



**International Covenant on  
Civil and Political Rights**

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**Consideration of reports submitted by States  
parties under article 40 of the Covenant**

**Third periodic reports of States parties due in 2014**

**Kuwait\***

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## **Third periodic report of the State of Kuwait on the International Covenant on Civil and Political Rights**

### **Introduction**

1. The State of Kuwait wishes to emphasize that human rights issues are accorded high priority among its local and international concerns in keeping with the precepts of Islam, which is the State religion, and the Islamic sharia which constitutes one of the principal sources of legislation and guarantees and safeguards human dignity and freedom.
2. Human rights are also basic components of the Kuwaiti Constitution of 1962, an entire part of which is devoted to fundamental rights and freedoms in a manner consistent with the provisions of the relevant international declarations and treaties.
3. It is noteworthy that:
  - (a) The State of Kuwait acceded to the International Covenant on Civil and Political Rights in 1996 and the provisions of the Covenant were incorporated into its domestic law under the terms of Act No. 12 of 1996 promulgated on 3 April 1996. Kuwait's accession to the Covenant is a clear indication of the extent of its commitment to human rights, the realization of which has become one of the lofty goals of the civilized and humanitarian international community;
  - (b) The State of Kuwait submitted its first report in accordance with article 40 of the Covenant on 3 December 1999 and its second report on 26 October 2009.
4. Part I of this third national report will address the concluding observations adopted by the Human Rights Committee during its consideration of Kuwait's second report and part II will outline the progress that Kuwait has made in implementing the articles comprising parts I, II and III of the Covenant.

## **I. Response to the concluding observations adopted by the Human Rights Committee during its consideration of the second periodic report**

### **Paragraph 5 of the concluding observations (CCPR/C/KWT/CO/2), concerning the establishment of a national human rights institution**

5. During the eighth session of the universal periodic review process in May 2010, the State of Kuwait agreed to establish an independent national human rights body in accordance with the Paris Principles.
6. Accordingly, paragraphs 1 and 2 of Ministerial Decision No. 77 of 2011 issued on 7 April 2011 called for the formation of an ad hoc ministerial committee to draft a bill of law on the establishment of a national body to protect human rights in the light of the provisions of Kuwait's Constitution and domestic legislation and in a manner consistent with the human rights instruments that the State had ratified.
7. The ministerial committee duly drafted a bill of law on the establishment of a Human Rights Office (Diwan), taking care to consult the Office of the High Commissioner for Human Rights at all stages of the drafting process in order to obtain international opinions in this regard.

8. An explanatory note on the bill of law was then prepared and transmitted, together with the bill of law, to the Legal Committee of the Council of Ministers. Following its approval by the Legal Committee, the bill was submitted to the Council of Ministers which, in turn, presented it to the National Assembly (Parliament) by which it is expected to be promulgated in the near future.

**Paragraph 6 of the concluding observations, concerning implementation of the State's obligations under the Covenant and the raising of awareness about the Covenant and its applicability in domestic law amongst judges and judicial officers**

9. The effects of the ratification of international treaties under the domestic legal system are specified in article 70 of the Constitution of the State of Kuwait which stipulates that: "The Amir concludes treaties by decree and transmits them immediately, together with an appropriate explanatory statement, to the National Assembly. Treaties have the force of law after being signed, ratified and published in the Official Gazette." The said article prescribes the procedures for the implementation of international treaties and specifies their effect under Kuwait's domestic legal system. Such treaties have the same force of law as legislative enactments promulgated by the competent national authorities and, having entered into effect, supersede all prior enactments on the same subject matter. This is known as the principle of the direct effect of international treaties and instruments.

10. Since the State of Kuwait has ratified the International Covenant on Civil and Political Rights, which has thereby been integrated into its corpus of legislation, the officials responsible for the implementation and application of the legislation are inevitably aware of the provisions set forth in the Covenant. In fact, Kuwaiti judges bear the Covenant in mind when hearing cases. By way of example, in case 3134/2011/Administrative/7 which was heard by an administrative court, the court countermanded a decision in which the Minister of Justice declined to accept a Kuwaiti woman's application for employment as a public prosecutor. In countermanding that decision, the court noted that, in accordance with article 2 of the International Covenant on Civil and Political Rights, which took effect under the terms of Act No.12 of 1996 promulgated on 3 April 1996, "each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" and, moreover, in accordance with article 25 of the Covenant, "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions; (a) ... (c) To have access, on general terms of equality, to public service in his country." The Kuwaiti judiciary adopted the same approach in case No. 1081/2014/Administrative/8 in which the judgement handed down on 28 April 2014 was based on the same provisions of the Covenant.

**Paragraph 7 of the concluding observations, concerning withdrawal of the State's interpretative declarations and reservations to certain articles of the Covenant**

11. When acceding to the Covenant under the terms of Act No. 12 of 1996 promulgated on 3 April 1996, the State of Kuwait made an interpretative declaration on article 2, paragraph 1, and article 3 to the effect that, since equality between men and women in Kuwait is guaranteed within the limits of the law, the rights to which those articles refer must be exercised within the limits set by Kuwaiti law.

12. With regard to the reservation made to article 25 (b), Act No. 35/1962, concerning the election of members of the National Assembly, specified the categories permitted to vote, the voting procedure and the minimum age of voters. The said Act was amended by Act No. 17 of 2005 under which adult male and female civilians over 21 Gregorian years of age enjoy the right not only to vote but also to stand as candidates in elections.

13. In this connection, it is noteworthy that, under the terms of Council of Ministers Decision No. 25 issued in May 2014, a national committee has been formed to explore and discuss the possibility of withdrawing the State's reservations to international treaties and instruments that it has ratified.

### **Paragraph 8 of the concluding observations, concerning enhancement of the role of women in society**

14. Judicial rulings have ensured that women are treated equitably in numerous fields. For example, Constitutional Court ruling No. 56 of 2008 recognized women's right to travel by repealing article 15 of the Passports Act No. 11 of 1962, as amended by Act No. 105 of 1994, under which a married woman could be issued with a separate passport only with their husband's consent. Similar rulings entitling women to renew their official documents without the need for their husband's consent confirm the principle of gender equality in regard to the issuance of such documents. Women therefore enjoy appropriate legal protection on an equal footing with men in all the legislative enactments promulgated in Kuwait.

15. Kuwaiti women currently exercise their political rights as voters and candidates in legislative and parliamentary elections, as can be seen from the fact that some female candidates were recently elected to the Kuwaiti National Assembly. Women have been appointed to senior posts in all economic, social and cultural fields; they have served as government ministers, deputy ministers, ambassadors, departmental heads, businesswomen, university professors, researchers in specialized Kuwaiti scientific centres, advisers on Islamic and secular law and members of municipal councils. They can now be said to be participating in the country's political decision-making process.

16. Decree No. 221 of 2001, as amended by Decree No. 87/2009, authorized the engagement of female support staff at the Ministry of the Interior to assist members of the police force in the discharge of their duties. These staff all hold enlisted, NCO and commissioned officer ranks ranging from policewoman to chief warrant officer and lieutenant to lieutenant general. A woman has even been promoted to the grade of assistant director general in the Ministry of the Interior.

17. The following data illustrate Kuwait's national policy in this regard:

#### **Principal indicators of the developmental empowerment of Kuwaiti women during the period 2010–2013**

<i>Indicator</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Proportion of female employees in the civil service	44.8	44.2	44.4	45.0
Proportion of women in senior sub-ministerial posts	7.4	9.9	15.1	20.0
Proportion of seats held by women in the National Assembly	8.0	8.0	6.0	4.0
Proportion of ministerial posts held by women	12.5	6.3	12.5	6.3
Ratio of females to males in primary education (gross average enrolment in primary education)	1.08	1.09	1.1	1.1

<i>Indicator</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Ratio of females to males in secondary education (gross average enrolment in secondary education)	1.31	1.31	1.33	1.36
Ratio of females to males in higher education (gross average enrolment in higher education)	1.64	1.55	1.53	1.54
Number of stateless widowed, divorced and married women receiving social assistance	2 521	2 401	2 538	2 590
Number of women who moved from the category of recipients of financial assistance to the category of productive persons	35	55	70	95
Number of female recipients of housing loans	-	25	222	230
<b>Total amount paid to female recipients of housing loans (millions of dinars)</b>	<b>-</b>	<b>1.1</b>	<b>9.6</b>	<b>245</b>

*Source:* Secretariat of the Supreme Council for Planning and Development, Public Authority for Civil Information: *Basic Demographic and Labour Force Characteristics for the years 2010–2013 (mid-year)*. Ministry of Social Affairs and Labour publication dated 18 March 2014. Kuwait Credit Bank (formerly Credit and Savings Bank) publication dated 18 March 2014.

18. The Private Sector Employment Act No. 6/2010 applies to the whole labour force in the private sector without gender-based distinction. The following gender-specific table of comparative labour force statistics for the period 2009–2014 shows that the percentage of females working in the private sector (53.63 per cent) exceeded the corresponding percentage for males (46.37 per cent) in 2014.

<i>Year</i>	<i>Males</i>	<i>Females</i>	<i>Total</i>	<i>Percentage of males</i>	<i>Percentage of females</i>
2009	25 197	26 838	<b>52 035</b>	48.42 %	51.58 %
2010	27 103	30 417	<b>57 520</b>	47.12 %	52.88 %
2011	29 101	32 334	<b>61 435</b>	47.36 %	52.64 %
2012	28 611	33 279	<b>61 890</b>	46.23 %	53.77 %
2013	26 293	30 536	<b>56 829</b>	46.27 %	53.73 %
2014	26 571	30 720	<b>57 291</b>	46.37 %	53.63 %

19. When one of the Kuwait University faculties decided to adopt a policy under which the average intake of male students was required to be higher than the intake of female students, the appellate divisions of the courts hearing two separate appeals against that policy (cases Nos. 2012/1097/Administrative/1 and 2013/2143/Administrative/5) issued rulings dated 10 June 2012 and 12 May 2014 in which they called for that decision to be rescinded on the ground that it violated the principle of equality enshrined in the Constitution. The two female appellants were also awarded damages.

20. Kuwaiti State institutions are also supporting the participation of women in the judiciary. When the former Minister of Justice decided to reject an application by a Kuwaiti woman for recruitment as a public prosecutor working in a department that constitutes an intrinsic component of the judiciary and is therefore regulated by the Organization of the Judiciary Act, a Kuwaiti court declared that decision null and void on the ground that the principles embodied in the Constitution and international instruments advocated equality and equal opportunities. Accordingly, the Kuwaiti Supreme Judicial Council issued decision No. 14/2013 of 20 May 2013 accepting 22 out of a total of 62 female candidates

for enrolment in a training course at the Kuwaiti Institute for Judicial and Legal Studies after which they would be employed in the Department of Public Prosecution and the Kuwaiti judiciary.

### **Paragraph 9 of the concluding observations, concerning the repeal of all discriminatory provisions against women and the eradication of polygamy**

#### **With regard to the prohibition of polygamy**

21. The State cannot promulgate legislation prohibiting polygamy since that would be contrary to the provisions of the Islamic sharia under which polygamy is permitted. Consequently, the State of Kuwait reaffirms its interpretative declaration concerning article 2, paragraph 1, and article 23 of the Covenant in which it stated that the matters addressed by the latter article are governed by Kuwaiti personal status law which is based on the Islamic sharia and, where the provisions of that article conflict with Kuwaiti law, Kuwait will apply its national law.

22. The competent State authorities are making every endeavour to promote cultural awareness of the need to enhance the status and preserve the cohesion of the family as required by article 9 of the Kuwaiti Constitution.

#### **With regard to the repeal of all discriminatory provisions that affect gender equality**

23. The politico-legal system under which basic human rights-related principles and provisions are applied in the State of Kuwait is embodied in the Kuwaiti Constitution which comprises numerous legislative guarantees of political, civil, social, economic and cultural rights, and particularly women's rights, as already indicated in the State's previous reports.

24. In keeping with Kuwait's policy and commitment to respect women's rights, the State has acceded to the relevant international instruments including, in particular, the Convention on the Elimination of All Forms of Discrimination against Women which it ratified under the terms of Decree No. 24 of 1994, as amended by Decree No. 105 of 2011.

25. In this context, the corpus of Kuwaiti legislation guarantees and seeks to ensure gender equality in all fields except where such would conflict with the provisions of the Islamic sharia, which is a principal source of legislation, or with the customs and traditions observed. Court judgements have treated women fairly in numerous fields and this enlightened tendency manifested by the legislative and judicial authorities and private business institutions is, in itself, a guarantee that women's rights and status within the community will be respected in the sense intended by the expression "empowerment of women".

26. The following paragraphs illustrate various aspects of the State's policy of applying the principles of gender equality with a view to encouraging women to play their role in society.

#### **1. Labour legislation**

27. The Private Sector Employment Act No. 6/2010 contains numerous new provisions that were lacking in the previous Act No. 38 of 1964. These provisions include the principle of equal pay for work of equal value, regardless of gender, and the stipulation in article 46 of the new Act under which the employer is prohibited from terminating the services of a worker on grounds of gender.

28. Article 1 of the Act abjures gender-based discrimination by defining “worker” in an abstract manner as any male or female who performs mental or manual work for an employer in return for remuneration.

29. Some of the provisions of the Act discriminate positively in favour of women by, for example: requiring employers to provide security and transport for their female workers on night shift (art. 22); prohibiting the employment of women in industries that are hazardous or detrimental to health or morality (art. 23); requiring employers not only to grant their female workers a rest period, within official working hours, in which to breastfeed their infant children but also to provide them with crèches (art. 25); and recognizing the right of female workers to the full separation-from-service indemnity if they terminate their employment contracts for conjugal reasons within one year from the date of their marriage (art. 52).

## **2. The Civil Service Act promulgated by Legislative Decree No. 15 of 1979 and the Decree of 4 April 1979, as amended**

30. These two decrees, together with their implementing regulations, constitute the legislative framework governing employment in State institutions. The civil service regulations do not discriminate on grounds of gender or origin since the terms and conditions of appointment and employment are the same for all civil servants, who are treated on a totally equal and non-discriminatory footing in regard to salaries, allowances, indemnities and all financial and in-kind benefits except insofar as female employees are entitled to special leaves, such as maternity and family and child care leaves, in keeping with their natural functions as women.

31. In view of the gender equality prescribed in the labour legislation governing the private and governmental sectors, the question of accession to the ILO Equal Remuneration Convention No. 100 is currently being studied by the competent State authorities which the Ministry of Social Affairs and Labour has consulted on this matter.

## **3. The Development Plan**

32. Within the context of the principal gender equality issues of concern to women, the policies adopted in the First and Second Development Plans (2010–2014 and 2015–2020) were designed to achieve the following objectives:

- Advancement of the social empowerment of Kuwaiti women, expansion of the scope of their social participation and removal of obstacles impeding further legitimate achievements by women;
- Development of an institutional mechanism to monitor women’s and family-related issues, and helping to provide housing welfare for some categories of women;
- Review of the legislation guaranteeing the civil and social rights of women with a view to ensuring social justice for all members of society in a manner consistent with the principles of the sharia and the Constitution.

33. Under the terms of Ministry of Social Affairs and Labour Decision No. 190/1 of 2011, a joint working committee was formed by the Ministry and the Women’s Affairs Committee of the Council of Ministers to implement the plan for the creation of a legislative environment conducive to the social empowerment of women. One of the principal functions assigned to the committee was to identify and list the Kuwaiti legislative enactments relating to the protection of women against all forms of discrimination.

34. The committee listed the following enactments relating to women which it reviewed and subsequently published:



- The Private Sector Employment Act No. 6/2010;
- The Rights of Persons with Disabilities Act No. 8/2010;
- The Public Assistance Act No. 12/2011;
- Legislative Decree No. 82 of 1977 concerning foster families.

