



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Fourth periodic report submitted by Kuwait
under article 40 of the Covenant, due in 2020***

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* The present document is being issued without formal editing.



Fourth periodic report of the State of Kuwait under the International Covenant on Civil and Political Rights

I. Introduction

1. The State of Kuwait has the honour to submit to the Human Rights Committee its fourth periodic report under article 40 of the International Covenant on Civil and Political Rights. The report describes recent developments that have taken place with regard to civil and political rights.

2. Kuwait attaches the utmost importance to the protection and promotion of human rights and constantly seeks to pursue their advancement. In this endeavour, it draws on a significant cultural heritage and well-established principles, which have been adopted by national institutions and which have made the evolution of human rights a bedrock that will not be shaken despite the significant obstacles and challenges thrown up by the regional situation and the changes taking place in the Middle East.

3. In accordance with rule 71 (5) of the Committee's rules of procedure, Kuwait duly provided, within the specified deadline, information on the implementation of the recommendations contained in paragraph 11 (discrimination against Bidoon people), paragraph 43 (freedom of expression) and paragraph 45 (freedom of peaceful assembly and excessive use of force) of the Committee's concluding observations (CCPR/C/KWT/CO/3).

II. Methodology for preparing the report

4. The present report was drawn up by the standing national committee for drafting reports and following up on human rights recommendations, which is headed by the Ministry of Foreign Affairs and brings together all relevant State agencies. The drafting process also involved consultations with the National Bureau for Human Rights and civil society organizations, and the report-writing committee gathered data and information from all stakeholders, which it examined and incorporated into the text. The report consists of two parts: part one reviews the progress achieved in the area of human rights since the submission of the third periodic report while part two contains replies to the Committee's concluding observations following its review of the third periodic report.

III. Progress achieved in the area of human rights since the submission of the third periodic report

A. National laws, legislation and regulations

- Act No. 111 of 2015 promulgating the Juvenile Code, as amended by Act No. 1 of 2017;
- Act No. 2 of 2016 concerning the establishment of the Anti-Corruption Authority;
- Act No. 18 of 2016 concerning social welfare for older persons;
- Act No. 32 of 2016 amending certain provisions of the Private Sector Employment Act No. 6 of 2010, whereby more severe penalties may be imposed on employers who violate the law;
- Act No. 14 of 2019 concerning mental health.

B. National mechanisms for the promotion and protection of human rights

- National Bureau for Human Rights;
- Anti-Corruption Authority;

- National standing committee to combat human trafficking.

C. Developments with regard to governmental human rights agencies

- The creation of a human rights department in the Ministry of Foreign Affairs;
- The creation of offices for the resolution of family conflicts within the family court;
- The creation of the Family Insurance Fund Department pursuant to Ministerial Decree No. 112 of 2015;
- The creation of an organizational structure for the Supreme Council for Family Affairs;
- The creation of an office within the Ministry of Health to follow up on matters concerning persons with disabilities;
- The Council of Ministers issued Decree No. 614 of 2018 under which responsibility for matters concerning domestic workers was transferred from the Ministry of the Interior to the Public Authority for the Workforce, with effect from 31 March 2019, the aim being to place responsibility for contracted foreign workers in the hands of a single body.

D. Draft laws, legislation and regulations brought before the National Assembly

- A bill on domestic violence;
- A bill regarding trade unions;
- A bill regarding charity work;
- A bill regarding voluntary work;
- A bill regarding compulsory kindergarten education;
- A bill amending certain articles of Rights of Persons with Disabilities Act No. 8 of 2010.

5. Each of the 17 Sustainable Development Goals has specific development priorities, and the efforts being made to achieve those Goals are integrated, interdependent and indivisible. To that end, Kuwait is cooperating with all relevant stakeholders such as governmental bodies, non-governmental organizations (NGOs), the private sector, civil society and others. It hopes to adapt the seven pillars of the “Kuwait Vision 2035”, which have been incorporated into national development plans, and align them with the 2030 Sustainable Development Goals in five core aspects: peoples, prosperity, planet, peace and partnership.

6. The medium-term development plan of Kuwait for the years 2015/16–2019/20 has been brought into line with the Sustainable Development Goals. Moreover, the seven pillars of the country’s development plans and of its Vision 2035 have been harmonized with the 2030 Sustainable Development Agenda.

7. During the High-Level Political Forum on Sustainable Development held at United Nations Headquarters in New York in July 2019, Kuwait presented its initial voluntary national report on progress made towards implementing the 2030 Sustainable Development Goals and the extent to which the pillars of its national plan and its Vision 2035 “New Kuwait” have been adapted to those Goals. The table below shows the extent to which the seven pillars of the development plans and of the Kuwait Vision 2035 have been aligned with the 2030 Sustainable Development Goals.

<i>Pillars of Kuwait Vision 2035</i>	<i>Sustainable Development Goals</i>
Effective civil service	Goal 10. Reduce inequality Goal 12. Ensure sustainable consumption and production patterns
Creative human capital	Goal 1. End poverty in all its forms everywhere Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture Goal 4. Ensure inclusive and equitable quality education for all Goal 5. Achieve gender equality and empower all women and girls
Sustainable diversified economy	Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
Developed infrastructure	Goal 6. Ensure availability and sustainable management of water and sanitation for all Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
High quality health care	Goal 3. Ensure healthy lives and promote well-being for all at all ages
Sustainable living environment	Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable Goal 13. Take urgent action to combat climate change and its impacts Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
Global positioning	Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development

IV. Replies to the concluding observations of the Human Rights Committee

Paragraph 7

8. Treaties ratified by the State of Kuwait become an integral part of national legislation and are assimilated into the corpus of domestic law from the date of their entry into force. All government bodies and institutions, as well as individuals, therefore have an obligation to comply with the provisions of such treaties, and the Kuwaiti judiciary is required to ensure that they are complied with and protected.

9. This national legal requirement is based on article 70 of the Constitution, which reads: “The Amir 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.”

10. With regard to the issue of giving full legal effect to the Covenant, particularly in matters based on Islamic sharia, attention is drawn to the interpretive declaration made by Kuwait in relation to article 2 (1) and article 23 of the Covenant and its reservation regarding article 3. The law that regulates the matters covered by those articles is the Kuwaiti Personal Status Act, the provisions of which are based on Islamic sharia. In the case of any conflict, Kuwait will apply its own domestic legislation. This is in accordance with article 2 of the Constitution of the State of Kuwait, which reads: “The religion of the State is Islam and Islamic sharia is a major source of legislation.”

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

12. According to the Constitution, then, “Islamic sharia is a major source of legislation”. Thus legislators, on the basis of this clear and unambiguous indication, undertake to abide by the provisions of sharia law to the extent possible. However, nothing in the text prevents them, sooner or later, following other legitimate provisions when they believe that they should do so.

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

14. With regard to the recommendation to raise awareness about the Covenant among judges and judicial officers, it should be noted that, as part of its efforts to train and qualify members of the judiciary – judges and prosecutors – the Kuwait Institute for Judicial and Legal Studies has cooperated with the Office of the United Nations High Commissioner for Human Rights (OHCHR) to develop training courses on human rights. The purpose of the courses, which are held over three stages, is to improve knowledge about international human rights and to disseminate human rights values and principles, in particular among the judiciary, which has the task of applying and implementing human rights law at the national level.

15. These courses represent the early stages of an integrated project the eventual purpose of which is to make a module on international human rights law part of the syllabus of the Kuwait Institute for Judicial and Legal Studies. The courses also serve to train judges in international human rights law and international human rights protection mechanisms and to imbue them with skills so that the Institute can then call on them to train its own members in the future. Seven members of the judiciary graduated from the foundation course as human rights trainers. The Kuwait Institute for Judicial and Legal Studies has also run a number of other training courses:

- Human rights in the context of criminal trials, on 1 March 2015;
- A module on human rights law intended for students of law who wish to enter the Office of the Public Prosecution;
- A workshop on the ill-treatment and neglect of children for 30 judges and prosecutors, on 2 April 2018;

- A training course for deputy prosecutors and judges on the binding force of the international and regional treaties that are applicable in the State of Kuwait, according to the latest documents and principles to emerge from the Court of Cassation, in February 2019.

Paragraph 9

16. Kuwait acceded to the Covenant under Act No. 12 of 1996 (3 April 1996), at which time it also made an interpretive declaration regarding article 2 (1) and article 3 according to which equality between men and women is to be guaranteed within the limits and the framework of Kuwaiti law.

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

18. On 20 May 2016 Kuwait withdrew part of its reservation to article 25 (b) of the Covenant. The reservation stated that only men have the right to vote and to stand for election but that provision was no longer justified in the light of Act No. 17 of 2005, which grants male and female Kuwaitis equal rights to vote and to stand for election. As a consequence, women have participated in all subsequent legislative elections, both as voters and as candidates. Kuwait retains its interpretive declarations vis-à-vis articles 2 (1), 3 and 23 of the Covenant.

Paragraph 11

Subsections (a) and (b)

19. It is important to explain that there are no so-called “stateless persons” or “Bidoon”, since these terms refer to persons who have no nationality of their own. This is not applicable to the status and definition of unlawful residents who entered Kuwait illegally and concealed the documents indicating their original nationalities in the hope of gaining Kuwaiti citizenship and all its attendant privileges.

20. Thus, the official designation is that of “unlawful residents”, pursuant to Decree No. 467 of 2010 concerning the establishment of the Central Agency for the Remedy of Situations of Unlawful Residents.

21. The granting of Kuwaiti citizenship is a sovereign matter that the State evaluates on the basis of its own best interests. It is subject to the conditions and regulations laid down in the Kuwaiti Nationality Act No. 15 of 1959, as amended, which specifies the cases in which the possibility of obtaining citizenship may be considered. The Central Agency for the Remedy of Situations of Unlawful Residents investigates and examines the situation of such persons on a case-by-case basis, with full transparency and without succumbing to pressure or personal whims, in accordance with the road map produced by the Supreme Council for Planning and Development, approved by the Council of Ministers and promulgated by Royal Decree No. 1612 of 2010.

22. With a view to eliminating discrimination in society and to expanding the scope of entitlement to nationality, certain amendments have been made to the Kuwaiti Nationality Act. They include the following:

- Act No. 11 of 1998, which introduced article 7 bis into the Kuwaiti Nationality Act, pursuant to which adult children and grandchildren of naturalized persons may obtain Kuwaiti nationality if they have not already been afforded the opportunity to acquire it under the Act;
- Act No. 21 of 2000, which permits children of a Kuwaiti woman who is married to a foreigner or an unlawful resident to acquire Kuwaiti nationality in the event of the husband’s death, a definitive divorce or the internment of the husband;

- As a result, some 17,285 persons who had been unlawfully resident have been naturalized pursuant to the Nationality Act in recent years.

Subsection (c)

23. The Central Agency issues a user card and a health insurance card to each unlawful resident, whether registered or unregistered. The cards contain the personal information from that individual's file, depending upon their legal status, and this facilitates their dealings with State institutions. Such persons enjoy all the services and facilities envisaged in Decree No. 409 of 2011 of the Council of Ministers. These include:

(a) Free education

Ever since its creation, the Central Agency has been working determinedly to ensure that the children of unlawful residents are able to enjoy their right to education. The Charitable Fund for Education meets all the expenses of their schooling from the primary level to the end of secondary level. A total of 15,448 students received assistance during the academic year 2018/19, at a cost of 5,478,115 Kuwaiti dinars (KD).

