



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### List of issues in relation to the third periodic report of Kuwait\*

##### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

1. Please clarify the status of the Covenant within the domestic legal order, in particular whether the Covenant prevails over domestic laws, including sharia law and matters not based in sharia law, in case of conflicting or contradicting provisions. Please provide updated information on examples of cases in which the provisions of the Covenant have been referred to by national courts and report on measures taken to raise awareness of the Covenant among judges and judicial officers.

2. With reference to the Committee's previous concluding observations (see CCPR/C/KWT/CO/2, para. 7) and the State party's third periodic report (see CCPR/C/KWT/3, para. 13), please clarify whether the national committee that has been established pursuant to the Council of Ministers decision No. 25 (May 2014) has explored the possibility of withdrawing the State party's interpretative declarations on articles 2 (1), 3 and 23, and its reservation to article 25 (b) of the Covenant, and report on the outcome thereof.

3. With reference to the Committee's previous concluding observations (see CCPR/C/KWT/CO/2, para. 5) and the information contained in the State party report (see CCPR/C/KWT/3, paras. 5-8), please report on the progress made in establishing a national human rights institution in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

##### **Non-discrimination, equality between men and women, and the rights of minorities (arts. 2, 3, 23, 26 and 27)**

4. Please indicate whether steps have been or are being taken to adopt comprehensive anti-discrimination legislation that addresses discrimination in all spheres, including in the private sphere, prohibits direct, indirect and multiple discrimination, contains a comprehensive list of grounds of non-discrimination, including colour, sex, political or other opinion, property, birth, sexual orientation and gender identity, and provides for effective remedies in judicial and administrative proceedings.

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\* Adopted by the Committee at its 115th session (19 October-6 November 2015).



5. Please provide information on measures taken to end all forms of discrimination against so-called *bidoon* (without nationality/stateless) residents, including on progress made in naturalizing them, providing them with identity and travel documents and integrating them into society.
6. Please provide information on measures taken to decriminalize same-sex relations and to address discrimination, harassment and violence on the grounds of sexual orientation and gender identity. Please respond to reports of arbitrary arrests and detention, violence and other abuses perpetrated on the basis of sexual orientation and gender identity.
7. Please clarify whether there has been any comprehensive review of laws, regulations and practices in order to identify and repeal all those that discriminate against women, including in such matters as nationality, polygamy, contracting marriage, divorce, inheritance, parental authority, and the status of women's testimony before the courts compared to that of men. Please report on measures taken to ensure that Kuwaiti women have the right to pass on their nationality to their children and foreign spouses on an equal footing with Kuwaiti men.
8. Please provide information on measures taken to eradicate stereotypes regarding the role of women in the family and in society in general and to enhance women's participation and representation in public and political life, including in the judiciary and in legislative and executive bodies, especially in decision-making positions. Please also provide information on the measures taken to close the wage gap between women and men.

**Violence against women and children, including domestic violence (arts. 2, 3, 7 and 26)**

9. With reference to the Committee's previous concluding observations (see CCPR/C/KWT/CO/2, para. 15), please clarify whether legislation has been adopted specifically criminalizing domestic and sexual violence, including marital rape. Please report on measures taken to combat all forms of violence against women, including domestic violence, including measures to: (a) raise awareness of women's rights and encourage reporting of cases of violence against women; (b) collect comprehensive data on such cases; (c) protect women from offenders and provide victims with effective remedies, including adequate shelters and other resources and services to assist them; and (d) investigate cases and prosecute and sanction perpetrators and provide reparation to victims (please provide statistics updated as of 2011). Please respond to reports of domestic violence against children, including child sexual abuse, and a lack of effective complaint mechanisms and appropriate shelters for child victims.

**Counter-terrorism and the right to privacy (arts. 9, 14 and 17)**

10. Please explain how Law No. 78/2015, which entered into force on 2 August 2015 and requires mandatory DNA collection, is in compliance with the State party's obligations under the Covenant.

**Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6 and 7)**

11. Please indicate whether measures are being taken towards the abolition of the death penalty. Please provide an exhaustive list of offences punishable by the death penalty and clarify whether there has been any comprehensive review of relevant legislation to ensure that the death penalty may be imposed only for the most serious crimes, as prescribed in article 6 (2) of the Covenant. Please indicate whether the imposition of the death penalty is automatic and mandatory for certain categories of crimes.

12. Please report on steps taken to adopt a definition of torture that is in full compliance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the Covenant. Please respond to reports of allegations of torture and inhuman or degrading treatment of prisoners in police custody and in detention centres and provide information on the number of investigations, prosecutions and convictions in such cases and the remedies granted to victims.

**Liberty and security of person and treatment of persons deprived of their liberty (arts. 7, 9 and 10)**

13. With reference to the Committee's previous concluding observations (see CCPR/C/KWT/CO/2, para. 20), please indicate whether the State party has established a maximum period of detention for persons awaiting deportation and whether judicial remedies are in place to enable such persons to seek review of the lawfulness of their detention.

14. Please provide information on measures taken to address the poor detention conditions in some facilities, including overcrowding and the lack of adequate sanitation and ventilation, and to segregate juvenile offenders from adult offenders and remand detainees from convicted persons. Please indicate what steps the authorities have taken to follow up on the recommendations made by the Human Rights Committee of the National Assembly following its annual visit to the central prison complex.

**Access to justice and effective remedies, independence of the judiciary and juvenile justice (arts. 2, 14 and 24)**

15. Please provide information on measures taken to ensure, in law and in practice, the full independence, including administrative and financial independence, and impartiality of the judiciary from the executive branch, in such matters as the appointment, promotion and disciplining of judges. Please also provide information on steps taken to revise the modalities of the appointment and tenure of foreign judges.

