

KUWAIT

CERD 26th No. 18 (A/8418) (1971)

28. From its 56th to its 58th meetings, the Committee proceeded to determine formally its view as a Committee (as distinct from the views expressed at previous meetings, which were those of the individual members) as to which reports were “satisfactory”, in the sense that they furnished all or most of the required information, and which reports were “unsatisfactory” or “incomplete” and therefore needed to be supplemented by further information. The initial report (and supplementary report, if any) of each State Party was put before the Committee separately by the Chairman. Where there was no consensus, the question whether a State Party’s report (or reports) was “satisfactory” or whether, failing that, the Committee wished to request additional information from that State Party, was decided by vote.

...

30. On the other hand, the reports submitted by the following 17 States Parties were considered by the Committee “incomplete” or “unsatisfactory”, in the sense that significant categories of information were either totally lacking or insufficiently provided in them: ... Kuwait ... At its 58th meeting, held on 23 April 1971, the Committee adopted the text of a communication which it decided to request the Secretary-General to submit to the aforementioned States Parties, in accordance with rule 65 of its provisional rules of procedure. (The text of this communication is reproduced in annex V.)

CERD 28TH NO. 18 (A/9018) (1973)

94. The initial report of Kuwait, submitted on 4 June 1970, and a supplementary report dated 21 December 1970, were jointly considered by the Committee at its third session. They were deemed unsatisfactory, and additional information was requested but not received by the Committee. The second periodic report, submitted on 3 January 1972, was considered by the Committee at its seventh session (128th meeting).

95. Some members expressed the view that the second periodic report was more complete than the previous reports; that it was comprehensive; and that it complied with the guidelines laid down by the Committee and with general recommendations I, II and III. Some members noted that the report under consideration took into account most of the points made by members during the consideration of the earlier reports at the third session. Several members noted that the report contained ample information regarding Kuwait's attitude to the racist régimes in southern Africa, even though it was submitted before the adoption of general recommendation III by the Committee. Special note was taken of the statement that free education and free medical services were provided not only for all citizens but also for foreigners residing in Kuwait.

96. Some members inquired about the implementation of the anti-discrimination provisions of the Constitution, to which the report referred, and asked whether acts of racial discrimination were considered as crimes which violated the Constitution, or whether any provisions, particularly penal provisions, had been introduced to give effect to the anti-discrimination provisions of the Constitution. It was also asked whether incitement to racial discrimination was prohibited only when perpetrated by organizations, as provided in article 6 of Law No. 24, or was declared by law a punishable offence when perpetrated by individuals also. It was further asked whether there were penal provisions giving effect to the terms of that article. Some members indicated that it would be desirable to receive in future reports information on the education system and public welfare organizations, on the legislation by virtue of which free educational and medical services were provided to foreigners, and on measures adopted to give effect to article 4, paragraph (a), and article 7 of the Convention.

97. In his statement, the representative of Kuwait reaffirmed that racial discrimination was contrary to the letter and spirit of Islam and alien to the culture, way of life and traditions of the people of Kuwait. He expressed the opinion that some provisions of the Convention seemed inapplicable to countries in which racial discrimination did not exist. Regarding the racist régimes in southern Africa, he stated that not only did Kuwait maintain no relations of any kind with them but it advocated the adoption of coercive measures by the Security Council to compel them to comply with United Nations resolutions.

98. The Committee decided to consider the report satisfactory "subject to the provision in the next report of additional information, in accordance with the Committee's guidelines".

CERD 29TH NO. 18 (A/9618) (1974)

151. The third periodic report of Kuwait was considered together with the information submitted by the Government of Kuwait in response to decision 3 (VII) of the Committee. The Committee noted that the only relevant measures adopted since the submission of the previous report was the establishment, in accordance with Law No. 14 of 1973, of a Constitutional Court. It was observed that the report contained neither the text of that law nor detailed information on the composition or competence of the Court. Regarding the information submitted in response to decision 3 (VII) of the Committee, it was observed that some of the provisions to which reference was made were not relevant to the Convention. While articles 27 and 28 of Law No. 3 of 1961 appeared to meet some - though not all - of the requirements of article 4, paragraph (a), of the Convention, it was not clear to what extent article 6 of Law No. 24 of 1962, the text of which was not supplied, satisfied the requirements of article 4, paragraph (b), of the Convention. The representative of the Government of Kuwait was asked to confirm that the position of his Government with respect to the racist régimes in southern Africa had remained unchanged since the previous report was submitted.

152. The representative of the Government of Kuwait read out, in an unofficial English translation, the text of the relevant sections of Law No. 14 of 1973. He confirmed that Kuwait had no relations of any kind with the racist régimes of southern Africa.

CERD A/31/18 + Corr.1 (1976)

93. The Committee noted with satisfaction that the fourth periodic report of Kuwait, which was considered without the participation of a representative of the Government of the reporting State, contained the texts of all the legislative provisions which had been requested by the Committee at its previous sessions. It was noted that the information envisaged in general recommendation III was furnished in detail by the reporting State.

94. The degree to which existing legislation fulfilled the requirements of article 4 of the Convention was considered. Most members of the Committee who participated in the discussion agreed that, while the relevant legislation met some of the requirements of paragraphs (a) and (b) of article 4 of the Convention, some other obligations under those two paragraphs were not fulfilled by the legislative provisions cited in the report.

95. Referring to the information contained in previous reports about the enjoyment of some of the rights enumerated in article 5 of the Convention - notably in paragraph (e), subparagraphs (iv) and (v), of that article - by the inhabitants of Kuwait, both nationals and non-nationals, some members reiterated the request, expressed at earlier sessions, for more details about the relevant laws and regulations as well as administrative measures including those which applied to foreign workers in the country.

96. The law of 1973 establishing a constitutional court was regarded by some members as a step in the direction of fuller implementation of articles 2 (para. 1 (c)) and 6 of the Convention. Information on other laws giving effect to the undertaking in article 6 of the Convention was again requested.

97. It was recalled that the Government of Kuwait had provided information to the Secretary-General on the application of article 7 of the Convention and it was regretted that such information was not furnished in the report under consideration.

