



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Second periodic reports of States parties due in 1998

Kuwait*

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Second periodic report of Kuwait on implementation of the Convention on the Rights of the Child

Introduction

1. Children are the building blocks for society. To raise them in a sound and healthy educational, cultural and social environment is to foster a sophisticated society based on solid foundations, and to neglect them is inevitably to weaken society, diminishing its human and practical worth and leading to other social problems.

2. Given the importance of this issue, States worked hard for the adoption of the Convention on the Rights of the Child in 1989. The Convention is a unique legal instrument in that it incorporates a mixture of political and civil rights, and likewise economic, cultural and social rights. It comprises 54 articles, which, together with the two Optional Protocols supplementing it, set out the rights, regarded as fundamental, non-negotiable and non-derogable, to be enjoyed by children.

3. Kuwait, as ever, continues to be classed as a pioneering country with respect to children's rights and caring for the interests of children, satisfying their essential needs and expanding the opportunities available for maximizing their capabilities and creative talents. In this respect, Kuwait's successive Governments have sought to establish institutions that cater to and safeguard children's rights, directing their efforts towards ratification of the Convention on the Rights of the Child, pursuant to Amiri Decree No. 104 of 1991, and accession to the first Optional Protocol to the Convention on the involvement of children in armed conflict and the second Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, pursuant to Amiri Decree No. 78 of 2004. This affirms the extent of Kuwait's concern to take the necessary measures to safeguard children's rights.

4. Kuwait will review aspects of the Convention in this report, which is composed of two parts. Part I contains a core document, consisting of section A providing general information on Kuwait, section B setting out the general framework for the protection and promotion of human rights, and section C comprising information on non-discrimination, equality and available legal remedies. Part II covers the legislative, judicial and administrative measures taken by Kuwait to implement the articles of the Convention.

I. Core document

A. General information on Kuwait

Demographic, economic, social and cultural features

5. Kuwait lies in the north-western corner of the Arabian Gulf, between latitudes 28°45' and 30°05' N and longitudes 46°30' and 48°30' E. Its official language is Arabic and its religion is Islam. Its total area is 17,818 square kilometres and its population is over three million. It is a member of the Cooperation Council for the Arab States of the Gulf (GCC), the League of Arab States, the Organization of the Islamic Conference and the United Nations. In economic terms, Kuwait is one of the world's leading oil producers and exporters. It is also a founding member of the Organization of Petroleum Exporting Countries (OPEC).

6. Lying as it does in a desert region, Kuwait has a continental-type climate, with long hot, dry summers and short warm winters with occasional rainfall.
7. Kuwait is a developed country, as reflected in its social indicators; in 2008, 99 per cent of adults had received an education, the enrolment ratio in primary and intermediate education was 100 per cent and the average annual income per capita was US\$ 43,100.
8. Kuwait is committed to the delivery of free health care at all stages as a human right, as provided for in articles 10, 11 and 15 of the Constitution; it has 87 primary health care centres, 6 general hospitals, and 3 specialist medical centres. Health services are provided on an equitable and equal basis to all individuals (Kuwaitis, foreign residents, older persons, children, persons with special needs, women, young persons and workers).
9. Kuwait has devoted particular attention to the right to education. Since 1965, education has been provided free of charge at all stages, from kindergarten to university, and it is compulsory at the primary and intermediate levels. In 2008, spending on education accounted for 14 per cent of the State budget. Kuwait has successfully reduced the illiteracy rate, which stood at 3.5 per cent in 2009, and provides comprehensive educational facilities for persons with disabilities, who are either integrated into mainstream education or attend special schools.
10. Kuwait has also elaborated numerous development plans since the 1960s and provided the wherewithal for their completion. It has consistently participated in international conferences on sustainable development and worked actively with the United Nations Development Programme and other bodies to implement strategies and plans. Kuwait has been successful in achieving high development rates; two reports issued by the Ministry of Planning in 2003 and 2005 indicated that it had attained most of the Millennium Development Goals before the 2015 deadline.

Constitutional, political and legal structure of the State

11. Kuwait is an independent, fully sovereign Arab State. Its religion is Islam, its official language is Arabic, and its system of government is democratic. As stated in an explanatory note to the Constitution, the system is a middle way between a parliamentary system and a presidential system. The fact that Kuwait operates on the principle of the separation of powers, with cooperation among them, is evidence that its form of government is democratic.
12. Divided into five sections, one entire chapter of the Kuwaiti Constitution is devoted to the subject of these powers. The first section states that the legislative power is vested in the Amir and the National Assembly in accordance with the Constitution. Executive power is vested in the Amir, the Cabinet and ministers, and judicial power is vested in the courts, which exercise that power on behalf of the Amir and within the parameters laid down in the Constitution.
13. The second section of this chapter defines the powers of the Head of State as follows:
 1. He exercises his powers through his ministers and appoints, and may dismiss, the Prime Minister;
 2. He is the Commander-in-Chief of the Armed Forces and appoints and dismisses officers in accordance with the law;
 3. He issues regulations on the implementation of laws and on the organization of public agencies and the administrative departments of the State;
 4. He appoints civil and military officials and political representatives to other States.

14. In addition to the above, the Amir has other powers, namely:
- *Legislative power*: Under article 79 of the Constitution, legislative power is vested in the Amir and in the National Assembly, which comprises 50 members, elected directly by universal suffrage in a secret ballot for a term of four years. The National Assembly is the body empowered by the Constitution to enact legislation. The third section of this chapter of the Constitution sets forth provisions relating to legislative power.
 - *Executive power*: Executive power is vested in the Amir and in the Cabinet, which has oversight of State agencies, formulates the general policy of the Government, follows up its implementation and monitors the progress of work in governmental departments. Each Minister supervises the affairs of his Ministry and implements the general policy of the Government, in addition to formulating directives for his Ministry and ensuring that they are carried out.
 - *Judicial power*: Judicial power is vested in the courts, which exercise it on behalf of the Amir. The independence of the judiciary is guaranteed by the Constitution and by law. The underlying principle is that the honour of the judiciary and the integrity and impartiality of judges are the foundation of the State and a guarantee of rights and freedoms. In administering justice, judges are not subject to any outside authority. The law guarantees the independence of the judiciary and lays down safeguards and rules for judges. The Constitution devotes an entire section to judicial power.

B. General framework for the protection and promotion of human rights

15. First of all, it is worth mentioning that Kuwait has acceded to a number of international human rights instruments, including the:

| <i>No.</i> | <i>Name of instrument</i> |
|------------|--|
| 1 | Slavery Convention of 1926 |
| 2 | Protocol amending the Slavery Convention of 1926 |
| 3 | Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery |
| 4 | International Convention on the Elimination of All Forms of Racial Discrimination |
| 5 | Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others |
| 6 | International Convention on the Suppression and Punishment of the Crime of Apartheid |
| 7 | Convention on the Rights of the Child |
| 8 | Convention on the Elimination of All Forms of Discrimination against Women |
| 9 | Convention on the Prevention and Punishment of the Crime of Genocide |
| 10 | Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity |

| <i>No.</i> | <i>Name of instrument</i> |
|------------|---|
| 11 | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| 12 | International Covenant on Civil and Political Rights |
| 13 | International Covenant on Economic, Social and Cultural Rights |
| 14 | International Convention against Apartheid in Sports |
| 15 | Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict |
| 16 | Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography |
| 17 | International Labour Organization (ILO) Convention No. 138 concerning Minimum Age for Admission to Employment of 1973 |
| 18 | ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999 |

16. In addition to the above, it should be stated that:

- Kuwait has taken the necessary constitutional and legal steps to accede to the Convention on the Rights of Persons with Disabilities
- At the regional level, Kuwait has signed the Arab Charter on Human Rights, which is currently before Kuwait's National Assembly

17. Also to be considered is the fact that the Kuwaiti Constitution serves as the political and legal umbrella for the rules governing human rights in Kuwait generally. Before the Constitution was proclaimed, a number of the country's laws relating to everyday aspects of life were enacted in order to provide safeguards of justice for individuals in Kuwait, including in particular the Criminal Code and the Code of Criminal Procedure, both of which date from 1960. The Constitution itself is clearly concerned with human rights and with seeking a better future in which citizens enjoy greater prosperity, the nation's international standing is good, and the Arab tradition of attachment to individual personal dignity is preserved.

