



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

Distr.: General  
29 May 2017  
English  
Original: Arabic  
Arabic and English only

---

**Committee against Torture**

**Concluding observations on the third periodic report of  
Kuwait**

Addendum

**Information received by Kuwait on follow-up to the  
concluding observations\***

[Date received: 2 May 2017]

---

\* The present document is being issued without formal editing.



## **Reply to the concluding observations of the Committee against Torture following the consideration of the third periodic report of Kuwait on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

**13. The Committee is concerned at consistent reports of torture and ill-treatment, in particular during prolonged detention of persons by the police and security forces, in response to terrorist activities, as well as in relation to peaceful protests by human rights defenders and members of minorities. It is further concerned that such practices are often not sufficiently investigated or sanctioned by relevant authorities (arts. 12 and 16).**

1. Kuwait is careful to respect legal safeguards and to protect locally and internationally recognized human rights principles. This, we believe, should assuage the concerns of the Committee against Torture, particularly as all places of detention in Kuwait are subject to periodic monitoring by the Office of the Public Prosecutor, investigators and the General Department of Monitoring and Inspection. During the tours of inspection of places of detention, which are always carried out without prior notice, the names of detainees are noted and the reasons for and length of their detention are scrutinized in order to determine the legal duration of the measures taken against them.

2. No one in Kuwait is detained for terrorist activities except in accordance with the law and under the supervision of the Office of the Public Prosecutor. All detained persons are referred to the judiciary and given a fair trial in which they are able to exercise their right to a defence. This applies to persons arrested for terrorism or for any other form of criminal activity.

**With regard to the Committee's concern that the relevant authorities often fail to investigate allegations of torture and ill-treatment during detention, we may respond as follows:**

3. A number of cases have been brought by accused persons against members of the police, including criminal allegations being heard before the courts and complaints submitted to the General Department of Monitoring and Inspection. The cases have been investigated and measures taken including dismissal from service, referral before disciplinary boards, imprisonment or deduction of pay, depending on the nature of the infraction committed.

4. In 2016, the General Department of Monitoring and Inspection within the Ministry of the Interior received 741 complaints. Of those, 309 concerned the misuse of power, the use of force in dealing with the public or the abuse of authority. In 19 per cent of the complaints submitted, members of the police were punished.

**14. The State party should:**

**(a) Publicly condemn the use of torture and ill-treatment with the clear message by the highest State authority that it will not be tolerated and that those responsible will be held to account.**

5. Kuwait ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Act No. 1 of 1996. Treaties ratified by Kuwait become, from the date of their entry into force, an integral part of national legislation and are incorporated into the country's legal system. As a consequence, all government agencies and institutions, as well as individuals, are bound to abide by their provisions while the judiciary is under the obligation to ensure that those provisions are duly respected.

6. This legal obligation arises from article 70 of the Constitution of Kuwait, which stipulates that: "The Emir shall conclude treaties by decree and shall promptly transmit them to the National Assembly, together with an appropriate statement. A treaty shall acquire force of law once it has been signed, ratified and published in the Official Gazette."

7. Articles 31 to 34 of the Constitution reflect the desire to ensure that human freedom is not unjustly restricted while also acting as a safeguard against torture and inhuman or degrading treatment. According to those articles, there can be no punishment without a law, accused persons are innocent until proven guilty and punishment is personal. Those provisions existed before Kuwait issued Act No. 1 of 1996 under which it ratified the Convention against Torture, and this serves to demonstrate the concern of Kuwaiti legislators to combat all forms of torture.

8. Numerous pieces of domestic legislation in Kuwait make provision for the prohibition and punishment of acts of torture. These include, by way of example:

- Article 70 of the Criminal Code (Act No. 16 of 1960), which states: “When sentencing public officials for using bribery or torture to extract a confession from an accused person, judges shall ... dismiss them from office for a period defined in the sentence, which shall be no less than one year and no more than five years”.
- Article 184 of the Criminal Code, which stipulates that: “Anyone who arrests, imprisons or detains another person, in circumstances other than those stipulated by law, or while failing to follow due procedure, shall be liable to imprisonment for up to 3 years and/or payment of a fine of up to 225 Kuwaiti dinars (KD). If those acts are accompanied by physical torture or threat of death, the perpetrator shall be liable to imprisonment for up to 7 years.”
- Article 53 of the Criminal Code (Act No. 31 of 1970), which states: “Any public official or employee who, either directly or through another, tortures an accused person, witness or expert to force them to confess to an offence, or to make statements or provide information in that regard, shall be liable to imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder.”
- Article 53 of the same Act, which states: “Any public official or employee, or any person charged with providing a public service, who abuses his or her position to use force against a person with the aim of causing him or her dishonour or bodily pain shall be liable to imprisonment.”

