



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination Ninety-third session

Summary record of the 2551st meeting

Held at the Palais Wilson, Geneva, on Thursday, 3 August 2017, at 10 a.m.

Chair: Ms. Crickley

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

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined twenty-first to twenty-fourth periodic reports of Kuwait (continued)
(CERD/C/KWT/21-24 and CERD/C/KWT/Q/21-24)

1. *At the invitation of the Chair, the delegation of Kuwait took places at the Committee table.*
2. **Mr. Alghunaim** (Kuwait), replying to questions raised by the members of the Committee at the previous meeting, said that more than 5,000 Palestinians were resident in Kuwait. Their identity documents could not be used to travel to any other country, even the country that had issued the document. The conversion of Egyptian identity documents into Palestinian documents was a matter to be determined by the Palestinian authorities. The Government had excellent relations with the Palestinian community, and the Ministry of Education had recently signed an agreement with the Palestinian authorities aimed at increasing the number of Palestinian teachers.
3. **Mr. Alwuhaib** (Kuwait) said that the Government displayed full transparency in dealing with humanitarian issues, including the situation of illegal residents, since it believed that all people were equal in terms of human dignity, in accordance with the Islamic sharia and article 29 of the Constitution. It used the term “illegal resident”, in line with Decree No. 467 of 2010 establishing the Central Agency for Regularization of the Status of Illegal Residents and the Residence of Aliens Act No. 17 of 1959, rather than terms such as “stateless”, “Bidoon” or “person of undetermined nationality”. The persons concerned had entered the country from various neighbouring States to earn a livelihood or to enjoy greater stability and security. They had concealed their original nationality and official documents. However, since the establishment of the Central Agency, about 8,500 persons had disclosed their documents and become legal residents. Thus, illegal residents, regardless of their nationality, were not prevented from acquiring Kuwaiti nationality if they fulfilled the conditions laid down in the Kuwaiti Nationality Act No. 15 of 1959.
4. Kuwait pursued a policy of humanitarian and social assistance for illegal residents so that they could live a decent life. The Central Agency, in coordination with other State authorities, had adopted a series of measures aimed at facilitating their exercise of numerous humanitarian and civil rights. It had also issued about 96,000 cards that enabled them to enjoy diverse benefits, in accordance with Ministerial Decision No. 409 of 2011.
5. Acquisition of Kuwaiti nationality was subject to the conditions laid down in Act No. 15 of 1959, as amended, and the road map adopted by the Council of Ministers. Any applicant who had a record involving breaches of integrity or security was disqualified. Passports were issued to illegal residents in accordance with article 17 of the Passports Act No. 11 of 1962. A total of 40,862 passports had been issued from 1 January 2015 to 1 July 2017. Illegal residents were also guaranteed the right to litigate. Moreover, the 2013/2014 Amiri amnesty regulations provided that, in consideration of their humanitarian situation, illegal residents who had been convicted of a crime could not be deported as a penalty. A number of committees had been established to receive requests for naturalization from illegal residents, and about 16,000 applicants had been naturalized in recent years. Children of Kuwaiti women of all nationalities, including illegal residents, could also be naturalized.
6. **Ms. Almeshal** (Kuwait) said that the Charitable Fund for the Education of Needy Children covered the cost of primary and secondary education for illegal residents. The Charitable Health Care Fund provided health care for needy persons. A total of 56,547 persons had benefited from the latter Fund between 2003 and 2012. In accordance with Ministerial Decision No. 86 of 2011, illegal residents paid the same fees as Kuwaitis for hospitalization and other medical care. Medical insurance cards had been issued to persons who were not registered with the Central Agency so that they could benefit from free treatment on an equal footing with Kuwaitis.
7. Birth and death certificates were issued to illegal residents in accordance with Act No. 36 of 1969. A total of 25,540 birth certificates and 1,220 death certificates had been

issued between 2011 and 2016. In addition, 4,856 marriage contracts, 1,351 divorce certificates and 36,141 driving licences had been issued between 2012 and 2016. With regard to employment opportunities, 1,419 illegal residents had been appointed to posts in government agencies and 2,030 children of Kuwaiti women married to illegal residents had been appointed to posts in the Ministry of Defence. Article 29 of the Army Act had been amended to allow certain illegal residents to serve in the military corps of the Ministry of Defence.