18. Given their importance, the human rights principles which the international community is committed to promoting under the relevant international instruments have been incorporated into most provisions of the Constitution. Furthermore, the establishment of the Constitutional Court pursuant to Act No. 14 of 1973 has served to safeguard these rights and freedoms and to ensure that they are fully respected.

Human rights principles set forth in chapters I and II of the Constitution

19. The Kuwaiti Constitution treats rights and freedoms as a matter of the utmost importance. Explicit provision is made for them in a majority of its articles, including:

- The people are the source of all powers, and sovereignty resides in the nation (art. 6)
- Justice, equality and liberty (art. 7)
- Protection of the family, motherhood, childhood and youth (arts. 9 and 10)
- Care and social security for all citizens in old age and in the event of sickness or incapacity for work (art. 11)

- Free education guaranteed and provided by the State (art. 13)
- Promotion of science and literature and encouragement of scientific research (art. 14)
- The right to health care (art. 15)
- The right to own property, and the inviolability and protection of public property (arts. 16 and 17)
- Protection of private property; no property may be expropriated except in the public interest and in the circumstances prescribed by law, provided that fair compensation is paid (art. 18)
- The right to hold public office (art. 26)

Human rights principles set forth in chapter III of the Constitution

20. This chapter is devoted to public rights and duties. It embraces many of the principles enshrined in international human rights instruments, as follows:

- Citizenship may be withdrawn or withheld only within the limits prescribed by law (art. 27)
- No Kuwaiti may be expelled from his or her country (art. 28)
- Equality and no discrimination on the grounds of race, origin, language or religion; all citizens have equal public rights and duties under the law (art. 29)
- Freedoms and rights, such as personal freedom (art. 30); freedom of belief (art. 35); freedom of opinion and scientific research (art. 36); freedom of the press, printing and publishing (art. 37); freedom of private life and residence (art. 38); freedom of communication by post, telegraph and telephone; freedom to form associations and trade unions (art. 43); and the right of assembly (art. 44)
- No individual may be arrested, imprisoned, tortured or compelled to reside in a specific place, no restrictions may be imposed on personal freedom, residence or movement, and torture and degrading punishments are prohibited (art. 31)
- There is neither crime nor punishment except as provided by law (art. 32)
- An accused person is presumed innocent until found guilty at a lawful trial in which the right of defence is assured (art. 34)
- The right to free education at all levels, with compulsory education at the primary level (art. 40)
- The right to work (art. 41)
- The extradition of political refugees is prohibited (art. 46)
- Persons with low incomes are exempt from taxation (art. 48)

Principles set forth in chapter IV of the Constitution

21. The five sections comprising this chapter set out the bases for the system of governance in the State and elucidate the features and functions of the three powers. Article 50 enshrines the principle of the separation of powers, while section 5 articulates some of the key principles that inform the work of the judiciary; the impartiality of the judiciary, for instance, is deemed to be the basis of governance and a guarantee of rights and freedoms. Emphasis is placed on the following:

- The principle of the independence of the judiciary and the immunity of judges (art. 163)
- The principle of the right of legal recourse (art. 164)

22. The Constitutional Court was established pursuant to Act No. 14 of 1973. It has the exclusive competence to interpret the provisions of the Constitution and to settle any dispute relating to the constitutionality of laws, regulations and other statutory instruments. Rulings of the Constitutional Court are binding on all and on every other court.

Education

23. Kuwait has made great strides forward in delivering the right to education, as explained below.

Education laws

24. As Kuwait evolved, various laws and decrees with a bearing on education were enacted before the present Constitution was proclaimed. These are summarized below:

(a) In 1955, a report on education (the Matti Aqrabi report) was published, establishing general principles relating to human rights, including:

- (i) The eradication of illiteracy;
- (ii) The promotion of democracy;
- (iii) The establishment of universal compulsory education;
- (iv) Access to opportunities for completing education.

It is clear from the above that the right to education is bound up with the principle of equal opportunity and justice, and that emphasis is laid on basic education.

(b) In 1965, the Compulsory Education Act was promulgated, providing for:

- (i) Free compulsory education for all males and females;
- (ii) A compulsory period of eight years, which was later increased to nine years with the overhaul of the education system in 2005;

(c) In 1966, Kuwait University was established, completing the development of Kuwait's educational system;

(d) In 1979, an Amiri decree was issued defining the terms of reference of the Ministry of Education;

(e) In 1981, in accordance with the principle of the right to education for all, the Eradication of Illiteracy Act was promulgated;

(f) In 1987, a special law was enacted to supplement existing legislation on public education. The law affirmed that all Kuwaitis are entitled to a free education provided by the State.

National policies on human rights education

25. Education and human rights are closely associated insofar as education is recognized as a right in itself and also as a vehicle for teaching human rights. By way of its national policies on human rights education, Kuwait has played a prominent role in this area, as outlined below.

Arab Plan for Human Rights Education, 2009–2014

26. Kuwait led and participated effectively in the work of preparing the Arab Plan for Human Rights Education under the auspices of the League of Arab States. The Plan was unanimously endorsed at the Arab Summit Conference held in Damascus in 2008. The Plan's objectives are to:

- (a) Mainstream human rights into all stages of the education system;
- (b) Provide human resources development and training in the field of human rights education;
- (c) Prepare the ground for human rights education;
- (d) Broaden community participation in the task of disseminating a human rights culture.

27. The Arab Plan for Human Rights Education focuses on general principles, in particular:

- (a) Universality and inclusiveness: all persons enjoy the same rights, and there is no basis for discrimination among them;
- (b) Comprehensiveness and interrelatedness: human rights form a cohesive and indivisible whole;
- (c) Equality and non-discrimination: human rights are to be enjoyed by every individual, without any form of discrimination based on race, colour, sex, language, religion, political or other opinion, racial, national or social origin, wealth, place of birth, or any other circumstance;
- (d) Participation: all individuals and peoples have the right to participate fully and actively in socioeconomic development.

Higher Committee for Human Rights

28. The Higher Committee for Human Rights was established in 2008 by a ministerial decree in order to embed these general principles within an organizational framework. The stated functions of the Committee include:

- (a) Raising awareness of human rights through the media, organizing training courses and talks, and conducting human rights studies;
- (b) Incorporating fundamental human rights concepts into school curricula at the general and higher education levels.

