



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

Distr.: General
10 December 2024

Original: English

Committee against Torture

Eighty-first session

Summary record of the 2138th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 29 October 2024, at 10 a.m.

Chair: Mr. Heller

Contents

Consideration of reports submitted by States parties under article 19 of the Convention

Fourth periodic report of Kuwait

* No summary record was issued for the 2137th meeting.

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.



The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention

Fourth periodic report of Kuwait (CAT/C/KWT/4; CAT/C/KWT/QPR/4)

1. *At the invitation of the Chair, the delegation of Kuwait joined the meeting.*
2. **A representative of Kuwait** said that the protection of human rights and human dignity was a cornerstone of State policy. Kuwait always strove to fulfil its obligations under the international treaties to which it was a party, including the Convention against Torture. It had continued to discharge those obligations during the coronavirus disease (COVID-19) pandemic, when it had provided medical care, vaccinations and economic assistance to citizens and residents alike. Since the previous report, a number of legislative measures had been taken to combat torture, notably the enactment of Decree-Law No. 93 of 2024, amending the Criminal Code to bring it into line with the country's international obligations. The Decree-Law clearly defined and prohibited torture, increased penalties for perpetrators and criminalized all forms of discrimination and ill-treatment.
3. Women were fully protected against all forms of violence under Kuwaiti law, including the Criminal Code, chapter II of which dealt specifically with offences related to sexual assault. They were further protected under the Anti-Domestic Violence Act No. 16 of 2020 which not only defined domestic violence but also included provision for reporting mechanisms, legal assistance and shelters. Since the Act had been promulgated, the shelters had taken in 83 victims and the Supreme Council for Family Affairs had received 197 reports. For its part, the Ministry of Justice, had received 5,220 complaints of domestic violence in the period 2020–2023, of which more than 40 per cent had been referred to the courts. The Ministry had also established units to oversee the implementation of the Children's Rights Act, No. 21 of 2015, and the enforcement of rulings handed down by the family courts. Psychosocial support services for students who suffered domestic violence were provided by the Ministry of Education, which also collaborated with other State institutions, notably the Ministry of Health, to protect children against ill-treatment and neglect. Domestic violence-prevention campaigns were run targeting schools, students and families.
4. The Public Authority for Persons with Disabilities protected persons with disabilities against torture and ill-treatment and provided appropriate social, psychological and medical services. The Public Authority paid persons with disabilities a monthly allowance of between \$500 and \$2,000, and they were also entitled to social security payments as well as a cash sum for domestic assistance to meet their daily needs. In the first half of 2024, there were 518 persons with disabilities in welfare facilities, of whom 165 were non-Kuwaitis. The Public Authority for Persons with Disabilities was working with the diplomatic missions of the persons concerned with a view to facilitating their reintegration into their families, either inside or outside Kuwait.
5. The Domestic Workers Act, No. 68 of 2015, had led to a real improvement in conditions for such workers, whose protection was a government priority. The Act envisaged regular inspections of domestic worker recruitment agencies and, in the period 2023–2024, 1,256 such inspections had been conducted and 331 violations had been identified. The Public Authority for the Workforce had recently established a committee to review the Act and bring it into line with international standards, notably with regard to working hours, rest entitlements and wages. The Public Authority also provided domestic workers with legal aid and social assistance, and it ran a special unit to investigate complaints received from domestic workers via hotlines, email or social media. In addition, the Public Authority ran campaigns and workshops to educate employers about the importance of respecting the rights of domestic workers.
6. Kuwait had acted strenuously to combat trafficking in persons and protect trafficking victims, and special prosecution offices to investigate cases of trafficking had been set up to enforce the Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013. Those efforts had produced tangible results as trafficking cases had fallen from 82 in 2020 to just 9 in 2023. A recently formed committee to combat trafficking and migrant smuggling reported directly to the Council of Ministers every three months. Law enforcement

and healthcare personnel had been trained in how to recognize potential trafficking victims who, once identified, could be referred to centres run by the Ministry of Social Affairs, where they received medical, psychological and legal support. Kuwait had also participated in regional and international anti-trafficking initiatives, and it had concluded a number of bilateral agreements in that regard.

