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## Committee on Economic, Social and Cultural Rights

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Consideration of reports: reports submitted by States parties  
in accordance with articles 16 and 17 of the Covenant

### Replies of Kuwait to the list of issues in relation to its third periodic report\*

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



## **Replies of Kuwait to the list of issues in relation to its third periodic report on the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights**

### **Paragraph 1 of the list of issues**

1. Under Act No. 67 of 2015, the National Bureau for Human Rights enjoys special legal status. It serves as the official national independent human rights authority, but is not an administrative or governmental agency in the customary legal sense, nor is it a civil society organization. The most appropriate legal description of the National Bureau for Human Rights is that it is a permanent, national body that concerns itself with human rights and freedoms. It supports and coordinates systems and efforts for the promotion and protection of human rights at the national and international levels.
2. Article 3 of Act No. 67 describes the number and diversity of members of the Bureau's governing council. The Council is made up of 11 members, who are national figures known for their competence and interest in human rights issues.
3. Article 6 enumerates 14 legal competences and tasks, the first of which relates to the international obligations contained in the main human rights conventions. The second includes the functions and responsibilities set out in paragraph 3 of the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The functions and responsibilities adopted in the context of article 6 have thus been expanded to include all those that are consistent with the Paris Principles, as well as many other tasks and competencies that are consistent with the provisions of the Constitution. It therefore meets the requirements for the implementation and enforcement of the provisions of the major human rights conventions ratified by Kuwait.
4. The Bureau is also authorized to receive complaints, monitor, examine and conduct fact-finding on cases of human rights violations, refer them to the relevant authorities, if deemed necessary by the council, and coordinate with the authorities to follow up on the cases.

### **Paragraph 2 of the list of issues**

5. Kuwait officially submitted the document setting out its intended nationally determined contributions under the Paris Agreement to the secretariat of the United Nations Framework Convention on Climate Change in November 2015 after it was approved by the relevant State authorities and the Higher Committee for Ozone and Climate Change. Kuwait signed the Paris Agreement on 22 April 2016 and ratified it on 23 April 2018. Accordingly, the document setting out the intended nationally determined contributions became the document setting out the nationally determined contributions under the Paris Agreement.
6. The nationally determined contributions document describes a number of projects aimed at adapting to the negative effects of climate change and mitigating emissions. These projects did not specifically aim to reduce greenhouse gas emissions. Rather, they were formulated on the basis of what had been agreed in relation to the form and content of the document in the meetings of the Gulf working group and the negotiating group. Accordingly, the Public Authority for the Environment prepared the document based on the information provided in each of the following sources:
  - The Kuwait 2035 vision developed by the Emir of Kuwait
  - The strategic development goals for 2035
  - The first development plan (2010/2011–2014/2015)
  - The second development plan (2015/2016–2019/2020)

- The first national communication of the State of Kuwait regarding the United Nations Framework Convention on Climate Change
- The fifth report of the Intergovernmental Panel on Climate Change
- The Environmental Protection Act No. 42 of 2014, as amended by Act No. 99 of 2015
- The World Bank study on the opportunities available in Kuwait to mitigate emissions
- The general framework of the climate change adaptation strategy of the Gulf Cooperation Council countries
- The responses of the relevant Kuwaiti authorities on climate change issues.

7. Since some of these are future projects or projects in the early stages of implementation, it was difficult to predict the amount of the emissions reductions they would achieve. Accordingly, the specific quantity or percentage of emissions reduction was not specified in the document. The following projects are mentioned in the document:

<i>Mitigation projects</i>	<i>Status of the project</i>
• Improving petroleum products by producing fuel to reduce greenhouse gas emissions	An environmentally friendly fuel project is under way
• Creation of a new refinery to replace the oldest refinery in the country, in line with international specifications and standards	Work is under way on Al Zour refinery
• Projects related to the production of energy from municipal solid waste	Not implemented
• Energy production from renewable sources	<ul style="list-style-type: none"> <li>• The Shagaya project has been completed</li> <li>• The Dabdaba project is under way</li> <li>• State sector contributions</li> </ul>
• Mass transit systems project (metro)	Not implemented
• Railway project	Not implemented

#### *Adaptation projects*

- Strengthening coastal information systems to enhance strategic planning capacity to adapt to the phenomenon of rising water levels in order to protect the coastline.
- Adapting to dust storms by reducing the proportion of desert lands and increasing the proportion of green and protected areas.
- Improving food security by implementing the development plan to improve the agricultural sector and increase levels of self-sufficiency.
- Using a suburban cooling system in new residential areas.
- Adapting to the lack of water sources by using more efficient systems.

8. One of the outcomes of the twenty-fourth Conference of the Parties to the United Nations Framework Convention on Climate Change held in Katowice, Poland in December 2018 was a decision that States parties and signatories to the Paris Agreement should be required to update their nationally defined commitments in 2020. Kuwait will update its document in accordance with this decision.

### **Paragraph 3 of the list of issues**

9. The laws of Kuwait are a combination of relatively simple laws with few inconsistencies. In addition, there are numerous exceptions which, enshrined in one law, prevail over other laws. This does not raise any legal difficulties, as the prevailing rule is that later legislation repeals earlier legislation. Kuwaiti laws affirm the principle of official compliance with the State rather than the State's practical control over public and private companies. The regulatory framework can be divided into four groups:

#### **1. Decrees and laws regulating public and private companies and commercial activity in Kuwait:**

- Decree No. 3 of 1955 on Kuwaiti income tax and the laws in amendment thereof.
- Decree No. 1 of 1959 on the business registration system and the laws in amendment thereof.
- Decree No. 5 of 1959 on the land registration law and the laws in amendment thereof.
- Act No. 4 of 1961 promulgating the Authentication Act, as amended by Act No. 1 of 1965.
- The Insurance Companies and Agents Act promulgated as Act No. 24 of 1961 and the laws in amendment thereof.
- Act No. 49 of 1966 on lending to Kuwaiti joint-stock companies.
- The Trade Act, promulgated as Decree-Law No. 68 of 1980 and the laws in amendment thereof.
- Decree-Law No. 33 of 1988 on allowing citizens of the Gulf Cooperation Council States to own shares in Kuwaiti joint-stock companies.
- Act No. 12 of 1998 authorizing the establishment of leasing and investment companies.
- Act No. 46 of 2006 on zakat and the contribution of public and closed joint-stock companies to the State budget.
- Act No. 116 of 2013 on encouraging direct investment in Kuwait.
- Act No. 7 of 2010 on establishing the Capital Markets Authority and regulating securities activities, as amended.
- Decree-Law No. 25 of 2012 amending the Companies Act No. 97 of 2013.

#### **2. Decrees and laws related to regulatory authorities:**

- Act No. 30 of 1964 establishing the Audit Bureau and the laws in amendment thereof.
- Act No. 37 of 1964 on public tenders and the laws in amendment thereof.
- Act No. 32 of 1968 on cash, the Central Bank of Kuwait and the regulation of the banking profession and the laws in amendment thereof.
- Decree-Law No. 31 of 1978 on rules for preparing public budgets, monitoring their implementation and the balance sheet and the laws in amendment thereof.
- Decree-Law No. 5 of 1981 on practising the auditing profession and the laws in amendment thereof.

#### **3. Decrees and laws in support of the national economy and national employment:**

- Decree-Law No. 5 of 1999 on intellectual property rights.
- Act No. 19 of 2000 on supporting national workers and encouraging them to work in non-governmental agencies.

- Act No. 5 of 2003 approving the unified economic agreement between the States of the Gulf Cooperation Council.
- Decree-Law No. 2 of 2009 on strengthening financial stability in Kuwait.
- Private Sector Employment Act No. 6 of 2010 and Act No. 111 of 2013 on trade licences for shops.
- Act No. 37 of 2010 regulating privatization programmes and operations.
- Act No. 116 of 2014 on public-private partnerships.

#### **4. Decrees and laws regulating disputes and compliance with court decisions:**

- The Criminal Code promulgated as Act No. 16 of 1960 and the laws in amendment thereof.
- The Code of Criminal Procedure and Trials, promulgated as Act No. 17 of 1960 and the laws in amendment thereof.
- The Code of Civil and Commercial Procedure promulgated as Decree-Law No. 38 of 1980 and the laws in amendment thereof.
- Decree-Law No. 39 of 1980 on evidence in civil and commercial matters and the laws in amendment thereof.
- The Civil Code promulgated as Act No. 67 of 1980 and the laws in amendment thereof.
- Decree-Law No. 20 of 1981 on the establishment of a chamber in the High Court for the consideration of administrative disputes, amending Act No. 61 of 1982.
- Decree-Law No. 23 of 1990 on the law on the organization of the judiciary and the laws in amendment thereof.