35. Among the activities that it is undertaking pursuant to the developmental objective of furthering the social and economic empowerment of women, the Ministry of Social Affairs and Labour is preparing and monitoring the implementation of the following programmes:

- The programme for the establishment of a mechanism to address social, educational and economic issues of primary concern to Kuwaiti women;
- The organization of awareness-raising courses, symposia and lectures in collaboration with specialists in women's affairs;
- The programme to help working women to care for their children under school age (private crèche projects);
- The programme to reorient the concept of social assistance from the provision of financial assistance to economic self-help projects under which women enjoy independence and legitimate earnings from the sale of their own produce;
- The programme to train women capable of work. This programme, which targets the category of persons benefiting from public assistance and self-help projects, is being implemented in collaboration with five institutes in the private sector;
- An agreement has been reached with the United Nations Development Programme for the latter to supervise a programme for the economic empowerment of women and, under the terms of Administrative Decision No. 2721 of 2011, a committee was formed to equip micro, small and medium-sized crèches in workplaces. The first crèche, known as "Boutique 33", is already in operation;
- A programme to raise women's political awareness through meetings with female members of the National Assembly.

#### **4. Public assistance**

36. Under the terms of Decree No. 23 of 2013 concerning entitlement to, and the grading and assessment of, public assistance, the following categories are entitled to such assistance:

- Widows who have not remarried since the death of their spouses;
- Divorced women who have completed the legally prescribed waiting period after the termination of a marriage in which they have engaged in conjugal relations or been in a state of legal seclusion with their previous husband;
- Wives and children, however numerous, of prisoners, since wives with children to support are assessed as independent households for purposes of assistance;
- Unmarried women over 18 years of age who lack a provider, and unmarried women between 35 and 60 years of age, even if they have a provider;
- Women married to non-Kuwaitis if the latter are proved to be incapable of earning a living, in which case assistance is granted to the Kuwaiti woman and her dependent children fathered by the non-Kuwaiti;

- Married Kuwaiti women over 55 Gregorian years of age, unless they are proved to have a private source of income.

Category	Amount of benefits received			
	2010	2011	2012	2 013
1. The elderly	23 114 116	23 465 295	28 078 370	31 195 146
2. Families of students	5 469 521	6 502 744	8 264 842	9 993 436
3. Persons incapable of work	45 858	26 160	22 309	22 176
4. Orphans	505 037	526 796	618 001	722 040
5. Widows	3 406 532	3 338 340	3 922 946	4 802 669
6. Divorced women	37 516 311	37 732 060	45 272 756	49 420 607
7. Patients	7 940 355	7 864 582	9 190 864	9 340 024
8. Financially incapacitated persons	6 026 963	6 150 191	9 162 617	10 119 233
9. Unmarried women	4 316 391	4 478 627	5 743 660	7 125 179
10. Prisoners' families	5 861 350	5 977 813	7 107 719	7 407 285
11. Persons under 18 years of age with temporary or permanent disabilities	23 859 221	24 251 943	20 419 799	-
12. Women married to stateless persons	9 043 270	10 493 238	13 880 359	14 992 989
13. Rehabilitated offenders	303 039	259 093	273 457	1 326 897
14. Foster parents	867 315	864 857	1 043 726	266 871
15. Permanently or temporarily homeless persons	7 100 872	7 001 583	7 986 534	8 009 954
16. Exceptions approved by the Minister	45 429	57 300	122 712	58 013
<b>Total</b>	<b>135 421 580</b>	<b>138 990 622</b>	<b>161 110 671</b>	<b>154 802 519</b>

## 5. Insurance rights

37. Female insurance subscribers enjoy the same benefits as men. If they are married, divorced or widowed with children and have worked for 15 years, they are also entitled to a retirement pension on reaching the age of 40 (this was the applicable age up to the end of 2009) and, unlike other subscribers separated from service through resignation before reaching the age of 52, such women's retirement pensions are not subject to a pro rata reduction.

## 6. Housing welfare

38. Given the concern that the State shows for the family and its enjoyment of secure and adequate housing, when the Housing Welfare Act No. 47 of 1993, designed to ensure the provision of housing for Kuwaiti families, was put into practical application and revealed that certain categories of Kuwaiti women were not benefiting from such welfare in spite of their special circumstances, the legislature amended that Act under the terms of Act No. 2 of 2011 and Amiri Decree No. 324 of 2011 laid down the following rules, conditions and procedures under which loans are granted for the purpose of providing those categories with decent housing:

- (a) Priority must be accorded, under certain circumstances and conditions, to applications by Kuwaiti women married to naturalized non-Kuwaitis;

(b) The Kuwait Credit Bank shall grant interest-free loans with a view to providing decent housing for every Kuwaiti woman who has been irrevocably divorced and also for every Kuwaiti widow, if they have children, in the event of their failing to meet the family-related requirements for entitlement to housing welfare in accordance with the provisions of the Act and on condition that they renounce any rights that they might already have in respect of housing;

(c) As an alternative to the granting of loans to women meeting the conditions specified in the preceding paragraph, they may be provided with decent low-cost rental accommodation if they so request.

## **7. Protection of women in accordance with their disability-related circumstances**

39. The Rights of Persons with Disabilities Act No. 8 of 2010 treats men and women on an equal footing in regard to the enjoyment of rights and benefits. In fact, under the Act, women enjoy a larger number of rights, including entitlement to a monthly allowance if they are caring for a person with a severe disability, as well as special maternity and childcare leave and housing benefits.

## **Paragraph 10 of the concluding observations, concerning the minimum age for marriage**

40. The provisions governing marriage, as set forth in the text of the Personal Status Act, are derived from the Islamic sharia in accordance with article 2 of the Kuwaiti Constitution which stipulates that “the State religion is Islam and the Islamic sharia shall be a primary source of legislation”.

41. Article 26 of the Personal Status Act No. 51 of 1984 prohibits the notarization or certification of any contract of marriage in which the bride is under 15 or the bridegroom is under 17 years of age at the time of notarization. It is evident from the text of the said article that the age requirement applies specifically to the notarization or certification of contracts of marriage at the time of which the bride must not be under 15 and the bridegroom must not be under 17 years of age.

42. In this connection, the following statistical table compiled by the Information Systems Centre (marriage and divorce statistics) of the Ministry of Justice shows a significant decline in the number of notarized marriages contracted by both Kuwaitis and non-Kuwaitis under 15 years of age in 2013:

<i>Age of bride</i>		<i>Under 15</i>		<i>15–19</i>		<i>20–24</i>		<i>25–29</i>		<i>30–34</i>		<i>35–39</i>		<i>40–44</i>		<i>Over 45</i>		<i>Total</i>	
<i>Age of groom</i>		<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>
15–19	K			212	18	53	8	6	1			1		1				273	27
	Non-K			5	15	1	1											6	16
20–24	K			1 257	99	1 959	187	195	36	16	10	6	3	1		1		3 434	336
	Non-K			34	236	63	167	22	47	3	6	1	5	2		1		123	464
25–29	K			420	53	1 881	171	1 067	132	104	22	16	4	3	2	3		3 494	384
	Non-K			27	192	80	461	100	325	39	93	13	28	5	10	2	3	266	1 112
30–34	K			27	10	311	53	555	86	244	53	51	10	9		5	2	1 212	214
	Non-K			5	46	28	196	63	320	60	192	21	54	3	22	2	14	182	844
35–39	K			3	2	44	24	169	54	165	49	96	13	21	4	7	2	505	148
	Non-K			2	9	7	31	15	109	29	129	25	52	8	31	7	9	93	370
40–44	K			1	4	9	11	49	37	94	44	80	28	41	9	15	1	289	134
	Non-K				1		13	3	26	12	76	15	44	9	34	10	13	50	207
Over 45	K				4	6	17	23	51	57	60	108	44	74	28	122	30	390	234
	Non-K				5		6	1	22	2	55	9	62	14	54	17	64	43	268
<b>Grand total</b>	<b>K</b>	<b>-</b>	<b>-</b>	<b>1 930</b>	<b>190</b>	<b>4 263</b>	<b>471</b>	<b>2 064</b>	<b>397</b>	<b>680</b>	<b>238</b>	<b>358</b>	<b>102</b>	<b>150</b>	<b>43</b>	<b>152</b>	<b>36</b>	<b>9 597</b>	<b>1 477</b>
	<b>Non-K</b>	<b>-</b>	<b>-</b>	<b>73</b>	<b>504</b>	<b>179</b>	<b>875</b>	<b>205</b>	<b>849</b>	<b>145</b>	<b>551</b>	<b>84</b>	<b>245</b>	<b>39</b>	<b>153</b>	<b>38</b>	<b>104</b>	<b>763</b>	<b>3 281</b>

### **Paragraph 11 of the concluding observations, concerning the value of women's testimonies before the courts**

43. Kuwaiti legislation lays down the rules governing testimony before judicial bodies in a manner consistent with the provisions of the Islamic sharia. Article 65, paragraph 1, of the Code of Criminal Procedure stipulates that: "Every person summoned to testify by the investigator or the court shall present himself at the specified time and place, shall take the oath and shall answer the questions put to him". Article 44, paragraph 1, of Legislative Decree No. 39 of 1980 concerning proof in civil and commercial matters further stipulates that: "Every witness shall give his testimony separately and in the absence of the other witnesses whose testimony has not yet been heard. Defence witnesses shall be heard at the same hearing as witnesses for the prosecution unless such is precluded by an impediment. If the hearing is adjourned, announcement of the adjournment shall be deemed to constitute a summons for the witnesses present to appear at the resumed hearing unless the court explicitly releases them from the obligation to appear."

44. It is evident that the above provisions do not discriminate between men and women in regard to the value of their testimony before judicial bodies since the terms "person" and "witness" are abstract and do not imply a particular gender. The testimony of women before judicial bodies in the State of Kuwait therefore has the same value as the testimony of men. The entire corpus of the State's legislation contains only one provision, in section III, article 133, of the Personal Status Act No. 51 of 1984, stipulating that: "The harm inflicted shall be established by the testimony of two men or of one man and two women" within the context of legal separation on grounds of harm since the testimony of two women confirmed by that of one man is required by Islamic jurisprudence in matters relating to personal status. Hence, the testimonies of men and women before the judiciary are assigned a different value only in one specific enactment and in regard to one specific matter, namely the proof of harm inflicted within a marital relationship, in order to take a decision on an application for legal separation on grounds of harm. This is an exception to the rule applied in the State's other legislative texts.

### **Paragraph 12 of the concluding observations, concerning a guarantee of the right of every child to acquire a nationality, the elimination of discrimination between men and women in the transmission of nationality, and a guarantee that applicants are informed of the reasons why they were denied Kuwaiti nationality**

45. Article 27 of the Kuwaiti Constitution stipulates that: "Kuwaiti nationality is determined by law. Nationality may be forfeited or withdrawn only within the limits of the law". It is an internationally recognized principle that nationality is a legal relationship between the individual and the State that clearly falls within the category of matters affecting the sovereignty of the State and its absolute authority to determine who should hold its nationality, or to impose on its nationals whatever obligations and restrictions it deems appropriate, since nationality affects the demographic structure and political and economic life in the State. This principle was reaffirmed in the advisory opinion issued in 1923 by the Permanent Court of International Justice which confirmed that every State retained the right to freely promulgate its own nationality laws. This was further confirmed at the Hague Conference on the Conflict of Nationality Laws in 1930. It is well known that, when a State promulgates legislation regulating its nationality and specifying the conditions and procedures for the attestation or acquisition thereof, its sovereignty is not diminished

since such legislation is issued by the State itself and must be respected and implemented by all the bodies concerned.

46. The Kuwaiti Nationality Act No.15/1959 adopted the principle applied in the majority of such laws throughout the world, namely the granting of nationality on the basis of birthright in the light of the father's nationality. Accordingly, article 2 of the Act stipulates that: "Any person born in or outside Kuwait to a Kuwaiti father is a Kuwaiti".

47. The Nationality Act nevertheless grants Kuwaiti nationality to the children of Kuwaiti women on humanitarian grounds under specific conditions. For example, nationality is granted to the children of Kuwaiti women meeting those conditions, without any time limit being set, in accordance with article 3 of the Act which stipulates that: "Kuwaiti nationality may be granted, by a decree based on a proposal by the Minister of the Interior, to anyone born in or outside Kuwait to a Kuwaiti mother and an unknown father whose paternity has not been legally established".

48. In accordance with paragraph 2 added to article 5 of Act No. 100/1980 amending the Kuwaiti Nationality Act No. 15/1959, Kuwaiti nationality is granted to the children of Kuwaiti women who have been irrevocably divorced or whose husbands are deceased or prisoners of war. The Kuwaiti legislature is constantly endeavouring to expand the scope of entitlement to nationality in favour of the children of Kuwaiti women in the light of ongoing developments and justifiable humanitarian considerations.

49. With regard to notification of the reasons why Kuwaiti nationality may have been denied to applicants therefor, any applicant who fails to meet the conditions laid down in the Nationality Act is duly informed of all the grounds on which his application has been rejected.

### **Paragraph 13 of the concluding observations, concerning the situation of illegal residents**

50. The term "bidoon", which is sometimes used to designate the category of illegal residents, is imprecise and has no legal standing in Kuwait since it merely means "lacking" or "deprived of" something and could therefore be taken as signifying deprivation of various basic necessities of life or deprivation of Kuwaiti nationality or even of national origin.

#### **The humanitarian situation of illegal residents**

51. The promulgation of Decree No. 467 of 9 November 2010 establishing the Central Agency for Regularization of the Status of Illegal Residents was a legislative step forward taken by the Kuwaiti Government with a view to resolving this issue in the light of a number of studies undertaken by the Supreme Council for Planning and Development, which made practical recommendations and proposals in this regard. Under the terms of Council of Ministers Decision No. 409/2011, based on a proposal submitted by the Central Agency in its capacity as the body concerned with the affairs of illegal residents, the latter were granted a full range of humanitarian, civil and social benefits and facilities in addition to other services provided by the State but not specifically mentioned in the said decree. These services are listed in the following table on the basis of the latest statistics:

