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Committee on Economic, Social and Cultural Rights

Fifty-first session

Summary record of the 31st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 5 November 2013, at 10 a.m.

Chairperson: Mr. Kedzia

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The meeting was called to order at 10.05 a.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Second periodic report of Kuwait (E/C.12/KWT/2); list of issues (E/C.12/KWT/Q/2); written replies of the Kuwaiti Government to the list of issues (E/C.12/KWT/Q/2/Add.1)

1. *At the invitation of the Chairperson, the delegation of Kuwait took places at the Committee table.*
2. **Mr. Al Moghamis** (Kuwait) said that human rights, an integral part of the identity of Kuwait, were enshrined in the Kuwaiti Constitution of 1962. His country believed in human dignity and had always endeavoured to promote and protect human rights, particularly by following up the Committee's concluding observations and recommendations. Moreover, under article 70 of the Constitution, as soon as treaties ratified by the State entered into force, they became an integral part of Kuwaiti law. Chapters II and III of the Kuwaiti Constitution covered most of the rights and freedoms enshrined in the International Covenant on Economic, Social and Cultural Rights. Kuwait worked resolutely to strengthen human rights at the international level by providing political and financial support for States and international organizations.
3. Kuwait attached great importance to the family, which it saw as the foundation of society. Women played a vital role within the family and enjoyed all the rights necessary in order to fulfil that role, particularly the right to education, health and employment. They were also entitled to maternity leave, during which they received their full salary.
4. Kuwait was constantly endeavouring to improve social protection. Recently, social benefits had been made available to more people, particularly unemployed women. The State guaranteed free health care and it should be noted that medical assistance was not limited to medical treatment, but also included preventive measures. Primary and middle-school education was obligatory and free. Kuwait was continuing its efforts in that area and had recently aligned its education programmes with international human rights norms. With regard to cultural rights, article 14 of the Constitution provided that the State should promote culture; to that end, the State had established a National Council for Culture, the Arts and Letters in 1973.
5. The State considered employment to be one of the foundations of economic rights. The Kuwaiti job market was based on the right to employment. Kuwait had abolished the sponsorship system, thus allowing workers to change employers freely. Domestic work was governed by Decree-Law No. 40 of 1992 on the regulation of agencies recruiting domestic workers and workers in similar occupations, which aimed to protect domestic workers from exploitation. In addition, the State obliged agencies recruiting domestic workers to use a model contract setting out working conditions and a minimum wage.
6. **Mr. Marchan Romero** (Country Rapporteur) said that he noted with satisfaction the progress made by the State party; however, the report did not entirely conform to the guidelines issued by the Committee, according to which the Committee should be informed of the follow-up given to its concluding observations. Although the second periodic report of Kuwait contained a lot of information, it did not specify what measures had been adopted to follow up the concluding observations made in 2004. He encouraged the State party to refer to the Committee's concluding observations in its following report.

7. He noted with concern that despite the Committee's recommendations regarding the Bedoun, the latter were still unable to fully exercise their economic, social and cultural rights. He was also concerned that several basic International Labour Organization conventions had not been ratified by Kuwait. In its previous concluding observations, the Committee had recommended that Kuwait implement a comprehensive sexual and reproductive health programme, which did not appear to have been done. Similarly, Kuwait had failed to provide data on school enrolment rates at all levels of education, disaggregated by year, sex and population group, as requested by the Committee.

8. He recalled that reservations to human rights instruments jeopardized fundamental rights, and he encouraged the State party to withdraw its reservations to certain provisions of the Covenant. With regard to the incorporation of the provisions of the Covenant in the State party's legal system, he enquired about the manner in which article 70 of the Constitution was implemented. He also asked whether the Covenant had been invoked directly before the courts.

9. **Ms. Bras Gomes**, noting that in its written replies Kuwait stated that "the principle that there must be no discrimination between women and men in any domain is scrupulously upheld in Kuwaiti law. The only exceptions relate to gender differences", asked on what those exceptions were based and how they were applied in practice. She asked whether the State party's legislation contained a definition of indirect discrimination and whether Kuwait envisaged adopting a general law covering all the forms of discrimination set out in the Covenant. She said that it was regrettable that the State party had provided very little information on the measures adopted to raise awareness of gender equality among the population. Noting with satisfaction that the Committee on Women's Affairs was working to establish an overall strategy covering a broad range of areas relevant to women, she asked whether questions of equality were being taken into consideration during that work.