9. The Cabinet legal affairs committee is examining a bill presented by the Government to amend article 53 of Act No. 31 of 1970, which amends certain provisions of the Criminal Code (Act No. 16 of 1960), in line with article 1 of the Convention against Torture.

10. It is clear, then, that Kuwaiti criminal legislation does largely address cases of torture, abuse and cruel and inhuman treatment, although it does so in a number of different texts. The provisions of the Criminal Code do not always define the precise characteristics of criminal behaviour but limit themselves to mentioning the unlawful act, as in the case of torture. However, it is understood that all forms of behaviour that lead to that act are forbidden, while the nature of the act in itself indicates the characteristics of behaviour that lead to it. And thus, the concept of torture propounded by Kuwaiti legislators in different articles of criminal law is largely in line with the relevant international standards.

11. Media statements made by officials, either on a specific case or in the context of a security programme, always condemn any behaviour that involves harm to human rights or ill-treatment of the public, including torture, and indicate the measures taken against such acts to bring persons at fault to account or to refer them to the courts, as the case may be.

**(b) Carry out prompt, impartial, thorough and effective investigations into all allegations of torture and ill-treatment, including the excessive use of force, by police and security officers, ensure that those suspected of committing such acts are immediately suspended from their duties for the duration of the investigation and, if charged and found guilty, are criminally prosecuted.**

12. The right to take legal action is guaranteed under article 166 of the Constitution of Kuwait and there are no obstacles to hinder or prevent people from exercising that right. Reporting mechanisms are flexible and individuals can exercise their right to complain by calling the number 112. All calls and conversations are recorded and documented then

referred to the competent authorities, which determine the veracity of the complaints under the direct supervision of high-ranking ministerial officials. The complaints received by the General Department of Monitoring and Inspection are shown in the table below:

<i>Year</i>	<i>Number of complaints</i>	<i>Percentage of cases where penalties or disciplinary measures were imposed</i>
2013	568	19%
2014	700	22%
2015	767	31%
2016	741	29%

13. In the light of those figures, we can state that reports and complaints are treated seriously and dealt with transparently, objectively and impartially with no concern other than that of the common good. Moreover, all the procedures are carried out under the direct supervision and guidance of the Deputy Prime Minister, the Minister of the Interior and the Deputy Minister of the Interior.

14. Ministerial Decree No. 372/2000, concerning suspension from duty, includes provision for suspending members of the police if they are accused of an offence, the aim being to defend the public interest and ensure the impartiality and neutrality of investigations. According to article 1 of the Decree:

“Members of the police shall be suspended from duty in the following cases:

- (a) If they are accused of an offence that violates honour or trust;
- (b) If they are accused of an offence for which the Ministry believes they should be suspended;
- (c) If their suspension is required in the interests of the investigation;
- (d) If they are imprisoned in Kuwait, either on remand or following a court verdict;
- (e) If their suspension is necessary in the public interest. In that case, they shall be suspended for no more than three months and shall receive full pay during the period.”

According to article 2 of the same Decree, “Officers shall be suspended by decree of the Minister while other ranks shall be suspended by decree of the Deputy Minister.”

- (c) **Ensure that peaceful demonstrations are not repressed by unnecessary excessive use of force and even detention.**

15. Kuwait always abides by democratic principles, in accordance with its own Constitution. Demonstrators are dealt with using peaceful means and without excessive force and they are not subjected to unlawful detention. Demonstrations are protected and are given media coverage so that the position of a particular group may be expressed without breaking the law. In the same way, measures against demonstrations are taken under the supervision of security agencies and other State bodies and there are no arbitrary actions on the part of the police.

16. All sectors of the Ministry work together to implement those measures, which act as a safeguard ensuring transparency, impartiality and respect for human values while limiting or preventing any infractions that might be committed by members of the police or other law enforcement officials in Kuwait.

17. The Human Rights Declaration of the Member States of the Cooperation Council for the Arab States of the Gulf, adopted at the Council’s thirty-fifth session held in Doha on Tuesday 9 December 2014, reaffirms and underscores the Charter of the United Nations, the Universal Declaration of Human Rights, the Arab Charter on Human Rights, the Cairo Declaration on Human Rights in Islam and other relevant international and regional instruments.

18. The Human Rights Declaration of the Member States of the Cooperation Council for the Arab States of the Gulf is made up of 47 articles that emphasize the importance of joint

action in the interests of humanity. In fact, according to article 1 of the Declaration, “Every person has the right to life and must be protected from any attack thereon.” The articles that follow embrace a comprehensive perspective to guarantee the non-violation of general and internationally recognized human rights principles.

