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U.S. Department of State

Kuwait Report on Human Rights Practices for 1996

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KUWAIT

Amirs, or princes, from the Al-Sabah family have ruled Kuwait in consultation with prominent community figures for over 200 years. The Constitution, adopted in 1962 shortly after Kuwait's independence from British protectorate status, provides for an elected National Assembly and enumerates the powers of the Government and the rights of citizens. It also permits the Amir to suspend its articles during periods of martial law. The Amir twice suspended constitutional provisions from 1976 to 1981 and from 1986 to 1992 and ruled extraconstitutionally during these periods. Iraq occupied Kuwait from August 1990 until its forces were expelled in February 1991. The National Assembly resumed functioning after the 1992 elections, and elections were held again in October. New legislation in October granted the judiciary greater administrative and financial independence, but the Amir appoints all judges.

The Ministry of Interior supervises the security apparatus, including the Criminal Investigation Department (CID) and Kuwait State Security (KSS), two agencies that, in addition to the regular police, investigate internal security-related offenses. Some members of the security forces committed human rights abuses.

Richly endowed with oil, the country's estimated per capita gross national product is approximately \$20,600. Costly reconstruction undertaken to recover from the destruction caused by the Iraqi occupation led the Government to incur a cumulative fiscal deficit of approximately \$70 billion, which it covered by liquidating government-owned foreign assets and increasing the public debt. The Government is gradually reducing the deficit and plans to eliminate it by the year 2000. Despite its

emphasis on an open market, the Government continues to dominate the local economy through direct expenditures and government-owned companies and equities. The Government has initiated a program of disposing of its holdings of stock in private companies.

The Government's human rights record improved, although problems remain in certain areas. Police abuse detainees during interrogation, and guards beat a large number of prisoners after a January prison riot. Citizens cannot change their head of state. The Government bans formal political parties, and women do not have the right to vote. The Government restricts freedom of assembly and association, and places some limits on the freedom of religion. Journalists

practice self-censorship. The Government prevents the return to Kuwait of stateless persons who have strong ties to the country. Deportation orders may be issued by administrative order, and hundreds of persons are being held in detention facilities pending deportation. Many have been held for a year or more. Discrimination and violence against women are problems. The Government restricts the rights of women, e.g., women do not have the right to vote. Domestic servants are not protected by labor law, and unskilled foreign workers suffer from lack of a minimum wage in the private sector and from failures to enforce labor law.

However, for the first time, sons of naturalized male citizens and citizens naturalized between 20 and 30 years ago were eligible to vote in the October National Assembly elections. Although the Government continues to be indifferent to the human rights problems of the more than 100,000 stateless people residing in Kuwait known as the "bidoon," the Government naturalized a small fraction of the bidoon, and made some efforts to address their status. The Amir commuted the sentences of four individuals who were convicted of security offenses in 1991 by the Martial Law Court. During the year the National Assembly passed laws granting the judiciary greater administrative and financial independence and providing for increased access and employment opportunities for the disabled.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

There were no developments in the investigations into the extrajudicial killings that occurred during the chaotic period after Kuwait's liberation in 1991.

b. Disappearance

There were no reports of politically motivated disappearances.

There have been no developments since 1994 in the cases of disappearance that occurred following Kuwait's liberation in 1991.

According to the International Committee of the Red Cross (ICRC), Iraqi authorities have not yet accounted for 602 Kuwaitis and residents of Kuwait, including 8 women, who were taken prisoner during Iraq's occupation of Kuwait. Iraq repatriated one woman in May. The Government of Iraq has

refused to comply with U.N. Security Council Resolution 687, which stipulates the release of the

detainees. Iraq denies that it holds Kuwaiti detainees.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture, however, there continue to be credible reports that the police physically abuse detainees during interrogation. The police were more likely to inflict such abuse on non-Kuwaitis than on citizens. Reported abuse includes blindfoldings, verbal threats, slaps, and blows.

The Government says that it investigates all allegations of abuse and that it has punished at least some of the offenders. However, the Government does not make public the findings in its abuse investigations or what, if any, punishments are imposed. This omission creates a climate of impunity, which diminishes deterrence against torture and abuse. Prison guards beat a large number of prisoners following a prison riot in January. Although authorities apparently put an end to the abuse, it is not known if the guards involved in the beatings were disciplined.

