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Summary record (partial)* of the 2842nd meeting

Held at the Palais Wilson, Geneva, on Friday, 21 October 2011, at 3 p.m.

Chairperson: Ms. Majodina

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Second periodic report of Kuwait (continued)

* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

*Second periodic report of Kuwait (continued) (CCPR/C/KWT/2;
CCPR/C/KWT/Q/2 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Kuwait took places at the Committee table.*
2. **Ms. Alshaaji** (Kuwait), replying to question 19 of the list of issues, said that the bill concerning obligatory military service was currently before parliament. According to the Constitution, defending the country was a sacred duty and an honour, and was the responsibility of all citizens. The bill included provisions enabling men with the appropriate skills to work in military hospitals and exempted them from military service altogether on several grounds, including illness and being an only son. Those studying in higher education or whose wives were studying abroad, and men who ran a small business that had been in operation for less than five years could delay their military service under the bill. Conscientious objectors to military service could perform alternative service of a purely civilian nature. National service was performed by men aged between 18 and 35. Labour laws prohibited children under the age of 15 from engaging in any kind of employment, including military service.
3. Begging was prohibited and was considered contrary to the country's traditions and civilization. Persons in need, including children, were provided with assistance.
4. **Mr. Mohammad Almutairi** (Kuwait), replying to question 20, said that no non-Muslims had converted to Islam since 2005 in order to be naturalized and no Kuwaiti nationals had converted from Islam to another religion.
5. **Mr. Mutlak Almutairi** (Kuwait), replying to question 21, said that seven churches had been granted licences to operate as places of worship. They were of the Roman Catholic, Anglican, Evangelical, Greek Orthodox, Armenian Orthodox, Coptic Orthodox and Armenian Catholic faiths. Visas for clerics were subject to the requirements of the Ministry of the Interior and the Ministry of Social Affairs and Labour. There was complete freedom of religion, in accordance with the Constitution; all persons were at liberty to manifest their religion or beliefs provided that they did not disturb public order or morals. All places of worship were required to obtain a licence, and in some cases several licences were required from different authorities.
6. **Mr. Alharbi** (Kuwait), replying to question 22, said that non-Muslim pupils were not obliged to attend classes in which Islam was taught. All non-Muslim pupils — Kuwaiti nationals and foreigners alike — could receive instruction in sharia, learn the Koran and sit the relevant examinations if they so wished. They were not obliged to attend those courses and could withdraw from them at any point. Religious education was provided in all school grades. Some 26 per cent of schools in the country were privately run. Religious education for non-Muslims was provided by the relevant communities and in places of worship.
7. **Mr. Alsaana** (Kuwait), replying to question 23, said that freedom of opinion and expression and freedom of the press were enshrined in the Constitution. The only limits on those rights were the need to maintain public order and morals. Under the legislation on printing, publication and broadcasting, a large number of cases had been brought before the courts. The legislation included multiple prohibitions on, inter alia, material that offended public morals, criticized Islam, the Emir or the Constitution, insulted members of the judiciary, revealed details of people's private lives or tended to destabilize the national currency or economy. The defamation cases that had been brought concerned the

publication or broadcasting of insulting or humiliating material about individuals. Such information could be disseminated by law if the courts ruled that it was true, that it served the public good, and that the instigator of the dissemination had acted in good faith and had limited the information placed in the public domain to that necessary to protect the public good.

8. Replying to question 24, he said that the Constitution protected the rights to freedom of expression and privacy in personal communications by letter, telegram, telephone call or other means of communication. Legislation had been introduced to regulate all means of surveillance of communications with the aim of prohibiting hacking and profiting from the sale of material illicitly obtained through hacking. There were no limitations on the use of the Internet. There was full access to all Internet sites, except those containing pornographic material or promoting religious extremism.

9. **Mr. Alansari** (Kuwait), replying to question 31, said the Code of Personal Status provided that the minimum legal age of marriage was 15 for women and 17 for men. The Ministry of Justice was responsible for issuing marriage certificates. Its checks would reveal whether a girl was under 15 or a boy under 17, and in most cases the marriage would not be permitted. Compared to 10 years ago, there were now very few cases in which girls under 15 were allowed to marry.

10. Replying to a question raised at the previous meeting, he said that, under Decree-Law No. 74 of 1979 governing property ownership by non-Kuwaitis, foreign citizens could purchase property in accordance with the needs of consulates and embassies. Ministerial Decision No. 259 of 2010 had established a committee to review property ownership applications and set general policy on property ownership by non-Kuwaitis.

