



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

Distr.: General  
27 October 2020  
English  
Original: Arabic  
Arabic, English, French and  
Spanish only

---

**Committee against Torture**

**Fourth periodic report submitted by Kuwait  
under article 19 of the Convention pursuant to the  
simplified reporting procedure, due in 2020\***

---

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



## **I. Introduction**

1. The present report was drafted in accordance with article 19 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
2. The State of Kuwait is committed to respecting and giving effect to the rights and freedoms enshrined in the Convention and in all human rights instruments, treaties and covenants that seek to preserve human dignity and achieve equality, social justice and equal opportunity. The drafting of the present report was completed while the entire world was suffering the far-reaching health impact and risks of the coronavirus disease (COVID-19) pandemic through which, nonetheless, Kuwait has continued to protect human rights, as has been evident in the measures taken to protect all persons without discrimination from the devastating pandemic.

## **II. Methodology for the preparation of the report**

3. The report was prepared by a 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 competent government agencies. The committee tasked with preparing the report gathered and examined information and data from all relevant authorities, which it then incorporated into the text. It also engaged in a consultative process with the National Bureau for Human Rights and with non-governmental organizations (NGOs).

## **III. Reply to the list of issues prior to submission of the fourth periodic report of Kuwait, submitted by the Committee against Torture (CAT/C/KWT/QPR/4)**

### **Articles 1 and 4**

4. Kuwait ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Act No. 1 of 1996. Treaties ratified by Kuwait become, from the date they enter into force, an integral part of national legislation and are incorporated into the country's domestic legal system. As a consequence, all government institutions, as well as individuals, are bound to abide by their provisions and the judiciary is under the obligation to ensure that those provisions are duly respected.
5. This national legal obligation arises from 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." Articles 31 to 34 of the Constitution reflect the desire to ensure that human freedom is not unjustly restricted while also safeguarding against torture and inhuman or degrading treatment. According to those articles, in fact, there can be no punishment without a law, accused persons are innocent until proven guilty and punishment is personal.
6. Torture is prohibited and penalized under a number of pieces of domestic legislation. These include, by way of example, article 70 of the Criminal Code (Act No. 16 of 1960), which stipulates: "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 not less than 1 year and not more than 5 years."
7. 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 225 Kuwaiti dinars (KD). If those acts are accompanied by physical torture or threat of death, the perpetrator shall be liable to imprisonment for up to 7 years."
8. These principles are upheld in the Criminal Code (Act No. 31 of 1970), article 53 of 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 a term of imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder.”

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

10. Articles 160 to 166 of Act No. 16 of 1960 criminalize any and all acts that jeopardize physical well-being.

11. The State is keen to introduce a definition of torture into domestic legislation. To that end, a legislative drafting committee in the Ministry of Justice 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.

12. 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.

## Article 2

### Questions raised in paragraph 3 of the list of issues

13. The procedures in place to ensure that detainees enjoy, in practice, all fundamental legal safeguards from the outset of their deprivation of liberty are consistent with the Code of Criminal Procedure (Act No. 17 of 1960), as amended by Act No. 35 of 2016, and consist in the following fair trial guarantees for accused persons:

- *The right to a lawyer:* All persons in detention, whether pretrial detainees or convicted prisoners, enjoy all fundamental legal safeguards from the outset of their deprivation of liberty. In particular, this means the right to a lawyer in accordance with the following provisions from the Code of Criminal Procedure (Act No. 17 of 1960):
- Article 60 bis, added under Act No. 3 of 2012, which states: “The police must enable accused persons in detention to contact their lawyers or inform persons of their choice of their situation.”
- Article 75, amended under Act No. 3 of 2012, which states: “Accused persons and victims have the right to attend the preliminary investigation, each with the right to be attended by a lawyer.”
- Article 120, which states: “Persons accused of a major offence have the right to appoint a lawyer to defend them. If they fail to do so, the court shall appoint lawyers on their behalf. Persons accused of a less serious offence, and other parties to the proceedings, also have a standing right to appoint a person to appear with them in court.”
- *Medical examinations:* When convicted prisoners or pretrial detainees enter prison they undergo a medical examination and are not taken to the wing until they have passed it. The examination also covers any kind of injury that might result from torture or ill-treatment. Each inmate has a medical file that is held at the prison hospital, which is headed by a specialist doctor. Prisoners have the right to examine their own medical reports, which are held by the hospital administration. The prison hospital has a number of clinics – specialized in areas such as cardiology, hepatology,

gastroenterology, tuberculosis, pneumology, osteology, dermatology, otorhinolaryngology, internal medicine, general surgery, psychiatry and gynaecology – with a staff of doctors, nurses and auxiliary personnel from the Ministry of Public Health. Acting on specialized medical advice, persons whose condition so requires are transferred to external hospitals and clinics.

- *Informing detainees of their rights and of the charges against them:* According to article 98 of the Code of Criminal Procedure: “If the accused person is present, the investigator must, before proceeding with the investigation, question him orally about the charges against him. ... The accused person may refuse to speak or request that the questioning be postponed until a lawyer can be present, or until any other time. The accused may, at any time, expound his defence or question prosecution witnesses.” Upon entering prison persons are informed of the reasons for their imprisonment and of the sentence against them. They are then informed of all the rights and duties they have while serving their custodial sentence. The rights and duties of prisoners are also explained on signs that hang inside prisons.
- *Enabling inmates to appeal against their sentence:* Article 187 of the Code of Criminal Procedure stipulates: “Persons convicted in absentia of a major or less serious offence may contest their sentence before the court that issued it.” Appeals may also be filed under article 199 of the Code, which reads: “An appeal may be lodged against any sentence issued in first instance – be it of acquittal or conviction – handed down by a court in cases involving major or less serious offences.” Moreover, article 8 of Act No. 40 of 1972, concerning appeals in cassation and associated procedures, states: “The Public Prosecutor, the convicted party, the party holding civil liability and the civil party may lodge an appeal in cassation against sentences handed down by the Court of Appeal, in cases involving major offences.” All inmates have the right to receive a copy of their sentence and other documents sent to them while in prison and, if they so request, a copy of such documentation is to be sent to a person of their choice. In addition, any petition or appeal an inmate wishes to file must be verifiably transmitted to the competent authority within the due deadline.
- *Enabling persons to notify a relative or other person of their choice of their arrest:* When convicted prisoners or pretrial detainees enter prison, they have the right to notify a relative or any other person of their choice. Foreigners have the right to contact their consulates or the authority that looks after interests (article 60 bis of the Code of Criminal Procedures). Upon request, a number of embassies are periodically informed of the number of their citizens who are being held in prison.

14. With regard to measures taken to monitor compliance by law enforcement officials with fundamental legal safeguards and any disciplinary measures taken in that regard, it should be noted that the Ministry of the Interior takes the following actions in regard of security sectors with detention centres, thanks to which detainees are able to exercise all their rights and benefit from all legal safeguards:

- Steps are taken to ensure that staff of the Ministry of the Interior abide by the legal rules and standards regulating persons in detention; for example by placing surveillance cameras in places of detention and keeping a special detention register;
- Places of detention are periodically visited to verify the legality of the detentions; moreover, a daily detention review process takes place that covers the time of detention and the reason for the deprivation of liberty;
- The General Department for Oversight and Inspection, which is part of the Ministry of the Interior, undertakes daily tours of inspection to temporary detention centres, police stations, the offices of the Directorate General of Criminal Investigation and the offices of the General Department for the Enforcement of Sentences. It also conducts inspections of prisons and penitentiaries. The inspections focus on the conditions of detention and imprisonment and the extent to which they are consistent with international human rights standards and domestic law. Any violations or inhuman practices that are observed are reported to the responsible officials in the Ministry for them to take prompt measures and to impose deterrent penalties upon the perpetrators. This in itself prevents acts of torture and ill-treatment from taking place

while also promoting humane treatment. In particular, the inspections focus on the following:

- Verifying the validity of the detention and the authority that ordered it;
- Confirming that the detention is legal and that the predetermined period of custody has not been exceeded;
- Inspecting temporary detention centres to ensure that conditions there are consistent with the law and that detainees have adequate health, social and security conditions;
- Ensuring that detainees are given the opportunity to contact relatives or legal representatives so that the latter can follow up on their cases and resolve their legal difficulties, which is a right guaranteed by law, pay their debts and bring them before the courts or the investigating authorities at the appointed times;
- Monitoring conditions of detention to ensure that detainees are not being mistreated or abused;
- Informing the embassies of the countries of origin of foreign detainees that the person concerned is in detention and the reasons for that detention;
- Examining the meals provided to detainees from a point of view of quality, amount and nutritional value;
- Providing comprehensive health care to detainees and transporting them to hospital if so required;
- Preserving detainees' property and assets as per official registers;
- Ensuring that a special register is kept in which any movements affecting detainees are recorded, to be used as a reference in order to safeguard detainee's rights if any error or violation occurs.

15. As concerns measures taken to monitor compliance by law enforcement officials with fundamental legal safeguards and any disciplinary measures taken against officials who do not immediately allow persons deprived of their liberty to benefit from such safeguards, it should be noted that the authorities do not hesitate to launch administrative inquiries into cases of shortcomings by law enforcement officials against persons deprived of their liberty. If such an instance is shown to have occurred, the parties concerned are referred to the competent authorities. Furthermore, under Police Act No. 23 of 1968 and its implementing regulations and Civil Service Act No. 15 of 1975, persons being investigated under such charges are suspended from service if the interests of the investigation so require.

#### **Questions raised in paragraph 4 of the list of issues**

16. An explicit prohibition on torture is 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."

17. Moreover, according to Act No. 17 of 1960 promulgating the Code of Criminal Procedure, 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."

18. 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 a competent authority.

19. 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.

20. Under articles 226 and 227, it is forbidden to effect an arrest except under a valid arrest warrant issued by a 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 prompt measures must be taken to ensure the criminal accountability of those responsible and to apply the penalties envisaged in the Criminal Code (Act No. 16 of 1960), as amended.

#### **Questions raised in paragraph 5 of the list of issues**

21. The independence of judges in the performance of their functions is enshrined in the Constitution of Kuwait, article 163 of which states:

- No one may exercise any authority over judges in rendering their judgments;
- Under no circumstance may anyone interfere with the course of justice;
- Guarantees regarding the independence of the judiciary are enshrined in law, one being that of their irremovability.

22. Conditions for appointment to positions in the judiciary were regulated by legislators in article 19 of Decree-Law No. 23 of 1990 on the organization of the judiciary. The Decree-Law requires such persons:

- To be Muslim;
- To be Kuwaiti, although if no Kuwaitis are available it is possible to appoint a person holding the nationality of another Arab State;
- To possess full capacity and not to have been convicted in judicial or administrative proceedings for breaches of honour;
- To be of sound character and good reputation;
- To be in possession of a diploma in statutory or sharia law or an equivalent global diploma.