Defendants have the right to present evidence in court that they have been mistreated during interrogation. However, the courts frequently dismiss abuse complaints because defendants are often unable to substantiate their complaints with physical evidence. Members of the security forces deliberately hide or misrepresent their identity, a practice that further complicates confirmation of abuse.

Prison conditions, including conditions for those held for security offenses, meet minimum international standards, in terms of food, access to basic health care, scheduled family visits, cleanliness, and opportunities for exercise and work. Continuing problems include overcrowding and the lack of specialized medical care. In addition, some minor children of female prisoners stay in the prison with their mothers. The Government is taking steps to improve prison conditions.

The National Assembly's Human Rights Committee continued to monitor prison conditions, and the Government allows the ICRC access to all detention facilities.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides for freedom from arbitrary arrest and detention. There were no reports of arbitrary arrest during the year.

Police officers must obtain an arrest warrant from state prosecutors before making an arrest, although in misdemeanor cases the arresting officer may issue them. Security forces occasionally detain persons at checkpoints in Kuwait City (see Section 2.d).

Under the Penal Code, a suspect may not be held more than 4 days without charge. Security officers sometimes prevent families from visiting detainees during this confinement. After 4 days, prosecutors must either release the suspect or file charges. If charges are filed, prosecutors may remand a suspect to an additional 21 days in detention. Prosecutors may also obtain court orders for further detention pending trial.

Approximately 1,900 persons are serving sentences at the central prison of Kuwait. Although the number of persons in detention awaiting deportation reached almost 1,000 during the year, the Government granted temporary conditional releases to many detainees during the second half of the year, significantly lowering this figure. Many deportation orders are issued administratively, without benefit of a trial. The Government may expel noncitizens (including bidoon, i.e., stateless residents of Kuwait), even if they are native-born or long-term residents, if it considers them security risks. The

Government may also expel foreigners if they are unable to obtain or renew work or residency permits. About 10 percent of the detainees awaiting deportation, especially Iraqis and bidoon, have been in detention for more than 1 year, some for up to 5 years. However, the Government does not deport such detainees to their country of origin against their will.

The law protects citizens from exile, and there were no reports of this practice.

e. Denial of Fair Public Trial

The Constitution states that "judges shall not be subject to any authority;" however, until April the Ministry of Justice controlled the judiciary's administrative and financial matters. In April the National Assembly passed a law that regulates the Government's ability to appoint, transfer, discipline, or dismiss both Kuwaiti and non-Kuwaiti judges. The law also requires the Ministry of Justice to disclose the judiciary's appropriation recommendations to the National Assembly.

One court system tries both civil and criminal cases. The Court of Cassation is the highest level of judicial appeal. Sunni and Shi'a Muslims have recourse to courts of their respective denominations for family law cases; however, there is no Shi'a appellate court. Shi'a cases are referred to the Sunni court on appeal.

Defendants have the right to confront their accusers and appeal verdicts. The Amir has the constitutional power to pardon or

commute all sentences. Defendants in felony cases are required by law to be represented in court by legal counsel, which the courts will provide in criminal cases. In misdemeanor cases, defendants have the right to waive the presence of legal counsel, but the court is not required to provide counsel to indigent defendants.

Both defendants and prosecutors may appeal court verdicts to the High Court of Appeal, which may rule on whether the law was properly applied, as well as on guilt or innocence of the defendant. Decisions of the High Court of Appeal may be presented to the Court of Cassation, which conducts a limited, formal review of cases to determine only whether the law was properly applied.

In the regular court system there are no groups, including women, who are barred from testifying or whose testimony is given lesser weight. However, the Islamic courts, which have jurisdiction over family law, apply Islamic law, which states that the testimony of two women equals that of one man.

There are no reported political prisoners. The Government continues to incarcerate persons convicted of collaboration with Iraq during the occupation. By law such collaboration is a felony. Most of the people convicted in the Martial Law Court in 1991, and the Special State Security Court, which was abolished in 1995, did not receive fair trials. In 1996 the Amir commuted the sentences of four individuals convicted by the Martial Law Court.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for individual privacy and sanctity of the home. The police must obtain a warrant to search both public and private property, unless they are in hot pursuit of a suspect fleeing the scene of a crime or if alcohol or narcotics are suspected on the premises. The warrant can be obtained from the state prosecutor or, in the case of private property, from a judge. The security forces occasionally monitor the activities of individuals and their communications.