7. In order to imbue the rising generations with a culture of tolerance, equality and respect for justice and the law, human rights principles had been integrated into school curricula at all levels. The Ministry of Information also ran human rights-awareness and anti-torture campaigns aimed at the public at large, via television, radio and social media.

8. Prisons and detention facilities were regularly inspected by the Office of the Public Prosecutor, which was an independent organ of the judiciary, as well as by the National Bureau for Human Rights and the Public Authority for Persons with Disabilities. Persons in detention underwent an independent medical examination, and the Ministry of Health had set up specialized units to provide them with comprehensive healthcare, including medical and psychiatric treatment. Persons deprived of their liberty were also entitled to the services of a lawyer, and 4,797 such persons had received legal aid at State expense between 2020 and 2023. The Office of the Public Prosecutor and the Ministry of the Interior ran a unit where inmates or their families could file complaints of ill-treatment in complete confidentiality. The complaints were promptly investigated and anyone shown to be responsible for ill-treatment was held duly accountable. The Ministry of the Interior also offered education and vocational training to prison inmates and sought to relieve prison overcrowding by providing non-custodial alternatives to imprisonment for persons facing sentences of 6 months or less. Prisoners with life-threatening health conditions were released, while other prisoners had their sentences quashed or reduced under regular amnesties.

9. The Government cooperated with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the International Committee of the Red Cross (ICRC) to provide training for prison officials and law enforcement personnel regarding the treatment of persons in detention. Staff at the family counselling department received training in the Anti-Domestic Violence Act. Kuwait participated in international conferences and events for the exchange of expertise and best practices in that regard.

10. **Mr. Rouwane** (Country Rapporteur) said that he wished to commend the State party for creating a standing national committee for drafting reports and following up on human rights recommendations. He would be interested to hear more about the precise legal and administrative status of the committee, particularly in the light of Human Rights Council resolutions regarding national reporting and follow-up mechanisms and the important role they played in facilitating interaction between States and United Nations human rights entities. He also hoped the delegation could provide more details about the consultations in which the national committee had engaged with the National Bureau for Human Rights and other organizations. Specifically, he wished to know how many organizations had been involved in the process and how the outcomes of the consultations had been incorporated into the final version of the periodic report.

11. He looked forward to hearing more details about the precise status of the Convention in the national legal system and how it had been interpreted by the courts, particularly in the light of article 70 of the Constitution, according to which international treaties had the force of law once they had been signed, ratified and published in the Official Gazette. He hoped the delegation could provide information about specific cases in which the Convention had been directly invoked by the courts or applied by law enforcement officials.

12. He thanked the delegation for informing the Committee about the new Decree-Law No. 93 of 2024. However, he remained concerned that the definition of torture contained therein excluded certain elements of the definition enshrined in article 1 of the Convention. Notably, the definition in the Decree-Law seemed to be limited to cases where torture was inflicted for the purposes of extracting information or obtaining a confession, but it neglected instances in which the purpose of torture was punishment, intimidation or coercion.

13. The definition of torture also did not cover attempts to commit torture or acts by any person which constituted complicity or participation in torture. He would therefore appreciate information on the steps being taken to ensure that those acts were explicitly defined as

criminal offences and on the maximum penalties provided for in cases of torture. If he had understood correctly, under the Decree-Law, a public official who personally or through others inflicted psychological or physical pain or participated in the commission of acts of torture was liable to a term of up to 5 years' in prison, which did not seem commensurate with the seriousness of the offence. He was also concerned that linking acts of torture with other offences as aggravating factors was incompatible with the requirement to treat torture as a distinct crime that must be subject to an absolute prohibition and exempted from a statute of limitations.