23. Articles 26 to 29 of the Decree-Law concern the duties and obligations that judges and prosecutors have:

- Without the approval of the Supreme Council of the Judiciary, a judge may not act as an arbitrator, even without pay and even if the dispute has not been brought before the judiciary, unless one of the parties to the dispute is a relative or a relative by marriage of the judge's, up to the fourth-degree;
- Judges and prosecutors are prohibited from expressing political opinions;
- They are prohibited from standing as candidates in general elections;
- Judges may not breach the confidentiality of their deliberations;
- Judges who are related to one another or who are related by marriage, up to the fourth degree, may not sit in the same chamber;
- Nor may such ties exist between the judges examining a case and the representatives of the Public Prosecution or the representatives or defenders of the litigants.

24. Judges and prosecutors – with the exception of C-rank deputy prosecutors – cannot be removed from their posts other than via disciplinary proceedings, as set forth in law.

25. Under article 23 of the Decree-Law, judges and prosecutors who work under contract can only have their contracts rescinded only with the approval of the Supreme Council of the Judiciary.

#### **Questions raised in paragraph 6 of the list of issues**

26. Under Act No. 67 of 2015, the National Bureau for Human Rights enjoys special legal status. It serves as the official national independent human rights authority, but is not an administrative or governmental agency in the customary legal sense, nor is it a civil society organization. The most appropriate legal description of the Bureau is that it is a standing national body that concerns itself with human rights and freedoms. It supports and coordinates systems and efforts for the promotion and protection of human rights at the national and international levels.

27. Article 3 of Act No. 67 of 2015 describes the number and diversity of members of the Bureau's governing council, which is made up of 11 members, who are national figures known for their competence and their interest in human rights issues.

28. Article 6 enumerates the Bureau's 14 legal tasks and functions, the first of which relates to the international obligations contained in the main human rights conventions. The second includes the functions and responsibilities set out in paragraph 3 of the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). Some of the functions and responsibilities of the Bureau set forth in article 6 are thus consistent with the Paris Principles, while others are consistent with the Constitution. The Bureau therefore meets the requirements for the implementation and enforcement of the provisions of the major human rights conventions ratified by Kuwait.

29. The Bureau is also authorized to receive complaints, monitor, examine and conduct fact-finding on cases of human rights violations, refer them to the relevant authorities, if deemed necessary by the governing council, and coordinate with the authorities to follow up on the cases.

30. The National Bureau for Human Rights has participated in international conferences and meetings and it belongs to a number of regional human rights organizations. Furthermore, it submitted shadow reports in the context of the submission by the State of Kuwait, in October 1990, of its third periodic report under the universal periodic review of the Human Rights Council.

#### **Questions raised in paragraph 7 of the list of issues**

31. Kuwait has criminalized all acts of domestic or sexual violence, whatever form they take, and particularly if they affect vulnerable groups in society such as women and children within their family environment. The Criminal Code (Act No. 16 of 1960), as amended, defines all forms of violence as a crime and contains special provisions to combat physical or sexual violence against women. The relevant texts include 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, whether pregnant or not, ... 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.

32. Article 186, which concerns sexual violence, stipulates: "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 reads: "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.

33. As regards domestic violence, which some married women may experience, article 126 of the Personal Status Act No. 51 of 1984 gives both spouses the right and freedom to seek a court ruling of separation on grounds of harm. It stipulates: “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.”

34. Family Court Act No. 12 of 2015, as amended, includes provision for the creation of a family court in each governorate, and the Ministry of Justice has issued a number of decrees to launch the work of such 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 tasks include the following: filling in 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 dealing with the family break-ups that can ensue from domestic violence.

35. 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 requests, 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 request 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.

36. 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 family court rulings which cannot be enforced because the convicted party is absent or his whereabouts are unknown, or for any other reason.

37. Act No. 11 of 2018, which amends certain provisions of the Family Court Act No. 12 of 2015, introduced an 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.

38. As concerns marital rape, when it acceded to the International Covenant on Civil and Political Rights, Kuwait made an interpretive declaration to the effect that, where the provisions of the Covenant conflict with domestic law, Kuwait will apply the latter. In that connection, it should be noted that questions concerning marriage and conjugal relations are regulated by the Personal Status Act No. 51 of 1984, which derives its rules from principles enshrined in Islamic sharia, which, in turn, does not admit the criminalization of non-consensual conjugal relations. Nonetheless, there is nothing in the law to prevent the criminalization of acts of violence and aggression that might accompany legitimate conjugal relations. The following numbers of cases involving violence against women have been recorded by the courts in Kuwait:

- 2015: 312 cases;
- 2016: 310 cases;
- 2017: 271 cases;
- 2018: 289 cases;



- 2019: 351 cases.

39. Counselling centres and shelters for victims of domestic violence and their minor children have been set up under the auspices of the Supreme Council for Family Affairs. The purpose of these centres, their target groups, the services they offer and the relevant conditions, have all been defined, while a guide to policies and regulations has been compiled. A permanent headquarters has been allocated for the first counselling centre and shelter, which has been fully equipped with all necessities and will be ready to receive cases of domestic violence as soon as the first frontline staff have been trained in how to deal with women and girls who have suffered or survived violence.

40. The Supreme Council for Family Affairs has set up a rapid intervention team to follow up on victims of domestic violence. The team – which comprises representatives from the Ministry of Social Affairs, the Ministry of Health, the Office of the Public Prosecution and the Directorate General of Criminal Investigation – responds promptly to cases of violence, conducts inquiries and takes the necessary steps to assist the woman involved. It also seeks, to the extent possible, to ensure victims' mental, emotional, physical and domestic stability and works on finding legal and psychosocial solutions to help them live safely and reintegrate into civil society.

41. It should be noted that the Ministry of the Interior also has reporting and complaints mechanisms for women and girls who are victims of domestic violence. The mechanisms, which are accessible at all police stations, are fully confidential. In 2008, the Ministry established the Community Police Department the function of which is to resolve domestic problems with complete confidentiality and to provide psychosocial and legal support to victims of domestic and sexual violence. Parties who file reports or make complaints at police stations regarding violations of the Children's Act are referred to the Community Police Department. The Department then communicates with stakeholders with a view to referring the case to the competent authority (the Office of the Public Prosecution, the General Department for Investigations, the juvenile welfare services run by the Ministry of Social Affairs and Labour, the Social Development Centre or the Community Police Department itself). The table below shows the cases handled by the Community Police Department between 2018 and 2019, some of which were resolved amicably through reconciliatory measures and some of which were referred to the investigating authorities (the Office of the Public Prosecution and the General Department for Investigations).

#### **Statistics regarding cases of violence handled by the Community Police Department in 2018**

<i>Cases</i>	<i>No.</i>
Cases received via the front office of the Community Police Department and on which the Department has a file	45
Complaints of violence amicably resolved	5
Cases referred to prosecutors	1
Archived cases	11
Cases referred to the General Department for Investigations	24
Cases referred to juvenile prosecutors	1
Cases referred to the Social Development Centre	3

#### **Statistics regarding cases of violence handled by the Community Police Department in 2019**

<i>Cases</i>	<i>No.</i>
Cases received via the front office of the Community Police Department and on which the Department has a file	73
Complaints of violence amicably resolved	13
Cases being followed up and in which measures are being taken	8

<i>Cases</i>	<i>No.</i>
Archived cases	21
Cases referred to the General Department for Investigations	7
Cases referred to juvenile prosecutors	1
Cases in which measures are being taken	23

42. The Community Police Department (Juvenile Protection Department) takes various measures and runs a number of programmes and activities to combat all forms of domestic violence and violence against women and children:

- A social security team was formed in 2016 to educate the public about the harmful impact that violence has on families and children. The Community Police Department then ran several awareness-raising programmes in community institutions on domestic and sexual violence. In all, 39 activities were held including forums, panel discussions, lectures, seminars and television interviews, with the aim of promoting a violence-free environment;
- The Community Police Department has an annual plan of activities and programmes to address violence in schools; it also receives complaints concerning violence against children at school and takes legal measures to protect them;
- Members of the Community Police Department have undergone training and capacity-building in law enforcement as well as awareness-raising on domestic violence, with programmes covering the following areas:
  - Internal training and transfer of expertise between departmental staff in psychosocial support, the hotline, the opening of case files on domestic and sexual violence and the enforcement of laws concerning the rights of women, children and families;
  - Human resources training on how to deal with the public and handle cases of violence;
  - A session on the mechanism for setting up comprehensive service centres to deal with cases of domestic violence;
  - A workshop on the rights and duties of children;
  - Panel discussions and workshops under the title “Week of Culture of Non-Violence”, in cooperation with the Ministry of Health’s higher national committee for child protection and the women’s study and research centre at the Social Sciences Faculty of Kuwait University.

#### **Questions raised in paragraph 8 of the list of issues**

43. According to the Constitution of Kuwait, all people are equal in human dignity, just as they are equal before the law in public rights and duties, and there is no discrimination on the basis of gender, origin, language or religion.

44. The Criminal Code (Act No. 16 of 1960), as amended, aims to combat human trafficking and safeguard the rights of those who fall prey to such trafficking while in the territory of the State of Kuwait. The Code contains ample provisions for protection against the crime of trafficking, including the prescription of deterrent penalties for offences committed in that connection, such as murder, violence, abduction, false imprisonment, trafficking in slaves and, in particular, crimes against honour and reputation.

45. Article 49 of Act No. 31 of 1970, which amends certain provisions of the Criminal Code (Act No. 16 of 1960), prohibits all forms of forced labour and exploitation and the withholding of pay without justification. In addition to this, article 185 of the Criminal Code prohibits bringing persons into or taking them out of the State of Kuwait for the purpose of treating them as slaves, just as it prohibits the purchase, offer for sale or presentation as a gift of a person as a slave. The article envisages both imprisonment and fines for persons who commit any of those acts.

46. In response to its international obligations arising from ratification of the United Nations Convention against Transnational Organized Crime and the Convention's first supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Kuwait issued the Prevention of Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013, which envisages severe penalties, even the death penalty, for perpetrators of such offences. The Act also includes appropriate provision for assisting and protecting victims and stipulates that the Office of the Public Prosecution or the competent court is to refer victims to the medical authorities or social welfare institutions for the necessary treatment and care. The Office of the Public Prosecution is responsible for pursuing legal action in such cases.

47. Article 8 of Cybercrime Act No. 63 of 2015 states: "Anyone who creates a website or disseminates information via the Internet or any other means of communications technology envisaged in the present Act to perpetrate or facilitate human trafficking or to deal in drugs, psychotropic substances or the like, in circumstances other than those authorized by law, shall be liable to a term of imprisonment of up to 7 years and/or to payment of a fine of between KD 10,000 and 30,000."

48. Aware of the close connection between human trafficking and domestic labour and of the fact that domestic workers represent potential victims of such a crime, legislators in Kuwait sought to protect such workers by enacting Domestic Workers Act No. 68 of 2015.