- During the 2018/19 academic year, 13,682 students were accepted into State-run schools;
- The total number of students enrolled in Kuwait University stood at 1,149 while 217 graduated in the academic year 2018/19 and the first term of 2019/20;
- In the academic year 2019/20, 512 students were accepted into faculties and institutes of the Public Authority for Applied Education;
- A total of 1,995 students were enrolled at the Public Authority for Applied Education and, in the same year, the number of graduates was 246;
- A total of 1,155 students were enrolled in private faculties and universities;
- A total of 141 students of both sexes were registered with the Ministry of Education to pursue Master's degree courses or doctorates.

(b) Free treatment

- Unlawful residents are treated on an equal footing with citizens in regard to fees, in accordance with Ministerial Decree No. 86 of 2011 and the Government provides them with full medical treatment. Some unlawful residents hold user cards or health insurance cards that cover the full cost of treatment.

(c) Access to official documents

- Obtaining civil status documentation of all kinds is an established right, which the State recognizes for all persons present on its territory, as it is regarded as a means by which the State protects the family. Civil status documents for unlawful residents are produced thanks to cooperation between the Central Agency and other State bodies. The table below shows the official documents issued in the course of 2019.

Birth certificates	1 783
Death certificates	178
Certificates of marriage	939
Certificates of divorce	463
Certifications	1 532
Authentications	6 322
Reinstatement of marriage	54

(d) Obtaining a driving licence

Unlawful residents are exempted from the conditions for obtaining a driving licence applied to non-Kuwaitis. During the course of 2019, the Traffic Department of the Ministry of the Interior renewed 23,862 driving licences and issued 1,765 new ones.

(e) Persons with disabilities

A total of 1,491 unlawful residents with disabilities benefit from the services offered by the Public Authority for Persons with Disabilities.

(f) Ration services

Kuwait makes monthly allocations of subsidized foodstuffs, and unlawful residents are granted a ration card wherewith they can purchase those foodstuffs at symbolic prices, on an equal footing with Kuwaitis. In all, 101,454 unlawful residents benefited from the scheme in 2018, at a total cost of KD 20,875,047.

(g) Job opportunities in the public and private sectors

The Central Agency, in coordination with other State bodies, employs unlawful residents in the public and the private sector, depending upon available vacancies and according to the Agency's own regulations and conditions.

- A total of 739 unlawful residents have been employed in cooperative societies;
- Those born to Kuwaiti women are now permitted to enrol in the Kuwaiti army, and the number of enrolments has totalled 2,981 during the past six years;
- In 2018, 324 unlawful residents were appointed to government agencies, bringing the total there to 2,066;
- A further 541 unlawful residents have been appointed to the Kuwait Petroleum Corporation and its subsidiaries.

Subsection (d)

24. With regard to freedom of movement, the Central Agency cooperates with the Ministry of Interior to issue driving licenses to unlawful residents, thereby enabling them to move freely within the country. They are, in fact, exempt from the conditions for obtaining a driving licence that are applicable to foreigners. Moreover, they are issued with passports under article 17 of the Passports Act in order to perform religious rites or to study or receive medical treatment abroad, in accordance with applicable regulations.

25. As concerns freedom of expression in the media and freedom of peaceful assembly, unlawful residents have the right to make their views known across media of various kinds and they are subject to no restraints other than those imposed by law. Peaceful assembly is itself one form of expression, and domestic law does not distinguish in that connection between Kuwaiti nationals and unlawful residents. Article 12 of the 1979 Assembly Act prohibits public assemblies unless authorization has been obtained from the Ministry of the Interior.

26. Thus, such persons do have the right to assemble peacefully and to express their views, if they first obtain approval from the Ministry of the Interior and if they abide by the law.

Subsection (e)

27. Set aside plans to offer Bidoon people the "economic citizenship" of another country in exchange for a permanent residence permit in Kuwait.

28. It is important to note that economic citizenship is an option that many countries make available as a way of attracting capital and is not inconsistent with international law. It has been used by a large number of States and many individuals of different nationalities have obtained economic citizenship of other countries. Kuwait cannot prevent States from availing themselves of this possibility and does not force anyone to take it.

Subsection (f)

29. Consider acceding to the 1954 Convention relating to the Status of Stateless Persons and to the 1961 Convention on the Reduction of Statelessness and having the related obligations implemented through the State party's domestic law.

30. If what is meant by this is that the State should apply the provisions of these Conventions to unlawful residents, it should be pointed out that many international human rights organizations confuse the terms "stateless persons" and "unlawful residents", although there is an enormous difference between them in both conceptual and legal terms.

31. Conceptually speaking, "stateless persons" are those whom no State considers as its citizens under its own legislation and, therefore, such persons have no nationality of their own. This is not the same thing as "unlawful residents", who entered Kuwait illegally and concealed the documents indicating their original nationalities in the hope of gaining Kuwaiti citizenship and all its attendant privileges. It should be noted, moreover, that between January 2011 and 30 April 2019, 8,710 persons regularized their status while 5,332 persons are in the course of doing so, in the sense that they obtained their original documents which show that they belong to other countries.

Paragraph 13

32. The rules whereby actions are criminalized and penalized were conceived in order to preserve society and to protect values and interests, both public and private; and in order to defend the fabric of society, legislators have acted to criminalize forms of behaviour that harm such values. Indeed, each State is free to define the behaviours that harm or threaten it values and interests, in line with the customs and traditions accepted by the members of its society.

33. The Committee's recommendation is inconsistent with article 2 of the Constitution of Kuwait, which reads: "The religion of the State is Islam and Islamic sharia is a major source of legislation". In addition, article 198 of the Code of Criminal Procedure, as amended, stipulates: "Anyone who makes a sign or commits an act that is indecent or immodest, in a public place or in such a way as to be seen or heard by someone in a public place, or who imitates the opposite sex in any manner, is liable to a term of imprisonment of up to 1 year and/or payment of a fine of up to KD 1,000." This provision contains no discrimination or violence on the basis of sexual orientation or gender identity; the wording is general and covers all persons, whether male or female.

34. Crime is behaviour that gives rise to conflict within society and that conflict is the consequence of a violation of the norms of social conduct. This behaviour arises from individuals and when individuals act in a way that is antisocial and immoral they breach the norms of social conduct, the usages of the society in which they live and the customs and traditions that characterize that society. Imitation of the opposite sex is a form of behaviour rejected by members of a society in which Islamic sharia is one of the sources of legislation. As for the call for transvestites to be able to exercise freedom as they wish, Kuwaiti legislators are of the view that freedom has a definition, which is to act and behave within the framework of social customs and not to exercise absolute freedom that is inconsistent with that framework.

Paragraph 15**Subsections (a) and (b)**

35. The State of Kuwait acceded to the Convention on the Elimination of All Forms of Discrimination against Women by Royal Decree No. 24 of 1994. Treaties ratified by the State of Kuwait become an integral part of national legislation and are assimilated into the corpus of domestic law from the date of their entry into force. All government bodies and institutions, as well as individuals, therefore have an obligation to comply with the provisions of such treaties, and the Kuwaiti judiciary is required to ensure that they are complied with and protected. This obligation is enshrined in article 70 of the Constitution.

36. The general principles for combating racism are set forth in article 29 of the Constitution, which establishes the rules and frameworks for upholding equality, non-discrimination and human dignity. It stipulates: “All people are equal in human dignity and are equal before the law in public rights and duties, and there is no discrimination on the basis of gender, origin, language or religion.”

37. According to article 7 of the Constitution: “Justice, freedom and equality are the pillars of society while cooperation and compassion act as a bond between citizens.”

38. According to the interpretation contained in the explanatory memorandum to the Constitution, article 29 establishes the general principle of equality of rights and duties then singles out the most important applications of that principle by specifying that there can be no discrimination on the basis of 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. The reason for this is because 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.

39. In order to promote equality between men and women, the Constitution uses general wording and avoids making any distinction on grounds of sex, colour, religion or even language.

40. As regards criminal sanctions, the Criminal Code (Act No. 16 of 1960) envisages a number of penalties for physical violence perpetrated against any person (male or female). It also contains provisions that penalize physical and sexual violence against women, including the following:

- Article 160 of the Code: “Anyone who strikes, wounds, causes bodily harm to or prejudices the physical integrity of another person in an appreciable manner is liable to a term of imprisonment of up to 2 years and/or payment of a fine of up to KD 150”;
- Article 174 of the Code: “Anyone who gives a woman, pregnant or otherwise, or causes her to be given, with or without her consent, harmful drugs or substances or uses force or other means designed to provoke an abortion, shall be liable to a term of imprisonment of up to 10 years and/or payment of a fine of up to KD 1,000”;
- Articles 178 to 185, which criminalize abduction, unlawful detention and trafficking in persons;
- Article 186, on sexual violence, stipulates that anyone who has sexual intercourse with a female without her consent, using coercion, threat or deceit, shall be liable to the death sentence or to life imprisonment;
- Legislators have been careful to extend the scope of legal protection to cover women with mental impairments, who are under the age of 15 or who lack volition. Thus, article 187 of the Criminal Code stipulates: “Anyone who has sexual intercourse with a female without using coercion, threat or deceit but knowing her to have a mental impairment, to be under the age of 15 or to lack volition for any other reason, or knowing that she does not comprehend the nature of the act or that she believes it to be legitimate, shall be liable to life imprisonment.” The same provisions are set forth in article 191.

41. The Code of Criminal Procedure (Act No. 17 of 1960) includes provisions aimed at enhancing the human dignity of women in Kuwait. They include the following:

- Article 82: “Under all circumstances, searches of women shall be conducted by a woman delegated by the investigator, and shall be witnessed by women”;
- Article 86: “If there are veiled women in a dwelling and the purpose of entering the dwelling is not to arrest or search them, the official conducting the search is to ensure that they are treated in accordance with existing traditions.”

42. Labour legislation in Kuwait also includes provisions designed to protect the human dignity of women, including the following:

- Article 22 of the Private Sector Employment Act No. 6 of 2010 states: “Women may not be employed at night”. This matter is regulated under section VII of Administrative Decree No. 552 of 2018, promulgating the regulations and procedures for the issuance of work permits;
- Under article 26 of the Private Sector Employment Act No. 6 of 2010, women are entitled to the same wages as men. The text reads: “Women are entitled to the same wages as men if they undertake the same work”;
- Legislators dedicated section II of chapter V of Act No. 21 of 2015 concerning the rights of the child to the welfare of working mothers. Under article 52 of the Act, working mothers are allowed to take two years of unpaid leave to care for their children, while article 53 imposes an obligation on employers to set up a nursery, or to make arrangements with an existing nursery, if they employ 50 or more working mothers in a single location. Article 54 of the Act grants working women the right to maternity leave and pregnant women the right to a minimum two-hour reduction in their working hours, beginning in their sixth month of pregnancy. In addition, article 55 gives mothers the right to two hours a day to breastfeed their child up to the age of 2, without any reduction in wages.

43. In a related context and as an affirmation of the principle of equality, the Constitution of Kuwait enshrines the equality of all citizens in rights and duties before the law, and the country’s domestic laws are 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. The principle of equality is likewise applicable to the right to enter public service, to work and to choose that work, to education, to health care and to freedom of movement and of residence. Moreover, under article 31 of the Constitution, no one may be arrested, detained, searched or compelled to reside in a specified location, nor shall their freedom of residence or movement be restricted, except as provided by law.