14. He would welcome information on article 37 of the Code of Criminal Procedure, which reportedly permitted the use of "any means" to obtain statements or evidence during investigations, provided that doing so did not violate individual rights and freedoms. In the Committee's view, such a provision could be interpreted in various ways, including to force victims to provide statements. He would like to know more about the legal framework in place and legislative measures being taken to ensure that offences involving acts of torture were not subject to amnesties or to a statute of limitations and that perpetrators of such offences were not eligible for immunity. The delegation might also outline the measures being taken to guarantee the absolute prohibition of torture in all circumstances, including during states of emergency and states of war.

15. He wished to know whether measures had been taken to ensure the prohibition of invoking superior orders, including orders from military authorities, as a justification for torture or ill-treatment. With reference to the State party's report ([CAT/C/KWT/4](#), para. 127), it would be useful to have more examples of court decisions, in addition to decision No. 722 of 2007 of the Court of Cassation, in which cases had been dismissed owing to the introduction of evidence or testimony obtained through torture or cruel, inhuman or degrading treatment.

16. He wondered what effective measures had been taken to guarantee that all detained persons enjoyed in practice all fundamental legal safeguards from the very outset of their deprivation of liberty, namely at the time of their arrest and remand in custody, rather than at later stages of the process; how the State party guaranteed the right of detained persons to challenge the legality or necessity of their detention; and what was being done to monitor compliance by law enforcement officials with those legal safeguards. He would like the delegation to comment on reports that a number of detainees had allegedly been denied access to legal assistance and subjected to acts of torture, that their complaints had not been heeded by the Public Prosecutor and that those complaints had not been recorded in the official register. The delegation might also indicate the specific measures in place to ensure that registers in places of detention were kept up to date and specify whether a centralized registry of information on all detainees existed.

17. According to alternative sources of information, many of the Committee's previous concerns regarding the independence of the judiciary had not been allayed. Moreover, the Committee had heard allegations of interference by the executive in the appointment, promotion and dismissal of judges and public prosecutors. He would therefore like to know what legislative or other measures the State party had taken to guarantee the full independence, autonomy and impartiality of the judiciary, review the procedures for the appointment, promotion and dismissal of judges to prevent interference by the executive and ensure the security of tenure of foreign judges. Information on the steps being taken to enforce article 163 of the Constitution, concerning the independence of the judiciary, would also be appreciated.

18. Notwithstanding the State party's assertion that there were no refugees in the country, it would be useful to learn about the legislative framework with regard to asylum and the protection of persons seeking political asylum, taking into account relevant international standards. He wondered whether the State party's cooperation agreement with the Office of the United Nations High Commissioner for Refugees (UNHCR) signified that there were indeed asylum-seekers and refugees in the State party and, if so, whether the delegation could provide further information, including statistical data, in that regard. He would like to know what the status was of a bill aimed at regularizing the status of "unlawful residents", what specific action had been taken in general and by the Central Agency for the Remedy of Situations of Unlawful Residents to further address the situation of those persons and whether

legislation establishing fines for the overstay of persons deemed to be residing unlawfully in Kuwait had been amended.

19. The Committee would be interested in receiving information on the number of persons who had been returned, extradited or expelled from the State party during the reporting period, including the countries to which those persons had been returned, and on the number of cases that had been carried out on the basis of diplomatic assurances. He would be curious to know what legal safeguards were in place for persons subject to deportation; whether their cases could be reviewed by a competent authority; what measures had been taken, in accordance with article 46 of the Constitution, to ensure that no persons could be deported or forcibly returned to a country where they might be at risk; and whether persons were informed of their right to seek asylum and to appeal a deportation decision. He would like to know what measures had been adopted to identify vulnerable persons seeking asylum in Kuwait, including victims of torture or trauma, and to ensure that their specific needs were taken into consideration.