19. According to article 3 of Decree No. 124 of 1998, concerning disciplinary penalties for members of the police, and article 18 of Ministerial Decree No. 898 of 1998, as amended, which contains the implementing regulations for the Decree concerning disciplinary penalties, “The Department of Military Prosecutions is responsible for investigating, prosecuting and pursuing the violations referred to it under article 1, as follows:

1. Misusing power, using force in dealing with the public or abusing authority
2. Delaying procedures relating to reports or complaints
3. Having an inappropriate appearance or behaving in a manner unbecoming to the military.”

20. When it is proven, either by judicial verdict or in writing by the agency for which the officer works, that a police officer has committed any such violation he or she is liable to one of the disciplinary penalties set forth in article 2 of the Decree concerning disciplinary penalties, and article 18 of the implementing regulations for the Decree. The nature of the penalty depends on the gravity of the violation but in the past police officials have been dismissed or discharged from service for violations they have committed.

21. Persons are held accountable for violations whether committed within or outside the scope of their official duties. Such violations need to be reported promptly in order to ensure that the punishment achieves its intended effect as a general deterrent for others and as a specific deterrent for the person responsible and an incentive for him or her to change their behaviour.

**22. The Committee is concerned at consistent reports that certain places of deprivation of liberty, including the so-called “Talha” Centre for Deportation and the Central Prison Complex near Kuwait City, have poor material conditions, such as inadequate sanitation and medical care, insufficient ventilation and daylight, a lack of the possibility to exercise and dilapidated and old infrastructure, and that certain detention facilities are overcrowded. It is also concerned at reports that minors are not separated from adults in police stations and that male guards in police stations may be guarding female detainees after their arrest. The Committee is also concerned at the provisions in article 48 of the Criminal Code that stipulate that detainees who face the death penalty should not mix with other detainees, which could give rise to cell isolation practices, including solitary confinement, that violate the provisions of the Convention (arts. 2, 11 and 16).**

22. Places of deprivation of liberty in police stations are designed to fulfil international standards with regard to health-care facilities, ventilation by air conditioning and windows to admit air and daylight. Every effort is made to provide all forms of care, first and foremost health care for ailing detainees who are promptly transferred to hospital, within the framework of the law. Area commanders and police station chiefs are given instructions to inspect places of detention periodically in order to determine preparedness, cleanliness and inmates’ needs. On a different front, efforts are made to limit overcrowding in police cells by promptly transferring inmates to the competent authorities within the time limits for detention set forth in the law. Generally speaking, in most police stations juveniles are not allowed to be detained alongside adults. As soon as they are arrested they are sent to the Department for Juveniles for referral to the Juvenile Prosecutor. As for the issue of male guards guarding female detainees, the Ministry is always anxious to ensure that female police officers are assigned in adequate numbers across all sectors, particular the prisons sector where, in fact, a large number of them work.

**23. The State party should:**

**(a) Take urgent measures to improve the material conditions in all places where persons are deprived of their liberty and reduce overcrowding with a view to ensuring full compliance with international standards enshrined in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).**

23. The sector in charge of reform institutions and enforcement of sentences is always seeking to improve material conditions in all places of detention and to reduce overcrowding in the following ways:

- Alternatives to imprisonment in force in Kuwaiti prisons to reduce overcrowding

- Community service

Article 235 of the Code of Criminal Procedure (Act No. 17 of 1960) states: "Persons sentenced to ordinary imprisonment for less than 6 months or persons who have been subject to a warrant compelling them to pay a fine may request the prison director to convert their sentence to one of community service". The sector in charge of reform institutions seeks to make this provision effective in exceptional cases in order to limit overcrowding.

- Royal pardon

The royal pardon, which is issued annually on the occasion of national holidays, benefits many inmates either through immediate release or reduction of sentence. The pardon is applied on the basis of certain rules and conditions, which the inmates who benefit from it must fulfil.

- Release on health grounds

This involves the application of article 80 of Prisons Act No. 26 of 1962 whereby inmates whose state of health has deteriorated dangerously are released after being examined by a medical commission, which delivers its opinion on the matter.

- Conditional release

This takes place in accordance with article 87 of the Criminal Code (Act No. 16 of 1960), which states: "Persons sentenced to a term of imprisonment may be conditionally released once they have served three quarters of their sentence, on condition that they have spent at least one year in prison, that they have a record of good behaviour and that their release would not be prejudicial to security."

24. Projects are underway to build new prisons in accordance with international standards:

1. Construction of a prison building to house 5,000 male inmates
2. Construction of a prison building to house 1,000 female inmates
3. Construction of a building for the Department of Deportation and Temporary Detention
4. Construction of a building for the Department of Follow-up Care.