44. The Civil Code (Act No. 67 of 1980) is consistent with the principle whereby women should enjoy the same legal capacity as men. According to article 9 of the Code, human legal personality begins at live birth and ends with death. Under article 84, all persons are eligible to conclude contracts unless the law specifies otherwise. In this way, the provisions of the Civil Code are general and abstract, without any distinction or discrimination between men and women. Moreover, the Code does not place any restriction on the legal capacity of women by reason of marriage or blood relation; therefore, once a woman reaches the age of majority under the law, she is in full possession of her rights and has the capacity to make legal dispositions as stipulated in the Civil Code and other legislation. She also has the capacity to manage her assets, property and affairs without any conditions that restrict or prevent her from doing so.

45. Proceedings before courts of all levels in Kuwait are regulated by Act No. 38 of 1980 promulgating the Code of Civil and Commercial Procedure and Act No. 17 of 1960 promulgating the Code of Criminal Procedure. The provisions of both those Codes are equally applicable to all parties, with no distinction between men and women.

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

Subsection (c)

47. Attention is drawn to the interpretive declaration made by Kuwait in relation to article 2 (1) and article 23 of the Covenant. The law that regulates the matters covered by those

articles is the Kuwaiti Personal Status Act, the provisions of which are based on Islamic sharia. In the case of any conflict, Kuwait will apply its own domestic legislation. This is in accordance with article 2 of the Constitution of the State of Kuwait, which reads: “The religion of the State is Islam and Islamic sharia is a major source of legislation.”

48. As concerns the prevention of early marriage, it should be noted that the Personal Status Act No. 51 of 1984 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 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. 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, 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.

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

Paragraph 17

50. As part of the State’s concern for the welfare of women, with a view to achieving gender equality and in recognition of the important role women play in society, 22 female deputy prosecutors were admitted in 2014. This a preparatory step to the transition of women from the prosecution to the judiciary as their careers progress.

51. In 2018, the Ministry of Justice announced that it was looking for persons of both sexes (male and female) to work as jurists, which would then qualify them to become C-level prosecutors. The applicants who were accepted and appointed on 2 September 2018 included 24 women, and they are currently undergoing prosecutorial training at the Kuwait Institute for Judicial and Legal Studies. In a further announcement on 4 November 2018, the Ministry reaffirmed that it was looking for persons of both sexes, and its acceptance committee eventually selected 82 candidates, including 18 women, for whom appointment procedures are currently being finalized for them to work as jurists. This will prepare the way for their appointment as prosecutors, once they have completed the required training course.

52. Sitting on 2 June 2020, the Supreme Judicial Council agreed to the promotion of three women to the position of judges in full courts, after they had spent five years working as prosecutors. It is a new departure for women to preside over court hearings in Kuwait and is a reflection of complete confidence in the ability of Kuwaiti women to fulfil such an important role.

53. Kuwait considers equality between the sexes, the empowerment of women and the elimination of all forms of violence against them as one of the pivotal aspects of an innovative human resources strategy, which is part of its development plan. The plan aims to overcome problems associated with achieving equality and fairness between the sexes, close the economic, social, educational and political gender gap and promote women’s role in the family and in society.

54. The concern that Kuwait has shown for women and the issues that affect them, both internally and externally, has resulted in much positive progress being made over the decades.

Perhaps the most important step has been the increased presence of Kuwaiti women in decision-making positions in the public and private sectors, their attainment of full political rights and their entry into the diplomatic corps and the judiciary. In addition, the way has been opened for them to enter the police, in particular the community police. Kuwait has also been keen to include women in its national development plan and in sustainable development, and it has been training women for leadership roles since 2015. In 2017, Kuwait was proud to become the first country of the Cooperation Council for the Arab States of the Gulf (GCC) to launch a programme for the economic empowerment of women. More than 25 large private-sector companies adopted the initiative which was launched – with the ringing of the bell in the Boursa Kuwait – to coincide with International Women’s Day in March 2018. Via the initiative, the Government intends to proclaim its pledge to help women enter leadership roles in the economic sphere, by encouraging companies to uphold the principles of female empowerment.

55. Kuwaiti women also receive attention and help to support them in the role they play in the community and the family and to uphold their social, economic and political rights. The State has created the appropriate legislative and institutional conditions and mechanisms to enable women to obtain their full rights and to play their role in the development of society as an equal partner with men. Among the numerous measures that have been taken in this regard is the review and updating of legislation relating to Kuwaiti women in order to remove all forms of discrimination, without compromising the principles of Islamic sharia.

56. Efforts have also been made to promote social, economic and occupational capacity-building programmes for women as a way of ensuring their domestic and psychological stability. Training programmes have been run to improve their capabilities and foster their participation in public life, and services have been provided for working women to encourage and support small-scale enterprises. In addition, the State has sought to empower Kuwaiti women and widen the scope of their participation in society by promoting their role in decision-making positions in the economic, social and political sphere.

Paragraph 19

Subsection (a)

57. Violence in any form is the use of force against a vulnerable person with a view to dominating that person, be it by a man against a woman or even vice versa, and it can take many guises: verbal, sexual, physical. Domestic violence is a global phenomenon that is not linked to a particular society and, with the increase in such violence, the international community has begun making efforts to combat it. For its part, Kuwait has rolled out a number of measures designed to curb domestic violence, to which end the Supreme Council for Family Affairs has set up special centres and shelters where victims can access legal, social and psychological advice as well as rehabilitation services and protection.

58. The Community Police Department receives reports of domestic violence separately from police stations. This is in order to preserve the privacy of the party making the report and to overcome a culture which views it as socially unacceptable that a woman should go to a police station. The Community Police Department also has social workers and psychologists of both sexes who are experts in dealing with such cases. For their part, legislators are considering the possibility of enacting a specific law to address all aspects of the phenomenon of domestic violence. With regard to the absence of legislation specifically criminalizing domestic and sexual violence, it should be noted that violence is criminalized in a number of legal provisions contained in the Criminal Code (Act No. 16 of 1960), as amended, which are applicable irrespective of whether the victim is a man, woman or child. Those provisions include:

- Article 160 of the Code: “Anyone who strikes, wounds, causes bodily harm to or prejudices the physical integrity of another person in an appreciable manner is liable to a term of imprisonment of up to 2 years and/or payment of a fine of up to KD 150.” The penalty is increased if the harm caused is severe (art. 161) or if it leads to a permanent disability (art. 162);

- Article 163: “Anyone who commits an act of aggression of lesser gravity than the acts referred to in the preceding articles is liable to a term of imprisonment of up to 3 months and/or payment of a fine of up to KD 22.5”;
- Legislators addressed crimes of sexual violence, in chapter II of the Criminal Code (Act No. 16 of 1960), under the heading of crimes against honour and reputation:
 - Article 186: “Anyone who has sexual intercourse with a female without her consent, using coercion, threat or deceit, shall be liable to the death sentence or to life imprisonment”;
 - Article 187: “Anyone who has sexual intercourse with a female without using coercion, threat or deceit but knowing her to have a mental impairment, to be under the age of 15 or to lack volition for any other reason, or knowing that she does not comprehend the nature of the act or that she believes it to be legitimate, shall be liable to life imprisonment”;
 - Article 188: “Anyone who has sexual intercourse with a female who is over the age of 15 but under the age of 21, without using coercion, threat or deceit, shall be liable to a term of imprisonment of up to 15 years”;
 - Article 191: “Anyone who defiles another person using coercion, threat or deceit, shall be liable to a term of imprisonment of up to 15 years”;
 - Article 192: “Anyone who defiles a boy or girl under the age of 21, without using coercion, threat or deceit, shall be liable to a term of imprisonment of up to 10 years.”

59. Under the Criminal Code, penalties are increased if the victim is under the age of 21.

60. If persons in a legal conjugal relationship suffer harm as the result of the use of violence by their spouse, they can demand a divorce on the grounds of that harm. This is envisaged under article 126 of the Personal Status Act No. 51 of 1984 as amended by Act No. 61 of 1996, as amended, which reads: “Either of the spouses, before or after the consummation of the marriage, can demand a separation by pleading verbal or physical harm perpetrated by the other, of a nature that precludes conjugal cohabitation.”

61. The spouses may request the annulment of their marriage contract in the manner envisaged in article 136 and ff. of the aforementioned Act. This does not preclude the implementation of the more general provisions contained in the Criminal Code, as outlined above.

62. Family Court Act No. 12 of 2015, as amended, includes provision for the creation of a family court in each governorate in order to examine and deal promptly with matters relating to personal status. For its part, the Ministry of Justice has issued a number of decrees to launch the work of the family courts. One of these was Ministerial Decree No. 113 of 2016 under which two superintendencies were created within the family counselling department: a superintendency for child placement and visitation, and a superintendency for the settlement of family disputes and the prevention of domestic violence. Their mandates include the following: drafting a declaration form for cases where there are family problems; settling family disputes and providing advice; protecting family members from violence and abuse inflicted by another member and finding appropriate solutions; working to build trust and to provide support to parties who have suffered violence, particularly children; and addressing the family break-ups that can ensue from domestic violence.

63. Ministerial Decree No. 115 of 2016 includes provision to create and regulate centres for the settlement of family disputes and the protection of family members from violence. The centres, which exist in each governorate where they are dependent upon the family court, seek to settle family conflicts and to protect family members from violence and abuse inflicted by another member. The centres accept dispute resolution applications, which the two sides then discuss in the presence of an expert from the centre who listens to what they have to say then dispenses advice and guidance. This is to take place within 15 days of receiving the application although the period may be extended, with the agreement of the parties, to up to 60 days. If either of the two parties to a dispute does not accept an amicable solution the matter is referred to the competent family court.

64. In accordance with the Family Court Act, a ministerial decree was issued to establish the Family Insurance Fund, which has a capital of US\$ 10 million. The purpose of the Fund is to pay the costs that a wife, divorced woman, children or relatives might incur during the implementation of rulings handed down by the family courts, which cannot be enforced because the convicted party is absent or his whereabouts are unknown, or for any other reason.

65. Act No. 11 of 2018, which amends certain provisions of the Family Court Act No. 12 of 2015, introduced a legislative amendment that allows administrators of the Family Insurance Fund to disburse payments to beneficiaries in the form of a loan, pending a ruling on their entitlement thereto. This is regulated by rules devised by the Fund's own management board, with a view to safeguarding the social dimension.

Subsection (b)

66. As regards ensuring that victims of domestic and sexual violence have access to legal, medical and psychological assistance, reparation and rehabilitation, current laws do in fact protect victims of domestic violence, as explained above. State bodies take steps to provide medical, psychological and legal assistance, facilitate access to appropriate compensation, assist in filing reports and provide the requisite protection. Under current laws, incidents of domestic violence are investigated, perpetrators are brought to trial and, if found guilty, face condign punishment.

67. Government agencies cooperate with civil society organizations to raise awareness about ways to protect women from violence. Anti-violence strategies are being developed with the creation of a database that will be used as the basis for a national strategy to eradicate violence against women in Kuwait altogether. A study on violence has been conducted covering 2,000 families, the first of its kind in the GCC area, and work is ongoing to gather comprehensive data about the implementation of the Sustainable Development Goals at the national level, particularly Goal 5 on achieving gender equality and empowering women and girls.