98. The observation that census authorities in Kuwait were not allowed to base the distribution of the population on ethnic origin, when preparing statistical data, gave rise to some discussion in the Committee. The view was expressed that States parties must comply with general recommendation IV and supply information on the composition of their population; and a suggestion was made to request the Government of Kuwait to reconsider its policy in that regard. On the other hand, the opinion was expressed that the position of the Government of Kuwait - which was similar to the position taken by other States and reported to the Committee in the past - was understandable and it was denied that the relevant statement in the report under consideration constituted a refusal by the reporting State to provide statistical data about its population. It was recalled that nothing in the Convention required States parties to submit the demographic information in question to the Committee. It was also observed that the question at issue did not revolve around the willingness of a State party to furnish the Committee with certain data, but rather around the availability of such data to that State. The information available to the Government of Kuwait about the composition of the population of that country was related to the nationality of aliens residing in Kuwait (and such information could be requested by the Committee), but was not related to the ethnic or national

origin of nationals of Kuwait. Finally, it was stated that it would be outside the competence of the Committee to request the Government of a State party to the Convention to alter its policy with respect to seeking and compiling information about the ethnic origin and ancestry of its citizens.

CERD A/33/18 (1978)

315. The Committee took note of the statements, made in the fifth periodic report of Kuwait, that some of the provisions of the Constitution had been suspended in August 1976; that none of the suspended provisions had any bearing on, or in any way affected, the constitutional safeguards against racial discrimination, including articles 2, 7, 8 and 29 of the Constitution; and that all those safeguards “are still in force and binding”. In reply to a request for fuller information on that subject, the representative of Kuwait reaffirmed that none of the suspended provisions had anything to do with the questions dealt with by the Convention.

316. Referring to article 1, paragraph 1, of the Convention and article 29 of the Constitution of Kuwait, a member of the Committee asked whether the expressions “race” and “origin” used in the Constitution were considered coextensive with the words “race, colour, descent, or national or ethnic origin”, used in the Convention.

317. In connection with the provisions of article 1, paragraph 2, of the Convention, some members of the Committee, noting that aliens constituted 52.5 per cent of the population of Kuwait, commended the policy followed by the Government in providing free educational, medical and other services to all residents of the country.

318. In connection with the provisions of article 1, paragraph 3, of the Convention, a member of the Committee inquired about the criteria applied in granting citizenship. The representative of Kuwait, in his reply, referred to a recent amendment to the Naturalization Act allowing students to acquire Kuwaiti nationality immediately.

319. Concerning the obligations of States parties under article 2, paragraph 1, of the Convention, some members of the Committee stated that the adoption of explicit measures prohibiting and prescribing penalties for, acts of racial discrimination was mandatory under the Convention. The representative of Kuwait referred to the egalitarian principles of the Islamic Shari'a - which, in accordance with article 2 of the Constitution, was “a main source of legislation” - and asserted that, since the Shari'a prohibited discrimination based on race or colour, the adoption of further provisions to that effect was unnecessary.

320. The question of the degree to which existing legislation in the reporting State satisfied the mandatory requirements of article 4, subparagraphs (a) and (b), of the Convention - which had been discussed at previous sessions of the Committee (A/9618, para. 151 and A/31/18 and Corr.1, para. 94) - was discussed again at the eighteenth session. A member of the Committee noted that, if an organization run on racial lines was established, its dissolution could be ordered under article 29 of the Constitution; he asked, however, under what legal norms the members of such an organization would be punished. Another member observed that, although it appeared that the provisions of article 4 of the Convention were “covered, at least indirectly, by Kuwaiti law”, the reporting State “should enact specific legal provisions in order to acquit itself of its obligations” under that article.

321. Noting that the rights enumerated in article 5, subparagraph (e) (iv) and (v), of the Convention were enjoyed by aliens and nationals alike, a member of the Committee asked for further

information on the enjoyment by aliens of the rights mentioned in subparagraphs (i), (ii) and (vi).

322. Questions were raised about the implementation of article 6 of the Convention, as the information given by the Government of Kuwait in its successive reports was not considered sufficient to explain how the law guaranteed the right of everyone within its jurisdiction to institute proceedings and seek remedies - including just and adequate reparation or satisfaction for damage - if he felt that a discriminatory act had been committed against him. In that connection, the powers of the Constitutional Court were discussed. A member of the Committee concluded from the information supplied by the reporting State that that Court, which could meet at the request of the National Assembly, the Council of Ministers or a court, could not meet at the request of an individual, in order to determine the constitutionality of a law; and that, therefore, the Constitutional Court could not be considered as a means of recourse for the purposes of article 6 of the Convention. Another member was of the opinion that an individual also could ask the Constitutional Court to declare a law unconstitutional; however, he asked for confirmation of that opinion, as well as for clarification of whether the Court could - in addition to determining the constitutionality of a law - exercise any powers with regard to particular cases of racial discrimination.

323. Information requested in past sessions about the implementation of article 7 of the Convention (A/31/18 and Corr.1, para. 97) was requested again at the eighteenth session.

324. Bearing in mind the information received and considered by the Committee at its previous sessions (A/9018, para. 97; A/9618, para. 152; and A/31/18 and Corr.1, para. 93) and reaffirmed in the report under consideration, with regard to the absence of any relations with racist régimes, a member of the Committee asked if Kuwait contributed to United Nations activities against racism and apartheid and, especially, whether it made contributions to the various funds set up to support those activities. In his reply, the representative of Kuwait gave information on the role of Kuwait in that regard as a member of the Security Council and on the financial contributions made by Kuwait not only to the funds connected with the struggle against racism and apartheid established within the framework of the United Nations but also to those established by the Organization of African Unity.

325. The Committee took note of the statistical information given in the report in response to general recommendation IV of the Committee, including information on the number of Kuwaiti nationals, and the number of nationals of other countries residing in Kuwait, in 1965, 1970 and 1975.

CERD A/36/18 (1981)

182. The sixth periodic report of Kuwait (CERD/C/66/Add.23) was introduced by the representative of the reporting State who pointed out, in particular, that Kuwait, which had just elected a new Parliament, was a country whose enormous wealth and small population and high proportion of resident foreigners (over 50 per cent) made it unique in many respects. Foreigners had the same status as Kuwaiti citizens in that they lived in the country in equality and justice, without distinction as to colour, race or religion, and enjoyed full freedom of expression and religion and free high-quality educational facilities and health care, in accordance with articles 7, 8 and 29 of the Constitution.