10. With regard to cases brought by affected persons and the remedies available to them, article 166 of the Kuwaiti Constitution provides that the right of legal recourse is guaranteed to all persons and that the law prescribes the procedures and conditions necessary for the exercise of this right. The right is reaffirmed in the decrees and laws regulating disputes and compliance with court decisions mentioned in subparagraph 4 above, including the protection of the rights of persons affected by the commercial laws and the complementary, amending and related laws. In addition, the Criminal Code and the Code of Criminal Procedure and Trials cover commercial activity and the activities of both public and private companies. This is in line with international principles and instruments and guidance on judicial remedies. Thousands of cases have been brought before the Kuwaiti courts and have either been decided or are pending. The courts have provided and continue to provide remedies for litigants in this field.

#### **Paragraph 4 of the list of issues**

11. (a) This situation does not apply in Kuwait, as nobody is living below the national poverty line or the international poverty line. In other words, nobody – whether a Kuwaiti national or non-national – is living on less than 2 dollars a day. According to the most recent household spending and income survey conducted in 2013, the distribution of total income among Kuwaiti families is characterized by a very moderate degree of concentration compared to other countries, amounting to about 0.287. The poorest decile (10 per cent) of Kuwaiti families receives about 3.2 per cent of total income, while the second-poorest receives about 4.9 per cent of total income, the third-poorest receives approximately 6.2 per cent and the fourth-poorest about 7.4 per cent. Thus, the poorest 40 per cent of the population – those at the bottom of the income pyramid – have approximately 21.7 per cent of the total income. In contrast, the richest decile at the top of the income pyramid receive 22.5 per cent of the total income, which is approximately seven times the share of the poorest decile at the bottom of the income pyramid.

(b) Taxes and duties / total revenue \* 100 = 506 million / 15,999 billion \* 100 = 3.1 per cent.

(c) The ratio of income tax on company profits to total revenue / total revenue \* 100 = 162 million / 15,999 billion \* 100 = 1 per cent. It should be noted that there are no taxes on personal income and to date there is no value added tax in Kuwait.

(d) Total public expenditure / gross domestic product \* 100 = 19.247 billion \* 100 = 53 per cent, the highest public expenditure in the world.

12. With regard to the percentage of total public expenditure allocated to social spending, the following table shows the expenditure of ministries and government departments for the fiscal year 2017/18:

General public services	5 957 369 606.81	31.0%
Defence	2 060 527 052.37	10.7%
Public order and public safety	1 387 368 134.60	7.2%
Economic affairs	2 011 438 848.89	10.4%
Environmental protection	113 807 727.26	0.6%
Housing and community facilities	1 714 944 483.83	8.9%
Health	2 055 204 840.25	10.7%
Religion, culture and leisure	573 992 683.95	3.0%
Education	2 384 144 168.11	12.4%
Social protection	988 669 847.01	5.1%
<b>Total expenditure</b>	<b>19 247 467 393.07</b>	<b>100.0%</b>

13. The following table shows the proportion of public revenue that is financed through taxes:

Source	Proportional distribution of State revenue			
	2014/2015	2015/2016	2016/2017	2017/2018
Oil revenue	90.3%	88.6%	89.2%	89.3%
Taxes and duties	1.7%	3.6%	4.3%	3.2%
Social contributions	0.4%	0.7%	0.6%	0.6%
Other revenue	7.7%	7.2%	5.9%	7.0%
<b>Total revenue</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

### Paragraph 5 of the list of issues

14. Kuwait became a party to the International Convention on the Elimination of All Forms of Racial Discrimination pursuant to Act No. 33 of 1968. Treaties that have been ratified become an integral part of national law and the domestic legal order of Kuwait as of the date of their entry into force. Therefore, all government bodies and institutions and individuals must abide by the provisions of such agreements, and it is the responsibility of the Kuwaiti judiciary to ensure that they are respected and protected.

15. This national legal obligation is based on article 70 of the Constitution, which stipulates that the Emir concludes treaties by decree and transmits them immediately, together with an appropriate explanatory statement, to the National Assembly. Treaties have force of law after having been signed, ratified and published in the Official Gazette.

16. Article 29 of the Constitution sets out the general principles for combating racism. It establishes the rules and frameworks for equality, non-discrimination and upholding human dignity by stipulating that people are equal in human dignity and are equal before the law in

public rights and duties and that there is no discrimination on the basis of gender, origin, language or religion.

17. The explanatory note to the Constitution on the interpretation of article 29 indicates that this article establishes the principle of equal rights and duties in general and singles out the most important applications of this principle by specifying that there is no discrimination on the basis gender, origin, language or religion. It was decided not to include a reference to “colour or property” in this provision, although it appears in the Universal Declaration of Human Rights, since there is not the slightest suspicion of racial discrimination in the country and the wording of the article is, in itself, sufficient to dispel any such suspicion. Moreover, the idea of distinguishing between people on grounds of wealth is alien to Kuwaiti society and, consequently, there is no need to make specific mention thereof.

18. National legislation is also consistent with the principles established in the Constitution and contains provisions that seek to promote and protect human rights and fundamental freedoms and combat any manifestations of racial discrimination or racism, whatever their cause. These laws and provisions include the following:

19. Article 6 of Act No. 24 of 1962 concerning clubs and associations of public benefit, which stipulates that: “Associations and clubs shall not be permitted to pursue any unlawful objective and it shall be prohibited for them to involve themselves in politics or religious controversies or incite intercommunal, racial or confessional bigotry.”

20. Article 46 of the Private Sector Employment Act No. 6 of 2010, which stipulates that: “It is likewise prohibited to terminate the services of an employee on grounds of race, origin or religion.”

21. In a related context and as an affirmation of the principle of equality, the Constitution of Kuwait enshrines the equality of all persons in rights and duties before the law, and the country’s domestic legislation is bound by those principles. For example, Act No. 16 of 1960 promulgating the Criminal Code underscores the importance of equality in the application of the provisions it contains. In fact, article 11 stipulates that the provisions of the Act are applicable to all persons who commit an offence envisaged therein, within the territory of Kuwait.

22. Under Act No. 109 of 2014, article 4 bis was added to Act No. 14 of 1973 concerning the establishment of the Kuwaiti Constitutional Court. The article states: “Any natural or legal person may bring a case before the Constitutional Court to appeal against any law, decree or regulation, if the person concerned has well-founded misgivings that the decree or regulation is in violation of the Constitution, and if the person has a direct personal interest in the appeal.” Under that provision, all persons in Kuwait may lodge an appeal before the Constitutional Court if a law or regulation violates some part of the Constitution, including the principles of equality and non-discrimination.

23. With regard to the affirmation that all persons enjoy legal capacity in Kuwait with no distinction between citizens and residents, the provisions of Act No. 67 of 1980 promulgating the Civil Code are general and abstract, without any distinction or discrimination, as is evident in article 84, which stipulates that “all persons are eligible to enter into a contract unless the law specifies that they are ineligible or rescinds their eligibility”.

24. Likewise, article 1 of Decree-Law No. 19 of 2012, concerning the protection of national unity, prohibits advocacy or incitement, using any of the means of expression provided for in article 29 of 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, origin, religious confession, gender or lineage; encouragement of any act of violence to that end; and the dissemination, propagation, printing, broadcasting, re-broadcasting, production or circulation of any false rumours likely to lead to any of the above. These provisions also apply to anyone outside Kuwaiti territory who commits an act which renders him or her liable, as principal actor or accomplice, for a criminal offence all or any part of which is perpetrated within Kuwaiti territory.

### Paragraph 6 of the list of issues

25. It should be clarified and confirmed that granting citizenship is a sovereign right that touches upon the supreme interests of the State. It is subject to rules and conditions that are regulated by the Kuwaiti Nationality Act No. 15 of 1959, as amended. The provisions of that act specify the cases in which the possibility of obtaining nationality may be considered, while the Central Agency puts forward the names of persons who fulfil the conditions for obtaining Kuwaiti nationality under the Act. Under the road map adopted by the Council of Ministers, some 11,087 persons were naturalized between 2012 and 2016.

26. The following table shows the number of female residents in an irregular situation who were naturalized under article 8 (wives of Kuwaiti nationals) in 2017 and 2018.

2017	2018	Total
425	403	828

### Paragraph 7 of the list of issues

27. In order to realize the economic rights of persons with disabilities, specifically the right to work, an employment campaign has been run, with the participation of partners, which aims to rehabilitate, train and employ persons with disabilities and integrate them into society as people capable of contributing to the State's development plan. Thirty persons with disabilities have been registered in the pilot phase of the programme.