Subsection (c)

68. Violence in any form is the use of force against a vulnerable person with a view to dominating that person, be it by a man against a woman or even vice versa, and it can take many guises: verbal, sexual, physical. Domestic violence is a global phenomenon that is not linked to a particular society and, with the increase in such violence, the international community has begun making efforts to combat it. For its part, Kuwait has rolled out a number of measures designed to curb domestic violence, to which end the Supreme Council for Family Affairs has set up special centres and shelters where victims can access legal, social and psychological advice as well as rehabilitation services and protection.

69. The jurisdiction and functions of the Community Police Department, which is part of the Ministry of the Interior, include dealing with cases of domestic violence. It enforces the laws and legislation under which cases of domestic violence are addressed, ensures that legal safeguards are made available to victims and that they receive the protection they require, and it helps them to obtain their rights under the relevant laws, including those on the rights of women, children and the family. The Community Police Department receives reports of domestic violence as follows:

- Via the child support hotline 147;
- Via the police flying squad, which works round the clock to receive complaints of domestic violence from women or children and to provide support and assistance in coordination with other competent bodies;
- Via reports that can be submitted round the clock at police stations across Kuwait;
- Complainants can also turn directly to the Community Police Department where they are interviewed, their social situation is examined and the type of abuse identified. Many cases of domestic violence have been dealt with and social, psychological and legal support has been provided. Some were resolved amicably while others were referred to the investigating authorities such as the Office of the Public Prosecution or the General Department for Investigations. Cases are then followed-up to ensure

that investigations have been conducted and perpetrators duly prosecuted and punished.

70. Many laws contain provisions to address this form of violence. One of the most important is the Criminal Code (Act No. 16 of 1960), as amended, which deals with violence in general, including domestic violence. Another is Act No. 21 of 2015 concerning the rights of the child, which criminalizes abusive behaviour and includes various provisions that can be used to combat violence against children.

Paragraph 21

71. On 5 October 2017, the Constitutional Court issued two rulings in which it decreed the Fingerprinting Act No. 78 of 2015 to be unconstitutional. The first ruling declared the unconstitutionality of articles 2, 4, 8 and 11 of the Act while the second ruling rescinded the remaining articles because they were associated with the articles that had been found to be unconstitutional. The grounds for the Court's decision were that the Act contained serious flaws that violated individual freedom and the rights of the person.

Paragraph 23

72. Kuwaiti legislation includes provision for the death penalty for the most serious crimes, as such offences undermine the values of Kuwaiti society and destroy the fabric of the State and the stability of the community. It should also be pointed out that, if Kuwait has incorporated the death penalty into its system of domestic criminal law, this is because that system is based on Islamic sharia, which includes provision for *qisas* penalties. Therefore, calling for the abolition of the death penalty goes against the provisions of Islamic sharia, which is a major source for all national legislation, including criminal law.

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

- Death sentences are handed down by an independent judicial authority; i.e., the courts, which are neutral, independent and impartial, as required by the Constitution;
- Every death sentence imposed by a criminal court is automatically referred by the court to the Court of Appeal, within one month of the date on which the sentence was handed down, if the convicted person himself has not filed an appeal (article 211 of Act No. 17 of 1960 promulgating the Code of Criminal Procedure);
- The Office of the Public Prosecution must submit cases in which death sentences have been handed down to the Court of Cassation (article 14 of Act No. 40 of 1972, concerning appeals in cassation and the associated procedures);
- With a view to enhancing protection, death sentences are carried out only with the approval of the Amir. The condemned person is kept in prison until the Amir decides to approve or commute the sentence or to issue a full pardon (article 217 of Act No. 17 of 1960 promulgating the Code of Criminal Procedure);
- The death sentence can be carried out only on the basis of a final judgment handed down by a competent and impartial court following numerous legal procedures aimed at ensuring a fair and impartial trial of the accused;
- In all cases, the enforcement of a death sentence is suspended until a final decision has been taken on appeal proceedings, requests for pardon or applications for commutation of the penalty;
- A death sentence cannot be handed down against anyone who has not reached the age of 18. This provision is enshrined in article 15 of Act No. 1 of 2017 (the Juvenile Code) which reads: "A juvenile may not be sentenced to death or to life imprisonment. If a juvenile between the ages of 15 and 18 commits an offence that attracts the death penalty or life imprisonment, he shall be sentenced to a term of imprisonment of up to 15 years";

- It is prohibited to carry out a death sentence against a pregnant woman. If she delivers a live infant, the death sentence shall be suspended and the case referred back to the court that imposed the death penalty so that it can be commuted to a term of life imprisonment;
- A death penalty may not, of course be imposed against persons who are mentally unfit, in accordance with article 22 of Act No. 16 of 1960 promulgating the Criminal Code.

74. On the basis of the foregoing, and in view of the fact that Islamic sharia is a major source of positive law in Kuwait, it follows that the legitimacy of the death penalty derives from Islamic sharia and that abolishing it would actually constitute a violation of sharia and of the constitutional system underpinning the State, as expressed in article 2 of the Constitution of Kuwait: “The religion of the State is Islam and Islamic sharia is a major source of legislation.”

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

76. According to the Constitution, then, “Islamic sharia is a major source of legislation”. Thus legislators, on the basis of this clear and unambiguous indication, undertake to abide by the provisions of sharia law to the extent possible. However, nothing in the text prevents them, sooner or later, following other legitimate provisions when they believe that they should do so.

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

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

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

Paragraph 25

Subsection (a)

80. Kuwait ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Act No. 1 of 1996. Treaties ratified by the State of Kuwait become an integral part of national legislation and are assimilated into the corpus of domestic law from the date of their entry into force. All government bodies and institutions, as well as individuals, therefore have an obligation to comply with the provisions of such treaties, and the Kuwaiti judiciary is required to ensure that they are complied with and protected. This obligation is enshrined in article 70 of the Constitution.

81. Articles 31 to 34 of the Constitution reflect the desire to ensure that human freedom is not unjustly restricted while also acting as a safeguard against torture and inhuman or degrading treatment. According to those articles, there can be no punishment without a law, accused persons are innocent until proven guilty and punishment is personal.

82. There are numerous pieces of domestic legislation in Kuwait to prohibit and punish acts of torture. These include, by way of example:

- Article 70 of the Criminal Code (Act No. 16 of 1960), which states: “When sentencing public officials for using bribery or torture to extract a confession from an accused person, judges shall ... dismiss them from office for a period to be defined in the sentence, which shall be no less than 1 year and no more than 5 years”;
- Article 184 of the Criminal Code, which stipulates: “Anyone who arrests, imprisons or detains another person in circumstances other than those stipulated by law, or while failing to follow due procedure, shall be liable to imprisonment for up to 3 years and/or payment of a fine of up to KD 225. If those acts are accompanied by physical torture or threat of death, the perpetrator shall be liable to imprisonment for up to 7 years”;
- Article 53 of the Criminal Code (Act No. 31 of 1970), which states: “Any public official or employee who, either directly or through another, tortures an accused person, witness or expert to force them to confess to an offence, or to make statements or provide information in that regard, shall be liable to imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder”;
- Article 56 of the same Act, which states: “Any public official or employee, or any person charged with providing a public service, who abuses his position to use force against a person with the aim of causing dishonour or bodily pain shall be liable to a term of imprisonment”;
- Articles 160 to 166 of Act No. 16 of 1960 criminalize any and all acts that jeopardize physical well-being.

83. The Ministry of Justice is keen to introduce a definition of torture into domestic legislation. To that end, a legislative development committee has prepared a bill to amend article 53 of Act No. 31 of 1970, which amends certain provisions of the Criminal Code (Act No. 16 of 1960), in line with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The amendment envisages more severe punishments to reflect the gravity of the offence.

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

Subsection (b)

85. One of the fundamental rights enshrined in Kuwaiti law is the right of recourse to law, which is afforded to all persons under article 166 of the Constitution, which reads: “People are guaranteed the right to have recourse to law. The law itself shall determine the procedures and conditions required for the exercise of that right.” Article 29 of the Constitution 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.”

86. Under article 45 of the Constitution, all individuals may address themselves to the public authorities in written form, under their own signature. Thus, the Constitution grants all people the right to appeal to the authorities, to make complaints and to file reports.

87. Moreover, according to article 14 of Act No. 17 of 1960 promulgating the Code of Criminal Procedure: “Anyone who witnesses or has knowledge of an offence must

immediately inform the nearest police or investigating authorities”. This means that, under domestic legislation, reporting crimes is not merely a right but a duty that each person has, irrespective of whether or not they were affected or harmed by the offence in question.

88. Kuwait protects members of society from torture and inhuman and degrading treatment. Article 31 of the Constitution states: “No one shall be arrested, detained, searched or compelled to reside in a specified location, nor shall their freedom of residence or movement be restricted, except as provided by law, and no one shall be subjected to torture or degrading treatment”. Over a brief period of time, Kuwait has made great progress in combating torture, and the country’s legal system includes numerous provisions aimed at fulfilling the obligations arising from its accession to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

89. All activities conducted by the Ministry of the Interior in relation to criminal procedures are supervised by the investigating authorities, in accordance with article 46 of Act No. 17 of 1960 promulgating the Code of Criminal Procedure, which states: “Reports of investigations, drawn up by police officers, are to be submitted to the Office of the Public Prosecution or to police investigators, depending upon the circumstances, who must dispose of and act upon them and ensure that they are correctly compiled. Such reports do not constitute conclusive evidence before the courts.” This is to safeguard against the arbitrary use of authority against individuals. With regard to the establishment of a fully independent complaints mechanism, under the organizational structure of the Ministry of the Interior, the General Department for Oversight and Inspection is answerable directly to the Minister, as per Decree No. 2411 of 2008. The Complaints Division, which is part of the General Department, receives complaints from the public against staff of the Ministry of the Interior. The complaints mechanism functions as follows:

- Any member of the public can call the number 112 to report a violation of political or civil rights. They are then directed to the appropriate authority, depending upon the nature of the case, and their complaint is verified and followed-up;
- Using the website of the Ministry of the Interior, the public can also contact the Ministry by email to file a complaint or make a suggestion. The matter is then followed up by the competent office;
- The General Department for Oversight and Inspection oversees and monitors incoming reports and complaints, and facilitates the exercise of the right to take legal action. In this connection, it works alongside officials and verifies all complaints made against employees of the Ministry of the Interior. Complaints are received in the presence of the complainant and all allegations are investigated then referred to the competent officials.

90. The domestic legislative system allows anyone to address the public authorities. The relevant provision is in article 45 of the Constitution, which reads: “All individuals may address themselves to the public authorities in written form, under their own signature.”

91. Attention is also drawn to article 6 (3) of Act No. 67 of 2015 concerning the National Bureau for Human Rights, which states: “The Bureau has the right to receive complaints and to monitor, examine and investigate human rights violations. The governing board can then refer the cases of its choosing to the competent authorities, with whom it coordinates and follows up. The Bureau also seeks to guide complainants through the necessary legal procedures and helps them to seek a resolution to their problems with the authorities.”

92. One of the prerogatives of the National Bureau for Human Rights, under article 9 of the Act, is that of setting up standing committees. These include the “committee against torture”, which has the right to call on whatever expert assistance it wishes when examining matters that fall within its remit. The governing board can also establish other specialized committees.