183. The Committee commended Kuwait for its report which demonstrated the will of this State to maintain a dialogue with the Committee. A member expressed the view, however, that the report of Kuwait was not as complete as it might have been. It was also noted that the report was not fully in keeping with the Committee's guide-lines and the hope was expressed that those guide-lines would be followed in the preparation of future reports.

184. In connection with articles 2 and 5 of the Convention, the Government of Kuwait was requested to explain in its next report, as it had already been requested to do on several occasions, how the relevant legal provisions were applied to foreigners: whether, for example, it treated such foreigners as migrant workers or otherwise and what legal provisions were applied to them; what the ethnic composition of the population of Kuwait was; whether all foreigners were of Arab origin; what opportunities they had to take part in the decision-making process and, in particular, in the adoption of laws and regulations directly affecting them; whether they had the same wage scales as Kuwaiti nationals, in accordance with article 5 (e) (i); whether they might be deported and, if so, in what circumstances; whether their families were allowed to visit or join them in Kuwait; approximately how many children of migrant workers were currently living in Kuwait and what vocational training opportunities they had; whether special instruction was provided for those whose mother tongue was not Arabic; and whether they had trouble finding jobs when they left school and, in particular, whether they had to have work permits. The Government of Kuwait was also requested to describe the methods of recruiting foreign workers, explain whether bilateral conventions existed and indicate how the Government reacted in cases of clandestine immigration. Referring to the distinction which had been drawn between temporary workers and those who might be regarded as permanent residents and who came mainly from Arab countries, a member asked whether the Government of Kuwait had concluded agreements on the contractual recruitment of such workers and, if so, whether copies of laws on collective agreements, mediation and arbitration could be made available to the Committee. It was also asked whether foreigners who had lived in the country for more than five years were allowed to belong to trade unions, take part in their management and whether they had the right to strike and to take part in collective bargaining.

185. More information was requested by the Committee on the implementation of article 4 of the Convention. It was asked what penalties could be imposed for violation of article 29 of the Constitution, which ensured equality of rights and confirmed the racial non-discrimination recognized by Islamic law; whether the provisions of the Penal Code applied to organizations which advocated fundamentalist ideologies or incited to racial hatred and whether a policy had been

adopted to restrict the activities of such groups. In connection with articles 26 and 27 of the Publications Act No. 3/61, the Committee requested the Kuwaiti authorities to provide the texts of those articles. Members also wondered whether there were other laws on publications that might bear a more direct relation to the provisions of the Convention. A member of the Committee expressed the opinion that provisions of the Publications Act No. 3/61 did not constitute a proper implementation of the provisions of article 4 (a) and (b). Publications that might provoke hatred or division among individuals did not necessarily constitute an incitement to racial discrimination and, consequently, the Act did not relate to all the elements referred to in article 4 (a). Likewise, Act No. 28 of 1965 did not give effect to all the provisions of article 4 (b). He would also like to have further details on article 26 of Act No. 3/61, which had been referred to for the first time in the sixth periodic report of Kuwait. Since a Parliament had been elected, it might be advisable for the Government to prepare a bill for the effective implementation of the provisions of article 4. The hope was expressed that, in its next periodic report, the Government of Kuwait would be in a position to indicate what had been done in that respect.

186. In connection with article 5 of the Convention, it was asked whether the term “citizens” applied to the entire population of Kuwait or only to Kuwaiti nationals and, in particular, whether foreigners living in Kuwait were protected by domestic legislation. With regard to political rights, a member asked whether voting laws applied only to men or whether, in the context of the measures adopted with a view to women’s liberation, women also had the right to vote; and how Kuwait’s general system of alternating leadership operated. More details were requested on Kuwait’s nationality code, how Kuwaiti nationality could be obtained or lost and whether the deciding factor was the original nationality of the person concerned. With reference to freedom of expression, it was asked whether the right to profess ideas not in keeping with the official doctrine of the State was guaranteed.

187. As regards article 6 of the Convention, attention was drawn to a statement in the report that any persons against whom acts of discrimination were committed could take legal action if the acts committed were serious offences. In that connection, it was asked who determined the seriousness of such offences. Moreover, the principle appeared to apply only to offences committed by officials and it would be necessary to learn what happened in cases where an offence was committed by one individual against another, what legal action the victim could take and whether he was entitled to legal aid. Generally, more detailed information was requested on the rules and regulations that enabled Kuwaiti citizens or foreigners to assert their rights if they had suffered acts of racial discrimination. Regarding the Constitutional Tribunal, it was asked whether that Tribunal was also competent to determine whether laws and regulations conformed to the Convention or any other treaty freely signed by Kuwait. Further details were requested on the constitutional procedure referred to in paragraph 2 of the report.

188. The Committee requested more information regarding the implementation of article 7 of the Convention. It was asked, in particular, what measures the Government had adopted in connection with education, culture and training for the different categories of residents and whether efforts had been made to interest them in the cultures of ethnic groups other than their own and whether there were information programmes relating not only to discrimination in the field of human rights, but also to the cultures and civilizations of different countries; and whether the Kuwaiti population and foreigners had developed any cultural ties, leading to cultural interaction. Regarding the curricula

of public and private schools, it was asked whether they provided for activities designed to combat prejudices leading to racial discrimination and to promote understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagate the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights.