8. About 90,000 illegal residents had benefited from ration cards in 2016, giving them access to basic foodstuffs at a cost of 5,735,838 Kuwaiti dinars. A total of 1,438 illegal residents with disabilities had access to the services of the Supreme Council for Persons with Disabilities.

9. **Mr. Alghunaim** (Kuwait) noted that a manual issued in Arabic and English by the Central Agency for Regularization of the Status of Illegal Residents, which had been distributed to Committee members, contained information and statistics relating to the services provided to illegal residents.

10. **Mr. Alansari** (Kuwait) said that ratified international treaties, including the Convention, acquired the same status as domestic legislation, in accordance with article 70 of the Constitution. The Islamic sharia was also a primary source of legislation, in accordance with article 2 of the Constitution. Article 29 of the Constitution reaffirmed the general principle of non-discrimination, stating that all people were equal in terms of rights and duties, without any distinction based on race, origin, language or religion. Article 7 stipulated that justice, liberty and equality were the pillars of society and that cooperation and mutual assistance were the firmest bonds among citizens.

11. Article 1 of Legislative Decree No. 19 of 2012, concerning the protection of national unity, prohibited advocacy or incitement of hatred or contempt for any social group, provocation of sectarian or tribal factionalism, and promotion of an ideology based on the superiority of any race, group, colour, national or ethnic origin, religious confession or lineage. Act No. 67 of 2015 established the National Human Rights Office. According to a memorandum issued to clarify the law's content, the Office was an independent human rights body that was not affiliated to any administrative or governmental authority, although certain public sector institutions supported its work on an advisory basis. Reference was made in the memorandum to the Paris Principles and to the regulations governing membership of the Office. The Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013 reflected the provisions of the United Nations Convention against Transnational Organized Crime and its two Protocols. A comprehensive implementation strategy had recently been developed by the relevant authorities and referred to the Council of Ministers.

12. The Kuwait Institute for Legal and Judicial Studies had organized training courses from 2015 to 2017 for judges, public prosecutors and civil servants.

13. **Mr. Alghunaim** (Kuwait) said that the Special Rapporteur on trafficking in persons, especially women and children, had visited Kuwait in September 2016 and had met with all relevant authorities, visited shelters for victims of trafficking and discussed her report before the Human Rights Council in June 2017.

14. A parliamentary crisis in 2016 involving a dispute between the executive and the legislature had led to the dissolution of the National Assembly. As a result, the appointment of members of the National Human Rights Office had been delayed. However, the process of nominating candidates was now under way.

15. **Ms. Alsarawi** (Kuwait) said that racially motivated acts of violence and the dissemination of materials that promoted racist concepts were offences punishable by a fine or a prison sentence of up to 7 years, or both. The relevant legislation (Legislative Decree No. 19 of 2012) also applied to offences committed by Kuwaitis outside the national territory. Media outlets that propagated racial hatred would have their licences revoked. Persons aiding or abetting hate crimes were also liable to punishment. There had been 24 cases involving hate crimes in 2015 and 26 in 2016, with sentences ranging from fines to 5 years' imprisonment and confiscation of equipment used for the commission of the offence.

16. **Mr. Almuhanha** (Kuwait) said that it was untrue that Bidoon were denied the right to protest. Kuwaiti legislation recognized the right of all individuals — without distinction as to race, colour, ethnic origin or language — to assemble, demonstrate and hold gatherings and processions. Demonstrations were subject to prior authorization, so as to ensure the safety and security of persons and property during the event. Several authorized, peaceful demonstrations had taken place, involving mostly young people, including both Kuwaitis and non-Kuwaitis. The demonstrations had been supervised by the police, covered by the media and observed by human rights organizations. There had, however, been incidents where demonstrators had blocked streets, setting fire to several vehicles and endangering others. The police, exercising utmost restraint, had eventually intervened to break up those demonstrations and restore public order. Notwithstanding those incidents, the right to peaceful assembly remained undiminished.