93. The National Assembly also has specialized committees, which receive and investigate complaints from injured parties and which can request the authorities to look into matters that arise.

94. Thus, the existing mechanism guarantees the right to take legal action and is consistent with the International Covenant on Civil and Political Rights, which Kuwait has ratified and made part of its own legislative system, in order to preserve public freedoms and human rights. With respect to ensuring the independence of the departments of forensic medicine and criminal evidence from the Ministry of the Interior:

- The work of those departments is supervised and assessed by a judge of the competent court. These are considered to be technical activities which judges may, but are not obliged to use, as per the general rules established by courts of cassation.

95. The police are mandated by law to control crime and to conduct investigations to identify criminals. This may require the use of laboratory tests and analyses, the taking of fingerprints and other activities that fall within the remit of departments of criminal evidence and forensic medicine, which apply standard technical procedures. Hence, the recommendation to “ensure the independence of the departments of forensic medicine and criminal evidence from the Ministry of the Interior” would necessarily entail a violation of the *modus operandi* the Ministry follows when carrying out its legally mandated tasks. In fact, all security agencies that receive reports, visit crime scenes and conduct investigations are under the aegis of a single body, which is the Ministry of the Interior. This is in order to ensure that they perform as a single unit, and any loss of such unity would necessarily jeopardize the security and technical protocols that have to be followed in such cases, and would have a negative effect on the public interest.

Paragraph 27

96. According to article 34 of the Constitution: “Accused persons are presumed innocent until proven guilty in a legal trial in which the requisite safeguards for the exercise of the right of defence are secured. It is prohibited to subject accused persons to physical or mental harm.” Moreover, the Code of Criminal Procedure (Act No. 17 of 1960), as amended by Act No. 35 of 2016, reduces the period for which accused persons may be held on remand by order of an investigator (the authority to order detention having been granted to investigators by legislators under certain rules and restrictions). Article 60 of the Act states: “Police officials – if they arrest an accused person under the aforementioned circumstances or if the accused person is handed over to them by a member of the public – must hand that person over to the investigator. Under no circumstances may arrested persons remain in detention for a period exceeding 4 days, in criminal cases, and 48 hours, in cases involving misdemeanours, without a written order from an investigator to keep them in custody.”

97. According to article 65 of the same Act: “An arrest warrant may include provision for the arrested person to be released if he signs a pledge to appear when summoned, accompanied by a surety to be stipulated in the warrant itself. The official responsible for executing the warrant is to release the person in question if the pledge is made in accordance with the conditions set down in the warrant. The pledge, signed by the official who executed it, is then to be sent to the party who issued the warrant.”

98. As the aforementioned articles 60 and 65 show, legislators have been careful to ensure that persons accused of a misdemeanour may not be detained for more than 48 hours without a written order from an investigator to keep them in custody. Moreover, they can be released if they sign a pledge to appear when summoned, accompanied by a surety to be stipulated in the arrest warrant. Thus, persons accused of a misdemeanour cannot be held by police for more than 48 hours, which is the time allocated to conduct inquiries and gather evidence on the offence in question. Once that period has expired, the accused person must be brought before the investigator, who must question him and take his statement before releasing him against a personal or financial surety, or against a pledge to appear when summoned, accompanied by a financial surety to be determined depending upon the kind of case and the gravity of the offence. Alternatively, the investigator can issue a warrant ordering that the accused person be held on remand for a period not exceeding 10 days (in cases involving misdemeanours) from the date of his arrest. Remand orders can be issued only in accordance with article 69 of Act No. 17 of 1960, as amended by Act No. 35 of 2016, which states: “If they are of the view that the interests of the investigation require that an accused person be held on remand, to prevent him either from fleeing or from interfering with the course of the investigation, investigators may order that the accused be held on remand for a period of not

more than 3 weeks in criminal cases and not more than 10 days in cases involving misdemeanours, from the date of arrest.”

99. It should be clear, then, that the Code of Criminal Procedure includes a body of fundamental safeguards for accused persons. The Code grants police officers the power of arrest but it also places limits on that power in order to prevent any abuses of authority on the part of the police. The Code sets forth the cases and conditions in which an arrest may be effected and it guarantees the rights of accused persons, including the right to a fair trial, which in turn comprehends the right to a defence and the right of appeal.

Paragraph 29

Subsection (a)

100. The deportation of foreign residents in Kuwait can take one of two forms: Judicial deportation takes place under a court ruling as a supplementary penalty arising from the commission of an offence that is punishable under domestic law. Administrative deportation takes place under an administrative order issued by the Minister of the Interior under article 16 of Royal Decree No. 17 of 1959 promulgating the Foreign Nationals’ Residency Act, which reads: “The Minister of the Interior may issue a written order for the deportation of any foreign national, even if the latter has a residence permit, in the following cases:

- If the foreign national has been convicted of an offence and the sentence of the court recommends deportation;
- If the foreign national has no apparent means of subsistence;
- If the Minister of the Interior believes that the deportation is required in the public interest or the interest of public security or morality.”

In addition, article 26 bis of Ministerial Decree No. 640 of 1987 promulgating the implementing regulations of the Foreign Nationals’ Residency Act states: “A foreign national may be administratively deported from the country, even if in possession of a valid residency permit, in the following circumstances:

- If the foreign national has been convicted of a criminal offence or an offence involving a breach of honour or trust;
- If, over a period of five years, three criminal sentences have been issued against the foreign national, one of which involves deprivation of liberty;
- If, over a period of five years, four criminal sentences of any kind have been issued against the foreign national;
- If deportation is necessary in the public interest or the interest of public security or morality.”

In any of the aforementioned cases, deportation is carried out in coordination with the competent authorities.

101. Deportation orders against residents are, thus, enforced in accordance with the law and within the framework of article 31 of the Constitution, which reads: “No one shall be arrested, detained, searched or compelled to reside in a specified location, nor shall their freedom of residence or movement be restricted, except as provided by law.”

102. As concerns the review of cases involving persons against whom a deportation order has been issued, foreigners who have been deported may return to Kuwait with the authorization of the Minister of the Interior, as set forth in article 19 of the Foreign Nationals’ Residency Act.

Subsection (b)

103. As concerns the period of detention for persons against whom an order of deportation has been issued, according to article 18 of Royal Decree No. 17 of 1959 promulgating the Foreign Nationals’ Residency Act: “A foreign national against whom a deportation order has been issued may be detained for not more than 30 days, if such detention is necessary for the

implementation of the order.” If the persons to be deported have interests inside the country, they are given a period of not more than three months to settle their affairs. The enforcement of the deportation orders is carried out by other agencies, which apply the detention periods envisaged in law.

Paragraph 31

104. The judiciary in Kuwait enjoys respect as one of the three powers of the State. According to article 162 of the Constitution: “The honour of the judiciary and the integrity and impartiality of judges are the foundation of governance and the guarantee for rights and freedoms”. Article 163 states: “No one may exercise any authority over judges in rendering their judgments and under no circumstance may anyone interfere with the course of justice”. Guarantees regarding the independence of the judiciary are also enshrined in law, one being that of their irremovability.

105. With a view to strengthening democratic structures and mechanisms and preventing any violation of rights and freedoms, article 50 of the Constitution clearly establishes the principle of the separation of powers. The wording is such as to obviate any controversy or confusion regarding that principle. According to the article, none of the three powers – legislature, executive or judiciary – may relinquish all or part of their constitutional prerogatives. The text reads: “In conformity with the Constitution, the system of government shall be based on the separation of powers and the cooperation between them. None of those powers shall relinquish all or part of their prerogatives as set forth in the present Constitution.”

106. The appointment of judges is regulated by Decree-Law No. 37 of 1990 and subsequent laws amending it. With a view to ensuring the proper administration of justice and conduct of legal proceedings, the work of judges is subject to periodic inspection by the Judicial Inspection Department, which is made up of qualified and experienced judges.

107. According to article 168 of the Constitution: “The judiciary shall have a Supreme Council the regulation and powers of which are to be established by law.” The composition of the Supreme Judicial Council is regulated by article 1 of Act No. 10 of 1996, which replaces article 16 of Act No. 23 of 1990 and which states that the Council is made up of “the President of the Court of Cassation, the Vice-President of the Court of Cassation, the President of the Court of Appeal, the Public Prosecutor, the Vice-President of the Court of Appeal, the President of the Full Court, the two most senior Kuwaiti members of the Courts of Cassation and the Court of Appeal and the Undersecretary of State for Justice”. The Council includes judges of different levels, the Public Prosecutor and the Undersecretary of State for Justice, but the latter does not participate in votes on the Council’s decisions. The Council can also invite the Minister of Justice to attend its meetings in order to consider matters of importance, although the Minister too does not participate in votes on the Council’s decisions. The role of the Minister and the Undersecretary is to facilitate the work of the judiciary and to ensure an effective liaison between the courts and other State bodies, but without any direct link, in order to uphold the independence and impartiality of the courts.

Paragraph 33

Subsection (a)

108. The Council of Ministers issued Decree No. 614 of 2018 by which the powers envisaged under Domestic Workers Act No. 68 of 2015 were transferred to the Public Authority for the Workforce, which is the body responsible for labour market regulation in Kuwait. Moreover, the Department for the Recruitment of Domestic Workers has been set up and is working to roll out the mechanism whereby domestic workers are employed and their rights guaranteed, as per Act No. 68 of 2015 and its implementing regulations, which are consistent with international standards for the effective and equal protection of the rights of workers and employers. Those rights are set forth in a contract of employment specifying the nature and the location of work, the responsibilities and obligations of employer and worker, wages, a weekly rest period, annual holidays and the date of expiry of the contract, in accordance with article 18 of Act No. 68 of 2015 and with article 13 of the implementing regulations (No. 2194 of 2016).

109. Domestic workers also enjoy protection from ill-treatment or forced labour under article 15 of Act No. 68 of 2015, which reads: “It is not permissible to assign domestic workers to perform any task that is hazardous or likely to prove detrimental to their health or human dignity.” Under article 46 of the Act: “Employers may not assign domestic workers to work outside Kuwait. If it emerges that they have done so without the consent of the worker, then the latter is repatriated at the expense of the employer.”

Subsection (b)

110. The Public Authority for the Workforce is examining the possibility of adding another article to Act No. 68 of 2015 under which the Public Authority would have cancellation rights and the right to transfer domestic workers, without seeking the approval of the employer. The implementing regulations will specify the pertinent circumstances such as the marriage of the domestic worker inside the country, the desire to reunify with a breadwinner, the death of the employer or a violation of Act No. 68 of 2015 on the part of the employer.

111. The term “sponsor” does not appear in the provisions of Domestic Workers Act No. 68 of 2015 or in the decrees issued thereunder. The legal term used is “employer”, and the relationship between the employer and the domestic worker is a contractual relationship regulated by national legislation and the relevant implementing decrees.

Subsection (c)

112. Article 29 of the Constitution stipulates: “All people are equal in human dignity and are equal before the law in public rights and duties, and there is no discrimination on the basis of gender, origin, language or religion”.

113. Act No. 68 of 2015 envisages equal fundamental rights for domestic workers, irrespective of their nationality. The Act does not focus on a specific nationality and its chapter II sets forth the obligations and duties incumbent upon the employer, as follows:

114. Under article 7 of the Act, employers are required to pay the agreed salary to domestic workers at the end of each month. The confirmation of transfer and the acknowledgement of receipt constitute proof of payment of the domestic worker’s salary.

