two groups were especially targeted by Iraqi officials to join up with the invaders. As part of what was considered enforcing party discipline, some were killed or imprisoned for reportedly disobeying their orders. Others went into hiding or fled the country. A number of Kuwaiti Ba'th supporters are still missing or believed to be detained in Iraq. These substantial pressures should have been considered by the court in mitigation of sentence if not of guilt.

Moreover, all of those condemned to death during June were Iraqis or Palestinians. Clearly, as foreigners they may not be reasonably expected to have the same duty as Kuwaiti citizens to resist Iraqi coercion to cooperate. The determination of how much pressure a defendant should have endured before agreeing to cooperate with Iraqi authorities is, of course, a difficult matter but it must depend to some extent on the nationality of the accused and the duty of loyalty that he or she can fairly be expected to have owed the Kuwaiti government-in-exile.

The Geneva conventions have recognized this important factor by requiring that the courts "take into consideration, to the widest extent possible, the fact that the accused, not being a national of the detaining power, is not bound to it by any duty of allegiance" (Articles 87 and 100 of the Third Geneva Convention and the analogous Article 68 of the Fourth Geneva Convention).

We believe that the State Security Court has failed to address adequately these serious questions which should be examined as a matter of basic fairness. Apparently, the court expected these foreign defendants to owe the same degree of loyalty -- and thus mount the same degree of resistance to Iraqi pressure -- as Kuwaiti citizens. It did not demonstrate sufficient appreciation of the differing degrees of loyalty that might fairly have been expected from those who are not Kuwaiti citizens. But it is one thing to insist that a Kuwaiti citizen should have resisted threats of torture and murder of himself or members of his family while he awaited the possibility that the Kuwaiti government-in-exile might be restored; it is quite another thing to hold non-citizens to the same standard.

While we do not question the right of Kuwait to prosecute those who committed crimes during the occupation, we appeal to Your Highness to commute the death sentences imposed by the State Security Court as they were issued under conditions falling far short of international standards for the application of the death penalty. We further urge the Kuwaiti government to accord all those sentenced by the State Security Court full judicial reviews in parity with those sentenced by ordinary criminal courts, in accordance with international safeguards of fair trials.

Respectfully yours,

Kenneth Roth
Acting Executive Director
Human Rights Watch