



**International Covenant on
Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Kuwait^{*}, ^{}**

Addendum

**Replies from the Government of Kuwait to the list of issues
(CCPR/C/KWT/Q/2) to be taken up in connection with the
consideration of the second periodic report of Kuwait
(CCPR/C/KWT/2)**

[29 July 2011]

* In accordance with the information transmitted to the States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** Annexes can be consulted in the files of the Secretariat.

Reply to question 1

1. As Kuwait has previously explained, its interpretative declaration regarding article 2, paragraph 1, and article 3 of the International Covenant on Civil and Political Rights supports the lofty principles enunciated in those two articles, which are consistent with the Kuwaiti Constitution. In both cases, however, they are exercised in accordance with the law.

Reply to question 2

2. The matter of the constitutional and legal framework within which article 2 of the Covenant is implemented was addressed in the core document contained in Kuwait's second periodic report. Article 70 of the Kuwaiti Constitution states that: "The Amir shall conclude treaties by decree and shall promptly transmit them to the National Assembly, together with an appropriate statement. A treaty shall acquire the force of law after it is signed, ratified and published in the Official Gazette. Peace treaties and treaties of alliance, treaties concerning the territory of the State, its natural resources or sovereign rights, or the public or private rights of citizens, treaties on trade, navigation and residence, and treaties entailing expenditure on the part of the State Treasury that is not included in the budget, or involving an amendment of the laws of Kuwait, must be issued in a law in order for them to enter into force. Under no circumstances may a treaty contain secret provisions that conflict with its published provisions." Kuwait has acceded to the International Covenant on Civil and Political Rights, which was approved as an integral part of its domestic law pursuant to Act No. 12 of 1996. Given that a treaty acquires the force of law after it is signed, ratified and published in the Official Gazette, if a treaty provision conflicts with another provision of law, the treaty provision must take precedence. To be more precise, where a treaty entails an explicit or implicit amendment to the provisions of a law in force, the treaty must be issued in a law, in accordance with paragraph 2 of the aforementioned article. At that juncture, the general rule applied is that the subsequent law repeals the prior law if it conflicts with it or repeals it explicitly or implicitly, or if it is stronger than or ranks equally with it.

3. Court judgements have established this principle as a general rule by stipulating: "It is held that by virtue of Kuwait's accession to the Brussels Convention on Bills of Lading by Act No. 31 of 1969, the provisions of the Convention have a bearing on the process of domestic law and the judge is required to apply the stated principles and not earlier provisions to relationships in the area where they are applicable ..." (judgement rendered by the Court of Cassation in appeal No. 27/91 at the hearing of 28 November 1993, Technical Office, *Majallat al-qada` wal-qanun*, year 21, edition 2, March 1998, p. 163, rule 39). The Constitution and laws of Kuwait ensure to the individuals within its territory and subject to its jurisdiction all of the civil and political rights recognized in the International Covenant, without distinction of any kind, such as race, colour, sex, language, religion, opinion, national or social origin, property, birth or other status.

4. During the presentation of its national report to the eighth session of the Human Rights Council's Working Group on the Universal Periodic Review (12–14 May 2010), Kuwait pledged to establish a national human rights institution in accordance with the Paris Principles.

5. It is worth mentioning that, pursuant to Ministerial Decision No. 77 of 2011, a special committee was formed to draft a bill on the establishment of a national human rights institution. The committee has now referred the matter to an expert at the Office of the High Commissioner for Human Rights for comment in the interest of guaranteeing consistency

between the terms of reference of the institution to be established and international requirements, using as guidance the Paris Principles in order to ensure that the institution complies with the A-status accreditation criteria at the international level, and, lastly, as a preliminary to its submission to the Council of Ministers. Annex 1 comprises a copy of Ministerial Decision No. 77/2011.

Reply to question 3

6. With respect to clarifying whether legislative steps are foreseen to (a) criminalize marital rape; (b) prohibit domestic violence; (c) prohibit polygamy and (d) define honour crimes in the Penal Code as a felony instead of a misdemeanour, we draw attention to the following points.

7. Article 126 of the Personal Status Act prescribes that either spouse may seek separation on the ground that one has caused such injury to the other in word or in deed that it is impossible for them to continue living together. Article 127 of the Personal Status Act No. 51 of 1984, as amended by Act No. 29 of 2004, also provides that: "The court must do its utmost to reconcile the couple. If reconciliation is unachievable and injury is proven, it shall order their separation by irrevocable divorce. If injury is not proven, it shall appoint two mediators to effect reconciliation or separation." This provision was invoked by the Kuwaiti Court of Cassation (judgement No. 298/2005, Personal Status, hearing of 7 May 2006), which declared that: "The explanatory note plainly stated that this provision was amended, pursuant to Act No. 29 of 2004, with the intention of affording to a court hearing a divorce case the opportunity to issue a separation order when categorically proven to it that such injury has occurred, without it needing to refer the dispute to two mediators, which would prolong the case to no avail and in turn delay the verdict, even though it is clear where the right lies. If it is not proven to the court or impossible for it to determine that injury has occurred and the plaintiff (wife) is adamant about seeking divorce, it must designate two mediators to express a view on the marital discord, in accordance with the prescribed rules whereby mediators are appointed only if injury is not legitimately proven, as it is inappropriate to take such action if it is obvious where the right in the case lies."

8. In seeking to ease the burden of presenting evidence of domestic violence that women victims face when seeking divorce on grounds of injury from abuse, the legislature empowered the court of merits to take on board the facts of the case; assess the evidence, the elements of the injury constituting the grounds for divorce, and the reasons for the marital discord; and ascertain whether the abuse was committed by one or both parties. The Court of Cassation also defined the injury constituting grounds for divorce provided for in the above-mentioned article as "... the abuse of one spouse by the other in a manner not permitted by law. The injured spouse simply needs to prove that the other party committed an act that injured him/her, even if only on a single occasion, in order for a divorce to be awarded".

9. Concerning the prohibition of domestic violence, Kuwait criminalizes acts of violence against the person under articles 160, 161, 162, 163 and 164 of the Penal Code.

10. With respect to the prohibition of polygamy, article 21 of the Personal Status Act provides that: "A man may not marry a fifth woman before his marriage to one of his four wives is dissolved and her period of waiting (*iddah*) is completed." The words of God Almighty are evidence of the prohibition on more than four wives: "If you fear that you cannot treat orphan girls with fairness, then you may marry other women who seem good to you, two, three or four. But if you fear that you cannot maintain equality among them, marry one only or any slave girls you may own. This will make it easier for you to avoid injustice." (chapter of the Koran entitled "Women", verse 3). Islamic jurisprudence deals with questions of marriage on that basis and regulates marriages as legal transactions in the

State religion, in accordance with the provision of article 2 of the Constitution, which states that: “The religion of the State is Islam and Islamic law is a principal source of legislation.”

11. Concerning the definition of honour crimes in law, the Penal Code makes no provision for the definition of such crimes. Article 153 of the Code, however, provides that: “Anyone who surprises his wife in the act of adultery, or who surprises his daughter, mother or sister in the act of sexual intercourse with a man, and who instantly kills her or the man engaging in adultery or sexual intercourse with her, or both of them, shall be liable to a penalty of imprisonment for a term of up to three years and a fine of up to 3,000 rupees, or to either penalty.” The article thus establishes special mitigating circumstances, the ground for which is the state of provocation experienced by a husband, father, son or brother taken unawares by the situation and thrown into a mental turmoil that renders him incapable of exercising self-control. This fits with the prevailing traditions and customs, which firmly ingrain the idea that the honour of a wife, daughter, mother and sister is a matter of pride for a husband, father, son and brother among people in a society that protects family and kin.