**(b) Ensure that minors are not held with adults in police stations and that arrested women and girls are guarded only by female guards in all places of detention, including police stations.**

25. Rule 11 (d) and rule 112 (1) of the Nelson Mandela Rules are applied in regard of sentences of deprivation of liberty against juveniles. In fact, juveniles are held separately from adults, in accordance with article 17 of Act No. 111 of 2015, which promulgates the Juvenile Code and enjoins that sites for juveniles in detention, separate from ordinary prisons, be designated by decree of the Minister of Social Affairs and Labour with the approval of the Minister of the Interior.

26. Prisons Act No. 26 of 1962 is in line with the Nelson Mandela Rules in regard of the requirement to ensure that arrested women and girls are guarded only by female guards in all places of detention, including police stations. In fact, imprisoned women and girls are guarded by female military personnel who are appointed by the Female Police Institute, and a female official holds the keys to all the cells.

**(c) Ensure that detainees facing the death penalty are not subjected to solitary confinement and isolation and inform the Committee about specific detention conditions that are imposed on those prisoners, ensuring that they are in line with the Nelson Mandela Rules.**

27. The law has established safeguards that allow detainees or their families to submit complaints about conditions of detention. Directives and instructions from senior officials within the Ministry to security chiefs recommend that complaints be received and investigated promptly and, if any violation is shown to have taken place, that decisive measures be taken against the police officer who committed the violation and an exemplary punishment be imposed. This is in addition to the mechanisms of the Ministry of the Interior's General Department of Monitoring and Inspection, which undertakes unannounced tours of inspection during which inspectors interview prisoners and listen to their complaints. Moreover, prisoners or their families may present complaints about conditions of detention directly at the headquarters of the Department.

28. The sector in charge of reform institutions and enforcement of sentences seeks to ensure that detainees facing the death penalty are not held in solitary confinement or isolation. They are assigned to a special site but it does not amount to isolation or solitary confinement. Rather, it is a form of special classification of inmates on the basis of the penalty they face. In fact, article 27 of Prisons Act No. 26 of 1962 states: "Prisoners of both categories shall be ranked on the basis of age, criminal record, nature of offence committed, period of sentence, similarity of social and cultural status and openness to reformation." On the other hand, conditions of detention are the same for all prisoners.

**(d) Ensure that detained persons can complain about their conditions of detention to an independent complaints mechanism.**

29. The penal institutions run by the Ministry of the Interior work closely with independent international and local organizations in order to arrange visits to detainees held in police stations. The aim of the visits is to examine the places and conditions in which the detainees are held, listen to their complaints and make observations. Those complaints are then addressed through follow-up to avoid the same issues arising again.

30. In accordance with articles 5, 6, 13 and 15 of Prisons Act No. 26 of 1962, each prison must have a register to record prisoners' complaints and demands. Tours of inspection of prisons are also made and all prisoners have the right to submit complaints, either orally or in writing. Article 5 of the Act, in fact, states that each prison shall have a register of prisoners' complaints and demands.

31. Article 6 of the Act states: "The (designated) prison warder shall carry out the orders imparted by the Director of Prisons, within the limits of the law and regulations, and shall enable inspectors to carry out their duty to inspect the prison."

32. Article 13 of the Act states: "The (designated) prison warder shall monitor activities inside the prison and ensure that any situations that violate the law and regulations are duly remedied. He shall also receive genuine complaints from prisoners, either orally or in writing, and report them to the competent authorities having first recorded them in the complaints register."

33. Article 15 provides that: "The Director of Prisons may carry out a prison inspection at any time. Prisoners may speak to the Director during the inspection and voice any complaints to him. The Director shall investigate all serious complaints, take action to address their causes, where founded, and report important cases to the Ministry of the Interior."

Periodic visits by local and international human rights bodies:

- Periodic visits by the International Committee of the Red Cross (ICRC) to examine the living conditions of prisoners.
- Visits to prison complexes by the Human Rights Committee of the National Assembly. From time to time, the Committee visits prisons to review living conditions of inmates and to make any necessary recommendations. Every effort is then put into implementing those recommendations in order to improve prisoners' living environment.
- The human rights committee of the Kuwait Bar Association also undertakes visits to check on the living conditions of prison inmates and to ensure that all the rules applied in prisons and detention centres remain consistent with international human rights standards. Any comments the committee makes during the course of its visits are promptly taken in hand by the sector in charge of reform institutions and enforcement of sentences.

**(e) Ensure that independent international and domestic bodies, including the Diwan (the national human rights institution), carry out unannounced visits to all places where persons are deprived of their liberty and ensure that their reports and recommendations are adequately followed up by the relevant authorities.**

34. There is constant coordination with independent international and domestic bodies. For example, ICRC carried out 82 visits to detention centres during the course of 2016.