49. The Council of Ministers issued Decree No. 1454 delegating the Minister of Justice "to form and lead a committee made up of representatives from the Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Trade and Industry, the Public Authority for the Workforce, the Public Authority for Civil Information and other stakeholders. The committee is responsible for developing a national strategy to combat human trafficking and migrant smuggling, which is then to be submitted to the Council of Ministers." In fact, the committee completed the final draft of its strategy before submitting it to the Council of Ministers for approval prior to its roll-out.

50. At a meeting 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.

51. The committee completed the final draft of its strategy in 2016 then submitted it to the Council of Ministers for approval prior to roll-out. The strategy covers three fundamental areas: prevention, protection, building partnerships and internal, regional and international cooperation.

52. At a meeting 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.

53. On 28 October 2018, the Minister of Justice issued Decree No. 1902 of 2018, which envisaged the creation of a standing national committee to implement the national strategy to prevent human trafficking and migrant smuggling. The committee is headed by the Minister of Justice and its membership 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.

54. 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.

55. In the context of regional cooperation, following the twenty-eighth meeting of ministers of justice of States of the Gulf Cooperation Council (GCC), the participants issued

a decree in which they adopted a set of standard rules to combat human trafficking within GCC countries.

56. 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.

57. As concerns 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 harm to third parties; if the resulting benefit is disproportionate to the harm caused; or if it is likely to cause grievous harm to third parties”.

58. 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. The following statistics regarding human trafficking offences may be given:

- Three cases were recorded in 2015;
- Three cases were recorded in 2016 and rulings were handed down by the Court of Appeal in regard of three cases;
- Seven cases were recorded in 2017 and a ruling was handed down by the Court of Appeal in regard of a single case;
- Eight cases were recorded in 2018 and rulings were handed down by the Court of Appeal in regard of six cases;
- Forty cases were recorded in 2019, rulings were handed down by the Court of Appeal in regard of three cases and by the Court of Cassation in regard of four cases.

#### **Complaints investigated and referred to a competent authority between 2015 and 2019**

<i>No.</i>	<i>Competent authority</i>	<i>No. of complaints</i>
1	Shelter for migrant workers	72
2	Department for Domestic Labour	23
3	Embassies (via the Ministry of Foreign Affairs)	17
4	Personal complaints	16
5	Civil society organizations	10
6	Office of the Public Prosecution	23
7	Complaints received via the Ministry’s website (email)	12
8	Complaints received via the International Criminal Police Organization (INTERPOL)	6
9	Public Authority for the Workforce	1
<b>Total</b>		<b>180</b>

### Complaints investigated and referred to a competent authority between 2015 and 2019

<i>No.</i>	<i>Nationality</i>	<i>No. of offenders</i>	<i>No. of victims</i>
1	Philippines	6	57
2	Egypt	27	309
3	Cameroon	0	1
4	Pakistan	3	0
5	Syria	4	4
6	Morocco	1	0
7	Saudi Arabia	1	0
8	Sri Lanka	2	1
9	Bangladesh	3	1
10	India	2	5
11	Uganda	2	0
12	Nepal	0	3
13	Kuwait	49	0
14	Mali	1	0
15	Sierra Leone	0	3
16	Guinea	0	1
17	Unknown	2	0

59. In order to consolidate and protect the rights of female migrant workers, a shelter for them has been set up. It takes in workers who are facing problems in the workplace and who wish to enter the shelter in order to obtain legal protection and benefit from the services on offer. The structure has capacity for 500 workers.

60. The shelter accepts workers who wish to alter their legal status. They are taken in and provided with legal protection and health services, and given help to change their status, either by transferring their residency permit to another party who wishes to take them on or by departing for their country of origin, if they so desire. In such a case, the employer is liable to pay the worker's travel costs.

61. The shelter undertakes to provide five meals a day to residents. It has high-standard living quarters as well as facilities for rest and leisure activities. The Public Authority for the Workforce seeks to provide high-quality services consistent with international standards for such structures. Several government agencies are involved in monitoring the facilities and in providing the services.

62. Government bodies and local and international NGOs as well as Human Rights Council mandate holders and members of accredited diplomatic missions in Kuwait visit the shelter on a regular basis in order to inspect the services on offer.

63. The success of the shelter for female migrant workers in providing protection and resolving problems has inspired the Public Authority for the Workforce to create a shelter for male workers.

## Article 3

### Questions raised in paragraph 9 of the list of issues

64. Kuwait believes that the refugee question has to be handled with justice and humanity; therefore, its approach to the 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.”

65. 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 line 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.

66. 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 refugees, in cooperation and consultation with the Government, with a view to providing humanitarian assistance. The 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.

#### **Questions raised in paragraph 10 of the list of issues**

67. It should be noted at the outset that there is often some confusion between the term “refugees” and “unlawful residents”. Refugees is used to refer to persons who hold the nationality of a particular State and possess a passport issued by the authorities of that State. Unlawful residents, on the other hand, live in Kuwait but do not have Kuwaiti nationality, and they conceal their original nationalities in the hope of gaining Kuwaiti citizenship.

68. With reference to article 3 (9), there are no laws and no legislation that regulate and address asylum in Kuwait, other than article 46 of the Constitution, which reads: “The extradition of political refugees is prohibited.” The question of asylum is delegated to the highest authorities of State.

69. Foreigners resident in Kuwait who fail to renew their residence permit before it expires are in breach of Foreign Nationals’ Residency Act, promulgated by Decree No. 17 of 1959, and are liable to pay the due fine, which amounts to KD 2 for each day of infraction up to a maximum of KD 600.

70. No foreigner can be exempted from the fines, which are considered to be part of the State’s public assets and which persons who commit an infraction are required to pay in order to modify their status in the country or to depart for their own country. However, unlawful residents do not pay any fines for their violation of the Foreign Nationals’ Residency Act and are allowed to dwell inside the territory of the State of Kuwait without obtaining residency. If it happens that they obtain a passport from another State, their status is amended and they are granted ordinary residence in Kuwait once they have fulfilled the necessary conditions. If persons in that position then breach the Residency Act they must pay the fines due, depending upon the nature of the breach.

71. The Ministry of the Interior has already issued several decrees under which persons who have violated the Residency Act have been allowed to depart without paying any fine at the moment of exit, within a period set forth in each decree. The most recent of these were Decree No. 64 of 2018, Decree No. 192 of 2018 and Decree No. 288 of 2020 under which persons in violation of the Residency Act were allowed to leave without paying fines if they left within a specified deadline, with the possibility of returning in accordance with the relevant laws of the State of Kuwait.

#### **Questions raised in paragraph 11 of the list of issues**

72. It should be noted that the State of Kuwait does act to deport and expel persons who are in violation of Foreign Nationals’ Residency Act No. 17 of 1959. Nonetheless, as Kuwait began taking measures to address the COVID-19 pandemic, the Deputy Prime Minister and Minister of the Interior issued Decree No. 288 of 2020 rescinding all fines incurred by workers for violations of Foreign Nationals’ Residency Act No. 17 of 1959. The Decree not

only codified the concept of workers' voluntary return to their countries of origin, it also facilitated return for workers, some of whom were liable to heavy fines as a result of those violations. In addition, Kuwait has provided shelters with living facilities and health services for such workers as well as return plane tickets, at no cost to the workers themselves.

73. Extradition is only applied in cases of persons who have committed crimes or who are the subject of a sentence handed down by the courts. In addition to the requests Kuwait receives from INTERPOL, issues related to extradition are regulated according to the provisions of extradition agreements between Kuwait and other States.

#### **Questions raised in paragraph 12 of the list of issues**

74. A bill that aims to provide a prompt solution to the issue of unlawful residents has been proposed by the Speaker and a group of members of the National Assembly, in cooperation with the Central Agency for the Remedy of Situations of Unlawful Residents. The bill, which envisages a just and comprehensive solution that takes full account of the humanitarian aspects, sets forth principles and rules for naturalization and proposes granting residency for a period of 15 years, subject to renewal. It also envisages certain privileges for persons who regularize their legal status and reveal their nationality of origin.

75. The mandate of the Central Agency for the Remedy of Situations of Unlawful Residents is clearly set forth in Decree No. 467 of 2010, under which the Agency was established. It stipulates: "The Agency is to work to remedy the situation of unlawful residents and to implement the decrees issued in that regard. In doing so, it shall:

- Follow up on decrees and recommendations of the Council of Ministers concerning unlawful residents;
- Propose legislative bills concerning unlawful residents;
- Take operational measures to remedy the situation of unlawful residents, within the framework of solutions and legislation adopted in that regard;
- Maintain contact and coordination with ministers and officials in governmental and non-governmental bodies and, via the Ministry of Foreign Affairs, with diplomatic missions and competent international bodies;
- Conduct studies, research and inquiries into how to remedy the situation of unlawful residents and formulate solutions and proposals in that connection."

### **Articles 5 to 9**

#### **Questions raised in paragraph 13 of the list of issues**

76. Article 5 of the Convention stipulates that each State Party "shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4". For its part, article 4 of the Convention reads: "Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture." In this regard, it should be noted that general provisions regarding the territorial applicability of the Criminal Code (Act No. 16 of 1960) envisage numerous circumstances in which offences fall within the jurisdiction of domestic courts (arts. 11 and 12 of the Code). These include the commission of an offence on the territory of the State of Kuwait or aboard a ship or aircraft registered in Kuwait. Jurisdiction is also applicable to acts committed by a Kuwaiti abroad, if the act is criminalized under Kuwaiti law and the law of the country where it was perpetrated.

77. A number of extradition agreements have been concluded with other States, which are applicable to offences under article 4 of the Convention. They are the following:

- An agreement between Kuwait and Turkey on legal and judicial cooperation in civil, commercial and criminal matters, as well as an agreement on internal security cooperation:

- Under articles 31 and 32 of the first of the aforementioned agreements, the two States mutually agree to extradite persons present on their territory who are either facing charges or have been convicted by the courts. Extradition is admissible for acts that, under the laws of the two States, constitute offences attracting a penalty of imprisonment of 1 year or more, or for convictions handed down by the courts of the requesting State wherein the penalty of deprivation of liberty is of not less than 6 months. The offences envisaged under the Convention are criminalized under the Kuwaiti Criminal Code (Act No. 16 of 1960) with penalties of more than 1 year's imprisonment and are therefore subject to extradition;
- An extradition agreement between Kuwait and the Republic of Korea:
  - Article 2 of this agreement states that the offences wherein extradition is admissible are those that, under the laws of both States, attract penalties of imprisonment or deprivation of liberty of 1 year or more. If an extradition request is made in regard of a person who is being sought to serve a sentence of imprisonment or deprivation of liberty, extradition is admissible only if the remaining portion of the sentence is not less than 6 months. Under this agreement, then, persons may be extradited for offences envisaged under the Convention against Torture.
- An agreement between Kuwait and Bulgaria on internal security cooperation:
  - Under article 1 of the agreement, the two States are to cooperate in preventing and combating terrorism, organized crime, smuggling, illegal drug trafficking, illegal migration, human trafficking, etc. Article 1 (2) states that they are also to cooperate in arresting persons who have committed or attempted to commit offences, or who are suspected of having done so, as per the agreement on legal and judicial assistance in civil, commercial and criminal matters, which the two States concluded on 26 December 1988.
- An extradition agreement between Kuwait and the United Kingdom of Great Britain and Northern Ireland, which was approved under Act No. 16 of 2017:
  - Article 2 of this agreement states that the offences wherein extradition is admissible are those that, under the laws of both States, attract a maximum penalty of imprisonment or deprivation of liberty of 1 year or more. If an extradition request is made in regard of a person who is being sought to serve a sentence of imprisonment or deprivation of liberty, extradition is admissible only if the sentence is of 4 months or more and if, under the laws of the State whence the extradition is being requested, the act committed attracts a maximum penalty of imprisonment or deprivation of liberty of 1 year or more.
- An agreement between Kuwait and India on legal and judicial cooperation in matters of extradition, which was approved under Act No. 27 of 2007:
- Under article 1 of this agreement, the two parties are to extradite any person accused or convicted of an extraditable offence committed in the territory of the other party as per the conditions set forth in the agreement itself, articles 2 to 5 of which indicate the circumstances and offences that warrant extradition.