11. **Ms. Alnaser** (Kuwait), replying to question 35, said that the migrant population of Kuwait was composed of nationals of India (25 per cent of total migrant population), Egypt (16 per cent), Bangladesh (9 per cent), Syria, Pakistan, Saudi Arabia, the Philippines and Sri Lanka.

12. **Mr. Mohammad Almutairi** (Kuwait) said that several permits had been issued to those foreign communities for their traditional, cultural and religious celebrations and gatherings. In 2010, they had included a charity event for Indians, and Christmas and New Year festivities for Egyptian Copts. The majority of foreign communities celebrated their national holidays in public places in complete freedom.

13. **Mr. Abdelhadi** (Kuwait) said that taxes for medical services had to be paid before a previously non-resident person could reside in Kuwait; the amounts due were set by law. He detailed the charges for individuals and families, and for domestic workers, who were subject to a much lower tax, which was paid by their employers. Companies were also obliged to pay on behalf of their employees. The medical services covered included consultations, tests, X-rays and prescriptions.

14. Foreign citizens also had to pay small charges for treatment in hospitals and health centres, except in emergencies, when care was free of charge. Children who were not Kuwaiti citizens and had cancer were exempt from all charges and taxes for medical care, as were foreign students, travellers who became ill while in transit at Kuwait international airport, migrant workers living in shelters and illegal residents.

15. **Ms. Alshaaji** (Kuwait) said that the Covenant was an integral part of domestic legislation by virtue of Act No. 12 of 1996, although there were reservations to certain articles of the Covenant that were incompatible with sharia law. Sharia was the only source for legislation covering family matters, such as marriage, divorce and inheritance.

16. **Mr. Alsaana** (Kuwait) said that both the Constitution and other domestic legislation guaranteed the independence of the judiciary. Court decisions were binding on Kuwaiti and

foreign citizens alike. All members of the judiciary had immunity under the Constitution and respected the separation of executive and judicial powers.

17. Neither the Supreme Judiciary Council, the Ministry of Justice nor the specialists and experts who worked with the courts had a casting vote in judicial decisions. All judges, including foreign judges, were nominated on the basis of a decree and took an oath before the Emir, the aim of which was to ensure respect for Kuwaiti law. Judges could only be dismissed from office in accordance with the disciplinary measures established for the judiciary as a whole. The contract of a foreign judge or a prosecutor could only be terminated with the agreement of the Supreme Judiciary Council. No distinction was made between Kuwaiti and foreign judges, and an agreement had been concluded with Egypt enabling Egyptian judges to work in Kuwait. Judges of all nationalities were bound by Kuwaiti legislation alone.

18. **Mr. Alhajiri** (Kuwait) said that the police could not detain anyone without an order issued by the Public Prosecutor and the Investigations Directorate, unless they had been caught in flagrante delicto. On arrest, a detainee was entitled to representation by a legal counsel and was brought before an examining judge. A person could be detained for up to 4 days in connection with serious offences or security matters, such as drug or other offences that were under investigation by the intelligence services. Such detainees were brought before the Public Prosecutor, who authorized investigations and arrests. There were regular inspections to ensure that any questioning, arrest or detention by the police had been lawful. A bill to reduce the permissible detention period for certain security matters to 48 hours was under consideration.

19. **Mr. O'Flaherty**, thanking the Kuwaiti delegation for their oral response to question 20 of the list of issues, requested specific written information relating to the previously raised case of a 27-year-old Kuwaiti citizen who had been unable to change his religion on his birth certificate after converting from Islam to Christianity.

20. Regarding the registration of places of worship, he noted that, while there was no problem in law, information before the Committee indicated that there was a problem in practice and that there was no registered place of worship for Buddhists, Hindus or Sikhs. The delegation's comments in writing on that matter, and on the accuracy of that information, would be appreciated.

21. Following the discussion that had taken place on freedom of expression, he concluded that there was a disjunction between the standards for freedom of expression set in article 19 of the Covenant and law and practice in the State party. He earnestly encouraged the State party to consider general comment No. 34, which provided valuable guidance and would enable it to review law and practice in that area.