12. On the subject of measures taken by Kuwait to encourage women victims of domestic violence to report to the police any instances of domestic or sexual violence to which they are subjected and to provide such women with medical, psychological and legal assistance, in addition to appropriate temporary shelter, it is worth mentioning the following:

- Article 9 of the Kuwaiti Constitution provides that: “The family is the basis of society, founded on morality and patriotism, and the law preserves its identity, strengthens its ties and protects mothers and children.”
- Article 166 of the Kuwaiti Constitution provides that: “The right of legal recourse is guaranteed to all people and the procedures and circumstances necessary for the exercise of that right are prescribed by law.” Assault victims may seek judicial remedy by filing reports with the competent authorities. Women can be said to have fully equal rights with men in this domain.
- Article 186 of the Penal Code No. 16/1960 provides that: “Anyone who has non-consensual sexual intercourse with a woman, whether through coercion, threat or deceit, shall be liable to a penalty of death or life imprisonment. If the offender is a lineal ascendant of the victim, a person responsible for her upbringing or care, a person in authority or a servant in her home or in the home of the aforementioned persons, the penalty shall be death.”

13. Steps taken by Kuwait in this area include the establishment of a Department of Community Police by the Ministry of the Interior. The Department’s functions are, inter alia, to follow up on victims of crime and provide them with psychological and social support, and to oversee the resolution of individual problems and of conflicts and disputes within the family and among neighbours through social conciliation.

14. The Ministry’s Department of Security Information also raises security awareness in order to spell out the rights of citizens to protection from crime and to motivate their cooperation in the efforts to tackle crime.

15. In the event that a police officer receives a complaint of domestic violence, the matter is more often than not amicably settled between the parties to the complaint in the interests of keeping the family peace and preserving the traditions of Kuwaiti society.

Statistics on persons charged with violence during the period January–March 2011**Age group**

<i>Age group</i>	<i>Unspecified</i>	<i>Juvenile</i>	<i>19–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60 and over</i>	<i>Total</i>
Number	132	4	19	2	3	-	-	160

Gender

<i>Gender</i>	<i>Male</i>	<i>Female</i>	<i>Unspecified</i>	<i>Total</i>
Number	122	2	36	160

Statistics on persons charged with violence during 2010**Age group**

<i>Age group</i>	<i>Unspecified</i>	<i>Juvenile</i>	<i>19–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60 and over</i>	<i>Total</i>
Number	664	64	92	25	19	6	-	870

Gender

<i>Gender</i>	<i>Male</i>	<i>Female</i>	<i>Unspecified</i>	<i>Total</i>
Number	681	46	143	870

Statistics on persons charged with violence in Kuwait during 2009**Age group**

<i>Age group</i>	<i>Unspecified</i>	<i>Juvenile</i>	<i>19–29</i>	<i>30–39</i>	<i>40–49</i>	<i>50–59</i>	<i>60 and over</i>	<i>Total</i>
Number	732	131	95	42	15	5	1	1 021

Gender

<i>Gender</i>	<i>Male</i>	<i>Female</i>	<i>Unspecified</i>	<i>Total</i>
Number	785	57	179	1 021

Reply to question 4

16. The matter of property inheritance and the rights of men and women to inherit comes down to the law, the provisions of which are derived from Islamic law in that it is a principal source of legislation.

17. On the basis of its responsibilities towards its citizens, Kuwait provides appropriate housing support, as exemplified by the promulgation of Act No. 47 of 1993, as amended, pursuant to which the Public Authority for Housing Welfare was established with its own independent budget. The Credit and Saving Bank provides interest-free loans for making appropriate low-rent housing accessible to Kuwaiti women, in accordance with the Act and its amendments. Kuwait has thus secured stability and peace of mind for its citizens.

Reply to question 5

18. The Kuwaiti legislature has regulated the mechanisms for property ownership in Kuwait by non-citizens through the following:

- (a) Decree-Law No. 74 of 1979 governing property ownership by non-Kuwaitis;
- (b) Ministerial Decision No. 259 of 2010 establishing a committee to review property ownership applications and set the general policy for property ownership by non-Kuwaitis.

19. The main functions of the committee for reviewing property ownership applications and setting the general policy for property ownership by non-Kuwaitis include the following:

- (a) Review property ownership applications received by the Ministry of Justice and set the general policy for property ownership in Kuwait by non-Kuwaitis through application of the provisions of the aforementioned Decree-Law;
- (b) Convene meetings with a view to presenting reports and recommendations at the conclusion of its work to the Minister of Justice for submission to the Council of Ministers;
- (c) Assemble a collection of equivalent laws from different countries in preparation for implementing the principle of reciprocity.

20. Annex 2 comprises a copy of Amiri Decree No. 74 of 1979, as amended, and Ministerial Decision No. 259 of 2010.

Reply to question 6

21. Article 193 of the Penal Code provides that: "If a man has consensual intercourse with another man over 18 years of age, they shall each be liable to a penalty of imprisonment for a term of up to seven years." This provision is based on the fact that homosexual intercourse is prohibited in Islamic law, and the evidence for the prohibition of such acts lies in the words of God Almighty: "Will you fornicate with males and leave your wives, whom God has created for you? Surely you are great transgressors." (chapter of the Koran entitled "The Poets", verses 165–166). In accordance with Islamic jurisprudence, homosexual intercourse is thus punished under the law in order to safeguard the religion of the State, as provided for in article 2 of the Constitution, which states that: "The religion of the State is Islam and Islamic law is a principal source of legislation."

22. The Penal Code similarly criminalizes imitating the appearance of a member of the opposite sex insofar as Act No. 36/2007 provided that the text of article 198 of Act No. 16/1960 should be replaced by the following text: "Any person who, in a public place, performs an indecent gesture or act that is visible or audible to anyone in the vicinity, or who in any way imitates the appearance of a member of the opposite sex, shall be liable to a penalty of imprisonment for a term of up to one year and a fine of up to 1,000 dinars, or to either penalty."

23. Such behaviour is criminalized because it is regarded as strange and alien to the customs of Kuwaiti society. It is also seen as incompatible with a healthy disposition and with the teachings of our true religion of Islam. Any behaviour of this sort that did occur would be a rarity and the police would address it within the legal frameworks, without harassment of the groups concerned.

Reply to question 7

24. We wish to state at the outset that the official term for this group is “illegal residents” and not “bidoon”. We also wish to make it clear that the central apparatus does not foresee the introduction of any amendments to the Nationality Act in order to deal with the situation of illegal residents. Neither are the civil and human rights afforded to illegal residents as a group in any way associated with the Nationality Act; on the contrary, they are guaranteed pursuant to ministerial decisions, most recently Council of Ministers Decision No. 409/2011, promulgated on 6 March 2011, in which the Council pays tribute to the initiative taken by the central apparatus to grant the following set of civil and human privileges and facilities:

- Provision of full medical care, free of charge, to illegal residents through a charitable health-care fund for disadvantaged residents in the territory of Kuwait
- Provision of a full education, free of charge, to children of illegal residents through a charitable education fund for disadvantaged children in Kuwait
- Issuance of birth certificates to children of illegal residents that state “non-Kuwaiti” in the nationality field
- Issuance of marriage certificates to illegal residents that state “non-Kuwaiti” in the nationality field
- Issuance of driving licences to illegal residents that state “non-Kuwaiti” in the nationality field
- Access for illegal residents with disabilities to the services provided by the Higher Council for Persons with Disabilities, in accordance with the Persons with Disabilities Act No. 8 of 2010
- Expedited issuance of powers of attorney of all kinds by the Documentation Department
- Opportunities for the appointment of illegal residents to jobs in the public and private sectors on the basis of work requirements, in keeping with the Private Sector Labour Code and its governing regulations, the Civil Service Act and decisions issued in this sphere by the Council of Ministers
- Distribution of ration cards to eligible illegal residents

25. We also wish to point out a misconception that is exemplified in the prevailing belief among members of this group that concealing their national origin is the best and swiftest way of obtaining Kuwaiti nationality and enjoying some of the same privileges as citizens, and that altering their status by showing a passport or declaring their true nationality would result in forfeiture of the civil and human privileges that they enjoy and dismissal of their application for Kuwaiti nationality. Many have therefore held on to their illegal status and endured further suffering in the hope of accomplishing the goal of obtaining Kuwaiti nationality, overlooking the fact that naturalization is a sovereign matter governed and regulated by the Kuwaiti Nationality Act No. 15/1959, as required in the supreme interest of the country.