By law males must obtain government approval to marry foreign-born women. Many citizens comply with this law by validating their foreign marriage certificate at a Kuwaiti embassy or consulate. Although the Government may advise against marriage to a foreign national, there are no known cases of the Government refusing permission to marry. The Government also advises women against marrying foreign nationals.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution states that "freedom of the press, printing, and publishing shall be guaranteed in accordance with the conditions and manner specified by law." With a few exceptions, citizens are free to criticize the Government at public meetings and in the media. However, journalists practice self-censorship. Several laws empower the Government to impose restrictions on freedom of speech and the press, but they are rarely invoked.

Newspapers are privately owned and free to publish on many social, economic, and political issues and frequently criticize government policies and officials, including the Crown Prince, who is also the Prime Minister.

The Government ended prepublication censorship in 1992, but journalists still censor themselves. The Press Law prohibits the publication of any direct criticism of the Amir, official government communications with other states, and material that serves to "attack religions" or "incite people to commit crimes, create hatred, or spread dissension among the populace." In 1995 the Government banned publication of one newspaper, Al Anba, for 5 days under a law that the media and opposition parliamentarians alleged was unconstitutional. The paper took the Government to court and has appealed an initial court ruling in favor of the Government. In 1996 six armed individuals threatened the employees of a newspaper that published a cartoon deemed offensive to Islam. No one was hurt in the attack, and the police arrested those involved.

In order to begin publication of a newspaper, the publisher must obtain an operating license from the Ministry of Information. Publishers may lose their license if their publications do not appear for 6 months. This 6-month rule prevents publishers from publishing sporadically--it is not used to suspend or shut down existing newspapers. Individuals must also obtain permission from the Ministry of Information before publishing any printed material, including brochures and wall posters.

The Government does not censor foreign journalists and permits them open access to the country.

The Government owns and controls the radio and television companies. The Middle East Broadcasting Company and Egyptian television transmit to Kuwait without censorship. The Government does not inhibit the purchase of satellite dishes. Citizens with such devices are free to watch a variety of programs, including those broadcast from Israel.

The Ministry of Information censors all books, films, videotapes, periodicals, and other imported publications deemed morally offensive. However, the Ministry has censored political topics as well. The General Organization of Printing and Publishing controls the printing, publishing, and distribution of informational materials in Kuwait.

There is no government censorship of university teaching, research, or publication. However, academics are subject to the same restraints as the media with regard to criticism of the Amir or Islam. In October

Ahmed al-Baghdadi, a Kuwaiti University political science professor, received a death threat in response to a brief article he wrote for a university magazine. Both legislators and the Islamic movement were angered by a reference in the article to the Prophet that they viewed as critical of the Prophet. The Islamic magazine Al-Mojtama called for al-Baghdadi to be fired from the University. Al-Baghdadi has sued the magazine for libel. During the year, parliamentarians and university organizations publicly criticized several university professors for writings deemed critical of Islam and inconsistent with social mores. Some of the professors were subject to inquiries by the university and the Ministry of Education, and some were referred to the Public Prosecution Department for investigation into possible criminal violations. None of the professors was suspended or charged with any criminal wrongdoing; however, investigations were still pending at year's end. Private citizens filed apostasy or blasphemy suits against two of the professors in Islamic (Personal Status) Court.

b. Freedom of Peaceful Assembly and Association

Although the Constitution affirms the right to assembly, the Government restricts this right, as well as that of association, and bans political parties. Several informal blocs, acting much like parties, exist and were active during the October National Assembly elections. The Government has made no effort to constrain these groupings, which are organized on the basis of common ideological goals. Many may be categorized as opposition groups. Public gatherings, however, must receive prior government approval, as must private gatherings of more than five persons that result in the issuance of a public statement.

Political activity finds its outlet in informal, family-based, almost exclusively male, social gatherings known as diwanias. Practically every male adult, including the Amir, hosts and attends diwanias at which every possible topic is discussed. The diwaniya contributes to the development of political consensus and official decisionmaking.