**(f) Place the penitentiary system under the authority of the Ministry of Justice instead of the Ministry of the Interior.**

35. Article 1 of Prisons Act No. 26 of 1962 reads: "Prisons are established and their locations are designated by decree of the Minister of the Interior." Thus transferring prisons to the authority of the Ministry of Justice would require changes to the law.

**26. The Committee is concerned at the interruption of the de facto moratorium on the application of the death penalty that was in force since 2007, and at the execution of nine persons since 2011. It remains concerned at the exceedingly large number of offences for which the death penalty is imposed, such as those relating to perjury or "forced perjury" and drug-related crimes, which do not meet the threshold of most serious crimes (arts. 2 and 16).**

**27. The State party should:**

**(a) As a matter of urgency, reinstate a de facto moratorium on the application of the death penalty;**

**(b) Follow the current international trend and consider revising its legislation with a view to abolishing the death penalty and commuting death sentences to prison sentences. The Committee reiterates its recommendation (see CAT/C/KWT/CO/2, para. 17) that the State party consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

36. Kuwaiti legislation includes provision for the death penalty for the most serious crimes, as such offences undermine the values of Kuwaiti society and destroy the fabric of the State and the stability of the community. For example, the death penalty can be applied in drug-related crimes, as drugs are one of the aggravating circumstances stipulated under articles 31 bis and 32 bis of Act No. 74 of 1983. It should also be pointed out that, if Kuwait has incorporated the death penalty into its system of domestic criminal law, this is because that system is based on Islamic sharia, which includes provision for *qisas* penalties. Therefore, calling for the abolition of the death penalty goes against the provisions of Islamic sharia, which is the main source for all national legislation, including criminal law.

37. Although the fact that the death penalty has not been applied in Kuwait for some years has been used as the basis for calls for its abolition, we can state that delays in the application of death penalties issued under final and definitive sentences are, in fact, due to



the time-related and procedural mechanisms that accompany the imposition of such sentences.

38. In that context, Kuwaiti legislators have been at pains to ensure that death sentences and their implementation are surrounded by a substantial number of procedural safeguards the most important of which are listed below.

39. The death penalty may be imposed only for the most serious crimes that pose a threat to the security, welfare and stability of society.

40. It is prohibited to carry out 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.

41. It is prohibited to impose a death penalty on persons who are mentally unsound.

42. The death penalty can be carried out only on the basis of a final judgment handed down by a competent and impartial court following numerous legal procedures aimed at ensuring a fair and impartial trial of the accused.

43. 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.

44. Every death sentence imposed by a criminal court is automatically referred 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).

45. 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 appeals in cassation and the associated procedures).

46. The implementation 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.

47. With a view to enhancing protection, death sentences are carried out only with the approval of the Emir. The convicted person is kept in prison until the Emir decides to approve or commute the sentence or to issue a full pardon (article 217 of the Code of Criminal Procedure).

48. On the basis of the foregoing, and in view of the fact that Islamic sharia is the principal source of positive law in Kuwait, we must affirm that the death penalty is legitimate and is part of sharia law and that abolishing it would actually constitute a violation of sharia and of the constitutional system underpinning the State. Article 2 of the Constitution of Kuwait states, in fact: "The religion of the State is Islam and Islamic sharia is the main source of legislation."

49. As the explanatory memorandum to the Constitution points out, article 2 does not limit itself merely to stating that the "religion of the State is Islam" but also that Islamic sharia, in the sense of Islamic jurisprudence, is the main source of legislation. By being drafted in this way it seeks to ensure that legislators, while being guided by fundamentally Islamic principles, are not prevented from drawing provisions from other sources in matters that have not been codified by Islamic jurisprudence or from developing fresh provisions as new needs naturally arise over the course of time. For example, the text does allow for the introduction of new criminal laws, notwithstanding the limits that exist in Islamic sharia, and that would not have been possible if the words "Islamic sharia is the main source of legislation" were interpreted to mean that it was not possible to draw on any other source on issues addressed by Islamic sharia. In fact, that would have caused considerable difficulties for legislators as practical necessity gradually led them to develop legal provisions in areas such as company law, insurance, banking, loans, borders, etc.

50. According to the Constitution, then, "Islamic sharia is the main source of legislation". Thus legislators, on the basis of this clear and unambiguous indication,

undertake to abide by the provisions of sharia law to the extent possible, and nothing in the text prevents them, sooner or later, abiding fully by those legitimate provisions when they believe that they should do so.

51. Kuwaiti legislators must, then, abide by the provisions of sharia, although they can introduce legislation from other sources in matters that have not been codified by Islamic jurisprudence.