26. The Kuwaiti Government, specifically the official authorities that issue identity cards and other civil documents to members of this group, does not require these persons to sign affidavits renouncing any claim to Kuwaiti nationality. Nor does it exert any kind of pressure in return for providing them with civil documents, which are, on the contrary, guaranteed to them under Kuwaiti laws and regulations. Furthermore, the allegation that some kind of pressure is exerted on this group is clearly an accusation of law-breaking and also tantamount to an accusation against the public servants acting for those authorities,

which is unacceptable; the Kuwaiti Nationality Act, as amended, sets out the conditions for the grant of nationality and is the decisive factor in such cases. Consequently, there is no need for outlawed practices.

27. There is similarly nothing to preclude the right of individuals in this group to obtain official documents relating to their civil status. Such documents are issued without hindrance from the concerned authorities after the requisite papers and information have been satisfactorily verified. In short, the central apparatus, on the basis of the inquiries and research conducted, assists the Ministry of Health with respect to birth and death certificates and the Ministry of Justice with respect to marriage and divorce certificates (statement of national origin) in that this statement is recorded in the official documents that those concerned are required to obtain. The statement of national origin is therefore information vital to these documents that must be complete before they are issued. In reality, however, individuals in this group refuse to present their documents in protest against the statement of national origin that they contain. The fact of the matter is that the refusal is by this group and not on the part of the Kuwaiti Government. As we have already stated, this refusal stems from the group's mistaken belief that the establishment of their national origin will impede or prevent their acquisition of Kuwaiti citizenship.

28. It is worth mentioning that, once human and civil privileges were granted to illegal residents pursuant to Council of Ministers Decision No. 409/2011 and the term "non-Kuwaiti" was adopted in place of the statement of national origin detailed in certificates of birth, death, marriage and divorce and in driving licences, many of them halted their tactics and produced documents issued to them by the competent authorities.

29. The concerned authorities (the Ministry of Health and the Ministry of Justice) have notably recognized all judgements handed down in this area, which have been executed. Following the issuance of Decision No. 409/2011, which made it easier for residents to obtain certificates of birth, death, marriage and divorce, this group no longer has any reason to turn to the courts in order to procure these certificates.

30. We also stress that illegal residents (bidoons) are treated no differently from the country's legal residents with respect to access to health care, employment and education. On the contrary, they have been granted more privileges and facilities in those spheres than their legally resident peers and, by that token, they are treated more like Kuwaitis. Following the issuance of Decree No. 409/2011, the concerned national authorities have collaborated for the benefit of illegal residents, as follows:

- Full health services at hospitals and medical centres continue to be provided entirely free of charge, although emergencies are dealt with on a purely humanitarian and case-by-case basis, to all children of illegal residents holding a check-up or health insurance card, as the cost of these services is covered by the charitable health-care fund.
- The charitable education fund continues to cover the full cost of education, including school textbooks, for children of illegal residents holding a valid identification card from the Executive Committee and a birth certificate, or a health insurance card in the case of those holding no identification card from the Executive Committee, after working on this matter in conjunction with the central apparatus.
- The children of Kuwaiti women who are categorized as illegal residents and who hold Kuwaiti certificates of secondary education continue to be admitted to the faculties of Kuwait University in the same way as Kuwaiti students, with 70 per cent of them entering the sciences and 78 per cent the arts. Each university year, 150 places are to be reserved for students in the category of illegal residents, with 15 places in addition for top students in the category and a further 5 places for students in the category who are married to Kuwaitis.

- Illegal residents are entitled to obtain civil documentation in the form of official personal papers (certificates of birth, death, marriage and divorce). Between April and June 2011, 4,418 birth certificates and 337 death certificates were issued, and 1,244 marriage certificates have been issued since May 2011. The concerned authorities (the Ministry of Justice, the Committee on Lineage Claims, Bait al-Zakat, the Secretariat-General of Awqaf, the International Islamic Charitable Organization and the Department of Criminal Evidence) are working together to establish an appropriate mechanism for shouldering the cost of DNA profiling.
- Military personnel are entitled to housing support and benefits under the social security system, for although these privileges are prescribed for Kuwaitis only, the State provides low-cost housing on a humanitarian basis for army and police personnel, who also benefit on the same basis from the rights recognized in the Social Security Act.
- Illegal residents enjoy the right to judicial remedy, which the Kuwaiti Constitution guarantees to all, and the right to obtain powers of attorney of all kinds and engage in commercial transactions.
- Full end-of-service entitlements are paid without delay to employees of State institutions.
- They benefit from the shelter provided by social welfare institutions.
- Residence is granted to anyone who regularizes his illegal status in the country, without him or members of his family being held legally accountable.
- The process of acquiring a driving licence has been simplified.
- Employment in the public and governmental sectors is guaranteed to this category in that the Public Sector Labour Code lays down no restrictions in the matter. The central apparatus and the Ministry of Social Affairs and Labour are working jointly to establish an appropriate mechanism for recording in the Ministry's system all individuals categorized as illegal residents in the private sector, as well as an appropriate mechanism for listing those of them who wish to work in the private sector, together with their particulars, qualifications and areas of specialization, and for storing the files in such a way as to serve the sector's needs for non-Kuwaiti workers and give them priority over migrants. Through the Chamber of Commerce, the private sector will also be encouraged to appoint and employ members of this group instead of migrants. Work is also being coordinated with the Civil Service Commission to develop an appropriate vision of how to handle applications received from this category for work in the public sector on the basis of the needs of the country's public authorities once these have been covered by applications from citizens.
- Persons with disabilities who are members of this category enjoy the rights guaranteed by the Rights of Persons with Disabilities Act No. 8 of 2010, in accordance with article 2 thereof.
- The Ministry of Trade and Industry hands out ration cards to eligible illegal residents.
- Bait al-Zakat provides assistance for families and children of illegal residents, as follows.

<i>Item</i>	<i>Number of families</i>	<i>Number of family members</i>	<i>Cost in dinars</i>
Monthly and lump-sum financial assistance in mid-2010	10 923	55 278	5 707 771
In-kind assistance (food items, furniture, school bags, clothing, electrical equipment) in 2009	3 180	22 260	612 000

31. The above indicates that the Government of Kuwait has made substantial progress in its handling of illegal residents by presenting a clear strategy as a road map for addressing their situation, which was adopted by the Council of Ministers pursuant to Decision No. 1612/2010 of 14 November 2010. The central apparatus for dealing with the situation of illegal residents is working to implement the strategy.

Reply to question 8

32. Kuwait affirmed its respect for the right to life and established adequate protection for it by toughening the penalty for anyone who violates that right, in keeping with article 6, paragraph 1, of the International Covenant on Civil and Political Rights, and regulating the Penal Code No. 16 of 1960 and the laws supplementing it by prescribing the death penalty in book I (Offences against individuals), chapter 1 (Offences against the person), for premeditated murder, and also in book II (Offences injurious to the public interest) with respect to State security and the sanctity of religions.