All nongovernmental organizations (NGO's) must obtain a license from the Ministry of Social Affairs and Labor. The Government uses its power to license as a means of political control. The Ministry has licensed over 55 NGO's, including professional

groups, a bar association, and scientific bodies. These groups receive Government subsidies for their operating expenses. They must obtain permission from the Ministry before attending international conferences. However, since 1985 the Ministry has issued only two licenses. The Ministry has disapproved other license requests on the grounds that previously established NGO's already provide services similar to those proposed by the petitioners.

By banning unregistered NGO's, the Government mainly sought to dissolve groups whose efforts were not coordinated with an official government committee working for the release of the missing persons presumed held in Iraq. The ban discourages these groups from fundraising and recruitment, and prevents them from holding public meetings and making their views known in the press. Nevertheless, the Government overlooks the activities of many unregistered NGO's, despite a 1993 decree ordering them to cease activities. No organization has challenged the 1993 decree in court.

c. Freedom of Religion

Islam is the state religion. The Constitution states that Islamic law, Shari'a, is "a main source of legislation." The ruling family and many prominent Kuwaiti families belong to the denomination of Sunni Islam. However, 30 to 40 percent of the population belong to the Shi'a denomination. They are free to conduct their traditional forms of worship without government interference.

The Constitution states that "all people are equal in...public rights and duties before the law, without distinction as to...religion," and that "freedom of belief is absolute. The State protects the freedom to practice religion in accordance with established customs, provided that it does not conflict with public policy or morals." There are several legally recognized expatriate congregations and churches, including a Catholic diocese and several Protestant churches. Expatriates who are members of religions not sanctioned in the Koran, e.g., Hindus, Sikhs, and Buddhists, may not build places of worship but may worship privately in their homes. The Government prohibits missionaries to proselytize among Muslims; however, they may serve expatriate congregations. The Government prohibits Muslims from converting to other religions. The law prohibits religious education for religions other than Islam, although this law does not appear to be rigidly enforced. The Government does not permit the establishment of non-Islamic publishing companies or training institutions for clergy.

The law prohibits non-Muslims from becoming citizens. A non-Muslim male must convert to Islam when he marries a Muslim woman, if the wedding is to be legal in Kuwait. A non-Muslim female does not have to convert to Islam to marry a Muslim

male, but it is to her advantage to do so, i.e., failure to do so may ultimately place custody of children in the hands of the Muslim father, should the couple later divorce.

In May a family law court applying Shari'a law convicted former Muslim Robert Hussein of apostasy for converting to Christianity in a case filed by a group of private Muslims citizens. The verdict ordered Hussein to pay all legal costs and affected certain personal rights, such as child custody and property inheritance, but did not carry a criminal penalty or affect his civil rights. The judge and some private citizens publicly quoted a Koranic reference to death being the punishment for apostasy. The Government later publicly affirmed Hussein's civil rights and stated that he would be protected. Hussein did not attend a scheduled appellate court session. Since that date, the court has not taken any action on his appeal.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens have the right to travel freely within the country and to change their workplace as desired. Unmarried women the age of 21 and over are free to obtain a passport and travel abroad at any time. However, married women who apply for passports must obtain their husband's signature on the application form. Once she has a passport, a married woman does not need her husband's permission to travel, but he may prevent her departure from the country by placing a 24-hour travel ban on her. He can do this by contacting the immigration authorities. After this 24-hour period, a court order is required if the husband still wishes to prevent his wife from leaving the country. All minor children must have their father's permission to travel outside of the country. Citizens are free to emigrate and to return.

A serious problem exists in the case of the bidoon, who are stateless persons, many of Iraqi or Iranian descent, who resided in Kuwait prior to the Iraqi invasion. The Government argues that many bidoon (the term means "without") are concealing their true citizenship in order to remain in Kuwait, become citizens, and enjoy the generous benefits provided to citizens. Some bidoon have had residency ties to Kuwait for generations. Others immigrated to Kuwait during the oil boom years. There are approximately 117,000 stateless persons in Kuwait, down from a prewar level of about 220,000. The Government does not wish the return of the bidoon who departed Kuwait during the Gulf War and frequently delays or denies issuing them entry visas. This policy imposes serious hardships and family separations.