Analysis of the current situation of human rights education

29. Human rights education is now at the stage of building on earlier stages and involves the teaching of human rights values. The current situation can be analysed as follows:

Curricula

30. When the first steps were taken to organize formal education in Kuwait, the emphasis was clearly on basic teaching and learning, in particular the cognitive, emotional and skills aspects. It can therefore be said that all human values, including such human rights values and principles as peace, democracy and tolerance, are reflected in the school curricula through:

- (a) The goals for education at all levels in Kuwait (general, different stages and behavioural curricula);

(b) The inclusion of those values in all textbooks, both explicitly and implicitly. These concepts and values feature prominently in the textbooks for Islamic education, Arabic language, social studies and other subjects;

(c) Emphasis on experiences of daily life and practical exercises in the educational setting;

(d) Surveys on the presence of those values in school curricula and a mechanism for their inclusion.

31. Kuwait has taken specific action to respond to recent changes in domestic and global educational trends and to meet the urgent need to inculcate human values, with a particular emphasis on human rights, democracy, peace and international understanding. In the mid-1990s, it set up special committees to explore a mechanism for developing school curricula dealing with human rights and democracy and to pave the way for the attainment of those goals.

32. In 2000, a special committee was established to develop school curricula on the Constitution, human rights and democracy. One of its main activities was to design curricula dealing expressly with those concepts, and drafting committees were subsequently formed to draw up the curricula. In 2006, a new committee was formed, composed of academic experts in the fields of international law, constitutional law, human rights, political science, education and curriculum basics, social subjects, Arabic language and curriculum management.

33. The committee's work proceeded in accordance with the following steps:

(a) Developing a philosophy for teaching the Constitution and human rights;

(b) Preparing the conceptual and cognitive framework for the subject in a format that reflects the scope and continuity of the field of study, with each stage serving as preparation for the next;

(c) Formulating general objectives for the subject;

(d) Formulating specific objectives for each grade;

(e) Preparing study material and related activities;

(f) Dividing the study material in accordance with the following procedure:

(i) Tenth grade: Principles of democracy, the Constitution and human rights;

(ii) Eleventh grade: Human rights: understanding the concept, its importance and its features and origins, together with detailed study of specific human rights, such as the right to life, equality and human dignity; the right to freedom of belief, opinion and expression; the right to an education and learning; women's and children's rights; political rights; and the duties of the individual;

(iii) Twelfth grade: The Constitution and public powers.

34. The committee attended to various matters, including those of:

(a) Establishing an intellectual and cognitive framework for the subject that distinguishes it from other subjects and adequately highlights its specific characteristics, especially as it touches on so many intellectual, educational, legal and political issues;

(b) Emphasizing direct, goal-oriented teaching with a view to ensuring that the learner derives maximum benefit from the study of the subject and develops a sound understanding of both the terminology and the content;

(c) Preparing a teacher's manual;

- (d) Keeping in touch with the field through meetings and education seminars;
- (e) Organizing a training course for male and female instructors in social subjects;
- (f) Organizing a training course for male and female teachers of the Constitution and human rights.

Philosophy behind the Constitution and human rights curriculum

35. It is vitally important for students to learn about the concepts and meaning of democracy, about the content of the Constitution and about human rights and their purposes in a straightforward and undirected legal and educational context so that they grow up equipped with a wealth of knowledge, sound thinking and an understanding that differences in the way that States and individuals interpret democracy and democratic practices cannot be equated with differences or any other thing that might affect our national unity.

36. It is clear from the above that the philosophy of the Constitution and human rights curriculum is founded on:

(a) The importance of the Constitution and its articles on: the relations between individuals and the governing power or between one individual and another; the organization of all political, economic and social life; and the rights and obligations of individuals;

(b) The view that human rights are universal and not only an integral part of life but also the basis of human existence, happiness and welfare, for it is only through them that human dignity, justice, equality and everything conducive to the well-being and prosperity of individuals and society are realized.

37. The philosophy of the Constitution and human rights curriculum is imparted through general educational concepts (knowledge, values, attitudes, skills and practice) within the following frameworks:

(a) Knowledge: through the presentation of facts and information relating to the Constitution and human rights with a view to inculcating a sound knowledge, awareness and understanding of the importance of the Constitution and human rights;

(b) Values and attitudes: through presentation of the values associated with the Constitution and human rights in a way that promotes a positive attitude towards them and a sense of their importance for individuals and society;

(c) Skills and practice: through social skills, academic skills and practical exercises in various situations relating to the Constitution and human rights.

38. The sharia and the provisions of the Constitution, the law and international instruments underpin the philosophy of the Constitution and human rights curriculum and shape its content and objectives.

General objectives of the Constitution and human rights curriculum

39. In keeping with the philosophy on which it is based, the Constitution and human rights curriculum aims to strengthen allegiance and loyalty to the homeland by developing the intellectual, emotional and social aspects of the learner's character in the interest of translating the results into practice in everyday life. To that end, the following general objectives are pursued:

(a) Raising the learner's awareness of the importance of democracy, the Constitution and human rights;

- (b) Providing the learner with facts and information relating to democracy, the Constitution and human rights;
- (c) Preparing the learner to apply the principles of democracy, the Constitution and human rights in everyday life;
- (d) Strengthening in the learner the human values relating to the Constitution and human rights;
- (e) Fostering positive attitudes in the learner towards democracy, the Constitution and human rights in pupils;
- (f) Developing the learner's allegiance and attachment to the homeland;
- (g) Developing the learner's critical faculties.

40. The Constitution and human rights curriculum was introduced in the tenth grade in 2006, in the eleventh grade in 2007 and in the twelfth grade in 2008.

The teacher

41. The success of any educational project depends largely on the teacher, being the person who actually implements educational programmes and projects and serves as the real link between the classroom and decision-makers. The importance of the teacher determined the need for specialist training courses and the Ministry of Education consequently took steps to:

- (a) Enrol teachers and technical instructors in specialist training courses and workshops held at home, in the region and abroad on the teaching of human rights, international humanitarian law and democracy;
- (b) Organize training courses for technical instructors;
- (c) Organize teacher training courses supervised by technical instructors;
- (d) Organize seminars and discussion groups to promote awareness of human rights education and democracy;
- (e) Conduct ongoing media campaigns on those concepts and ways of teaching them.

The learner

42. The Ministry of Education has devoted particular attention to the learner in the field of education on human rights and democracy, as is clearly indicated by the following:

- (a) The teaching of topics with a bearing on human rights and democracy is generally implicit in all curricula;
- (b) The teaching of specialist subjects at the intermediate level, including in-depth coverage of the Constitution, elections and non-violence;
- (c) The teaching of the Constitution and human rights as a subject at the secondary level;
- (d) A yearly competition on democracy and the Constitution;
- (e) The organization of various competitions involving, for example, research, reporting and photography on the theme of human rights;
- (f) Emphasis on those concepts in activities run during summer and other periods;

(g) Field visits for learners to organizations concerned with human rights, including the Human Rights Association and the National Assembly;

(h) The organization of cultural seminars aimed at raising the learner's awareness of the concept of human rights and democracy;

(i) The teaching of a human rights syllabus with well-defined goals at Kuwait University.