20. He wished to know whether the articles of the Criminal Code that concerned extradition and universal jurisdiction contained a definition of the crime of torture and, if so, whether it was in line with the provisions of Decree-Law No. 93 of 2024. It would be helpful to know whether the State party asserted extraterritorial jurisdiction to prosecute acts of torture, irrespective of the nationality of the perpetrator or victim or the location in which the acts had been committed. More information would be appreciated on the legal provisions to implement articles 6 and 7 of the Convention, concerning the arrest, investigation and prosecution of persons alleged to have committed an offence of torture and found in territory under the State party's jurisdiction. The delegation might also indicate what legal measures, such as bilateral extradition treaties and other arrangements, were in place to ensure that such offences were recognized as extraditable offences, in line with article 8 of the Convention; what action was taken upon receipt of an extradition request from a State with which there was no extradition agreement or treaty; and whether the State party had rejected any requests for the extradition of a person suspected of having committed torture. If so had it initiated any prosecution proceedings itself against the person concerned?

21. He would like to hear about any specialized training programmes to raise awareness among law enforcement officials, including prison staff and security personnel, of the Convention, the prohibition on torture and the obligation to investigate and punish acts of torture. The delegation might also describe any programmes for police cadets and officers on appropriate interrogation techniques and the prevention of torture and ill-treatment and indicate the measures taken to give effect to article 10 (2) of the Convention. He wondered to what extent human rights training for members of the judiciary, the Office of the Public Prosecutor and other judicial officials was in line with the revised version of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol). It would be helpful to know more about the procedures and inspection mechanisms that were in place to review, revise and supervise the implementation of interrogation rules, instructions, methods and practices and arrangements for custody and detention.

22. He wondered whether the State party might give consideration to adopting specific legislation to protect witnesses and victims of human rights violations, including torture, and the medical personnel who documented such violations. Examples of cases in which the current provisions under the Criminal Code providing for the protection of those persons had been violated and the actions that had subsequently been taken against those responsible would be appreciated.

23. With reference to the Committee's general comment No. 3 (2012) on the implementation of article 14 of the Convention, he would be curious to know what the State party was doing to establish the required institutional and legal framework, mechanisms and programmes to guarantee the right of victims of torture to effective remedy and reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. He would be grateful for information on the number and content of court-ordered redress and compensation measures, including rehabilitation, for victims of torture and ill-treatment, as well as the reparation programmes being implemented for such victims and the financial and human resources allocated for that purpose.

24. **Mr. Kessing** (Country Rapporteur) said that he welcomed the introductory remarks concerning the importance of accountability and transparency. Noting that it would have been helpful to receive an alternative report from the National Bureau for Human Rights, he wished to know when a national human rights institution with a broad mandate in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) would be established, whether reports that the term of office of the board of the National Bureau had expired in 2022 were correct and, if so, when a new board would be installed.

25. He would welcome the delegation's comments on reports that law enforcement personnel continued to engage in abuse and ill-treatment during arrest and interrogation. He would also appreciate information on the number and outcome of complaints of torture and ill-treatment in the previous three years. He wished to know whether the State party considered the institutions with the power to investigate complaints of torture and ill-treatment to be fully independent, in law and in practice, from the Government and from alleged perpetrators, as required under the Convention. Would the State Party consider establishing a fully independent institution that could investigate violations of the Convention in an effective and impartial way and had the National Bureau for Human Rights set up, or considered setting up, a standing committee on torture?

26. The Committee was interested in learning about efforts made to address persistent overcrowding in prisons and reports of harsh treatment of inmates, poor infrastructure, unsanitary conditions and lack of access to water and medical care, especially at the Talha Centre for Deportation, and about the status of the new modern prison mentioned in paragraph 92 of the State party report. It would also be interested in information on the application of article 58 of the Prisons Act, No. 26 of 1962, specifically how many detainees had had their hands and feet shackled or had been deprived of certain types of food and what types of food could be withheld as a disciplinary measure.

27. In the light of reports that prisons lacked independent complaint mechanisms, the Committee wished to know how inmates could lodge complaints of ill-treatment, how complainants were protected from reprisals, how many complaints of ill-treatment had been received in the preceding three years and what their outcomes had been, and whether it was true that prison staff who had committed torture or ill-treatment had been subject only to mere monetary penalties, such as a cut in salary.