The Government continued its postwar policy of reducing by deportation the number of nationals from

those countries that supported Iraq during its invasion of Kuwait. The number of such residents is

now only about 10 percent of its prewar total. The Government permits the ICRC to verify if a deportee objects to returning to his country of origin. The Government detains those deportees who have objections at the main deportation center. Many have been held for 1 year or more; some have been held for 5 years.

Security forces in Kuwait city occasionally set up checkpoints where they may detain individuals. The checkpoints are mainly for immigration purposes and are used to apprehend undocumented aliens.

There is no legislation governing refugees, asylees, or first asylum, and no clear or standard procedure for processing a person's claim to be a refugee. The Constitution prohibits the extradition of political refugees. The Ministry of Interior may issue residency permits to persons granted political asylum, although this is not a frequent occurrence. The Government states that it does not deport anyone who claims a fear of persecution in his home country, but it will often keep such persons in detention rather than grant them permission to live and work in Kuwait. The United Nations High Commissioner for Refugees (UNHCR) maintains an office in Kuwait and has access to refugees in detention.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens cannot change their head of state. Women and citizens naturalized less than 20 years ago may not vote. In addition members of the armed forces, police, and other uniformed personnel of the Ministry of Interior are prohibited from voting.

Under the Constitution, the Amir holds executive power and shares legislative power with the National Assembly. The Prime Minister presides over a 14-member cabinet. In accordance with the practice of the ruling family, the Prime Minister is always the Crown Prince. The Constitution empowers the Amir to suspend its provisions and to rule by decree. The Amir dissolved the National Assembly from 1976 to 1981, and in 1986 the Amir effectively dissolved the Assembly by suspending the constitutional provisions on the Assembly's election. The Assembly remained dissolved until 1992, when elections were held. Members serve 4-year terms, and National Assembly elections were held on in October. The elections were conducted freely and fairly among the minority of citizens who are permitted to vote; 229 candidates ran for the Assembly's 50 seats. Since the Government prohibits political parties, assembly candidates must nominate themselves. Nonetheless, informal political groupings are active in the Assembly. The Constitution empowers the National

Assembly to overturn any Amiri decrees made during the dissolution, and the Assembly has done so in some cases.

Approximately 107,000 male citizens, almost the entire franchised population, registered to vote in the 1996 elections, and 80 percent of registered voters cast ballots. For the first time sons of naturalized citizens and Kuwaiti citizens naturalized 20 to 30 years ago were eligible to vote. Some women demonstrated at polling booths to demand that they be given voting rights before the next election.

Women are disenfranchised and have little opportunity to influence government. In the past, a majority of the members of the National Assembly have expressed opinions favoring women's right to vote; however, a draft law on this issue remained in committee for over a year, and was never put to a vote. No strong parliamentary support currently exists for this law, and the Government has made no effort to persuade the National Assembly to pass the legislation. Women's groups are divided on this issue.

Members of Kuwait's Shi'a minority are generally underrepresented in high government positions, although in recent years two Shi'a Muslims were appointed to the Cabinet and one was named to a high-ranking military post.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government has prevented the establishment of local human rights groups by not approving their requests for licenses (see Section 2.b.). The Government permits international human rights organizations to visit Kuwait and to establish offices. Several organizations conduct field work and report excellent communication with and reasonable cooperation from the Government.

The National Assembly has a human rights committee, which takes testimony from individuals about abuses, investigates prison conditions, and has made nonbinding recommendations for redress.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, national origin, language, or religion. However, laws and regulations discriminate against women, and non-Kuwaitis face widespread social, economic, and judicial discrimination.

Women

According to some local experts, domestic abuse of women occurs in an estimated 15 percent of all marriages. Each of the country's 50 police stations receives approximately one to two complaints of spousal abuse each week. Women in such cases usually take refuge in the homes of relatives. The police and the courts generally seek to resolve family disputes informally and may ask the offending spouse to sign a statement affirming that he will end the abuse. The police refer serious cases to the Psychiatric Department at the Ministry of Health. The courts have found husbands guilty of spousal abuse. Although it is not common, there are reports of rape of female domestic servants by male employers.

