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Kuwait: Halt the deplorable revocation of nationality of naturalized citizens

Amnesty International deplores the revocation this week by the Kuwaiti authorities of the nationality of five naturalized Kuwaitis and urges the government to reverse the decision.

On 21 July 2014, the government issued a decree under the 1959 Nationality Law authorizing the withdrawal of the nationality of former parliamentarian Abdullah Hashr al-Barghash, a government opponent, along with three members of his family, and Ahmad Jabr al-Shammari, the owner of the newspaper *'Alam al-Yawm* and television station *al-Yawm*. The media outlets, both ordered to close on 22 July, have provided a platform to Abdullah Hashr al-Barghash and other political opponents of the government.

While there can be legitimate reasons for a state to revoke nationality, following procedures meeting international standards of due process, Amnesty International is concerned that the revocation of the nationality of these individuals is a politically motivated form of harassment to silence people who have either publicly expressed their opposition to the government or provided them with a platform to do so.

By virtue of the 1959 Nationality Law, the government is empowered to deprive and restore the nationality of naturalized Kuwaitis by way of an administrative decision. Those affected cannot challenge the decision in court.

The government said that it revoked the nationality of Ahmad Jabr al-Shammari on the basis of Article 13 of the Nationality Law. The Article provides for the revocation of nationality where naturalization was “acquired by virtue of fraud” or where the naturalized person “is convicted or any honour related crime of honesty-related crime” within 15 years of naturalization, “is dismissed from public office on disciplinary grounds for reasons relating to honour or honesty” within 10 years of naturalization or “has disseminated opinions which may tend seriously to undermine the economic or social structure of the State”.

The government stated that it revoked the nationality of Abdullah Hashr al-Barghash and members of his family on the basis that they obtained it by way of fraudulent information on the basis of Article 21 bis (a) of the Nationality Law. This Article provides for the revocation of nationality if “it appears to have been obtained by virtue of fraud or on the basis of a false declaration or on the basis of false evidence submitted by a witness”.

Amnesty International does not know at this point whether any of those whose nationalities were revoked had any other nationalities prior to their Kuwaiti naturalization. However, Article 11 bis of the Nationality Law requires that anyone who acquires Kuwaiti nationality by naturalization to renounce any other nationality they may have. Accordingly, it appears that these individuals have been rendered stateless.

Article 15 of the Universal Declaration of Human Rights provides that no one shall be arbitrarily deprived of nationality. Any deprivation of nationality which is based on an individual's exercise of the right to freedom of expression, including peaceful political opposition activities, which cannot be challenged in the courts, and which results in their becoming stateless amounts to arbitrary deprivation of nationality and is prohibited under international law.

In July 2012, the UN Human Rights Council in Resolution 20/5 called upon all states "to refrain from taking discriminatory measures and from enacting or maintaining legislation that would arbitrarily deprive persons of their nationality on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, especially if such measures and legislation render a person stateless".

Amnesty International urges the government to overturn the decision made in these five cases and to end the practice of handing down administrative decrees revoking citizenship that cannot be challenged.

The government should initiate a review of all existing legislation relating to citizenship to ensure that it is in line with international standards in order to ensure due process.

More broadly, Amnesty International calls on the government of Kuwait, which is a state party to the International Covenant on Civil and Political Rights, to uphold the right of everyone in Kuwait to exercise their right to freedom of expression and association.

Background

The 1959 Nationality law gives broad scope for the authorities to deprive individuals of Kuwaiti nationality who have acquired it by naturalization. This includes, under Article 13.4 of the Nationality Law, that nationality can be revoked where the individual concerned has "disseminated opinions which may tend to seriously undermine the economic or social structure of the state, or that he is a member of a political association of a foreign state". Such a provision gives broad scope for the authorities to revoke nationality of individuals who are peacefully exercising the right to freedom of expression.

Article 15 the 1959 Nationality Law provides for the restoration of nationality by government decree. However, a decision by the authorities to revoke nationality cannot be challenged in the courts.

According to Article 1.5 of Law 20 of 1981, on The Establishment of Sections within Courts of First Instance for the Consideration of Administrative Disputes, courts do not have the jurisdiction to examine final administrative decisions in relation to nationality. While some commentators have questioned the constitutionality of this law, it has not yet been challenged in the courts.

On 22 July, Kuwait's Ministry of Information withdrew the licences of the newspaper *'Alam al-Yawm* and television station *al-Yawm*, whose operations have now ended. The government said that their closure was not linked to the revocation of the owner's nationality, insisting instead that it was on the basis that their operations did not meet one of the conditions of the licence.

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