Teaching methods

43. Although teaching methods are tailored to the various subjects, the fact remains that the teaching of values, including, of course, human rights values, has its own distinctive requirements insofar as it is difficult to assess those methods while teaching is in progress because they are an expression of a value-laden factor that must be appraised in terms of its impact on the learner's behaviour.

44. Training courses and technical meetings have emphasized the use of methods and techniques for teaching human rights, including but not limited to: collaborative learning; use of pathways to values education; problem-solving; brainstorming; dialogue and discussion; and role-playing.

45. Focus has also been placed on such pursuits as field visits, research and report preparation, image- and information-gathering, competitions, and participation in school activities.

Human rights education outside school

46. Owing to their cultural nature, human rights are integral and all-inclusive, like the climate. It is thus impossible to focus solely on the school setting while ignoring the environment surrounding the school. A major concern has therefore been to disseminate and teach human rights throughout society as a whole, with the active involvement of civil society institutions. This is where the information and communication media play a prominent part, which contrasts with the view of education as something that takes place only within schools.

47. Kuwait has endorsed the Arab Plan for Human Rights Education, the first part of which deals with human rights education in the school setting and the second part with other institutions. The objectives of the plan are set out below.

Training

48. Training in this area is aimed at those who are directly involved in the teaching of individual and collective rights and in shaping public opinion. They include teachers and personnel in youth organizations, women's clubs, summer camps, centres for young (juvenile) offenders and sports clubs, and all civil society actors.

49. Training in human rights education at other social education institutions is designed to achieve the following:

(a) Deliver training for human rights specialists on practical and institutional issues;

(b) Design and customize educational programmes and tools to meet sectoral needs;

(c) Promote partnerships and strengthen relations between institutions, organizations and training centres specializing in the field of human rights and media,

scientific, cultural and technical institutions, and foster effective communication among all partners.

Awareness-raising

50. This activity is aimed at the various components of society, including institutions, groups and individuals, particularly those who have not been involved in human rights education and training.

51. Awareness-raising of human rights education at other social education institutions is intended to achieve the following:

(a) Enable a broad cross-section of society to benefit from human rights awareness campaigns;

(b) Incorporate human rights awareness activities into the programmes of political, economic and cultural institutions;

(c) Promote a culture of dialogue on human rights values, principles and concepts among all components of society.

52. Potential awareness-raising programmes might cover:

- Training for experts in awareness-raising
- The creation of various media programmes on human rights education
- Monitoring information programmes to determine their level of consistency with human rights values and principles
- Engaging cultural experts in human rights awareness-raising activities
- Involving mosques and places of worship in disseminating a human rights culture and in clarifying the meaning of rights and obligations

C. Information relating to non-discrimination, equality and available legal remedies

Judicial and administrative authorities with jurisdiction in matters covered in the Convention

53. Article 1 of Decree-Law No. 23 of 1990, as amended by Act No. 10 of 1996, concerning the organization of the judiciary, establishes two key principles:

First: The courts have general jurisdiction in all civil, commercial and administrative disputes, personal status matters and criminal proceedings, the aim being to unify the country's court system and thus ensure that litigants are treated equally;

Second: The rules governing the subject-matter jurisdiction and jurisdiction of value exercised by the courts are established by law. No subordinate legal instrument may regulate or alter that jurisdiction. Under the above-mentioned Act, the court system comprises the Court of Cassation, courts of appeal, courts of first instance and summary courts.

54. In the light of the foregoing discussion, the following observations may be made:

- Under article 166 of the Constitution, the right of legal recourse is guaranteed. Any person who claims to have suffered an abuse of his rights in Kuwait may bring a complaint before a Kuwaiti court and seek the restitution of those rights. The

Organization of the Judiciary Act also upholds the principle of the independence of the judiciary

- The Code of Criminal Procedure is consistent with international standards of justice, providing litigants with legal safeguards, including the right to an open hearing and legal representation
- The provisions of the Convention are implemented in accordance with the mechanism set forth in article 70 of the Constitution:

“The Amir concludes treaties by decree and transmits them immediately, together with an appropriate explanatory statement, to the National Assembly. A treaty enters into force after it is signed, ratified and published in the Official Gazette. Treaties of peace and alliance, treaties concerning a State’s territory, natural resources or sovereign rights, or the public or private rights of citizens, treaties concerning trade, navigation or residence, and treaties involving public expenditure not covered by the budget or amendment of the laws of Kuwait, are enforceable only if promulgated by a law. Under no circumstances may a treaty include secret clauses contradicting those declared.”

55. Publication is the final stage of the legislative process and its purpose is to enable the executive to publicize legislation in order to pave the way for its implementation. Laws are published in the Official Gazette, in Arabic, within two weeks of their adoption and enter into force one month after publication. This time limit may be extended or reduced by a special provision of law. Once a law has been published in the Official Gazette and the set time limit expires, it applies to all persons, regardless of whether they are aware of its existence. Publication is a prerequisite for all legislation of whatever kind and serves as an order for all bodies and authorities to apply the law in their respective areas of competence.

II. Legislative, judicial and administrative measures taken by Kuwait to implement the articles of the Convention

A. General measures of implementation (arts. 4, 24 and 44, para. 6)

56. With reference to article 4 concerning appropriate measures for the implementation of the rights recognized in the Convention, Kuwait has undertaken the following activities and measures:

- Devoted attention to fully-abled and other children, and adopted decisions, mechanisms and projects concerning children
- Prepared research and studies with the development of children’s capacities and skills in mind
- Promulgated a number of child-related laws, including the Children’s Nurseries Act No. 111/2000, which was recently enacted by the National Assembly
- Designed programmes and activities for imparting skills to children and honing their talents in order to develop their abilities
- Created and maintained children’s parks in new areas in order to cater to children and protect them against maltreatment, violence and neglect, thereby complementing the attention afforded to children and translating into practice their right to engage in recreational and leisure activity, as set forth in the Convention on the Rights of the Child; and enrolled children who meet the conditions for admission to the Children’s Home in the Savings Funds, which entails the deposit of a monthly sum for each

child from the beginning of the month following the child's birth until the child reaches 21 years of age

- Progressively increased over the years the monthly savings amount for each child from 5 Kuwaiti dinars (KD) in 1970 to KD 10 in 1973, KD 20 in 1978, KD 30 in 1980 and finally to KD 60 in 2005
- Encouraged Kuwaiti families to foster children who are of unknown parentage or in a like situation
- Participated, in 2002, in the fourth Gulf Child Welfare Action Meeting on the actual and the desirable situation in GCC States with respect to children of unknown parentage
- Participated, in 2004, in panel discussions about the problems of children of unknown parentage, about encouraging families to participate in the foster programme for such children and about means of integrating these children into the community. These discussions later grew into a monthly event aimed at resolving problems experienced by homes and institutions

57. Pursuant to article 19 of the Juveniles Act, the Juvenile Welfare Authority mentioned in article 1 (c) of the Act is tasked with bringing juveniles at risk of delinquency before the Department of Juvenile Prosecutions (the justice agency comprising members of the prosecution service who investigate, process and prosecute serious and lesser offences committed by juveniles and perform the other functions stipulated in this Act, in exception to the general rule laid down in article 9/1 of the Code of Criminal Procedure that the Department of Public Prosecutions is authorized to investigate, process and prosecute serious offences) for onward referral to the juvenile court in order for appropriate measures to be imposed.