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
Medical treatment	<ul style="list-style-type: none"> <li>• Since the establishment of the Central Agency on 9 November 2010, the Kuwaiti Government has borne the full costs of the medical treatment of illegal residents. This service, for which a fee was formerly charged, is provided free of charge at all government health centres and hospitals</li> <li>• The Charitable Health Care Fund, established pursuant to Decision No. 855/2003, covers all the costs of health care, including radiography, surgical procedures, laboratory analyses, medication and fitting of prostheses, for needy persons</li> <li>• Female illegal residents receive full therapeutic services on an equal footing with men, in addition to maternity and female health care benefits</li> </ul>	<ul style="list-style-type: none"> <li>• From September 2003 to the end of 2012, a total of 56,547 persons benefited from the Charitable Health Care Fund at a cost of KD 3,812,107, equivalent to US\$ 13,184,605.91</li> <li>• In 2012, the number of cases of contagious diseases among illegal residents which were recorded and reported by the Ministry of Health and in respect of which preventive measures were taken and vaccinations and medication administered amounted to: <ul style="list-style-type: none"> <li>(a) 242 females</li> <li>(b) 242 males</li> </ul> </li> </ul>
Education	<ul style="list-style-type: none"> <li>• The Ministry of Health has decided to provide treatment free of charge for all children, including illegal residents, in the State of Kuwait</li> <li>• The Charitable Fund for the Education of Needy Children, established pursuant to Council of Ministers Decision No. 855/2003 and subsidized by the Government, covers all types of academic expenses</li> <li>• Illegally resident students receive the same standard of education and follow the same curricula as Kuwaiti students</li> <li>• The State gives illegal residents an opportunity to continue their education at university, since their studies are no longer confined to preparatory education and they are allocated places in the various university faculties in accordance with the procedures, rules and conditions for admission to the university faculties</li> </ul>	<ul style="list-style-type: none"> <li>• In the academic year 2011/12, a total of 13,533 male and female students were receiving education at a cost of KD 3,589,000, equivalent to US\$ 12,409,297.09</li> <li>• In the academic year 2012/13, a total of 14,250 male and female students were receiving education at a cost of KD 4,137,435, equivalent to US\$ 14,308,674.41</li> <li>• In the academic year 2013/14, a total of 14,910 male and female students were receiving education at a cost of KD 4,453,566, equivalent to US\$ 15,401,964.22</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
Civil registration, including:	<ul style="list-style-type: none"> <li>• A students' welfare programme has been set up to help to ease the burden on needy students by providing them with assistance and covering their academic fees</li> </ul>	<ul style="list-style-type: none"> <li>• From the introduction of the students' welfare programme in 2007 up to the academic year 2013/14, a total of 1,063 male and female students have benefited therefrom at a cost of KD 420,078, equivalent to US\$ 1,452,676.80</li> </ul>
	<ul style="list-style-type: none"> <li>• They have an opportunity to enrol in private universities subject to payment of the academic fees and fulfilment of the requirements laid down in the regulations of those universities</li> </ul>	<ul style="list-style-type: none"> <li>• In the academic year 2013/14, 50 students were admitted to colleges on grants from the Director General of the Public Authority for Applied Education and Training</li> </ul>
	<ul style="list-style-type: none"> <li>• An arrangement has been made with the Public Authority for Applied Education and Training under which they are permitted to study in the Authority's colleges</li> </ul>	<ul style="list-style-type: none"> <li>• In the academic year 2014/15, a total of 15,105 male and female students were receiving education at a cost of KD 4,711,093, equivalent to US\$ 16,285,186.59</li> </ul>
	<ul style="list-style-type: none"> <li>• In accordance with instructions from H.H. the Amir, all talented children of illegal residents were admitted to university in the academic year 2012/13</li> </ul>	<ul style="list-style-type: none"> <li>• In the academic year 2014/15, 50 students were admitted to colleges on grants from the Director General of the Public Authority for Applied Education and Training</li> </ul>
	<ul style="list-style-type: none"> <li>• Male and female students have equal access to preparatory and university education services. The sole requirement for admission to university faculties is fulfilment of the conditions of admission and attainment of the requisite grades</li> </ul>	<ul style="list-style-type: none"> <li>• From the academic year 2011/12 up to the academic year 2014/15, a total of 5,758 male and female students were enrolled in the first, second and summer semesters at Kuwait University</li> </ul>
	<ul style="list-style-type: none"> <li>• The children of illegal residents receive the full range of education services, all the costs of which (uniforms, books and other educational requisites) are borne by the Charitable Fund for the Education of Needy Children</li> </ul>	
	<ul style="list-style-type: none"> <li>• The State recognizes the inalienable right of all persons residing in its territory to apply for all types of civil registration. No one is prevented from obtaining such registration since it is regarded as a means by which the State protects the family</li> </ul>	<ul style="list-style-type: none"> <li>• Birth certificates: from 2011 to August 2014, a total of 23,247 certificates were issued</li> </ul>



<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
• Birth certificates	• Birth and death certificates are issued in accordance with Act No. 36/1969 regulating the registration of births and deaths	• Death certificates: from 2011 to March 2014, a total of 1,268 certificates were issued
• Death certificates	• Marriage-related documents are drawn up, notarized and certified in the manner prescribed by Ministerial Decision No. 142/2002, concerning the reorganization of the administration, and by the official directives and circulars regulating its work	• Marriage contracts: from January 2014 to August 2014, a total of 6,256 marriage contracts were issued
• Registration of testamentary bequests and inheritance	• The procedures for the issuance of registration documents to illegal residents were facilitated by Council of Ministers Decision No. 409/2011 in accordance with which the expression “non-Kuwaiti”, instead of the original nationality, is entered in such documents	• Divorce certificates: from 2011 to July 2014, a total of 837 divorce certificates were issued
• Marriage certificates	• The facilities approved by the Government led to an increase in the number of documents received by illegal residents, who had previously refused to receive them	• ID documents: from 2011 to July 2014, a total of 77 documents were issued
• Divorce certificates		<ul style="list-style-type: none"> <li>• Certificates of succession: in 2012, a total of 315 certificates of succession were issued and, from January 2014 to July 2014, a total of 84 certificates designating heirs were issued</li> <li>• Official notifications: 15,416 official notifications were issued in 2012, as compared with 7,326 from January 2014 up to July 2014</li> <li>• General powers of attorney: 1,427 general powers of attorney were issued in 2012</li> <li>• Special powers of attorney: 3,603 special powers of attorney were issued in 2012</li> <li>• Property conveyance: 17 transactions</li> <li>• Conveyance by gift of the State: 10 transactions</li> <li>• Shares in the estate of deceased Kuwaiti relatives: 4 shares</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
Issuance of driving licences	<ul style="list-style-type: none"> <li>• The requirements for the issuance of driving licences are specified in article 85 of the implementing regulations of the Traffic Act (Ministerial Decision No. 1729/2005), as amended by Decision No. 393/2013 (“Some categories, including illegal residents holding valid ID cards issued by the Central Agency for the Regularization of the Status of Illegal Residents, are exempt from these requirements”)</li> <li>• Driving licences are issued, without impediment, to all illegal residents over 18 years of age who pass the oral and practical tests</li> <li>• There is no gender-based discrimination in regard to the issuance of driving licences, the important criterion being the statutory conditions therefor</li> </ul>	<ul style="list-style-type: none"> <li>• Notarial acts: 4,240 certifications and 1,309 attestations (powers of attorney and affidavits) in 2013</li> <li>• Prenuptial medical examination certificates: 79 certificates were issued during the first three months of 2014</li> <li>• Driving licences: 2,046 licences were issued in 2012 and 31,464 during the period from January 2013 to mid-March 2014</li> <li>• Vehicle registrations, renewals and transfers of ownership: 3,186 certificates were issued in 2012</li> </ul>
Employment	<ul style="list-style-type: none"> <li>• With regard to employment in the public sector, the Civil Service Commission has agreed to accept applications by illegal residents to fill vacant posts in government ministries</li> <li>• With regard to employment in the private sector, a website has been set up in collaboration with the Kuwait Chamber of Commerce and Industry and the Ministry of Social Affairs and Labour so that job applicants can be distributed in the private sector in accordance with the available vacancies</li> </ul>	<ul style="list-style-type: none"> <li>• The number employed in the civil service up to March 2014 amounted to 1,419 (males and females), distributed as follows:</li> <li>• 747 in the Ministry of Health</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
	<ul style="list-style-type: none"> <li>• The salaries paid to illegal residents in the public sector are determined on the basis of those to which the applicant would be entitled if he were appointed in accordance with the Civil Service Act and its implementing regulations and also in the light of the type of post that he occupies. There is no discrimination in favour of civil servants who are legal residents. Remuneration in the private sector is determined by the contract signed between the two parties</li> <li>• Employment in the cooperative sector is coordinated with the Union of Consumer Cooperative Societies so that job opportunities can be provided for illegal residents</li> <li>• Men and women enjoy equal employment opportunities without any discrimination between them</li> <li>• The Government is combating the phenomenon of economic exploitation of children by their illegally resident relatives by all available legal means since it has an adverse effect on their education</li> </ul>	<ul style="list-style-type: none"> <li>• 374 in the Ministry of Education and Higher Education</li> <li>• 67 in the Ministry of Awqaf and Islamic Affairs</li> <li>• 25 in the Ministry of Public Works</li> <li>• 20 in the Ministry of Electricity and Water</li> <li>• 72 in the Public Authority for Industry</li> <li>• 65 in the Public Authority for Youth and Sports</li> <li>• The others were distributed among various government ministries</li> <li>• The number employed in cooperative societies up to June 2014 amounted to 630</li> </ul>
Issuance of ration cards	<ul style="list-style-type: none"> <li>• The Government subsidizes basic consumer foodstuffs through the issuance of ration cards to illegal residents</li> <li>• Ration cards cover basic foodstuffs such as rice, sugar, cooking oil, infant formula, chicken, cheese, lentils and tomato paste</li> </ul>	<ul style="list-style-type: none"> <li>• More than 88,000 persons are benefiting from this scheme</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
Care of persons with disabilities	<ul style="list-style-type: none"> <li>• Illegal residents with disabilities enjoy the services rendered by the Supreme Council for the Disabled to persons covered by article 1, paragraph 2, of Act No. 8/2010 concerning the rights of persons with disabilities (“The provisions of this Act apply to persons with disabilities who are Kuwaitis, or children born to Kuwaiti women married to non-Kuwaitis, within the limits of the health and educational care and occupational rights specified herein”). Those to whom the preceding article does not apply are referred to the Patient Assistance Fund and Bait al-Zakat</li> <li>• Endeavours are being made in coordination with the Public Authority for the Affairs of the Disabled to implement the provisions of article 2, paragraph 2, of Act No 8/2010 (“The Authority may decide to apply some of the provisions of this Act to non-Kuwaitis with disabilities under rules and conditions that it deems appropriate and subject to approval by the Supreme Council for the Disabled”) so that illegal residents can benefit from these provisions</li> <li>• Pending approval of the above proposal, the Public Authority for the Affairs of the Disabled is providing the following services for illegal residents with disabilities:</li> <li>• Issuance of official disability certificates recognized by the government authorities</li> <li>• Issuance of official letters addressed to Bait al-Zakat and the Patient Assistance Fund requesting the provision of services by these bodies</li> <li>• Supply of special vehicle licence plates</li> <li>• Payment of a disability allowance, equivalent to that received by the children of Kuwaiti citizens, to the illegally resident disabled children of military and police personnel</li> <li>• Payment of a full education grant to the disabled children of Kuwaiti mothers</li> </ul>	<ul style="list-style-type: none"> <li>• 1,871 illegal residents are benefiting from the services of the Public Authority for the Affairs of the Disabled</li> <li>• In 2013, a total of 36 male and female students with disabilities were enrolled in classes for persons with special needs in private schools</li> <li>• In the academic year 2009/10, a total of 87 male and female students with disabilities were enrolled in government schools</li> <li>• 91 male and female students were enrolled in the academic year 2010/11</li> <li>• Up to January 2013, a total of 89 persons with disabilities had benefited from the services provided by the residential centres</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
	<ul style="list-style-type: none"> <li>• Illegally resident disabled women married to Kuwaitis, and divorcees or widows who have a disabled Kuwaiti child by a Kuwaiti husband, are paid a monthly allowance of KD 300</li> <li>• Kuwaiti mothers with a disabled child are issued with a certificate entitling them to reduced working hours</li> <li>• Exemption from residence permit fees</li> <li>• Services for persons with disabilities are not confined to those provided by the Authority since various government ministries also provide services for this category. The Ministry of Education and Higher Education organizes classes for persons with special needs in private schools and also enrolls such persons in government schools</li> <li>• Persons with intellectual and/or psychosocial disabilities who hold a vocational rehabilitation certificate below secondary level are employed by the Ministry of Social Affairs and Labour</li> </ul>	
Housing welfare	<ul style="list-style-type: none"> <li>• The Housing Welfare Act No. 45 of 2007 made provision for the establishment of a low-cost housing project which has been put out to tender</li> <li>• Illegal residents holding military rank in the army and the police enjoy the rights stipulated in the Social Insurance Act</li> </ul>	<ul style="list-style-type: none"> <li>• Illegal residents are accommodated in 4,800 housing units</li> <li>• The cost of the housing allowances paid to homeless persons amounts to around KD 2 million</li> </ul>
Social services	<ul style="list-style-type: none"> <li>• In addition to the pensions that it pays to Kuwaiti citizens, the Public Institution for Social Insurance also pays retirement pensions to illegally resident military personnel</li> </ul>	<ul style="list-style-type: none"> <li>• 921 retirement pensions have been paid</li> </ul>
(a) Social insurance: Payment of retirement pensions		
(b) Residential services in social welfare institutions	<ul style="list-style-type: none"> <li>• The residential centres run by the Ministry of Social Affairs and Labour provide services for the following categories:</li> <li>• Juveniles</li> </ul>	<ul style="list-style-type: none"> <li>• In 2012/13, these centres provided services for 229 juveniles, 173 elderly persons and 89 persons with disabilities</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
	<ul style="list-style-type: none"> <li>• Elderly persons benefiting from mobile care services</li> <li>• Persons with disabilities</li> </ul>	
(c) Contact with civil society institutions	<ul style="list-style-type: none"> <li>• Contact is maintained with numerous public benefit institutions such as the Women's Cultural Association, the Kuwait Association to Assist Students, the Kuwait Bar Association, the Kuwait Red Crescent Society, the Kuwait Society for Human Rights and the Kuwait Association for the Care of Persons with Disabilities which are collaborating with the State in this regard</li> </ul>	<ul style="list-style-type: none"> <li>• 182 convicted illegal residents were covered by the Amiri amnesty in 2013</li> </ul>
Right to seek legal redress	<ul style="list-style-type: none"> <li>• Illegal residents are entitled to apply to the Kuwaiti courts for legal redress and there is no discrimination between them and citizens in this respect. Many of them bring proceedings in Kuwaiti courts against official government bodies and judgements thereon are handed down in a fully impartial manner</li> <li>• Notwithstanding the fairness and integrity of the Kuwaiti courts and the impartiality of their judgements, the State shows due regard for the special humanitarian situation of illegal residents and, in conformity with the rules and conditions of the 2013/14 Amiri amnesty for prisoners, all convicted illegal residents were exempted from enforcement of the judicial penalty of deportation</li> </ul>	
Expression of opinion through the media and peaceful assembly	<ul style="list-style-type: none"> <li>• Illegal residents have the right to express their opinion through the various audiovisual information media and, in this regard, are subject to no restrictions other than those prescribed by law</li> <li>• Since peaceful assembly is a form of expression of opinion, Kuwaiti law does not discriminate in this regard. Hence, illegal residents enjoy the right of peaceful assembly to express their views provided that they observe the rule of law</li> <li>• Illegally resident children enjoy the same guaranteed right and have attended peaceful gatherings and demonstrations under the protection of the security forces, in addition to their participation in a number of campaigns organized to express their views</li> </ul>	

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
Issuance of passports	<ul style="list-style-type: none"> <li>• Illegal residents are issued with passports in accordance with article 17 of the Passports Act No. 11 of 1962 in order to perform the <i>hajj</i> or the <i>umrah</i> pilgrimages or to study or receive medical treatment abroad</li> </ul>	<ul style="list-style-type: none"> <li>• During the period from 1 November 2010 to 1 March 2013, they were issued with 43,142 passports in accordance with article 17 of the Kuwaiti Passports Act</li> </ul>
Social solidarity		
(a) Services of Bait al-Zakat	<ul style="list-style-type: none"> <li>• Bait al-Zakat provides the following services:</li> <li>• Payment of the costs of genetic screening</li> <li>• Provision of financial assistance</li> <li>• Provision of in-kind assistance: foodstuffs, clothing, blankets, furniture, electrical appliances and school satchels</li> <li>• Issuance of health insurance cards to persons not holding the Central Agency's ID cards</li> <li>• Implementation of the project for the rehabilitation of persons from needy families who are able to work, including illegal residents, in collaboration with the Patient Assistance Fund</li> </ul>	<ul style="list-style-type: none"> <li>• A total of KD 627,000 has been paid for the genetic screening of 7,382 persons</li> <li>• In 2013, the cost amounted to KD 814,300 for 9,580 persons</li> <li>• The cost of financial assistance amounted to:</li> <li>• KD 13,606,474, equivalent to US\$ 47,032,645.69, for 62,590 persons in 2012</li> <li>• KD 13,086,465, equivalent to US\$ 45,258,127.64, for 13,434 families, comprising 64,949 members, in 2013</li> <li>• KD 6.73 million, equivalent to US\$ 23,266,420.74, for 13,414 families from January 2014 to July 2014</li> </ul>
(b) The Social Assistance Decree	<ul style="list-style-type: none"> <li>• The Financial Assistance Act No. 12 of 2011 amended Legislative Decree No. 22 of 1987 by adding new categories entitled to assistance, including Kuwaiti women married to non-Kuwaitis, thereby explicitly acknowledging that Kuwaiti women married to illegal residents also have an established right to such assistance</li> </ul>	<ul style="list-style-type: none"> <li>• In-kind assistance:</li> <li>• The cost of this assistance, received by 37,947 persons, amounted to KD 1,052,410, equivalent to US\$ 3,638,308.15, in 2012</li> <li>• 4,115 families, comprising 28,805 persons, benefited therefrom in 2013</li> </ul>

<i>Benefit</i>	<i>The facts</i>	<i>Statistics</i>
		<ul style="list-style-type: none"> <li>• From 2007 to 2014, the cost amounted to KD 69,880, equivalent to US\$ 241,655.80, for 5,357 families</li> <li>• 135 individuals have benefited from the project for the rehabilitation of persons able to work at a cost of KD 158,300, equivalent to US\$ 547,254.12</li> </ul>
Regularization of status	<ul style="list-style-type: none"> <li>• Two bodies (the Mubarak al-Kabir Centre and the Immigration Investigation Department) have been designated to receive illegal residents wishing to regularize their status</li> <li>• Although illegal residents are considered to be in breach of the Kuwaiti Residence of Aliens Act No. 17 of 1959, the procedures for the regularization of their status are facilitated and they are not liable to any legal penalty in respect of such breach</li> <li>• In fact, the Central Agency continues to grant them humanitarian and civil benefits as an encouragement even though they are no longer classed as illegal residents</li> </ul>	<ul style="list-style-type: none"> <li>• Up to September 2014, a total of 6,185 persons have regularized their status</li> </ul>

52. Accordingly, it is evident that illegal residents enjoy all the various types of human rights, which they even enjoyed prior to the establishment of the Central Agency. They have never been denied their human rights which, in fact, are constantly increasing. The allegation made in the observation, concerning the withholding of official documents to which they were entitled, is totally unfounded. On the contrary, notable progress has been made in regard to the right of illegal residents to obtain civil registration and the issuance of official documents in which the term “non-Kuwaiti” is used to indicate nationality, as a result of which the number of official documents that they receive has increased in comparison with the previous situation when they used to refuse to accept such documents in protest against the nationality entered therein even though these documents were, and still are, willingly issued by the competent authorities. Illegal residents are therefore able to obtain the civil registration documents that they need.