189. Replying to some of the questions raised by the Committee the representative of Kuwait said that most Kuwait nationals were of Arab origin or, more accurately, of Saudi origin. A smaller proportion were of Iraqi origin, while a few were of Iranian origin. Kuwaitis of Iranian origin had been settled in Kuwait for more than 150 years. They had thus been there before the adoption of the Nationality Act. The procedure of the Constitutional Tribunal made no distinction between Kuwaitis and foreigners and any foreigner was just as entitled as a Kuwaiti national to appeal to the Constitutional Tribunal. Turning to questions regarding foreign workers, he said that those workers were hired on the basis of contracts which they usually signed in their countries before they left for Kuwait. Migrant workers in Kuwait had practically permanent positions. Contracts were renewed almost automatically on a yearly basis, as long as workers performed satisfactorily and the country needed their labour. If a foreign worker's contract was not renewed, he was warned well in advance to enable him to seek employment elsewhere. The reason for the non-renewal of his contract was also explained to him. The cases of person who wished to join members of their families in Kuwait were covered by the Immigration Act. Authorizations were not automatically granted and depended on the reasons why such persons wished to join their families. However, if they came to Kuwait with visitors' permits and found jobs corresponding to their skills, they could easily obtain work permits. The authorizations thus depended largely on the circumstances and skills of the applicants. With regard to wages, Kuwaiti nationals had a slight advantage, but the same was true of all countries in the world. However, the difference was not enormous. The children of non-Arab foreign workers attended schools within their communities where they received instruction in their languages and according to their cultural traditions.

190. In reply to questions regarding political rights, the representative said that in Kuwait the question of women's suffrage was often ventilated in the press and on television. There were currently many educated women in the country and the time would come when they would be entitled to vote. In the royal family, children with black mothers had exactly the same rights as children with white mothers, as proved by the fact that a prince with a black mother had been Prime Minister and would subsequently be the head of State. Freedom of expression, about which a question had been asked, genuinely existed in Kuwait, as could be seen by reading the newspapers. The only restriction laid down in the 1961 Publication Act was that press articles should in no circumstances jeopardize Kuwait's relations with other countries, particularly the countries of the region. In reply to another question, the representative said that trade unions existed in Kuwait, but he was not in a position to explain how much freedom they had. Finally, he assured the Committee that the comments made and questions asked by members of the Committee to which he had not been able to reply would be dealt with in the next report of Kuwait. The texts requested by the Committee would be provided and the next report would be prepared in accordance with the Committee's guide-lines.

CERD A/37/18 (1982)

214. The seventh periodic report of Kuwait (CERD/C/91/Add.3) was considered by the Committee together with the introductory statement of the representative of the reporting State, who explained, in particular, the situation concerning foreign workers and their families in Kuwait. He stated that the Constitution guaranteed the possibility and choice of employment for everyone and prohibited forced labour, discrimination and exploitation, and that the existing laws and measures in his country were adequate to prevent any form of racial discrimination.

215. Members of the Committee observed that replies to some of the questions raised during the examination of the sixth periodic report had been provided orally by the representative of Kuwait but did not appear in the report, while others had not been answered at all.

216. With reference to articles 2 and 5 of the Convention, the Committee drew particular attention to the situation and the legal status of foreign workers, who constituted 85 per cent of a total number of workers in the country. Members of the Committee requested more information on the different conditions of work in the long-term and short-term categories; whether short-term workers relied on recruiting agencies for their working conditions and social benefits or the Government ensured that they were not exploited by those agencies; whether long-term workers were permitted to change jobs, buy and sell property, reside where they pleased, leave the country and return, have their families with them, marry locally and have their choice of spouse. With regard to trade union rights, it was asked whether there was a separate trade union for foreign workers or whether they were permitted to join a national trade union. It was also asked whether a distinction was made between temporary and long-term workers in the area of health, social security and other benefits.

217. In connection with article 3 of the Convention, some members congratulated the Kuwaiti Government on its progressive policy regarding the struggle against apartheid. The Government was requested to keep the Committee informed of any other campaigns or programmes organized in the struggle against racial discrimination and apartheid.

218. With respect to implementation of article 4 of the Convention, it was noted that, although the Constitution provided for absolute equality and the Islamic Sharia prohibited racial discrimination, there was no specific law declaring racial discrimination a crime and imposing penalty for dissemination of ideas based on racial superiority or hatred or for incitement to racial discrimination. Moreover, except where Kuwaiti law made provision for the Ministry of Social Affairs and Labour to dissolve a club or association in such a way as to comply with article 4 (b) of the Convention there was nothing in Kuwaiti legislation to prohibit organized and other propaganda activities promoting and inciting racial discrimination, or to make participation in such activities punishable by law. The members pointed out that existing legislation could not therefore be considered adequate to meet the requirements of article 4 (a) and (b) and the Committee must reiterate its position concerning the necessity to enact relevant legislation. Referring to paragraph 185 of the Committee's report to the General Assembly at its thirty-sixth session (A/36/18) concerning the question of the applicability of the Kuwaiti Penal Code to organizations which advocated fundamentalist ideologies, one member stated that it should not be assumed that fundamentalist ideologies were ipso facto discriminatory and that the Committee's concern should be to ascertain

whether incitement or promotion of racial hatred and discrimination existed, regardless of ideology.

219. As regards article 6 of the Convention, the Committee expressed regret that no reply to the question raised earlier concerning legal means providing for compliance with the guarantees laid down in article 29 of the Constitution had been received. Noting that the constitutionality of legislation contrary to the principles contained in the Constitution could be challenged, it was asked whether the Constitutional Court had in fact ever exercised its right to rectify such legislation.

220. With reference to article 7 of the Convention, it was pointed out that the Kuwaiti educational policy was a liberal one and workers were free to enjoy their own religion, institutions and associations. However, members hoped that more details regarding the implementation of all the provisions of this article would be given in the next report of Kuwait.

221. Replying to the questions raised by members of the Committee, the representative of the reporting State expressed the hope that in future it would be possible to submit more detailed reports incorporating answers to the Committee's comments and questions. Commenting on the objective of equal treatment for nationals and non-nationals, he stated that although the principle of equal pay for equal work was respected in Kuwait, in practice it was found that the kinds of work undertaken by foreign workers were frequently not done at all by Kuwaitis and that, in practice, the circumstances referred to in the report, which permitted exceptions to the rule of non-discrimination between Kuwaitis and non-Kuwaitis, had never arisen. However, he agreed that the only distinction between foreign and national workers should be in relation to work permits. He also stated that there were no specific restrictions on workers' freedom to change employment, which was a matter to be arranged between the worker and the agency. Foreign workers had freedom of residence and were free to leave the country. Furthermore, they had the right to practice their religion, and to marry locally or to marry a Kuwaiti national if they so wished. The representative stated that the length of stay did normally give foreign workers a certain status but that they were not allowed to purchase property or to set up a business without the involvement of a Kuwaiti national. He agreed that the question of foreign labour was one of prime concern in discussing Kuwait's compliance with the provisions of the Convention. Although he was not aware of any formal agreements with the countries of origin of foreign workers, arrangements had been made on a bilateral basis between Kuwait and other countries.

