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

List of issues in relation to the third periodic report of Kuwait

Addendum

Replies of Kuwait to the list of issues*

[Date received: 23 February 2016]

Third periodic report concerning implementation of the International Covenant on Civil and Political Rights

Constitutional and legal framework within which the Covenant is implemented

Paragraph 1

As Kuwait has acceded to the International Covenant on Civil and Political Rights and the Constitution establishes as a basic principle that treaties ratified by the State of Kuwait shall constitute an integral part of Kuwaiti domestic law from the date of their entry into force, all governmental bodies and individuals are required to comply with their provisions. Furthermore, the Kuwaiti judiciary is mandated to safeguard and guarantee respect for their provisions.

This national legal obligation is based on article 70 of the Kuwaiti Constitution, which stipulates that: "The Amir shall conclude treaties by decree and shall promptly transmit them to the National Assembly, together with an appropriate statement. A treaty

* The present document is being issued without formal editing.



shall acquire the force of law after it is signed, ratified and published in the Official Gazette.”

It follows from this constitutional principle that the provisions of the Covenant are directly applicable in the domestic legal and judicial system. Reference may be made in that connection to precedents established by the Kuwaiti Court of Cassation, which consolidated the principle that the provisions of ratified international treaties may be directly invoked before the Kuwaiti courts (commercial judgment of the Court of Cassation No. 80 of 1997 at the hearing of 10 May 1998).

They may not, however, conflict with the provisions of the Islamic sharia inasmuch as sharia law is the principal source of legislation, in accordance with article 2 of the Constitution.

Paragraph 2

The national committee established pursuant to Council of Ministers decision No. 25 (May 2014) is tasked with exploring the possibility of withdrawing the reservations entered by Kuwait to international treaties and instruments to which it has acceded.

Kuwait has already affirmed that articles 2 (1) and 3 of the Covenant will be implemented, in all cases, within the limits laid down by Kuwaiti law.

Kuwait’s interpretative declaration concerning article 23 of the Covenant states that where the provisions of the article conflict with the Kuwaiti Personal Status Act, Kuwait will apply its national law. It should be noted that the right to marry, the freedom to choose a spouse, the age of marriage, and all matters pertaining to marriage, divorce and other personal status matters are regulated by the Personal Status Act No. 51 of 1984, the provisions of which are derived from the tenets and principles of Islamic sharia.

In addition to the provisions concerning marriage in the Personal Status Act, Act No. 5 of 1961 was enacted to regulate relations with a foreign dimension. Part II, chapter 1, of the Law contains many regulations concerning marriage with foreign nationals and the legislation applicable to such cases.

With regard to the reservation to article 25 (b), Act No. 35/1962 concerning elections to the National Assembly regulates the right to vote, the procedures to be followed and the requisite age. It was amended by Act No. 17 of 2005, pursuant to which every male and female Kuwaiti who has attained 21 years of age has the right to vote and to stand for election. Women have participated ever since as voters and candidates in all parliamentary elections.

Paragraph 3

With a view to establishing an independent human rights institution in light of the importance of such rights for society as a whole, Act No. 67 of 2015 concerning the establishment of a National Human Rights Authority was enacted.

Non-discrimination, equality between men and women, and the rights of minorities

Paragraph 4

The approach adopted by the State of Kuwait is based on the elimination of racism and racial discrimination and on the principle of justice, in accordance with the following verse of the Holy Koran: “Oh people! We have created you from a male and a female, and made you into nations and tribes so that you may know one other. Verily the most honoured

among you in the sight of God is the most righteous” (Hujurat: 13). The Islamic sharia is the main source of legislation, according to article 2 of the Kuwaiti Constitution.

Article 29 of the Constitution enshrines the general principle of non-discrimination. It lays the foundations and consolidates the rules and frame of reference governing equality, non-discrimination and enhancement of human dignity: “All people are equal in human dignity and in public rights and duties before the law, without distinction on grounds of race, origin, language or religion.”

Article 7 of the Constitution stipulates that: “Justice, freedom and equality are the pillars of society, and cooperation and compassion are the firm link binding all citizens.”

The Explanatory Note on the Constitution states with regard to article 29 that the article establishes the principle of equality in terms of rights and duties in general. It proceeds to specify the most important applications of that principle as follows: “There shall be no distinction on grounds of race, origin, language or religion.” The terms “colour” and “wealth” are not included in the list, although those terms are used in the Universal Declaration of Human Rights. As there is not the least hint of racial discrimination in the country, the wording of the article is sufficient to dispel any doubts. Moreover, as discrimination between people on the ground of wealth is entirely unacceptable in Kuwaiti society, there is no need for a specific prohibition in that regard.

Kuwait acceded to the International Convention on the Elimination of All Forms of Racial Discrimination pursuant to Act No. 33 of 1968.

With regard to criminal law, article 111 of the Kuwaiti Criminal Code (Act No. 16 of 1960) criminalizes all forms of religious discrimination. It stipulates that: “Anyone who disseminates, through one of the media mentioned in article 110, opinions ridiculing, disparaging or belittling any religion or sect, regardless of whether the material thus disseminated refers to the beliefs, rites, rituals or teachings of the religion or sect concerned, shall be liable to a term of imprisonment of not more than one year, a fine of not more than 1,000 rupees, or both.”

Kuwait also promulgated Decree-Law No. 19 of 2012 concerning the protection of national unity, article 1 of which prohibits advocacy or incitement of hatred or contempt for any social group, by any of the means of expression referred to in article 29 of Act No. 31 of 1970 amending some articles of the Criminal Code; provocation of sectarian or tribal factionalism; promotion of an 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 the dissemination, propagation, printing, broadcasting, retransmission, production or circulation of any concepts or printed or audiovisual material, or the spreading or retransmission of false rumours, likely to lead to any of the above.

With regard to remedies, Decree-Law No. 67 of 1980 promulgating the Civil Code specifies types of damages entailing compensation. It also contains a set of provisions reaffirming the right of victims of unlawful acts to demand compensation for the damages suffered. Some of the provisions are set out below:

Article 30 stipulates that: “1. The exercise of a right shall be unlawful if the person exercising the right deviates from its purpose or distorts its social function, in particular: (a) if the resulting benefit is unlawful; (b) if the sole purpose is to cause damage to third parties; (c) if the resulting benefit is disproportionate to the damage caused to third parties; (d) if it is likely to cause grievous damage to third parties.”

Article 227 stipulates that: “1. Anyone who, by a wrongful action, causes direct or indirect damage to a third party shall be required to compensate the injured party. 2. The person shall be required to pay compensation for the damage arising from his wrongful act, even if he has not reached the age of discretion.”

Article 228 stipulates that: “1. If several persons were at fault in causing the damage, each of them shall be required to compensate the injured party in full. 2. The burden of liability shall be apportioned among those who incur liability in accordance with the extent of their involvement in causing the damage. If the extent of their involvement cannot be established, liability shall be apportioned equally among them.”

Article 229 stipulates that: “If the offence that caused the damage was the result of incitement or assistance on the part of the perpetrator, the damage shall be deemed to stem from an offence committed by the first offender and the accomplices, who shall incur liability to pay compensation.”

Article 230 stipulates that: “1. The damage for which the perpetrator of the unlawful act shall be required to pay compensation shall consist of the losses incurred and the assets forfeited, provided that they were the natural outcome of the unlawful act. 2. The losses incurred and the assets forfeited shall be deemed to constitute the natural outcome of the unlawful act if they could not have been impeded by means of a reasonable effort in the circumstances by an average individual.”

Article 231 stipulates that: “Damage for which compensation is payable shall include moral damage ...”.

Paragraph 5

The term “ineligible for citizenship” or “*bidoon*” is not used. The term officially used in Kuwait is “illegal residents”.

The acquisition of Kuwaiti nationality is a sovereign issue that is determined by the State on the basis of its fundamental interests. It is subject to the terms and conditions laid down in Act No. 15 of 1959, as amended, which specifies the cases eligible for the granting of citizenship. The Central Agency for Regularization of the Status of Illegal Residents scrutinizes and investigates each case in a fully transparent manner without subjection to pressure or personal whims, in accordance with the objective road map established by the Supreme Council for Planning and Development, which was adopted by the Council of Ministers and promulgated by Amiri Decree No. 1612 of 2010.