28. Preparing an employment strategy for persons with disabilities is important in achieving employment integration, as is assessing the current employment situation of persons with disabilities to identify the most important challenges they face. Leading international initiatives and experiences in the field of inclusive employment are also being assessed to provide guidance in the analysis of the situation of persons with disabilities in Kuwait with the aim of developing an employment strategy and achieving the principles of justice and equality with the rest of society. The goals of the employment strategy for persons with disabilities are as follows:

- Increasing individual well-being and contributing to the national product.
- Raising performance, attendance and safety standards in agencies that employ persons with disabilities compared to those that do not.
- Ensuring that persons with disabilities remain in jobs for longer.
- Ensuring that persons with disabilities have a sense of their own human dignity and self-worth.

29. To enhance the inclusion of persons with disabilities in society, a campaign entitled "My Abilities" was organized to assess the current situation with respect to inclusion and develop an advocacy and awareness-raising strategy. The campaign contributed to removing societal barriers facing persons with disabilities. The campaign was launched with the slogan "My abilities distinguish me ... what are your abilities?" on 30 July 2018 to give effect to article 8 of the Convention on the Rights of Persons with Disabilities to promote awareness of the capabilities and contributions of persons with disabilities.

30. With regard to the guardianship system and recognizing the legal capacity of persons with disabilities, Act No. 67 of 1980 promulgating the Civil Code includes several relevant provisions, as follows:

31. Article 84 stipulates that all persons are eligible to enter into a contract unless the law specifies that they are ineligible or rescinds their eligibility. Article 96 (1) also provides that all persons who have reached the age of majority are fully eligible to conduct their own legal affairs.

32. Article 107 (1) of the same law stipulates that if a person has a severe physical impairment that makes it difficult for him or her to understand contractual conditions or to



express his or her wishes, particularly if he or she is deaf, mute or blind, the court may appoint a legal assistant to assist him or her in executing legal actions if it believes such assistance to be in his or her interests.

33. Article 109 stipulates that if a person is unable, due to physical disability or illness, to handle his or her own legal affairs, even with assistance, the court may authorize the legal assistant to conclude the transaction on his or her behalf if failure to do so would be detrimental to his or her interests.

34. Persons with disabilities generally enjoy legal capacity. However, in accordance with the Civil Code, persons with intellectual disabilities must apply to the court to have their legal capacity determined and, at the request of the court, such applications are referred to the Kuwait Mental Health Centre or the Forensic Medicine Centre for determination, depending on what the judge deems necessary.

35. The implementing regulations of Act No. 8 of 2010 issued through Decision No. 210 of 2017 also stipulate:

Article 3: The Public Authority for Persons with Disabilities shall lay down the conditions and controls necessary for the disbursement of financial and in-kind allocations for persons with disabilities, especially the following:

- Requesting any documents or information it deems necessary as a condition for eligibility for material support and benefits in kind.
- Requesting that the person with a disability or his or her guardian or legal representative certify the validity of all the information and documents submitted to the Authority and take full legal responsibility in the event that they are not valid if they result in the obtention of funds or services to which the person is not entitled.

Article 5 (4) on the conditions for entitlement to the monthly allowance for persons with disabilities up to the age of 21 stipulates as a requirement:

- A letter from the Public Authority for Minors stating that a person with a disability is registered with them in the event of the father's death, with a copy of the guardianship ruling, a copy of the death certificate and a copy of the list of heirs.

Article 14 sets out the following eligibility conditions for caregivers:

- An official declaration shall be made by the person with the disability, his or her guardian or custodian, depending on the circumstances, stating that the person in question is responsible for his or her care, in accordance with the procedures established by the Public Institution for Social Security.
- A final ruling on guardianship or interdiction shall be issued in respect of a person with a disability whose father is deceased if he or she is under the age of 21 or, even if he or she is over the age of majority, if he or she has an intellectual disability.

Article 15 sets out the criteria for eligibility for a disability pension from the Public Institution for Social Security. Persons with severe or moderate disabilities who are unable to work are entitled to a disability pension paid by the Public Institution for Social Security, whose value shall be determined by social factors according to the following criterion:

- The applicant for the pension must have legal capacity or have a natural guardian (his or her father or legal representative acting as a guardian or trustee) and this must be proved by a court ruling.

### **Paragraph 8 of the list of issues**

36. (a) As stated in its explanatory note, Kuwaiti Nationality Act No. 15 of 1959, as amended, is one of the nation's most important and far-reaching laws. It defines the borders of the country and distinguishes between citizens and foreigners. The Nationality Act establishes general principles recognized in the nationality laws of many other States. Under the Act, nationality is granted automatically on the basis of the principle of *jus sanguinis*, while the principle of *jus soli* is taken into account in some cases.

- Article 3 of the Act provides for the granting of Kuwaiti nationality to a person born in Kuwait or abroad to a Kuwaiti mother and an unknown father – or to a man whose paternity has not been legally established. Kuwaiti citizenship is granted to anyone born to unknown parents. By law, foundlings are considered to have been born in Kuwait unless proven otherwise.
- Therefore, the child acquires nationality through his or her Kuwaiti mother in such cases as a result of *jus sanguinis*.
- Article 5 of the same law provides that the children of a Kuwaiti woman married to a foreigner shall be granted Kuwaiti citizenship if she is divorced from her husband, if he dies, or if he is in detention.
- The granting of Kuwaiti nationality is a sovereign act on the part of the Kuwaiti Government, acting in its capacity as a governing rather than an administrative authority. In fact, given its political nature, it is essentially a government function, one that is dictated by special considerations related to the supreme interests of the State and its evolving social and economic conditions, with the aim of preserving internal integrity. For that reason, the nationality law is among the most important pieces of legislation in Kuwait.

(b) With regard to allowing women to pass inheritance to their children, the right of individual ownership is guaranteed under article 19 of the Constitution. This general principle is guaranteed to all citizens of Kuwait, in accordance with article 1 of Decree-Law No. 74 of 1979. With regard to the retention of ownership of property inherited from their mother for the children of a Kuwaiti woman married to a non-Kuwaiti man, this varies depending on the nationality of the father.

- If the children are of a Kuwaiti woman married to a foreign man from one of the countries of the Gulf Cooperation Council, they are treated as Kuwaiti citizens, in accordance with Act No. 33 of 1975 and Act No. 56 of 1979.
- However, if the children were born to a Kuwaiti woman married to a national of another Arab country, then the provisions of article 3 of Decree-Law No. 74 of 1979 apply, whereby a national of another Arab country may acquire ownership of one property in a residential area if a decree granting him or her this right is issued in accordance with the conditions stipulated in the law.
- In cases other than those mentioned above, the children of a Kuwaiti woman married to a foreigner do not have the right to own property in Kuwait.

(c) The Public Authority for Housing Welfare provides housing support and alternatives to eligible Kuwaiti families in the form of government houses, government vouchers and government apartments, in accordance with the provisions of Housing Welfare Act No. 47 of 1993 and its implementing regulations and decisions. This housing is allocated and distributed to families for them to own. The title deeds for the housing alternatives are issued in the name of the husband and wife. In the event of the death of the husband before the issuance of the title deed, it is issued in the name of the beneficiary family members, including the widow, who are listed in the allocation decision. It is possible to give a divorced woman with children the right to housing in the ownership documents.

- Under Kuwait law, the widows of martyrs have the right to have the ownership documents for residential alternatives issued to them individually, in accordance with the provisions of Act No. 47 of 1993, as amended.
- Under Act No. 47 of 1993, as amended, housing support is provided to Kuwaiti citizens, including Kuwaiti women, regardless of their marital status, whether they are widowed or divorced. Kuwaiti widows or divorced women can receive interest-free loans of 70,000 Kuwaiti dinars (KD), the equivalent of approximately US\$ 210,000, to enable them to purchase housing units, thus ensuring that they have suitable accommodation.
- The State, through the Public Authority for Housing Welfare, provides suitable government housing for women in Kuwait (widowed, divorced, married and non-

Kuwaiti women) for a maximum monthly rent of KD 60, or approximately \$180. The Public Authority will construct more than 9,000 such housing units.

(d) Personal status issues such as marriage, divorce and guardianship are governed by Islamic sharia law, which is the main source of legislation, in accordance with article 2 of the Constitution, which stipulates that: “The religion of the State is Islam and the Islamic sharia is a major source of legislation.” In the explanatory note to this article, it is indicated that article 2 did not merely stipulate that the religion of the State is Islam, but also that the Islamic sharia – in the sense of Islamic jurisprudence – is a major source of legislation. Such a formulation thus directs lawmakers towards an Islamic perspective, without preventing them from introducing provisions from other sources in matters on which Islamic jurisprudence has not established a rule, or if it is desirable to develop provisions in line with the imperatives of natural development over time. Rather, this article allows for the adoption of modern criminal laws within the borders of Islamic sharia. None of this would have been possible if the article had stated “and Islamic sharia is the main source of legislation”, as such a formulation would not allow any other source for any matter dealt with in sharia law, and thus lawmakers might have faced a very difficult situation if practical necessities had compelled them to loosen their commitment to Islamic jurisprudence in certain matters, especially those relating to companies, insurance, banks, loans, borders, etc.