52. Although article 6 (1) of the International Covenant on Civil and Political Rights states that every human being has the inherent right to life, article 6 (2) provides: “In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime. ... This penalty can only be carried out pursuant to a final judgement rendered by a competent court.”

53. As we stated above, the death penalty in Kuwait is not handed down or carried out except for the most serious crimes and in accordance with set procedures of criminal law. Furthermore, it is surrounded by numerous judicial safeguards, including suspension until a final judgment has been rendered by a competent domestic court. It is, therefore, entirely consistent with article 6 (2) of the International Covenant on Civil and Political Rights.

**30. While taking note of the adoption of the Domestic Workers Act No. 68 in 2015 and that a few persons have been prosecuted and found guilty in this connection, the Committee is concerned at:**

**(a) Reports of exploitation, ill-treatment and torture against individuals and other abuse of numerous foreign workers from various countries by their employers, in particular female domestic workers, who work under the sponsorship system and the legal provisions regulating it and which includes long working hours without rest, deprivation of food, threats, physical or sexual abuse, restriction of movement such as confinement to and kidnapping in the workplace, confiscation of passports and other personal documents and non-payment of wages, which may amount to forced labour and resemble slavery.**

54. Kuwait was one of the first countries to tackle the issue of domestic workers and has made strenuous efforts to guarantee and defend their rights. It created a special department — the Department of Domestic Workers — to provide care for them from the moment they arrive in Kuwait and begin to work for their employers, safeguarding their rights and providing support until the time they leave the country and return to their places of origin. Since 1992, Kuwait has also issued numerous pieces of legislation and ministerial decrees to protect domestic workers and regulate their working conditions. The most recent of these is Domestic Workers Act No. 68 of 2015, which includes provisions to protect the rights of domestic workers and improve their working conditions while laying down rules to ensure that they are able to exercise all their rights. For example, the Act requires employers to stipulate a contract of employment protecting the rights of the domestic worker; it also regulates working hours and overtime and gives domestic workers an end-of-service entitlement of one month’s salary for every year spent with the employer, and it requires employers not to assign domestic workers to undertake dangerous activities. Furthermore, the Act obliges employers not to make domestic workers work for more than 12 hours a day, interspersed with periods of rest, and gives domestic workers the right to weekly and annual holidays. This latter provision is enshrined in articles 22 (2) and 22 (3) of Domestic Workers Act No. 68 of 2015, which read as follows:

1. The maximum number of working hours shall be no more than 12 in a single day, interspersed with periods of rest.
2. Domestic workers are entitled to a weekly and annual leave with pay.

55. Under clause 7 (3) of the contract of employment, employers cannot make domestic workers work for more than five hours at a time, to be followed by a period of rest of at least one hour. The Domestic Workers Act also imposes the following obligations upon employers:

- Under article 22 (4) of the Act, they may not withhold the passport or personal documents of the domestic worker. The article states: “The domestic worker’s passport is the worker’s personal document that he or she has the right to keep in his or her possession. It is not permissible for the employer to withhold the domestic worker’s passport or to prevent the worker from keeping it in his or her possession without the approval of the worker concerned.”
- Under article 7 of the Act, they must pay the domestic worker at the end of each month. The article states: “The employer is obligated to pay the agreed wage to the domestic worker who works for him or her at the end of each month.”
- Under article 27 of the Act, they are liable to a fine of KD 10 for each month of delay in payment of wages to a domestic worker. The article states: “If the employer is late in paying the wages at the agreed time, the domestic worker is entitled to the amount of KD 10 for every month that the wages are not paid on time.”
- Under article 8 of the Act, no sums may be withheld from the wages of a domestic worker. The article states: “The payment of the monthly wage to the domestic worker is to start from the actual date that the worker begins working for the employer. Under no circumstances may any portion of the wages be deducted.”

56. From the information given above, it is clear that Kuwait is anxious to promote and protect the rights of domestic workers. Domestic Workers Act No. 68 of 2015 gives such workers the right to submit complaints of all kinds, either to demand some entitlement or to denounce any form of ill-treatment at the hands of their employers. They may turn to the Department of Domestic Workers to file their complaints against an employer, at which the employer is then summoned to the Department for the complaint to be investigated and resolved. If the complaint cannot be resolved it is referred to the competent court where, in accordance with articles 36 and 37 of the Domestic Workers Act, the domestic worker is exempted from paying any of the related fees and the case must be examined and resolved promptly.

57. The Criminal Code of Kuwait contains provision for the punishment of anyone who uses aggression or inflicts suffering against another or who attacks a domestic worker. Legal proceedings are launched against employers who are so accused and they are referred to the competent authorities.