A number of amendments to the Kuwaiti Nationality Act were adopted with a view to expanding the base of eligible applicants. They include the following:

- The addition to Act No. 11 of 1998 of article 7 bis, which stipulates that Kuwaiti nationality shall be granted to the children and grandchildren of naturalized persons who have not had the opportunity to acquire it under the provisions of the Nationality Act;
- Pursuant to Act No. 21 of 2000, children of a Kuwaiti woman married to a foreigner or an illegal resident are entitled to obtain Kuwaiti nationality in the event of the husband’s death, an irrevocable divorce, or imprisonment during the Iraqi invasion.

As a result, almost 16,000 illegal residents who met the requisite legal conditions have been naturalized in recent years. In addition, the Central Agency prepared lists of applicants for naturalization and submitted them for consideration to the Evaluation Committee of the Council of Ministers.

A change in the circumstances of illegal residents, regardless of their nationality, does not preclude their acquisition of Kuwaiti nationality. They are in fact given priority if they fulfil the conditions laid down in the law in exceptional circumstances, such as performance of religious pilgrimages, medical treatment or studies abroad, or membership of official delegations. In such cases they are issued with passports pursuant to article 17 of Act No. 11 of 1962 and permitted to travel in accordance with the applicable rules.

With a view to promoting State action to improve the humanitarian and social situation of illegal residents and to guarantee them a decent life, the Central Agency adopted a number of measures, in coordination with relevant State bodies, aimed at facilitating their access to humanitarian and civil services by issuing a card to persons registered with the Central Agency for Regularization of the Status of Illegal Residents. A total of 96,000 cards have been issued to date.

Paragraph 6

Kuwait is required to comply with the provisions of the Islamic sharia and its teachings aimed at upholding religion, values and morals. The Islamic sharia prohibits all persons from engaging in a sexual relationship outside marriage, with a person of the same sex, the opposite sex or an intersex person, on account of the major negative impact that authorization of such conduct would have on society, the family and the individual concerned. It may not be regarded as constituting one of the rights and freedoms that should be enjoyed by individuals because of the adverse impact of such freedom on the individual to the detriment of society and his religious beliefs and convictions, morality and conduct.

The Kuwaiti Constitution contains clear legal provisions guaranteeing personal freedom to individuals under domestic law. It guarantees equality in terms of human dignity and in terms of public rights and duties.

As a result, lesbian, gay, bisexual, transgender and intersex persons enjoy all the rights and freedoms guaranteed by the Constitution and domestic law as members of society, regardless of their deviant conduct. Moreover, the Criminal Code recognizes the right of all members of society to lodge a complaint with the competent authorities if they suffer any type of injury, regardless of their sex, colour, nationality, religion or origin.

It follows that responsibility for implementing the law and instituting proceedings against homosexuals, bisexuals or any member of society lies with the legally mandated State authorities. No member of society may perform that role on behalf of the State without being subjected to interrogation in accordance with the law.

The provisions of the Kuwaiti Criminal Code that prohibit sexual relations outside marriage or that criminalize the conduct of homosexuals or transsexuals were adopted in accordance with the provisions of the Islamic sharia and in response to society's need for such legislation in order to preserve the components of society and to protect the security of society and the family.

Paragraph 7

The Islamic sharia is the main source of legislation, in accordance with article 2 of the Constitution. Polygamy, marriage contracts, divorce and other matters are governed by the Islamic sharia.

The approach adopted by the State of Kuwait in establishing the rules and frames of reference for equality, non-discrimination and enhancement of human dignity is based on the provisions of the Islamic sharia and principles enshrined in the Kuwaiti Constitution.

Women in Islam enjoy rights consistent with their manifold duties in society. Almighty God says in the Holy Koran: "And they (women) have rights similar to those of men over them in kindness" (Al-Baqarah, verse 228).

With regard to equality between men and women, the legislators used general wording in the Kuwaiti Constitution concerning those bound by its provisions without making the slightest distinction on grounds of sex, colour, religion or even language.

With regard to criminal dimensions, the Kuwaiti Criminal Code provides for a number of penalties for physical violence perpetrated against any person (male or female). In addition, it contains provisions that penalize physical and sexual violence against women, including the following:

- Article 159 stipulates that: **“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 2,000 rupees.”**
- Article 174 stipulates that: “Any person who administers to a woman, whether pregnant or not, with or without her consent, or causes to be administered to her drugs or other harmful substances, or who uses force or any other means with the intention of causing an abortion is liable to a term of imprisonment of not more than ten years, to which may be added a fine of not more than 1,000 dinars ...”.
- Articles 178 to 185 criminalize abduction, hostage-taking and human trafficking.
- With regard to sexual violence, article 186 stipulates that: “Anyone who has non-consensual sexual intercourse with a woman, whether through coercion, threat or deceit, shall be liable to a penalty of death or life imprisonment ...”.

The legislature took steps to expand the scope of legal protection under criminal law for women who are mentally retarded or insane, under 15 years of age or deprived of their volition. Article 187 stipulates that: “Anyone who engages in sexual intercourse with a female person, without compulsion, threat or ruse but knowing that she is insane, mentally retarded, under 15 years of age or otherwise deprived of her volition, or that she does not know the nature of the act to which she is subjected or believes that it is a lawful act, shall be liable to a penalty of life imprisonment ...”. Article 191 contains similar provisions.

With a view to enhancing women’s human dignity, the Kuwaiti Code of Criminal Procedure (No. 17 of 1960) contains provisions that reaffirm this objective. They include the following:

- Article 82 stipulates that: “Searches of women shall be conducted under all circumstances by a woman assigned for the purpose with the knowledge of the investigator and shall also be witnessed by women.”
- Article 86 provides additional safeguards for women’s dignity: “If there are veiled women in the dwelling and the purpose of entering the dwelling is not to arrest or search them, the official conducting the search shall ensure that they are treated in accordance with existing traditions ...”.

Labour legislation is designed to ensure the humanitarian protection of women. Its provisions include the following:

- Article 23 of the Private Sector Labour Code stipulates that “Women shall not be required to work at night.” This is reaffirmed by Ministerial Decision No. 167 of 2007 concerning nighttime employment of women, which was adopted by the Ministry of Social Affairs and Labour with a view to preventing the exploitation of women, protecting their rights and guaranteeing humanitarian safeguards.

With a view to supporting maternity and women’s right to motherhood, the Kuwaiti legislature stipulated in article 34 of the Prisons Regulation Act No. 26 of 1962 that: “A child whose mother is imprisoned shall remain with her until he reaches the age of two. If she does not wish the child to remain with her or if he has reached the age of two years, he shall be handed over to the father or to a relative of her choosing. If the child has no father or relatives who are able to provide for him, he shall be placed in a children’s care home

and arrangements shall be made for his mother to see him in accordance with the internal regulations.”

The Kuwaiti courts also recognize women as persons with full legal capacity and women are not prevented from delivering testimony in ordinary (non-sharia) courts. However, different rules are applicable to women’s testimony before personal status (sharia) courts, in which a man’s testimony is equivalent to the testimony of two women. This is based on article 133 of the Personal Status Act No. 51 of 1984, which stipulates that: “The harm inflicted shall be established by the testimony of two men or of one man and two women.” The article is based on the provisions of Islamic sharia and of article 2 of the Kuwaiti Constitution.

- The Kuwaiti Nationality Act promulgated by Decree-Law No. 15 of 1959 establishes the principle of granting Kuwaiti nationality on the basis of birthright on the father’s side. However, the Nationality Act grants Kuwaiti nationality to the children of Kuwaiti women on humanitarian grounds in specific cases. For example, nationality is granted to the children of Kuwaiti women meeting those conditions, without any time limit, in accordance with article 3 of the Act, which stipulates that: “Anyone born in or outside Kuwait to a Kuwaiti mother and an unknown father whose paternity has not been legally established is a Kuwaiti.”