A significant number of employers physically abuse expatriate women working as domestic servants, and sexual abuse is also a problem. The local press gives the problem considerable attention. Foreign-born servants have the right to sue their employers for abuse, but few do so owing to both fear of deportation and fear that the judicial system is biased against them. The Government has designated a police station to investigate complaints and provide some shelter for runaway maids. Both the police and the courts have taken action against employers when presented with evidence of serious abuse.

Runaway servants seek shelter at their country's embassy where they seek repatriation or a change in employers. On several occasions, the Philippine embassy has sheltered nearly 300 women at once. Although most of these women sought shelter due to contractual or financial problems with their employers, many also had suffered physical and sexual abuse.

Women experience legal and social discrimination. They are denied the right to vote (see Section 3); their testimony is not given equal weight to that of males in the Islamic courts (see Section 1.e.), and married women require their husband's permission to obtain a passport (see Section 2.d.). By law only males are able to confer citizenship, which means that children born to Kuwaiti mothers and stateless fathers are themselves stateless. Inheritance is governed by Islamic law, which differs according to sects. For example, Sunni female heirs receive half the male heirs' inheritance, while a sole Shi'a female heir may receive the whole of her parents' or brother's estate.

Women are traditionally restrained from choosing certain roles in society, and the law restricts women from working in "dangerous industries" and trades "harmful" to health. Educated women maintain that an Islamic fundamentalist trend limits career opportunities. Nonetheless, an estimated 28 percent of women of working age are employed. The law promises "remuneration equal to that of a man provided she does the same

work." This promise is respected in practice. Women work as doctors, engineers, lawyers, and professors. A few have reached senior government positions in the Foreign Ministry, the Ministry of Education, and the state-owned Kuwaiti Petroleum Corporation. However, there are no female judges or prosecutors, and women may not run for election to the National Assembly.

In case of divorce, the Government makes family entitlement payments to the divorced husband, who is expected by law and custom to provide for his children even though custody of minor children is usually given to the mother. The law discriminates against women married to foreign men. These women are not entitled to government housing subsidies that are available to male citizens. The law also requires women to pay residence fees for their husbands and does not recognize marriage as the basis for granting residency to foreign-born husbands. Instead, the law grants residency only if the husband is employed. By contrast, men married to foreign-born women do not have to pay residency fees for their spouses, and their spouses' right to residency derives from marriage. A gender segregation bill passed the National Assembly in July, however the Amir has not signed it, and it was not in force by year's end.

Polygyny is legal. A husband is obliged to inform his first wife that he is taking a second wife. The husband is obligated to provide the first wife a separate household if that is her preference. It is the second wife's choice to get married. A first wife who objects to a second marriage can request a divorce, but the court's determination of divorce and child custody would be made on grounds other than the fact of the second marriage itself.

Children

The Government is committed to the welfare of children. Children receive a free education. The Government provides free health care and a variety of other services to all children. There is no societal pattern of abuse of children.

Marriage of girls under the age of 17 is uncommon among the urban population but remains a practice of Bedouins in outlying areas.

People with Disabilities

There is no institutionalized discrimination against physically disabled persons in housing, employment, education, and in the provision of state services. In addition to extensive government benefits for the disabled that cover transportation, housing, job training, and social welfare, the National Assembly passed a law mandating accessibility for the disabled

to all facilities frequented by the public. The law also provides an affirmative action employment program for the disabled.

National/Racial/Ethnic Minorities

The Government's failure to improve the plight of the 117,000 bidoon remains a significant human rights abuse. The bidoon have been the objects of hostile government policy since the late 1980's. Since

then the Government has eliminated the bidoon from the census rolls, discontinued their access to government jobs and free education, and sought to deport many bidoon. In 1993 the Government decreed that bidoon males would no longer be allowed to enlist in the military service. Those presently in the armed forces are being gradually replaced. The Government does not routinely issue travel documents to bidoon, and if bidoon travel abroad, they risk being barred from returning to the country unless they receive advance permission from the immigration authorities. Marriages pose special hardships because the offspring of male bidoon inherit the father's undetermined legal status.