37. The Personal Status Act makes mechanisms available to the wife to enable her to verify the man’s suitability and appropriate marriage age. Under article 34 of the Act, the validity of a marriage is conditional on the man’s compatibility with the woman at the time of conclusion of the marriage contract, and the woman, or her guardian, has the right to apply for annulment of the marriage in the event of incompatibility. Under article 36 of the Act, age commensurability between the spouses is regarded as an exclusive right of the wife. In addition, Kuwaiti legislators have recently imposed a requirement for marriage candidates to undergo a medical test to ensure that neither of them has any physical or psychological condition that would constitute an impediment to the union. This takes place under Act No. 31 of 2008 on premarital medical examinations for persons wishing to marry in the State of Kuwait.

38. It is a condition of law that a woman should consent to the marriage contract. This is set forth in articles 29 and 30 of the Personal Status Act No. 51 of 1984, which state that, in the case of the marriage of a young woman, both the guardian and the woman involved must express their consent. If the party to the marriage was married before or is over the age of 25, the decision is hers although she does not conclude the contract directly but through her guardian.

39. Under the Personal Status Act, women have many rights and responsibilities. After the conclusion of the marriage contract, the woman has the right to demand a dowry, a dwelling or any conditions that are included in the marriage contract, in accordance with the law. She also has the right to maintenance, depending on her husband’s situation, and she may demand this in the event that he fails to pay.

40. With regard to the woman’s right to divorce or annulment, the law establishes the right for women to seek a separation on grounds of harm or absence, in accordance with the provisions of articles 126 to 138, in which it is stated that a woman may apply to the courts to divorce her husband if the relationship between them can no longer continue. A woman also has the right to divorce if the husband fails to provide for her financially and if he has no visible assets but has not been declared insolvent. In such cases, the judge gives the husband some time to pay the maintenance and, if he fails to do so, the wife has the right to ask for divorce.

41. Under sharia law, the woman has the right to ask for divorce; this is permitted under article 111 of the Personal Status Act.

42. The issue of guardianship is regulated in articles 208 to 212 of Personal Status Act No. 51 of 1984, which stipulate that children shall be subject to guardianship until they attain legal majority, or reach the age of 15, provided they are mentally competent. Guardianship shall be exercised by the father, followed by the paternal grandfather, and in their absence the next male agnatic relative, based on the order of succession, provided that

he is in a degree of consanguinity that precludes marriage. It is also stipulated that, taking into account the provisions on custody, the child's guardian shall oversee his or her custody, protection, upbringing, education and guidance.

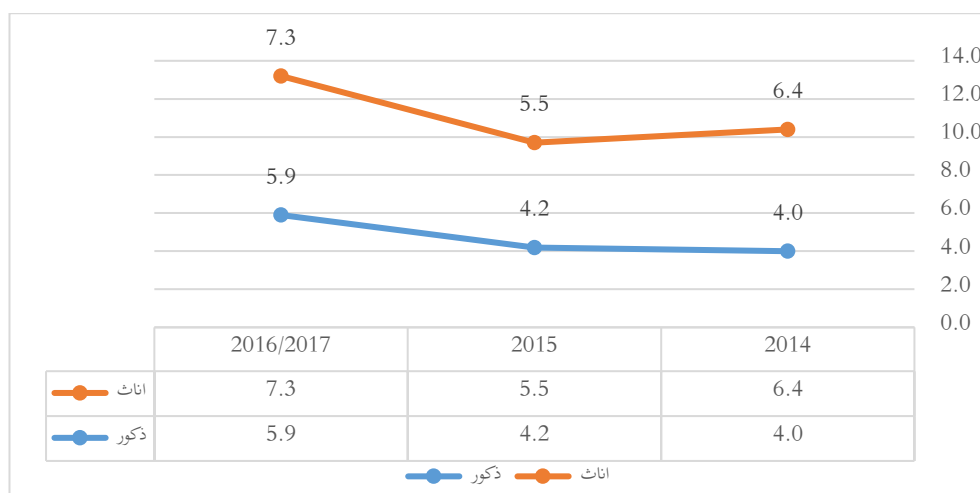
### Paragraph 9 of the list of issues

43. The table below shows the number and percentage of persons with disabilities who are unemployed:

Total number of persons with disabilities aged 24–65	Male	Female	Total
Kuwaiti	12 198	8 452	20 650
Total number of employees as at April 2019	3 161	1 666	4 827
Percentage of workers	15.3%	8%	23.38%
<b>Total number of unemployed persons</b>	<b>9 037</b>	<b>6 786</b>	<b>15 823</b>
<b>Percentage of workers</b>	<b>43.76%</b>	<b>32.8%</b>	<b>76.62%</b>

#### 1. Unemployment rate by age, nationality and gender

44. According to the results of a labour force survey, the unemployment rate in Kuwait fell to 2.2 cent in 2015 and remained unchanged in 2016/2017. By comparison, the unemployment rate was 2.9 per cent in 2014. The unemployment rate among men decreased to 0.9 per cent in 2016/2017 compared to 1.9 per cent in 2014, while for women it increased to 5.8 per cent in 2016/2017 from 4.4 cent in 2015. The unemployment rate among Kuwaiti nationals was 6.4 per cent in 2016/2017 (5.9 per cent for men and 7.3 per cent for women), whereas it was 1.7 per cent for non-nationals in the same period (0.5 per cent for men and 5.5 per cent for women). The following graph shows unemployment among Kuwaiti nationals by gender according to the last three labour force surveys (2014, 2015, 2016/2017).



[Blue = male; orange = female].

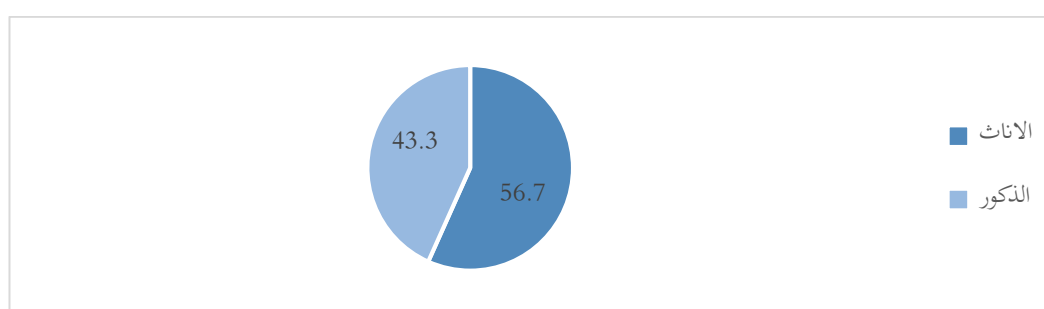
45. Table showing the unemployment rate by age group and nationality (Kuwaiti/non-Kuwaiti) for 2016/2017:

Age group	Nationality		Total
	Kuwaiti	Non-Kuwaiti	
15–24	26.6	10.0	15.4
25–34	5.9	3.7	4.1
35–44	0.6	0.5	0.5
45–54	0.9	0.3	0.4
55–64	0.6	0.5	0.5
65+	0.0	0.0	0.0
<b>Total</b>	<b>6.4</b>	<b>1.7</b>	<b>2.2</b>

46. The following table shows the unemployment rate by nationality and gender in selected years (the last three labour force surveys: 2014, 2015, 2016/2017).

Nationality and gender	2014	2015	2016/2017
Total population			
Male	1.9	1.2	0.9
Female	4.9	4.4	5.8
<b>Total</b>	<b>2.9</b>	<b>2.2</b>	<b>2.2</b>
Kuwaiti			
Male	4.0	4.2	5.9
Female	6.4	5.5	7.3
<b>Total</b>	<b>5.0</b>	<b>4.7</b>	<b>6.4</b>
Non-Kuwaiti			
Male	1.5	0.8	0.5
Female	4.5	4.2	5.5
<b>Total</b>	<b>2.4</b>	<b>1.8</b>	<b>1.7</b>

47. The following chart shows the participation of Kuwaiti women as a proportion of the overall workforce in the public and private sectors in 2018.



[Dark blue = female; light blue = male].

48. The above chart shows the increased participation of Kuwaiti women in the national labour market, which has reached 56.7 per cent, while the participation rate of Kuwaiti men is 43.3 per cent. This is due to Kuwaiti women's increased access to education and the entry of a new generation of educated women into the labour market. This also has an important impact on the economic situation of the family.

