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## Human Rights Council

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### **Written statement\* submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2010]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Kuwait's UPR: Failing to value the freedom of opinion and expression\*\***

The Cairo Institute for Human Rights Studies (CIHRS), with the support of its partner organization the Arabic Network for Human Rights Information (ANHRI), express their grave concern over the human rights situation in Kuwait. During Kuwait's Universal Periodic Review (UPR), the Human Rights Council made 114 recommendations with respect to issues such as freedom of expression, discrimination against women, stateless Bedouins and non-Muslims, in addition to reservations concerning relevant national legislation. Despite promises from the Kuwaiti government to improve the human rights condition in the country, a great amount of grave violations have been committed to date. Indeed, several recent incidents have demonstrated that the Kuwaiti government lacks the political will to implement the Council's recommendations, particularly in cases relating to freedom of opinion and expression.

### **1. Legislation restricting freedom of press and publication**

Kuwait's national legislation continues to be in great contradiction with the international treaties and conventions that the country has ratified. The Press and Publication Law is considered to be amongst the most problematic for freedom of opinion and expression in the Kingdom of Kuwait. Article 7 places restrictions on the printing of foreign publications, while Article 11 makes it necessary for newspapers to obtain approval from the relevant ministries before receiving a license to operate. Furthermore, Article 21 of the same law prohibits criticizing the Prince, unless one first obtains a permissive decree from the Royal palace, while Article 22 grants relevant authorities the right to deny the publication of any advertisement, commercial or "other", if deemed necessary. In addition, Article 27 allows for journalists to be tried under other laws of the Kuwaiti legal system, increasing the likelihood that they be prosecuted for their views and opinions. It is also important to note that several supplementary laws, other than the Press and Publications Law, continue to infringe upon the freedom of opinion and expression. For example, Law No. 31/1977 on State Security Crimes was recently used to try the journalist Mohamed Al-Jasem.

### **2. Independence of the judiciary and implications for freedom of expression**

The law also greatly undermines the independence of the judiciary in the Kingdom of Kuwait. The Prince appoints judges and some become undersecretaries in relevant ministries while continuing their profession as judges. For example, in a lawsuit against journalist and blogger Mohamed Abdel Kader Al-Jasem, which was brought against him by the Prime Minister, the judge deciding the case was also holding the rank of Assistant Undersecretary of the Minister and was thus acting under the mandate of the Prime Minister. As a result, there were numerous violations of Al-Jasem's rights, including the denial of temporary release pending ruling, despite his deteriorating health conditions. The judge eventually ruled for the imprisonment of Al-Jasem. However, a Court of Appeal later suspended the sentence and acquitted him.

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\*\* The Arabic Network for Human Rights Information, an NGO without consultative status also shares the views expressed in this statement

### 3. Recent violations against freedom of opinion and expression

In April 2010, the Kuwaiti authorities arrested and detained several Egyptians for supporting Dr. Mohamed Al-Baradei and the National Association for Change. According to the National Association for Change, the number of Egyptians arrested reached 34, while the Kuwaiti government denied arresting any more than 17. After being arrested, most of the Egyptians were deported to Cairo and denied their jobs in Kuwait. Such an incident not only illustrates the contravention on freedom of expression, but also acts as a strong indicator of grave violations of the rights of foreign workers in the Kingdom of Kuwait.

In May 2010, the Public Prosecutor issued a decision preventing the publication, televising, or broadcasting of any news, data or information pertaining to the Iranian spy cell case or to the investigations conducted by the public prosecution.

Furthermore, there are several Arab and foreign movies that are banned in the Kingdom of Kuwait under the pretext that they conflict with public morals, ethics and Islamic law. In June 2010, the Egyptian movie "Magnoon Amira" (Love-struck with Amira), and the American movie "The Reader", were banned by the Cinema Censorship Committee under the Kuwaiti Ministry of Media for containing sexual substance. Furthermore, the Cinema Censorship Committee cuts many scenes from various international movies, deeming them inappropriate for Kuwaitis to watch. The American movie "Transformers" is a recent example of such an infringement.