In 1996 the Government naturalized a small fraction of the bidoon, primarily bidoon who have served in the military and security forces, and children born to marriages between bidoon males and Kuwaiti women. As a step towards resolving the bidoon issue, the Government required all bidoon to register, and issued a card to each person that identifies whether the individual's family came to Kuwait before or after the 1965 census. The card does not accord the holder any legal status, nor is it an official identity document, but anyone who did not register is considered an illegal resident subject to deportation. The Government says that it will review the registrations; however, the Government has not announced the goal of the process, or its standards for review. The Government claims that it will issue a residency visa, and legal status, to any bidoon who can present a passport, regardless of the country of issuance. This has led some bidoon to acquire passports from countries with which they have no tie, but which have liberal "economic citizenship" programs. There are reports that the Government has denied residency visas to some bidoon who obtained passports, particularly Iraqis. In some cases the Government has unilaterally decided the "real" nationalities of bidoon without a hearing and without possibility of review.

Since the end of the Gulf War, government policy has been targeted against workers from those nations that supported Iraq, especially Jordanians and Yemenis, and also against Palestinians. The Government argues that during the Iraqi occupation many residents from these places sided with the Iraqi forces. The Government has delayed or denied the issuance of work and residency permits to persons in these

groups and in many cases has hindered those workers that are permitted to reside in the country from sponsoring their families to join them.

Section 6. Worker Rights

a. The Right of Association

Workers have the right, but are not required, to join unions. Nonetheless, the Government restricts the right of association by prohibiting all workers from freely establishing trade unions. The law stipulates that workers may establish only one union in any occupational trade and that the unions may establish only one federation. The International Labor Organization (ILO) has long criticized such restrictions.

Approximately 50,000 people are organized in 14 unions, 12 of which are affiliated with the Kuwait Trade Union Federation (KTUF), the sole, legal trade union federation. The Bank Worker's Union and the Kuwait Airways Workers Union are independent. The Government has shown no sign that it would accept the establishment of more than one legal trade union federation. The law stipulates that any new union must include at least 100 workers, of whom at least 15 are citizens. Both the ILO and the International Confederation of Free Trade Unions (ICFTU) have criticized this requirement because it discourages unions in sectors employing few citizens such as the construction industry and domestic sectors.

The Government's pervasive oversight powers further erode union independence. The Government

subsidizes as much as 90 percent of most union budgets, may inspect the financial records of any union, and prohibits any union from engaging in political or religious activities, which the law does not clearly define. The law empowers the courts to dissolve any union for violating labor laws or for threatening "public order and morals." Such a court decision may be appealed. The Amir may also dissolve a union by decree. By law, the Ministry of Social Affairs and Labor is authorized to seize the assets of any dissolved union. The ILO has criticized this aspect of the law. Although no union has been dissolved, the law subordinates the legal existence of the unions to the power of the State.

Foreigners constitute most of the work force and about a third of its unionized work force. Yet the law discriminates against foreign workers by permitting them to join unions only after 5 years of residence and only as nonvoting members. Unlike union members who are citizens, foreign workers do not have the right to elect their leadership. The law requires that union officials be citizens. The ILO has criticized the 5-year residency requirement and the denial of voting rights for foreign workers. KTUF administers an Expatriate Labor Office which is authorized to investigate complaints of foreign laborers and provide them with free legal advice. Any foreign worker may submit a grievance to the Labor Office regardless of union status.

The law limits the right to strike. It requires that all labor disputes be referred to compulsory arbitration if labor and management cannot reach a solution (see Section 6.b.). The law does not have any provision guaranteeing strikers that they will be free from any legal or administrative action taken against them by the State.

Unions may affiliate with international bodies. The KTUF belongs to the International Confederation of Arab Trade Unions and the formerly Soviet-controlled World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively

Workers have the right to organize and bargain collectively, subject to certain restrictions (see Section 6.a.). These rights have been incorporated in the Labor Law and have, according to all reports, been respected in practice.

The Labor Law provides for direct negotiations between employers and "laborers or their representatives" in the private sector. Most agreements are resolved in such negotiations; if not, either party may petition the Ministry of Social Affairs and Labor for mediation. If mediation fails, the dispute is referred to a labor arbitration board composed of officials from the High Court of Appeals, the Attorney General's office, and the Ministry of Social Affairs and Labor.