222. As regards the implementation of articles 4 and 6 of the Convention, the representative stated that there was no specific law declaring incitement to racial discrimination a punishable offence and agreed that a request should be made to Parliament to consider enacting relevant legislation. However, procedures for protection and remedies were available in so far as all workers had the right to submit complaints to the relevant authority within the Ministry of Social Affairs and Labour.

CERD A/39/18 (1984)

482. The eighth periodic report of Kuwait (CERD/C/118/Add.3) was considered by the Committee together with a brief introduction by the representative of the reporting State.

483. Members of the Committee congratulated the Government of Kuwait for its satisfactory report which conformed to the Committee's guidelines, and for its regularity in the submission of reports which showed the Government's wish to maintain a fruitful dialogue with the Committee. Members of the Committee also noted with appreciation that Kuwait duly complied with various provisions of the Convention, in particular those contained in articles 1, 2 and 3, and that the many different nationalities composing its population lived together without racial discrimination.

484. With regard to the incorporation of the Convention into Kuwaiti law in accordance with article 70 of the Kuwaiti Constitution, it was noted that the Convention could enter into force in Kuwait only through the promulgation of legislation acts and confirmation of such promulgation was requested. It was also asked what would happen in case of conflict between the Convention and the national legislation and which of the two would prevail. Further information was also requested on the demographic composition of the country, including any nomadic communities, on literacy levels, cultural aspects and income distribution.

485. With reference to article 4 of the Convention, members of the Committee reiterated their appeal, made to many other States parties, that Kuwait should adopt specific legislation to prohibit racial discrimination and to meet fully all the requirements of that article.

486. Regarding article 5 of the Convention, members of the Committee wished to know, in particular, the scope of the legislation which protected the rights and freedoms set forth in articles 36 to 39 of the Kuwaiti Constitution and they requested the text of that legislation. They would also like to receive information on the participation of women in the various strata of Kuwaiti society and on the situation concerning voting rights for women, on the measures taken by the Government to prohibit commercial agencies and transnational corporations from acting contrary to the interests of migrant and foreign workers working in Kuwait, on the difference between the remuneration of native Kuwaitis and foreigners doing the same work, on the reasons why foreign workers did not stay in Kuwait for long periods and why there was a constant change in the composition of the labour force.

487. Members of the Committee observed that the provisions of article 6 of the Convention did not seem to be fully covered in Kuwait by adequate measures. The Constitutional Court and the General Court referred to in the report did not appear to deal with matters of racial discrimination and it was asked whether there were any other courts in Kuwait to which a citizen or alien whose rights had been restricted or violated could have recourse.

488. With reference to article 7 of the Convention, further information was requested on educational and cultural activities in Kuwait aimed at combating racial discrimination.

489. Replying to questions raised by members of the Committee, the representative of Kuwait made

it clear that any Convention ratified by his country automatically had the force of law and, if there was conflict between the Convention and national law, the Convention superseded national law which then had to be modified. As regards the demographic composition of his country, he stated that Kuwaitis comprised between 40 and 50 per cent of the population. After them came the Arabs; there were about 300,000 Palestinians, followed by Iraqis, Egyptians, Jordanians, Syrians and Lebanese, with a very few from North Africa. Non-Arabs included Indians, Pakistanis and, starting during the 1970s, workers from the Republic of Korea and the Phillipines. He also stated that his country was reputed to stand among the best with regard to literacy and education in the Arab world and it was the highest in per capita income. He provided some information in that respect.

490. With reference to article 5 of the Convention, the representative said that women in his country held high posts in nearly all fields, however they had not yet gained political rights. Furthermore, he pointed out that his Government did its best to avoid dealing with recruitment agencies exploiting migrant workers or allowing them to have agents in the country. The reason why migrant workers did not remain in Kuwait was that they came on the understanding that they would do a certain job and then leave.

491. With regard to article 6 of the Convention, the representative stated that the General Court in Kuwait dealt with complaints concerning employment and that the Constitutional Court dealt with violations of rights covered by the Constitution. However, there was no other court in Kuwait dealing specifically with complaints relating to racial discrimination and there were no penalties in law for acts of racial discrimination. He assured the Committee that he would draw his Government's attention to those points in particular.

CERD A/43/18 (1988)

177. The Committee considered the ninth periodic report of Kuwait (CERD/C/149/Add.16) at its 824th meeting, held on 8 August 1988 (CERD/C/SR.824).

178. Introducing the report, the representative of Kuwait said that the Kuwaiti commission responsible for preparing it had endeavoured to follow the guidelines established by the Committee and to reply as fully as possible to the questions raised during the Committee's discussion of the previous report (CERD/C/118/Add.3). He gave a brief description of the structure and content of the report and drew the Committee's attention, in particular, to the relevant articles of the Constitution of Kuwait and to the fact that a working group had been established to monitor the application of measures to eliminate racial discrimination.

179. Members of the Committee noted that the report had been submitted in accordance with the guidelines established by the Committee and contained references to most of the Committee's questions and observations concerning Kuwait's eight periodic report. It was pointed out that, among the countries of the region, Kuwait had good reason to be proud of its conduct in regard to human rights.

180. With regard to paragraph 7 of the report, some members of the Committee wished to know whether the State of Kuwait had acceded to any human rights instruments since the submission of its previous report, and further information was requested about Kuwait's activities in international organizations such as ILO and the League of Arab States. In connection with paragraph 8 of the report, additional information was requested concerning the reasons for the establishment of the working group to monitor the application of measures adopted with a view to the elimination of racial discrimination, and concerning the group's competence, powers, mode of operation and composition. It was suggested that, in its next periodic report, Kuwait provide more details on the functions of the working group, the type of reports it submitted and the effectiveness of its endeavours to prevent racial discrimination.

181. With regard to the application of article 1 of the Convention, the members of the Committee paid tribute to the Kuwaiti Government for the equitable manner in which foreign workers were treated and, with reference to paragraph 33 of the report, wished to know whether it was the intention of the Kuwaiti Government that the benefits mentioned therein should be granted to foreign workers.