28. He would welcome information on the number of visits to places of deprivation of liberty conducted by ICRC since 2019 and the number of announced and unannounced visits carried out and visit reports published by the National Bureau for Human Rights. He wondered what local, regional and international human rights organizations had been granted access to prisons and how and to what degree the State party had implemented the recommendations of bodies that visited places of deprivation of liberty. He would like to know whether the State party was considering acceding to the Optional Protocol to the Convention and establishing a national preventive mechanism.

29. It would be interesting to hear how many people had been sentenced to death in the past five years, how many of them had been executed and whether the death penalty could be handed down for offences that were not classified as most serious offences. He would like to know whether, in the State party's view, a moratorium on the use of the death penalty or commuting death sentences to life imprisonment would, like abolition, be considered as incompatible with sharia law.

30. He would be grateful for information on the number of migrant workers who had died in Kuwait in the past three years, the measures taken to protect migrant workers from ill-treatment and exploitation, the outcome of efforts by the Public Authority for the Workforce to make it possible in certain circumstances for domestic workers to change employer without the consent of their original employer and the reasons why domestic workers were not free to change employer.

31. It would be helpful to know whether marital rape could be punished in the State party and, if so, whether there had been any criminal trials in such cases. Information on court cases concerning violence against women, including the rate of conviction and nature of the

penalty, would also be helpful. He wondered whether the State party was considering a ban on corporal punishment of children in all settings.

32. Lastly, in the light of reports that Bidoon citizens, the stateless Arab minority in Kuwait, saw their rights curtailed or denied and that Bidoon activists were tortured at the hands of the security forces, the Committee wished to hear whether the Government accepted the relevant observations and recommendations Human Rights Committee concerning Bidoon and other stateless persons residing in Kuwait and what steps it was willing to take to improve conditions for them.

33. **Mr. Iscan** said that, in the light of the internationally recognized harmful effects of solitary confinement, he would welcome clarification of the State party's policy, legislation and practice in respect of that form of punishment, for instance whether the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) had been incorporated into laws and training. Prolonged incommunicado detention had similarly been found to violate the Convention; therefore, it would be helpful to know in what circumstances incommunicado detention was authorized and whether the State party might consider abolishing the practice.

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

34. **A representative of Kuwait** said that there had been an entity responsible for preparing reports and following up on recommendations by human rights mechanisms since 2009. The current standing committee had been established pursuant to a 2019 decision of the Ministry of Foreign Affairs and was composed of the Ministry of Justice, the Ministry of the Interior, the Ministry of Education, the Ministry of Health, the Ministry of Social Affairs, the Public Authority for the Workforce, the Supreme Council for Family Affairs, the Public Authority for Persons with Disabilities, the Central Agency for the Remedy of Situations of Unlawful Residents and others. The standing committee was tasked with preparing periodic, follow-up and other reports to various intergovernmental organizations, the treaty bodies and the Human Rights Council and coordinating with governmental and non-governmental organizations working in the field of human rights and academia. It received the training and resources necessary to fulfil its mandate.

35. The National Bureau for Human Rights collaborated with a number of organizations, including the Bar Association and organizations working in the areas such as child protection, human rights, transparency and others. The Human Rights Association sat on the board of the National Bureau.

36. **A representative of Kuwait** said that, in accordance with Act. No. 1 of 1996, the Convention had become part of the national legal framework and could be invoked by judges when rendering verdicts. As part of efforts to amend article 53 of the Criminal Code, the Minister of Justice had issued a statement on the criminalization of torture which had been disseminated via social media. Decree-Law No. 93 of 2024 set out amendments to article 53, including with regard to the penalties for the commission of torture. The use of torture to extract a confession now carried a maximum prison sentence of 5 years, and the accompanying fine had been increased from 500 dinars (KD) to between KD 1,000 and KD 5,000. Legislative amendments had also been introduced to provide for the prosecution of persons who had not prevented the commission of an act of torture if it had been in their power to do so. Discrimination was considered an aggravating factor in the offence of torture.