58. In consideration of the welfare of juveniles, article 20 of the Act prescribes a penalty for anyone who conceals a juvenile who, under the terms of the Act, is to be placed in the custody of a specified person or body, and for anyone who induces or assists the juvenile to abscond.

59. In order to guarantee the full protection of juveniles, the Act prescribes a penalty for anyone who exposes a juvenile to delinquency by grooming him to carry out any of the acts specified in article 1 (c) or by helping, inciting or in any way making it easier for the juvenile to engage in such conduct, even if the juvenile does not actually become a delinquent. Article 21 of the Act provides for two aggravating circumstances in this situation.

60. Juvenile trials are governed by the Act; article 25 provides for the establishment of one or more juvenile courts, which is instrumental in removing juvenile trials from the ordinary courts, where minors are intimidated by the sight of the podium, the defendant's cage and the lawyers, judges and prosecutors.

61. Likewise mindful of the welfare of juveniles, article 32 provides that they must be referred to the probation service for the purpose of identifying any physical, mental, psychological and social factors implicated in their delinquency, or potential delinquency, and suggesting the most appropriate form of treatment. The judge's consideration of such factors and their role in driving a juvenile to crime is undoubtedly crucial in his sentencing of the juvenile to treatment and not punishment.

62. Articles 39 to 42 of the Act deal with the matter of probation officers who, after taking oath, are assigned by the judge to carry out the requisite measures relating to probation, social inquiry reports and conditional discharge, as well as any other measures taken in hand by the juvenile court.

63. The probation officer is the cornerstone on which the success of the juvenile justice mission rests, for his role is an active one and the juvenile's fate hinges on his opinions. This role is evident in the pretrial social inquiry process and in the post-sentencing supervision and guidance stage.

64. To that end, the Act provides that if a probation officer is unable to discharge his functions, the juvenile court may assign the task to another probation officer.

B. Definition of the child (art. 1)

65. Kuwaiti legislation is consistent with the provisions of article 1 of the Convention concerning the definition of the child. The Private Sector Employment Act, for example, sets the minimum age for admission to employment in a chapter devoted to the employment of young persons.

66. The Juveniles Act No. 3 of 1983 also provides that a juvenile is any male or female under 18 years of age.

67. Article 18 of the Kuwaiti Penal Code stipulates that anyone who was under seven years of age at the time of committing an offence cannot be held criminally responsible.

68. Article 208 of the Personal Status Act No. 51 of 1984 stipulates that: "A child shall be subject to guardianship of his or her person until attaining legal majority or reaching the age of 15 years".

69. Article 26 of the same Act prohibits the notarization or certification of a contract of marriage for a young girl who is under 15 years of age or a young man who is under 17 years of age at the time of notarization.

70. The Family Fostering Act No. 82 of 1977 defines a juvenile as any human being under 18 years of age who has not attained legal majority. In short, the definitions contained in all Kuwaiti laws are consistent with the definition set forth in article 1 of the Convention, as childhood is defined as the period from 7 to 18 years of age.

C. General principles (arts. 2, 3, 6 and 12)

71. Article 2 of the Convention provides that States Parties must, respect and ensure the rights set forth in the Convention to each child within their jurisdiction, without discrimination of any kind. It is noteworthy that Kuwaiti society is based on justice and equality and that all rights and freedoms recognized in the Kuwaiti Constitution and the legislation in force are enjoyed by everyone on an equal footing and without any discrimination as to sex, age or religion. Article 7 of the Constitution affirms the principle of equality as one of the basic pillars of Kuwaiti society. The preamble to the Constitution likewise designates equality as one of the cornerstones of Kuwaiti society.

72. Article 29 of the Constitution provides that: "All persons are equal in regard to human dignity and are also equal before the law in regard to their public rights and obligations, without distinction on grounds of sex, origin, language or religion."

73. No provision of the Juveniles Act No. 3 of 1983 makes any reference to discrimination. This Act is regarded as a general enactment applicable to juveniles in Kuwait, as affirmed in article 1 (b), which provides that: "A juvenile delinquent is any juvenile over 7 but under 18 years of age who has committed a legally punishable offence". The Act does not discriminate between males and females in regard to the manner in which they should be treated.

74. The Kuwaiti legislature has taken into account the interests of the child, including the right to breastfeeding, fostering, guardianship and maintenance, in all laws and legislation.

75. The provisions concerning the employment of juveniles, as set forth in the new Private Sector Employment Act, show particular regard for the interests of juveniles by prohibiting the employment of young persons for fear that they may be subjected to exploitation and physical harm. Article 19 permits the employment of juveniles between 14 and 18 years of age, in accordance with the rules and conditions laid down therein, the aim being to protect children by ensuring that they are not employed in industries or occupations that are hazardous or detrimental to their health. The new Act also specifies that they must not work for more than six hours, with an interval of one hour for rest, which is to be deducted from working hours.

76. With respect to article 3, paragraph 2, of the Convention, under which States Parties have an obligation to ensure such protection and care as are necessary for the child's well-being, the following can be cited:

- The Kuwaiti Constitution contains a number of provisions on this subject, including article 9, which affirms that: "The family, being based on religion, morality and patriotism, is the cornerstone of society. The law shall protect the integrity of the family, strengthen its ties and protect mothers and children within its framework". The Constitution designates the welfare of the younger generation as one of the State's essential priorities, as can be seen from article 10, which stipulates that: "The State shall cater for the welfare of young persons, whom it shall protect from exploitation and from moral, physical and spiritual neglect."

Kuwaiti legislation relevant to the rights of the child

The Juveniles Act No. 3 of 1983

77. The Juveniles Act deals specifically with the problem of juveniles in Kuwait. It shows due regard for the legal and social status of juveniles, particularly with respect to their welfare and protection from exploitation, vagrancy and exposure to risk, as prescribed in articles 21, 22 and 23. This Act also shows due regard for the special status of juveniles in criminal and other legal proceedings during their trial and sentencing, as stated in articles 23, 28, 31 and 40.

78. Affirming the importance afforded to juveniles in Kuwait, the State rapidly established the institutions needed to cater for children under 18 years of age in order to help them readjust to society. It also established special courts for juveniles where their interests are the primary consideration.

The Family Fostering Act No. 82/1977

79. This Act aims to encourage families to care for children of unknown parentage under the supervision of the Ministry of Social Affairs and Labour and to safeguard the rights of foster children. The Act stipulates that the foster family into whose care a child of unknown parentage is to be delivered must be a Kuwaiti Muslim family and that it must assume responsibility for the child's upbringing on behalf of the State in accordance with the conditions laid down in the Act.

80. The Family Fostering Department discharges its functions and exercises its powers pursuant to Ministerial Decision No. 79/1993. These include monitoring children in foster families through an administrative and technical organ. Key measures undertaken by this Department include:

(a) The reclassification of children in the Children's Home, pursuant to Ministerial Decision No. 53 of 1998, into two groups, one for the Children's Home and one for the Girls' Home. Children of unknown parentage, children of an unknown father and a Kuwaiti mother, and children from broken homes are taken in and cared for up to the age of 10 for males and 15 for females;

(b) Application of the legal and legislative provisions observed by the Ministry in working to protect children, meaning that all children of unknown parentage or in a like situation are issued with official documentation (birth certificates, civil identity cards and passports);

(c) Enrolment in the Savings Fund for all children who meet the conditions for admission to the Children's Home.