53. With regard to the Committee’s concern about discrimination against illegal residents in regard to application of the Nationality Act, it is noteworthy that nationality-related matters are governed by the provisions of the Nationality Act No 15/59 and the State grants Kuwaiti nationality to illegal residents who meet the statutory requirements therefor, as a result of which 16,753 such persons were naturalized from 1991 to the end of 2012.

54. Since its establishment, the Central Agency has applied an approved plan of action to screen cases falling within category II consisting of persons whose naturalization could be considered. The Agency submitted three lists for naturalization in 2012 and a list containing 504 names in September 2013.



### **Paragraph 14 of the concluding observations, concerning the death penalty**

55. Enforcement of the death penalty deprives a convicted person of his right to life due to his commission of certain types of offences that pose a serious threat to society.

56. During the period from 2007 to 2013, death sentences were enforced only in six cases (four cases involving criminal acts of murder, one case involving the smuggling of drugs for purposes of trafficking therein, and one case involving abduction and rape through the use of force, threat and ruse). During the same period, H.H. the Amir issued ten decrees under the terms of which the death sentences passed on 21 out of a total of 53 convicted persons were commuted to life imprisonment and one sentence was remitted. The offences committed by the 53 persons convicted and sentenced to death included: 40 cases of murder; 2 cases of abduction for purposes of indecent assault and rape through the use of force, threat and ruse; 11 cases of drug smuggling involving the most dangerous types of narcotic substances (cocaine and heroin); and two cases involving conspiracy with another State and the smuggling of explosive substances and devices and dangerous weapons into Kuwait for the purpose of assassinating a visiting head of State and killing persons present in a public place crowded with civilians.

57. It is also noteworthy that, since death sentences passed on convicted persons are not enforced until they have been approved by the Amir, the periods of time spent in correctional facilities are inevitably deducted from any terms of imprisonment that convicts are required to serve if their sentences are commuted under an amnesty granted by the Amir. This applies to all sentences imposed in cases covered by the Code of Criminal Procedure.

58. In view of the gravity and severity of this penalty, criminal law makes it subject to numerous safeguards under which its erroneous imposition by judges is of rare occurrence. Moreover, death sentences have to be appealed by the prosecution and, even if the convicted person intends to appeal against a death sentence imposed on him, the prosecution is required to transmit the case file to the appellate court in accordance with article 211 of the Code of Criminal Procedure which stipulates that: "Every death sentence imposed by a criminal court shall be automatically referred by the court to a higher appellate court". This is unquestionably an important safeguard to ensure the soundness of death sentences without leaving the right of appeal at the discretion of the convicted person who might be faced with circumstances that prevent him from exercising that right as an appropriate potential means to avert enforcement of the death sentence.

59. By way of exception to the rules regulating objections as laid down in the Code of Criminal Procedure under which the right of objection is vested solely in the convicted person, the prosecution also has a responsibility to lodge an objection against the sentence and to refer the case file to the Court of Cassation. Although the latter is a court of last resort that does not normally look into substantive matters, it constitutes a third level of jurisdiction in cases involving the death penalty in which it looks into the substantive aspects of the case as well as points of law as a safeguard to ensure that the death sentence has passed through all the stages and levels of criminal justice. In order to exclude the possibility of a flaw in any judgements in which the death sentence is imposed, under Kuwaiti law an objection in cassation is mandatory in such cases in view of the severity of the penalty involved. Article 14 of Act No. 40 of 1972 under which the Court of Cassation was constituted stipulates that: "Whenever the death penalty is imposed, the prosecution must refer the case, together with a memorandum setting forth its opinion on the judgement, to the Court of Cassation within the time limit specified in article 9 so that the judgement can be upheld or set aside".

60. The Court of Cassation exercises its statutory function of monitoring such judgements from the standpoint of due process of law, including errors and shortcomings in the application of the law and aspects in which the judgement might be flawed by defective grounds, false reasoning or invalid procedures during the institution or conduct of the criminal proceedings.

61. In addition to its customary role, under the terms of Act No. 40 of 1972, as a court of last resort that does not constitute a level of litigation insofar as it is not empowered to look into substantive matters, in cases involving the death penalty the jurisdiction of the Court of Cassation extends to the verification of substantive matters as well as points of law and it is empowered to commute death sentences even when they are not vitiated by any error in law, defective grounds, false reasoning or invalid procedures applied by the prosecution during the investigation or trial. Moreover, the Court is not obliged to confine itself to the grounds specified for the objection lodged by the prosecution or to the latter's opinion as set forth in its memorandum annexed thereto. The special role played by the Court of Cassation is illustrated by the numerous cases brought before it in which it has ruled that: "Whereas the prosecution, pursuant to its obligation under article 14 of Act No. 40 of 1972 concerning objections in cassation and the procedures therefor, has referred the case to this Court together with a memorandum setting forth its opinion on the death sentence imposed on the first objector; and whereas the said article stipulates that the function of the Court of Cassation in regard to death sentences is of a special nature insofar as it is required to verify all the formal and substantive elements of the judgement, confining itself neither to the grounds on which the objection is based nor to the opinion expressed by the prosecution in regard to such judgements; ...".<sup>1</sup>

62. A further important safeguard to ensure that death sentences are imposed in a proper manner and with due consideration, in order to avoid judicial errors that might be discovered after the sentence has left the court's jurisdiction and become final and definitive, lies in the fact that, under Kuwaiti law, such sentences are not enforceable until they have been approved by the Amir in accordance with article 217 of the Code of Criminal Procedure which stipulates that: "No death sentence shall be enforceable until approved by the Amir".

63. His Highness has an incontestable right to grant a pardon, if he deems such to be appropriate, in accordance with article 75 of the Kuwaiti Constitution which stipulates that: "The Amir may, by decree, grant a pardon or commute a sentence ...". The manner in which the Amir may so intervene is specified in article 239 of the Code of Criminal Procedure under the terms of which: "When a person has been sentenced to a penalty, the Amir may, pending or during the enforcement of the sentence, pardon the offender or reduce or commute the penalty". It is evident from this stipulation that death sentences also fall within the scope of that power vested in the Amir who has the right to intervene and order as he sees fit, even after the sentence has been handed down, in his capacity as the country's ruler and the supreme head of its judiciary which delivers judgements in his name as indicated in article 53 of the Constitution: "The judicial power is vested in the courts, which exercise it in the name of the Amir within the limits of the Constitution".

64. It is noteworthy that, under article 218 of the Code of Criminal Procedure, death sentences cannot be carried out on a woman who is found to be pregnant and, in such an eventuality, the court that imposed the sentence is ordered to commute it to a penalty of imprisonment. This is a clear indication that, under Kuwaiti law, a guiltless foetus is considered to be interceding on behalf of the person carrying it since enforcement of the

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<sup>1</sup> Criminal objection No. 199/96, session of 30 June 1997, *Compendium of legal rulings issued by the Court of Cassation in criminal matters during the period from 1 January 1997 to 31 December 2001*, op. cit., p. 319, ruling No. 37.

death sentence would lead to its own demise which would be contrary to the principle of personal liability laid down in article 33 of the Kuwaiti Constitution (“punishment is personal”).

### **Paragraph 15 of the concluding observations, concerning cases of domestic and sexual violence**

65. The State of Kuwait condemns all forms of violence, and especially domestic violence against vulnerable social categories such as children and women, and the legal corpus addresses such cases by criminalizing all acts of violence regardless of whether the victim is male, female or a child. In this connection, the Kuwaiti Criminal Code (Act No. 16 of 1960), as amended, stipulates as follows:

- Article 160: Anyone who strikes, wounds, inflicts bodily harm on, or violates the physical integrity of, another person in a tangible manner is liable to a term of up to two years’ imprisonment and/or a fine of up to 150 dinars;
- The penalty is increased if the offender inflicts severe harm (art. 161) or if the harm inflicted causes permanent disability (art. 162);
- Article 163: Anyone who commits a minor act of lesser gravity than those specified in the preceding articles is liable to a term of up to three months’ imprisonment and/or a fine of up to 22 dinars and 500 fils.

66. Offences involving sexual violence are addressed in section II of the Criminal Code (Act No. 16 of 1960), under the heading “Offences against honour and reputation”, in the following manner:

- Article 186: Anyone who has sexual intercourse with a woman without her consent through the use of force, threat or ruse shall be liable to the death penalty or life imprisonment;
- Article 187: Anyone who has sexual intercourse with a woman without using force, threat or ruse but knowing her to be insane, feeble-minded, under 15 years of age, lacking willpower or other faculties, unaware of the nature of the act to which she is being subjected or believing it to be licit, shall be liable to life imprisonment;
- Article 188: Anyone who has sexual intercourse with a woman without using force, threat or ruse while she is over 15 but under 21 years of age shall be liable to a term of up to 15 years’ imprisonment;
- Article 191: Anyone who indecently assaults another person through the use of force, threat or ruse shall be liable to a term of up to 15 years’ imprisonment;
- Article 192: Anyone who indecently assaults a young male or female under 21 years of age without using force, threat or ruse shall be liable to a term of up to 10 years’ imprisonment.

The Kuwaiti Criminal Code clearly increases the penalties if the victim is under 21 years of age.

67. With regard to the investigation and prosecution of complaints concerning domestic violence, whenever such a complaint is received by a police station endeavours are usually made to conciliate the parties involved in order to safeguard the family and the traditions of Kuwaiti society. If such endeavours do not succeed, the complaint is referred to the competent authorities (the Directorate General of Investigation in the Department of Public Prosecution).

68. If a licit conjugal cohabitation proves harmful to either of the spouses as a result of the use of violence, the aggrieved spouse is entitled to file for divorce on grounds of harm under the provisions of article 126 of the Personal Status Act No. 51 of 1984 amended by Act No. 61 of 1996, as subsequently further amended, which stipulates that: "Prior or subsequent to the consummation of the marriage, either of the spouses may request separation on grounds of harm inflicted by the other in word or deed in such a way as to make the continuation of a conjugal relationship impossible".

69. The spouses may also apply for annulment of their contract of marriage in the manner specified in articles 139 et seq. of the said Act. However, this does not preclude the application of the general rules laid down in the provisions of the above-mentioned Criminal Code.

**Paragraph 16 of the concluding observations, concerning the criminalization of torture and other cruel, inhuman or degrading treatment and the prosecution of its perpetrators**

70. In conformity with its international obligations, the State of Kuwait has endeavoured to ensure that its national legislation incorporates provisions that criminalize torture and cruel, inhuman or degrading treatment and prescribe penalties for the perpetrators of such acts in a manner consistent with their nature as defined in the relevant international instruments. For example, under the terms of article 53 of Act No. 31 of 1970 amending certain provisions of the Criminal Code: "Any public official or employee who, in person or through a third party, tortures an accused person, a witness or an expert with a view to inducing him or her to confess to an offence or make a statement or provide information thereon shall be liable to a penalty of up to five years' imprisonment and/or a fine of up to 500 dinars. If the torture leads to, or is associated with, an unlawful act that carries a heavier penalty, the penalty for the said act shall be imposed. If the torture proves fatal, the penalty shall be that prescribed for intentional homicide."

71. Article 56 of the Code stipulates that: "Any public official, employee or other person responsible for performing a public service who abuses his or her authority by subjecting others to cruel or degrading treatment or physical pain shall be liable to a penalty of up to three years' imprisonment and/or a fine of up to 225 dinars".

72. In addition to the provisions of the two above-mentioned articles, article 173 of the Code further stipulates that: "Anyone who threatens to inflict any form of harm on the person, reputation or property of another individual or on the person, reputation or property of an individual of concern to the latter, regardless of whether such threat is written or verbal or made through acts that inspire fear of an intention to attack the said person, reputation or property, with a view to inducing the victim to perform or refrain from performing an action, shall be liable to a penalty of up to two years' imprisonment and/or a fine of up to 150 dinars. If the threat is of a homicidal nature, the penalty shall be a term of up to three years imprisonment and/or a fine of up to 225 dinars." It is noteworthy that acts of homicide and battery, in any circumstances whatsoever, are criminalized under articles 149–164 of the Criminal Code.

73. In fact, the Kuwaiti courts have heard various cases involving the above-mentioned offences. In one of the most notable cases, a number of police officers and other ranks were accused of subjecting the victim to torture, harsh treatment and unlawful detention in order to induce him to confess to an offence, as a result of which he died. The proceedings against them ended when the Court of Cassation issued a final ruling No. 758/2012/Criminal/2 of 17 June 2013 rejecting the two objections that had been lodged against the conviction of the defendants. In its ruling, the Court stated as follows: "Whereas

this Court finds that the acts committed by the first and second defendants are among the most serious offences in violation of the victim's civil rights as well as his human rights to life, liberty and security of person insofar as the said acts, being characterized by inhuman and degrading treatment incompatible with all the human, civilized and religious values with which an upright person should be endowed, descended to the most despicable levels of abomination, cruelty and repugnance ...".

74. It should be noted that the Standing Committee on the Review and Updating of Legislation in the Ministry of Justice drafted an amendment to article 53 of the Criminal Code to make it more consistent with the definition of torture as contained in the text of article 1 of the Convention against Torture.

75. The said amendment proposed that article 53 of Act No. 31 of 1970 amending certain provisions of Act No. 16 of 1960 should be replaced by the following text:

"Any public official, employee or person responsible for performing a public service, or any other individual acting in his official capacity, who personally inflicts, or instigates others to inflict, physical, psychological or mental harm or pain on a person or on any members of the latter's family for the purpose of torturing or intimidating him into confessing to the commission of an offence or making a statement or providing information thereon shall be liable to a penalty of up to five years' imprisonment and/or a fine of up to 5,000 dinars.

"Any responsible official who, being present at the time of the commission of the act, consented thereto or acquiesced therein while having the authority to prevent it shall be liable to the same penalty.

"If the act referred to in the two preceding paragraphs is based on discrimination of any kind or for any reason between persons, the penalty shall be a term of up to seven years' imprisonment and/or a fine of 3,000–10,000 dinars.

"If the torture leads to, or is associated with, an unlawful act that carries a heavier penalty, the person accused thereof shall be liable to the heavier penalty. If the torture proves fatal, the person accused thereof shall be liable to the penalty prescribed for intentional homicide and shall be sentenced to the penalty for the latter act."