33. The matter of abolishing the death penalty comes down to the law, which is based on the Constitution, the provisions of which are derived from Islamic law, a principal source of legislation.

34. A request for an official referendum on abolition of the death penalty was submitted to the Ministry of Awqaf and Islamic Affairs, which gave the following legal opinion: "The death penalty cannot be legally abolished because it is required under Islamic law for a number of serious crimes in order to maintain the safety of citizens and protect the State." Annex 3 contains a copy of Legal Opinion No. 20 H/2009.

Reply to question 9

35. The Ministry of the Interior employs a policy for the reform and rehabilitation of prisoners to guarantee their return to society as upright individuals having served their punishment. It is thereby compliant with the Prisons Regulation Act No. 26/1962, which is a piece of national legislation consistent with human principles and rights and with the Standard Minimum Rules for the Treatment of Prisoners. Aspects of this include the following:

- Kuwait has been alive to the importance of the concerted efforts of its religious, social, legal and medical institutions in attempting a new experiment designed to stimulate the role of prisons in remoulding the individual. These experiments include Al-Rashad centre for men and Al-Rashad centre for women, both of which seek to create a sound environment that embraces prisoners with a view to promoting their self-reform and preparing them to be honest citizens who are resolved not to return to crime.

- Permanent activities undertaken by the above-mentioned centres include morning activities, which are compulsory for those in the Ta'ibin (repentants) block, comprising the study of religious law. Evening study is optional for all prisoners.
- Also offered are an integrated cultural programme, moral instruction, a weekly open meeting, vocational and craft workshops, computing courses and a therapy programme for drug addicts.
- In addition, there are seasonal activities comprising sports programmes, first-aid courses and Koran memorization contests.
- There is also a weekly aftercare session.
- There is likewise subsequent follow-up in the form of organized boat trips, spring camps and exchange visits.

36. The Kuwaiti legislature has also sought to vary the types of monitoring and supervision of prisons and other similar institutions in Kuwait, establishing self-monitoring by penal institutions themselves (the executive) and also laying down comprehensive and precise rules for protection through technical monitoring and supervision of penal institutions by the Office of the Public Prosecutor (the judiciary), pursuant to the provisions of the Judiciary Act No. 23/1990, as follows.

37. With respect to self-monitoring, the various legal provisions contained in the Prisons Regulation Act No. 26/1962 include the following:

- Article 15, which provides that: "The Director of Prisons has the right to inspect prisons at any time and all prisoners have the right to meet the Director during the inspection and present complaints. The Director shall investigate serious complaints presented to him, take action to guarantee elimination of the reasons for the complaint, if they are founded, and report on key cases to the Minister of the Interior."
- Article 16, which provides that: "The Director of Prisons shall appoint inspectors from the Prisons Administration to inspect prisons and ascertain that the systems in place are being properly implemented and that prison security, hygiene and health requirements are being met. They shall submit their reports on the matter to the Director and communicate their comments to the prison warden."
- Article 17, which states that: "The Minister of the Interior may take steps to ascertain that the orders of the Office of the Public Prosecutor and court decisions are being implemented in the prescribed manner and that no one is being unlawfully imprisoned. He shall refer complaints that he receives on this matter to the Director of Prisons, who must investigate them and inform him of the outcome of the investigation."

38. With respect to the technical supervision of penal institutions, article 56 of Decree-Law No. 23/1990 provides that: "The Office of the Public Prosecutor shall undertake the supervision of prisons and other places in which criminal sentences are served."

39. Article 184 of the Penal Code also provides that: "Anyone who arrests, detains or confines a person in circumstances other than those prescribed by law, or without observing the prescribed procedures, shall be liable to a penalty of imprisonment for a term of up to three years and a fine of up to 3,000 rupees, or to either penalty."

40. If the acts are accompanied by physical torture or a threat to kill, the penalty is imprisonment for a term of up to 7 years. Article 159 of the Code of Criminal Procedure further affirms that: "If it is demonstrated to a court that an accused person made statements

and confessions under torture or duress, it shall treat them as invalid and as having no evidentiary value.”

41. As to medical services, there is no shortage of health care in Kuwaiti prisons insofar as the matter has largely been taken care of by the laws and regulations governing prisons, as follows:

- A hospital has been built in the Central Prison. It has the latest equipment and functions for the benefit of all prison inmates under the supervision of the Ministry of Health’s Department of Health Affairs. It is staffed by:
 - Four prison doctors
 - Two dentists
 - A consultant in chest diseases, tuberculosis and allergies
 - A registrar in chest diseases and tuberculosis
 - A physician specializing in: internal diseases; skin diseases; general surgery; nose, ear and throat; and gynaecology and obstetrics
 - Two pharmacists
 - Four psychologists to provide therapy sessions for inmates (a facility found in no other prison in the world)
 - A general health inspector to carry out preventive health and vaccination activities, supervise food services, and send food and water samples to the Ministry of Health laboratories for analysis
 - Two persons from the Nursing Authority
 - Three radiology and nuclear medicine technicians

42. Prisoners needing special care are transferred to specialist prisons or civilian hospitals. As to women’s prisons, they must be equipped to provide obstetric care. Arrangements for childbirth in civilian hospitals must also be facilitated and neonatal care must be available.

43. The prison doctor reports to the Director of Prisons on the situation of any prisoner who is, or may be, damaged by his continued detention. The doctor must also regularly inspect the following: type and quantity of food; observance of hygiene and health rules; heating, air conditioning and lighting; cleanliness of prisoners’ clothing, etc.

44. Concerning human rights training for law enforcement officers and prison staff, the Ministry of the Interior wastes no time in training its personnel, as from when they enrol in police colleges and academies, through the study curricula, particularly in the subjects and criminal laws relating to human rights. All those concerned, especially examining magistrates, then continue to receive regular training through high-level courses where they learn how the law should be correctly applied so as to prevent and end any human rights violations.

45. The Ministry also participated in international and local human rights courses and conferences, including a course on topics of relevance organized by a United States-based institute and administered at the Kuwait Institute for Judicial and Legal Studies. An intensive training course supervised by the International Organization for Migration (IOM) was also held in Bahrain for refuge centre personnel. During the course, which was attended by officials from the Ministry, different experiences in the area of combating human trafficking and in law enforcement were explored.

46. The Officers' Training Academy of the Ministry of the Interior is preparing a human rights training programme comprising an introduction to the nature of human rights, democratic law enforcement, the legal and ethical conduct of law enforcement officers, and the rules on legal and ethical employment. It comprises information on international human rights instruments and treaties, focusing in particular on treaties relating to the administration of criminal justice that are relevant to the treatment and protection of prisoners and detainees and the prohibition of torture. It also explains the Code of Conduct for Law Enforcement Officials adopted by the United Nations in 1979, notably article 5 concerning the prohibition of torture.

47. Training in this programme is delivered by a member of the teaching staff who has a doctorate in law and a certificate in human rights training for law enforcement officials, obtained from the United Nations Centre for Human Rights in Geneva in 1995.