81. The articles of the Kuwaiti Penal Code lay down penalties for practices detrimental to the interests of the child, as follows:

- The offence of abortion is punishable under article 174, and a mother who commits infanticide of her newborn child in order to avoid shame is punished under article 159 of the Code
- A mother who performs an abortion on herself is punished

82. In Kuwaiti law and legislation, the Kuwaiti legislature has accorded primary consideration to the best interests of the child, particularly in matters directly concerning children. For example, the Kuwaiti Personal Status Act No. 51 of 1984 takes care to ensure the interests of the child with respect to breastfeeding, fostering, guardianship and maintenance. A study of the provisions relating to those matters shows that the legislature attaches paramount importance to the interests of the child.

83. The Ministry of Awqaf and Islamic Affairs devotes enormous attention to children and their sound upbringing so that they can serve their community and become effective members of society. This is abundantly clear from its establishment of a department devoted entirely to children, i.e., the Department of the Shining Lamp, which, under the auspices of the Ministry, organizes children's programmes and activities, as well as other endeavours aimed at children, such as the knowledge-seeker project.

84. Article 36 of the Kuwaiti Constitution provides that freedom of opinion and scientific research is guaranteed. A study of article 12 of the Convention reveals that it addresses the subject of respect for the views of the child. In particular, it assures to the child the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. For this purpose, the child should in particular be provided the opportunity to be heard in any judicial or administrative proceedings, either directly or through a representative or an appropriate body. The right to express an opinion is also guaranteed under the Constitution and Kuwaiti legislation; every citizen has the right to express his views in full freedom, verbally, in writing or through publication in the newspapers, within the limits of the law and provided that such expression is neither prejudicial to the dignity of other persons nor detrimental to public morals, national security or public order.

D. Civil rights and freedoms (arts. 7, 8, 13–17 and 37 (a))

85. The Kuwaiti Nationality Act No. 15 of 1959 defines the circumstances in which Kuwaiti nationality may be forfeited or invalidated under the terms of rules and conditions laid down by law. Article 11 of the said Act stipulates that: "A Kuwaiti shall forfeit his nationality if he chooses to adopt a foreign nationality. His Kuwaiti wife shall not forfeit her nationality unless she assumes his nationality. His minor children shall forfeit their

Kuwaiti nationality if they assume their father's new nationality in accordance with the law concerning that nationality. If they opt for Kuwaiti nationality, they must notify the Minister of the Interior within two years of attaining the age of majority."

87. Kuwaiti law protects the right of the child to preserve his or her name and family relations and also protects the right of the child to have a name by which he or she is known, as a person's name or patronymic can be changed only by following specific procedures laid down in Legislative Decree No. 1 of 1988, which regulates the procedures for applications to change or rectify names or patronymics and article 1 of which stipulates that applications to change or rectify names or patronymics are admissible only if preceded by an investigation conducted, at the request of the persons concerned, by a committee chaired by a member of the Department of Public Prosecutions.

87. The legal basis for guaranteeing freedom of express and opinion is set forth in article 36 of the Constitution, which stipulates that: "Freedom of opinion and scientific research is guaranteed. Everyone has the right to express and propagate his opinion verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law."

88. Every Kuwaiti child thus has the right to express his opinion verbally, in writing, in print or through any other medium of his choice. Under articles 19, 20 and 21 of the Press and Publication Act No. 3 of 2006, however, the publication of certain matters is prohibited. These are:

- (a) Anything prejudicial to the essence of God or to the person of the Amir;
- (b) Anything prejudicial to Heads of State or disruptive to good relations between Kuwait and other States;
- (c) Anything detrimental to public morals or prejudicial to the dignity or personal freedoms of others;
- (d) Anything that incites persons to commit offences or instigates hatred or propagates a spirit of discord among the members of society.

89. Article 19 also provides as follows: "It is prohibited to publish material that disparages, ridicules or expresses contempt for the essence of God, the Holy Koran, the prophets or the noble companions, wives or family of the Prophet (God bless him and grant him salvation) by any of the means of expression provided for in article 29 of Act No. 31 of 1979 amending certain provisions of the Penal Code (Act No. 16 of 1960).

90. Article 20 likewise provides that: "It is prohibited to publish anything that:

- "1. Is contemptuous or disdainful of the Constitution of the State;
- "2. Insults or derides members of the judiciary or the Department of Public Prosecutions or is deemed prejudicial to the impartiality and neutrality of the judiciary or is established to be confidential by the courts or investigating authorities;
- "3. Offends public morals or incites public disorder, the violation of laws or the commission of offences, even if no offence is committed;
- "4. Divulges secret official communications or disseminates conventions or treaties before they have been published in the Official Gazette, unless with special authorization from the concerned ministry;
- "5. Affects the value of the national currency, has the potential to shake confidence in the country's economic situation, or reveals the bankruptcy of traders, commercial companies, banks or foreign exchange dealers, unless with special authorization from the competent court;

“6. Leaks the proceedings of any meeting or the content of documents, records, decrees or any papers or printed materials with respect to which the Constitution or a law has resolved that they are confidential or not to be disseminated, even if what is disseminated is accurate, and that dissemination is to be restricted to official statements issued on such matters;

“7. Is prejudicial to the dignity of persons or their lives or religious beliefs, instigates hatred or contempt for any group in society, disseminates information about their financial status, or discloses a secret that may damage their reputation, their fortune or their commercial name;

“8. Is detrimental to the privacy of a citizen or person assigned to discharge a public service or wrongly attributes words or actions to such a person that involve injury or insult to his character;

“9. Damages relations between Kuwait and other Arab or friendly States through media campaigns;

“10. Causes a specialist newspaper to deviate from its authorized purpose.”

91. Kuwaiti children are therefore able to express their views by various ways and means including, in particular, educational and cultural programmes designed for the benefit of children and young persons.

92. Article 43 of the Kuwaiti Constitution stipulates that: “Freedom to form associations and trade unions on a national basis and by peaceful means shall be guaranteed in accordance with the conditions and procedures specified by law. No one shall be compelled to join an association or trade union.”

93. Article 44 further stipulates that: “Individuals shall have the right of assembly, without any need for prior notification or permission, and no member of the security forces may attend their private meetings. Public meetings, processions and gatherings shall be permitted on the conditions and in the manner specified by law, provided that their purposes and the ways in which they are conducted are peaceful and not contrary to morality.” Pursuant to these provisions, the State promulgated Act No. 24 of 1962, which regulates the establishment of clubs and associations of public benefit in Kuwait.

94. Kuwait recognizes the important role played by the information media. The State also guarantees the child’s access to information and material from an array of national and international sources. To that end, various agencies of the State engage in activities designed to ensure that the greatest care is taken and to acquire information on all new scientific developments relating to children at both the local and global levels. They also endeavour to exchange scientific and cultural information in this field through the conclusion of bilateral and multilateral agreements with other States. Most of these agreements provide for cooperation in the production, dissemination and exchange of information.

95. Governmental and non-governmental agencies also engage in a multitude of activities with a view to providing children with access to information that develops their capabilities through:

- Enlightening talks at various educational levels
- School libraries

96. In addition to the above, the State has also sought to provide a library service in every school so that children are able to access a wide variety of information. With regard to promoting the production and publication of children’s books, the concerned State authorities, within their respective areas of competence, provide material support for the

printing of books that benefit children or identify their problems in order to make families more aware of their children's difficulties and find appropriate solutions.