49. The following table shows the proportion of Kuwaiti women employed in the government and private sectors:

<i>Category</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>
Proportion of Kuwaiti women employed in the public sector as a percentage of all Kuwaitis working in that sector	55.9	56.2	56.9	57.2	58.2
Proportion of Kuwaiti women employed in the private sector as a percentage of all Kuwaitis working in that sector	53.7	51.3	50.8	50.8	50.7

50. The above table shows that, in 2018, the proportion of Kuwaiti women working in the government sector was 58.2 per cent, while the proportion of Kuwaiti women employed in the private sector was 50.7 per cent. This is in line with the second strategic goal in the development plan (2015/2016–2019/2020) that the private sector should drive development through incentive mechanisms. The development plan aims to increase the percentage of Kuwaitis in employment and reduce unemployment. The plan's goals and policies related to the labour market include the following:

51. Increasing the participation of Kuwaiti workers in the private sector
- (i) Increase the proportion of Kuwaitis within the total workforce by promoting recruitment programmes for national workers in the private sector.
  - (ii) Control the increase in the size of the workforce in the government sector and setting employment standards by bringing the size of the government sector into line with international levels through transfer programmes and encouraging young people to work in the private sector.
  - (iii) Improve the working environment in the private sector in order to attract greater numbers of national workers by balancing working conditions, working hours, wages, benefits and other privileges between the public and private sectors, as well as by training Kuwaitis to operate in the private sector.
52. Curbing unemployment
- (i) Support skilled Kuwaiti workers with incentives in order to make them competitive, particularly in government procurement;
  - (ii) Support small and medium-scale enterprises by addressing operational constraints, providing material support and facilitating administrative matters in order to ensure the sustainability of small-scale enterprises and attract young people and newcomers to the labour market;
  - (iii) Open the “Al Salam Boutique 33 incubator” project in order to raise women's aspirations by providing them with the opportunity to display their products in dedicated stores within the incubator and help them to make the transition from dependent welfare recipients to autonomous, skilled workers by providing them with a conducive work environment. Boutique 33 has a specialized department for training and implementing the “By my own efforts” programme, which is a joint national family project between the Ministry of Social Affairs and the Endowment Fund for Scientific and Social Development of the Public Endowments Foundation. The project involves providing beneficiaries of social assistance with training in occupations and crafts that will help them to acquire an artistic or cultural skill with a view to increasing their self-reliance and helping them to find work in the government or private sectors or to become self-employed by setting up their own business. In order to market the items that have been produced, the “By my own efforts” project participates in or organizes permanent or temporary exhibitions at markets run by ministries and voluntary organizations. It also nominates participants who have excelled during training to benefit from the services of Boutique 33.

### **Paragraph 10 of the list of issues**

53. The table below shows the number of persons with disabilities registered with the Public Authority for Disability Affairs as at April 2019.

<i>Nationality</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Kuwaiti	27 593	19 051	46 644
Non-Kuwaiti	4 590	2 384	6 974
<b>Total</b>			<b>53 618</b>

54. According to the most recent statistics from April 2019, there are 4,827 persons with disabilities in the labour market, across both the government and private sectors. There are 15,823 unemployed persons with disabilities. The Public Authority for Persons with Disabilities grants a monthly financial allowance to people registered with it in accordance with article 43 of Act No. 8 of 2010. Persons over the age of 21 with moderate or severe disabilities receive an allowance of KD 594, equivalent to \$2,000, from the Public Institution for Social Security.

55. As has previously been mentioned, a joint campaign is being organized for the recruitment of persons with disabilities and the monitoring of the recruitment strategy, in cooperation with the United Nations Development Programme.

56. Article 13 of Act No. 8 of 2010 on the rights of persons with disabilities provides that the Authority, in conjunction with the relevant bodies, shall determine the training modules and qualifications, the conditions for admitting persons with disabilities to training centres and the cases in which some of these conditions may be waived. The Authority also approves vocational training certificates and engages with the Civil Service Bureau and workforce restructuring programmes. Persons with disabilities are given priority for appointment to occupations and professions, provided that the rules for determining the appointment level and conditions for filling legally established positions are observed.

57. Article 14 requires government, private-sector and oil-industry institutions employing at least 50 Kuwaiti workers to employ professionally qualified persons with disabilities at a proportion that is no less than 4 per cent of their Kuwaiti workforce. None of those institutions may refuse to hire a candidate with a disability without giving an acceptable reason other than disability. The State offers incentive programmes for employers who employ more than the fixed quota of persons with disabilities and the Government can provide material support to those that exceed this quota. The conditions for such support are set out in a decision issued by the competent authority at the proposal of the Authority.

58. It has been found that none of the 77 companies employing 50 or more Kuwaiti nationals are in compliance with the recruitment quota of persons with disabilities set forth in the aforementioned article 14. Those companies have been informed of their obligation to hire the legally required quota. Six companies have expressed their willingness to do so and have provided information on the specialist profiles in demand that might be filled by persons with disabilities.

59. The Public Authority for the Workforce has contacted the Public Authority for Persons with Disabilities regarding the skills required for the recruitment of persons from its register of persons with disabilities. The companies concerned will then report back on the number of persons with disabilities they have engaged.

60. The Public Authority for the Workforce will continue to coordinate with the Public Authority for Disability Affairs and all other stakeholders to ensure that such persons are aware of employment options available to them in the private sector and to encourage them to enter the job market. They will also take measures with regard to companies that are not committed to implementing the quota defined by law.

61. In addition, under article 15 of Act No. 8, employers are obligated to identify occupations and vacancies for persons with disabilities in accordance with their specializations and to submit a periodic statement to that effect every six months to the Civil Service Bureau, the Public Authority for the Workforce, the workforce restructuring programme and the executive branch. The employer must make arrangements to facilitate and prepare an appropriate work environment to enable persons with disabilities to integrate into the workplace.

**Paragraph 11 of the list of issues**

62. Kuwait is a country that attracts migrant workers because of the many advantages it offers, including the rule of law and the absence of discrimination between citizens and migrant workers. Among these laws, the Private Sector Employment Act No. 6 of 2010, which enshrines a number of rights to protect workers, is consistent with the international treaties that Kuwait has ratified. For that reason, the number of migrant workers is continually increasing. Migrant workers now make up more than two thirds of the population of Kuwait and represent approximately 170 nationalities.

63. The “Kuwaitization” plan mentioned in the list of issues is no different from plans being implemented in other countries of the world. Its purpose is merely to address the problem of unemployment among the national workforce without infringing anyone’s right to work and without arbitrarily or unfairly terminating the contract of any worker.

64. Article 46 of the Private Sector Employment Act No. 6 of 2010 stipulates that: “It is prohibited to terminate the services of a worker without justification, or on grounds of trade-union activity or because the worker claims or enjoys his or her legitimate rights as stipulated by law. It is likewise prohibited to terminate the services of a worker on grounds of race, origin or religion.”

65. Accordingly, migrant workers still account for over two thirds of the population of Kuwait. The number of foreign workers in the private sector is estimated at 1,666,423; that figure does not include those working in the government sector.

**Paragraph 12 of the list of issues**

66. Kuwait has taken measures to ensure equality between men and women in the workplace. The basis for such measures is article 29 of the Constitution, which states: “All persons have equal human dignity and the same public rights and duties before the law, without discrimination on the grounds of gender, origin, language or religion.” Article 41 of the Constitution states: “All Kuwaitis have the right to work and to choose the nature of that work. Work is the duty of all citizens, a duty that dignity imposes and public welfare requires. The State shall undertake to provide just working conditions.”

67. In line with the foregoing, several pieces of national legislation have been enacted to safeguard the rights of women. These include the Private Sector Employment Act No. 6 of 2010, article 1 (3) of which defines the worker as “any male or female who performs a manual or intellectual task on behalf and under the supervision of an employer in return for a wage”. The Act dedicates an entire section to the employment of women, including provisions to promote their empowerment. For example, article 26 of the Act states: “A female worker shall be entitled to the same remuneration as a male worker for undertaking the same work.” Accordingly, equality between women and men is ensured and they receive equal wages for equal work, without any differentiation between them.

68. Kuwait is also one of the countries that has ratified the International Labour Organization’s Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which confirms its commitment to applying human rights principles and values, including non-discrimination, from both a legal and practical perspective. Kuwait is committed to applying and implementing the provisions of the Convention and it submits annual follow-up reports on its implementation.

**Paragraph 13 of the list of issues**

69. In order to guarantee a decent living for workers and their families, and in implementation of article 63 of Private Sector Employment Act No. 6 of 2010, which requires the minister to issue a decision at least every five years setting the minimum wages according to the nature of each profession and industry. Resolution No. 14/2017 set the minimum wage at KD 75.



70. Responsibility for matters concerning domestic workers was transferred to the Public Authority for the Workforce on 1 April 2019. The minimum wage in the domestic work sector will be studied.