16. Please respond to concerns that some matters, such as those related to status, immigration, citizenship/nationality, deportation and administrative removal, are not subject to judicial review, thus leaving individuals concerned by those matters with no recourse to courts or access to remedies. Please clarify whether measures have been taken to raise the minimum age of criminal responsibility, currently set at 7 years.

**Elimination of slavery and servitude (art. 8)**

17. Please indicate what steps have been taken to abandon the sponsorship (*kafil*) system and report on measures taken to end discrimination, exploitation and abuse of migrant workers and to ensure that migrant domestic workers are afforded the same rights under the Domestic Workers Law No. 68/2015 and implementing legislation as the rights provided to other workers under labour laws. Please provide information, including statistics where relevant, on measures taken to combat trafficking in persons for the purposes of forced labour and sexual exploitation, including efforts to: (a) establish procedures for victim identification and referral, improve the identification of victims of trafficking and provide specialized training for all stakeholders involved in anti-trafficking; (b) investigate cases and prosecute perpetrators of trafficking effectively under Law No. 91/2013 on Prevention of Trafficking in Persons and Smuggling of Migrants; and (c) strengthen protection measures for victims of trafficking, including accommodation/shelters, medical, psychosocial and legal assistance.

**Refugees and asylum seekers (art. 13)**

18. Please report on measures taken to establish a legal and institutional framework regulating asylum in accordance with international standards.

**Freedom of conscience and religious belief, freedom of opinion and expression, peaceful assembly, and freedom of association (arts. 2, 18, 19, 21, 22 and 26)**

19. Please report on measures taken to ensure that the right to freedom of conscience and religious belief, including with respect to construction of and access to places of worship for non-Muslims, is respected in practice. Please clarify whether steps have been taken to amend all laws, regulations and practices that discriminate on the basis of religion, such as blasphemy and related laws and provisions prohibiting the naturalization of non-Muslims. Please indicate whether steps have been taken to amend the relevant legislation to recognize the right to conscientious objection to military service and to introduce an alternative civilian service for conscientious objectors.

20. Please respond to reports of arbitrary restrictions on freedom of expression in law and in practice, including arbitrary arrest, detention, trial and deportation of persons who exercise their freedom of opinion and expression. Please comment on the compatibility with the State party's obligations under article 19 of the Covenant, as interpreted in the Committee's general comment No. 34 (2011) on freedoms of opinion and expression, of the following: (a) the application of restrictive, vague and broadly worded provisions in the Constitution, the National Unity Law, the Penal Code, the Press and Publication Law and other legislation to prosecute activists, journalists, bloggers and other individuals for expressing views, including through social media, that are critical of the State or State institutions, and the extensive use of provisions that criminalize "insulting" the Emir; (b) alleged termination of licences for audiovisual and print media entities that are critical of the Government; (c) controlling and blocking of content, denial of access to the Internet and revocation of service providers' licences, without disclosure of reasons or due process, under the Communication Law No. 37/2014; and (d) restrictions on Internet-based expression introduced by the Cybercrime Law, adopted on 16 June 2015, including prison sentences for criticizing the Emir on the Internet. Please comment on reports that the security agreement of the Cooperation Council for the Arab States of the Gulf, which the State party has ratified, is used to criminalize criticism of Gulf countries and leaders.

21. Please indicate whether the State party intends to repeal article 12 of the 1979 Public Gatherings Law, which bars non-Kuwaitis from participating in public gatherings, and to amend the provisions prohibiting public gatherings that do not have permission from the Ministry of the Interior. Please comment on reports of violations of freedom of assembly in practice, including excessive use of force by law enforcement officers to disperse peaceful assemblies, arbitrary arrests, detention and prosecutions of individuals exercising their right to peaceful assembly, including during peaceful assemblies held regularly by *bidoon* activists, during the large wave of demonstrations in 2012 and the protest held between 2 and 7 July 2014 against the arrest of the opposition figure and former member of the parliament, Musallam al-Barrak.

22. With reference to the information provided in the State party report (see CCPR/C/KWT/3, para. 140), please report on the progress made in adopting a legal framework regulating the existence and activities of political parties.

**Right to nationality, family rights and the rights of minors (arts. 23, 24 and 26)**

23. Please describe the efforts taken to ensure that all children are registered at birth and that they acquire a nationality, particularly children of stateless *bidoon* residents. Please

indicate what measures the State party has taken to ensure that children who do not have identity documents are not denied access to education, health care and other services.

24. Please respond to reports that individuals have been deprived of Kuwaiti citizenship under provisions of the 1959 Nationality Law without due process, and concerns that this practice is increasingly and arbitrarily used for politically motivated reasons against those who criticize the Government. Please indicate what measures have been taken to ensure that adequate safeguards are in place against arbitrariness, including judicial review of matters related to acquiring or revoking citizenship, as well as appropriate procedures to prevent statelessness.

25. Please clarify what steps have been taken to increase the minimum age of marriage and to eliminate discrimination on the basis of sex in relation to the minimum age, and to prevent early and forced marriages.

**Right to participate in public life (arts. 25 and 26)**

26. Please comment on information that naturalized Kuwaiti citizens are denied the right to vote for 20 years, the right to be elected as a member of the parliament or municipality, or to hold ministerial office and explain how such differentiation is in conformity with the State party's obligations under the Covenant.

**Dissemination of information relating to the Covenant and its Optional Protocol (art. 2)**

27. Please indicate what measures have been taken to disseminate the third periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the involvement of representatives of civil society and non-governmental organizations in the preparation of the report.

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