97. The Women's and Children's Department at the Ministry of Social Affairs and Labour is concerned, inter alia, with raising child welfare standards and developing children's services and programmes. The aim is to create a sound and healthy educational and psychological environment for the child's growth and advancement by organizing a series of educational talks and courses dealing with the topics of child development and the child's acquisition of leadership skills. These activities consist of the following:

1. Talks on children's health and education and the definition of the child's mental health;
2. Activities on the rights of the child, the psychological effects of conflict and war on children, the impact of violence on children and the role of the family;
3. Awareness activities for children with disabilities about their rights and about how to integrate into the family and community;
4. The publication of awareness leaflets on sources of child persecution, developing the reading habit, domestic violence against children, the environment and child-related development;
5. The involvement of children in radio and television programmes as an avenue to information;
6. Child-focused collaborations with children's societies, three of which have recently been proclaimed, namely:
 - A society named "Together for Family Development"
 - The National Society for Child Protection
 - The Kuwait Society for Guardians of the Disabled

98. Article 16 of the Convention covers the protection of privacy, as does the Kuwaiti Constitution and likewise the Penal Code (Act No. 16 of 1960), which devotes a special section to offences against the person, honour and reputation, prescribing penalties for acts and offences that are liable to prejudice the reputation, honour or standing of any person (arts. 209-212). Under the terms of article 55 of Act No. 31 of 1970 amending certain provisions of the above-mentioned Penal Code, any official, public servant or person assigned to discharge a public service who takes advantage of his official authority to enter the home of any person without the latter's consent in circumstances other than those provided for by law, or without observing the legally specified rules and procedures, is liable to a penalty of up to three years' imprisonment and/or a fine of up to 225 dinars.

99. The Juveniles Act No. 3 of 1983 stipulates that anyone who exposes a juvenile to risk or incites him to commit acts of delinquency bears criminal responsibility for so doing. Article 20 of the Act prescribes a penalty of up to three months' imprisonment for anyone who conceals a juvenile who, under the terms of the Act, is to be placed in the custody of a specified person or body. The same penalty applies to anyone who induces or assists the said juvenile to abscond. Article 21 stipulates as follows: "Without prejudice to any heavier penalty provided for in the Penal Code, the penalty prescribed in the preceding article shall also apply to anyone who exposes a juvenile to delinquency by grooming him to commit any of the offences specified in article 1 (c) of this Act, or by helping, inciting or in any way making it easier for the juvenile to engage in such misconduct, even if the juvenile does not actually become a delinquent. The penalty shall be a term of up to three years' imprisonment if the offender uses means of coercion or threats against the juvenile or if he is one of the juvenile's ascendants or a person responsible for the juvenile's upbringing or

care or a person legally exercising authority over, or holding custody of, the juvenile.” In addition to the provisions of the Constitution which set forth the rights of the younger generation vis-à-vis the State, Kuwait has promulgated numerous legislative enactments to protect children from any form of moral or physical exploitation, as can clearly be seen from the heavier penalties prescribed in the Kuwaiti Penal Code for offences against minors. With regard to the measures taken by Kuwait to prevent child prostitution and child pornography, the Penal Code contains strict provisions under which such acts are deemed to constitute legally punishable offences. In particular, the penalty is increased if one of the parties involved is below the legal age.

100. Chapter II of the Penal Code, concerning offences against honour and reputation, prescribes severe penalties for the perpetrators of offences against children or minors, particularly if the offender is one of the victim’s ascendants entrusted with the victim’s upbringing or welfare or vested with authority over the victim.

101. Similarly, with regard to the use of coercion to induce persons, and particularly children, to engage in debauchery or prostitution, article 201 of the above-mentioned Code prescribes a more severe punishment by stipulating that: “Anyone who uses coercion, threats or deception to induce a male or female person to engage in debauchery or prostitution shall be liable to a penalty of up to five years’ imprisonment and/or a fine of up to 5,000 rupees. If the victim was under 18 years of age, the penalty shall be a term of up to 7 years’ imprisonment and/or a fine of up to 7,000 rupees”.

102. Under the terms of article 31 of the Constitution, it is prohibited to subject any person to torture or degrading treatment. That article stipulates that: “No person shall be arrested, detained, searched or compelled to reside at a given location, nor shall any person be restricted in his freedom of residence or movement, except as prescribed by law. No one shall be subjected to torture or degrading treatment.”

103. Under the terms of articles 53, 54 and 56 of Act No. 31 of 1970 amending certain provisions of the Penal Code (Act No. 16 of 1960), any official or public servant who tortures an accused person, an expert or a witness, orders a convicted person to be subjected to a punishment more severe than that to which he was legally sentenced, or enters the home of any person without the latter’s consent in circumstances other than those provided for by law, is liable to the penalties prescribed in those articles.

E. Family environment and alternative care (arts. 5, 9–11, 18, paras. 1 and 2, 19–21, 25, 27, para. 4, and 39)

104. The Kuwaiti Constitution, which forms the legal framework for the social legislation, contains numerous provisions that define the fundamental principles on which Kuwaiti society is based with a view to safeguarding human dignity, rights and freedoms. The Constitution also sets out the responsibilities of the State towards the family and children. These principles are articulated in articles 7, 8, 9 and 10, which are concerned with society and its components. In Kuwaiti laws and legislation, the Kuwaiti legislature has given primary consideration to the best interests of the child, particularly in matters of direct concern to the child. The Kuwaiti Personal Status Act No. 51 of 1984, for instance, endeavours to ensure the best interests of the child with respect to breastfeeding, fostering, guardianship and maintenance. It also devotes attention to the protection of children in the provisions relating to the matter. Breastfeeding, fostering, maintenance of relatives and guardianship are thus regulated, respectively, in chapters IV, V and VI of volume III in such a way as to guarantee the care and upbringing of children. Chapter IV also regulates the question of breastfeeding; under article 186, a mother has an obligation to breastfeed her child if the child cannot be fed on milk other than her own.

105. The national legislation also protects the right of the child to life, survival and development, as in the Penal Code (Act No. 16 of 1960), pursuant to which abortion is a punishable offence under articles 159, 174, 176 and 177. With respect to eliminating and combating child neglect, article 167 of the Code stipulates that: “Any head of a family who, being responsible for the welfare of a young person under 14 years of age, fails to fulfil his obligation to provide the young person with the necessities of life, thereby causing death or harm to the young person, shall be liable to the penalties prescribed in the article.”

106. Kuwait is elaborating plans for the development and implementation of a child welfare policy in States Parties. The competent authorities are also currently studying the possibility of concluding bilateral agreements with some States on the fostering of children and their transfer across international frontiers, the aim being to realize the supreme interests of the child.

107. Article 167 of the Penal Code (Act No. 16 of 1970) provides for the welfare of children under 14 years of age and punishes any head of a family who fails to provide suitable care. On that basis, the Ministry of Social Affairs and Labour has taken appropriate measures to ensure the welfare of families and children, the aim of which is to serve the family and strengthen its social role, through various departments (Women’s and Children’s Department — Juvenile Welfare Department — Family Fostering Department). Services provided by these departments include:

1. The opening of children’s centres, the number of which now stands at 10;
2. The establishment of youth centres where young people can spend their leisure time;
3. The establishment of a children’s home under the Family Fostering Department.