Training courses in which the Ministry of the Interior participated between 2007 and 2010:

- Limitations on the powers of administrative officers
- Human rights and international protection
- Administrative investigation and disciplinary sanctions
- The first, second, third and fourth foundation courses in security inspection
- The first and second foundation courses in security inspection for female inspectors from all departments
- Legal methods of ensuring that arrests are not invalidated
- Human rights
- Litigation proceedings and monitoring the enforcement of judgements
- Human protection in police work
- Arrest and search procedures without abuse of power
- Arrest and control
- Arrest and search procedures at sea
- Arrest and search procedures on land
- Principles of criminal investigation
- Police procedures in the case of *flagrante delicto*
- A workshop on legal procedures for traffic offences

Workshops organized by the Office of the United Nations High Commissioner for Refugees from 2009 to 2011:

- A workshop on strengthening the role of the Domestic Workers' Department
- A workshop on the concept of international protection in international refugee law
- A workshop on the theme of gender violence and violence against women

48. With respect to compensation:

(a) If a person is a victim of unlawful arrest or detention, he is entitled to compensation. The Kuwaiti legal system affords to every person the opportunity to turn to the courts in order to obtain the required compensation if he is injured by a crime, pursuant to article 111 of the Code of Criminal Procedure No. 17/1960, which provides that:

“Anyone to whom injury is caused by a crime may bring a civil claim before the courts hearing the criminal case ...”;

(b) A civil plaintiff may claim his rights during the preliminary investigation by submitting a petition to the examining magistrate. He is treated as a plaintiff during the investigation.

Total number of cases involving police officers charged with assault during the period January–March 2011

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
1	Battery	23	23
2	Common assault	1	1
3	Grievous bodily harm	3	6
4	Aggravated battery	8	9
5	Arrest, detention and torture	1	7
6	Threat to kill or inflict harm	1	1
7	Use of cruel treatment by a public officer against an individual	1	1
Total		38	48

Total number of cases involving police officers charged with assault during 2010

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
1	Battery	152	162
2	Manslaughter	3	3
3	Serious injury	4	6
4	Attempted kidnapping	1	1
5	Common assault	3	3
6	Grievous bodily harm	5	5
7	Aggravated battery	52	60
8	Arrest, detention and torture	2	3
9	Threat to kill or inflict harm	1	1
10	Forced kidnapping with intent to harm	4	4
11	Other offences (against the person)	2	2
12	Forced kidnapping (with use of coercion or threat)	4	4
Total		233	254

Total number of cases involving police officers charged with assault during 2009

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
1	Battery	163	173
2	Manslaughter	2	2
3	Serious injury	8	8
4	Attempted kidnapping	1	1
5	Common assault	1	1

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
6	Grievous bodily harm	3	3
7	Aggravated battery	2	4
8	Arrest, detention and torture	2	4
9	Threat to kill or inflict harm	3	3
10	Forced kidnapping with intent to harm	8	8
11	Use of force against an individual by a public servant	2	2
12	Forced kidnapping (with use of coercion or threat)	4	5
Total		267	291

49. Annex 4 contains a copy of the statistics on cases of assault by police officers and torture offences by number of accused and judgements rendered by courts of first instance between 2002 and 31 March 2011.

50. The reform centres attached to the Ministry of Awqaf and Islamic Affairs, which provide care for prisoners while they are serving sentence and thereafter, are as follows.

Number and names of reform institutions

Centres providing care to prisoners in penal institutions

<i>No.</i>	<i>Name of centre</i>
1	Al-Rashad morning centre for men
2	Al-Ta'ibin morning rehabilitation centre for men
3	Al-Hidayah evening centre for men
4	Al-Rashad evening centre for men
5	Al-Ta'ibin evening centre for men
6	Al-Rashad morning centre for women

Centres providing aftercare for prisoners after they have served their punishment

<i>No.</i>	<i>Name of centre</i>
1	Al-Rashad morning centre for men
2	Al-Ta'ibin morning rehabilitation centre for men
3	Al-Hidayah evening centre for men

Areas of specialization, work, activities and achievements of reform institutions

51. All reform institutions are united in their areas of specialization, work and activities. Centres for studying the Holy Koran have been established in reform institutions by the Department of Islamic Studies in order to cater to prisoners and provide them with direction, guidance and a grounding in educational, social, legal and psychological matters. The aim is to improve behaviour, reform personalities and build confidence in matters of

religion and Koran memorization so that once released, prisoners can become active members of society who display good behaviour and morals, treat others well and exercise self-discipline. The number of those studying in the reform institutions attached to the Department of Islamic Studies amounts to over 1,100.

52. In the case of both male and female inmates, these centres offer religious education, Koran memorization classes, cultural programmes, talks, courses and a variety of other activities, including the minor pilgrimage (*umrah*), which is performed each year by a number of prison inmates under supervision by the Rashad Fund, religious courses, summer sports and charitable work in such projects as the Kiswah Charitable Society.

53. Work in reform institutions is particular insofar as it demands the knowledge and skills for dealing with their typical inmates. The purposes for which the centres were established in these institutions include the following:

- (a) To create a sound environment and take on board prisoners and their welfare through efforts to reshape their behaviour and correct their mistaken ideas and beliefs;
- (b) To initiate the performance of worship and good deeds, the rejection of wrongdoing and corruption, and the development of a feeling of control;
- (c) To prepare prisoners to face society in a spirit of high faith and optimism in the interest of joining and integrating into the community;
- (d) To follow up on prisoners, review their social, family and financial situations, and help to resolve their problems.

The table below shows the number of persons enrolled to study at such centres during the last academic year.

Centres catering to the welfare of prisoners in penal institutions

<i>No.</i>	<i>Name of centre</i>	<i>Number of persons studying during the last year</i>
1	Al-Rashad morning centre for men	75
2	Al-Ta'ibin morning rehabilitation centre for men	26
3	Al-Hidayah evening centre for men	425
4	Al-Rashad evening centre for men	139
5	Al-Ta'ibin evening rehabilitation centre for men	28
6	Al-Rashad morning centre for women	56

Centres providing aftercare for prisoners once they have finished serving their punishment

<i>No.</i>	<i>Name of centre</i>	<i>Number of persons studying during the previous year</i>
1	Al-Istiqamah centre for men	47
2	Aftercare centre for women	110
3	Al-Iman addiction therapy centre for men	105

Reply to question 10

54. Article 9, paragraph 3, of the International Covenant on Civil and Political Rights provides that: "Anyone arrested or detained on a criminal charge shall be brought promptly

before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody ...". This provision is the same as those articulated in the laws governing the subject in Kuwait, through which all means of fair trial are provided, including right of access to counsel and contact with family.

55. Annex 5 contains a bill amending provisions of the Code of Criminal Procedure No. 17 of 1960, including article 60, in the interest of harmonization with the requirement spelt out in the list of issues concerning reduction of the detention period from 4 days to 48 hours only.

Reply to question 11

56. No military tribunals have hitherto been established in Kuwait since the time when laws were enacted to regulate the judiciary and courts.

Reply to question 12

57. Administrative deportation is governed by legal rules and frameworks prescribed by law and is carried out entirely in the public interest. The competent authority does not therefore have carte blanche to issue a deportation order; on the contrary, the law prescribes specific circumstances in which such action may be taken where those circumstances are met.

58. Article 22 of the Aliens' Residence Act accordingly provides that: "If an alien with a deportation or expulsion order against him has interests in Kuwait that require liquidation, he shall be afforded a period of grace in which to liquidate them after he has provided security. The Ministry of the Interior shall determine the duration of this period, which must not exceed three months." The inference to be drawn from this provision is that the Minister has discretion to exclude certain cases from deportation.

59. The number of persons in detention awaiting deportation who have infringed the Aliens' Residence Act and been placed in temporary custody (men and women) stands at over 450 daily. Approximately 150 detainees are deported every week. The maximum period of detention for illegal residents can be as much as two weeks on account of delays in the process of obtaining a passport for the detainee. The same is true for detainees who are subject to security restrictions (a travel ban) because of cases against them, the idea being for their affairs to be settled by the time they are deported from the country.