17. The difficulties encountered by Palestinians were not caused by the Kuwaiti authorities, but rather by the authorities of the States that had issued their identity documents. In solidarity with the Palestinian people, the Government had, on humanitarian grounds, released Palestinian nationals in Kuwait subject to deportation orders. Reports that 88,000 foreign nationals had been deported between 2013 and 2015 were incorrect. Deportations had taken place from 2011 pursuant to Ministerial Decree No. 1054 of 2011, which set out rules on the deportation of aliens who did not hold residence permits or whose permits had expired. The Decree provided that aliens could regularize their status by paying a fine and renewing their permit; those without a permit were entitled to return to Kuwait once the conditions for acquiring residence status had been fulfilled. The implementation of the Decree had also facilitated aliens' access to residence status, and more than 1,000 permits had been issued since its entry into force.

18. The recently established Domestic Workers Department of the Ministry of the Interior was tasked with monitoring the implementation of legislation pertaining to domestic workers. It conducted inspections of agencies and institutions that recruited personal servants, examined their records, and investigated and documented breaches of the law. Cases involving such breaches were referred to the competent authorities, which had resulted in the revocation of the licences of a considerable number of agencies. The Department was also competent to receive complaints from domestic workers against their employers. A special section had been established to receive domestic labour-related complaints from embassies. In such cases, the Department and the embassy in question sought to reach an amicable settlement of the dispute. Failing settlement, the case was referred to a civil court. Article 36 of Domestic Labour Act No. 68 of 2015 exempted persons filing domestic labour-related cases from the payment of legal fees. The Ministry of the Interior, in cooperation with human rights organizations, had prepared information in five languages to inform foreign domestic workers of their rights and to encourage them to report any violations committed by their employers. The Domestic Labour Act set forth the obligations of employers relating to salaries, conditions of employment and in-kind benefits.

19. **Mr. Alghunaim** (Kuwait) said that no restrictions were placed on the right to peaceful assembly other than those provided for in article 21 of the International Covenant on Civil and Political Rights. Kuwait complied with internationally agreed labour standards. In addition to the information material prepared by the Ministry of the Interior, the Kuwait Trade Union Federation had issued a brochure on the rights of foreign workers in several languages. Efforts were also being made, in cooperation with foreign embassies, to facilitate the translation of employment contracts into various languages.

20. **Ms. Alshehab** (Kuwait) said that there was no clear definition of the concept of sponsorship (*kafalah*), although sponsorship arrangements were widely used. The relationship between the employer and the employee in such arrangements was governed by a contract which established the length and conditions of employment. The Government had taken steps to ensure due respect for labour rights in sponsorship arrangements and had been cooperating with regional and international organizations for years in order to improve labour legislation and labour conditions. Legislative amendments had been introduced to raise the minimum wage, for example, and efforts were being made to facilitate greater mobility between jobs and locations. The National Manpower Authority, established by Decree No. 109 of 2013, was tasked with overseeing the recruitment and transfer of

employees from one employer to another. In addition, the Ministry of Labour of Kuwait cooperated with the counterpart ministries in migrants' countries of origin on issues such as clarifying the role of employers and defining the skills and competencies required of foreign workers. Ministerial Decision No. 305 of 2006 regulated the work of the standing committee responsible for overseeing the situation of migrant workers in the public sector; the committee also dealt with employment-related problems of domestic workers.

21. **Ms. Alshaiji** (Kuwait), noting that it was not unusual for a State to give priority to its own nationals when it came to recruitment to the civil service, said that article 15 of Civil Service Act No. 15 of 1979 stipulated that public sector posts were to be filled by appointment, promotion, transfer or secondment; non-Kuwaitis could only be appointed in a temporary capacity and on a contractual basis. The Civil Service Act drew certain distinctions between Kuwaiti and non-Kuwaiti employees in terms of conditions of employment. Maternity leave for Kuwaiti women, for example, was longer than for non-Kuwaitis. Such provisions were not discriminatory, however; they merely reflected the conditions of employment, which employees were free to accept or refuse.