### **Paragraph 17 of the concluding observations, concerning trafficking in persons**

76. The Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013, which was promulgated and entered into force on 17 April 2013, is consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in 2000 and supplementing the United Nations Convention against Transnational Organized Crime which the State of Kuwait ratified under the terms of a decree promulgated in 2006. The said Act addressed the various forms of this offence, including exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, and the removal of organs, and also made provision for a mechanism to protect the victims of this offence. Article 12 of the Act stipulated that victims must be referred to medical authorities or social welfare institutions, so that they could receive the requisite treatment and care, or must be placed in one of the temporary shelters established by the State for this purpose until such time as they could be repatriated to the country of their nationality or returned to the country in which they were living at the time of the commission of the offence. Those provisions were invoked in order to establish a shelter to victims, who are primarily migrant, and especially

domestic, workers. Council of Ministers Decision No. 652 approved the establishment of a temporary shelter for migrant workers which would be under the supervision of the Domestic Workers Department of the Ministry of the Interior and would include an office of the Ministry of Social Affairs and Labour to conduct social research on the various cases, as well as an office of the Ministry of Health to carry out medical examinations of victims before a decision was taken on whether they should be admitted to the shelter.

77. This shelter, which is staffed by a number of sociologists, psychiatrists, jurists and health-care providers, comprises bedrooms, sanitary, recreation and medical facilities, a cafeteria where meals are served and, most importantly, the requisite security protection.

78. A permanent shelter capable of accommodating up to 700 migrant workers was subsequently established under the supervision of the Ministry of Social Affairs and Labour. The following table contains a breakdown by nationality of the shelter's inmates:

**Admissions to the migrant workers' shelter during the period from 1 January to 31 December 2013**

<i>Date</i>	<i>Indian</i>	<i>Filipino</i>	<i>Ethiopian</i>	<i>Nepalese</i>	<i>Sri Lankan</i>	<i>Chinese</i>	<i>Indonesian</i>	<i>Malagasy/ Ugandan</i>	<i>Total</i>
1/1/2013– 31/3/2013	25	265	5	22	153	-	-	-	<b>470</b>
1/4/2013– 30/6/2013	32	267	7	30	160	-	-	-	<b>496</b>
1/7/2013– 31/9/2013	28	256	13	124	73	-	-	12	<b>506</b>
1/10/2013– 31/12/2013	-	315	2	-	157	-	-	24	<b>498</b>
<b>Grand total</b>	<b>85</b>	<b>1 103</b>	<b>27</b>	<b>176</b>	<b>543</b>	<b>-</b>	<b>-</b>	<b>36</b>	<b>1 970</b>

79. The concerted endeavours that are currently being made to compile a database on criminal cases involving the various constituent elements of this offence in a manner consistent with the provisions of the new Act need to be further intensified in view of the increasing prevalence of this type of transnational crime.

**Paragraph 18 of the concluding observations, concerning the situation of expatriate domestic workers**

**The sponsorship system**

80. The State of Kuwait wishes to emphasize that, within the context of the regulation of labour recruitment, the so-called "sponsorship system" has no basis in the country's legislation in which there is no mention of or reference to that term.

81. It should also be noted that the legal relationship between an employer and an employee, regardless of the type of work for which the latter was engaged, is governed by the employment contract as in all highly developed legal systems throughout the world and the employee enjoys full legal capacity and freedom to choose his or her preferred type of work and to conclude an employment contract in respect thereof without the need for a sponsor.

82. An employment contract does not restrict the employee's freedom of movement. This is a constitutionally recognized principle and, accordingly, it is prohibited by law to

sequester an employee's passport which is regarded as an inherently personal document of which the holder must not be deprived.

83. With regard to an employee's freedom to transfer from one employer to another, in addition to the State's previous endeavours to protect employees from an employer's abusive and arbitrary refusal to permit them to transfer to another employer, Act No. 109 of 2013 authorized the Public Authority for Manpower not only to supervise manpower in the private and petroleum sectors but also to act as the sole agency competent to recruit employees and approve their transfer from one employer to another.

**With regard to legislation guaranteeing respect for the rights of expatriate domestic labour**

84. The legislation regulating the legal relationship between employers and domestic workers consists in the provisions of Legislative Decree No. 40 of 1992, bearing in mind the fact that the Private Sector Employment Act No. 6/2010 also regulates the relationship between the two contracting parties insofar as article 5 thereof stipulated that the competent minister would issue an ordinance regulating the labour relationship between employers and domestic workers.

85. Legislative Decree No. 40 of 1992, concerning agencies engaged in the recruitment of personal servants and the like, was designed to prevent the latter's exploitation and safeguard their rights by regulating the status of workers such as private domestic servants, chauffeurs and gardeners who are covered by the Labour Law, and Ministerial Decision No. 617/1992 was issued pursuant to that decree.

86. In accordance with the provisions of the said Legislative Decree No. 40/1992, a new tripartite (employer-agency-domestic worker) recruitment and employment contract was drafted and circulated to all domestic labour recruitment agencies. The principal feature of the new employment contract, which became mandatory with effect from 1 October 2006, lay in the fact that workers became entitled thereunder to the following rights and benefits:

- A weekly day of rest, and one month's leave with pay for every year spent in the employer's service;
- In the event of the domestic worker's death, the employer is obliged to pay an indemnity of two months' salary to the worker's heirs;
- The employer is obliged to provide the worker, free of charge, with accommodation, food and medical care;
- The employer cannot require the worker to perform work prejudicial to his or her dignity;
- A minimum wage has been set;
- Compensation is payable in respect of occupational injuries;
- Working hours have been set at a maximum of 8 hours per day;
- The worker has a right to retain his or her passport;
- A travel ticket must be provided for the worker to return to his or her country;
- In the event of the worker's death, his or her body must be transported at the employer's expense;
- The worker is entitled to be compensated in cash for any overtime hours that the employer might require him or her to work.

87. The Ministry of the Interior, through its Directorate General for Residence Affairs, has placed employers and domestic labour recruitment agencies under an obligation to send a copy of the employment contract to the domestic worker and has requested the Ministry of Foreign Affairs to instruct the Kuwaiti missions in domestic labour-exporting countries that, when domestic workers present themselves at the mission to obtain entry visas, they should be enabled to acquaint themselves with the terms of their employment contracts before signing them. The Ministry's purpose in laying down this procedure was to ensure that domestic workers were fully aware of all their rights and obligations as well as their working conditions.

88. With a view to providing further protection for domestic labour working in Kuwait, Ministerial Decision No. 1182/2010 made numerous amendments to the preceding Ministerial Decision No. 617/1992 regulating the relationship between all the parties (recruitment agencies — domestic workers — employers) by introducing various procedures to ensure that domestic workers were fully protected against exploitation and trafficking in persons. Article 1 of the new Decision No. 1182/2010 laid down the following conditions for the issuance of licences to agencies wishing to engage in the recruitment of domestic workers and the like:

- "1. The licence applicant must not be a civil servant in any of the State's public institutions or authorities or an employee of any company in the capital of which the State or any of its corporate entities has a holding of more than 50 per cent;
- "2. The licence applicant is required to furnish a bank guarantee in the amount of 20,000 Kuwaiti dinars in favour of the Ministry of the Interior which must remain valid throughout the duration of the licence and for one year thereafter;
- "3. The licence shall be personal and not transferable or assignable to a third party wishing to run the business and shall expire on the death of the licensee."

**With regard to the investigation and prosecution of cases of ill-treatment of domestic workers**

89. The State is diligently taking the measures needed to safeguard all the rights of domestic workers and protect this category from exploitation and, to this end, has introduced the following procedures the ultimate aim of which is to prevent any form of discrimination against such workers:

- The Ministry of the Interior has established a Domestic Workers Department mandated to conduct periodic inspections of recruitment agencies in order to ensure that they are not infringing any of the provisions of Act No. 40/1992 and its implementing regulations concerning recruitment agencies for private servants and the like, or the provisions of Ministerial Decision No. 1182 of 2010. The numerous infractions that the Department has recorded have been referred to the Directorate General of Investigation for the necessary follow-up action, as a result of which the licences of 866 out of the total number of 1,236 licensed agencies have been withdrawn on grounds of their infringement of the Ministerial Decision and only 370 are still in business;
- The Department receives complaints, such as non-payment of salaries and ill-treatment, made by domestic workers against their employers and, after verifying the validity of these complaints, takes the necessary measures to guarantee the worker's entitlements and rehabilitation. A section has been established to receive complaints from embassies and settle such complaints in an amicable manner, failing which the worker is invited to bring a civil action, with the embassy's assistance, before the Kuwaiti courts;



- The permanent shelter, to which reference has already been made in this report, accommodates migrant workers and, in particular, those involved in disputes with their employers (see the table in the section on trafficking in persons);
- Having received numerous complaints, the State diligently verifies the credibility of claims made against workers in connection with absenteeism, and also endeavours to ensure that workers receive their full financial entitlements before returning to their home countries, in accordance with Decision No. 105 of 2004 concerning claims of absenteeism made by employers and the penalties to which deceitful employers are liable;
- In 2012, the Domestic Workers Department received 2,404 complaints of which 1,624 were settled;
- Numerous international organizations concerned with workers' rights have commended the legislative enactments, ministerial decisions and standard employment contracts being applied to migrant labour in the State of Kuwait in view of the protection that they provide for that category.

### **Paragraph 19 of the concluding observations, concerning detention**

90. On the basis of articles 30 and 31 of the Kuwaiti Constitution under which personal liberty is guaranteed and no one may be arrested, imprisoned, searched, compelled to reside at a specified location or restricted in his freedom to choose his place of residence or in his freedom of movement except as provided by law, Act No. 3 of 2012 amended some provisions of Act No. 17 of 1960, promulgating the Code of Criminal Procedure, in a manner consistent with article 9 of the International Covenant on Civil and Political Rights, as can be seen from the following provisions:

- An arrested person shall under no circumstances be kept in detention for a period exceeding 48 hours without a written order from the investigator for his remand in custody (art. 60, para. 2);
- If it is deemed necessary, in the interests of the investigation, to remand an accused person in custody in order to prevent him from absconding or from influencing the course of the investigation, the investigator may remand him in custody for a period not exceeding 10 days from the date of his arrest (art. 69, para.1);
- The person remanded in custody may lodge a complaint against his remand order before the president of the court competent to approve the renewal of such orders. The president of the court shall rule on his complaint within 48 hours from the date of its submission and any decision rejecting his complaint must be substantiated (art. 69, para. 2);
- The accused person must be brought before the president of the court prior to the expiration of his remand order so that its renewal can be considered. The president of the court may order the renewal of a remand order for a period not exceeding 10 days whenever he is so requested, subject to the condition that the total duration of remand in custody must under no circumstances exceed 40 days from the date of the accused person's arrest and a remand order must not be issued before the accused person's statements have been heard (art. 69, para. 3);
- Both the accused person and the victim have the right to attend all the preliminary investigation proceedings and to be accompanied by their lawyers at all stages thereof. If the accused person is under arrest or held in custody, the investigator must permit his lawyer to be present during the investigation (art. 75, para. 1);

- During the above-mentioned period of detention, the police officers must permit the accused person to contact his lawyer or bring his situation to the attention of anyone whom he wishes to notify thereof (art. 60 bis);
- Every accused person detained by the police or remanded in custody must be informed in writing of the reasons for his detention or custody and must be permitted to seek the assistance of a lawyer and to have a private interview with his lawyer at any time (art. 74 bis);
- In the case of foreign prisoners sentenced to criminal penalties, the State of Kuwait allows their transfer to their country of nationality, if they so request, on humanitarian grounds such as the inability of their family or relatives to visit them in Kuwait, provided that such grounds are substantiated and that their country of nationality has concluded a reciprocal prisoner transfer agreement with the State of Kuwait.

### **Paragraph 20 of the concluding observations, concerning persons awaiting deportation**

91. The deportation (expulsion) process, which is governed by legally prescribed rules and procedures, may be of a judicial nature, i.e. based on a court judgement handed down in a criminal case, or may result from an administrative decision based on the public interest. The competent authority's right to issue a deportation order is not totally unrestricted since the Residence of Aliens Act No.17/1959 limits it to the following circumstances:

- When a convicted foreigner's deportation is ordered under the terms of the court judgement;
- When a foreigner lacks any evident means of subsistence;
- When the Chief of Police and Public Security decides that a foreigner's deportation is required in the public interest or in the interests of public security or public morality.

92. Moreover, article 22 of the Residence of Aliens Act stipulates that: "If a foreigner against whom a deportation or expulsion order has been issued has interests in Kuwait that require liquidation, he shall be granted a period of grace in which to liquidate them after providing surety and the Minister of the Interior may extend the period of grace up to a maximum of three months". This provision implies that the Minister has discretionary power to exempt certain persons from immediate deportation.

93. Ministerial Order No. 3941 of 2011 made provision for the formation of a committee to conduct a thorough study of the Deportation Department's files on detainees of all nationalities awaiting deportation. The committee has begun its work and has already looked into the cases of numerous persons.

### **The procedures applied in regard to foreigners against whom deportation orders are issued**

94. The procedures applied include:

- Computerized examination and verification of all cases;
- An offender who is in possession of all his personal documentation is deported within 24 hours;

- An offender whose services are being terminated by his employer is granted a 3-month period of grace to receive all his entitlements. An offender who is in detention requires a shorter period not exceeding one month to prepare for his deportation;
- An offender not holding personal documentation needs to be fingerprinted, after which his country's embassy is requested to issue a passport. In some cases in which security restrictions (travel bans) have been imposed by a State authority, the offender needs to be detained for a longer period in order to be released from the security restrictions or referred to the Directorate General of Investigation so that his breach of the residence regulations can be put on record;
- The State always endeavours to take the humanitarian aspect into consideration when dealing with offenders in breach of the residence regulations, who are often exempted from the prescribed fines, regardless of their amount, and permitted to leave the country without the need to obtain approval from any other body. This is illustrated by Ministerial Decisions Nos. 1027/2002, 1083/2004, 484/2007, 2166/2008 and 1054/2011 regulating the expulsion of foreigners not holding residence permits, or whose permits have expired, and the question of their exemption from payment of the residence fees;
- The promulgation of Decision No. 1054/2011 regulating the expulsion of foreigners not holding residence permits, or whose permits have expired, implied that many people were in breach of the Residence of Aliens Act.

The State's corpus of legislation as a whole contains many provisions that fulfil its obligations as a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **Paragraph 21 of the concluding observations, concerning alleged practices of torture and inhuman or degrading treatment of prisoners in police custody and in detention centres**

95. The Department of Public Prosecution, in its capacity as an impartial judicial body fully independent of the Ministry of the Interior and responsible for the supervision of correctional institutions under the provisions of the Organization of the Judiciary Act, receives complaints concerning allegations of torture and other violations which it investigates in accordance with the Constitution in order to obtain redress for anyone subjected to an act of torture.

96. There are specific rules and instructions concerning the procedure that police officers must observe when taking statements and the manner in which suspects must be treated. These rules and instructions emphasize that any suspect who might be interviewed and questioned must be well treated in conformity with the safeguards provided for in the Code of Criminal Procedure (Act No. 17 of 1960) and no unlawful means of coercion may be employed to obtain evidence and information.

97. Specific rules have also been laid down concerning the way in which police officers should conduct themselves and treat persons held in places of detention and police custody. These rules clearly stipulate that such persons must be treated in a manner conducive to their enjoyment of all their rights and no violent or other means of coercion may be employed that could be considered degrading or incompatible with human dignity. The rules further stipulate that officers and other ranks must be supervised in order to ensure that they act in accordance with their legal responsibilities and do not abuse their authority and, to this end, places of detention and police custody should be inspected to verify

compliance with the detention procedures and make sure that the detainees are being well treated and not subjected to any violations. Legal action is taken against any person who violates the rights of detainees or commits any act constituting torture or abuse of authority.