22. Briefly reviewing the key problems regarding freedom of expression, he noted that restriction of expression should be the exception rather than the rule, and that any restriction should pass strict tests of proportionality and rationality. When assessing those tests, it was important to remember that criticism of, and political opposition to, the Head of State was legitimate, as made clear in the general comment. The restriction of blasphemy was also subject to strict tests. Noting that article 20 of the Covenant referred to incitement to hatred, he quoted general comment No. 34: "prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20" (CCPR/C/GC/34, para. 48).

23. He expressed concern at the litigious climate among private citizens, who had brought a large number of complaints of inappropriate speech before the courts in 2010, many of which had been upheld. Such complaints had a chilling effect on freedom of expression and, in the interest of pursuing compatibility with the Covenant, the State party

was encouraged to reconsider the extent to which such complaints were received and considered by the courts.

24. **Sir Nigel Rodley** asked whether there were any women judges in Kuwait. He requested further details on women judges if there were any, and information on the criteria for membership of the judiciary that women were failing to meet if there were none.

25. **Mr. Razzooqi** (Kuwait) said that his delegation had no information regarding the specific case of religious conversion referred to by Mr. O'Flaherty. If the relevant information could be forwarded to the delegation, the matter would be investigated.

26. Turning to the number of improper-speech cases heard before the courts, he said that the political climate in Kuwait was such that different groups sometimes used very strong language to disparage their rivals and made accusations that could tarnish reputations. Every Kuwaiti citizen had the right to take such matters before the courts and receive a judicial decision on the truth or otherwise of such accusations. There could be no interference with that right.

27. **Mr. Alsaana** (Kuwait) said that many women excelled as lawyers in both the private and public sectors, particularly in the Islamic law sector and the financial sector. There were no laws explicitly preventing women from becoming judges and there were many women in other high-ranking positions, such as ambassadors and ministers. The feeling among the judiciary was that it was only a matter of time before there were women judges; there were no limitations or restrictions. The current lack of women judges was due to Kuwaiti tradition, and he was confident that Kuwait would have women judges soon.

28. **Mr. Razzooqi** (Kuwait) said that Buddhists and Sikhs were not prevented by the Constitution from practising their religion, although there were some practices and rituals that were contrary to public order and morals and were therefore only allowed within the home or in special places. Such rituals could not take place in public due to the provisions of the Constitution and article 18 of the Covenant, which required respect for public order and morals.

29. **Ms. Alshaaji** (Kuwait), responding to the concerns raised regarding the implementation of article 20 of the Covenant, said that incitement to hatred, discrimination or hostility was prohibited. The Press and Publications Act stipulated that defaming people or religion, inciting hatred of a group or revealing financial information that could damage a person's reputation or wealth was prohibited. A bill on the protection of national unity that related to the provisions of article 20 of the Covenant was under urgent consideration by parliament. The bill would prohibit incitement to hatred by any means against any community in Kuwaiti society or any public statement that could harm national unity, lead to sectarianism, tribalism or sedition, or spread ideas of the supremacy of one race, colour, religion or sex over another.

30. Article 19, paragraph 3, of the Covenant provided for the restriction of the freedom of expression in accordance with the law. Such restrictions in Kuwait were stipulated by law, rather than by decree, and conformed to the Covenant and the Press and Publications Act. The Covenant provided for restrictions for two reasons: protection of the reputations of others, and protection of national security and public order. Those were the only conditions that governed the restriction of free expression. Public order was, however, a phrase whose meaning might differ in different States.

31. **Ms. Altararwa** (Kuwait), responding to the Committee's concern about the crime of lese-majesty, said that lese-majesty was defined in the Constitution, which had been agreed between the Emir and the people. The Emir did not engage in any political activities; all his political activities were carried out through the ministers. The Constitution and legislation of Kuwait were inseparable.

32. **Mr. Razzoqi** (Kuwait) said that the Covenant was considered to be a part of Kuwaiti law and international treaties had supremacy in law, although sharia law was applied for certain matters. Amending and adapting legislation was a lengthy and difficult process, and discussions in that area were ongoing. Hoping that there would be a woman judge among the next Kuwaiti delegation to come before the Committee, he reaffirmed Kuwait's commitment to its obligations under international law.

33. **The Chairperson**, thanking the delegation for their clear answers to the Committee's questions, said that national legislation should comply with international standards. No other legal framework should supersede Kuwait's obligations under the Covenant.

The discussion covered in the summary record ended at 4.30 p.m.