#### **Questions raised in paragraph 14 of the list of issues**

78. Kuwait has entered into agreements regarding legal assistance in matters of criminal justice with the following States: Morocco, Tunisia, Iran, India, Bulgaria, Egypt, Lebanon, Jordan, the Republic of Korea, Yemen, Algeria, Albania and the United Kingdom.

79. It should be noted that the extradition agreements concluded by Kuwait with other States are reciprocal, on condition that dual criminality subsists; moreover, States may refuse an extradition, as set forth in the agreements. Dealings with countries with which Kuwait has not concluded extradition agreements are conducted on the basis of the principle of reciprocity.



## Article 10

### Questions raised in paragraph 15 of the list of issues

80. Even before the Convention came into force on 26 June 1987, Kuwait was in the forefront of criminalizing torture, use of force and other inhuman treatment. One of the domestic provisions that have contributed to the criminalization of torture is article 53 of Act No. 31 of 1970 amending certain provisions of the Criminal Code (Act No. 16 of 1960), 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 a term of imprisonment of up to 5 years and/or payment of a fine of up to KD 500.”

81. According to article 56 of Act No. 31 of 1970, which amends certain provisions of the Criminal Code (Act No. 16 of 1960): “Any public official or employee, or any person charged with providing a public service, who abuses his or her position to use cruelty against a person with the aim of causing him or her dishonour or bodily pain shall be liable to a term of imprisonment of up to 3 years and/or payment of a fine of up to KD 225.”

82. The Saad al-Abdullah Academy for Security Sciences forms and educates student police officers who, having once been appointed by the Ministry of the Interior, are enrolled by the agencies for which they work in specialized training courses and programmes, depending upon the nature of their duties. The training imparted to students regarding the protection and non-violation of human rights is not merely theoretical; it is also ethical/behavioural and is applied to both staff and students of the Academy. Indeed, it is strictly prohibited to cause physical suffering to any student in the Academy or to offend a student’s dignity by word or deed, and anyone responsible for such an act, be they staff or student, is liable to be held accountable and punished. Academy staff are also vigilant in suppressing racism and sectarianism, and they treat all students fairly and equally, in line with article 29 of the Constitution, which reads: “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.” Students learn human rights concepts through a variety of teaching programmes and are exposed to them directly through contact with human rights workers. This establishes a good basis for dealing with the public and for preserving the rights of persons who are accused or imprisoned.

83. Through its various entities – the police academy, the women’s police institute, the non-commissioned officers’ institute and the police school – the Saad al-Abdullah Academy for Security Sciences has systematically been developing the effectiveness of its teaching programmes with a view to reducing the number of cases of torture and ill-treatment. Throughout their period of study, students take courses that highlight the seriousness and criminal nature of all forms (physical or mental) of torture, cruelty and ill-treatment, and that underscore the need to avoid such acts, under any pretext, in order to avoid liability under the Criminal Code (Act No. 16 of 1960), as amended. Courses cover subjects such as the Criminal Code, the Code of Criminal Procedure, international public law, public rights and freedoms, constitutional law, penology, public relations and how to deal with the public in police environments. Thus it can be said that all law enforcement officials, including security and prison staff, are fully aware of the absolute prohibition of torture. They also know that torture, attacks against human dignity by word or deed and any other form of inhuman treatment are criminalized under domestic law and perpetrators are liable to be punished.

*Training programmes that are part of plans of the Ministry of the Interior for the academic year 2019/20:*

- A course on vocational rights and duties, the aim of which is to improve professional standards and qualifications for persons working in security institutions;
- A specialized course for correctional institutions, which aims to make participants familiar with the Prisons Act and with procedures for dealing with inmates and visitors;

- A specialized course on international humanitarian law at the Kuwait Institute for Judicial and Legal Studies;
- The ninth foundation course for the criminal security sector, which aims to prepare law enforcement officers for working life and to provide them with the expertise they need to perform their mandated tasks.

#### Questions raised in paragraph 16 of the list of issues

84. With regard to the recommendation to raise awareness about the Convention among judges and judicial officers, it should be noted that, as part of its efforts 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.

85. 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 (sixteenth session 2017/18);
- 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 jurisprudence to emerge from the Court of Cassation, in February 2019.

#### Table showing the training courses on human rights and human trafficking run by the Ministry of the Interior in 2018/19

<i>Name of programme</i>	<i>date</i>
Course on international human rights standards in police work	25–27 March 2018
Workshop on international human rights treaties	15–17 April 2008
A public lecture by the Red Cross on human rights	8 May 2008
Course on international human rights standards in police work	15–18 October 2018
Course on combating human trafficking (I)	28–30 October 2018
Course on international human rights standards in police work	16–19 December 2018
Course on the role of law enforcement agencies in assisting victims of human trafficking	27–31 January 2019
Course on combating human trafficking (II)	21–23 April 2019

## Article 11

### Questions raised in paragraph 17 of the list of issues

86. Under the Convention, each State party is to systematically review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

87. Both legislators and the Public Prosecutor have made dispositions regarding the rules and instructions for conducting interrogations, as well as for custody arrangements. According to articles 60 bis and 74 bis of the Code of Criminal Procedure:

- All accused persons being held in police custody or in pretrial detention are to be informed of the reasons for their custody or detention;
- Accused persons can appoint a lawyer and meet with that lawyer in private;
- Accused persons can contact a person of their choice to inform them of the situation;
- In cases where a person in detention or under arrest cannot speak Arabic well, a certified interpreter who speaks the language of the person concerned is to be appointed. This is to be recorded in the police register or the investigation report;
- Arrests are to be recorded in the police station register as soon as they have taken place, pursuant to article 59 of the Code of Criminal Procedure, which requires the official in charge of a police station to record all instances of arrest and detention, specifying the time the detention began and ended, and the reasons that occasioned it;
- Investigating authorities use such registers in cases where persons allege that they have been unjustly arrested or detained or that their detention has exceeded the period prescribed by law. These circumstances, if proven, constitute a criminal offence under article 184 of the Criminal Code, according to which anyone who arrests, imprisons or detains another person in circumstances other than those stipulated by law, or while failing to follow due procedure, is liable to imprisonment for up to 3 years and/or payment of a fine;
- If those acts are accompanied by physical torture or threat of death, the perpetrator is liable to imprisonment for up to 7 years, with the additional possibility of a fine;
- Under instructions issued by the Public Prosecutor, members of the Office of the Public Prosecution must, as soon as they begin investigating and interrogating an accused person, subject that person to a full physical inspection to verify the absence of any injury. If injuries are discovered they must immediately be recorded and the accused asked how they were procured and who caused them. If allegations of torture or ill-treatment are made against the officials responsible for the arrest or detention, or against anyone else, the person concerned is immediately to be sent for examination by a forensic doctor and an investigation into the allegations launched.

88. The Code of Criminal Procedure (Act No. 17 of 1960), as amended, contains numerous provisions that regulate the conduct of interrogations and concern the nature of the work of the Directorate General of Criminal Investigation. Under those provisions, when conducting their inquiries police officers cannot use search and investigation techniques that are harmful to individuals or that restrict individual liberty. Under article 45 of the Code, investigations may be conducted only by duly designated investigators while, under article 46, records of any inquiries made must be submitted, depending upon the case, to the Office of the Public Prosecution or to the police investigator. In addition to these, the Code contains many other articles that regulate investigative procedures.

89. The Code of Criminal Procedure also contains provisions regulating custody arrangements. These concern the need to respect the duration of detention and the need for police officers to enable accused persons in custody to contact their lawyers or a person of their choice to inform them of the situation. For its part, the Directorate General of Criminal Investigation has taken administrative steps to ensure respect for legal norms, as explained above in the reply to paragraph 3 of the list of issues concerning article 2 of the Convention.

### Questions raised in paragraph 18 of the list of issues

90. The statistics below concern numbers of pretrial detainees and convicted prisoners, as well as the occupancy rate of places of detention, disaggregated by sex, age and nationality.

### Statistics disaggregated by sex, age and nationality (general prison, central prison, women's prison and the Department for Extradition and Temporary Detention)

Nationality	Sex		Age range				Extradition and Temporary Detention	
	Men	Women	Men		Women		Men	Women
			from	to	from	to		
Jordan	48	-	22	63	-	-	7	1
Comoros	1	-	42	-	-	-	-	-
United Arab Emirates	1	-	39	-	-	-	-	-
Iran	49	1	22	68	29	-	-	-
Tunisia	-	-	-	-	-	-	1	-
Iraq	22	1	26	67	43	-	-	-
Syria	150	1	20	66	33	-	34	1
France	-	-	-	-	-	-	1	-
Saudi Arabia	102	-	19	58	-	-	8	-
Morocco	-	-	-	-	-	-	4	-
United States of America	12	-	25	48	-	-	-	-
Ethiopia	5	9	31	41	28	44	7	46
Armenia	-	-	-	-	-	-	1	-
Ghana	4	1	38	43	33	-	1	8
Dominican Republic	1	-	34	-	-	-	-	-
Senegal	-	-	-	-	-	-	-	1
Sudan	11	-	25	39	-	-	7	-
Somalia	2	1	23	34	30	-	-	-
<b>Total</b>	<b>408</b>	<b>14</b>	-	-	-	-	<b>71</b>	<b>57</b>

### Statistics disaggregated by sex, age and nationality (general prison, central prison, women's prison and the Department for Extradition and Temporary Detention)