98. Article 5, paragraph 8, of the Prisons Regulatory Act No. 26 of 1962 stipulates that every prison must maintain a register to record any complaints or requests made by inmates so that statutory measures can be taken in this regard. There are also numerous mechanisms for the receipt of complaints from persons subjected to any act constituting abuse of authority. Anyone subjected to such an act has the right to submit a complaint against any person belonging to any organ of the Ministry of the Interior or other official agency. The Ministry has specific mechanisms to deal with such complaints, the receipt of which is facilitated through its website, in addition to a specialized section that monitors all the information media in order to pick up any relevant complaints and take all the statutory measures in this regard.

99. The Directorate General of Criminal Investigation organizes training courses on fundamental human rights and freedoms in order to ensure that its personnel respect them and are aware of the consequences entailed by any infringement or violation thereof.

100. The Kuwaiti courts have heard various cases involving the above-mentioned offences, including the case previously referred to in this report. Moreover, in Appeal No. 4181/2012/Civil/5 of 30 January 2014, the Court of Appeal ordered the Ministry of the Interior to pay an amount equivalent to US\$ 887,000 to a detainee in respect of what the Court considered to be a gross violation by the Ministry of constitutionally guaranteed individual freedoms in connection with an offence that the detainee had not committed but for which, during a whole year, he suffered from hair-raising persecution, coercion and a feeling of injustice.

## **Paragraph 22 of the concluding observations, concerning the right of conscientious objection to military service**

101. Defence of the homeland is a legitimate right that the State exercises in accordance with its domestic laws and policies. Military service is a civic duty regulated by the Military Conscription Act No. 102 of 1980 in conformity with article 47 of the Kuwaiti Constitution which stipulates that: "Defence of the country is a sacred duty and the performance of military service is an honour for citizens that shall be regulated by law". Accordingly, conscientious objection is not recognized since conscription is in the interests of a country situated at the heart of a region characterized by instability and political crises in the light of which its people need to be trained to face dangers, defend their homeland and resist any aggression. However, Kuwait is an advocate of peace in keeping with article 157 of its Constitution which affirms that: "The State seeks peace and the security of the homeland, which forms part of the security of the greater Arab Nation, is a trust in the hands of every citizen". War must be of an exclusively defensive nature, as stated in article 68 of the Constitution: "The Amir shall declare defensive war by decree. Wars of aggression are prohibited." The State of Kuwait is endeavouring, through the Military Conscription Act, to train its citizens to withstand any attack but not to engage in acts of aggression against any territory. The State has an obligation to make plans and preparations to deter expected or potential threats, and to confront any challenges with which it might be faced, through conscription of its youthful human resources.

102. It should be noted that the enforcement of the Military Conscription Act has been suspended while it is being reviewed so that the negative aspects to which its practical application has given rise can be remedied. It is likewise noteworthy that the Act shows due regard for its social impact on the community insofar as a household's breadwinner or a

family's only male child are exempted from its provisions and the citizen's state of health is taken into consideration. It should also be pointed out that the Kuwaiti Army sometimes assigns citizens to civilian functions in their own fields of specialization, such as care of the sick and injured, and not solely to combat duties.

### **Paragraph 23 of the concluding observations, concerning discrimination on grounds of religion**

#### **With regard to the ineligibility of non-Muslims for naturalization**

103. Article 4 of Legislative Decree No. 15/1959 concerning Kuwaiti nationality stipulates that:

“Kuwaiti nationality may be granted, by a decree based on a proposal from the Minister of the Interior, to any adult person meeting the following conditions:

1. The person must have been legally resident in Kuwait for at least 20 consecutive years, or at least 15 consecutive years if he is an Arab national of an Arab country;
2. The person must have a legitimate means of livelihood;
3. The person must know the Arabic language;
4. The person must be self-supporting or a provider of services required by the country;
5. The person must be a Muslim by birth or a convert who has openly embraced the Islamic religion.”

104. Article 5 of the same Decree further stipulates as follows:

“By way of exception to the provisions of the preceding article, Kuwaiti nationality may be granted by a decree based on a proposal from the Minister of the Interior in the following cases:

- (i) A person who has rendered outstanding services to the country;
- (ii) A person born to a Kuwaiti mother and who has retained his residence in the country until reaching the age of majority if his foreign father was a prisoner of war or divorced his mother through the irrevocable divorce procedure or left her a widow;
- (iii) A person who was resident in Kuwait in 1965 and has retained his residence therein until the issuance of the decree granting him Kuwaiti nationality.

105. It can be seen from those provisions that the condition of being a Muslim appears only in article 4. It is noteworthy that a non-Muslim father can transmit his nationality to his children by birthright (art. 2 of the Decree) and the child of a Kuwaiti woman can be naturalized if the child was born in Kuwait to an unknown father and the latter's paternity was not legally established, regardless of his religion (art. 3 of the Decree).

106. Article 5 makes provision for exceptions to the provisions of article 4, including the condition of being a Muslim. For example, any person who has rendered outstanding services to the country may be granted Kuwaiti nationality, regardless of the said person's religion, on the basis of a proposal from the Minister of the Interior.

107. Under the terms of article 8, a foreign woman of any nationality or religion who is married to a Kuwaiti may be granted Kuwaiti nationality at her request provided that their marriage has lasted for 15 years.

**With regard to the restrictions imposed on the construction of, and access to, places of worship, especially for Hindus, Sikhs and Buddhists**

108. Freedom of belief and religion, which are guaranteed by international instruments and carefully monitored by international human rights bodies, have long been firmly established principles of the Islamic religion and are reaffirmed by the provisions of the Constitution of the State of Kuwait, article 35 of which stipulates that: "Freedom of belief is absolute. The State shall protect freedom of religious observance in accordance with established customs, provided that it does not conflict with public order or morals."

109. This freedom is shielded from violation or infringement by articles 109–113 of the Criminal Code which prescribe a series of penalties applicable to anyone who vandalizes or desecrates a place of religious worship, commits therein an act prejudicial to the respect due to the religion concerned or disturbs the peace at a lawful gathering held for the purpose of religious observance.

110. The State of Kuwait is proud to consider itself a pioneer in the promotion of a culture of religious tolerance and moderation as a mode of conduct from which it does not deviate since it is based on the teachings of a sound religion, supportive constitutional and legal provisions and a society with an innate propensity to coexist peacefully with all religious faiths and confessions.

111. The State spares no effort to establish institutions conducive to this end and promulgates the legislation required to protect and ensure respect for these ideals. In this connection, it established the World Wasatiyya (Moderation) Centre in 2006 under the terms of Ministerial Decision No.14/2006 to propagate religious moderation, combat extremism and all forms of terrorism and promote the values of tolerance and peaceful coexistence among all religious faiths and confessions.

112. The Centre has endeavoured to achieve these aims at the local and international levels by, inter alia, organizing conferences and dialogues, issuing publications calling for propagation of the concepts of tolerance and moderation among ethnic, religious and confessional communities, combating all forms of religious and confessional extremism and bigotry and encouraging the building of bridges of cooperation and communication between civilizations with a view to the promotion of a culture of moderation, in addition to the endeavours being made by international institutions and civil society organizations to the same end.

113. In this connection, it is noteworthy that the Protection of National Unity Act No. 19 of 2012 prohibited: advocacy or incitement, by any means of expression, of hatred or contempt for any social group; provocation of sectarian or tribal factionalism; promotion of ideology based on the superiority of any race, group, colour, national or ethnic origin, religious confession or lineage; encouragement of any act of violence to that end; and dissemination, propagation, printing, broadcasting, retransmission, production or circulation of any concepts or printed or audiovisual material, or spreading or retransmission of false rumours, likely to lead to any of the above.

114. Since the Kuwaiti Constitution guarantees freedom of belief, the State has a legal obligation to protect freedom of religious observance in accordance with established customs provided that it is not detrimental to public order or morals.

115. Such observances are practised in premises that religious congregations are permitted to construct and which are subject to regulation and approval by the official authorities.

116. With regard to Hindus, Sikhs and Buddhists in particular, they are permitted to practise their religious rites and observances in full freedom and without any restriction in their own homes and places of worship since the nature of the rites that they practise in

public usually involves conduct incompatible with the public morals observed in the State and to which reference is made in the Constitution. This policy is consistent with the provisions of the International Covenant on Civil and Political Rights, article 18, paragraph 3, of which stipulates that: “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others”.

### **Paragraph 24 of the concluding observations, concerning blasphemy laws**

117. As already indicated, the Kuwaiti Constitution guarantees freedom of belief and the explanatory notes annexed thereto confirm that such freedom applies to all divinely-revealed and other religions and, as a general principle, also includes freedom of the press and of printing and publication, freedom of thought and freedom to express opinions. As an exception to this principle, it is prohibited to publish anything that might be prejudicial to public morals or personal dignity or freedoms.

118. The State’s domestic legislation, including the Press and Publication Act, the Criminal Code and the Audiovisual Information Act No. 61 of 2007, contains similar provisions criminalizing certain forms of defamation and disparagement of other religions in order to protect public order and morals but excluding criminal liability in the case of the dissemination, in a calm and composed manner, of a theological or confessional research paper or a scholarly lecture, article or book devoid of inflammatory phraseology, provided that the scholar is of proven good faith and engages in purely academic criticism.

119. Those provisions prescribe penalties for the defamation of a religious confession, without specifying the name of any particular religion or confession, thereby according protection to all religions and confessions without exception. Since Islam is the State religion, any attack thereon constitutes an act prejudicial to public order in Kuwait and the offender deserves to be held liable to the prescribed penalty. Through these provisions, the State can also take action against anyone attempting to undermine the spiritual aspect of human life.

120. Reference must also be made to the particular circumstances and nature of Kuwaiti society stemming from its Arab Islamic origins as a result of which special respect and esteem is shown for the symbols and teachings of the Islamic religion. As a token of equality, the same respect and esteem is shown for the adherents of other religions and, consequently, the above-mentioned legislation of the State of Kuwait prevents any acts of violence or bloodshed that might arise from mutual disparagement of religions and their symbols.

121. A review of the recorded cases of infringement of the blasphemy laws during the period from 2010 to 31 March 2014 shows that:

- No cases were recorded in 2010;
- Two cases were recorded in 2011;
- The defendants were acquitted in two of the three cases recorded in 2012;
- Two cases were recorded in 2013;
- No cases were recorded during the period from 1 January to 31 March 2014.

### **Paragraph 25 of the concluding observations, concerning freedom of opinion and expression**

122. Freedom of opinion and expression, consisting in the human right to express ideas and views verbally, in writing or in the form of art without governmental censorship or restrictions is absolute. This freedom is recognized on condition that it does not go beyond what is legal or customary in the State. The Kuwaiti Constitution guarantees all aspects and means of expression of opinion without any restrictions or precensorship while stipulating that this inherent right shall be regulated by law in order to ensure:

- Respect for the rights and reputations of others;
- Protection of national security;
- Protection of public morals and decency.

123. Disregard for standards of public morality is harmful to others who might be offended by ethically unacceptable conduct. Consequently, the commission of indecent acts in public is punishable by law since they constitute acts harmful to others and, as such, can be designated as criminal offences.

124. On the other hand, article 36 of the Constitution, concerning freedom of opinion and permissible means of scientific research, stipulates that: "Freedom of opinion and scientific research is guaranteed. Everyone has the right to express and propagate his opinion verbally, in writing or otherwise in accordance with the conditions and procedures prescribed by law".

125. Although the right to freedom of opinion and scientific research is guaranteed by the Constitution, article 37 thereof makes this freedom conditional on observance of the limits imposed by law since freedom of the press, printing and publication is guaranteed within the framework of controls and limitations with which the press must comply.

126. Article 44 of the Constitution recognizes the right of individuals to exchange information at private meetings by stipulating that: "Individuals shall have the right of assembly without any need for prior notification or authorization and no member of the security forces may attend their private meetings. Public meetings, processions and gatherings shall be permitted in accordance with the conditions and procedures prescribed by law, provided that their purposes and the ways in which they are conducted are peaceful and not contrary to morality."

127. It is therefore evident that individuals have a private right to hold private meetings and that there is also a public right to hold public meetings, which are permitted on condition of compliance with the law. Law enforcement officers are prohibited from attending private meetings and this prohibition is unrestricted, although it does not apply to public meetings which they are permitted to attend subject to compliance with the ordinary statutory law. Public meetings are subject to a further restriction insofar as their purposes and the ways in which they are conducted must be peaceful and not contrary to morality. Hence, the Kuwaiti Constitution, like other constitutions, stipulates that all the recognized rights in respect of freedom of opinion and expression must be exercised "in accordance with the conditions and procedures prescribed by law".

128. The Kuwaiti legislature has granted the press and media a degree of protection that is unprecedented in most Gulf and Arab legislation since the penalty of imprisonment for journalists and media professionals was revoked in the Press and Publication Act No. 3 of 2006 under which the press is regulated. Moreover, the licences of newspapers and magazines can be withdrawn only under the terms of a court order, or if any of the conditions on which they were issued are no longer met, and the public authority has no



right to otherwise suspend or shut down their activities. The same applies to the audiovisual information media since the penalty of imprisonment for media professionals was likewise revoked in the Audiovisual Media Act No. 61 of 2007 and the licences granted to their stations can be withdrawn only under the terms of a court order or if any of the conditions on which they were issued are no longer met.

129. However, any journalist or media professional who is accused of committing an act, such as an act prejudicial to the religious beliefs or freedoms of others, which falls outside the scope of the legislation regulating the press or the audiovisual media and is punishable under the Criminal Code (Act No. 16 of 1960), as subsequently amended, is liable to the penalties prescribed thereunder since his act has nothing to do with freedom of expression or the journalistic profession.

130. It is noteworthy that, on numerous occasions, H.H. the Amir has exercised his right to grant a pardon to persons convicted in cases involving invective against his person. This certainly confirms the importance that His Highness, the State's supreme authority, attaches to freedoms. Every year, His Highness also exercises his right to amnesty all Kuwaiti and non-Kuwaiti prisoners, out of regard for the circumstances of persons sentenced to penalties of deprivation of liberty, in a regulated manner consistent with the Constitution and the rules governing Amiri amnesties, which must not detract from the authoritative nature of court judgements or the respect due thereto.

**Statistics on the number of cases involving accusations of invective against the person of the Amir which the Department of Public Prosecution decided to close or which resulted in acquittals**

<i>Description</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014 to date</i>
Cases recorded	3	21	45	23	5
Cases closed	1	6	16	11	-
Acquittals	2	1	4	28	3

**Statistics on the number of cases involving accusations of printing and publication (press) offences which the Department of Public Prosecutions decided to close or which resulted in acquittals**

<i>Description</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014 to date</i>
Cases recorded	709	419	355	509	225
Cases closed	8	27	31	44	21
Acquittals	560	568	398	245	112

**Audiovisual offences**

<i>Description</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014 to date</i>
Cases recorded	119	117	70	72	51
Cases closed	5	16	10	15	7
Acquittals	81	131	133	86	19

### **Paragraph 26 of the concluding observations, concerning the independence of the judiciary**

131. The judiciary in the State of Kuwait has always been respected and esteemed as one of the State's three powers. Article 162 of the Kuwaiti Constitution stipulates that: "The honour of the judiciary and the impartiality of judges are the basis of governance and a guarantee of rights and freedoms". Article 163 further stipulates that: "In their administration of justice, judges are not subject to any authority. No interference is allowed in the course of justice. The law shall ensure the independence of judges and specify the guarantees and rules pertaining to them and the conditions for their irremovability." Within the context of the principle of the separation of powers in the State of Kuwait, the constitutional provision governing the relationship between the country's Amir and the judicial power is worded differently from the provision governing his relationship with the executive and legislative powers. Under articles 51 and 52 of the Constitution, the legislative and executive powers are vested in the Amir, the Cabinet, the Ministers and the National Assembly (Parliament) whereas, under article 53, the judicial power is vested in the courts which exercise it in the name of the Amir within the limits specified in the Constitution.