### 4. Prosecuting journalists and activists for expressing their opinions

There seems to be a growing trend of filing retaliatory lawsuits against journalists for using their legitimate right to express their opinion. In July 2010, Kuwaiti Prime Minister Nasser Al-Ahmed Al-Sabah filed a report to the Egyptian Public Prosecutor against Egyptian journalist and Editor-in-Chief of "Al-Dostour" newspaper Ibrahim Eissa and Kuwaiti journalist Mohamed Al-Weshehy for a series of articles written in May and June of 2010. The articles criticized the deteriorating political situation in Kuwait and the phenomenon of imprisoning journalists in the Kingdom. Furthermore, the articles condemned the arrest, detention, and deportation of an Egyptian group for supporting Dr. Mohamed El-Baradei for the Egyptian presidency.

In the same month, political activist Khaled Al-Fadala, Secretary General of the National Democratic Alliance (NDA), was also prosecuted as a result of a report filed against him by the Prime Minister. The activist was accused of defamation and slander in a speech he had given in November 2009. Al-Fadala's words came under the title "Leave, You Deserve Better," in which he criticized the politics employed by the Kuwaiti Prime Minister, causing the Prime Minister to file a complaint against him. The Court of Misdemeanours sentenced the activist to a three-month imprisonment term and a fine of 150 Kuwaiti Dinars. The Appeals Court later released the activist, after ten days in detention.

On 11 May 2010, the Department of National Security summoned Mohamed Al-Jasem for interrogation on the reports filed against him by the Prime Minister accusing him of "instigating to topple the regime; to dismantle the foundations of the Kuwaiti society; and insulting the Prince." The accusations were based on Al-Jasem's articles and books, published over the course of five years, where he criticizes the ongoing political corruption and calls for the independence of the judiciary and political reform. Al-Jasem was released on a temporary basis pending ruling after having spent 49 days in detention despite his deteriorating health conditions. In July 2010, the Court of Appealed Misdemeanours acquitted Al-Jasem for one of the lawsuits filed against him by the Prime Minister for which he was originally sentenced to six months in prison. Although acquitted from the

charge, Al-Jasem still faces a possibility of imprisonment in another lawsuit that has been adjourned to September. It is important to note that Al-Jasem is being tried under state security laws rather than under the Press and Publication Law, which may result in more severe punishments.

The establishment of political parties is also highly restricted. Kuwait has no law or legislative provision establishing or regulating the establishment and operation of political parties. Consequently, although the country houses around 13 political groups, no political parties officially exist in the State to date.

## 5. Internet related cases

Article 39 of the Kuwaiti Constitution provides for the freedom of correspondence and communication and prohibits undue monitoring. Nonetheless, on 20 September 2009, the website of "AlraT" newspaper published that the Ministry of Interior possessed "a complete list of names, addresses and phone numbers of citizens and residents accessing pornographic websites." General Abdel Hamid Al-Awadi, Director-General of the Criminal Investigation Department, stated that "the Department monitors pornographic websites and will summon its users to take appropriate measures against them." When asked about internet-browsing privacy, he replied that "accessing these sites is considered an act of immoral nature and some people resent their existence."

On 19 August 2007, Bashar Al-Sayegh, the administrator of "Al-Ummah" website was allegedly arbitrarily arrested by the Kuwaiti Secret Police and reportedly faced battery and degrading treatment. Bashar was arrested for having posted a comment criticizing the Prince on the website. Despite claims from the government that it had no relation with Al-Sayegh's disappearance, there are strong allegations a link exists.

CIHRS and ANHRI call on the members of the Human Rights Council to urge the Kingdom of Kuwait to abide by the following:

1. Refrain from violating the freedom of expression and opinion through detention, trial, and deportation of individuals who practice these rights.
2. Amend and enact legislation, consistent with Kuwait's obligations under international law, particularly since article 70 of the Kuwaiti constitution grants signed international treaties the power of the law.
3. Modify the articles in the Press and Publication Law to conform to the government's international obligations and refrain from trying journalists under other laws, such as State Security Laws.
4. Strengthen guarantees for judicial independence and prevent the interference of the executive authority with the justice system, thus securing fair trials and preventing overlap of powers.