Nationality	Sex		Age range				Extradition and Temporary Detention	
	Men	Women	Men		Women		Men	Women
			from	to	from	to		
China	-	1	-	-	40	-	-	-
Cameroon	-	1	-	-	31	-	2	10
Democratic Republic of the Congo	-	-	-	-	-	-	-	1
Nigeria	-	-	-	-	-	-	1	-
India	484	8	21	69	34	51	236	22
Yemen	12	-	21	47	-	-	5	-
Indonesia	-	-	-	-	-	-	-	-
Afghanistan	15	-	27	57	-	-	2	-
Pakistan	96	-	29	69	-	-	24	-
Bangladesh	309	2	22	61	-	-	411	4

Nationality	Sex		Age range				Extradition and Temporary Detention	
	Men	Women	Men		Women		Men	Women
			from	to	from	to		
Benin	-	-	-	-	-	-	1	-
South Africa	-	2	-	-	35	43	-	-
Djibouti	-	-	-	-	-	-	-	-
Rumania	1	-	44	-	-	-	-	-
Côte d'Ivoire	-	-	-	-	-	-	-	15
Sri Lanka	181	24	24	63	28	55	31	28
Sierra Leone	2	1	28	44	30	-	-	3
Serbia	1	-	52	-	-	-	-	-
<b>Total</b>	<b>1 101</b>	<b>39</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>714</b>	<b>83</b>

**Statistics disaggregated by sex, age and nationality (general prison, central prison, women's prison and the Department for Extradition and Temporary Detention)**

Nationality	Sex		Age range				Extradition and Temporary Detention	
	Men	Women	Men		Women		Men	Women
			from	to	from	to		
Guinea	-	-	-	-	-	-	-	3
Philippines	25	12	25	60	29	49	-	3
Viet Nam	-	-	-	-	-	-	-	5
Kosovo	1	-	51	-	-	-	-	-
Lebanon	20	1	21	70	44	-	2	-
Liberia	1	-	27	-	-	-	-	-
Mali	3	-	24	37	-	-	5	1
Egypt	490	6	19	73	23	42	63	3
Malawi	2	-	32	39	-	-	-	1
Myanmar	-	-	-	-	-	-	-	-
Nepal	64	2	24	51	40	53	30	20
Nigeria	2	-	48	-	-	-	1	-
Georgia	-	-	-	-	-	-	-	-
Eritrea	1	-	27	-	-	-	-	-
Kuwait	1 228	37	19	69	24	61	-	-
Palestine	5	-	23	69	-	-	-	-
<b>Total</b>	<b>1 842</b>	<b>58</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>101</b>	<b>36</b>

**Statistics disaggregated by sex, age and nationality (general prison, central prison, women's prison and the Department for Extradition and Temporary Detention)**

Nationality	Sex		Age range				Extradition and Temporary Detention	
	Men	Women	Men		Women		Men	Women
			from	to	from	to		
Kenya	1	-	-	-	-	-	1	1
Rwanda	-	-	-	-	-	-	-	4
Oman	4	-	25	57	-	-	-	-
Unlawful residents	417	4	20	68	25	35	-	-
Canadian	3	-	33	45	-	-	-	-
Madagascar	-	-	-	-	-	-	-	3
Bahrain	5	-	25	42	-	-	-	-
Bhutan	-	1	-	-	26	-	-	-
<b>Total</b>	<b>430</b>	<b>5</b>	-	-	-	-	<b>1</b>	<b>8</b>
<b>Total</b>	<b>3 781</b>	<b>116</b>	-	-	-	-	<b>886</b>	<b>184</b>

**Statistics regarding prison capacity and current occupancy (general prison, central prison, and women's prison)**

Centre	Current inmates		Capacity	
General prison	829		900	
Central prison	2 952		2 327	
Women's prison	166		250	
Extradition and Temporary Detention	Men	886	Men	800
	Women	184	Women	400

91. Information concerning measures taken to reduce prison overcrowding and to improve material conditions in places of detention was contained in paragraph 23 of the State's follow-up to the concluding observations (CAT/C/KWT/CO/3/Add.1). With regard to concerns about health care and inadequate hygiene, the following articles of the Prisons Act No. 26 of 1962 envisage measures to ensure the health of inmates and the cleanliness of places of detention:

- Article 72: "Every prison shall have an infirmary run by a doctor, who is responsible for taking the requisite measures to safeguard prisoners' health and protect them from communicable diseases";
- Article 73: "The doctor shall examine every prisoner on admission to prison and record the individual's state of physical and mental health in the register designated for that purpose";
- Article 74: "The doctor shall inspect inmates' quarters and rate the quality of their nutrition".

92. As concerns the measures taken to improve poor ventilation and insufficient daylight in prisons, efforts are constantly being made to improve the living environment, depending upon available means and resources. Currently, the final touches are being put on a plan for a modern prison built to specifications that are consistent with international standards vis-à-vis ventilation. In addition to this, there are ongoing efforts to maintain all the services available in the prison complex, and the support services sector – the General Department for Construction and Maintenance – undertakes regular upkeep on facilities there.

93. On the subject of daily physical exercise, article 70 of Prisons Act No. 26 of 1962 reads: "Prisoners are to be given one hour per day for physical activity. In certain cases, prison officials may reduce that period to half an hour or increase it to an hour and a half". Moreover, under article 26 of Internal Prison Regulations, prison directors are to strive to provide social services of various kinds to inmates, within the limits laid down by laws and regulations. On that basis, the General Department for Correctional Institutions has acted to:

- Provide sports areas in all prison wings, where inmates can practise physical exercise in the open air;
- Encourage sport and games among prisoners capable of practising them, in order to improve their mood, boost their morale and maintain their health.

#### **Questions raised in paragraph 19 of the list of issues**

94. Article 2 of Prisons Act No. 26 of 1962 states: "There are two kinds of prison: for men and for women." In each of the two categories, minors are held in a special wing separate from other inmates. As concerns the detention of minors, article 7 of Juveniles Act No. 111 of 2015 requires that juveniles at risk of delinquency be placed, by the competent agencies of the Ministry of Social Affairs, in appropriate sites properly equipped to accommodate them. The minor can then appear before the Juvenile Prosecution Office and, if it is in his or her interests, be brought before the courts, which can then decide to place the minor in a social care institution run by the Ministry of Social Affairs. Under article 11 of Act No. 111 of 2015, if the minor in question has a disability or special needs, he or she can be placed in rehabilitative institute or in a hospital for specialized treatment.

95. Juveniles over the age of 15 who have committed an offence and are given a custodial penalty, serve their sentence in an institution. Once they reach the age of 21, they serve the sentence, or the remainder of the sentence, in a normal prison but are to be held separately from other inmates. However, if the remaining period does not exceed 6 months, they can remain in the institution if such a course of action entails no risk. This is set forth in article 17 of the Juveniles Act. Minors who are given a custodial penalty for offences they committed while under the age of 18 serve their sentence in an institution that is entirely separate from prison. Article 1 (c) of the Juveniles Act defines such institutions as places where custodial sentences handed down against minors are to be served and states that the institutions are to be regulated by a decree, issued by the Minister of Social Affairs with the approval of the Minister of the Interior. Article 1 (e) of the Act stipulates that staff and supervisors at care homes for females are to be women.

96. Women and girls are guarded by female personnel. This norm is applied by the General Department for Correctional Institutions under article 4 of Prisons Act No. 26 of 1962, which states: "The women's prison is to have a female supervisor assisted by a sufficient number of female prison staff. The supervisor is answerable to the prison director for the enforcement of laws and regulations inside the prison." This state of affairs is consistent with the Nelson Mandela Rules.

97. According to article 34 of Prisons Act No. 26 of 1962: "Female prisoners are entitled to keep their children with them until they reach the age of 2." A nursery for the children of inmates has been provided which is equipped with toys and entertainment for the infants and provides them with nutrition and consumer goods.

#### **Questions raised in paragraph 20 of the list of issues**

98. Practices of solitary confinement are implemented in strictly limited circumstances, in accordance with international laws and standards. Article 57 of Prisons Act No. 26 of 1962 stipulates: "If the prisoner breaches prison regulations in a manner that requires him to be held accountable, the competent officer shall present him to the prison warden for the purpose of investigating the breach and verifying the report. The outcome of the investigation shall be recorded in the relevant file." Article 58 of the Act stipulates: "The penalties that may be imposed on prisoners include: ... No. 4: solitary confinement for a period not exceeding 7 days."

**Questions raised in paragraph 21 of the list of issues**

99. The Ministry of the Interior, represented by the General Directorate for Correctional Institutions, is the executive authority responsible for implementing rulings and orders concerning deprivation of liberty issued by judicial and investigative authorities pursuant to the Prisons Act No. 26 of 1962 and its implementing regulations, in accordance with the following articles:

- Article 60 stipulates: "The last two penalties prescribed in article 58 shall not be implemented without an order from the Minister of the Interior." The scope of application of the penalty of shackled hands or feet has thus been reduced.
- Article 61 stipulates: "Prisoners shall be informed of the breach attributed to them before any penalty is imposed and shall have the right to present a defence. They shall also be entitled to request a hearing of any witnesses they wish, and the testimony shall be translated if necessary. All aspects of their defence shall be investigated." Article 58 is applied in very limited instances and in proportion to the scale of the offence committed by prisoners when serving their sentence.

**Questions raised in paragraph 22 of the list of issues**

100. The Prisons Administration recorded 85 complaints of inter-prisoner violence during the period from 1 January to 31 July 2019. Two cases of inter-prisoner violence between females were recorded during the last five years, one of which gave rise to legal proceedings. Other minor cases were resolved by means of measures such as penalties, settlements and pledges. No complaints were recorded by the Department for Extradition and Temporary Detention between 1 January and October 2019.

**Questions raised in paragraph 23 of the list of issues**

101. The following table provides statistical data regarding deaths in custody in 2018-2019.

No..	Name	Nationality	Case No.	Place of decease	Measure adopted	Date of notification	Date of decease
<i>Public prison</i>							
1	Safak Turki Faleh al-Dhafiri	Kuwaiti	930/2019 (traffic)	Farwaniya Hospital	Notification of relatives	28 December 2019	28 December 2019
2	Hani Youssef Saleh al-Duwaykh	Kuwaiti	4264/2019 (minor offence)	Farwaniya Hospital	Notification of relatives	12 September 2019	12 September 2019
3	Dajama Mahmoud Diwali	Djibouti	641/2018 (minor offence)	Farwaniya Hospital	Notification of relatives	24 October 2018	24 October 2018
<i>Deportation and temporary detention</i>							
4	Santos Das Haridas	Indian		Farwaniya Hospital	Notification of the Indian Embassy	5 May 2016	5 May 2016
5	Hamdi Ali Mahmoud	Egyptian	540/2018 (minor offence)	Farwaniya Hospital	Notification of the Egyptian Embassy	18 August 2018	18 August 2018
6	Alsa al- Janijan Karyoun			Farwaniya Hospital	Notification of the Embassy of the Philippines	5 January 2018	5 January 2018
7	Jean Flayer Athyl	Indian	490/2018 (minor offence)	Farwaniya Hospital	Notification of the Indian Embassy	1 August 2018	1 August 2018



No..	Name	Nationality	Case No.	Place of decease	Measure adopted	Date of notification	Date of decease
8	Narinjan Abdulhamid			Farwaniya Hospital	Notification of the Embassy of Afghanistan	8 August 2019	8 August 2019

*Women's prison. No deaths were registered between 2016 and 2019.*

#### Questions raised in paragraph 24 of the list of issues

102. The National Bureau for Human Rights can visit prisons and detention centres without impediment, in accordance with article 6 (9) of Act No. 67 of 2015, as amended by Act No. 15 of 2018, concerning the National Bureau for Human Rights, which stipulates that its mandate includes: "Monitoring of correctional institutions, detention centres and care homes through periodic or unannounced visits and the publication of reports describing the conditions in such establishments." The following table shows visits by diplomatic missions accredited to the State of Kuwait, competent committees and human rights organizations.