In accordance with paragraph 2, which was added to article 5 by 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 imprisoned.

Paragraph 8

Kuwaiti women benefit from the excellent social status conferred by the Islamic sharia and the Kuwaiti Constitution. The importance accorded to women in the Constitution has been confirmed by the enactment of many laws guaranteeing the rights and status of women and their role in society and the family. They include the following laws:

- The Private Sector Labour Code No. 6 of 2010: Article 1 defines an employee as any male or female who performs work for an employer in return for remuneration. It thus makes no distinction between them in terms of duties, rights and remuneration;
- The Civil Service Act No. 15 of 1979: It is applicable to both females and males and it grants women a number of special social benefits, including the right to maternity leave and other types of leave relating to family care;
- The Compulsory Education Act No. 11 of 1965, as amended by Act No. 25 of 2014: The Act affirms that education is compulsory for males and females for a period of nine years;
- The Personal Status Act No. 51 of 1984: The Act grants women the right to choose a spouse and not to enter into marriage save by consent;
- The Social Assistance Act No. 22 of 1978, as amended: The right to social assistance applies equally to women and men. The Act lists the groups entitled to assistance, namely: widows; divorced women; orphans; persons with infirmities; older persons; unmarried girls; persons with disabilities; prisoners’ families; students;
- Act No. 2 of 2011 establishing a Housing Fund for Women: The Act supports Kuwaiti women’s rights in the area of residential care.

Women account for more than half of the Kuwaiti population. The ratio of females reached about 51 per cent of the total Kuwaiti population in 2015. There has been an increase in the enrolment of women in education and a new generation of educated women has entered the labour market. This development has had a major impact on the economic situation of families, as shown by the following table, which contains key indicators of Kuwaiti women's economic empowerment and their increased participation in decision-making during the period from 2011 to 2015.

<i>List</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Proportion of women employed by the Government (%)	44.2	44.4	45.0	45.6	46.5
Proportion of women employed in the private sector (%)	51.1	51.6	51.4	50.9	48.6
Average unemployment rate for females aged 15 years and over	4.3	3.8	3.5	3.25	3.1
Average rates of participation in economic activity	46.9	46.9	47.3	47.8	47.7

In addition, Kuwaiti women have succeeded in joining the judiciary. The Supreme Judicial Council recently agreed to appoint 62 prosecuting attorneys, 22 of whom were female graduates of the Law Faculty.

Kuwait also achieved the goal of gender equality in education prior to the target date for achievement of the Millennium Development Goals in 2015. The following table shows the main indicators of gender equality in education during the period from 2010 to 2014.

<i>Year</i>	<i>Gross enrolment ratio in primary education</i>	<i>Gross enrolment ratio in secondary education</i>	<i>Gross enrolment ratio in higher education</i>
2010/11	1.08	1.31	1.64
2011/12	1.09	1.31	1.55
2012/13	1.10	1.33	1.53
2013/14	1.10	1.36	1.54

Kuwaiti women also have full access to public health-care services, particularly primary health-care services, which are provided free of charge. These services played a direct role in enabling Kuwait to achieve Millennium Development Goal 5, improvement of maternal health, almost ten years prior to the target date.

The year 2005 constituted a milestone for Kuwaiti women. At a historic session on 16 May 2005, the National Assembly adopted an amendment to article 1 of Electoral Act No. 35 of 1962, according Kuwaiti women full political rights to vote and to stand for election to the Parliament.

Violence against women and children, including domestic violence

Paragraph 9

The Kuwaiti legislature has criminalized all forms of physical or verbal violence, without making any distinction between acts occurring within and outside the family. Nobody is exempted from responsibility, regardless of whether the perpetrator is a man or a woman.

With regard to marital rape, although Kuwait entered an interpretative declaration when acceding to the International Covenant on Civil and Political Rights to the effect that Kuwait would apply its national laws in cases where the provisions of the Covenant conflicted with the Kuwaiti Personal Status Act, it should be noted that questions relating to marriage and marital intercourse are covered by the Personal Status Act promulgated by Act No. 5 of 1984, which is based on the lofty provisions and principles of the Islamic sharia.

The Kuwaiti Criminal Code provides for a number of penalties for physical violence perpetrated against any person (male or female). In addition, it contains provisions that penalize physical and sexual violence against women, including the following:

- Article 159 stipulates that: “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 2,000 rupees.”
- Article 174 stipulates that: “Any person who administers to any woman, whether pregnant or not, with or without her consent, or causes to be administered to her drugs or other harmful substances, or who uses force or any other means with the intention of causing abortion is liable to a term of imprisonment of not more than ten years, to which may be added a fine of not more than 1,000 dinars ...”.
- Articles 178 to 185 criminalize abduction, hostage-taking and human trafficking;
- With regard to sexual violence, article 186 stipulates that: “Anyone who has non-consensual sexual intercourse with a woman, whether through coercion, threat or deceit, shall be liable to a penalty of death or life imprisonment ...”.
- The legislature took steps to expand the scope of legal protection under criminal law for women who are mentally retarded or insane, under 15 years of age or deprived of their volition. Article 187 stipulates that: “Anyone who engages in sexual intercourse with a female person, without compulsion, threat or ruse but knowing that she is insane, mentally retarded, under 15 years of age or otherwise deprived of her volition, or that she does not know the nature of the act to which she is subjected or believes that it is a lawful act, shall be liable to a penalty of life imprisonment ...”. Article 191 contains similar provisions.

With regard to domestic violence, to which some married women may be subjected, article 126 of the Personal Status Act No. 51 of 1984 recognizes the right and freedom of either spouse to take legal action to obtain a divorce on grounds of injury. It stipulates that: “Either spouse may seek a divorce, before or after the marriage has been consummated, on the ground of a verbal or physical injury inflicted by the other spouse ...”.

Kuwaiti women’s independent legal personality is recognized from birth and is on a par with men’s legal personality. They may therefore exercise their right to a defence and take legal action, in accordance with article 29 of the Constitution, in cases where they have been subjected to physical violence or where any of their rights have been violated.

The Community Police Department of the Ministry of the Interior is required to take the requisite measures in this regard, including the following:

- Action to bridge the gap between the police and society and to promote the principle of cooperation and partnership between the police and society, particularly with respect to social issues and disputes, including domestic and sexual violence;
- Provision of psychosocial support to victims of violence and crime, especially women and children, and organization of follow-up care services;

- Early intervention to resolve and contain family disagreements and disputes, to address the causes and to prevent problems from escalating and ending up in the courts, the aim being to preserve family cohesion;
- Raising awareness in local communities of the need to protect family members from violence and of the situations that children may encounter within the family and elsewhere.

The Community Police Department performs its work in the following manner:

- It operates the Community Police Department hotline with a view to encouraging victims of domestic violence to report the incidents of violence to which they have been subjected, and with a view to offering them social support, psychosocial counselling and legal advice to protect them from domestic violence.
- Victims are interviewed by a female social worker with the aim of providing social support and familiarizing them with various aspects of the problem of violence directed against them.
- Special rooms are set aside for interviewing victims of sexual or physical domestic violence, who are thus assured of full privacy and confidentiality.
- Victims in need of a place to stay are referred to the Department of Rehabilitation and Recovery, which is a safe house for victims of domestic violence.
- Some cases of domestic violence must be referred to the courts to ensure that the requisite legal measures are taken. The Community Police Department appoints a defence counsel in such cases. In addition, a committee was formed pursuant to Decision No. 2024 of 2014, with the Assistant Under-Secretary for Reform Institutions and Enforcement of Sentences as chairperson and the Department of Community Policing as a member representing the public security sector, in order to discharge the following tasks:
 1. To conduct a comprehensive study of criminal laws aimed at controlling violent conduct and to submit a bill allowing for harsher penalties to be imposed for offences involving such conduct;
 2. To submit a bill allowing for harsher penalties to be imposed on juveniles who are caught carrying weapons, permitting the guardians of such juveniles to be summoned and held legally accountable, and permitting civil claims to be pursued, even if abandoned by the victim.