60. The following is carried out as part of the administrative procedures for the deportation of detainees:

- All cases are scrutinized and checked by computer
- A special file on persons awaiting deportation is opened, covering all of the procedures followed, such as photographing, fingerprinting and so on
- A check is carried out to ensure that persons awaiting deportation have passports and travel tickets so that they can be promptly deported once the Minister of the Interior has approved the deportation order
- If a person awaiting deportation is without a passport, the relevant embassy is contacted for it to issue a travel document enabling his departure
- If a person awaiting deportation is without a travel ticket, a ticket is issued by the Ministry of the Interior and the cost is later recovered from the sponsor

61. Kuwait always endeavours to consider the humanitarian aspect when dealing with illegal residents. It therefore frequently exempts them from the prescribed fines, regardless of the amount, and allows them to leave the country without needing to obtain the approval of any other entity. Examples that can be cited on this score include Ministerial Decision Nos. 1027/2002, 1083/2004, 484/2007, 2166/2008 and 1054/2011 concerning rules on the deportation of aliens who do not hold residence permits or whose residence permits have expired. These clear up the question of exempting persons in breach of residence permits from payment of the charge.

62. In short, the overall legal system in Kuwait comprises various rules that can be taken as satisfying Kuwait's international obligations.

Reply to question 13

63. Article 57 of Act No. 31 of 1970 amending provisions of the Penal Code provides that: "Any public officer or employee or person performing a public service who compels others to perform an act not permitted by law or who employs a person in tasks other than those assigned to that person by law shall be liable to a penalty of imprisonment for a term of up to two years. The amount of pay due to those whom he employed unlawfully shall also be awarded against him." The Kuwaiti legislature therefore made it a criminal offence to employ persons in forced labour or without pay, as in when a public officer exploits his position to have people perform unpaid work, whether by compelling them to do so or by employing them in tasks other than those assigned to them by law. The explanation for this is that the Kuwaiti legislature wished to protect the freedom of persons to work, in accordance with the provision of article 42 of the Constitution that: "No one may be subjected to forced labour except in the circumstances prescribed by law as a national requirement and with fair remuneration."

64. Concerning the elimination of slavery and servitude, article 185 of the Penal Code No. 16/1960 provides that: "Anyone who causes a person to enter or leave Kuwait with a view to disposing of him as a slave, and anyone who purchases, offers for sale or gives away a person as a slave, shall be liable to a penalty of imprisonment for a term of up to five years and a fine of up to 5,000 dinars, or to either penalty."

Definition of hard labour under the Prisons Regulation Act No. 26/62

65. Article 15 of the Prisons Regulation Act states that: "Category-B prisoners sentenced to imprisonment with labour shall be assigned work appropriate to each of the designated levels", as follows:

- Level-one prisoners: goods storeroom – general prison stores – hospital – offices – school – office – canteen
- Level-two prisoners: workshops – kitchen – laundry room – agricultural work – barber's shop
- Level-three prisoners: general cleaning of the prison and storehouses – bakery
- Those assigned to activities in the kitchen or bakery or to serving food must undergo a monthly medical examination to check that they are disease-free and the results must be entered in their personal records
- Frail prisoners who are unable to perform any activity owing to old age, permanent disability or an illness that incapacitates them for work are exempted from working and the exemption must be indicated by the doctor in their notes and records

Reply to question 14

66. Concerning information on steps taken to prevent the confiscation of passports of migrant domestic workers by their employers and to enforce the limits to wage deductions for debt, a passport is a document that establishes the identity of the holder and is indispensable in all his doings. It may not therefore be held by an employer, as indeed has been established and affirmed by various rulings handed down by Kuwaiti courts. It is also a matter already enshrined in article 8 of the Aliens' Residence Act, which states that: "During their term of residence, aliens must present their passport or an equivalent document when requested to do so." This means that a passport is the property of the bearer and that it may not be held or confiscated by a third party. Furthermore, the current bilateral and tripartite contracts of employment drawn up by the competent authority at the Ministry include a clause stating that a worker's passport is a personal document and that he has the right to keep it in his possession. It can therefore be concluded from this that no employer may hold or confiscate the passport of a domestic worker and that any such action is a violation of the law.

67. As to steps taken to enforce the limits to deductions from a worker's wage for debt, employers are required under the current employment contracts drawn up by the competent authority at the Ministry to pay wages in full to their domestic workers at the end of every month, which must amount to not less than 40 Kuwaiti dinars, for which the worker must sign a receipt. In other words, the employer is not released from his financial obligation until after the worker has signed a receipt stating that he has received his agreed wage.

68. If an employer fails to pay to a worker the wages stated in the contract concluded between them, the worker has the right to file a complaint with the Domestic Workers' Department, which receives the complaint, contacts the sponsor and asks him to pay in full the wages owed to the worker under the contract. If an employer alleges that a worker owes him a debt, he must seek redress by filing a claim against the worker for the outstanding amount.

69. Kuwait has also taken effective concrete steps to end the sponsorship system, namely by:

(a) Issuing Ministerial Decision No. 200 of 2011, which affords to workers the right to transfer their residence permit to another employer, without the approval of their previous employer, in the cases provided for in the Decision;

(b) Issuing Ministerial Decision No. 194/Ain of 2010, which prohibits employers from retaining workers' travel documents;

(c) Issuing Ministerial Decision No. 185/Ain of 2010, which establishes a minimum wage for workers in the public sector;

(d) Issuing Ministerial Decision No. 305 of 2006, which concerns the regulations of the standing committee responsible for overseeing the situation of migrant workers in the public sector and for dealing with problems relating to the employment of domestic workers;

(e) Issuing Ministerial Decision No. 212/Ain of 2011, which fixes the working hours in outdoor places;

(f) Issuing Ministerial Decision No. 187/Ain of 2010, which concerns the display of notices of absence at the workplace;

(g) Issuing Ministerial Decision No. 188/Ain of 2010, which concerns overtime hours in the private sector;

- (h) Issuing Ministerial Decision No. 192/Ain of 2010, which concerns the hotline for receiving workers' complaints and information on human trafficking;
- (i) Issuing Ministerial Decision No. 201/Ain of 2011, which criminalizes forced labour;
- (j) Issuing Ministerial Decision No. 54/A of 2011, which establishes a standing committee to follow up implementation of the steps for executing a project to limit surplus and marginalized workers;
- (k) Issuing Ministerial Decision No. 140 of 2009, which establishes a standing committee to follow up cases of collective work stoppage and settle such disputes amicably;
- (l) Ensuring full cooperation between the Ministry of Social Affairs and Labour and the Ministry of the Interior in order to implement Minister of the Interior Decision No. 1054/2011, which permitted persons in violation of the Aliens' Residence Act to leave the country without being held liable for the ensuing late fine when departing between 1 March and 30 June 2011 (annex 6 contains a copy of the decisions mentioned).

Reply to question 15

70. Decree No. 40/92 and Ministerial Decision No. 617/92 concern the process of recruiting domestic workers from their home countries and govern the rules and procedures for obtaining permits to recruit servants and persons of equivalent status. A department has been created as part of the General Directorate of Immigration (Domestic Workers' Department) and is tasked with overseeing the offices involved in recruiting domestic workers.

71. A tripartite contract of employment was developed in order to increase protection for workers in this context and came into effect in October 2007. This contract, inter alia, fixes the minimum wage, working hours and annual leave entitlement for workers.

72. The Council of Ministers adopted its Decision No. 652 at its meeting No. 20/2/2007, held on 8 July 2007, approving the designation of premises for a temporary shelter for migrant workers, in particular workers with a complaint against their employer. The Ministry of the Interior (Domestic Workers' Department) supervises these premises, in conjunction with the Ministry of Social Affairs and Labour.

73. Kuwait's interest in countering all manner of human trafficking offences is confirmed by the fact that the Ministry of the Interior financed a foundation course on the protection of human trafficking victims and the interrogation of traffickers, which was run in Kuwait by IOM during the period 6–10 March 2011, under the auspices of the Vice-President of the Council of Ministers and the Minister of the Interior. This is the fourth course in a series of activities run by IOM in collaboration with the Ministry of the Interior. Another advanced course on the same theme was also run during the period 13–17 March 2011 in order to focus more on the subject and train participants to a higher level of international expertise. Both of these courses were supervised by IOM experts in conjunction with national experts.