132. In accordance with the Constitution, the judiciary has a Supreme Council the functions of which are regulated by the Organization of the Judiciary Act No. 23 of 1990 under which it exercises oversight of judicial affairs in the State in keeping with the principle of independence. The Act empowers the Council to appoint, promote, transfer and assign judges and members of the Department of Public Prosecution, express its opinion on matters relating to them, and make whatever proposals it deems appropriate thereon. It should be noted that the Act does not grant the Council any power to intervene in proceedings before the courts or the Department of Public Prosecution. Although the Council consists of judges of various grades together with the Attorney General and the Deputy Minister of Justice, the latter does not participate in votes on the Council's decisions. The Council is empowered to invite the Minister of Justice to its meetings, which the latter is also entitled to attend in order to raise important matters, but likewise without participating in votes on the Council's decisions. The role played by the Minister or Deputy Minister of Justice vis-à-vis the Kuwaiti judiciary consists basically in facilitating the work of the judiciary and providing an effective channel of communication, without direct contact, between the judiciary and the other State authorities in conformity with the principle of the independence and impartiality of the judiciary. The "dependency" referred to in the Committee's observation is solely of an administrative or organizational nature since there is no technical dependency. Accordingly, the Kuwaiti judiciary enjoys full independence and technical jurisdiction without interference from any national authority, including the Ministry of Justice.

133. The judiciary's work is subject to a periodic inspection procedure in order to ensure that cases are dispatched and justice administered in a proper manner. This procedure is carried out by the Judicial Inspection Department, consisting of qualified and experienced judges, and sanctions may be imposed on any judge whose performance fails to meet the legally required standards.

134. With regard to the appointment of foreign judges, Kuwait has concluded bilateral judicial cooperation agreements with other States in accordance with which judges are seconded and employed under contract. The duration of their secondment depends on the bilateral agreements and the judges return to their home countries where their ongoing services are needed when the authorities in the other State believe that they have completed their mission.

### **Paragraph 27 of the concluding observations, concerning persons convicted by military tribunals**

135. No military tribunals have ever been constituted in the State of Kuwait and, therefore, no persons are being detained in the manner described in the recommendation.

### **Paragraph 28 of the concluding observations, concerning the right of individuals to freedom of peaceful assembly**

136. In conformity with article 21 of the Covenant, the Kuwaiti Constitution recognizes the right of individuals to participate in private and public meetings, processions and gatherings in accordance with the legally prescribed conditions and procedures on condition that their purposes are peaceful and not contrary to morality.

137. Legislative Decree No. 65/1979 concerning public meetings and gatherings makes the holding of gatherings, processions and demonstrations conditional on compliance with certain rules, including:

1. In order to hold, announce or call for a public meeting, a permit must be obtained from the competent authority at least five days before the date set for the said meeting;
2. If an application for such a permit is refused, the applicant is entitled to lodge a complaint with the Minister of the Interior;
3. No one is permitted to participate in a public meeting while carrying a weapon (this includes all types of firearms and knives) even if he has a permit to carry it;
4. Every public meeting must have an organizing committee responsible for observance of the law, confinement of the meeting to its declared purpose and prevention of any utterance or act prejudicial to religion, public order or public morals. The said committee may, if necessary, seek assistance from the police and has the right to disperse the meeting.

138. This clearly shows that, under the laws in force in the State of Kuwait, all individuals have a fully guaranteed right to hold private and public meetings, processions and demonstrations in accordance with the legally prescribed rules.

139. At its session held on 1 May 2006, the Constitutional Court issued the following ruling in case No. 1/2005:

1. Articles 1 and 4 of Legislative Decree No. 65/1979 concerning public meetings and gatherings are unconstitutional;
2. The provisions of articles 2, 3, 5, 6, 8, 9, 10, 11, 16, 17, 18, 19 and 20 of the said Legislative Decree are unconstitutional in regard to their content relating to public assembly.

### **Paragraph 29 of the concluding observations, concerning political parties**

140. The Kuwaiti Constitution does not prohibit the existence and recognition of political parties. In fact, in the Kuwaiti Parliament there are groupings categorized by their ideological beliefs which could be considered as political parties. A social debate has also

recently begun with a view to the formulation of proposals for the establishment of an official framework to regulate the future activities of these parties.

**Paragraph 30 of the concluding observations, concerning the criminalization of sexual relations between consenting adults of the same sex and “imitating members of the opposite sex”**

141. Sexual relations between persons of the same sex are condemned, prohibited and criminalized in accordance with the provisions of the Islamic sharia which, as already indicated, constitutes the principal source of legislation in the State of Kuwait. Such acts, as well as imitation of members of the opposite sex, are blatantly contrary to human nature in view of their negative effects on individuals, society and the pedagogic and social norms on which public order and public morals in the State are based.

142. Persons who engage in such acts or transgender practices are detained only when the offence is committed in a public place and constitutes unlawful anti-social behaviour. Offenders are prosecuted in accordance with the applicable legal procedures.

**Paragraph 31 of the concluding observations, concerning ethnic, religious and linguistic minorities**

143. The rights and obligations of foreign nationals are set forth in the Constitution and the legislation regulating their activities, their residence and the social security protection that they enjoy. The law criminalizes acts of aggression against any person, including foreign nationals residing in Kuwait, and criminal proceedings are brought in the event of any such aggression against them. They are also safeguarded under the Protection of National Unity Act to which reference has already been made and they have the right to seek legal redress.

144. Moreover, foreign nationals enjoy a broad range of freedoms in respect of their beliefs, opinions or cultures in accordance with the laws in force in the State. In addition to the freedom of belief recognized in article 35 of the Constitution, they are free to express their opinions, celebrate their own national cultural events and use their own language without any restrictions. Their languages are also taught in their 517 private schools in which 172,557 male and female students receive instruction consistent with the education systems of their home countries.

**Paragraph 32 of the concluding observations, concerning dissemination of the Covenant, the reports and the relevant responses and concluding observations**

145. We wish to emphasize that the reports on the International Covenant on Civil and Political Rights, as well as other human rights-related reports, have been published on the website of the Ministry of Foreign Affairs in addition to the coverage provided by the Kuwaiti press before, during and after the consideration of the periodic reports.

### **Paragraph 33 of the concluding observations, concerning implementation of the Committee's recommendations set forth in paragraphs 18, 19 and 25**

#### **The recommendation contained in paragraph 18**

146. It is inaccurate to refer to sponsorship as a system. "Sponsor" is a term used to designate the employer in any employer-employee relationship in the public or private sectors in which such a relationship necessarily involves both parties.

147. We also wish to make it clear that the State is taking all the measures needed to ensure respect for the rights of migrant domestic workers through the implementation of Legislative Decree No. 40/1992, regulating agencies engaged in the recruitment of private servants and the like, and Ministerial Decision No. 617/2010 laying down the rules and procedures for the licensing of such recruitment agencies. These legislative enactments guarantee respect for the rights of migrant domestic workers.

148. With regard to the establishment of a mechanism to monitor the extent to which employers actually comply with the legislation and to investigate and prosecute infringements thereof, the State has established a separate Domestic Workers Department to carry out such monitoring and to receive complaints by domestic workers against their employers. The Department summons the sponsors, questions them on those complaints and attempts to reach an amicable settlement. The State has also broadened the mandate of the Immigration Investigation Department which, after being a small department in the Directorate General of Immigration, has itself been upgraded to a Directorate General.

149. When updating the Private Sector Labour Law under the terms of Act No. 6/2010, the legislature took care to make provision for the establishment of a Public Authority for Manpower to regulate labour issues, and particularly those involving migrant workers, by organizing the recruitment and employment of labour in the private sector and putting an end to its sponsor-related negative aspects.

#### **The recommendation contained in paragraph 19**

150. The observations made in this paragraph concern the need to adopt legislation to ensure that anyone arrested or detained on a criminal charge is brought before a judge within 48 hours, to guarantee that all other aspects of the State's law and practice on pretrial detention are harmonized with the requirements of article 9 of the Covenant and to provide detained persons with immediate access to counsel and contact with their families.

151. Article 42 of the Code of Criminal Procedure promulgated under Act No. 17 of 1960 stipulates that: "The police officer shall enter in his inquiry report any statements or arguments that the accused might make in his defence and, if the statements of the accused include a confession to the commission of an offence, the police officer may make a preliminary record of it in his report and shall send the accused to the investigator for questioning in order to verify the credibility of the confession". Article 98 of the said Code further stipulates that: "If the accused is present, the investigator shall question him about the accusation made against him before initiating the investigation procedures. If the accused confesses at any time to having committed the offence, his confession shall be immediately recorded in the investigation report and discussed in detail. If the accused denies having committed the offence, he shall be questioned extensively after the witnesses against him have been heard. The accused shall sign his statements after they have been read out to him and, in the event of his inability or refusal to sign, a note to this effect shall be included in the record."

152. According to article 9, paragraph 3, of the International Covenant on Civil and Political Rights: “Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody ...” These provisions are the same as those governing such matters in the State of Kuwait where anyone arrested or detained enjoys all the guarantees of a fair trial as well as the right to contact his family and appoint legal counsel.

153. It is noteworthy that the Government has presented a bill of law amending article 60, paragraph 2, of the Code of Criminal Procedure (Act No. 17/1960) by reducing the period during which arrested persons may be detained from four days to a maximum of 24 hours, and also amending article 69, paragraph 1, of the same Code by reducing the period of remand in custody from three weeks one week.

154. Accordingly, it is evident that the Kuwaiti Code of Criminal Procedure guarantees the prompt appearance of accused persons before an independent judicial body on the expiration of their period of detention and relatives, lawyers and physicians have the right to contact detainees immediately. This is a basic safeguard enjoyed by all without exception.

### **Paragraph 34 of the concluding observations, concerning the State’s submission of its core document**

155. The State of Kuwait has submitted its previous reports within the scheduled time limits.

## **II. Progress achieved in the implementation of the articles comprising parts I, II and III of the Covenant**

### **Legislative, judicial and administrative measures taken by the State**

#### **Article 1: Right to self-determination**

156. The State of Kuwait supports the right of peoples to self-determination in accordance with the Charter of the United Nations and has supported their legitimate struggle for independence. The positive positions that it has adopted in international forums are illustrated by its endorsement of all the international resolutions concerning the right of peoples to self-determination.

157. With regard to natural wealth and resources, in accordance with article 21 of the Kuwaiti Constitution these are the property of the State, which ensures their preservation and proper exploitation with due regard for the requirements of State security and the national economy. In the State of Kuwait, public assets are inviolable and inalienable and every citizen has an obligation to protect them.

#### **Article 2: Respect for the rights recognized in the Covenant**

158. The State of Kuwait has ratified the International Covenant on Civil and Political Rights and has attentively monitored the persons responsible for applying its provisions in court judgements based thereon, as already indicated in this report.

### **Article 3: Equal right of men and women to the enjoyment of all civil and political rights**

159. As already noted in this report, the Kuwaiti legislature has guaranteed gender equality through the promulgation of new enactments and decrees to that end.

### **Article 6: Right to life**

160. The State of Kuwait has shown concern for the right of every individual to a healthy and decent life, as can be seen from the following:

1. The Prenuptial Medical Examination Act No. 31 of 2008 made provision for the establishment of prenuptial examination centres at which persons wishing to marry are received and tested for sexually transmissible, hereditary and other diseases that are widespread in the region. The medical examinations have detected numerous cases of infection which have been dealt with in a highly professional manner through the requisite vaccination programmes for some diseases and the treatment of other treatable diseases. As a result, the number of cases of unsafe marriage has been minimized to an amazing extent that the State is proud to consider as one of its achievements. In 2012, the number of persons presenting themselves at the prenuptial medical examination centres for consultation amounted to 26,467 of whom 90.2 per cent were Kuwaitis and 9.8 per cent non-Kuwaitis. Three cases of AIDS were detected but 97.8 per cent of the patients were issued with “safe” certificates, only 1.2 per cent being classified as “unsafe”. Of the latter, 90.3 per cent decided against marriage after the couple received medical counselling.
2. Abortion has been criminalized, thereby safeguarding the life of the unborn foetus unless there is a danger to the life of the mother or the foetus.
3. Intensive health care is provided under the terms of Circular No. 40 of 2010 in the case of multiple pregnancy, which is limited to triplets in order to protect the health of mothers and children from premature births and their numerous complications.
4. Comprehensive and integrated individual health care is provided through: the preventive health-care programme under which everyone is entitled to free vaccinations against contagious diseases and which achieved a coverage rate of 98 per cent in 2014; the primary health-care system with its network of 100 centres covering all the populated areas of Kuwait; and the general and specialized hospitals staffed by skilled staff and specialists and provided with the sophisticated equipment needed to save lives.
5. As already noted in this report, during the period from 2007 to 2013, six death sentences were enforced while, during the same period, the country’s Amir issued 10 decrees under which the sentences of 21 out of a total of 56 persons sentenced to the death penalty were commuted to life imprisonment and one person was pardoned.

### **Article 7: Non-subjection to torture or cruel treatment**

161. This matter has already been addressed in part I of this report, containing the responses to paragraphs 16 and 21 of the concluding observations, to which reference can be made.

162. With regard to the non-subjection of any person to medical or scientific experimentation without his free consent, in addition to the current legislation, a bill of law on patients’ rights has been approved by the parliamentary Legislative and Legal Affairs Committee and is awaiting completion of the legal procedures for its promulgation.

**Article 8: Prohibition of slavery and the slave trade**

163. After the submission of the national report in 2009, the State promulgated a new enactment, the Private Sector Employment Act No. 6 of 2010, which is more consistent with ILO conventions. Under the new enactment, it is prohibited for an employer to recruit workers and subsequently either refuse to employ them or claim that he no longer really needs them (art. 10), since such conduct on the part of the employer compels the worker to engage in types of work that he does not wish to perform merely in order to secure a means of sustenance for himself and his family. In such cases, the employer is now liable to a heavy penalty (art.138).

164. The aforementioned Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013 covers various aspects of this offence including exploitation of the prostitution of others, any form of sexual exploitation, forced labour or services, slavery or practices similar to slavery, and the removal of organs.

165. Pursuant to the latter Act, 51 persons accused of exploiting forced labour have been referred to the Department of Public Prosecution by the Public Authority for Manpower.

166. The Ministry of Social Affairs and Labour issued Decision No. 201 of 2010 prohibiting forced labour.

167. Through the Ministry of Social Affairs and Labour, the State has taken measures to facilitate the transfer of labour from one employer to another without the need for the first employer's approval. These measures include, in particular, the promulgation of Act No. 109 of 2013 establishing the aforementioned Public Authority for Manpower to prevent employers from committing offences constituting forced labour.

**Article 9: Right to liberty and security of person**

168. Act No. 3 of 2012 amended some provisions of the Code of Criminal Procedure (Act No. 17 of 1960) in a manner consistent with article 9 of the International Covenant on Civil and Political Rights, as already noted in a preceding section of this report to which reference can be made. Reference can also be made to the aforementioned court judgement awarding compensation to a person who had been detained unlawfully.

**Article 10: Inmates of correctional institutions**

169. Further to the information provided in the State of Kuwait's previous reports, it should be noted that the Standard Minimum Rules adopted by the United Nations Congress are being applied through the construction, upgrading and maintenance of premises in which sentences of deprivation of liberty are served in order to meet the health and climatic requirements in regard to air, space, lighting, ventilation and temperature in such a way as to provide a decent living environment for the inmates which would have a positive effect in furthering the progress of the reform and rehabilitation programmes being implemented by the Directorate General of Correctional Institutions.

**The best practices of correctional institutions include the following****1. Nurseries**

170. A nursery established in the Correctional Institution for Women is equipped with all the facilities needed by children, including dormitories, beds and other requisites, and supervisors have been appointed in collaboration with the Ministry of Social Affairs. Under the terms of article 34 of the Prison Regulatory Act, the children of female inmates are allowed to remain in the custody of their mothers as long as they are under two years of age.



## **2. The humanitarian and social aspects**

171. The inmate's psychosocial condition is examined by a committee, consisting of an officer from the correctional institution, a psychosociologist and the chaplain, which makes recommendations concerning the care and treatment of sick inmates through communal breakfasts, family visits and the organization of counselling sessions and discussion groups to address their psychological problems.

## **3. Women's workshops**

172. The Directorate General of Correctional Institutions has established two workshops, for accessories and tailoring, in the Women's Correctional Institution which are equipped with all the essential requisites for implementation of the production plan to supply all the clothing needed by the inmates, children, supervisory and other personnel and hospital staff.