22. With regard to gender parity and positive discrimination, Kuwaiti women enjoyed a series of rights and certain privileges that were not available to men, such as paid maternity leave and housing allowances. In case of the death of her husband, a Muslim woman was entitled to four months and 10 days of paid bereavement leave; that time period was derived from the Qur'an.

23. **Mr. Alharbi** (Kuwait) said that article 35 of the Kuwaiti Constitution stipulated that freedom of belief was unrestricted. The freedom to exercise one's religion was protected, provided that the exercise of that freedom did not go against public order or morals. Islam was not imposed on foreign residents and foreign students were not obliged to attend Muslim religion classes. The freedom to practise religious rites was also protected, unless a practice was incompatible with public morals or public order. As an example, street prayer had been banned for security reasons two years earlier. Religious rites could be practised without restriction in places of worship. Private schools following foreign education systems were open to all students, regardless of their nationality.

The meeting was suspended at 11.25 a.m. and resumed at 11.40 a.m.

24. **Mr. Khalaf** (Country Rapporteur) said that the National Assembly should be urged to incorporate a definition of racial discrimination into domestic legislation, in line with the definition set out in article 1 of the Convention, in order to foster better understanding of the issue. He was grateful for the explanations provided with regard to the Civil Service Act, but he remained concerned about discrimination in employment in the public administration and would therefore recommend that the Act be amended to prohibit discrimination on the basis of sex, origin, language or religion.

25. Useful information had been provided on the State party's efforts to combat hatred, notably through the enactment of Legislative Decree No. 19 of 2012, concerning the protection of national unity, which was an important and well drafted law. However, he wondered whether the scope of that legislation included public institutions and groups that incited hatred; if not, further legislative reforms might be necessary.

26. The Committee may have focused on specific cases of human rights defenders from the Bidoon population, but its main concern was the protection of human rights defenders in general. In that connection, he wished to draw the State party's attention to the Declaration on Human Rights Defenders, adopted by the United Nations General Assembly in December 1998, which provided for the support and protection of human rights defenders and recognized the importance of creating an environment conducive to the exercise of their rights.

27. While it was reassuring that the right to protest was guaranteed under the Constitution, it had been reported that, upon releasing human rights activists from custody, the Kuwaiti police sometimes forced them to sign a pledge not to demonstrate again. He would like to know if there was any truth to those reports. The Committee understood that the right to protest must be exercised in accordance with the law, but the excessive use of force to control demonstrations was not acceptable. He would welcome a comment from

the delegation on some recent instances of the use of excessive force, video evidence of which had been published on social media websites.

28. The Committee was pleased to know that, under Act No. 67 of 2015, the National Human Rights Office was independent and had special legal status. However, further details might be provided about how the independence of the Office was guaranteed, whether it received the necessary human and financial resources, and to what extent it complied with the Paris Principles.

29. He would appreciate further information about the situation of the Palestinians in Kuwait who had essentially become prisoners trapped in the country. He would also welcome clarification from the delegation about the reported lack of a mechanism for appealing against deportation decisions. Although useful answers had been provided on the topic of domestic workers, he wished to know whether Act No. 68 of 2015 allowed employers to hold workers' personal identification documents, whether employees could refuse to surrender their documents and what sanctions were imposed on those who infringed the law. He was also curious as to whether private sector employees were allowed to leave their employers, and the country, before completing three years of service. Lastly, he would appreciate further clarification regarding the awarding of nationality to the children of Kuwaiti women married to non-Kuwaiti men.

30. **The Chair** asked whether the National Human Rights Office had applied for A status under the Paris Principles and, if not, whether it intended to do so.

31. **Mr. Alghunaim** (Kuwait) said that his delegation aimed to provide the Committee with relevant details and to correct any false information that it might have received. While he did not believe that the matter of human rights defenders fell within the scope of the Convention, he wished to clarify that the Government held human rights defenders in high esteem, cooperated with them and received their criticisms and recommendations. He had been surprised and disappointed by the country rapporteur's characterization of the members of the Palestinian community in Kuwait as prisoners. In fact, the Government hosted them and had provided them with assistance in finding shelter and housing.