The Family Court Act, which was recently promulgated, provides for the establishment of a family court in each governorate to ensure the expedited settlement of personal status disputes. It also provides for the establishment of a centre attached to the family court in each governorate tasked with settling family disputes and protecting families from violence and harm inflicted by one of their members. The centre's services may be sought free of charge.

With regard to domestic violence against children:

The Kuwaiti legislature attaches great importance to the welfare and protection of children. It concluded that it was necessary to expand on the constitutional provisions concerning protection and care with a view to establishing young people's rights and ensuring their access to State protection. With a view to supplementing the response in our third national report concerning the International Covenant on Civil and Political Rights to paragraph 11 of the concluding observations concerning cases of domestic and sexual violence, we wish to add the following:

- Act No. 21 of 2015 concerning the rights of the child ensures that children enjoy proper protection by guaranteeing the right of the child to life, survival and development within a harmonious family environment, and to enjoy full protection from all forms of violence, harm, physical, mental and sexual abuse, neglect, and all other forms of ill-treatment and exploitation (art. 3 (a)).
- Article 76 of the Act specifies cases in which a child may be deemed to be exposed to danger, to some form of physical, mental or sexual abuse or to neglect, or to be in a situation that constitutes a threat to the safety of the child's upbringing.
- The Act provides for the establishment of child protection centres in each governorate of Kuwait. The centres are authorized to receive complaints and notifications of violations of children's rights and cases of exploitation or abuse. The above-mentioned article accords everybody the right to report an incident involving violence against a child and requires the staff of the centres to take all necessary measures to protect the informant and to refrain from disclosing his or her identity (art. 77 (A) (e)). Provision is also made for the establishment of a hotline to receive all complaints concerning cases in which a child is exposed to danger (art. 88 (g)).
- The legislature specifies in article 79 the measures to be taken by the staff of child protection centres, for instance adoption of precautionary measures on behalf of children exposed to danger, removal from their homes, and provision of shelter in the centre or in some other place that can afford protection.
- The Act also provides protection for children by criminalizing and prescribing penalties for all forms of violence against children, mental abuse, neglect, cruelty and exploitation (art. 91). The penalty for any offence committed against a child is doubled if the perpetrator is one of the child's parents, his guardian, the person responsible for his care and education, a person with authority over him, or an employee of the aforementioned persons.
- Article 109 (2) of the Code of Criminal Procedure states that the public prosecutor shall represent a minor who submits a complaint if the minor's interest conflicts with that of the guardian. The minor is placed in a social care establishment pending an improvement in his social circumstances.

Counter-terrorism and the right to privacy

Paragraph 10

In view of the importance of DNA for identifying individuals and differentiating them from others, particularly for identifying suspects and unknown human remains, it was necessary to establish a DNA database that can be used by the competent authorities to identify suspects and their connection with crimes or human remains whose characteristics have been destroyed by fire, explosions or some other circumstance.

A law on DNA has therefore been drafted, article 2 of which provides for the establishment by the Ministry of the Interior of a DNA database to preserve DNA obtained from live samples taken from persons subject to the provisions of the law.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Paragraph 11

Kuwait has included the death penalty in its national criminal justice system. It is based, however, on the provisions of Islamic sharia, which require its imposition. It follows that the abolition of the death penalty would constitute a flagrant breach of the provisions of Islamic sharia, which are the main source of all Kuwaiti domestic law, including criminal legislation.

Any judgment imposing the death penalty has been subjected by the Kuwaiti legislature to a large number of safeguards conducive to procedural prudence in that regard. The following are some of the main **safeguards**:

- The death penalty may be imposed only for the most serious crimes that pose a threat to the security, welfare and stability of society;
- The death penalty may not be imposed on anyone under 16 years of age (article 15 of Act No. 111 of 2015 concerning juveniles);
- It is prohibited to execute a death sentence against a pregnant woman. If she delivers a live infant, the death sentence shall be suspended and the case shall be referred back to the court that imposed the death penalty so that it can be commuted to a term of life imprisonment;
- It is prohibited to impose a death penalty on persons who are mentally unsound;
- The death penalty can be executed only on the basis of a final court judgment handed down by a competent and impartial court following numerous legal procedures aimed at ensuring a fair and unquestionable trial of the accused;
- Reaffirming the rights of the accused in this regard, the law grants a person who has been condemned to death the right to seek a pardon, a general amnesty, mitigation of the judgment against him or a commutation of the sentence;
- Every death sentence imposed by a criminal court must be automatically referred by the court to the Court of Appeal within one month of the date on which the sentence was handed down, if the convicted person himself has not filed an appeal (article 211 of the Code of Criminal Procedure);
- The Office of the Public Prosecutor must submit cases in which death sentences have been handed down to the Court of Cassation (article 14 of Act No. 40 of 1972 concerning cassation appeal cases and procedures);
- The execution of a death sentence is suspended in all cases until a final decision has been taken on appeal proceedings, requests for pardon or applications for commutation of the penalty;
- With a view to enhancing protection, death sentences are carried out only with the approval of the Amir. The convicted person is kept in prison until the Amir decides to approve or commute the sentence or to issue a full pardon (article 217 of the Code of Criminal Procedure);

It may be concluded from the foregoing that the prevailing situation in Kuwait is fully in line with article 6 (2) of the International Covenant on Civil and Political Rights.

Paragraph 12

With a view to preventing unlawful restrictions on human freedom and combating torture and inhuman and degrading treatment, articles 31, 32, 33 and 34 of the Constitution oppose and reject all such transgressions. No penalty may be imposed save in accordance with the law and accused persons are presumed to be innocent until proven guilty.

Numerous criminal law provisions are in place to prohibit and criminalize the acts of murder, causing injury, battery, abuse and endangerment, in particular the provisions of articles 149 to 173 of the Criminal Code (Act No. 16 of 1960).

- Article 70 of the Criminal Code (Act No. 16 of 1960) stipulates that: “When sentencing a public official for bribery or for torturing a suspect in order to extract a confession, the judge shall order his suspension for the period specified in the judgment, which shall be not less than one year and not more than five years.”
- Article 53 of the Kuwaiti Criminal Code No. 31 of 1970 reaffirms these principles. It stipulates that: “The penalty of imprisonment shall be imposed on a public official or employee who, personally or through a third party, tortures an accused person, a witness or an expert.”
- Article 56 of the same Code stipulates that: “A term of imprisonment shall be imposed on a public officer, an employee or a person performing a public service who abuses his position and subjects others to cruel treatment that is degrading to them or causes them physical pain.”
- Articles 160 and 166 of the Kuwaiti Criminal Code criminalize all acts that cause any type of physical harm.
- Article 159 of the Kuwaiti Criminal Code (Act No. 16 of 1960) stipulates that: “Anyone who strikes, wounds, inflicts bodily harm on or violates the physical integrity of another person shall be liable to a term of imprisonment of not more than two years and/or to a fine of not more than 2,000 rupees.”
- The Kuwaiti Criminal Code clearly prescribes a harsher penalty for intentional homicide if the crime is the result of torture leading to the victim’s death (see articles 53 to 58 of the Code).

The Kuwaiti legislature has provided for diverse prison monitoring and supervisory procedures. It has established a system for self-monitoring by penitentiary facilities pursuant to articles 15, 16 and 17 of Act No. 26 of 1962 concerning the organization of prisons, and has formulated detailed and precise rules for technical supervision and monitoring by the Office of the Public Prosecutor pursuant to the Judicial Organization Act No. 23 of 1990.

Article 184 of the Criminal Code stipulates that: “Anyone who arrests, imprisons or detains a person under conditions or based on procedures other than those required by law shall be liable to a term of imprisonment of not more than three years and/or to a fine of 225 Kuwaiti dinars. If, in addition, physical torture or death threats are used, the penalty shall be a term of imprisonment of not more than seven years.” According to article 159 of the Code of Criminal Procedure, if a court finds that statements and confessions have been made by a defendant under torture or duress, it shall rule that they are null and void.