74. Concerning the number of prosecutions carried out against employers, the number of complaints referred for investigation amounts to 15. The remaining complaints are being examined by the Domestic Workers' Department with the aim of resolving them with the employers. In the event that the problem between the two parties remains unresolved, the complainants are directed to the courts in order to pursue the matter.

Statistics on the number of cases of violence against workers during 2010

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
1	Aggravated battery	1	1
2	Forced kidnapping with intent to harm	1	1
3	Forced kidnapping (with use of coercion or threat)	1	1
Total		3	3

Statistics on the number of cases of violence against workers during 2009

<i>No.</i>	<i>Type of charge</i>	<i>Number of cases</i>	<i>Number of accused</i>
1	Battery	8	17
2	Serious injury	1	2
3	Grievous bodily harm	2	2
4	Aggravated battery	7	16
5	Forced kidnapping with intent to inflict harm	9	20
6	Forced kidnapping (with use of coercion or threat)	1	1
Total		28	52

Reply to question 16

75. Currently included on the agenda of the National Assembly is a bill on human trafficking and migrant smuggling. The Public Sector Labour Code No. 6 of 2010 also provides in article 10, paragraph 3, that: "No employer may recruit workers from outside the country or employ workers from within the country and then not take them into his employment or maintain that he has no need of them."

76. If any such act is committed, the victims may initiate judicial proceedings. The shelter is equipped with all the resources for providing the necessary assistance to female residents and alleviating their distress.

77. Kuwait has also ratified the two Protocols supplementing the United Nations Convention on Transnational Crime, one of which is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

78. Article 185 of the Penal Code provides that: "Anyone who causes a person to enter or leave Kuwait with a view to disposing of him as a slave, and anyone who purchases, offers for sale or gives away a person as a slave, shall be liable to a penalty of imprisonment for a term of up to five years and a fine of up to 5,000 dinars, or to either penalty." The law thus criminalizes the acts of causing persons to enter or leave Kuwait in order to dispose of them as slaves and does not stop there; it also criminalizes anyone who purchases or offers for sale or gives away a person as a slave, which is punishable as a felony in that it is treated as a serious offence. A number of legislative decisions on workers, both male and female, have also been issued, including:

- Ministerial Decision No. 192/2010 concerning the hotline for receiving workers' complaints and information on human trafficking, in particular forced labour
- Ministerial Decision No. 194/2010, which prohibits employers in the public and petroleum sectors from retaining their workers' travel documents

Reply to question 17

79. The Constitution of Kuwait provides that: "Judicial power is vested in the courts, which exercise it in the name of the Amir. The independence of the judiciary is guaranteed by the Constitution and the law. The underlying principle is that the honour, integrity and impartiality of judges are the bases of rule and a guarantee of rights and freedoms. In administering justice, judges are not subject to any authority. The law guarantees the independence of the judiciary and the safeguards and provisions relating to judges." The legislature therefore equipped the judiciary with the means to guarantee its independence; article 16 of the Judiciary Regulation Act provides that: "The Supreme Judiciary Council shall be constituted as follows: the Chief Justice of the Court of Cassation as President and, as members, the Deputy Chief Justice of the Court of Cassation, the Chief Justice of the Court of Appeal, the Public Prosecutor, the Deputy Chief Justice of the Court of Appeal, the Chief Justice of the High Court, the two most senior Kuwaiti advisers and a deputy from the Ministry of Justice. If the President of the Council is unable to attend or is prevented from doing so, the Council shall be chaired by the Deputy Chief Justice of the Court of Cassation, who shall be his alternate. If both the Chief Justice of the Court of Cassation and his Deputy are unable to attend or are prevented from doing so, the Council shall convene under the chairmanship of the Chief Justice of the Court of Cassation. The alternate to the Public Prosecutor shall be the most senior solicitor-general."

80. Article 18 of the same Act provides that: "The Supreme Judiciary Council shall meet at the invitation of its President. The invitation must be addressed to members and be accompanied by an agenda. The meeting shall not be valid unless at least two thirds of members are present. All deliberations by the Council shall be confidential and it shall issue decisions by a majority of votes. In the event of equal votes, the President shall have the casting vote. The Council shall extend an invitation to the Minister of Justice to attend sessions at which it believes he should be present for the discussion of the topics. The Minister may also attend a Council meeting to present topics in cases where he believes that it is important to do so. Neither the Minister nor any specialist or expert accompanying him, nor any delegate of his, shall have a counted vote at the time of voting on decisions. The Supreme Judiciary Council shall issue a regulation concerning the rules and procedures to be followed by the Council in performing its functions and the venue of its meetings. The Council may, as it deems necessary, request information and papers from the Ministry of Justice on topics presented to it."

81. With respect to appointments to the judiciary, article 20 of the same Act provides that: "The Chief Justice of the Court of Cassation shall be appointed from among judicial officers at a level not lower than adviser, or persons of equivalent level from among the members of the Office of the Public Prosecutor, and must have previously held judicial office and occupied a position at that level for a period of not less than 10 years. The Deputy Chief Justice of the Court of Cassation, the Chief Justice of the Court of Appeal, the Deputy Chief Justice of the Court of Appeal and the President of the High Court shall be appointed from among judicial officers at a level not lower than adviser, or persons of equivalent level, who have been at that level for not less than 10 years. In all cases, the appointment shall be by decree on the basis of a submission made by the Minister of Justice after he has sought the opinion of the Supreme Judiciary Council. As to appointment and

promotion to other judicial positions, they shall be by decree on the basis of a submission by the Minister of Justice and the approval of the Supreme Judiciary Council.”

82. Concerning irremovability, article 23 of the same Act provides that: “Judges and members of the Office of the Public Prosecutor, apart from those at the level of prosecutor C, shall be irremovable except in accordance with the disciplinary tribunal proceedings provided for in this Act. The contracts of judges and members of the Office of the Public Prosecutor may not be terminated other than with the approval of the Supreme Judiciary Council. Advisers to the Courts of Cassation and Appeal shall not be transferred to the Office of the Public Prosecutor unless they so consent.” Their independence is consequently guaranteed by the Constitution and laws.

Reply to question 18

83. Reference was made in the earlier reply to the requirement under article 133 of the Personal Status Act that: “Injury shall be established by testimony of two men, or of one man and two women.” The provision of this article is derived from Islamic jurisprudence, which treats matters of personal status as legal transactions in the State religion, in accordance with article 2 of the Constitution, which states that: “The religion of the State is Islam and Islamic law is a principal source of legislation.” Similarly, the giving of testimony is not a right of individuals but a burden that they carry and an obligation. Islamic jurisprudence thus admits the testimony of one woman in private matters that call for women alone to bear witness, such as the delivery of a child and virginity.

Reply to question 19

84. The National Service Act is still tabled before the Kuwaiti National Assembly.

Reply to question 20

85. As to the number of non-Muslims who have converted to Islam since 2005 in order to be naturalized, no one has hitherto converted to Islam since that time for the purpose of acquiring Kuwaiti citizenship.

Reply to question 22

86. It is worth stating that non-Muslim pupils are not obliged to attend classes where Islam is taught; the public education charters (primary education, art. 27; intermediate education, art. 35; secondary education, arts. 4–12) state that non-Muslim pupils are exempt from attending classes where the Holy Koran and Islam are taught and that there is no bar on them joining such classes or entering the examinations in these two subjects, should they wish to do so. When it comes to calculating grades, they are treated in the same way as their fellow Muslim pupils. If at any time they decide to withdraw and ask to be exempted from attending classes and entering examinations in the two subjects, no objection is raised and they are recorded as exempt from both subjects and given a nominal grade.