10. **Ms. Shin Heisoo** said that several of the recommendations made to the State party under the universal periodic review related to the protection of women's rights, particularly concerning the adoption of a specific law on combating violence and the establishment of family courts, and she had expected Kuwait to make greater efforts in that regard. She noted with interest that a shelter for women victims of domestic violence had been set up, but she wondered whether the facility was sufficient given the number of potential victims. Noting with satisfaction that a bill aimed at establishing family courts was being prepared, she asked when such courts would be ready and whether female judges would preside over them. In order to achieve gender equality, Kuwait must recognize that women were not just mothers, but individuals in their own right. Lastly, she asked whether prison sentences for perpetrators of rape had been increased.

11. **Mr. Sadi** asked to what extent policies and national action plans took into account the principles set out in the Covenant. He requested examples of domestic laws whose provisions drew on those of the international human rights instruments to which Kuwait was party. He also asked for clarification on the role of public authorities in the implementation of international instruments.

12. He wished to know the amount of international aid offered by Kuwait as a proportion of its gross domestic product. He also asked how civil society had been involved in the preparation of the periodic report, to what extent the Kuwaiti Higher Committee for Human Rights conformed to the Paris Principles, whether human rights were included in education programmes and whether the periodic report to the Committee on Economic, Social and Cultural Rights had been widely disseminated among the population.

13. He recalled that reservations that called into question the very foundation of international human rights instruments were considered inadmissible. Noting with concern

that Kuwait had not succeeded in improving the situation of the Bedouns, he encouraged the State party to redouble its efforts to resolve the matter.

14. **Mr. Atangana** asked whether the bill on employment had been adopted and recalled that the question had already been raised with the State party. He also wished to receive further details of the effects of the measures mentioned in paragraphs 110 and 112 of the periodic report.

15. **Ms. Shin Heisoo**, recalling that the State of Kuwait required companies with more than 50 employees to ensure that persons with disabilities made up at least 4 per cent of their workforce, asked how many businesses had more than 50 employees and how many employed persons with disabilities in line with that quota. She also asked how the State ensured that the measure was applied and whether there were sanctions in the event of non-compliance.

16. She asked how the State ensured that the measures aimed at protecting the human rights of domestic workers were applied within their actual places of work, since it was there that they suffered physical and sexual violence and were victims of exploitation. It was not enough to monitor employment agencies; employers also needed to be made aware and informed that they faced sanctions if they did not respect domestic workers' human rights, particularly if they failed to pay their wages. She asked what measures had been adopted by the State party in that regard. She also wished to know whether there was a hotline that received domestic workers' complaints, whether they could go to the police and what remedies were accessible to them.

17. **Ms. Bras Gomes**, noting that the unemployment rate was particularly low and that Kuwait had launched a plan to reduce the number of foreigners working in its territory by 100,000 per year, asked whether that policy was intended to improve the qualifications of the Kuwaiti workforce and what measures had been taken in that respect. She also wished to know whether steps had been taken to guarantee the economic and social rights of the foreign workers who would be affected by the policy.

18. With regard to article 7, she noted that the pay gap between men and women was very large, at 34 per cent. In its written replies, Kuwait had indicated that female workers had the right to equal pay for the same work, rather than equal pay for work of equal value. She wished to know why that sentence had been phrased in that way and wondered whether it explained the significant gender pay gap that had been reported.

19. She noted that a minimum wage had been established for workers in the oil industry and security services and wondered what the situation was for workers in other sectors. Lastly, she recalled that in its list of issues, the Committee had asked the State party to provide information on groups that ran the risk of being excluded from social security and wished to know, in particular, what the situation of foreigners, domestic workers and migrant workers was in that regard.

20. **Mr. Dasgupta** asked whether the amount of the minimum wage was specified in the legislation and whether physical violence towards domestic workers was prohibited by law. He wished to know how many investigations had been opened into cases of alleged non-payment of the minimum wage and physical violence, and what the resulting sentences and penalties had been. He also asked whether workers were remunerated in the same way in all sectors, without discrimination, whether they were foreigners or Kuwaitis, and, if that was not the case, why not.

21. **Mr. Martynov** asked whether the quota for employees with disabilities set by the State applied only to the private sector, or to all sectors. He also wished to know whether the 1976 Act on social insurance was still applied and, if so, whether there were social insurance schemes for foreigners.

22. **Mr. Ribeiro Leão** asked whether all the legislative provisions guaranteeing healthy and safe working conditions were listed in paragraphs 88 and 89 of the periodic report or whether there were other relevant provisions. If so, he asked the State party to provide examples. Additionally, he asked how effective the laws mentioned in paragraphs 92 to 98 of the report had been in combating human trafficking.

The meeting was suspended at 11.15 a.m. and resumed at 11.35 a.m.