115. According to article 8, the salary is due with effect from the date of the worker’s entry on duty. No deductions may be made from the salary under any circumstances.

116. According to article 9, employers have an obligation to feed and clothe domestic workers, cover the workers’ medical treatment and nursing expenses and provide them with accommodation.

117. Under article 10, domestic workers may not be assigned to perform any task that is hazardous or likely to prove detrimental to their health or human dignity. The Department for Domestic Workers has the jurisdiction to handle any claims arising from such situations.

118. Article 11 of the Act stipulates that employers are to provide domestic workers with decent accommodation and the means to live a decent life.

119. Under article 12 of the Domestic Workers Act, employers are prohibited from retaining any papers or personal documents belonging to domestic workers, such as passports or identity cards, unless the latter give their consent. This is set down in a unified contract of employment, which is applicable to all nationalities. The contract, which was developed by the Public Authority for the Workforce, includes provision to protect the rights of all the parties.

Subsection (d)

120. Ever since the powers envisaged under Domestic Workers Act No. 68 of 2015 were transferred to the Public Authority for the Workforce, the Department for Regulating the Recruitment of Domestic Workers has been investigating the complaints it receives of ill-treatment against workers in domestic service and seeking to bring perpetrators to justice. It also provides safeguards to protect workers from exploitation, in particular by not accepting reports of absence from an employer in regard of workers who had previously filed a complaint against that employer, and it inspects domestic worker recruitment bureaux to

ensure they are not taking money from the workers or forcing them to work. In addition, the Department receives complaints from domestic workers against employers in respect of, for example, non-payment of salaries or abuse. It also receives complaints from the workers' embassies in Kuwait with a view to finding amicable solutions to any problems they may face. If an amicable solution cannot be found, the case is referred to the competent courts. The table below shows statistics regarding domestic worker employment bureaux, and cases and complaints regarding workers in the period 2019/20.

<i>Month</i>	<i>Number of registered domestic worker employment bureaux</i>	<i>Number of workers registered with domestic worker employment bureaux</i>	<i>Number of applications received</i>	<i>Number of operating licences renewed and issued</i>	<i>Number of new operating licences issued</i>	<i>Number of complaints registered</i>	<i>Complaints resolved amicably between the parties</i>	<i>Complaints referred to the courts</i>	<i>Number of domestic workers registered with the Ministry of the Interior</i>
April 2019	263	1 593	403	94	18	408	38	9	717 628
May 2019	397	1 606	530	67	8	271	281	56	717 628
June 2019	426	1 636	576	56	8	171	171	35	717 628
July 2019	441	1 688	613	55	3	264	264	97	717 628
August 2019	451	1 366	630	26	2	478	478	59	717 628
September 2019	458	1 436	648	14	6	2 485	465	120	717 628
October 2019	269	1 480	661	10	7	2 878	495	123	727 246
November 2019	473	1 513	676	1	5	3 241	268	95	727 246
December 2019	473	1 556	682	3	6	3 626	345	110	727 246
January 2020	476	1 597	687	-	-	4 001	217	80	727 246
February 2020	478	1 618	699	-	-	4 344	206	90	727 246

121. In order to ensure that legislation and regulations are strictly enforced, the Public Authority for the Workforce has been providing training to officials, in which regard it has run a number of specialized programmes in cooperation with international organizations, for example:

- It ran a capacity support project in the period 2015–2017;
- It signed a memorandum of understanding on the first national programme for decent work;
- It developed a strategy wherewith the Public Authority can work to combat human trafficking, which is currently being rolled out;
- It launched a training programme for 210 trainees of both sexes on oversight and protection mechanisms.

122. At the same time, the Authority has been striving to ensure that workers of all categories are more aware of their rights, something it has achieved with information leaflets aimed at employers and workers alike. Apart from the Public Authority's own Internet website, which is open to anyone, all domestic legislation that has a bearing on the labour market – be it laws or the ministerial or administrative decrees issued to implement those laws – is published so that employers and workers can examine and understand it.

123. The Public Authority has social media accounts – accessible to all residents in the country, workers and others – where it posts information to help people learn about their rights and about the latest administrative decrees regulating the labour market. Moreover, the public can make queries and lodge complaints, which are then dealt with by a specialized working group that is part of the Public Authority. A hotline is also available via which people can make contact and file complaints. The table below shows the extent of interaction between the Public Authority for the Workforce and social media users during 2019.

<i>Social media accounts</i>		
<i>Social media network</i>	<i>Number of posts</i>	<i>Queries and complaints</i>
1 WhatsApp	60	1 150
2 Twitter	249	514
3 Instagram	295	932
4 YouTube	56	-
<i>Information and awareness-raising campaigns</i>		<i>No.</i>
Campaigns run in the course of the year (<i>The "Ashal" campaign; Rights and Duties of Domestic Workers; National Workforce; Rewarding Graduates; Employment Day</i>)		5

Paragraph 35

Subsection (a)

124. Article 29 of the Constitution stipulates: "All people are equal in human dignity and are equal before the law in public rights and duties, and there is no discrimination on the basis of gender, origin, language or religion".

125. Article 185 of Act No. 16 of 1960 promulgating the Criminal Code prohibits human trafficking in any form and envisages penalties for anyone who brings persons into or out of Kuwait with a view to treating them as slaves.

126. Under Act No. 5 of 2006, Kuwait ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

127. Kuwaiti legislators issued the Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013, which came into force on 17 April 2013. The Act serves to protect the rights of migrants, both those in the private sector and those involved in domestic work.

128. The Act stipulates that the Office of the Public Prosecution has exclusive jurisdiction to investigate, pursue and prosecute the offences specified in the Act, and related offences. The Act also envisages severe penalties, ranging from imprisonment to the death penalty.

129. Under article 2 of the Act, the penalty for trafficking in persons – which also covers the offences of forced labour, enforced servitude, slavery or practices similar to slavery – is a term of imprisonment of 15 years. A penalty of life imprisonment is envisaged if the offence is associated with one of the aggravating circumstances specified in the article, and even the death penalty if the offence leads to the victim's death.

130. Under the terms of article 6, both the legal representative and the de facto manager of a corporate entity are liable to the penalties prescribed for the offences defined in the previous articles if those offences were perpetrated for the benefit of the corporate entity or on its behalf and with its knowledge, without prejudice to the personal criminal liability of the perpetrators of the offences. In addition, the article provides for the dissolution of the corporate entity and the closure of its headquarters and branches, either permanently or for a period of not less than 6 months and not more than 1 year.

131. The Office of the Public Prosecution receives and investigates reports about victims and cases of human trafficking. Such reports can come in from the competent national authorities, the victims themselves or any other party, and there are no obstacles to prevent the Office of the Public Prosecution from communicating with any of those parties.

132. Article 12 of the same Act envisages measures to assist and protect victims and authorizes the Office of the Public Prosecution or the competent court to take any of the following measures that they may deem appropriate:

- 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;
- Placement of victims in a State-designated shelter until such time as they can be repatriated to their country of origin or returned to the country in which they resided when the offence was committed.

133. The Office of the Public Prosecution in the State of Kuwait is dedicated to pursuing prompt and effective legal proceedings against human traffickers and against their accomplices and those who instigate them to commit their crimes.

134. It is important not to overlook the protection envisaged in Act No. 16 of 1960 promulgating the Criminal Code, as amended, which serves to combat human trafficking and to protect the rights of persons who fall prey to trafficking while in Kuwait. In fact, the Code is replete with provisions that shield the rights and freedoms of workers, and it envisages stringent penalties for offences committed in that connection, such as murder, violence, abduction, imprisonment, trafficking in slaves and other prohibited acts. These provisions – which are enshrined in articles 186, 187, 190, 191, 192, 193 and 194 – extend fairly and effectively to cover foreign workers and residents.

135. In addition, article 49 of Act No. 31 of 1970 amending the Criminal Code (Act No. 16 of 1960) prohibits all forms of forced labour and exploitation and the withholding of pay without justification.

136. Article 8 of Cybercrime Act No. 63 of 2005 states: “Anyone who creates a website or publishes information using the Internet or any other technological means set forth in the present Act, for the purpose of perpetrating or facilitating human trafficking, shall be liable to a term of imprisonment of up to 7 years and/or payment of a fine of between KD 10,000 and KD 30,000.”

137. As part of national efforts to combat human trafficking and migrant smuggling, the Council of Ministers issued Decree No. 1454 on 26 October 2015, 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 was responsible for developing a national strategy to combat human trafficking and migrant smuggling, which was to be submitted to the Council of Ministers.

138. The committee developed a strategy to combat human trafficking and migrant smuggling, which covers three fundamental areas:

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

139. At its meeting No. 6 of 2018, held on 5 February 2018, the Council of Ministers issued Decree No. 261 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.

140. As part of efforts to ensure the optimal enforcement of the strategy, the Ministry of Justice issued Decree No. 1902 of 2018, dated 28 October 2018, and Decree No. 2062 of 2018, dated 19 November 2018, which envisaged the creation of a standing national committee to prevent human trafficking and migrant smuggling. The membership of the committee includes representatives from a number of relevant stakeholders: the Ministry of Justice, the Ministry of the Interior, the Ministry of Endowments and Islamic Affairs, the Ministry of Health, the Ministry of Social Affairs, the Ministry of Foreign Affairs, the Ministry of Information, the Ministry of Education, the Public Authority for the Workforce and the Office of the Public Prosecution.

141. In December 2019, this governmental committee adopted a national referral system for the prevention of human trafficking. The system incorporates a number of stages

beginning with victim identification followed by reporting, referral and documentation of victims. Subsequently, investigations are launched and prosecutions pursued, with the final stage being that of voluntary return and reintegration.

142. In the context of regional cooperation, following the twenty-eighth meeting of ministers of justice of GCC States, the participants issued a decree in which they adopted a set of standard rules to combat human trafficking within the countries of GCC.

143. In addition, at a joint meeting of interior and justice ministers of Arab States, held in Tunisia, Kuwait signed the Arab Protocol to Combat Trafficking in Persons, Especially Women and Children, which is annexed to the Arab Convention against Transnational Organized Crime, ratified by Kuwait in Act No. 94 of 2013.

Subsection (b)

144. The standing committee for the implementation of the national strategy to prevent human trafficking and migrant smuggling is keen to establish frameworks for investigations and prosecutions, in which regard it works to:

- Enhance the effectiveness of investigative and judicial bodies;
- Develop and run awareness-raising and training programmes for all categories involved in the fight against human trafficking;
- Promote community-based mechanisms to protect, advise and care for victims of human trafficking and migrant smuggling, and provide them with medical and legal services;
- Propose additional mechanisms and measures to monitor companies that employ foreign workers and intensify efforts to control shell companies, which can be involved in the commission of human trafficking offences;
- Provide training to law enforcement personnel involved in the prevention of human trafficking and migrant smuggling, and to judges and prosecutors;
- Establish safeguards to ensure that trafficked persons and migrants receive decent humanitarian treatment and avoid being treated in a manner harmful to their dignity.