Visiting entity	Number of visits				
	2016	2017	2018	2019	2020
International Committee of the Red Cross	28	33	17	36	-
Parliamentary Human Rights Committee (National Assembly of Kuwait)	-	3	1	-	-
Diplomatic missions	-	-	109	-	-
National Bureau for Human Rights	-	-	-	2	2

#### Questions raised in paragraph 25 of the list of issues

103. Article 56 of Act No. 23 of 1990 concerning the organization of the judiciary stipulates: "The Office of the Public Prosecution shall supervise prisons and other facilities in which criminal sentences are served." The Office of the Prosecutor for Enforcement of Sentences and International Cooperation supervises places where criminal judgments are enforced and undertakes periodic and unannounced inspections in all prisons run by the General Directorate for Correctional Institutions in order to verify that no persons are unlawfully imprisoned, to ensure that the orders of the Public Prosecutor's Office and court rulings are properly implemented, and to listen to any complaint that prisoners wish to lodge.

104. The Ministry of the Interior is responsible for implementing the decisions of the Office of the Public Prosecution (placement in custody or release) and for guarding and securing prisons and transferring inmates to other bodies such as the courts, public prosecutors, investigation authorities in all governorates of the State of Kuwait, family courts, hospitals, external clinics, points of entry and exit by land or air, etc.

105. Prisons require security surveillance and personnel qualified in security work, which the Ministry of Justice does not have. In fact, just as in all other countries throughout the world, security forms part of the basic mandate of the Ministry of the Interior.

#### Questions raised in paragraph 26 of the list of issues

106. 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."

107. 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 UNHCR to alleviate the human suffering caused by displacement.

108. 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.

#### **Questions raised in paragraph 27 of the list of issues**

109. No persons are deprived of their liberty in psychiatric hospitals in Kuwait. All persons who have been treated and have fully recovered are authorized to leave the institution. Once the treatment period has been completed, no one is compelled to remain in a hospital. The relatives of persons whose treatment has been completed are contacted, all relevant administrative and precautionary measures are adopted, and no one is coerced into remaining in the institution. All such measures are undertaken in accordance with the applicable legislation.

110. With regard to the types of treatment provided to patients, the Kuwait Centre for Mental Health runs a day-care programme that provides rehabilitation and life skills services aimed at reintegrating patients into society. There is also a specialized medical unit for the treatment of chronic mental illnesses and provision of continuous care to patients. In addition, Mental Health Act No. 14 of 2019 provides for the establishment of specialized care centres.

### **Articles 12 and 13**

#### **Questions raised in paragraph 28 of the list of issues**

111. The Ministry's procedures consist in summoning the alleged offenders and investigating them on the basis of the complaint that has been filed. The investigation is conducted by the competent legal officers. The disciplinary sanctions imposed by the Ministry of the Interior depend on the gravity of the act and may consist of: salary deductions for up to 30 days; imprisonment for a period of up to 60 days for junior police officers and 15 days for senior police officers; referral to a disciplinary board; referral to the criminal court; or dismissal.

#### *Sanctions imposed between 2016 and 2020*

2016	Number of sanctions	41
2017	Number of sanctions	70
2018	Number of sanctions	57
2019	Number of sanctions	54
2020	Number of sanctions to date	6 still under investigation

#### **Questions raised in paragraph 29 of the list of issues**

112. The right of recourse to law is afforded to all persons under article 166 of the Constitution of Kuwait, 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."

113. Article 167 of the Constitution requires the Office of the Public Prosecution to initiate legal action on behalf of society, and to supervise the judicial police, the implementation of

the Criminal Code, the prosecution of offenders and the enforcement of sentences. The enactment of this provision may have been motivated primarily by the desire to establish principles of security and safety as well as criminal procedures for protecting individuals and their rights against any criminal acts that may be committed against them. The article stipulates: “The Office of the Public Prosecution shall be responsible for initiating legal action on behalf of society and supervising the judicial police, the implementation of the Criminal Code, the prosecution of offenders and the enforcement of sentences. The law shall regulate this body, specify its mandate, and define the conditions and guarantees applicable to those who assume its functions. As an exception, the law may entrust public security bodies with responsibility for the prosecution of minor offences, in accordance with the conditions prescribed by law.”

114. It should be noted that article 6 (3) of Act No. 67 of 2015 on the National Bureau for Human Rights stipulates: “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.”

115. Article 9 of Act No. 67 of 2015 entitles the National Bureau for Human Rights to establish standing committees, such as a committee against torture, which may seek the assistance of experts when examining any of the issues entrusted to it. The governing board of the Bureau is entitled to establish other specialized committees.

116. The Ministry of the Interior established the General Directorate for Oversight and Inspection pursuant to Ministerial Decree No. 2411 of 2008 concerning the organizational structure of the Ministry. The General Directorate for Oversight and Inspection is defined as an impartial and independent body which is entitled to receive and investigate public complaints against any of the Ministry’s employees with a view to verifying their validity and making recommendations to the Minister of the Interior so that it can adopt whatever decisions it deems to be appropriate.

117. Persons who are not deprived of their liberty have the right to file a complaint by calling the helpline number 112 and reporting any violation of their civil or political rights. Assistance is provided and they are directed to the competent authority, which investigates the report in order to verify the seriousness of the complaint. The following steps have been taken to establish a complaints mechanism for persons deprived of their liberty:

- There is a special mechanism in prisons for persons deprived of their liberty that enables them to exercise their right of having recourse to law, without any restrictions. The Office of the Public Prosecution supervises the enforcement of all judicial rulings in accordance with national legislation.
- The Office of the Prosecutor for Enforcement of Sentences and International Cooperation supervises places where criminal judgments are enforced and undertakes periodic and unannounced inspections, with a view, inter alia, to hearing any complaint that prisoners wish to lodge.
- Article 15 of Prisons Act No. 26 of 1962 stipulates: “The Director of Prisons may carry out a prison inspection at any time. Prisoners are entitled to meet with the Director during the inspection and to voice their complaints. The Director shall investigate serious complaints, take action to address the causes if they are well founded and report serious cases to the Ministry of the Interior.”
- The General Directorate for Correctional Institutions has issued instructions, according to which persons deprived of their liberty are entitled to submit reports or complaints, which are then referred to the competent authorities.
- Detainees or their legal representatives can submit complaints by email to the website of the Ministry of the Interior. They are then referred to the competent authorities for consideration and adoption of a decision.

118. The current complaints mechanism for persons deprived of their liberty is considered to be effective and is capable of preventing any abuses or alleged acts of torture and ill-

treatment by law enforcement officers. All such allegations are monitored and referred immediately to the competent Ministry officials so that they can adopt urgent measures and impose deterrent sanctions on any perpetrators. In addition, the regular visits undertaken by the National Bureau for Human Rights, the International Committee of the Red Cross and NGOs, and the referral of complaints or other matters related to persons deprived of their liberty have proved effective, thanks to the cooperation by competent governmental agencies with the action taken by the organizations concerned.

#### **Questions raised in paragraph 30 of the list of issues**

119. The Kuwaiti Criminal Code (Act No. 31 of 1970) provides for the protection of witnesses and victims in article 53, 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 a term of imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder.” In addition, article 56 of the Code stipulates: “Any public official or employee, or any person charged with providing a public service, who abuses his or her position to use cruelty against a person with the aim of causing him or her dishonour or bodily pain shall be liable to a term of imprisonment.” Articles 136, 137 and 138 of the Code criminalize any coercion of witnesses. Penalties are prescribed for anyone who forces a witness to refrain from testifying or to give false testimony. A harsher penalty is imposed if the coercion of false testimony results in the sentencing of an accused person to imprisonment or the death penalty and in the enforcement of the sentence. The protection provided for witnesses under the Code is also applicable to persons who claim to have been victims of torture.

120. Act No. 17 of 1960 promulgating the Code of Criminal Procedure also contains many relevant provisions. For instance, article 12 stipulates: “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.” Article 159 stipulates: “If the court finds that any statements or confessions of the accused were made as a result of torture or coercion, it must regard them as null and void and without probative value.”

121. Health professionals are deemed to be experts in substantiating and documenting torture and ill-treatment. Article 53 of Act No. 31 of 1970, which amends certain provisions of the Criminal Code, provides for the protection of experts and witnesses from any abuse of their rights by public officials. It prescribes penalties for 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.

#### **Questions raised in paragraph 31 of the list of issues**

122. The participation of Kuwait is limited to the presence of some of its military forces in the Kingdom of Saudi Arabia within the framework of the GCC joint defence agreement. Their role consists solely in countering any attack on the territory of Saudi Arabia. It should be noted in this regard that Kuwait is committed to the implementation of Security Council resolution 2216 (2015) and supports political action aimed at resolving the Yemeni crisis. Kuwait hosted talks between the Yemeni parties for a period of three months with the aim of reaching a political solution and terminating the conflict. In addition, Kuwait provides humanitarian aid, together with GCC, to the nation and people of Yemen.

### **Article 14**

#### **Replies to the questions raised in paragraph 32 of the list of issues**

123. Article 30 of Decree-Law No. 67 of 1980 promulgating the Civil Code specifies the kinds of damages that necessitate compensation. According to the article, the exercise of a right is deemed to be unlawful if the person exercising it 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 harm to third parties; if the resulting benefit is disproportionate to the harm caused; or if it is likely to cause grievous harm to third parties”.

124. 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.

## Article 15

### Questions raised in paragraph 34 of the list of issues

125. The Kuwaiti legislature has taken steps to ensure respect, in practice, for the principle of inadmissibility of evidence obtained through torture or cruel treatment, which is enshrined in the country’s supreme law, namely the Constitution, and in ordinary legislation. Article 34 (2) of the Constitution states that accused persons shall not be subjected to physical or mental harm. Article 53 of Act No. 31 of 1971, which amends some provisions of the Criminal Code, prescribes penalties for anyone who tortures accused persons, witnesses or experts with a view to coercing them to confess to an offence or to make statements or provide information in that regard.

126. Article 158 of the Code of Criminal Procedure states that no defendant may be coerced, by any means whatsoever, into swearing an oath, giving answers or making specific statements. Article 159 of the Code stipulates that any confessions made as a result of torture or coercion shall be regarded as null and void.