32. With regard to the videos showing excessive use of force during recent demonstrations, documents fully clarifying the events in question had been submitted to the United Nations High Commissioner for Human Rights. Those events had also been widely reported by television channels and by non-governmental organizations, which would not have occurred in a repressive State. It should be noted that incidents of violence perpetrated by demonstrators had also been publicized on social media. All measures to maintain public order were implemented in accordance with international instruments, including the Universal Declaration of Human Rights.

33. **Ms. Alshaiji** (Kuwait) said that it would not be appropriate for the National Assembly to amend the Civil Service Act because the Assembly had delegated responsibility for drafting civil service contracts and establishing conditions of employment to the Civil Service Commission.

34. **Mr. Alshammeri** (Kuwait) said that, under Kuwaiti law, nationality was transmitted from fathers to their children, although Kuwaiti women were allowed to transmit their nationality in certain circumstances. For example, article 3 of the Kuwaiti Nationality Act permitted the granting of nationality to children born outside Kuwait to a Kuwaiti mother when the father was not known. Kuwaiti nationality could also be granted to the children of Kuwaiti women in cases where the children's father was dead or was a prisoner of war or had divorced the mother.

35. It was not the case that Kuwait lacked a definition of racial discrimination, since the definition contained in article 1 and all other provisions of the Convention had automatically been incorporated into domestic law. There was no need to cite or repeat the definition in other laws.

36. **Ms. Alshehab** (Kuwait) said that employees were entitled to leave the service of their employers, or change employers, and were permitted to leave the country before a three-year period had elapsed. Between November 2016 and July 2017, thousands of workers had changed employers, and the Government had facilitated workers' movements

during that period. There was no restriction on leaving the country upon termination or expiry of the worker's contract. All governorates had complaints offices where workers could file a complaint against their employers.

37. **Mr. Aldachani** (Kuwait) said that, as passports were personal documents that were indispensable for movement and travel, the law barred employers from holding or confiscating the passports of foreign workers during their residency in Kuwait. In cases of non-compliance, workers were entitled to take their case to the civil courts, which would order the employer to surrender the document in question. As a penalty, the courts could prohibit the employer from recruiting any further foreign domestic workers.

38. **Mr. Alghunaim** (Kuwait) said that the Government aimed to achieve A status for the National Human Rights Office and was currently examining the requirements and criteria with a view to submitting a successful application.

39. **Mr. Avtonomov** said that he wished to know whether the State party intended to participate in the International Decade for People of African Descent as part of its efforts to support the community of persons of African descent living in Kuwait. He would urge the State party to consider ratifying the amendments to article 8 (6) of the Convention, which was aimed at regularizing the procedures for funding the Committee.

40. **Ms. Dah**, drawing the delegation's attention to the Committee's general recommendation No. 30 on discrimination against non-citizens, said that the provisions under sharia law that entitled widowed Muslim women workers to four months and 10 days' paid leave should be extended to non-Muslim women, who were currently only eligible for 21 days' leave on full pay, so as to ensure that all such women were treated equally, irrespective of their racial or religious backgrounds.

41. **Mr. Murillo Martínez** said that he would be interested to hear more about the situation of persons of African descent living in the State party, since they were the third largest group of foreigners living in Kuwait. He would like clarification of whether foreign nationals, who made up the majority of the population of Kuwait, were able to run for public office. Paragraph 32 of the State party's report stated that all Kuwaiti nationals had the right of access to public service, and he wondered whether that right extended to persons not of Kuwaiti origin.

42. **Mr. Marugán** said that he wished to know whether NGOs had participated in the drafting of the State party's report and, if so, how. He also wished to know whether the Criminal Code explicitly banned organizations that promoted or incited racial discrimination, in line with article 4 of the Convention. In that connection, he would welcome further statistics relating to complaints of racial hatred or discrimination filed with the police, disaggregated by type of offence. It would also be useful to know how many of those complaints had led to prosecutions and convictions, and whether the victims had received any compensation. He would also appreciate further information on the procedures in place and the training provided to law enforcement officers, judges and prosecutors with a view to improving the identification of victims of racial hatred and discrimination and creating an environment in which they were empowered to lodge complaints and receive legal redress. Lastly, he would be grateful for specific data regarding the number of Bidoon who were enrolled at the primary, secondary and tertiary levels of education.