#### **Paragraph 14 of the list of issues**

71. The Public Authority for the Workforce notes that the term “sponsor” is absent from the Private Sector Employment Act No. 6 of 2010 and from the decrees issued thereunder. The legal term used is “employer”. The Public Authority has issued a number of decrees the aim of which is to reduce the authority of employers over their employees. They include the following:

- Decree No. 522 of 2018 on the promulgation of regulations, rules and procedures for granting work permits.
- Decree No. 535 of 2015, which limits the number of hours that may be worked in exposed areas; the Decree is renewed on an annual basis.
- Decree No. 201 of 2011, which criminalizes forced labour.

#### **Paragraph 15 of the list of issues**

72. The Ministry of the Interior established the Department for Domestic Labour, which was assigned specific tasks in line with its area of competence, in accordance with Ministerial Decree No. 2411 of 2008 on the organizational structure of the Ministry of the Interior. The Department was transferred to the Public Authority for the Workforce on 1 April 2019 pursuant to Council of Ministers Decree No. 1036. Its specific tasks include:

- (i) Implementing the provisions and rules contained in the legislation regulating the employment of domestic workers.
- (ii) Inspecting agencies and facilities engaged in recruiting private domestic workers and others in the same category and examining their books and records with respect to such workers.
- (iii) Making a record of offences, producing reports on domestic workers and transmitting those reports to the competent authorities. The Department has identified many violations committed by recruitment agencies and referred them to the relevant investigation authorities to take the necessary action.
- (iv) Receiving complaints from domestic workers against employers in respect of non-payment of salaries or abuse, for example, and taking all necessary measures to restore the worker’s rights and provide redress.

73. Kuwaiti legislation provides safeguards for domestic workers, who make up a large proportion of the foreign workers in Kuwait. Domestic Work Act No. 68 of 2015 was adopted with the aim of remedying the legislative gap related to the organization of employment in this sector. The Act addresses the obligations of employers and recruitment agencies. It also regulates the labour rights of such workers, including their working hours, leave, and severance pay, as well as the penalties imposed on employers and how to resolve disputes that may arise between employers and domestic workers. As for the prosecution of perpetrators of violence against domestic workers, articles 149 to 173 of title 1 of volume 3 of the Kuwaiti Criminal Code (Act No. 16 of 1960) criminalize all offences against individuals.

74. The nature of the work of a domestic worker differs from that of those working in the private sector, as domestic workers live with their employer and the employer is responsible for their food, clothing and health-care costs, in accordance with article 9 of Act No. 68 of 2015, which states that:

75. Employers have an obligation to provide their domestic workers with food and clothing and to cover the costs of medical treatment and housing. The monthly wage paid by employers to domestic workers, in accordance with the agreement concluded between

them, shall not be less than KD 60 per month. There shall be no deductions from the wage, thus ensuring a decent standard of living for the domestic worker and his or her family.

76. The Department for Domestic Labour monitors the working conditions of domestic workers and examines any problems they may face during the course of their work. This, in fact, is considered to be one of the most important aspects of the Department's work. A task force has been set up within the inspection division to monitor and follow up on any violations workers may suffer, using all possible means including social media. Cases are followed up and addressed immediately with a view to resolving them as per the legal procedures set forth in the Domestic Workers Act No. 68 of 2015.

77. The Department for Domestic Labour has also developed a variety of mechanisms whereby domestic workers can report any abuse they may have suffered:

- Notification through the domestic worker's embassy;
- Notification by email to the Department;
- Notification by a special telephone number for receiving complaints.

78. The Ministry of the Interior has translated and published Act No. 68 of 2015 in seven languages (Arabic, Urdu, Sinhala, Filipino, Amharic, French and English) and disseminated it to raise awareness among domestic workers, employers and recruitment agencies about the rights and duties of all parties.

79. The table below shows specific data concerning domestic workers during the period 2016–2018.

<i>Number of complaints filed by domestic workers</i>	<i>Number of complaints, by the domestic worker or employer that were resolved amicably by the Department for Domestic Labour</i>	<i>Number of complaints referred to the courts</i>	<i>Number of complaints filed against recruitment agencies that were subsequently closed</i>	<i>Number of domestic workers sent to shelters</i>
1 210	1 080	944	100	1 652

80. Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013 was issued, which includes provision for severe deterrent penalties applicable to anyone found guilty of trafficking human beings or smuggling migrants into Kuwait. It also envisages harsh penalties for anyone who, aware of the existence of a plan to commit an offence related to human trafficking or migrant smuggling, fails to notify the authorities.

81. Article 12 of the aforementioned Act states: "The Office of the Public Prosecutor or the competent court, when considering the offences set forth in articles 2 and 3, may take either of the following two measures, as appropriate:

- (a) Referral of victims of human trafficking or migrant smuggling to the medical authorities or to social care homes where they can receive the requisite treatment and care;
- (b) Placement of victims 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."

82. Given below are the measures taken by the Ministry of the Interior towards victims of human trafficking:

- Victims are interviewed and informed of their rights;
- Information is passed to the contact points designated by the Ministry of the Interior (Department for the Protection of Public Morals and Combatting Human Trafficking);
- Victims are referred to shelters or health-care centres (migrant workers' shelter);
- There is coordination with the Office of the Public Prosecutor for the issuance of decrees to protect the victims;

- Immediate and long-term services such as reintegration and voluntary return are made available;
- Under Decree No. 5908 of 2014 of the Minister of the Interior, an anti-human trafficking division was set up as part of the Department for the Protection of Public Morals and Combatting Human Trafficking. The table below provides statistical information about human trafficking offences and action taken in that regard, for the period 2015–2018.

<i>Human trafficking complaints</i>	<i>Verified human trafficking complaints</i>	<i>Accused persons referred to the investigating authorities</i>	<i>Victims of human trafficking offences</i>
135	21	51	136

83. As part of national efforts to combat human trafficking and migrant smuggling, the Council of Ministers issued Decree No. 1454 delegating the Minister of Justice to form and lead a committee made up of representatives from the Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Trade and Industry, the Public Authority for the Workforce, the Public Authority for Civil Information and other stakeholders. The committee is responsible for developing a national strategy to combat human trafficking and migrant smuggling, which is then to be submitted to the Council of Ministers.

84. The committee has developed a strategy covering three fundamental areas:

- Prevention;
- Protection;
- Building partnerships and cooperation, internally, regionally and internationally.

85. At its meeting No. 261, held on 5 February 2018, the Council of Ministers issued Decree No. 6 of 2018 adopting the national strategy to prevent human trafficking and migrant smuggling and delegating the Ministry of Justice, in coordination with the Ministry of Foreign Affairs, to implement the strategy in cooperation with relevant stakeholders.

86. As part of efforts to ensure the optimal enforcement of the strategy, the Ministry of Justice issued Decree No. 2062 of 2018, dated 19 November 2018, which envisaged the creation of a national committee to prevent human trafficking and migrant smuggling. The Decree also included provision for the appointment of members of the committee, who include a number of relevant stakeholders.

### **Paragraph 16 of the list of issues**

87. The Kuwaiti Criminal Code includes numerous provisions under which sexual harassment of all forms is criminalized. Such offences are classified according to type and not according to the professional contexts or locations in which they were committed.

### **Paragraph 17 of the list of issues**

88. Under administrative circular No. 28 of 1992, foreign workers employed in the public sector are entitled to 30 days of maternity leave with full pay on condition that the birth actually takes place during that period. Maternity leave post-partum is reserved for Kuwaiti women.

89. There are currently no plans to grant foreign workers employed in the public sector post-partum maternity leave in addition to the aforementioned maternity leave for the purpose of giving birth.

90. It should be noted that Act No. 21 of 2015 concerning the rights of the child includes provision for childcare leave, which is available to mothers but not to fathers (see annex).

### **Paragraph 18 of the list of issues**

91. There is no law prohibiting the right to strike. Things are, as a matter of course, permitted and any prohibition is always enshrined in a clear legal provision.

92. There have, in fact, been a number of strikes in Kuwait, which the authorities dealt with transparently and without arresting any of the strikers. No one is arrested unless a strike degenerates into violence against persons or property, in which case the law is enforced against persons who perpetrate such actions.

### **Paragraph 19 of the list of issues**

93. Labour legislation is constantly being reviewed with a view to the optimal application of laws relating to workers' rights, while respecting the relevant principles. The Government would like to point out that Act No. 6 of 2010 does not include any provisions to prevent migrant workers from forming or joining trade unions; in fact, it allows them to join existing unions and protects workers if they form or join unions. This is enshrined in article 46 of the Act, which states: "It is prohibited to terminate the services of a worker without justification, or on grounds of trade-union activity or because the worker claims or enjoys his or her legitimate rights as stipulated by law. It is likewise prohibited to terminate the services of a worker on grounds of race, origin or religion."