Liberty and security of persons and treatment of persons deprived of their liberty

Paragraph 13

The Residence of Aliens Act promulgated by Decree-Law No. 17 of 1959 provides for humane treatment of deportees in general and respect for their rights when the deportation order is executed. Thus, deportees may not be detained for more than 30 days, the aim being to protect them from the possible adverse impact of an extended period of detention.

Administrative procedures followed by the Deportation Department in dealing with detainees

- A special file is opened on persons awaiting deportation; it covers all of the procedures followed, such as photographing, fingerprinting, etc.;
- The authorities ensure that persons awaiting deportation have passports and travel tickets so that they can be promptly deported once the Minister of the Interior has approved the deportation order;
- An offender who is in possession of all his personal documentation is deported within 24 hours;
- If a person awaiting deportation is without a passport, the relevant embassy is contacted so that a travel document enabling his departure may be issued;
- If a person awaiting deportation is without a travel ticket, a ticket is issued by the Ministry of the Interior and the cost is subsequently recovered from the employer.

Available remedies

- With regard to administrative deportation, detainees (awaiting deportation) are released in some cases on health, humanitarian, social or other grounds pursuant to a request submitted to the Minister of the Interior;
- With regard to judicial deportation, persons awaiting deportation are released pursuant to a judicial ruling or a pardon granted by the Amir;
- Pursuant to Ministerial Decision No. 3941 of 2011, a committee chaired by a representative of the Court of Appeal and comprising representatives of the Ministry of the Interior, the Office of the Public Prosecutor and the General Directorate of Investigations was established with the task of undertaking a comprehensive study of all cases involving persons of various nationalities who are awaiting deportation in the custody of the Department of Deportation and Temporary Detention. The purpose of the study is to identify and assess the impediments to travel in each case; to make recommendations as to whether the person concerned should remain in custody or be released on bail, provided that this is compatible with the security situation; and to prepare a detailed report on the legal status of each case and whether or not deportation can take place.

Paragraph 14

The rules and legislation governing conditions in places of detention guarantee a decent living environment in prisons and impose regulations that guarantee safe conditions and sanitation. Article 16 of the Prisons Regulation Act stipulates that: "The Director of Prisons shall appoint inspectors from the Prisons Administration to inspect prisons and ascertain that the systems in place are being properly implemented and that prison security, hygiene and health requirements are being met ...". They also ensure compliance with the

principles laid down in the Standard Minimum Rules for the Treatment of Prisoners. The Ministry of the Interior promotes humane conditions in prison cells and wards by implementing the following articles:

1. Article 10: "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."

2. Article 11: "In all places where prisoners are required to live or work, the windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air ...". International and local human rights organizations are encouraged to visit prisons in order to investigate whether the legislation, regulations and treaties that guarantee a decent life for prison inmates are being respected.

With regard to the segregation of juvenile offenders from adult offenders and remand detainees from convicted persons

The Ministry of the Interior of Kuwait divides inmates into the following two groups, in accordance with article 25 of the Prisons Regulation Act No. 26 of 1962:

Group A

This group comprises remand detainees and prisoners sentenced to a simple term of imprisonment, including those serving a sentence for diverse liabilities or civil debts.

Group B

This group comprises persons sentenced to imprisonment with hard labour. The Ministry assigns space in detention facilities on the basis of article 26 of the Prisons Regulation Act. Article 27 of the Act requires the division of inmates belonging to the two groups into different categories on the basis of their age, record of previous convictions, type of offence and length of sentence, with a view to ensuring their social, cultural, spiritual and psychological rehabilitation. The classification of inmates in accordance with the provisions of this article is consistent with fundamental human rights principles.

A large number of visits were undertaken by the Human Rights Committee of the National Assembly. Diverse positive advice concerning human rights practices in Kuwaiti prisons was provided by its members and no negative comments were made during their subsequent visits to the prison complex. Regular visits are also undertaken by the regional delegation of the International Committee of the Red Cross, which invariably commends the humanitarian practices in Kuwaiti prisons and appeals in international forums for emulation of its human rights practices and the humanitarian services provided to inmates.

Access to justice and effective remedies, independence of the judiciary and juvenile justice

Paragraph 15

Article 163 of the Constitution stipulates that judges are not subject to any authority in their administration of justice and that no interference in the course of justice is admissible. The law is required to ensure the independence of judges and to specify the guarantees and rules pertaining to them and the conditions governing their irremovability.

With a view to consolidating the foundations of democracy and democratic procedures and preventing violations of rights and freedoms, article 50 of the Constitution enshrines the principle of separation of powers. Moreover, none of the three powers (the legislature, the executive and the judiciary) is permitted to relinquish all or any part of its jurisdiction as defined in the Constitution.

With a view to ensuring the proper administration of justice and consummation of legal proceedings, the judiciary's work is subject to a periodic inspection procedure conducted by the Judicial Inspection Department, consisting of qualified and experienced judges.

Decree-Law No. 23 of 1990, as amended, contains a number of articles providing for the appointment of judges. They include article 21, as amended by Act No. 69 of 2003, article 22, and article 1 of Act No. 69 of 2003.

With regard to the tenure of judges, article 9 of Decree-Law No. 14 of 1977 concerning the ranks and salaries of judges and members of the Office of the Public Prosecutor stipulates that: "The term of office of judges and members of the Office of the Public Prosecutor and the Fatwa and Legislation Department shall end upon their attainment of 70 years of age. Persons who have attained this age shall continue to work until the end of the judicial year. Terms of office may not be extended after this age has been attained."

The Kuwaiti Constitution provides for the establishment of a Supreme Judicial Council, the functions of which are regulated by the Organization of the Judiciary Act No. 23 of 1990. The Council oversees judicial affairs in Kuwait in accordance with the principle of independence. The Act empowers the Council to appoint, promote, transfer and assign judges and members of the Office of the Public Prosecutor, to express its opinion on matters relating to them, and to make whatever proposals it deems appropriate. It should be noted that the Act does not empower the Council to intervene in proceedings before the courts or the Office of the Public Prosecutor. Although the Council consists of judges of various ranks together with the Public Prosecutor and the Deputy Minister of Justice, the latter does not participate in votes on the Council's decisions. The Council is authorized to invite the Minister of Justice to its meetings, which the latter is also entitled to attend in order to raise important matters but 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.

Paragraph 16

The Kuwaiti Constitution and domestic legislation accord all persons, both citizens and foreigners, a full range of rights to litigate and to appeal against judgments and rulings. A foreigner is therefore entitled to appeal, in the event of an unlawful expulsion procedure, against the conviction and additional penalty of deportation from the country. **A distinction must be made in this regard between criminal deportation and administrative deportation.**

Criminal deportation

The Kuwaiti Constitution and legislation guarantee to everyone in Kuwait a full range of litigation rights, including the right to appeal against criminal convictions and related penalties, including deportation.

In addition, the Kuwaiti Code of Criminal Procedure (No. 17 of 1960) authorizes appeals against criminal convictions, including challenges to judgments handed down in absentia. Article 187 stipulates that: “Persons convicted in absentia of lesser and serious offences may appeal against their conviction before the court that handed down the judgment.”

The Code also offers persons who have been convicted the right to appeal against a first-instance judgment issued in the presence or absence of the parties. Article 199 stipulates that: “Every first-instance judgment of acquittal or conviction that is issued by a misdemeanour court or a criminal court is open to appeal, whether the judgment was issued in the presence of the parties or in absentia and the deadline for filing a challenge has expired, or in a challenge to a judgment rendered in absentia.”

In all cases, criminal judgments are only enforceable once they have become final (article 214, Act No. 17 of 1960), unless a judge considers enforcement of a first-instance judgment to be necessary and feasible in exceptional circumstances.

With regard to the possible return of a foreigner who was deported on the basis of an unlawful criminal conviction, the outcome in such circumstances depends on the ruling with respect to the criminal appeal filed by the deportee against the deportation judgment.

Administrative deportation

The Minister of the Interior is authorized to issue a deportation order against an immigrant if such action is required in the public interest or if he poses a threat to law and order. According to Decree-Law No. 20 of 1981 establishing the Administrative Department, administrative deportation orders are not subject to oversight by an administrative judge. Appeals to set aside such orders cannot therefore be filed.