23. **Ms. Altarkeet** (Kuwait) said that the Ministry of Health provided a range of free health services throughout the country to both Kuwaitis and foreigners, including undocumented migrants. The State also issued health cards to foreigners and migrant workers. Public hospitals took in all patients and article 1 of Ministerial Decision No. 68 of 2011 guaranteed free health care to undocumented migrants, who were also entitled to free medicine and dental care.

24. The Government had launched campaigns to raise awareness of the range of reproductive health-care services available. Awareness campaigns had targeted women of reproductive age, and other campaigns in schools informed young girls of their rights. Regarding premarital health-care services, the law provided free testing in cases of sexually transmitted diseases (STDs) or any other disorders affecting reproduction. Campaigns had also been launched to alert the population to the dangers posed by alcohol consumption and obesity, particularly for women of reproductive age, and to warn the public against the dangers of smoking and STDs. Furthermore, there were no measures obliging women to have children; it was a choice they made freely.

25. **Ms. Abdulrahman** (Kuwait) said that the provisions of the Covenant had been incorporated in domestic law; they were taken into account by all national courts, could be invoked by Kuwaitis and took precedence over domestic legislation.

26. **Ms. Alshaigy** (Kuwait) said that some cases relating to equality had been judged in accordance with the provisions of the Covenant, including cases concerning the right of women to practice in the judicial system. Women were free to join the judiciary, where they were eligible for promotion in the same way as men. It was worth noting, furthermore, that article 29 of the Constitution guaranteed equality between men and women.

27. **Mr. Almutairi** (Kuwait) said that article 27 of the Constitution guaranteed the right of women to transmit their nationality to their children. Article 3 provided that all persons born to a Kuwaiti mother or father held Kuwaiti nationality. Act No. 40 of 1993 regulated domestic work and a service had been set up to enforce the provisions of the Act. The service was also responsible for receiving complaints from domestic workers, including regarding employers' non-payment of wages. To date, it had ordered the closure of 860 employment agencies recruiting domestic workers, which left 380 other agencies that complied the law. The service, which currently had enough staff to deal with up to 700 complaints at any given moment, cooperated with the embassies of domestic workers' countries of origin. It was also authorized to investigate the complaints it received. If such an investigation found that the rights of a domestic worker had been violated, their employer was fined, which allowed domestic workers to claim unpaid wages and compensation.

28. Violence and especially rape, were criminal offences. Heavy sentences were applied in the case of rape, particularly if the victim was a minor. If the perpetrator of the rape was the victim's guardian, the offence was punishable by life imprisonment.

29. **Mr. Alsulaimi** (Kuwait) said that Kuwait had ratified 19 International Labour Organization conventions, relating to human rights and the protection of workers in particular. With regard to the employment of persons with disabilities, the National Assistance Service for Persons with Disabilities had drawn up a list of criteria in order to

produce statistics on persons with disabilities in the public and private sectors. Under national legislation, persons with disabilities could be employed in either sector. The law also provided for the establishment of a service in charge of supervising the employment of foreign nationals with disabilities and expressly provided for prison sentences or fines in cases where the rights of persons with disabilities were violated.

30. The minimum wage did not apply only to workers in the oil industry or security services and had to be increased every five years in line with inflation. With regard to social security, Act No. 61 of 1976 did not apply to foreigners employed in the private sector. For entitlement to social security, permanent residence in Kuwait was required, and foreign workers were not considered to be permanent residents. Foreigners working in Kuwait, did however, receive severance pay if their contracts were terminated, which represented a form of social security. The planned dismissal of 100,000 foreign workers arose from the need to terminate the contracts of unqualified workers. It was worth bearing in mind that Kuwait was a small country that had three times more foreign workers than Kuwaiti employees, which led to an imbalance in the demographic make-up of the country. The law on employment contained specific provisions for vocational training. A centre created under the supervision of the Ministry of Social Development and Labour offered training according to the requirements of the labour market.

31. **Ms. Alnaser** (Kuwait) said that the term “Bedoun” was not commonly used in Kuwait and that those persons were not deprived of their nationality, but simply undocumented. The Higher Council for Development and Planning had drawn up a five-year plan to resolve the problems connected with those non-nationals, involving the creation of a body responsible for providing them with social and humanitarian services. It was important to stress that undocumented persons in Kuwait benefited from many rights and privileges, such as free education and health care, employment opportunities, food vouchers and civil registration documents such as marriage and death certificates.