127. With regard to the request to provide examples of cases that have been dismissed by the courts owing to the introduction of evidence or testimonies obtained through torture or ill-treatment, it should be noted that the Court of Cassation, which is the supreme court of Kuwait, has a well-established principle according to which a confession is deemed to be reliable only if made freely and voluntarily. Even if sincere, it is not deemed to be voluntary if made under conditions of duress or intimidation of any kind. The Court of Cassation has handed down numerous judgments that endorse this principle, which is rigorously applied if it is suspected that a confession was obtained under conditions of duress or intimidation. Although duress or intimidation are far less serious than torture, a threat or promise constitutes grounds for declaring a confession invalid and inadmissible, even when no physical abuse has occurred. One such ruling was handed down by the Court of Cassation in criminal appeal No. 722 of 2007, a case in which two persons were charged with possessing a narcotic substance for purposes of trafficking and consumption. During the trial, one of the accused argued that his confession was invalid because it had been obtained through coercion in the form of an assault by police officers who had beaten him and injured his face. The Court of First Instance had rejected his plea and decided to convict the accused, who lodged an appeal against the judgment with the Court of Cassation. Having examined the allegations, the Court reiterated the principle that confessions must be made freely and voluntarily, and that coercion and intimidation rendered them inadmissible as evidence of guilt. It therefore rejected the judgment handed down against the accused and ordered a retrial based on evidence other than the confession, which it declared null and void and inadmissible as evidence.

128. With regard to the investigation and judicial proceedings in Case No. 51/2015 concerning crimes against State security (55/2015), it can be reported that an investigation was conducted and that 26 defendants were prosecuted. During the interrogation of the accused persons by the Office of the Public Prosecution, they were all examined by the investigating prosecutor and no visible injuries were detected in any of them. This procedure is conducted at the beginning of all interrogations, even if the accused has not claimed to have been subjected to torture or violence. Some of the accused claimed that they had been

tortured by the police officers who took their statements prior to their referral to the Office of the Public Prosecution, which therefore heard their statements regarding that allegation, submitted them to the Department of Forensic Medicine for examination, and submitted a memorandum setting forth their allegations of torture. A committee of forensic physicians was established to examine the accused and to produce report No. 365/P/2015 of 23 August 2015. During the trial, the defendants' lawyers requested to hear the testimony of the forensic physician. On 21 October 2015, the court heard the physician, who stated that during the examination of the accused at the request of the Office of the Public Prosecution, two of them alleged that they had been subjected to electric shocks. On examining the first defendant, he had found no trace of an electric shock injury, although such injuries, if they occur, can be detected even a month or more after their occurrence. On examining the second defendant, he had found severe injuries to the elbows, but they did not belong to the category of injuries that result from an electric shock. They could, however, have resulted from handcuffs applied during the transportation of the accused. He added that the committee of forensic physicians had examined all of the accused and found that they were in good health and showed no signs of having been subjected to physical or mental torture. From a legal point of view, all the courts that issued rulings in the case (the Criminal Court, the Appeal Court and the Court of Cassation) examined the allegations, responded to them, and stated the grounds for declaring them null and void based on the findings of the investigation procedures and the report of the forensic physician presented during the court hearings.

## Article 16

### Replies to the questions raised in paragraph 35 of the list of issues

129. Kuwaiti legislation prescribes the death penalty solely for the most serious crimes, in accordance with the provisions of article 6 of the International Covenant on Civil and Political Rights, paragraph 1 of which states that every human being has the inherent right to life. Paragraph 6 (2) stipulates: "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 and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court." In any case, it should be noted that the death penalty prescribed in Kuwaiti criminal legislation is based on Islamic sharia, in which *qisas* (retribution) penalties are mandatory. Accordingly, the abolition of the death penalty would be absolutely incompatible with Islamic sharia, which is the main source of all Kuwaiti domestic legislation, including criminal law. In the same context, it should be noted that a number of important procedural safeguards governing the imposition and enforcement of the death penalty have been established by the Kuwaiti legislature. The primary procedural safeguards are listed below.

130. According to Kuwaiti constitutional legislators, the death penalty can be imposed only by an independent court of law characterized by its adherence to principles of neutrality, independence and impartiality.

131. Article 211 of the Code of Criminal Procedure requires any criminal court that imposes a death penalty to refer the case, on its own motion, to a court of appeal within one month of the date on which the judgment was handed down, if no appeal is lodged by the convicted person.

132. In addition, article 14 of Act No. 40 of 1972 concerning appeals in cassation and associated procedures requires the Office of the Public Prosecution to lodge an appeal against cases involving a death sentence with the Court of Cassation.

133. With a view to enhancing protection, death sentences are carried out only with the approval of the Amir. The convicted person is kept in prison until the Amir decides to approve or commute the sentence or to issue a full pardon (article 217 of the Code of Criminal Procedure).

134. The death penalty 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.

135. The implementation of a death sentence is suspended in all cases until a final decision has been taken on appeal proceedings, requests for pardon or applications for commutation of the penalty.

136. The death penalty may not be imposed on anyone under 18 years of age. Article 15 of Act No. 1 of 2017 concerning juveniles stipulates: "Juveniles shall not be sentenced to death or to life imprisonment. If a juvenile over 15 but under 18 years of age commits a serious offence punishable by death or life imprisonment, the judge shall sentence him or her to a term of imprisonment of not more than 15 years."

137. It is prohibited to execute a death sentence against a pregnant woman. If she delivers a live infant, the death sentence shall be suspended and the case shall be referred back to the court that imposed the death penalty so that it can be commuted to a term of life imprisonment.

138. Article 22 of the Kuwaiti Criminal Code prohibits, as a matter of course, the imposition of a death penalty on persons who are mentally unsound.

139. On the basis of the foregoing, and in view of the fact that Islamic sharia is the principal source of positive law in Kuwait, we must affirm that the death penalty is legitimate and is part of sharia law and that abolishing it would actually constitute a violation of sharia and of the constitutional system underpinning the State. Article 2 of the Constitution of Kuwait states, in fact: "The religion of the State is Islam and Islamic sharia is a major source of legislation."

140. 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 the main 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 the main 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.

141. According to the Constitution, then, "Islamic sharia is the main 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, and nothing in the text prevents them, sooner or later, abiding fully by those legitimate provisions when they believe that they should do so.

142. Kuwaiti legislators must therefore abide by the provisions of sharia, but they can introduce legislation from other sources when dealing with matters that have not been codified by Islamic jurisprudence.

#### **Questions raised in paragraph 36 of the list of issues**

143. The Kuwaiti national legislature strives to prevent undue restrictions on human freedom and to combat torture and inhuman or degrading treatment and has enshrined those principles in the Constitution. Articles 31 to 34 of the Constitution affirm the State's rejection of and opposition to all such manifestations of abuse. Emphasizing the principle of the individual nature of penalties, they state that no punishment may be imposed if not provided for by law and that accused persons are presumed innocent until proven guilty.

144. In line with these constitutional principles, many domestic laws in the State of Kuwait prohibit and penalize torture. For example, article 70 of the Criminal Code (Act No. 16 of 1970) stipulates: "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 not less than 1 year and not more than 5 years.”

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

146. Article 184 of the Criminal Code 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.”

147. These principles are upheld by the Criminal Code promulgated by Act No. 31 of 1970, article 53 of 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 a term of imprisonment. ... If the torture results in death, then the person concerned shall receive the penalty for premeditated murder.”

148. In addition, article 56 of the Code stipulates: “Any public official or employee, or any person charged with providing a public service, who abuses his or her position to use cruelty against a person with the aim of causing him or her dishonour or bodily pain shall be liable to a term of imprisonment.”

149. With regard to international treaties, Kuwait ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under Act No. 1 of 1996.

150. Treaties ratified by Kuwait become, from the date they enter into force, an integral part of national legislation and are incorporated into the country’s domestic legal system. As a consequence, all governmental institutions, as well as individuals, are bound to abide by their provisions and the judiciary is required to ensure that such provisions are duly respected. This legal obligation arises from article 70 of the Constitution, which stipulates: “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.”

151. 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.

152. With a view to incorporating the definition of torture in national legislation, a legislative drafting committee in the Ministry of Justice 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..

#### **Questions raised in paragraph 37 of the list of issues**

153. 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.

154. 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.

155. In line with the measures that it takes to protect unlawful residents, 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:

1. *Free education*

156. 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 KD 5,478,115.

- 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.

2. *Free health care*

157. 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.

3. *Access to official documents*

158. 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.

<i>Document type</i>	<i>No.</i>
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

4. *Obtaining a driving licence*

159. 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.

5. *Persons with disabilities*

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

6. *Ration services*

161. 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.

7. *Job opportunities in the public and private sectors*

162. 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.

163. Article 12 of the 1979 Assembly Act prohibits the participation of non-Kuwaitis in public assemblies unless they obtain a permit from the Ministry of the Interior. Mr. Abdulhakim al-Fadhli participated in unauthorized demonstrations in violation of the Assembly Act. He also assaulted Kuwaiti law enforcement officers and caused damage to the State's public facilities. Article 249 of the Criminal Code stipulates: "Anyone who deliberately destroys or damages movable or immovable property belonging to another person, renders the property unusable for its intended purpose or reduces its value, shall be liable to imprisonment for up to 3 months and/or payment of a fine of up to KD 300. If the act causes damage amounting to KD 500 or more, the penalty shall be imprisonment for up to 2 years and/or payment of a fine of up to KD 2,000."

164. Article 135 of the Criminal Code stipulates: "Anyone who assaults or violently resists a public official in the performance of his duties, or as a consequence thereof, shall be liable to imprisonment for up to 1 year and/or payment of a fine of up to KD 1,000. If the assault is perpetrated against a police officer during the performance of his duties with a view to resisting him or preventing him from dispersing a rally, meeting, demonstration, march or gathering, the penalty shall be imprisonment for up to 5 years and/or to a fine of KD 5,000." It should be noted that it was not the first time that Mr. Al-Fadhli had participated in unauthorized demonstrations. He was treated in accordance with the legislation in force and sentenced to imprisonment for breaching Kuwaiti law (the Assembly Act), assaulting law enforcement officers and damaging public facilities.

**Questions raised in paragraph 38 of the list of issues**

165. The authority to address issues concerning domestic workers foreseen in the Domestic Workers Act No. 68 of 2015 was transferred to the Public Authority for the Workforce pursuant to Council of Ministers Decree No. 614 of 2018. The Authority has since then been preparing studies and proposals concerning cases in which domestic workers can change their employers without obtaining the consent or authorization of the original employer. Some studies and proposals that are currently being examined and elaborated specify grounds that would permit the termination or transfer of a contract without having to obtain the employer's consent. They include the following grounds:

- Marriage of the domestic worker;
- The domestic worker's desire to move to her husband's place of residence;

- Failure of the employer to receive the domestic worker for more than 14 days after her arrival in the country;
- The employer's decease;
- Proof that the employer has violated the provisions of Act No. 68 of 2015.