With regard to measures taken to raise the age of criminal responsibility

Under the Kuwaiti criminal justice system a person is deemed to be criminally responsible when the law imposes a penalty on the perpetrator of an offence. No crime or penalty may exist without a law (article 32 of the Constitution). The penalties prescribed by the Kuwaiti Criminal Code No. 16 of 1960 and the supplementary legislation are either deprivation of liberty (imprisonment) or a financial penalty (fine).

Act No. 111 of 2015 concerning juveniles does not prescribe any criminal penalty for a juvenile aged between 7 and 15 years. Juveniles in that age group are considered to be the victim of circumstances beyond their control that have induced them to commit a legally proscribed act. Action to reform and rehabilitate them through socially motivated rehabilitative measures bears no relationship whatsoever to the concept of penalization. Such measures include:

- Placement with a guardian;
- Vocational training;
- Placement in a social care institution;
- Placement in a specialized therapeutic hospital.

Elimination of slavery and servitude

Paragraph 17

The Kuwaiti Constitution states that all persons are equal in human dignity and in public rights and duties, without distinction on grounds of race, origin, language or religion.

Pursuant to Act No. 5 of 2006, Kuwait ratified the United Nations Convention against Transnational Organized Crime with a view to preventing and suppressing trafficking in persons.

The Kuwaiti legislature promulgated Act No. 91 of 2013 concerning trafficking in persons and smuggling of migrants with a view to defending and protecting the rights of migrant workers.

The Act stipulates that the Office of the Public Prosecutor has exclusive jurisdiction to investigate, assess and prosecute offences specified in the Act and offences relating thereto, and to prescribe harsh penalties of imprisonment or the death penalty.

Article 2 of the Act stipulates that the penalty for trafficking in persons, which includes the offences of forced labour or services, slavery or practices similar to slavery, shall be a 15-year term of imprisonment. It prescribes a penalty of life imprisonment if the offence is associated with one of the aggravating circumstances specified in the article and prescribes the death penalty if the offence leads to the victim's death.

Under the terms of article 6, both the legal representative and the de facto manager of a corporate entity are liable to the penalties prescribed for the offences defined in the previous articles if the offences were perpetrated for the benefit of the corporate entity or on its behalf and with its knowledge, without prejudice to the personal criminal liability of the perpetrators of the offences. In addition, it provides for the dissolution of the corporate entity and the closure of its headquarters and branches either permanently or temporarily, for a period of not less than six months and not more than one year.

Article 12 of the Act provides for appropriate measures to assist and protect victims and authorizes the Office of the Public Prosecutor or the competent court to take any of the following measures that it deems to be appropriate:

1. Referral of victims of trafficking in persons or smuggling of migrants to the medical authorities or to social care homes so that they can receive the requisite treatment and care;
2. Placement in a shelter designated by the State for the purpose until such time as they can be repatriated to the country of their nationality or returned to the country in which they resided when the offence was committed.

The Council of Ministers, at session No. 49 of 2015 held on 26 October 2015, adopted Decision No. 1454, which takes note of the views of the Ministry of Justice concerning ways and means of implementing the provisions of Act No. 91 of 2013 concerning trafficking in persons and smuggling of migrants. The Decision mandates the Minister of Justice to establish a committee chaired by the Minister himself and comprising representatives of the Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Trade and Industry, the Public Authority for Manpower, the Public Authority for Civil Information and other relevant bodies. No representative may be of a lower rank than assistant deputy minister or the equivalent. The committee is required to develop a national strategy to combat trafficking in persons and smuggling of migrants and to submit it to the Council of Ministers within three months of the date of assignment. The following table shows cases of trafficking in persons that are under investigation and on which judgments have been handed down.

<i>No.</i>	<i>Case number</i>	<i>Date of registration</i>	<i>Legal proceedings</i>
1	438/2015 Al-Ahmadi Public Prosecutor's Office	19 May 2015	Sentenced to a five-year term of imprisonment
2	584/2015 Farwaniya Public Prosecutor's Office	3 June 2015	Under consideration before the Criminal Court
3	785/2015 Al-Ahmadi Public Prosecutor's Office	22 October 2015	Under consideration before the Criminal Court
4	109/2015 Public Prosecutor's Office for Juveniles	6 May 2015	Juvenile judicial examination
5	794/2015 Al-Ahmadi Public Prosecutor's Office	1 November 2015	Under investigation
6	34/2016 Al-Ahmadi Public Prosecutor's Office	14 January 2016	Under investigation

1. The *kafil* (sponsorship) system

The Kuwaiti Government is engaged in relentless efforts to find alternatives to the sponsorship system, in cooperation with international and regional organizations.

A number of reforms and amendments to the system have been introduced. The powers granted to employers have been circumscribed by means of regulations governing salary remittance conditions and the adoption of laws and decisions guaranteeing the rights of employees, for example:

- Ministerial Decision No. 142 of 2002 concerning the transfer of salaries into a bank account;
- Ministerial Decision No. 185 of 2010 concerning the setting of a minimum wage;
- Ministerial Decision No. 842 of 2015 concerning the transfer of an employee without the employer's consent.

Article 3 of Act No. 109 of 2013 concerning the establishment of the Public Authority for Manpower stipulates that:

“The Authority shall have exclusive authority to recruit migrant workers in the private and petroleum sectors on the basis of a request from the employer providing details of the workers to be recruited. The Ministry shall promulgate decisions setting out the prescribed measures, documents and fees.”

The Act thus enhances the Authority's power to organize labour recruitment and to arrange for the transfer of workers from one employer to another when it deems such action to be legally appropriate.

2. Mechanisms for monitoring employers' compliance with the law

The Act devotes an entire chapter to labour inspection because it represents the most effective means of guaranteeing compliance with the law. The articles in question specify the powers granted to labour inspectors and the role that they play in implementing the Act and in monitoring infringements of its provisions. The Act attributes the status of judicial police officer to inspectors with a view to ensuring that they play their role as effectively as possible.

The Government continuously reviews the inspection mechanisms in order to align them with labour-market requirements. It also endeavours to develop inspectors' capabilities and skills by means of modern training programmes implemented in cooperation with regional and international organizations. In November 2014 a technical cooperation agreement concerning international labour standards, labour inspection, and occupational health and safety was signed with the International Labour Organization (ILO). A number of training programmes for labour inspectors have been conducted under the agreement. In addition, the inspection regulations applied in Kuwait have been reviewed and proposals have been made for their alignment with international standards.

3. The shelter

Pursuant to article 12 (2) of Act No. 91 of 2013 concerning trafficking in persons and smuggling of migrants, a new shelter capable of accommodating 500 migrant workers was opened. The shelter provides all kinds of health-care, psychological and legal services to migrant workers and helps them to regulate their situation or to return to their country once all their rights have been secured.

The shelter admitted almost 2,800 workers in 2015, and it is currently accommodating 400 workers.

Refugees and asylum seekers

Paragraph 18

There is no specific legal and institutional framework regulating asylum in accordance with international standards because the State has not acceded to the Convention relating to the Status of Refugees, primarily in light of the fact that there are no refugees in Kuwait. It should be noted, however, that the State endeavours to support the efforts of the Office of the United Nations High Commissioner for Refugees (UNHCR) to alleviate the humanitarian sufferings caused by displacement and asylum seeking by making voluntary annual contributions.

Freedom of conscience and religious belief, freedom of opinion and expression, peaceful assembly, and freedom of association

Paragraph 19

Under article 35 of the Constitution everyone resident on national territory enjoys freedom of belief and freedom to practise religious rituals.

Those rituals can be practised in perfect freedom in locations which have been built with authorization and are subject to conditions laid down by the authorities. The State undertakes to defend those rituals as long as they are celebrated legally and with due respect for the country's public morals. This is consistent with the provisions of the International Covenant on Civil and Political Rights, article 18 (3) of which states that freedom of religion and of belief 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.