Subsection (c)

146. Under the Constitution and the law of Kuwait, foreign workers have the right of movement and of travel, with no requirement to obtain permission from their employer. That freedom is absolute and unrestricted. In fact, according to article 30 of the Constitution, “personal freedom is guaranteed”, while article 31 states: “No one shall be arrested, detained, searched or compelled to reside in a specified location, nor shall their freedom of residence or movement be restricted, except as provided by law.” Decrees issued by the competent authorities prohibit employers from retaining workers’ passports, which are considered as personal documents that must remain with the holder and may not be withheld. According to article 1 of Ministerial Decree No. 143/A of 2010, which prohibits the withholding of travel documents of workers in the private sector and the petroleum sector: “Employers in the private sector and the petroleum sector are forbidden from withholding the travel documents of their workers.” That prohibition is reiterated in article 33 of Administrative Decree No. 552 of 2018 promulgating the regulations and procedures for the issuance of work permits, which also states: “Employers in the private sector and the petroleum sector are forbidden from withholding the travel documents of their workers.”

147. Article 12 of Domestic Workers Act No. 68 of 2015 states: “Employers are prohibited from retaining any papers or personal documents belonging to domestic workers, unless the latter give their consent. Domestic workers have the right to appeal to the civil courts to demand the restitution of any papers or personal documents belonging to them that have been withheld by the employer, and the court will oblige the employer to restore such documents.”

Subsection (d)

148. The standards of evidence of coercion for victims of forced prostitution are determined by the investigating authorities in the light of relevant laws. For its part, the Ministry of the Interior raises no objections to assisting victims of forced prostitution, as per the procedures of the standing committee for the implementation of the national strategy to prevent human trafficking and migrant smuggling. Those victims are deported only under judicial or administrative deportation orders and steps are taken to ensure that they are not subjected to torture of any kind or to cruel or degrading treatment. Moreover they are not forcibly deported but travel back to their own country or to any other country of their choice.

Paragraph 37

149. Kuwait believes that the refugee question has to be handled with justice and humanity; therefore, its approach to that issue is guided by applicable humanitarian standards. In that regard, the State has endorsed the principle of non-refoulement, i.e. no persons may be deported or returned to the country from which they came if it is proven that they might be at risk. Article 46 of the Constitution of Kuwait stipulates: “The extradition of political refugees is prohibited.”

150. Since Kuwait is not a party to the Convention relating to the State of Refugees and there are no refugees in the country, there is no specific legal and institutional framework regulating the status of refugees in accordance with international standards. However, through voluntary annual contributions, the State supports action by the Office of the United Nations High Commissioner for Refugees (UNHCR) to alleviate the human suffering caused by displacement.

151. In 1996, Kuwait signed a cooperation agreement with UNHCR, in which it specified the tasks to be undertaken by the UNHCR office in Kuwait. The office plays an important role in protecting and monitoring the conditions of that category of persons, in cooperation and consultation with the Government, with a view to providing humanitarian assistance. The Kuwaiti Ministry of the Interior enables UNHCR to visit the deportation centre and to meet with communities whose regions of origin are experiencing critical situations in order to assess the extent to which the resettlement programme is applicable to them. All foreign residents in Kuwait are subject to the provisions of Act No. 17 of 1959, which regulates their relationship with their host country in terms of the work they can do in the public or private sector.

Paragraph 39

152. Everyone resident on national territory enjoys freedom of belief and freedom to practise religious rites, in accordance with article 35 of the Constitution, which reads: “Freedom of belief is unrestricted. The State shall protect the freedom to observe religious rites established by custom, provided that such observance does not disturb public order or conflict with morals.” Those rites can be practised in perfect freedom in locations which have been built with authorization and are subject to conditions laid down by the authorities. The State undertakes to defend such rites as long as they are celebrated legally and with due respect for the country’s public morals. This is consistent with the provisions of the International Covenant on Civil and Political Rights, article 18 (3) of which states that freedom of religion and of belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or fundamental rights and freedoms.

153. With regard to the restrictions imposed on the granting of licences for the construction of places of worship, the Ministry of Endowments and Islamic Affairs, in accordance with the decree whereby it was established, authorizes the opening of places of worship and supervises and oversees mosques. The Ministry has issued a number of decrees setting forth the conditions to be met and the procedures to be followed when applying for the allocation of a site for a mosque. The most recent of these was Ministerial Decree No. 703 of 2019, issued on 9 June 2019, which envisages the formation of a joint technical committee bringing together the Ministry of Endowments and Islamic Affairs and the Kuwait Municipality. The

committee examines applications for the allocation of mosque sites, exclusively on the technical grounds set forth in the Decree and irrespective of the identity of the applicant.

154. The committee sends eligible applications to the Kuwait Municipality. In order to ensure that all applications receive equal treatment, they are made in the name of the Ministry of Endowments and Islamic Affairs and the donor's name is not mentioned. The regulatory office of the Kuwait Municipality then submits the applications to its facilities and services committee, which is made up of 14 State agencies, each of which examines the application then, using a special form provided for that purpose, expresses its approval or disapproval. If the application is approved, it is sent to the Municipal Council for its approval then back to the Ministry of Endowments and Islamic Affairs. After that, the necessary building permits can be issued.

Paragraph 41

155. Freedom of belief, opinion, expression, press, printing and publication are considered to be fundamental rights. They are guaranteed and protected by the Constitution of Kuwait and reaffirmed in laws that regulate media activity.

156. Nonetheless, the constitutional guarantees surrounding such rights and freedoms are dependent upon them not losing their social value by being wrongly exercised; i.e., in a way that jeopardizes the freedom of citizens or harms the public interest.

157. Freedom and the rights that stem therefrom are to be tempered by responsibility, which requires that freedom be exercised in the light of a duty to consider the common good.

158. It is on this basis that the Constitution has decreed that the regulation of these freedoms and the disciplined exercise of these rights should be set forth in law, because freedom has never been considered as being devoid of all restrictions or as being a way to violate the rights of others.

159. Laws regulating the media are, then, consistent with constitutional principles. They uphold and adhere to those principles and set a framework in which they can be practised in such a way as to strike a balance with the supreme interests of society; i.e., maintaining public safety, order, health and morals and not violating the fundamental rights and freedoms or reputation of others.

Subsections (a), (b) and (c)

160. The criminalization of blasphemy and insulting the Amir, as well as the other prohibitions on publication and broadcasting enshrined in the laws that regulate the media are, in fact, legal restrictions intended to protect public safety, order, health and morals, the fundamental rights and freedoms and reputation of others, and national security. Thus, they are consistent with the restrictions envisaged in article 18 (3) and article 19 (3) of the International Covenant on Civil and Political Rights.

161. The legal terms used in those laws are as specific as possible in order to circumscribe the acts within a normative framework that determines how they can be applied by the courts. The terms used are recognized legal terms, which are commonly employed in the legal field and are constantly subject to judicial review.

162. Media laws do not restrict the operation of media outlets but regulate such operation within a structure of responsible freedom, which is consistent with the exercise of the right to freedom of expression under article 19 (2) of the Covenant. For example, the law specifies that there is to be no prior censorship on newspapers, books, publications, media websites or satellite channels in Kuwait. In addition, the Ministry of Information has approved a proposal made in the National Assembly to abolish prior censorship on books and publications that come from outside Kuwait.

163. The instances set forth in law in which licences to engage in media activities may be revoked are limited to a change in the status of the licensee or a request for cancellation on the part of the licensee. Any decision to revoke is subject to judicial review. Otherwise, the law expressly states that licenses to engage in media activities cannot be revoked or suspended except by order of the courts.

164. No media outlet has been cancelled or administratively obstructed.

165. The Ministry of Information periodically reviews media laws with a view to achieving the greatest possible degree of responsible freedom to express opinions. These reviews – which take place with the participation of representatives from civil society organizations that operate in the field of media and human rights – involve examining proposals from members of the National Assembly, considering ideas contained in reports from human rights agencies and taking account of the views of the Ministry of Information vis-à-vis the constantly evolving demands of society.

Subsection (d)

166. With regard to article 9 of the Covenant, it is important to reaffirm that Kuwait is a country that is governed by the Constitution and the law, which criminalize all the acts mentioned in that article; i.e., arbitrary arrest and the acts associated therewith.

167. Legislators were at pains to place an explicit prohibition on torture, enshrined in article 31 of the Constitution, which reads: “No one shall be arrested, detained, searched or compelled to reside in a specified location, nor shall their freedom of residence or movement be restricted, except as provided by law, and no one shall be subjected to torture or degrading treatment.”

168. Reference is also made to Act No. 17 of 1960 promulgating the Code of Criminal Procedure, under which superior orders cannot be used as a justification for committing an action that violates the law. The relevant provisions include:

- Article 1: “No criminal penalty may be handed down save after a trial conducted in accordance with due process of law”;
- Article 12: “Neither an investigator nor anyone else invested with judicial authority may use torture or coercion to obtain a statement from an accused person or witness, or to prevent such persons from making what statements they wish during the course of a trial, investigation or inquiry. Anyone perpetrating an action of that kind shall be liable to the penalties set forth in criminal law.”

169. Article 53 of the Act sets forth the circumstances under which arrests may be made and states that an arrest must be effected under a written warrant issued by an authority with the power to issue such warrants.

170. Article 224 states that no prison official may admit an offender to prison save under a written imprisonment order from a competent authority, and the offender may not remain in prison for a period longer than that stipulated in the order.

171. Under articles 226 and 227, it is forbidden to effect an arrest except under a valid arrest warrant issued by the competent authority, and persons may be detained only in designated prisons. If someone informs an investigator that a person has been arrested unlawfully, the investigator must immediately launch an inquiry and release the person concerned, while measures must be taken without delay to ensure the criminal accountability of the persons responsible.

172. Article 184 of the Criminal Code states: “Anyone who arrests, imprisons or detains another person in circumstances other than those stipulated by law, or while failing to follow due procedure, shall be liable to imprisonment for up to 3 years and/or payment of a fine of up to KD 225. If those acts are accompanied by physical torture or threat of death, the perpetrator shall be liable to imprisonment for up to 7 years.”

173. These principles are upheld in article 53 of the Criminal Code (Act No. 31 of 1970), which stipulates: “Any public official or employee who, either directly or through another, tortures an accused person, witness or expert to force them to confess to an offence, or to make statements or provide information in that regard, shall be liable to imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder.”

174. Article 56 of the Code states: “Any public official or employee, or any person charged with providing a public service, who abuses his position to use force against a person with the aim of causing dishonour or bodily pain shall be liable to a term of imprisonment.”

175. Articles 160 to 166 of the Criminal Code criminalize any and all acts that jeopardize physical well-being.

176. On the subject of the right to compensation, article 30 of Decree-Law No. 67 of 1980 promulgating the Civil Code stipulates the kinds of damages that necessitate compensation. According to the article, the exercise of a right is unlawful if the person doing so deviates from the purpose of the right or distorts its social function, in particular, “if the resulting benefit is unlawful; if the sole purpose is to cause damage to third parties; if the resulting benefit is disproportionate to the damage caused; or if it is likely to cause grievous damage to third parties”.

177. In the same context, articles 227, 228 and 231 of Decree-Law No. 67 of 1980 promulgating the Civil Code reaffirm the right of persons who have suffered harm as the consequence of an unlawful act to demand compensation for damages, including moral damages. In fact, anyone who, by a wrongful action, causes direct or indirect injury to a third party is required to compensate that party. If several persons were at fault in causing the injury, each of them is required to compensate the injured party in full. The burden of liability is apportioned among those responsible in accordance with the extent to which each was at fault in causing the injury and, if the extent cannot be established, the liability is apportioned among them equally.