The Civil Service Law makes no provision for collective bargaining between government workers and their employer. Technically, wages and conditions of employment for civil service workers are established by the Government, but in practice, the Government sets the benefit scales after conducting informal meetings with officials from the civil service unions. Union officials resolve most issues at the working level and have regular access to other senior officials.

The Labor Law prohibits antiunion discrimination. Any worker who alleges antiunion discrimination has the right to appeal to the judiciary. There were no reports of discrimination against employees, based on their affiliation with a union. Employers found guilty of antiunion discrimination must reinstate workers fired for union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced labor "except in cases specified by law for national emergency and with just remuneration."

Foreign workers may not change their employment without permission from their original sponsors unless they have been in the country for over 2 years. Domestic servants are particularly vulnerable to abuses from this practice because they are not protected by labor law. In many cases employers exercise some control over their servants by holding their passports, although the Government prohibits this practice and has acted to retrieve passports of maids involved in disputes.

Domestic servants who run away from their employers may be treated as criminals under the law. However, the authorities usually do not enforce this provision of the law. In some reported cases, employers illegally withheld wages from domestic servants to cover the costs involved in bringing them to Kuwait. The Government has done little, if anything, to protect domestics in such cases.

d. Minimum Age for Employment of Children

The legal minimum age is 18 years for all forms of work, both full- and part-time. Employers must obtain permits from the Ministry of Social Affairs and Labor to employ juveniles between the ages of 14 and 18 in certain trades. Education is compulsory for children between the ages of 6 and 15. These laws are not fully observed in the nonindustrial sector, although no instances involving children have been alleged. Some small businessmen employ their children on a part-time basis, and there have been unconfirmed reports that some south Asian domestic servants are under the age of 18, but falsified their age in order to enter Kuwait.

Juveniles may work a maximum of 6 hours a day on the condition that they work no more than 4 consecutive hours followed by a 1-hour rest period.

e. Acceptable Conditions of Work

The Ministry of Social Affairs and Labor is responsible for enforcing all labor laws. A two-tiered labor market ensures high wages for Kuwaiti employees while foreign workers, particularly unskilled laborers, receive substantially lower wages. There is no legal minimum wage in the private sector. In the public sector, the effective minimum wage is approximately \$757 (226 dinars) per month for citizens and approximately \$301 (90 dinars) per month for noncitizens. The

public sector minimum wage provides an acceptable standard of living for a worker and family. Wages of unskilled workers in the private sector do not always permit a decent standard of living.

The Labor Law establishes general conditions of work for both the public and the private sectors, with the oil industry treated separately. The Civil Service Law also prescribes additional conditions for the public sector. The Labor Law limits the standard workweek to 48 hours with 1 full day of rest per week, provides for a minimum of 14 workdays of leave each year, and establishes a compensation schedule for industrial accidents. Domestic servants, who are specifically excluded from the Private Sector Labor Law, frequently work long hours, greatly in excess of 48 hours.

The ILO has urged the Government to guarantee the weekly 24-consecutive-hour rest period to temporary workers employed for a period of less than 6 months and workers in enterprises employing fewer than five persons. The law pertaining to the oil industry provides for a 40-hour workweek, 30 days

of annual leave, and sick leave. Laws establishing work conditions are not always applied uniformly to foreign workers. Labor law also provides for employer-provided medical care and compensation to workers disabled by injury or disease due to job-related causes. The law also requires that employers provide periodic medical examinations to workers exposed to environmental hazards on the job (i.e., chemicals, asbestos, etc.). The Government has issued occupational health and safety standards; however, compliance and enforcement appear poor, especially with respect to unskilled foreign laborers. Employers often exploit workers' willingness to accept substandard conditions. Foreign workers, especially unskilled or semiskilled south Asian workers, frequently face contractual disputes, poor working conditions, and some physical abuse.

Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment, and legal protections exist for workers who file complaints about such conditions. The latest available figures for occupational injuries show 1,472 such occurrences in 1994, primarily in the sectors of construction and building, manufacturing, hotels and restaurants, and transportation. To cut accident rates, the Government periodically inspects installations to raise awareness among workers and employers and ensure that they abide by the safety rules, control the pollution resulting from certain dangerous industries, train workers in specialized institutes to use new machines, and report violations.

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