182. Concerning the implementation of article 3 of the Convention members of the Committee, noting the positive role Kuwait had played in the struggle against apartheid both within the United Nations system and in the Gulf region, inquired whether products of South African origin had been imported illegally into Kuwait and whether Kuwaiti companies had concluded transactions with South African entities.

183. As to the implementation of article 4 of the Convention, it was noted that the report did not meet all the requirements of the Convention. In particular, with regard to paragraph 18 of the report, it was pointed out that the promulgation of special legislation to prevent racial discrimination was

a requirement of the Convention that should be respected, even if the country had the good fortune to be free of racial discrimination, as seemed to be the case in Kuwait. In that context, attention was drawn to a contradiction between what was said in paragraph 18 and the content of paragraph 13 of the report. A further contradiction was noted between the statements that the Kuwaiti delegation had made to the Committee during the consideration of the eighth periodic report and the content of paragraphs 13 and 18 of the ninth periodic report. It was suggested that provisions in conformity with the Convention should be incorporated in Kuwait's domestic law, since no one ever knew what the future might hold in store and, in any event, it was more prudent to have penal provisions for deterrent purposes.

184. Regarding the implementation of article 5 of the Convention, members of the Committee wished to know how Kuwait interpreted the provisions of the Convention relating to freedom of conscience and also whether that concept of freedom of conscience could be promoted in Kuwait and whether persons who were not followers of any religion could enjoy such freedom. It was also asked whether the principle of equal access to establishments of higher education by the children of foreign workers was applied in Kuwait, whether foreign workers had the right of association in trade unions and whether, on expiry of their contract, they could seek other employment, possibly with assistance from the Kuwaiti authorities.

185. In reply to the questions and observations of the members of the Committee, the representative of the State party said that, as far as he was aware, Kuwait had not ratified any other international instruments since the presentation of its ninth periodic report and his country's Government would confirm that point in its next report. Kuwait was playing an active role in the efforts of ILO and the League of Arab States to combat racial discrimination and had participated as an observer in the ILO Tripartite Conference on Action against Apartheid, held at Harare (Zimbabwe) from 3 to 6 May 1988, at which it had contributed to the adoption of a large number of resolutions. He informed the Committee of the composition and functions of the working group referred to in paragraph 8 of the report. With regard to familiarizing individuals with the rights they could exercise under the terms of the Convention, he referred to article 70 of the Constitution of Kuwait and indicated that the Convention had been incorporated in his country's internal legislation and published in the official gazette. Consequently, any citizen could familiarize himself with the Convention and invoke before the courts the provisions of international law that had been incorporated in Kuwait's internal law.

186. The representative said that no goods of South African origin entered Kuwait and that no Kuwaiti financial or commercial company maintained relations with South African companies, since Kuwait's policy, which was fully respected, strictly prohibited any dealings with South Africa.

187. With reference to the questions about the implementation of article 4 of the Convention, the representative of the State party said that no cases of racial discrimination had ever been brought before the Kuwaiti courts and the legislature had not deemed it necessary to propose the adoption of a law in that connection for the simply reason that the need for one had not been felt. The additional information on that subject would be incorporated in the tenth periodic report.

188. In reply to the questions concerning the implementation of article 5 of the Convention, the representative of Kuwait affirmed that freedom of conscience and religion in Kuwait was guaranteed to all communities, subject to respect for public order and for the law. After describing Kuwait's

system of higher education, he said that public education was accessible to all nationals and foreigners living in Kuwait and, with regard to equality of opportunity between Kuwaitis and foreigners, who constituted about 60 per cent of the population, the criterion for access to higher education was the student's level of academic achievement and not his nationality. Foreign workers, who constituted a very high percentage of the labour force in Kuwait, had a trade union which defended their rights. The Ministry of Social Affairs and Labour kept a check on employers and employees in order to avoid any disguised unemployment or underemployment in Kuwait. On the question of social assistance, the State was, in fact, planning to grant foreigners the same benefits as Kuwaiti citizens, particularly in regard to retirement benefits.

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359. The tenth, eleventh and twelfth periodic reports of Kuwait, submitted in one document (CERD/C/226/Add.5), were considered by the Committee at its 995th and 996th meetings held on 9 August 1993 (see CERD/C/SR.995 and 996).

360. The report was introduced by the representative of the State party, who pointed out that Kuwait categorically rejected racial discrimination and was committed to implementing all the provisions of the Convention. Discrimination was unknown to Kuwaiti society, and it had therefore been considered unnecessary, at the time of the drafting of the 1963 Constitution, to make a specific reference to discrimination on grounds of colour or race. Since its accession to the Convention in 1968, Kuwait had been diligent in reporting to the Committee. However, circumstances beyond its control had prevented timely submission of the tenth, eleventh and twelfth reports.

361. Members of the Committee welcomed the resumption of the dialogue with the State party, which was still recovering from the effects of the invasion it had suffered recently, and expressed appreciation for the fact that the report submitted by Kuwait was more elaborate than the previous ones and largely followed the Committee's guidelines for the preparation of reports. They nevertheless expressed regret that the report did not provide sufficient information on practical measures taken in the country to implement the Convention. They noted that the statement in the report that "the State of Kuwait ... has witnessed no discriminatory racial practices among its inhabitants" seemed to be in contradiction with various reports of discriminatory policies and practices affecting certain categories of the population. It was pointed out that the report did not seem to have fully taken into account the very comprehensive definition of racial discrimination given in article 1 of the Convention, which included discrimination on grounds of colour, descent or national or ethnic origin.

362. Recalling that States parties were under an obligation to report fully on legislative measures relating to foreigners and their implementation, members of the Committee wished to receive further information on the situation of non-Kuwaitis residing in the country following the liberation of Kuwait. They requested more details about the demographic composition of the country, including statistics on the number of foreign residents who had left the country after its liberation. Members asked for more precise information on the current situation of certain categories of persons who were reported to be in a very vulnerable position. According to reports from various sources, the Bedoons and the Palestinians had been subjected to ill-treatment, detention, expulsion and torture on the grounds of alleged sympathy for Iraq; many were said to have been dismissed from public sector employment and their children had been excluded from the public school system. Similar problems were reportedly faced by Iraqi nationals and citizens of other countries that had not participated in the coalition. In addition, it was alleged that many domestic staff of Asian origin, mainly women, were subjected to debt bondage, other illegal employment practices, passport deprivation, illegal confinement, rape and physical assault. Members requested information on measures taken by the Government to improve and remedy that situation.