43. **Ms. Shepherd** asked whether the State party intended to ratify International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189). She would also like to know what proportion of domestic workers were persons of African descent and how the Government monitored employers' compliance with the legislation regulating domestic work.

44. **Ms. Hohoueto** said that she wished to know what measures had been taken by the State party to inform the judiciary and, in particular, the general public of the fact that the Convention was directly applicable and, thus, its provisions could be invoked before the courts.

45. **Mr. Alghunaim** (Kuwait) said that the Government would certainly give further consideration to ratifying the amendments to article 8 (6) of the Convention. Kuwait had a long history of opening its doors to all persons, irrespective of their country of origin. It had

taken specific steps to attract persons of African descent to the country, including by providing financial support to African countries to help them establish embassies in Kuwait. The Government had also provided billions of dollars in interest-free loans to help fund infrastructure projects in African nations.

46. **Mr. Alharbi** (Kuwait) said that the right to education was guaranteed for all persons residing in the country, including those in an irregular situation. The Government's objective was to ensure that education was open to all, irrespective of their immigration status.

47. **Mr. Alghunaim** (Kuwait) said that measures to raise awareness of international conventions ratified by Kuwait included publishing information in the Official Gazette, organizing workshops on the content of those instruments and notifying embassies in Kuwait of any newly ratified treaties.

48. **Mr. Aldaehani** (Kuwait) said that a department within the Ministry of the Interior was responsible for monitoring violations committed by employers of domestic workers. A special investigative unit dealt specifically with recruitment agencies with a view to ensuring that domestic workers were not subjected to rights violations or abuse. A toll-free number was available for victims to lodge complaints, which were then investigated by the Ministry of the Interior and referred for prosecution, as necessary.

49. **Mr. Alghunaim** (Kuwait) added that a number of decisions had been handed down by the courts involving persons who had breached provisions related to trafficking.

50. **Ms. Alshehab** (Kuwait) said that the Government would be in a position to consider the ratification of ILO Convention No. 189 once a review of the current legislative framework and judicial practices had been completed. Efforts to raise awareness among domestic workers of the procedures for filing complaints included the publishing of all pertinent legislation on the website of the Domestic Workers Department. A toll-free helpline was also available to provide information to domestic workers and enable them to register any complaints.

51. **Mr. Khalaf** said that he wished to thank the delegation for the information provided during what had been an open and constructive dialogue. The overriding aim of the dialogue with the Committee had been to highlight ways in which the interests of all persons living in the State party — Kuwaiti and non-Kuwaiti nationals alike — could be better protected, and there was clearly a desire by the Government to make progress in that regard. While recognizing that international conventions were automatically incorporated into the domestic legislative framework upon ratification, he wished to stress that the principles of the Convention should nonetheless be enshrined in law so that discriminatory provisions could be removed. He urged the State party to do its utmost to put an end to the suffering of the Bidoon community.

52. **Mr. Alghunaim** (Kuwait) said that he wished to thank the members of the Committee for their insightful assessment of the current situation in Kuwait. Their comments and recommendations would be relayed back to officials at the national level and would no doubt assist them in eliminating any legislative gaps and improving the country's implementation of the Convention. The drafting of the report and the dialogue with the Committee had come at a time of sorrow for Kuwait, coinciding as it did with commemorations of the devastating invasion of 27 years earlier. The effects of the human rights violations perpetrated during that painful period were still being felt today. However, despite the challenges that the country faced, which included regional instability, the Government was committed to making further progress towards the full implementation of the Convention. It firmly believed that human rights were the foundation of global development and would therefore continue to pursue all necessary legislative, administrative and other measures to promote and protect those rights and to prevent and prohibit racial discrimination.

53. **The Chair** said the fact that foreign nationals far outnumbered Kuwaiti nationals in the State party created unique conditions for the elimination of racial discrimination. The Committee hoped that Kuwait would be able to serve as an example to the world in that regard.

The meeting rose at 12.55 p.m.