**(b) The alleged inhuman conditions of some 4,000 workers from the Democratic People’s Republic of Korea, who have allegedly been sent for forced labour on construction projects in the State party, working from 14 to 16 hours per day, receiving only 10 or 20 per cent of their salary and being in poor health due to a lack of adequate nutrition.**

There are around 5,535 workers from the Democratic People’s Republic of Korea in Kuwait. They enjoy the same rights as all other workers in Kuwait and, like others, they are subject to Act No. 6 of 2010, concerning work in the private sector.

58. The Public Authority for Manpower received reports of a strike of a group of 146 building workers from the Democratic People’s Republic of Korea. The director general and a number of officials of the Authority immediately travelled to the site and began direct talks with the workers to learn the reasons for their action and the demands they were making. It emerged that there were problems related to a four-month delay in the payment of wages as a result of which the workers wished to return home.

59. When the workers were asked why they had not submitted a complaint to the competent department within the Public Authority for Manpower, they responded that, before leaving their country, they had signed contracts of employment in which it had been stipulated that they would be paid every two months. Upon learning this, the officials of the Public Authority explained to the workers that such contracts were in contravention of Kuwaiti law and that no account would be taken of any contractual provisions that were against the interests of the workers. They also told them that they should have filed a complaint with the work relations department in the Public Authority from the very start and not have waited all that time without receiving their wages.

60. As a result, the following steps were taken:

- The file of the company concerned at the Public Authority for Manpower was closed and all procedures relating thereto were temporarily suspended;
- The representative of the company was summoned and obliged to pay all the workers' delayed entitlements, and to provide air tickets for their return to their country; an official record was drawn up and the company representative signed it;
- The workers were duly given their back wages and all their entitlements and procedures were facilitated for them to return to their country, as they had requested.

61. It should be explained that closing the file constitutes a punishment of the employer as a consequence of which he can no longer employ or transfer workers for the company.

**(c) The lack of mechanisms for foreign workers, in particular those who do not speak Arabic, to report cases of abuse.**

62. The law includes provision for a reporting mechanism whereby domestic workers may submit complaints of any kind, report abuse or demand their rights to the Department of Domestic Workers. The Department receives the complaint and provides translation in certain languages in order to enable workers to submit any complaints they may wish. The complaint is then examined and resolved and, if it cannot be resolved, it is referred to the competent court. If the complaint constitutes an offence or violation, it is submitted to the relevant authorities.

63. A number of civil society organizations in Kuwait give domestic workers legal aid to help them obtain their rights. They provide legal consultations and legal representation free of charge as well as translation in several languages.

64. In addition to the services provided by civil society organizations, the Public Authority for Manpower has numerous channels of communication that workers can use. Moreover, many of the staff in the Public Authority speak English as well as Arabic and the centres for receiving complaints are distributed throughout the country, making them easy to reach.

65. Frequent meetings take place between the Public Authority for Manpower and foreign embassies in Kuwait during which the embassies are informed of the need to maintain constant contact with the Public Authority and to inform it of any complaints via the Ministry for Foreign Affairs. Periodic meetings are also held with a number of the embassies in furtherance of the general State policy of ensuring justice for all workers in the country.

**(d) The low number of prosecutions of abusive employers and lack of redress and compensation provided to workers who have suffered abuse.**

66. The law is applied to everyone and, if a violation has taken place, the person responsible is immediately referred to the courts. In 2016, 1,341 complaints were made to the Department of Domestic Workers of which 41 were referred to the competent courts. One hundred and seven complaints were made between 1 January 2017 and 31 March 2017. The other complaints were resolved within the Department of Domestic Workers, although some were referred for criminal investigation or determination of residency status.

67. According to the law, if a domestic worker suffers harm, be it physical or psychological, he or she is entitled to compensation the amount of which is determined by the competent court. A number of paths are open to domestic workers to obtain appropriate compensation for any harm or abuse they may suffer: they may have recourse to the Department of Domestic Workers or they may approach the competent courts to demand compensation, in accordance with the Civil Code of Kuwait.

68. The Labour Code of Kuwait regulates workplace relations and guarantees workers the right to submit labour-related complaints for any harm they may suffer as a result of contractual violations on the part of an employer. For example, article 47 of the Labour Code enshrines the worker's right to compensation for damages resulting from premature termination of the contract of employment.

69. Provision is also made for workplace injuries. Article 88 of the Code requires employers to insure workers against workplace injuries and occupational diseases while article 94 guarantees injured workers and their beneficiaries the right to compensation for workplace injuries and occupational diseases.