363. With regard to article 2 of the Convention, members of the Committee requested additional information on differences in the rights of those who had acquired Kuwaiti citizenship since 1922

by comparison with those descended from persons having that citizenship earlier; that appeared to be in conflict with the provisions of the Convention.

364. In connection with the implementation of article 3 of the Convention, it was asked whether any de facto segregation occurred on the basis of ethnic or national origin.

365. Concerning article 4 of the Convention, members of the Committee noted that although Kuwait had reiterated its commitment to the provisions of that article in the report, the Kuwaiti authorities had not yet adopted specific legislation prohibiting racial discrimination. In that connection, they recalled the mandatory character of such legislation and stressed the importance of legal anti-discriminatory provisions, if only for preventive purposes.

366. With regard to article 5 of the Convention, members asked whether the right to equal access to and treatment before the courts was guaranteed for non-Kuwaitis, taking into account the fact that non-citizens could face expulsion without charge or judicial recourse, whereas no Kuwaiti might be exiled. Information was requested on measures taken to prevent the occurrence of extrajudicial killings, torture and ill-treatment which were reported to have affected certain categories of foreigners after the liberation of Kuwait. Members of the Committee requested further information on the situation of foreign workers in the post-occupation period, and it was asked whether they enjoyed trade union rights. Members of the Committee also wished to know whether the provision of health care, education and training services applied to migrant workers and their families, and whether facilities existed for foreign students to attend schools in which they could study their mother tongue. Clarification was sought on the exercise of the right to freedom of religion, and the possibility for members of various religious faiths to build their own places of worship.

367. With regard to article 6 of the Convention, additional information was requested on the right of victims to seek adequate reparation or satisfaction for damage suffered as a result of discrimination; on the way in which the right of recourse to the courts was enjoyed by citizens of States with which Kuwait had not concluded bilateral agreements; and how many cases had actually been brought before the judicial authorities and settled by them. It was asked whether the Government of Kuwait had fully exercised its powers to prosecute violations of the provisions of the Convention.

368. As to the provisions of article 7 of the Convention, members of the Committee asked what measures had been taken to ensure their full implementation including, in particular, measures for the training of law enforcement personnel.

369. In his reply, the representative of the State party recalled the provisions of article 29 of the Constitution of Kuwait, concerning equality of rights and obligations, without distinction as to race, origin, language or religion. He pointed out that the situation of foreigners had not changed after the country's liberation; the State of Kuwait was still endeavouring to protect their status and ensure them a stable life and a decent standard of living. With regard to the expulsion of Bedoons, following the ending of the Iraqi occupation, he stated that large numbers had now returned. The nationals of countries that had collaborated with the Iraqi régime during the occupation of Kuwait, and more particularly Palestinians, had not been subjected to ill-treatment or discrimination. Out of the 400,000 Palestinians on Kuwaiti territory, 250,000 had left during the occupation because of

the prejudice they had suffered. The Kuwaiti State had paid the wages of all those who had left, except collaborators, who could be brought before the courts. There were at the present time approximately 50,000 people in Kuwait with a travel document issued by another country that refused to receive them. Those persons were well treated. A National Assembly human rights committee had conducted a study of Palestinians holding travel documents and had sent a recommendation to the authorities for them to be issued with a residence permit, and the Government was in the process of taking the necessary measures. Domestic staff were not ill-treated in Kuwait and any problems that did arise concerned only about 1 per cent of such employees. The State guaranteed them the same rights as any other Kuwaiti citizen, including the right to institute legal proceedings in the event of ill-treatment; in that regard, a court had recently sentenced an employer to seven years' imprisonment for ill-treating a domestic servant. The Government had set up a reception centre for employees fleeing from families for which they worked.

370. As to the question of why a law had not been enacted pursuant to article 4 of the Convention, the representative of the State party pointed out that the Convention formed an integral part of internal legislation and that there were laws against discrimination; furthermore, no one in Kuwait had ever been prosecuted on the grounds of racial discrimination.

371. With regard to any human rights violations committed in Kuwait following the country's liberation, the representative of the State party said that they had occurred during a short period of uncertainty before matters had been taken in hand by the authority of the law. Once restored, that authority had made sure that persons brought before the courts benefitted from all judicial guarantees and a fair and public hearing. As to the criteria to be applied in granting Kuwaiti nationality, that question was now being discussed in Parliament, with a view to finding a fair and equitable solution to the problem. Kuwaiti women had access to the highest posts; granting women the right to vote was now under consideration and the authorities ensured the elimination of all discrimination based on sex.

Concluding observations

372. At its 1008th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

(a) Introduction

373. The Committee welcomed the resumption of the dialogue with the Government of Kuwait. It welcomed the information contained in the report and the additional information presented orally, and appreciated the fact that the report was more detailed and comprehensive than previous ones and followed the general reporting guidelines adopted by the Committee. It regretted, however, that the report did not provide information on the implementation of the Convention in practice and about factors and difficulties that impeded its application.

(b) Positive aspects

374. The Committee noted with interest the important developments taking place in the National

Assembly, where issues concerning the status of Bedoons and criteria determining the granting of Kuwaiti nationality were being debated. The Committee also noted the willingness of the Government to continue to provide further information on the implementation of the Convention.

(c) Factors and difficulties impeding the application of the Convention

375. The Committee recognized that, as a consequence of the invasion and occupation of Kuwait by Iraq, the State party had been subjected to serious difficulties that had temporarily affected the full implementation of the provisions of the Convention.