87. Concerning religious instruction, the study of anything other than Islam is not permitted in any type of educational institution (public or private), the only exception being the Armenian School insofar as no Kuwaiti pupils are enrolled there. The reason for this decision is that Kuwaiti pupils are enrolled in private schools of all kinds; the figure stands at 53,773, which is equivalent to 26 per cent of the number of pupils in private education

(statistics of the Ministry of Education for 2009/10). They must therefore be educated in the language and religion of the State, namely the Arabic language and the Islamic religion.

Reply to question 23

88. Annexed hereto is a copy of the statistics on the number of defamation cases brought against individuals for expressing an opinion, by type of judgement handed down, between 1 January 2005 and 13 July 2011.

89. Also annexed hereto is a copy of the statistics on the number of cases brought against the press and audio-visual media between 1 January 2009 and 13 July 2011 (annex 7).

Reply to question 24

90. With respect to the censorship of Internet communications and websites, Act No. 9/2001 concerning the misuse of telecommunications equipment and telephone tapping devices criminalizes the use of any such device unless authorized by the Office of the Public Prosecutor. The Press and Publications Act No. 3/2006 also guarantees the right of expression and affords the right of redress to persons damaged by publication.

Reply to question 25

91. Article 36 of the Constitution of Kuwait provides that: "Freedom of opinion and of scientific research is guaranteed. Every person has the right to express and disseminate his opinion verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law." Article 147 of the Penal Code also provides that: "There is no crime if the accused did no more than make an impartial criticism of a judicial ruling in good faith, whether relating to the inference drawn from the facts or the manner in which the law was applied to them."

Reply to question 26

92. Following the ruling of the Constitutional Court, there is now a bill amending provisions of Act No. 56/1979 on public assemblies and gatherings. It was transmitted to the National Assembly and is currently before the Committee on Internal Affairs and Defence, to which it was referred on 4 February. A proposal for a law on this subject was also presented by a member of the Assembly. The two bills are tabled before the National Assembly.

Reply to question 27

93. Concerning the amendments to the Benevolent Clubs and Societies Act No. 24/1962, we wish to point out that the most recent amendment was made pursuant to Act No. 12 of 1993 and to draw attention accordingly to the fact that the number of the law cited in the list of issues, namely No. 14 of 1994, is incorrect because there are no amendments under that number. Annex 8 comprises the most recent copy of the Act, as amended.

Reply to question 28

94. The Public Sector Labour Code No. 6/2010 contains no provisions to prevent non-national workers from joining trade unions.

Reply to question 29

95. We wish to state that, in the event that a non-governmental organization (NGO) is not issued with a licence, the interested parties have the right to take the matter to the administrative division of the courts for a decision as to whether or not the NGO is entitled to a licence.

96. It is entirely untrue that NGO members are required to obtain permission from the Ministry of Social Affairs and Labour in order to attend conferences as official representatives of their organization. The only NGO members to whom it gives such permission are those employed by a ministry, the purpose being to facilitate the payment of their financial allowances and their leave from the workplace in order to participate in conferences.

Reply to question 30

97. As previously mentioned in Kuwait's second periodic report on implementation of the International Covenant on Civil and Political Rights, the legislative power is vested in the Amir and in the National Assembly, which is composed of 50 members. Article 80 of the Kuwaiti Constitution spells out the electoral system in Kuwait and provides that members of the Assembly are elected directly by universal suffrage and secret ballot for a four-year term. The Assembly is the body that enacts legislation under the Constitution.

Reply to question 31

98. The Personal Status Act No. 51 of 1984 prohibits the certification or approval of a marriage involving girls under the age of 15 and boys under the age of 17 at the time of certification or approval. No information is available as to whether the legal age of marriage for women will be raised to that for men, although the law itself affords mechanisms enabling the wife to ascertain that the man is competent, of marriageable age and compatible with her, as indicated in articles 34 and 36 of the Act. The Kuwaiti legislature also recently made it compulsory for prospective couples to undergo a medical check-up to ascertain that both parties are free of all physical and psychological impediments to marriage.

Reply to question 33

99. Acts of violence against the person, including those committed against children in the home or at school, are criminal offences in Kuwait, pursuant to articles 160, 161, 162, 163 and 164 of the Penal Code. The Kuwaiti legislature has not prescribed the use of corporal punishment of children as a method of discipline. If an act of this kind is committed by a public servant — such as a teacher — against a child, the perpetrator is liable to the penalty for the use of cruel treatment, set forth in article 56 of Act No. 31 of 1970 amending provisions of the Penal Code. The Kuwaiti legislature furthermore took the trouble to ensure in the Juveniles Act No. 3 of 1983 that no child under 7 years of age is liable to penalty, singling out those aged over 7 and under 15 years of age for non-custodial

measures. In addition, it reduced the penalties for those over 15 and under 18 to one third of the penalty prescribed for adults.

100. Corporal punishment and other inappropriate and inhuman punishments are also categorically outlawed as being incompatible with the notion of a sound physical and mental education. Awareness programmes are therefore constantly being targeted at all those involved in children's education, such as families, schools and so on, through the media, places of worship, conferences and discussion groups.

101. The statutes of the Ministry of Education provide that all forms of punishment are unlawful, providing as they do in the general rules contained in the preamble that:

- Corporal punishment, offensive language and humiliation must be altogether avoided in favour of a calm, unemotional and relaxed approach
- Sanctions must be imposed in a fair and equal manner, without giving in to suspicions, by ascertaining and investigating the facts
- Sanctions must be considered in the context of a sound educational framework designed to achieve the goals of prevention, correction and treatment
- Sanctions must relate entirely to the undesirable behaviour and the pupil must be unequivocally aware of the reason for a sanction
- The party determining the sanction and the pupil must be bound by the sanction and the pupil's guardian must be notified

102. The Ministry of Education also issues guidelines periodically or when complaints are made about corporal or other punishments, one example being: "Ministry rules issued in this sphere, in particular school statutes, must be observed. It shall be communicated to all school personnel that no punishment of any kind is to be used against pupils and that punishment must be replaced by sound educational methods that build self-confidence and self-reliance."

103. In the event that a pupil is subjected to punishment of any kind that affects his personality or academic performance, his case is reviewed by a school psychologist and social worker and an immediate treatment plan is put into action in order to restore his mental and social balance.

104. With respect to penal institutions, the Prisons Regulation Act No. 26 of 1962 prohibits the use of corporal punishment against prisoners.

Reply to question 34

105. In addition to the reply to questions 14 and 15 above, we wish to state on this matter that, in cases where a domestic worker leaves his job and turns to his country's embassy, claiming that his employer is holding his passport and seeking its assistance to leave the country, and where the employer fails to report the domestic worker's absence to the competent authorities within one month of the date he went missing, the Domestic Workers' Department works together with his embassy to enable his departure after the embassy has issued him with a travel document, in accordance with the prescribed measures.

Reply to question 36

106. Concerning dissemination, various aspects of the subject were addressed in the core document and in paragraph 58 of the second periodic report. A Higher Committee on

Human Rights was also established under the chairmanship of the Minister of Justice, pursuant to Ministerial Decision No. 104 of 2008, and it has a subcommittee entitled the International Communication Committee, which is specifically concerned with the preparation of the periodic reports required from Kuwait as a result of its obligations under human rights conventions. The membership of the Committee comprises a number of different entities, namely: the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Justice, the Ministry of Education, the Ministry of Health, the Ministry of Social Affairs and Labour, Kuwait University, and the Ministry of Awqaf and Islamic Affairs.