**31. The State party should:**

**(a) Vigorously implement and enforce the Domestic Workers Act No. 68, by carrying out labour inspections, reporting and, if charges are warranted, promptly prosecuting cases of abuse by employers, and bring those responsible to justice.**

70. During the course of last year, the Department of Domestic Workers conducted 1,855 inspections of 234 domestic worker recruitment bureaus. Any violations by such bureaus leads to their closure or the suspension of their licence for between three and six months, depending on the nature of the violation, and the referral of the case to the competent authorities. In fact, 27 domestic worker recruitment bureaus have been closed by decree of the Department of Domestic Workers.

71. As for employers, if the complaint of a domestic worker is proven, the issuance of work entry visas on behalf of the employer is suspended for a period of six months. If the offence is repeated, that period is doubled.

**(b) Urgently reform the sponsorship system to ensure that foreign workers, and in particular female domestic workers, are not subjected to the risk of abuses in violation of the Convention.**

72. The Ministry of the Interior has submitted a bill allowing domestic workers to move to a different employer under circumstances defined by the director of the Directorate General for Residence Affairs and without the consent of the original employer, if investigation reveals that the latter is being intransigent. Thus domestic workers will no longer be bound to the recruiting employer. The bill has been submitted to the Council of Ministers by the Deputy Prime Minister and the Minister of the Interior.

**(c) Provide legal protection to foreign workers, including female domestic workers, against exploitation, ill-treatment and abuse.**

73. Domestic workers enjoy comprehensive legal protection and any of them has the right to file a complaint with the Department of Domestic Workers against their employer for ill-treatment or abuse, or to demand their rights. The workers are admitted to a shelter and their names are registered in a computer system. If the employer seeks to file a report that the domestic worker has abandoned his or her place of work, the name appears in the computer system — which is administered by the Department of Domestic Workers — and the report is not admitted. The worker remains in the shelter and is given the necessary legal support until the complaint is resolved and he or she can return to his or her country of origin.

74. Legal protection is also available for workers in the private sector, in accordance with the decrees currently in force in Kuwait. In addition, the Labour Code of Kuwait (Act No. 6 of 2010) contains numerous provisions whereby the Public Authority for Manpower provides legal protection for workers and defends their rights. Since it was established, the Public Authority has been proposing amendments to the Labour Code, particularly in regard to penalties and, in fact, amendments have been introduced to make penalties more severe and to provide greater protection for workers. Mention should also be made in this regard to the Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013.

**(d) Ensure that foreign workers, and in particular female domestic workers, have access to a helpline in a language they understand and to shelters as well as the possibility to have access to justice, including to lodge complaints against those responsible and have access to justice.**

75. The Department of Domestic Workers has set up a telephone hotline (25582203 and 25582204) and an email address (Alamala\_almanzlia@moi.gov.kw), which domestic workers can use to report any complaints. The Department examines the complaint

promptly and seeks to resolve it. If the complaint constitutes an offence, it is referred to the relevant authorities.

**(e) Provide redress to victims of abuse, including legal, medical and psychological aid, as well as rehabilitation and financial compensation.**

76. If domestic workers file complaints concerning some harm they have suffered, or to demand their rights, the case is examined and efforts are made to resolve it, otherwise it is referred to the relevant authorities. If the domestic worker has suffered some form of harm the complaint is referred to the competent court, which determines the nature and extent of that harm and obliges the employer to pay compensation. In addition, a number of civil society organizations in Kuwait provide domestic workers with legal aid to help them obtain their rights, including free legal consultations and legal representation.

77. The Public Authority for Manpower is committed to providing a caring environment for victims of abuse. To that end, it has set up a shelter for migrant workers who have suffered abuse. That shelter, in the view of international labour organizations and foreign embassies and missions that have visited it, is one of the most outstanding in the entire region. The shelter welcomes the victims and provides them with specialist medical, psychological, legal and social support as well as with various forms of recreational activity.

**(e) Provide updated information on foreign workers, including on their nationalities, whether regular inspections of their working conditions are conducted and whether their working conditions are humane. In addition, provide information on the workers from the Democratic People's Republic of Korea, the conditions in which they work, whether they are provided with adequate food and health care and whether they receive their full salary.**

78. The Public Authority for Manpower undertakes comprehensive surveys of all facilities and installations where foreign workers are employed. Inspections are carried out throughout the country and numerous reports concerning the conditions of workers are filed and followed up. The mechanism works according to accepted performance standards whereby inspection reports are submitted on a periodic basis. The entire process is continually monitored and held to account by its chiefs, who ensure that the correct procedures and working practices are being used.

79. Information on the workers from the Democratic People's Republic of Korea was provided in the reply to paragraph 30 (b) above.

- Annex: statistics on the numbers of migrant workers
- Annex: inspection statistics

---