37. **A representative of Kuwait** said that in Decree-Law No. 93 of 2024, torture was defined as the infliction of physical or psychological harm, by an official or service provider acting alone or with others, on another person or the use of intimidation to force him or her to make a confession. The Office of the Public Prosecutor had issued a circular to law enforcement officers instructing them to implement the provisions of the Decree-Law. The offence of torture accompanied by the aggravating factor of discrimination, on any ground, carried a penalty of 7 years' imprisonment and a fine of between KD 3,000 and KD 10,000. In cases where torture led to the death of the victim, the offence would be prosecuted as murder, which was subject to the death penalty. Under article 46 of the Criminal Code, attempted murder through the use of torture carried a penalty of between 15 years and life in

prison. Accomplices to torture could also be prosecuted under article 53 of the Criminal Code. There was no statute of limitations applicable to torture.

38. **A representative of Kuwait** said that before registering a confession, the Office of the Public Prosecutor investigated how it had been obtained; if it was found to have been obtained under torture, it would be disregarded. In a ruling issued on 2 July 2012, an accused person had been acquitted after having been forced into a confession by a police officer, and another confession extracted under torture had been disregarded in appeal No. 582 of 2022. In another case, 26 individuals accused of spying for Hizbullah and Iran had alleged that their confessions had been extracted under torture. Their claims had been investigated and, following forensic medical examinations in which no injuries were detected, their allegations had been declared unfounded, and the persons had been convicted.

39. **A representative of Kuwait** said that, in line with international standards, detainees were permitted to receive phone calls and visits from their lawyers and family members. They had the right to be informed of the reason for their detention and of the charges against them and could request a medical examination. Detainees were registered in an electronic system monitored by a number of agencies and, if the length of detention exceeded that permitted by law, those responsible were held accountable.

40. **A representative of Kuwait** said that, from the outset of their detention, detainees were afforded all judicial guarantees and legal safeguards as set out in law and must be brought before a judge within 24 hours of their arrest. They had the right to a lawyer and, if one was not available, they could request that questioning be postponed. A State-appointed lawyer could be provided if necessary. Detainees must be questioned only by trained specialist staff, not merely by police officers, and they had the right to remain silent. Pursuant to a ruling issued by the Attorney General in 2024, international human rights standards must be adhered to in the treatment of detainees.

41. The independence of the judiciary was protected under article 163 of the Constitution, which prohibited interference in judicial proceedings. Any attempt to put pressure on judges was punished. In order to be appointed, judges must be fully competent and qualified in the field of law or sharia and were required to provide a personal financial report within 60 days of their appointment and every two years thereafter. They were not permitted to engage in political activities or perform any duties that might harm their independence or impartiality. Pursuant to anti-corruption legislation, judges were obliged to recuse themselves from cases involving a family member up to the fourth degree of relationship, and defendants could request the removal of a judge if they believed there to be a conflict of interest.

42. The Office of the Public Prosecutor was technically and structurally independent from the Ministry of Justice. The role of the Minister involved purely administrative and coordination functions. While the Minister could recommend the appointment of judges, article 20 of Decree-Law No. 23 of 1990 on the organization of the judiciary stated that such a recommendation required the approval of the Supreme Council of the Judiciary.

43. **A representative of Kuwait** said that persons who were subject to a deportation order could submit an appeal to the Ministry of the Interior, citing a risk of being subjected to torture or ill-treatment in their country of origin if applicable. The implementation of such orders was undertaken in close coordination with UNHCR. There were currently no deportation orders in effect. Foreign nationals were not exempt from paying fines and must do so before being deported. Between March and June 2024, one foreign national had been unable to pay a fine and had been granted an exception. In other situations, foreign nationals remained in the country until their fine had been paid, and were not permitted to return once they had been deported.

44. **A representative of Kuwait** said that the Government was firmly committed to upholding the provisions of the Convention. The Office of the Public Prosecutor and the judiciary were responsible for investigating and prosecuting cases of torture. Kuwaiti citizens who committed offences abroad and then returned to the country would be prosecuted under the applicable domestic legislation, pursuant to article 2 of the Code of Criminal Procedure.

The meeting rose at 1 p.m.