178. With regard to article 19 of the Covenant, it should be noted that the right to hold opinions is guaranteed under the Constitution, while giving due consideration to public order and morals. Freedom of opinion and expression are likewise guaranteed under domestic legislation while taking due account of the restrictions envisaged in article 19 (3) of the Covenant. Thus, domestic legislation in Kuwait is fully consistent with the article in question.

Subsection (e)

179. Freedom of opinion and expression are guaranteed under articles 36, 37, 44 and 45 of the Constitution, which reflect the provisions contained in articles 19 and 20 of the Covenant. Moreover, under Act No. 109 of 2014, persons can bring their constitutional disputes directly before the Constitutional Court, which has the right to overturn any law or regulation that is found to violate constitutional safeguards. The effect of such a piece of legislation on the protection of rights and freedoms is self-evident.

Paragraph 43

Subsection (a)

180. The right of public assembly is one of the most important civil and political rights, one that is guaranteed under all constitutional and democratic systems as well as in international human rights instruments. Legislators in Kuwait were therefore keen to uphold this right, enshrining it in article 44 of the Constitution, which states: “Individuals have the right of assembly, without any need for prior authorization or notification, and no member of the security forces may attend their private meetings. Public meetings, marches and assemblies are allowed, in accordance with the conditions set forth in law, provided that the purpose and manner of the assembly is peaceful and compatible with morals.” Under Decree-Law No. 65 of 1979, concerning public gatherings and assemblies, citizens can hold a public meeting in a public place without any need for prior authorization or the issuance of a permit; however, demonstrations and assemblies in public areas do require the issuance of authorization before they are held. This requirement is imposed by the Ministry of the Interior for organizational reasons, because such events can disrupt the course of daily life, and for the safeguarding of public and private property. Nevertheless, the Ministry of the Interior is fully committed to not using force against such assemblies, unless they deviate from their principal purpose, in which case it can intervene to restore order and to protect lives and property.

Subsection (b)

181. Security forces work to provide security and order and to protect lives and property during peaceful assemblies, just as they enforce security and maintain control over the whole of Kuwaiti territory. In doing so, they remain bound by the laws that govern demonstrations and they deliver any offenders into the custody of the competent authorities. The security forces also hold regular meetings and training courses and participate in strategic dialogue to exchange expertise on how to develop operational capacity and improve effectiveness. Any complaint or allegation of abuse of authority is investigated by the security forces then referred to the competent body (the General Department for Investigations or the Office of the Public Prosecution) and, if verified, passed on to the courts.

Subsection (c)

182. With regard to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, it should be pointed out that agencies with authority to issue orders to open fire and the manner in which those orders are carried out are both regulated by decree. Police officers can use firearms only in specific circumstances, live ammunition can be used only when needed and in a way that is consistent with the threat faced and such use must be the only means of averting that threat. Moreover, precautions must be taken before and while using firearms in order to avoid causing injuries.

183. It should be noted that the Directorate General of Special Security Forces is not a body that seeks to repress or oppress the activities of civil society organizations or of groups of ordinary citizens, under the laws of Kuwait. Rather, it is an executive body that works to enforce the laws and legislation of the State.

184. Each year, the Ministry of the Interior draws up its annual general training plan, which includes varied and up-to-date programmes and activities and incorporates the latest advances in human rights training. The Ministry's annual training plan for the academic year 2020/21 is currently being drafted, which takes account of the training requirements of the different security sectors in the Ministry. Another purpose of the plan is to disseminate a human rights culture in society and to highlight the Ministry's own role in that area.

185. Article 11 of the Police Act No. 23 of 1968, as amended, states: "Police officers have the right to bear the weapons issued to them by the Government. In the course of carrying out their duties they may use force, without using firearms, to the extent necessary and if the use of force is the only means to achieve their aim."

186. Article 12 states that the implementing regulations regulate both the agencies with authority to issue orders to open fire and the manner in which those orders are carried out. The police may use firearms only in the following circumstances:

- To arrest persons who have been convicted of a serious offence or who have been sentenced to prison, if they resist or attempt to flee;
- To arrest persons apprehended in flagrante delicto while committing serious crimes or misdemeanours, if they resist or attempt to flee;
- To arrest persons for whom a warrant has been issued, if they resist or attempt to flee;
- To arrest prisoners attempting to escape;
- To disperse a gathering or demonstration of seven or more persons who are planning to commit a crime or who may endanger public security, if the crowd fails to disperse in response to a warning and if attempts to disperse them by other means fail.

Paragraph 45

187. Kuwait believes in the importance of civil society institutions and the effective role they play in raising public awareness. In fact, the first pillar of the national plan to achieve the Vision 2035 – "an effective civil service" – includes nurturing and supporting partnership with civil society as a development partner who also has an effective role to play in implementing the 2030 Sustainable Development Goals. For this reason, the State is

constantly encouraging new civil society groups. As of the end of March 2020 the numbers of such groups were as follows:

- 145 civil society associations
- 73 cooperative associations
- 47 charitable associations
- 73 voluntary teams

188. Kuwait supports the activities of civil society institutions via financial backing from the Ministry of Social Affairs to enable them to participate in conferences abroad (nine in the course of the financial year 2018/19, at a cost of KD 18,068). Support was also provided to enable three civil society institutions to attend the session at which Kuwait discussed its third national report under the universal periodic review mechanism, in January 2020.

189. Kuwait has been working to reinforce partnership with civil society institutions in the following ways:

- Representatives of those institutions have been appointed as members of various State-run bodies such as the Supreme Council for Family Affairs, the National Bureau for Human Rights and the Public Authority for Persons with Disabilities;
- Civil society institutions have taken part in meetings organized by the standing national committee for drafting reports and following up on human rights recommendations, at the Ministry of Foreign Affairs. The institutions are consulted during the drafting of periodic human rights reports, and their queries and comments are taken into account;
- Civil society organizations have visited migrant workers' shelters to determine their state of readiness, and their comments have been used to improve the centres;
- Conferences and workshops have been held with representatives from public interest associations to consider how best to achieve the 2030 Sustainable Development Goals;
- Civil society organizations have participated in activities and events organized by the Ministry of Foreign Affairs as part of its efforts to promote human rights.
- Civil society institutions were involved at every stage of drafting the medium-term development plan of Kuwait for the years 2015/16–2019/20. In addition, some of the institutions' development projects have been incorporated into annual development plans, the aim of which is to achieve the goals and policies of the Vision 2035 "New Kuwait".

190. In this connection it should be noted that the supervision of civil society institutions by the Ministry of Social Affairs is conducted within the framework of Act No. 24 of 1962 concerning clubs and associations of public benefit, which regulates the activity of civil society groups. Under article 9 of that Act, if the Minister of Social Affairs refuses to register an institution, he must inform the applicants within 90 days, explaining the reasons for his decision, and the association has the right to lodge a complaint within one month of the rejection. The Act also sets forth the procedures for dissolving an institution, and the reasons that can lead to such an outcome, which takes place by decree of the Council of Ministers acting on a proposal from the Minister of Social Affairs. The governing board of an association can be dissolved by decree of the Minister of Social Affairs. These steps can be taken in one of the following circumstances:

- If the number of members is less than the number stipulated in article 10 of the Act (10 members);
- If the institution is unable to meet its financial obligations;
- If the institution violates the law or its own statutes, or if it conducts activities that deviate from its objectives;
- If dissolution is necessary in the interests of members or of society;

- Thus, the circumstances in which an institution may be dissolved are specifically defined in law and have not been left open-ended, and article 28 of the Act allows the institution to lodge a complaint before the Council of Ministers within three months of the issuance of a dissolution order.

191. Any decision to dissolve an institution must be justified by one of the aforementioned circumstances, while the association in question may turn to the courts if it feels that the dissolution order is invalid. This has happened in practice, with the dissolution of a number of public interest associations. In some cases, court rulings were handed down upholding the validity of the dissolution procedures, while in others, rulings overturned dissolution orders issued by the Ministry of Social Affairs and the institutions in question were reinstated. This goes to show that all dealings with civil society institutions are informed by justice and fairness and disproves any claim that the Government takes retaliatory measures against them. In fact, Kuwait is keen to ensure that such institutions have the right to express their views on issues affecting society. Some of them, indeed, have submitted parallel reports to human rights treaty bodies, reports that are frequently at odds with the State's own reports to those mechanisms; however, the Government considers this to be a question of freedom of opinion and expression and it leaves such groups independent and free to play their role to contribute to the development of society.

Paragraph 47

192. The Constitution does not prohibit the creation or existence of political parties. Moreover, there are groups in parliament classifiable according to their shared ideological and intellectual beliefs and that may be considered as akin to political parties.

Paragraph 49

193. Citizenship issues in Kuwait are a matter of sovereignty, and the Government acts in that connection in its capacity as a governing rather than an administrative authority. That supreme authority is what regulates its relations with other public authorities. This emerges clearly from the provisions of the Kuwaiti Nationality Act and its explanatory memorandum, which stipulate that citizenship issues in the State of Kuwait and the decrees issued in that connection are sovereign in nature and are dictated by special considerations that touch upon the very being of the State.

194. Citizenship is a legal, political and social bond between the individual and the State, and the State has the right to regulate how citizenship may be acquired and lost, a right that derives from its sovereignty over its own territory. In Kuwait, this issue is regulated by Royal Decree No. 15 of 1959 promulgating the Kuwaiti Nationality Act, under which the acquisition of citizenship is a sovereign matter for the State to decide, be it to grant or refuse Kuwaiti citizenship. The Act clearly sets forth the circumstances under which citizenship may be withdrawn, which comes about by decree of the Minister of the Interior when any of the conditions for withdrawal of citizenship are applicable to the individual concerned. All past decrees to withdraw citizenship have been issued in accordance with the legal rules set forth in the Act and have concerned only persons who had manifestly broken the law.

195. Although the granting and withdrawal of citizenship is a question of sovereignty to be decided by the State on the basis of its own assessment of its citizenship and demographic makeup, the administrative courts have nonetheless decided to extend their oversight to cover administrative decrees concerning the withdrawal of citizenship. Persons who have been affected by an administrative decree to withdraw their citizenship can now appeal to the administrative courts to decide on the matter.

196. Royal Decree No. 15 of 1959 promulgating the Kuwaiti Nationality Act adopted the principle applied in the majority of such laws throughout the world, namely the granting of nationality on the basis of *jus sanguinis* in the light of the father's nationality. Accordingly, article 2 of the Act stipulates that: "Any person born in or outside Kuwait to a Kuwaiti father is a Kuwaiti."

197. There is an unquestionable global principle that the issue of citizenship is one of State sovereignty and that the State has absolute authority to decide who should hold its citizenship, or to impose on its nationals whatever obligations and restrictions it deems appropriate, since

nationality affects a country's demographic structure and its political and economic life. This principle was reaffirmed in the advisory opinion issued in 1923 by the Permanent Court of International Justice which confirmed that every State retained the right to freely promulgate its own nationality laws. This was further confirmed at the Hague Conference on the Conflict of Nationality Laws, which determined that each State has the right to determine the conditions governing the acquisition of its nationality, and that right stems from its sovereignty over its own territory.