## **4. Exhibitions of inmates' products**

173. The products made by male and female prison inmates, being of high quality and excellent workmanship, are presented at exhibitions held during the annual campaigns to promote prisoners' products at the correctional institution complex and have attracted unprecedented public interest.

## **5. Recreational areas**

174. New recreational areas have been established in which inmates can practise sports such as football, basketball and volleyball.

## **6. Springtime camp**

175. Inmates are allowed to attend gatherings during the winter season and also to enjoy the springtime weather during an outing in the extensive green areas within the precinct of the correctional institution where all the requisites are provided for picnics and they are given one or two days in which to engage in these activities.

## **7. Guidance centres**

176. There is a rehabilitation facility, comprising separate guidance centres for men and women, in which scientific systems and principles are applied to provide an environment conducive to the rehabilitation of inmates and their reinstatement as upright citizens. These centres have proved successful in ensuring the social rehabilitation of numerous inmates who have attended religious education programmes designed to further their spiritual and behavioural reform and strengthen their resolve, with support from civil society, not to return to a life of crime. The centres hold morning and afternoon study classes and also organize seasonal activities.

## **Aftercare**

177. Ministerial Decision No. 552/2001 of 15 April 2001 established an aftercare unit to monitor released prisoners through personal interviews and collective excursions in order to observe their conduct and verify that they have not relapsed into crime. A treatment programme for drug addicts is also being implemented in collaboration with various bodies, including the administration of the Central Prison, the Ministry of Awqaf (Endowments) and Islamic Affairs, the Public Authority for Youth and Sports, the Ministry of Justice and the Psychiatric Hospital, and the Directorate General of Correctional Institutions is preparing a rehabilitation and employment programme under which inmates are taught a trade that will be of benefit to them after their release.

**Article 13: Deportation**

178. In this connection, reference can be made to the section of this report concerning the formation of a committee to look into the cases of persons awaiting deportation.

**Article 17: The right to privacy**

179. The protection that the Kuwaiti legal system accords to the various aspects of the individual's right to privacy has been further enhanced by the provisions of the Electronic Transactions Act No. 20 of 2014 defining the following cybercrime offences:

- Deliberate and unlawful entry into, hampering of access to, or damaging of, an electronic data processing system, or acquisition of numbers or data pertaining to credit or other electronic cards with a view to obtaining funds belonging to third parties (art. 37 (a));
- Unlawful access to, or disclosure or dissemination of, any personal data or information entered in electronic data recording or processing systems and relating to the business or social affairs, state of health or financial standing of persons, or other personal data recorded by governmental bodies, public authorities or institutions, companies, non-governmental bodies or personnel working therein, without the consent of the person to whom the said data or information relate or the consent of his legal representative, without a substantiated court order, without declaring the purpose for which the said data or information are being gathered, or without gathering them within the limits of such purpose (arts. 32 and 37 (g));
- Gathering, recording or manipulating the personal data and information referred to in the preceding paragraph by unlawful methods or means or without the consent of the person to whom the data relate or the consent of his legal representative (arts. 32, 35 (a) and 37 (g));
- Use of the said personal data or information recorded by the aforementioned bodies or their data systems for purposes other than those for which they were gathered (arts. 32, 35 (b) and 37 (g)).

**Article 18: Freedom of thought, conscience and religion**

180. Reference can be made to the information already provided in this report concerning the protection afforded by the new Protection of National Unity Act.

**Article 19: Freedom of opinion and expression**

181. Article 35 of the Constitution of the State of Kuwait stipulates that freedom of belief is absolute and the State shall protect freedom of religious observance in accordance with established customs, provided that it does not conflict with public order or morals. Article 36 further stipulates that freedom of opinion and scientific research is guaranteed and everyone has the right to express and propagate his opinion verbally, in writing or otherwise in accordance with the conditions and procedures prescribed by law. Moreover, under the provisions of article 37, freedom of the press, printing and publication is guaranteed under the conditions and circumstances prescribed by law.

182. Pursuant to those articles, the State of Kuwait has always given, and is continuing to give, its full political, legislative, economic and social support to human rights issues in a manner consistent with the international process of promoting and consolidating the ideological concepts underlying the principles of human rights.

183. In accordance with this policy, the State of Kuwait ratified the International Covenant on Economic, Social and Cultural Rights in 1996 and it entered into force in

Kuwaiti territory under the terms of Act No. 11 of 1996. The instrument of accession that the State of Kuwait deposited with the United Nations Secretariat constituted a guarantee of its full commitment to honour all its obligations and take all the measures required under the articles of the Covenant. The State of Kuwait's accession thereto was an expression of the firm intention of its Amir, its Government and its people to protect the basic constituents of all human rights without distinction as to religion, origin or race.

184. Far from confining its concern to human rights issues at the local level, Kuwait's political leadership has also made diligent endeavours at the international level to assist States and organizations by providing them with financial and political support with a view to enabling all members of the international community to enjoy a decent life.

185. Within the context of the progress achieved in this regard, it is noteworthy that the high degree of freedom that the State accords to the information media has helped to enhance Kuwait's standing and credibility, particularly in view of the fact that its newspapers, being read in many countries, are influential and symbolic, more than ever before, of Kuwait's evident desire to support the development of free and responsible media in step with the times and eager to defend the just causes of Kuwait and its people in all parts of the world.

186. The Ministry of Information, which is the body responsible for regulating the country's media, is pursuing an enlightened policy of developing links of genuine strategic cooperation with all civil society organizations and media institutions in order to promote the status and the national and humanitarian mission of the media and support its members who are rendering outstanding services in all fields.

187. The Ministry has consistently emphasized the importance of addressing contemporary issues in a well-informed manner in the light of international and regional developments, the rapid advances being made in information and communications technology and the phenomenon of globalization, as well as the need to formulate a strategy that safeguards freedom of information so that the media's full potential can be harnessed in the service of society as a whole, bearing in mind the fact that freedom of information is not absolute insofar as the Kuwaiti Constitution implies that, while such freedom is the norm, it must be exercised within a framework of ethical and professional rules.

188. In keeping with this freedom that is enjoyed in the State of Kuwait, the Ministry of Information has issued media licences to a number of private television channels and newspapers, thereby enabling them to take up, discuss and present issues to a broad section of the population within a framework of full freedom to address all matters of national concern. The Ministry is also considering the idea of establishing a media training centre with a view to enhancing the professional and technical capacities of persons working in the media and thereby helping them to convey an accurate and objective image of the achievements being made by the various government agencies and also to highlight Kuwait's positions on all issues in a manner conducive to the furtherance of the country's development process. The way in which the media conveys its message is a matter of considerable concern in view of the radical changes taking place at the regional and international levels and which necessitate a reformulation of the media's message within the framework of responsible democracy and freedom that has characterized the Kuwaiti media since its establishment. Greater complementarity is also needed at the Gulf level through diplomatic and political coordination among the States of the Gulf Cooperation Council (GCC) and, in this regard, the Ministry of Information has endeavoured to expedite the introduction of the executive and strategic measures required to present a positive image of the GCC member States and raise awareness of the need for the Gulf media to adopt modern information techniques.

189. It is noteworthy that the eight television channels operating in Kuwait are making every effort to ensure that their programmes cover the civil rights of individuals, and particularly those set forth in article 19 of the International Covenant on Civil and Political Rights which recognizes everyone's right to freedom of expression. Accordingly, Kuwait Television produces numerous programmes in this connection, including:

1. *The Labour Force and Human Rights*, a weekly 30-minute programme broadcast on Channel 1 that addresses various labour-related issues, defines the rights and obligations of workers and highlights their concerns and problems in a fully impartial manner;
2. *The Local, Arab and International Press*, a daily programme scheduled within the *Good Morning, Kuwait* programme and covering all the news reports and articles published in the local, Arab and international press in which viewers might be interested given the universally attested high degree of freedom enjoyed by the Kuwaiti press;
3. *From Parliament*, a weekly programme covering the process of democratic life in the State of Kuwait and highlighting sessions of the National Assembly and the work of its committees;
4. Full coverage of the proceedings of sessions of the National Assembly which Kuwait Television takes care to broadcast on the day on which the sessions are held so that viewers can follow the Assembly's debates in keeping with the principle of transparency;
5. *The Scales of Justice*, a weekly 60-minute educational programme addressing legal issues and topics with a view to familiarizing citizens with their civil rights and obligations;
6. *The Watchful Eye*, a weekly programme highlighting the security-related rights and obligations of citizens and persons residing in the territory of the State of Kuwait.

190. A wide variety of other presentations and interviews with specialists in this field are also broadcast as part of the daily *Good Morning, Kuwait* and *Good Evening, Kuwait* programmes, in addition to the religious education and cultural programmes transmitted by the Ithra channel and promoting freedom of belief and expression (reference can be made to the statistics included in this report).

#### **Article 20: Prohibition of propaganda for war and advocacy of national, racial or religious hatred**

191. Reference can be made to the information already provided concerning the new Protection of National Unity Act.

#### **Article 21: Right of peaceful assembly**

192. In the light of the domestic legal protection accorded to this right and the aforementioned important Constitutional Court ruling in this regard, the Kuwaiti courts have overwhelmingly upheld this right when hearing cases involving its exercise by individuals, as shown in the following table:

**Statistics on the number of cases involving offences of unlawful assembly which have been closed by the Department of Public Prosecution or in which the defendants have been acquitted**

<i>Description</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014 to date</i>
Cases recorded	2	2	5	33	25	9
Cases closed	2	-	-	7	2	-
Acquittals	-	2	6	52	216	125

*Note:* Some of the closures and acquittals may relate to years prior to those indicated in the table.

**Article 22: Right to freedom of association**

193. The new Private Sector Employment Act No. 6 of 2010 revoked the restrictions on the right to form and join trade unions that had been imposed under the previous Act No. 38 of 1964, such as the numerical restriction and limitation of the right of non-Kuwaiti workers to affiliation rather than full membership of trade unions. The new Act allows full freedom to form and operate trade unions without interference from the public authorities and is thereby in compliance with the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).

194. The application of paragraph 4 of Council of Ministers Decision No. 863/2004 prohibiting the registration of new public benefit associations without authorization from the Council was recently suspended under the terms of Decision No. 100/A/2014 of 22 May 2014 and 104 associations have since been registered, including: the Kuwait Association for the Hearing-Impaired; the Kuwait Association for the Cultural and Artistic Creativity of Persons with Special Needs; the Kuwait Jurists' Association; the Kuwait Association for Monitoring of the Affairs of Persons with Disabilities; the Kuwait Charitable Association for the Care and Rehabilitation of the Elderly; the Kuwait National Brotherhood Association; the Kuwait Association for the Protection of Industrial Property; the Kuwait Society for National Action; the National Humanitarian Mission Association; the Association for the Protection of Animals and Their Environment; the Kuwait Association for the Promotion of Values; the Kuwait Association for Cultural Communication; the Kuwait Food and Nutrition Association; the Kuwait Psychological Association; the Al-Nuwait Association for Humanitarian Action; the Kuwait Social Service Association; the Kuwait Association for Protection against Fire Hazards; and the Kuwait Association for Arbitration and Amicable Settlement of Disputes.

**Article 23: Right to marry**

195. In keeping with the State's concern for the family and motherhood, the National Assembly (Parliament) has been presented with a bill of law on the establishment of a family court since actual practice has shown the inappropriateness of hearing personal status cases together with other types of cases in a single court of law. This is due to the fact that personal status cases, being of a sensitive nature and involving the most private matters relating to the family, the spouses and their children, necessitate procedures that are consistent with the nature of the dispute and conducive to the welfare of the family and society.

196. The bill takes the following requirements into consideration:

- The need to establish an independent "family court" in every governorate;
- The family court should be vested with exclusive competence to hear the personal status disputes referred to in the Code of Civil and Commercial Procedure and its

mandate in this regard would therefore be of a thematic nature relating to public order;

- The court should be empowered to seek, whenever necessary, the opinion of any of the sociologists and psychologists listed in the schedule referred to in the final paragraph of article 9 of the bill;
- In view of the fact that legal notarization is normally required in matters of personal status, a notarization office regulated by decision of the Minister of Justice should be attached to each family court in order to facilitate the process of litigation;
- In furtherance of the public interest, article 7 of the bill makes provision for the establishment in each family court of a prosecution office specialized in family affairs which would be empowered to bring, or intervene in, proceedings and to appeal against judgements in accordance with articles 137–341 of the Personal Status Act;
- Provision is also made for the establishment of a centre, attached to the family court in every governorate, which would endeavour to reach an amicable settlement of all types of family disputes in a fully confidential manner and to protect family members, and especially children and women, against any acts of violence or aggression by other family members.

#### **Article 24: Rights of the child**

197. On 15 April 2014, within the framework of partnership between governmental and civil society institutions, the Aman Centre for Victims of Violence (which is operated by the Bait al-Khair charitable organization) and the Juvenile Welfare Department in the Ministry of Social Affairs and Labour signed a protocol for cooperation under which the Centre's specialists would undertake the care and monitoring of child victims of violence in a fully confidential manner and the Department's youth hostel would undertake similar functions.

198. A comprehensive bill of law on the rights of the child has been drafted and referred to the Council of Ministers for presentation, as a matter of urgency, to the National Assembly (Parliament) for adoption and promulgation.

199. The bill comprises the following seven sections:

1. Section I laying down the general principles of the bill and stipulating, in particular, that: "The State undertakes to protect and cater for the welfare of children and create appropriate conditions for their proper upbringing in an environment based on respect for freedom, dignity, spiritual, social and human values and love of family, home and country and guarantees, as a minimum, the rights of the child as set forth in the Convention on the Rights of the Child and other related international instruments in force in the State of Kuwait";
2. Section II concerning the social rights of the child, consisting in the right to family filiation and custody, and the regulation of nurseries;
3. Section III concerning child health care and comprising three chapters covering the registration of births and the vaccination, immunization and nutrition of children;
4. Section IV dealing with the education and cultural development of children;
5. Section V containing provisions regulating the establishment and functions of the Supreme Council for Childhood;
6. Section VI prescribing penalties for infringement of the provisions of the bill;

7. Section VII containing general provisions, particularly concerning the protection of children in the event of disasters, emergencies and armed conflicts;

8. It is noteworthy that the drafters of the bill decided to add new articles regulating the establishment of shelters for children subjected to violence or exposed to abuse.

200. The Supreme Council for Childhood, to be established by decree, would include representatives of the competent official and private bodies concerned and would coordinate the formulation, implementation, monitoring and review of policies and plans for the achievement of the bill's objectives (art. 63). Under article 64 of the bill, the said Council would undertake numerous functions, including: assurance of the protection of the basic rights of the child; provision of the legal safeguards and protection needed to ensure the welfare and education and enhance the social status of the child; preparation of the child for a life based on human dignity, equality, justice, tolerance and moderation; securing and consolidating all aspects of the rights of the child; and highlighting the importance of these rights in order to ensure the proper upbringing of children, who constitute the nation's future.

201. The following table illustrates some of the additional endeavours that the State has made in this regard:

**Principal child-related indicators for the period 2010–2013**

<i>Indicator</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Number of kindergartens	8	8	8	11
Number of children attending kindergartens	1 844	1 950	1 950	1 980
Number of public nurseries	-	-	-	6
Number of private nurseries	175	183	223	292
Number of children attending private nurseries	14 744	15 796	16 502	17 600
Number of orphans receiving social care in family foster homes	210	200	195	185
Number of juveniles benefiting from the services of the Juvenile Welfare Department	2 231	1 960	1 924	1 814
Number of juveniles being rehabilitated	704	644	1 362	1 222
Number of juveniles re-enrolled in schools	130	173	223	315

*Source:* Data provided by the Ministry of Social Affairs and Labour for the period 2010–2013.

**Article 25: Right to take part in the conduct of public affairs, to vote and to have access to public service**

202. Reference can be made to the relevant information already provided in this report.

**Article 26: Enjoyment of protection of the law without discrimination**

203. Reference can be made to the relevant information already provided in this report.