other Arab states.

Other laws target online critics of the government – some 75% of Kuwait's population use the internet. Critics can face prosecution under laws that can make it an offence to use modern communications technology – such as mobile phones and the internet – to transmit and disseminate perceived criticism of the Amir, members of the judiciary or public officials.

Such laws undermine the government's obligations to respect, protect, promote and fulfil the right to freedom of expression. Any restriction that governments place on these rights must be shown to be the least restrictive means of doing so possible, and must be demonstrably necessary and proportionate for one of the grounds expressly identified in human rights law. In no case may such restrictions jeopardize the principle of freedom of expression itself.

New laws that would further exacerbate suppression of the right to freedom of expression are in the works. When it comes into force on 12 January 2016, the Cybercrimes Law, drawing on provisions already set out in existing law, will criminalize, in vague terms, a whole swathe of expression, including peaceful expression that might be construed as criticism of government and judicial officials or religious personages. Moreover, an amendment to the law on public gatherings – which the parliament is considering – would introduce a penalty of three years' imprisonment for gathering in a group of five or more people in front of a court.

Kuwait is at a crossroads. The authorities must halt the seemingly complacent slide towards a fully fledged clampdown on peaceful expression if they want to salvage any reputation that Kuwait previously enjoyed in the Gulf region for relative tolerance and rights protection. Failing to do so would do a gross disservice to all of Kuwait's people and to the cause of human rights in a region wracked by armed conflict and rising sectarianism.

It is not too late to reverse the downward trend on human rights evident since 2011. Kuwait remains a state party to core international human rights treaties whose implementation is regularly examined by independent experts, and in June 2015 the government accepted nine specific recommendations committing the government to uphold international standards relating to freedom of expression, as part of the UN Universal Periodic Review (UPR) of human rights in Kuwait.

Urgent action is now required to ensure that these commitments are delivered. Amnesty International urges the government to immediately and unconditionally release all prisoners of conscience detained or imprisoned for peacefully expressing their opinions or other human rights. It should also repeal or revise laws that allow for the arrest, prosecution and imprisonment of such individuals and bring such laws in line with the government's international human rights obligations and commitments.

Amnesty International urges the Kuwait parliament to review the government's implementation of Kuwait's international human rights commitments. Parliament should work with Kuwait's civil society to hold state conduct to account and ensure that it is in line with international standards.

Kuwait's friends and allies also have a key role to play, including the Western states that assert their broad commitment to the principles of good governance and human rights and which continue to enjoy close and harmonious relations with Kuwait. These international actors, in particular the USA and the UK, Kuwait's key allies, need to do far more to promote positive change in Kuwait and to help prevent a slide into deeper repression and crackdown.

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