(d) Principal subjects of concern

376. The Committee was particularly concerned about expulsions and other discriminatory measures against especially vulnerable groups of foreigners, including Palestinians, stateless Arabs, Bedoons, Iraqis and nationals of countries that did not participate in the coalition, and the treatment of foreign domestic servants. The Committee was concerned that no specific measures had been envisaged to eliminate discrimination with respect to descent, national or ethnic origin. In that connection the Committee referred to official discrimination made between two categories of Kuwaiti citizens: those who possessed longstanding Kuwaiti nationality and those who had acquired Kuwaiti nationality in more recent times. Furthermore, the Committee expressed its concern about the lack of penal legislation to implement the provisions of article 4 of the Convention.

377. The Committee was particularly concerned about discriminatory measures leading to the exodus of foreigners in the period following the liberation of Kuwait.

378. The Committee regretted the absence of concrete information in the report of the State party on the implementation of the provisions of articles 2 to 7 of the Convention in practice. The Committee noted, in particular, that no information was provided in the report on the situation of non-Kuwaitis residing in Kuwait, although they were thought to constitute the majority of the population.

(e) Suggestions and recommendations

379. The Committee recommended that the comments and concerns it had expressed with regard to the consideration of the tenth, eleventh and twelfth periodic reports of Kuwait should be taken into account by the State party.

380. The State party should take steps to guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, including foreign domestic servants, of the rights enshrined in the Convention without any discrimination; to eliminate discrimination deriving from the dual system of citizenship; to revise the Penal Code in order to introduce specific legislation to implement the provisions of article 4 of the Convention in accordance with General Recommendations VIII and XV of the Committee; to guarantee the right of recourse in courts to victims of discrimination; and to implement the provisions of article 7 of the Convention, in particular through adequate training in human rights norms of law enforcement personnel in the light of General Recommendation XIII of the Committee.

381. The State party should include, in its thirteenth report, due in January 1994, concrete information about the demographic composition of the population, including the foreign population, and details about the economic, social and political status of non-Kuwaiti residents. That report would enable the Committee to continue its examination of the situation in Kuwait which warranted close monitoring.

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208. The Committee considered the thirteenth and fourteenth periodic reports of Kuwait, submitted in one document (CERD/C/299/Add.16 and Corr.1), at its 1325th and 1326th meetings (see CERD/C/SR.1325 and 1326), on 15 and 16 March 1999. At its 1331st meeting, on 18 March 1999 (see CERD/C/SR.1331), it adopted the following concluding observations.

A. Introduction

209. The Committee welcomes the report of Kuwait and the opportunity to resume its dialogue with the State party. The Committee notes with satisfaction the regularity with which the State party has submitted its reports to the Committee. The Committee also expresses its appreciation to the delegation of the State party for the additional information that it provided to the Committee orally and in writing.

B. Factors and difficulties impeding the implementation of the Convention

210. The Committee acknowledges that, as a result of the invasion and occupation of Kuwait by Iraq, the State party was subjected to serious difficulties which continue to affect the capacity of the State party to fully implement all of the provisions in the Convention.

C. Positive aspects

211. The Committee welcomes the steps taken by the State party to grant Kuwaiti nationality to a certain number of non-Kuwaitis. In particular, the Committee welcomes the amendment to article 7 of the Nationality Act (Decree No. 15 of 1959), which provides that children of naturalized fathers born after their father acquired Kuwaiti nationality are now regarded as being of Kuwaiti origin. This provision also applies to those born after the entry into force of that Act.

212. The Committee welcomes the establishment of an executive committee on undocumented persons in the country. It also notes with satisfaction the approval by the Council of Ministers of Decree No. 60/1997 granting Kuwaiti nationality to the children of martyrs, classified as *bidoon* (i.e. residing illegally in the country).

213. In connection with articles 2 and 4 of the Convention, the Committee welcomes the legislative proposal for the addition of two articles to the Penal Code of Kuwait. The first of these prohibits incitement to racial discrimination and the second stipulates that it is a punishable offence for public officials not to respect racial equality.

214. The Committee notes with appreciation the measures taken by the State party to protect the rights of foreign workers in Kuwait. In particular, the Committee welcomes the statement of the State party that it has ratified a large number of international conventions adopted by the International Labour Organization and the Arab Labour Organization with a view to protecting workers' rights.

215. In this regard, the Committee also welcomes the establishment of a Department of Domestic Labour Offices, as well as a Department to Regulate Recruitment Agencies, to monitor the employment of foreign domestic servants and to ensure that recruitment agencies act in a fair and just manner.

216. The Committee welcomes the establishment of a Committee for the Defense of Human Rights within the National Assembly, to monitor human rights issues in Kuwait.

D. Principal subjects of concern

217. While the Committee acknowledges the proposed amendment to the Penal Code in connection with article 4 of the Convention, it notes with concern that the Kuwaiti legislation is not in full compliance with the provisions of this article.

218. The Committee is still concerned about discriminatory measures in relation to vulnerable groups of foreigners, in particular, the treatment of foreign domestic servants.

219. The Committee is concerned by the fact that, in spite of efforts, the Government of Kuwait has not yet found a solution to the problems of the *bidoon*, the majority of whom are still stateless.

220. With regard to article 7 of the Convention, the Committee notes with concern the insufficient training for law enforcement officials and other public officials regarding the provisions of the Convention.

E. Suggestions and recommendations

221. The Committee recommends that the State party revise the Penal Code in order to introduce specific legislation to implement the provisions of article 4 of the Convention in accordance with general recommendations VIII and XV of the Committee.

222. The Committee recommends that the State party improve administrative and legal measures to guarantee the enjoyment by individuals belonging to vulnerable groups of foreigners, notably domestic workers, of the rights enshrined in the Convention without any discrimination.

223. The Committee recommends that the State party find a solution to the problems faced by the *bidoon* and ensure the enjoyment of their rights without any discrimination, in accordance with articles 2 and 5 of the Convention.

224. The Committee recommends that the next report include information on the implementation of article 6 of the Convention.

225. The Committee suggests that the State party consider intensifying the education and training of law enforcement officials, in accordance with article 7 of the Convention and general recommendation XIII of the Committee.

226. The Committee recommends that the State party ratify the amendments to article 8, paragraph

6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention.

227. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of making such a declaration be considered.

228. The Committee recommends that the State party widely disseminate its report and the present concluding observations.

229. The Committee recommends that the next periodic report of the State party, due on 4 January 1998, be an updating report and address the suggestions and recommendations adopted by the Committee.