### **Paragraph 20 of the list of issues**

94. The interpretive declaration is based on article 2 (2) of the 1966 International Covenant on Economic, Social and Cultural Rights, which reads: "Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals." It is clear from this passage that developing countries, of which Kuwait is one, are entitled to determine their own social security system, as envisaged in article 9. In any case, the interpretive declaration issued by Kuwait is subject to periodic review in the light of the State's economic circumstances.

### **Paragraph 21 of the list of issues**

95. The categories of persons entitled to receive public assistance are defined in the Public Assistance Act No. 12 of 2011 and Decree No. 23 of 2013, which concerns entitlement to and evaluation of public assistance. They are:

- (a) Widows;
- (b) Divorced women;
- (c) Families of students abroad;
- (d) Families of students at home;
- (e) Orphans;
- (f) Minors;
- (g) Penitent malefactors;
- (h) Housewives;
- (i) Older persons;
- (j) Indigent persons;

- (k) The sick;
- (l) Prison inmates;
- (m) Kuwaiti women married to non-Kuwaiti men;
- (n) Children in care.

The lowest amount of assistance is KD 255 and the highest amount is KD 1,200.

96. Assistance is also provided to these categories of persons through vocational training to help them acquire technical or professional competencies such as secretarial skills, sign writing, flower arranging, tailoring and woodwork and décor. The purpose is to train them to be self-reliant and to help them find employment in the government or private sector or to launch an enterprise of their own. The “By my own efforts” project serves to market products they make via a series of exhibitions and to present the most outstanding candidates to benefit from the Boutique 33 Business and Enterprise Development Incubator, which has 37 family-run shops.

### **Paragraph 22 of the list of issues**

97. There can be no doubt that Personal Status Act No. 51 of 1984 contains sound legal regulations regarding birth registration for children born outside wedlock or in a marriage considered invalid, without discrimination of any kind. The registration of such children and the issuance of birth certificates is regulated by the Act, taking account of public order and public morals within the State.

98. Article 166 of the Personal Status Act sets the framework for the shortest period of pregnancy as being six lunar (Hijrah) months between the date of the marriage and the date of the birth. If the child is born before that period expires, the pregnancy and the birth are considered to have taken place outside wedlock. This gives rise to two possible scenarios:

- Case 1: an unfulfilled marriage contract. In this case, a court order must be issued amending the date of the start of the marital relationship in accordance with the child’s date of birth.
- Case 2: no marriage contract can be produced at the moment of the birth. In this case, a court order is issued testifying to the marital relationship and the date it began (in accordance with article 166); on the basis of that order, a document certifying the marriage of the child’s parents may be obtained.

99. Under the legal procedures outlined above, with a notification of birth issued by a hospital showing the birth to have taken place on the territory of the State of Kuwait, and with the submission of the official documents on the part of the parents, such children can be duly registered, irrespective of whether they are Kuwaiti citizens or residents, with no discrimination of any kind.

### **Paragraph 23 of the list of issues**

100. The Government has facilitated procedures for the issuance of official documents to persons unlawfully resident in the country. In fact, under Council of Ministers Decree No. 409 of 2011, the expression “non-Kuwaiti” is to be entered under “nationality” in place of the person’s original nationality. The facilities adopted by the Government in this connection have led to an increase in the number of documents received by illegal residents, who had previously avoided accepting them. Birth and death certificates are issued in accordance with Act No. 36 of 1969 regulating the registration of births and deaths.

101. It is important to note that the issuance of civil documents of all kinds is an established right that the State recognizes as belonging to all persons present on its territory. No one is prevented from obtaining such documents, which are one of the means the State uses to protect the family. The table below shows the numbers of birth and death certificates issued to this category of persons.

<i>Year</i>	<i>Birth certificates</i>	<i>Death certificates</i>
2017	2 848	195
2018	1 948	214

102. In this regard, it should also be noted that, when a notification of birth is issued in a hospital, the father, his delegate or a relative who was present at the birth must request the competent official to register the nationality of both or one of the parents as “non-Kuwaiti”. Thus, the information is entered at the request of the interested party when the notification of birth is compiled.

103. Subsequently, an application is made to the Central Agency for the Remedy of Situations of Illegal Residents to inform it of the veracity or otherwise of the information. In fact, the source for the correct entry of this information on birth certificates is the Central Agency for the Remedy of Situations of Illegal Residents which, under Council of Ministers Decrees Nos. 434 of 2005 and 1197 of 2017, is the competent authority in that regard.

104. Children of persons unlawfully resident in the country enjoy all benefits, services and facilities in areas related to humanitarian and social matters, health care, education and civil life. This right is enshrined in Council of Ministers Decree No. 409 of 2010, which concerns children of that category of persons.

<i>Year of birth</i>	<i>No. of births of foreigners</i>
2014	27 601
2015	25 583
2016	26 110
2017	26 092
2018	21 248

### **Paragraph 24 of the list of issues**

105. The Personal Status Act makes mechanisms available to the wife to enable her to verify the man’s suitability and appropriate marriage age. Under article 34 of the Act, the validity of a marriage is conditional on the man’s compatibility with the woman at the time of conclusion of the marriage contract, and the woman, or her guardian, has the right to apply for annulment of the marriage in the event of incompatibility. Under article 36 of the Act, age commensurability between the spouses is regarded as an exclusive right of the wife. In addition, Kuwaiti legislators have recently imposed a requirement for marriage candidates to undergo a medical test to ensure that neither of them has any physical or psychological condition that would constitute an impediment to the union. This takes place under Act No. 31 of 2008 on premarital medical examinations for persons wishing to marry in the State of Kuwait.

106. It is a condition of law that a woman should consent to the marriage contract. This is set forth in articles 29 and 30 of the Personal Status Act No. 51 of 1984, which state that, in the case of the marriage of a young woman, both the guardian and the woman involved must express their consent. If the party to the marriage was married before or is over the age of 25, the decision is hers although she does not conclude the contract directly but through her guardian.

107. Kuwaiti legislators have been careful to ensure that marriage contracts should not be entered into by persons under the prescribed legal age. For that reason, article 26 of the Personal Status Act No. 51 of 1984 states as follows: “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.” The justification for this is to be found in Islamic sharia according to which reaching marriageable age is related to reaching the end of childhood.

108. It should be pointed out that, in 2015, 2016 and 2017, there were no recorded cases of marriage in Kuwait of women under the age of 15.

### **Paragraph 25 of the list of issues**

109. Article 34 of the Private Sector Employment Act No. 6 of 2010 stipulates: “Employers contracted to undertake government projects, or employers who employ workers in zones that are distant from urban areas, are under an obligation to provide suitable accommodation for their workers and free transport to zones distant from urban areas. If such accommodation is not made available, the employer shall provide an appropriate accommodation allowance. Zones distant from urban areas, conditions for suitable accommodation and the accommodation allowance shall all be defined by ministerial decree.” In all other circumstances in which the employer is under an obligation to provide workers with accommodation, the applicable provisions are those of the decree mentioned in the previous paragraph regarding conditions for suitable accommodation and the accommodation allowance.

110. Decree No. 199 of 2010 defines and specifies what constitutes suitable accommodation for workers.

### **Paragraph 26 of the list of issues**

#### **Subparagraph (a)**

111. Sexual and reproductive health is addressed in school curricula of various levels, as appropriate to the age of the recipients. In addition, reproductive and maternal health clinics exist in primary health-care centres where medical staff are assisted by social workers specializing in that field. Booklets have been published on reproductive health and its concomitant dangers and on sexually transmitted diseases. Moreover, specialized clinics also exist in most hospitals with gynaecological and obstetric departments.

#### **Subparagraph (b)**

112. Mental health services are provided to all residents of Kuwait without discrimination as to nationality, religion or sex. The Kuwait Mental Health Centre provides services such as specialized clinics in hospitals all across the country, mental health clinics in primary health-care centres and an external consulting service that covers all hospitals in Kuwait and is available 24 hours a day. The Kuwait Mental Health Centre also covers State-run schools under the Ministry of Education, the genetics division of the maternity hospital, the central prison and the Police Academy. The Centre has launched a day-care service for men and women at the Centre itself and it has laid on transport for patients to enable them to reach the day-care facilities. Furthermore, the Centre is preparing to launch a home-visit service as well as a day-care service for children, adolescents and persons with intellectual, nervous, mental and developmental disorders at the Al-Manara Centre for the Mental Health of Children and Adolescents. The Centre also encompasses a number of rehabilitation departments for persons with severe and chronic mental illnesses who are in need of constant specialized medical care.