Kuwait has an integrated legislative system under which everyone resident on national territory enjoys freedom of belief and freedom to practise religious rituals. It also guarantees full respect for places of worship, religious sites and cemeteries while at the same time combating extremism and hate preaching. The most important laws in that regard include the following:

(a) The Criminal Code of Kuwait (Act No. 16 of 1960), as amended. It includes a series of provisions which penalize any actions that infringe upon freedom of religion, any acts of aggression against places where religious rituals are celebrated, including cemeteries, and any defamation of religious beliefs, rituals or teachings;

(b) The Printing and Publications Act No. 3 of 2006 and the Audiovisual Media Act No. 61 of 2007. They prohibit the dissemination of any material which would offend the dignity, life or religious beliefs of persons, or that would incite hatred or contempt for any particular group within society;

(c) Decree Law No. 19 of 2012, concerning the protection of national unity. The Law prohibits any advocacy or incitement, by any means of expression, of hatred or contempt for any social group; provocation of sectarian or tribal factionalism; promotion of ideologies based on the superiority of any race, group, colour, nationality, ethnicity, religious confession or lineage, or the encouragement of any act of violence to that end. It also prohibits the 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.

Authorization to build places of worship, be they mosques or churches, has to go through a series of administrative and organizational steps and receive approval in various government departments. All those procedures must be completed before an authorization can be issued and, in this regard, places of worship are treated exactly like any other public facility. Compliance with the procedures is obligatory and cannot be circumvented.

Conscientious objection

Conscientious objection may be a matter of personal conviction and feelings yet there is a more general context which cannot be overlooked: that is, when the independence of the State and its territory or the self-determination of its people is at stake and citizens must help to defend it. Therefore, if the State comes under attack, there can be no alternative to military service and the obligatory conscription of non-military personnel to defend their country. This principle finds confirmation in a number of articles of the Kuwaiti Constitution: 1, 47, 48, 68, 157, 158 and 160.

Paragraph 20

The promotion and protection of human rights is a national and international priority and this is reflected in a number of articles of the Kuwaiti Constitution:

- Article 7: "Justice, freedom and equality are the pillars of society while cooperation and compassion act as a bond between citizens."
- Article 30: "Personal freedom is guaranteed."
- Article 35: "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."
- Article 36: "Freedom of opinion and of scientific research is guaranteed. Everyone has the right to express and disseminate their opinions verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law."
- Article 37, which concerns freedom of the press and of publication.
- Article 45, which concerns the right to address the public authorities.
- Those provisions are consistent with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. According to article 19 of

the Universal Declaration of Human Rights, “everyone has the right to freedom of opinion and expression” while article 19 of the International Covenant on Civil and Political Rights states that “everyone shall have the right to hold opinions”. The Covenant was ratified pursuant to Act No. 12 of 1996.

- Legislators in Kuwait are at pains to protect freedom of opinion and expression, as is evident in article 1 of Printing and Publications Act No. 3 of 2006 which states that “freedom of the press, printing and publication are guaranteed under the provisions of this law”.
- According to article 8 of the same Act, “newspapers shall not be subject to prior censorship”.
- Another provision which reinforces the principle of press freedom is to be found in article 15 of the Act which states that, “without prejudice to the provisions of the preceding article, no newspaper may have its licence withdrawn save on the basis of a definitive court judgement”.
- Freedom of opinion and expression is subject to certain limitations, and the subjects which cannot be published in printed materials or in newspapers are set forth in articles 19, 20, 21 and 22 of Printing and Publications Act No. 3 of 2006. The penalties for such acts are set forth in the Kuwaiti Criminal Code.

Article 1 of Decree Law No. 19 of 2012, concerning the protection of national unity, prohibits any advocacy or incitement — by any of the means of expression set forth in Act No. 31 of 1970 amending certain provisions of the Criminal Code — of hatred or contempt for any social group; provocation of sectarian or tribal factionalism; promotion of ideologies based on the superiority of any race, group, colour, nationality, ethnicity, religious confession or lineage, or the encouragement of any act of violence to that end.

Judicial proceedings are not launched unless an act has taken place which is viewed by the law as criminal. It should be noted that under Kuwaiti law, in cases of defamation, the victim has the choice whether to pursue a civil or a criminal action.

Judicial proceedings for offences under ordinary law follow set procedures, while the Office of the Public Prosecutor and the law courts are responsible for the investigation and the trial before a natural judge, pursuant to the Code of Criminal Procedure and the Judiciary Act. In its examination of cases, the judiciary is bound by a series of constitutional guarantees contained in the Code of Criminal Procedure. They are:

- Articles 71, 98, 75 and 99 which concern the obligation to listen to the statement of the accused person regarding the charges brought against him during the investigation, the right of the accused to be attended by a lawyer during the investigation, the right to cross-examine witnesses and the free exercise of the right to a defence;
- Articles 59, 60, 60 bis, 63, 66, 70, 70 bis, 212, 224, 226 and 227.

They concern the legality of arrests and the right to lodge a complaint against an arrest warrant. Article 25 of Prisons Act No. 26 of 1962 concerns the separation of persons in pretrial detention from convicted prisoners.

Other relevant articles include 120, 136, 155, 162, 163, 164, 165, 170 (1), 187, 199 and 200 bis of the Code of Criminal Procedure, and Act No. 40 of 1972 concerning appeals to the Court of Cassation. These provisions cover other rights accused persons enjoy at all stages of judicial proceedings.

These guarantees are provided by the Kuwaiti judiciary — i.e., the criminal courts and the Office of the Public Prosecutor — in all the cases it deals with and they fulfil the

standards set forth in articles 9, 10 and 14 of the International Covenant on Civil and Political Rights.

Criticizing the Emir or attributing words to him without written permission from the Emir's Office is an offence under article 6 of Cybercrime Act No. 63 of 2015. However, that article merely refers to the provisions of article 27 (2) of Printing and Publications Act No. 3 of 2006 where the penalty for such an offence is limited to the payment of a fine.

No media outlet can have its licence withdrawn for criticizing the Government but only for failing to fulfil the necessary legal conditions. Those conditions include the legal status of the media outlet, its licensing conditions, its articles of incorporation, etc.

The allegation that the security agreement of the Cooperation Council for the Arab States of the Gulf is used to criminalize criticism of Gulf countries and leaders is untrue. To date, the country has not ratified that agreement and is not a party to it.

Paragraph 21

- There is nothing in Decree Law No. 21 of 1979 stipulating criminal penalties for non-Kuwaitis who participate in rallies, demonstrations and assemblies (ruling issued by the Constitutional Court on 25 November 2013);
- On 18 March 2015, the Constitutional Court ruled to reject a challenge against legal regulations governing demonstrations and assemblies, contained in Decree Law No. 21 of 1979, and against the criminalization of public assemblies pursuant to article 34 of Act No. 31 of 1970;
- Any group wishing to organize a public rally, demonstration or assembly is required to obtain authorization. This is because such events, by their nature, involve the occupation of public streets and squares which have to be temporarily equipped to accommodate them. They also require the presence of law enforcement officers in order to ensure the safety of the event and of participants and to facilitate the movement of others. Any refusal to grant authorization may, of course, be challenged and reviewed depending on the case;
- There is nothing in the reports concerning assemblies and demonstrations between 2012 and the present to indicate that the groups which organized those events had taken any administrative steps to obtain authorization;
- Law enforcement officers do not, in any case, make use of their powers to disperse assemblies under the Police Act No. 23 of 1968 unless those assemblies deviate from their original purpose and the participants start to disturb public order, block streets or attack third parties or public or private property. The incidents mentioned in the report — the 2012 demonstrations organized by activists who were resident unlawfully and the protests that took place at the beginning of July 2014 — were not peaceful and did not follow the procedures set forth in Decree Law No. 65 of 1979, concerning public meetings and assemblies. The organizers of the demonstrations did not obtain the necessary authorization and the authorities took lawful steps to disperse them. Participants were told to disband but failed to do so. Force was not used against them although it would have been lawful to do so. They then proceeded to attack law enforcement officers who sustained numerous injuries as they confronted the demonstrators. Moreover, considerable damage was caused to police equipment by the placement of barricades and sandbags, the use of sharp instruments, fireworks and projectiles and the burning of public and private property as law enforcement officers advanced to break up the gathering and restore order to the area. The protests also took a dangerous turn as they were accompanied by acts of violence, attacks against security forces, the sabotage of public and private

property, the terrorizing of residents in the areas where the gatherings took place, the interruption of traffic and the disturbance of commercial life;