166. The Public Authority for the Workforce responds vigorously to cases in which workers are subjected to violence. It informs abused domestic workers of the procedures to be followed and provides them with assistance free of charge, in cooperation with NGOs. It also facilitates the pursuit of such procedures by victims so that the cases are referred to the competent courts for adjudication. The Criminal Code prescribes penalties for such offences and procedures for enforcing the judgment. Article 160 stipulates: "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 2,000." Article 186 stipulates: "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."

#### **Questions raised in article 39 of the list of issues**

167. Act No. 21 of 2015 concerning the rights of the child is fully in line with the international Convention on the Rights of the Child, which Kuwait has ratified. NGOs were involved in drafting the Act, which guarantees children's right to life, survival, development in a harmonious family environment, health care and education, and to protection from all forms of violence, harm or physical, mental and sexual abuse, in accordance with article 71 on physical, psychological and sexual abuse and neglect. Article 77 provides for the establishment of child protection centres to receive complaints, take the necessary measures and investigate cases of child abuse.

168. The Family Court Act No. 12 of 2015 also provides for the protection of children, particularly in the event of separation from their parents, and guarantees their right to custody, maintenance and access to official documents.

169. The Supreme National Committee for Child Protection, which is part of the Ministry of Health, brings together a number of State agencies and NGOs. Its purpose is to develop programmes on issues affecting children then seek support for those programmes by raising awareness and disseminating a culture of children's rights on the widest possible scale and monitoring and addressing the violations that children may face, not only by punishing abusers but also through treatment and prevention programmes. These activities are part of a global plan to promote the role of the health-care system in tackling violence, particularly against women, girls and children. The following are the most important activities that have been conducted by the Supreme National Committee for Child Protection:

- Establishment of the child helpline in 2016;
- Creation of a team of experts in 2017;
- Development of a large-scale programme to prevent child abuse in 2017;
- Establishment of regulations in 2018 governing children's use of social media and their participation in martial arts competitions.

170. Action in Kuwait has focused to date on raising national awareness of ill-treatment of children, promoting respect for children's rights, and informing society and children about the rights enshrined in the Convention on the Rights of the Child by means of media campaigns, pamphlets and other activities.

171. The Supreme National Committee has also established an office for the protection of children's rights in the Ministry of Health, with responsibility for the implementation of plans and programmes. For instance, it established the Kuwaiti child support hotline 147, which provides children, from birth to the age of 18 years, and their caregivers with counselling and referral services. The child support hotline is designed to protect all children's rights and to resolve problems in a manner that ensures their well-being and serves their best interests in all circumstances.

172. The hotline is accessible from all regions and all telephones in Kuwait. Liaison officers respond immediately and systematically to calls and verify whether they concern a child under 18 years of age. If not, the caller is redirected to telephone information lines or appropriate services for adults. The call is classified and registered in a database. In the event of an urgent call, a form is filled out and registered in the database during the call. The urgency of the call is assessed during the conversation, and action is taken through referral mechanisms in accordance with the level of risk involved (normal, medium, high). The child support hotline is run 24 hours a day, 7 days a week, by a specialized team that is ready to receive calls and communications and to provide advice and assistance.

173. The Family Care Act No. 80 of 2015 was enacted to regulate the placement and social integration of children of unknown parents, and to guarantee their right to a family, education, housing, employment, a monthly allowance and Kuwaiti citizenship pursuant to article 3 of Nationality Act No. 15 of 1959.

#### **Questions raised in paragraph 40 of the list of issues**

174. Article 2 of the Constitution stipulates: “The religion of the State is Islam and Islamic sharia is a major source of legislation.” Islamic sharia prohibits homosexuality and imitation of persons of the opposite sex. Article 15 of the Constitution stipulates that “the State shall care for public health through measures aimed at the prevention and treatment of diseases and epidemics” and article 49 stipulates that “observance of public order and respect for public morals are obligations incumbent on all inhabitants of Kuwait”. It should be noted that the recommendation in the above-mentioned paragraph is incompatible with these requirements and violates the nature, customs, values and traditions of Arab societies in the Middle East. The State of Kuwait reaffirms its commitment to the enforcement of its national legislation, which is accepted and approved by Kuwaiti society as a whole and reflects a moral, religious and social reality that cannot be ignored.

#### **Questions raised in paragraph 41 of the list of issues**

175. A total of 300 non-combat deaths in the armed forces have been recorded since 2015. As no cases of hazing or ill-treatment of conscripts were recorded, no investigations were conducted in the absence of infringements.

176. The State of Kuwait pays homage to victims or their families through material or moral compensation, which reflects the State’s veneration of its soldiers.

#### **Questions raised in paragraph 42 of the list of issues**

177. The Criminal Code (Act No. 16 of 1960), Act No. 25 of 1981 on the practice of human medicine, dentistry and paramedicine, and the ministerial decrees regulating their implementation prohibit abortion except where the pregnant woman’s life is at risk. Abortion is nonetheless permissible in the following two cases if the woman has been pregnant for less than four months:

- If the continuation of the pregnancy would seriously harm the mother’s physical health;
- If it is established that the foetus would be born with a serious physical or mental defect and if the spouses agree to an abortion.

#### **Questions raised in paragraph 43 of the list of issues**

178. Article 20 of the Convention specifies the competencies of the Committee against Torture if it receives information containing well-founded indications that torture is being systematically practised in the territory of a State party. It is authorized, for instance, to conduct an inquiry and undertake inspection visits to the territory. This matter is deemed to constitute a breach of the State’s sovereignty and independence and interference in its internal affairs. Accordingly, the reservation to article 20 will not be withdrawn. Furthermore, the domestic legislation and regulations of the State of Kuwait are entirely adequate in this regard.

#### **Questions raised in paragraph 44 of the list of issues**

179. Article 20 refers to the right of the Committee against Torture to invite a State party to cooperate in the examination of information available to the Committee in the event that there are well-founded indications that torture is being practised in the State's territory.

180. Articles 21 and 22 of the Convention permit a State party to declare at any time that it recognizes the competence of the Committee against Torture to receive and consider communications in which States or individuals claim that another State party is not fulfilling its obligations under the Convention.

181. The reservation entered by the State of Kuwait is directly related to the terms of reference, functions and authority of the Committee against Torture set forth in article 20. Accordingly, it would not be logical for Kuwait to make the declarations envisaged in articles 21 and 22, since their provisions are inextricably linked to those of article 20.

#### **Questions raised in paragraph 45 of the list of issues**

182. Kuwait considers it sufficient to have acceded to the Convention against Torture and to implement the relevant provisions of its own Constitution and domestic legislation. Furthermore, article 30 of the Optional Protocol to the Convention stipulates that no reservations may be entered to its provisions. Accordingly, the State of Kuwait does not intend to ratify the Optional Protocol.

#### **Questions raised in paragraph 46 of the list of issues**

183. Kuwait reaffirms its commitment to guarantee all necessary legal safeguards and procedures when dealing with cases of terrorism, in accordance with terrorism-related Security Council resolutions, which guarantee the protection of all human rights. Act No. 106 of 2013 regarding money laundering and the financing of terrorism includes an article that guarantees the commitment of Kuwait to the implementation of Security Council resolutions 1267 (1999) and 1373 (2001) on combating terrorism.

184. The Ministry of Foreign Affairs, has issued decrees describing the procedures for implementing Security Council resolutions. These are based on implementing regulations that specify the following rights of persons against whom measures have been taken:

- The right to be informed of such measures;
- The right to lodge a complaint with the committee that is responsible for the implementation of the resolutions;
- The right of persons against whom measures have been taken to bring proceedings before the domestic courts;
- The right to be informed of the procedures for resorting to the Security Council;
- The right to the confidentiality of information.

185. In addition, the regulatory authorities (the Central Bank of Kuwait, the Ministry of Trade and Industry and the Capital Markets Authority) have laid down rules for all entities under their control with a view to ensuring the optimal implementation of relevant Security Council resolutions, in accordance with domestic legislation. It should be noted that the security services are taking steps to prevent such crimes without violating individuals' privacy and freedom, in accordance with the law.

186. In its ruling No. 6/2016 handed down on 5 October 2017, the Constitutional Court ruled that the articles mentioned in the paragraph in question were unconstitutional. It also ruled that the other articles of the Act were null and void because they were inextricably linked to the articles that had been declared unconstitutional. The judgment was handed down before the Ministry and the competent authorities had begun implementing the Act.

187. The Saad al-Abdullah Academy for Security Sciences provides its students with training programmes on procedures for securing vital facilities, the role of the security services in that regard, and relevant scientific principles, such as scientific planning of security, and the assessment, management and prevention of risks, including terrorist threats.

Students are also familiarized with all aspects of terrorism, such as the basic concept of terrorism, methods and categories of individual and organized terrorism, development of strategies to combat terrorism, security measures, and procedures for dealing with terrorists and for safeguarding and protecting persons threatened by terrorist operations. The Academy's training programmes include:

- Security of installations;
- Terrorism.

188. The Academy provides its students with basic training programmes on procedures for protecting and safeguarding VIPs, guaranteeing conference security, managing security crises and handling explosives. Programmes are also provided on combat techniques in urban areas, and means of combating terrorism and countering air terrorism. The programmes include, in particular:

- Advanced police force operations;
- Special police force operations.

<i>Course</i>	<i>Objective</i>
Transition from procedural to computer-based management	Raising awareness of the importance of moving from a traditional system to an electronic system
Handling procedures during rapid intervention operations	Enhancing participants' ability to deal with terrorist bombs
Workshop on the history of terrorism and terrorist groups in Kuwait	General awareness of the history of terrorism in Kuwait
Tactical training of instructors in 9mm pistol shooting	Training of instructors capable of providing practical training in pistol shooting
Identification of explosives and procedures for detecting suspected objects	Raising the awareness of members of the Ministry of the Interior of the danger of explosives
Training of shooting instructors to engage in action to combat terrorism and rescue hostages	Development of the shooting skills of members of the Special Units Department
Basic course in civil defence measures for civil servants	Training and enhancement of the skills of civil servants in the area of civil defence
Course in security procedures for police officers	Achievement of the principal goals and tasks of emergency police officers
Biometric fingerprint and automated search course	Definition of the fingerprint concept, its importance and its usefulness in criminal cases and the exchange of technical expertise
Cybercrime	Identification and combating of cybercrime
The concept of community policing and contemporary security challenges	Development and enhancement of the concept of community policing among police officers

**Questions raised in paragraph 47 of the list of issues**

189. The following table shows the number of cases of torture brought against law enforcement officers:

<i>Year</i>	<i>Number of cases</i>
2015	8 cases
2016	7 cases The Court of Appeal handed down a judgment in 1 case
2017	5 cases
2018	6 cases The Court of Appeal handed down a judgment in 4 cases
2019	3 cases