113. The Centre has conducted a number of information campaigns with a view to reducing the stigma of mental illness and to raising awareness in society, using social media to disseminate and update information about the services available at the Centre. World Mental Health Day on 10 October 2018 was a further opportunity to disseminate health awareness, with the involvement of the public and private health-care sectors in Kuwait. Public lectures took place on the history of the Centre and the services it provides, about the mental health of adolescents and about the role of psychiatric nurses in treatment. The Centre celebrated a “nursing day” on 1 May 2019, which also focused on the role of psychiatric nurses. During Mental Health Awareness Month, two “Ask me” days dedicated to public interaction in shopping centres enjoyed considerable success. In addition, the Centre has participated in local and regional conferences: a panel discussion with the Bar Association on domestic violence, the fourth Jahra Paediatric Conference, an endocrinology

conference, Lupus Awareness Day and the Qatar Mental Health Conference, among others. This year, the centre was visited by the Ambassador of the United States of America and by a delegation from the Qatar Foundation's World Innovation Summit for Health, who came to learn about the level of services on offer and to gain knowledge.

114. Following the adoption of Mental Health Act No. 14 of 2019, the Ministry of Health set up a committee for the implementation of the Act. Its purpose is to regulate entry to and discharge from the Kuwait Mental Health Centre with a view to ensuring the interests and rights of mental patients and the confidentiality of medical information. Another purpose is to regulate treatment in such a way as to ensure the interests of the patients and of society in general. Finally, it also aims to protect mental-health workers and broaden their powers, with a view to ensuring the interests and rights of patients.

### Paragraph 27 of the list of issues

115. Education is a universal right. This is enshrined in article 13 of the Constitution, according to which education is a cornerstone of progress in society and is guaranteed and protected by the State.

116. The State has empowered students with disabilities to develop their talents and abilities in order to participate in the development of the nation. In that connection, the State provides education for all children and young people from the primary to the pre-university level. The Government is under an obligation to provide schooling and education, and the means to undertake it, to both non-disabled students and students with disabilities, as well as to slow learners and persons with learning difficulties, all on an equal footing and with a view to their special needs regarding communication, language and reasonable accommodation. It also makes specialized staff available and seeks to improve their skills and provide them with all necessary material and moral incentives. According to article 10, "the Government shall make all the necessary administrative and regulatory arrangements to integrate persons with disabilities or with learning difficulties, as well as slow learners, into education at all levels, and it shall seek to habilitate them in a manner commensurate with their sensory, physical and mental abilities in order that they might be integrated into society and participate in productive activity". In addition, the Al-Amal, Al-Raja and Al-Noor schools for persons with disabilities (deafness, visual impairments, motorial impairments) have special buildings, curricula, human resources and equipment to meet the needs of that category of persons. Details about numbers of students with disabilities are given in the table below.

**(a) Public education**

2013/14	2014/15	2015/16	2016/17	2017/18
1 079	920	692	621	-

**(b) Special education**

2013/14	2014/15	2015/16	2016/17	2017/18
1 763	1 739	1 740	1 815	-

**(c) Private education**

2013/14	2014/15	2015/16	2016/17	2017/18
2 033	2 166	2 153	1 273	-

117. The State has also taken action to remove the obstacles that prevent students with disabilities from obtaining quality education by making all the components of the educational process readily available, such as buildings, curricula and teaching staff specialized in all areas of education. In addition, there are communications specialists,



psychologists and social workers as well as nurses and physiotherapists all working under the supervision of the Ministry of Health.

118. The Public Authority for Persons with Disabilities provides educational support and monitors 8,666 cases of students with disabilities in education, in regard of whom decrees have been issued for their enrolment in schools accredited by the Public Authority for Persons with Disabilities. These include 29 fully equipped kindergartens, 15 Arabic language schools and 17 bilingual schools. The educational support budget for the fiscal year 2018/19 stood at KD 36,133,740, equivalent to US\$ 118,765,532. Classes with special needs have greater entitlements than integrated classes and are provided with equipment and resource rooms.

119. The State acts to ensure that persons with disabilities can exercise their right to education, in line with their abilities, and that they are able to pursue and complete their studies. In the academic year 2018/19, the total number of students with disabilities enrolled at Kuwait University alone was 297: 272 Kuwaitis, 16 non-Kuwaitis and 9 unlawful residents.

120. A committee for visits and interviews has been set up to monitor private schools, kindergartens and habilitative institutions for person with disabilities. The committee carries out regular visits during the course of the school year to inspect premises and to conduct interviews with teaching staff.

121. A high-level joint committee has been formed with representatives from the Public Authority, the Ministry of Education and civil society groups to develop the educational services offered to persons with disabilities. The committee examines and appraises educational strategies in Kuwait, reviews the school integration plan and quality control standards for education, and establishes a general framework for evaluating educational institutions.

### **Paragraph 28 of the list of issues**

122. Women are fundamental partners in advancing national development and their rights are enshrined in the Constitution, which rests on the basic foundations of justice and equality. Education is universal and is not reserved for one particular sex. The provisions regarding married students do not constitute a rule. Their purpose is to preserve and protect women's social and psychological privacy as well as their well-being and health.

123. It should also be noted that, thanks to advances in culture and ideas, and in social and civic consciousness, there are very few cases of schoolgirls marrying. In the past, the law in this regard was considered a form of positive discrimination in favour of women, one that reflected the social and psychological characteristics of the married state. The Ministry of Education is in the process of drafting educational documents including ones regarding secondary education.

### **Paragraph 29 of the list of issues**

124. In fulfilment of the main function assigned to it under a decree issued on 17 July 1973, the National Council for Culture, Arts and Literature works to promote cultural, intellectual and artistic development, to open the way to communication and interaction with Arabic and global culture, and to establish a suitable climate for cultural and artistic creativity. The National Council for Culture, Arts and Literature gives Arab and foreign communities residing in Kuwait opportunities to express their own culture, heritage and arts, to which end it provides support to organize cultural and artistic activities in centres affiliated with the National Council itself.

125. In the conviction that cultural diversity is a hallmark of humanity that needs to be supported and preserved, in 2007 the National Council for Culture, Arts and Literature ratified the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions of the United Nations Educational, Scientific and Cultural Organization (UNESCO). The provisions of that Convention reflect the goals of the National Council

because cultural diversity flourishes in an atmosphere of democracy, tolerance, social justice and mutual respect among peoples and cultures, and is a requisite of peace and justice, locally, nationally and internationally. In fact, the 2005 Convention underscores the importance of cultural diversity for the full realization of human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and other universally recognized instruments. Article 2 of the Convention, on guiding principles, emphasizes the fact that cultural diversity can be protected and promoted only if human rights and fundamental freedoms, such as freedom of expression, information and communication are guaranteed.

### Paragraph 30 of the list of issues

126. The table below shows the number of books submitted to the Ministry of Information's department for printing and publication over the previous five years, and the outcomes.

<i>No. of books submitted to the department</i>	<i>Permitted</i>	<i>Banned</i>
38 954	34 074	4 880

127. The number of cases involving books, the reasons for the ban and the outcomes were as follows:

<i>No. of cases</i>	<i>Reasons for the ban</i>	<i>Outcome</i>
4	Violation of prohibitions under article 21 of Printing and Publications Act No. 3 of 2006	<ul style="list-style-type: none"> <li>• In two cases a final ruling was issued to overturn the decision to ban</li> <li>• In one case a final ruling was issued to reject the appeal</li> <li>• One case is still pending although the book has been admitted by the Book Authorisation Committee and has not been banned</li> </ul>

128. It should be noted that two decisions to ban that have been overturned by the Grievance Committee.

129. The Ministry of Information is well aware that all persons have the right to express their views and make them known by the spoken or written word or by other means. This right, which is guaranteed under article 36 of the Constitution, may be exercised in accordance with the conditions set forth in the law. The Book Authorization Committee was formed under the provisions of Printing and Publications Act No. 3 of 2006 and its work is regulated by ministerial decrees, the most recent being Decree No. 22 of 2017. A recommendation to ban issued by the Committee is based on the contents of the work in relation to one or more of the prohibitions set forth in section 3 of the Printing and Publications Act. In fact, the freedom to hold opinions and to express them in writing is matched by other constitutionally guaranteed rights that merit equal respect. The contents of books for which approval is being sought should not be such as to infringe upon, deprecate or attack other rights and freedoms such as, for example, a person's dignity, religious life or beliefs, or private life; nor must they affront the public morals generally recognized by society, violate public order or domestic laws, constitute crimes, etc. All of this is set forth exhaustively in section 3 of the Printing and Publications Act.

130. Note should be taken of the fact that the proportion of books banned with respect to those approved is just 12.5 per cent. This clearly shows that the default standard is to approve a work and that banning is an exception that is applied within strict limits and for the reasons set forth in detail in the Printing and Publications Act (the Association of Journalists, the Bar Association and the Electronic Media Federation) while taking account of all the legislation applied by the Ministry including the prohibitions in media-related

laws – Printing and Publications Act No. 3 of 2006 and Audiovisual Media Act No. 61 of 2007 – which are applicable to the Book Authorization Committee.

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