32. **Ms. Al Shaigy** (Kuwait) said that the Committee on Women’s Affairs, created in 2002, was a multidisciplinary body that worked to improve the condition of women, in consultation with several ministries, including those responsible for health, education and justice, and also with the Council of Fatwas. Its tasks included formulating recommendations and opinions on bills affecting women’s lives, as well as promoting their autonomy, strengthening their decision-making capacities and combating violence towards them. A bill on the establishment of family courts in each of the country’s governorates that could try personal law cases in particular would shortly be submitted to the National Assembly for adoption.

33. Under the 1979 Civil Service Act, women had the same rights as men in terms of employment and remuneration. They even enjoyed additional privileges, such as leave to accompany their spouse on business trips. Maternity leave lasting four months was granted to all mothers, including foreigners married to Kuwaitis, and could be extended if necessary. Because the family was a pillar of Kuwaiti society, housing was allocated to the whole family, so there was no discrimination between men and women in that regard. Moreover, widows and single women benefited from preferential credit conditions for the purchase of property.

34. **Mr. Alsulaimi** (Kuwait) said that the new legislation on employment in the private sector, drawn up on a tripartite basis, had entered into force in September 2010. In particular, it regulated matters relating to workplace health and safety and provided for guarantees and compensation for workers who suffered industrial accidents. The labour inspection services carried out inspections of private sector businesses and informed the relevant bodies of any breaches of work safety regulations.

35. **Mr. Alkandari** (Kuwait) said that Kuwait had brought its national legislation into line with the provisions of the Covenant with a view to applying all its provisions. When the Covenant had been ratified in 1996, Kuwait had made two interpretative declarations, one on article 2 and the other on article 9, and submitted reservations to article 3 and article 8, paragraph 1 (d), thus announcing that although it adhered to the principles set out in those articles, they would be applied within the limits imposed by domestic law. The declaration on article 9, relating to the exclusion of foreigners from social insurance provisions, was still applicable. With regard to the reservation on article 8 on the right to strike, that right was recognized and exercised according to the conditions prescribed by law, although there was no law expressly authorizing it.

36. **Ms. Alshaigy** (Kuwait) said that the Kuwaiti Higher Committee for Human Rights had been set up in accordance with the Paris Principles and was responsible for examining complaints relating to human rights, monitoring the application of the human rights instruments ratified by Kuwait and producing reports on their application.

37. **Mr. Al Moghamis** (Kuwait) said that Kuwait helped many countries develop their infrastructures via the Kuwaiti Fund for Overseas Cooperation and in particular through the Decent Human Life Fund, with State funding worth US\$ 100 million. Furthermore, Kuwait contributed to the funding of the International Red Cross and Red Crescent Movement and the Office of the United Nations High Commissioner for Human Rights and had also provided US\$ 300 million in financial aid to the people of Syria.

38. **Mr. Atangana** asked whether the State party intended to expressly prohibit marriage for persons aged under 18.

39. **Mr. Pillay** asked whether it was correct that disadvantaged groups, such as migrant workers and the Bedouns, lived in precarious housing and were sometimes forced to rent their accommodation by the hour at excessive rates. He also wished to know whether it was correct that unmarried couples and single persons were not entitled to rent housing.

40. **Mr. Sadi** asked whether the minimum wage, which was revalued every five years, allowed workers to enjoy a satisfactory standard of living.

41. **Ms. Cong Jun** enquired about the measures adopted by the State party to protect the environment, raise the population's awareness of environmental matters and allow those affected by environmental damage to lodge complaints.

42. **Mr. Mancisidor** asked for the delegation's opinion on whether article 7 of the Printing and Publishing Act No. 3 of 2006, which stipulated that foreign publications must be scrutinized in detail prior to publication in the country, was compatible with article 15 of the Covenant. He also wished to know whether it was correct that freedom of expression on the Internet was limited, as suggested by the 10-year prison sentence handed down to an individual who had expressed an opinion on a well-known social media website. Additionally, he asked whether State party authorities took into account the risk of environmental damage caused by tourism on the island of Faylakah, which appeared on the World Heritage List of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Lastly, he asked why the State party had not yet ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, despite being a signatory.

43. **Mr. Kerdoun** asked whether foreign children could access education on an equal footing with Kuwaiti children and wished to know how many Bedouns and migrant workers had access to higher education, and in particular whether they could study at public universities.

44. **Mr. Dasgupta** asked whether schooling was free and obligatory for all children, regardless of their nationality or origin.

45. **The Chairperson**, speaking as a member of the Committee, asked what measures the State party had adopted to guarantee unhindered and non-discriminatory Internet access.

46. **Mr. Schrijver** asked what the State party had done to protect and promote cultural diversity and guarantee freedom of religion for all the country's inhabitants, regardless of their faith.

The meeting rose at 1 p.m.