- It is the national judiciary which must monitor, evaluate and decide on the legality of dispersal measures and the appropriateness of using force to that end (judgment issued by the Constitutional Court on 10 June 2013 in case No. 13/2010, application limited to case No. 12/2010, and judgment issued by the Court of Criminal Appeal on 26 September 2012 in case No. 10/2012, application limited to case No. 44/2010 of the criminal court of Sulaibikhat);
- Judicial proceedings against participants in the assemblies during the period under consideration were based on reports from the security forces describing actions which are offences under the Criminal Code and supplementary laws. Investigations into those matters respected all legal guarantees as set forth in paragraph 20 above;
- As regards amendments to provisions prohibiting public gatherings that do not have permission from the Ministry of the Interior, a bill has been presented to parliament to amend the aforementioned Decree Law. The aim is to bring public meetings and assemblies into line with article 44 of the Constitution and the relevant judgments of the Constitutional Court. A decree giving effect to the bill is to be issued in a forthcoming legislative session.

Paragraph 22

The Kuwaiti Constitution does not prohibit the existence and recognition of political parties. In fact, the Kuwaiti parliament contains groupings which are categorized by their political views and which could be considered as political parties. A debate is currently taking place in society with a view to formulating ideas for the establishment of an official framework regulating the activities of those parties in the future, both via a legislative proposal being put forward by members of the National Assembly and a bill being prepared by the Government.

Right to nationality, family rights and the rights of minors

Paragraph 23

The State shoulders the burden of educating illegal residents and their children at all levels in both public and private schools. The costs are met by a charitable fund overseen by the education board of the Ministry of Education. Meetings have taken place between the Central Agency for Regularization of the Status of Illegal Residents and the Ministry of Education to discuss which categories of persons fulfil the fund's acceptance conditions, as per mechanisms and rules approved by the Ministry.

The following categories of illegal residents are entitled to education:

- Persons registered with the Central Agency for Regularization of the Status of Illegal Residents;
- Persons registered with the Public Authority for Civil Information even if they are not in possession of a card from the Central Agency;
- Persons in possession of a notification of birth accompanied by applications for a birth certificate from the Committee on Lineage Claims;
- Persons in possession of a health insurance card showing their civil number even if they have no other corroborating documents;

- Children of combatants who participated in the wars of 1967 and 1973 in Egypt and Syria or who participated in the war for the liberation of Kuwait;
- Children of persons currently who work in the military and who are either illegal residents or have changed their status;
- Children of Kuwaiti women (widowed, divorced or still married) where the husband is an illegal resident or is of unknown nationality.

The issue of the acquisition of Kuwaiti nationality is a matter which touches on national sovereignty. It is to be determined by the State in the light of its own best interests and is subject to the conditions set forth in Kuwaiti Nationality Act No. 15 of 1959, as amended. As regards birth certificates, around 26,384 birth certificates have been issued.

Paragraph 24

Persons are not deprived of citizenship for political motives. Citizenship can be withdrawn for reasons related to the national interest; or if it was awarded unduly on the basis of fraudulent claims, false statements or inaccurate documents; or if within 10 years of being awarded Kuwaiti citizenship a person is convicted of an offence prejudicial to honour or integrity. The withdrawal of citizenship in this way is regulated by articles 13, 21 bis (a) and 21 bis (b) of the Nationality Act issued pursuant to Decree No. 15 of 1959, as amended.

The Kuwaiti system is, then, consistent with general principles of justice, rights and freedom as well as with regional and international treaties. At its meeting No. 59-3/2008, held on 3 November 2008, the Council of Ministers issued Decree No. 1135/3 whereby it decided to form a working group under the Minister of the Interior to look into the circumstances surrounding the concession of Kuwaiti citizenship under Decree No. 397 of 2007 to persons to whom legal conditions do not apply. And citizenship has effectively been withdrawn from certain persons who were shown not to have fulfilled the necessary conditions or who had obtained citizenship via one of the illegal ways described above. The withdrawal of citizenship is not a recent issue but is contemplated in the aforementioned Nationality Act.

Paragraph 25

Kuwait has issued an explanatory declaration concerning its obligations under article 2 (1) and article 23 of the Covenant according to which the law which regulates the provisions of the latter article is the Civil Status Act which is drawn from Islamic sharia. In the case of any inconsistency, Kuwait will apply its own national legislation in that regard.

Civil Status Act No. 61 of 1969 contains a number of relevant articles, they include:

- Article 24, which states that:
 - (a) A valid marriage is conditional upon a sound mind and the attainment of the age of consent;
 - (b) A judge can allow a person with mental difficulties, either male or female, to marry if a doctor declares that marrying would be beneficial to that person's treatment and if the other party consents;
- Article 25, which states that the marriage of a person who has been coerced or is intoxicated shall not be valid;
- Article 26, which states that a marriage contract may not be concluded or ratified unless the woman has reached the age of 15 and the man has reached the age of 17 at the moment the contract was concluded;

- Article 34, which states that one of the requirements for a marriage is that the man must be a fit partner for the woman at the moment the contract is concluded. The woman and her guardian have the right to demand annulment if that is not the case;
- Article 36, which states that compatibility of age between the spouses is a right afforded to the woman alone.

The justification for this is to be found in Islamic sharia which makes marriageability conditional upon soundness of mind and reaching the age of consent. Reaching marriageable age is related to reaching the end of infancy.

Early marriage is when either one or both of the spouses has not reached the minimum age for marriage as per the customs of society. One of the steps taken to prevent early marriage is the requirement to undergo a premarital medical check in accordance with Act No. 31 of 2008, which concerns medical tests for persons wishing to marry in Kuwait.

In all cases, the woman must consent to the marriage, and this principle is underlined in various articles of Civil Status Act No. 61 of 1969, including:

- Article 29, which states that (a) the marriage guardian of a young girl — i.e., one between the age of consent and the age of 25 — shall be a male agnate in nearest order of inheritance, if there is no such person guardianship is exercised by the judge.

This provision applies to persons with mental difficulties of either sex.

(b) The guardian and the ward must both give their consent.

It should be pointed out that all the provisions of the aforementioned articles are taken from Islamic sharia which, as per article 2 of the Constitution, is the principal source of legislation.

Right to participate in public life

Paragraph 26

According to article 82 of the Kuwaiti Constitution, members of the National Assembly have to be “originally of Kuwaiti nationality”. The explanatory note to article 82 states that “the distinction between original — or autochthonous — nationality and nationality by acquisition is set forth in other constitutions, generally in the context of the exercise of political rights, and most constitutions define it by a set number of years. This also gives the State certain guarantees which experience in other parts of the world have shown to be necessary. Therefore, the law requires certain conditions to be fulfilled in order to acquire Kuwaiti nationality. Anyone who applies to obtain a particular nationality already knows the legal conditions of that country and applying for nationality implies acceptance of those conditions. In all cases citizenship requires the approval both of the requesting party and of the granting party”.

Dissemination of information relating to the Covenant and its Optional Protocol

Paragraph 27

The State has made its periodic report available via the website of the Ministry of Foreign Affairs in order to enable everyone (the general public and concerned persons in Kuwait) to examine the text and provide comments and suggestions. A summary has been added concerning the implementation by Kuwait of the provisions of the International

Covenant on Civil and Political Rights. This includes a review of other reports which Kuwait has submitted in compliance with the Covenant.

The committee responsible for preparing the reports Kuwait submits to international human rights bodies cooperates closely and constantly with renowned civil society associations. Meetings and consultations are held with those associations in order to gather their comments and queries about the country's national reports to the treaty body mechanisms.