108. The Family Fostering Department makes arrangements for the following:

- Alternative families
- Residential care
- After-care, a merit of which is that it helps individuals to overcome their trials and tribulations and protects them from delinquency

109. The Department’s strategy for dealing with such groups is focused on:

1. Developing care systems with the aim of ensuring a proper upbringing, and evaluating and seeking to enhance periodically the best safeguards for those of unknown parentage through the savings regulations;
2. Safeguarding the rights of children of citizens resident abroad, securing all of their needs for daily living, health and education, providing help for dealing with their financial and legal situations, and guaranteeing their legal rights. A committee has been formed to undertake the following:
 - Pursuant to Ministerial Decision No. 302 of 2006, ensure the welfare of Kuwaiti children born to non-Kuwaiti mothers who are resident abroad. The membership of the committee is composed of such entities as the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Social Affairs and Labour, the Ministry of Health and the Ministry of Justice

All recommendations made by this committee are implemented by the technical division attached to social care homes.

110. In its development plan for 2010–2011/2012–2014, the State sought to:

- Elaborate welfare policies for socially vulnerable groups, children, young persons and persons of unknown parentage in order to protect children from problems caused by health errors, harmful diets and exploitation, and reduce delinquency for the sake of enhancing social peace, through targeted educational programmes, social, psychological and educational measures, and job opportunities tailored to resources, qualifications and abilities
- Establish private nurseries, which numbered around 190 in 2009 and which play a part in delivering suitable programmes for children, building their capacities and ensuring the security and safety of children of working mothers through the care provided by female workers, who help to develop children’s abilities and prepare them both mentally and socially for the kindergarten stage
- The Juveniles Act No. 3 of 1983 provides for the establishment of juvenile care homes offering a series of programmes for juveniles at risk of delinquency, in addition to comprehensive care and services. Juvenile victims of neglect and exploitation benefit from these programmes, which are designed to address and modify the behaviour of these juveniles and assist their integration into society
- Articles 152, 160, 161, 162, 163 and 164 of the Penal Code (contained in chapter I entitled “Offences against the person”) provide for the punishment of anyone committing the offence of battery or of causing injury or harm, regardless of the status of the victim

111. With a view to promoting the welfare of children born out of wedlock and establishing procedures for dealing with this deprived category, the State of Kuwait promulgated the Family Fostering Act No. 82 of 1977, the aim of which is to encourage families to undertake the full care and upbringing of children of unknown parentage under the supervision of the Ministry of Social Affairs and Labour and to safeguard the rights of foster children. This Act is regarded as one that most effectively safeguards the rights of children of unknown parentage. Family fostering, as defined in article 1 of this Act, means “placement of one or more children from the Children’s Home run by the Ministry of Social Affairs and Labour in the custody of Muslim Kuwaiti families willing to provide them with shelter and care and to assume responsibility for their upbringing, on behalf of the State, in accordance with the procedures and conditions set forth in the Act”. The Act also deals with the question of individuals and families who foster children of unknown parentage without complying with the provisions of the Act.

112. The State assumes full responsibility for the welfare of children placed in alternative care and, through the Family Fostering Department of the Ministry of Social Affairs and Labour, which discharges its role in accordance with Ministerial Decision No. 171 of 1993, it periodically checks and appraises the homes where care is provided as an alternative to the child’s family in order to ascertain that the interests and rights of the children in such homes are being observed. It monitors the care of these children and, in the event of a foster family’s failure to comply with the fostering conditions specified in the Act, the fostered children are removed from its custody and returned to the Family Fostering Department. This Department implements the State policy with regard to the welfare of children from broken homes, whom it places in alternative care. In accordance with Ministerial Decision No. 171 of 1993, the rules of procedure of the Family Fostering Department, issued by Ministerial Decision No. 6/2003, govern employment in care homes, the conditions and rules to be observed by foster families, the rights and obligations of concerned persons and the technical standards with which the personnel of the Family Fostering Department must comply. The total number of those benefiting from the services of the Family Fostering

Department amounted to 974 in 2010, including children of Kuwaitis born to non-Kuwaiti mothers. Of that number, 474 were males and 500 were females.

113. The Ministry of Social Affairs and Labour has devoted tremendous attention to ensuring the welfare of juveniles, for whom it provides comprehensive care. Female prisoners with children are housed separately from other female prisoners in special sections adapted for their benefit. A nursery has been set up in the women's prison for incarcerated mothers and their children. Operating between the hours of 8 a.m. and 1 p.m., it is fully staffed with female social workers, psychologists and trainers experienced in dealing with children and is also equipped with children's educational materials and toys. A daily programme is followed, starting with breakfast for the mothers and children, followed by a period of recreational activity interspersed with screenings of children's cartoons and educational story-telling sessions. A light meal is then provided for the mothers and children, after which they play educational games and watch television or videos. The prison also has its own health clinic, which provides treatment for these mothers and their children.

114. The existence of such a nursery undoubtedly contributes to improving the mental state of both the child and mother because of the perceived change of scene and the awareness programmes slotted in to build the child's personality and boost his morale. The Prisons Regulation Act and its rules of procedure devote a great deal of care and attention to the matter of pregnant mothers and children born in prison; article 33, for instance, provides that a pregnant prisoner must receive special treatment and be permitted to follow a particular diet and sleep regimen.

115. Article 34 governs the situation of a child who is born in prison to a mother serving a sentence and states that the child must remain with his mother until he reaches two years of age. If she does not wish him to remain with her after he turns two, he is handed over to his father or a relative of his mother's choosing. If he has no relatives to take care of him, he is placed in a child welfare home. The mother is also afforded easy access to the child under article 13 of the rules of procedure of the Prisons Regulation Act, which states that: "The prison administration shall endeavour to facilitate the request of a female prisoner to see any child of hers who is under 12 years of age by arranging for him to visit her in prison. The visit may be conducted in private, with permission, and may not be prevented other than for health reasons, such as if the mother has an infectious disease, in order to protect the child." It is worth mentioning that, in applying the Prisons Regulation Act and its rules of procedure, the prison administration is observing the true humanitarian principles of safeguarding a mother's rights vis-à-vis her children and not restraining her basic instinct of love and affection simply because she is behind prison walls, the aim being to maintain family cohesion and prevent child vagrancy.

F. Basic health and social welfare (arts. 6, 18, para. 3, 23, 24, 26 and 27, paras. 1–3)

116. Kuwait is committed to health care as a human right, as provided for in the Kuwaiti Constitution (arts. 10, 11, 15 and 40), allocating for that purpose the equivalent of 5.2 per cent of the State budget, i.e., KD 962.2 million of the general budget, for the period 2008–2009.

117. Abortion is criminalized in Kuwaiti law under article 12 of the Professional Practice Act No. 25 of 1981 and also in the Penal Code. The right of an unborn child (foetus) to life is guaranteed and a foetus is sacrificed only if the mother's life is threatened. A safe and healthy life for the newborn child was furthermore guaranteed with the legislature's promulgation of Circular No. 40 of 2012, which states that in-vitro fertilization units and

centres may implant in women a maximum of three embryos per pregnancy in order to ensure the safety of both mother and child and avoid premature births and complications, which have adverse consequences for their health and their mental, social, educational and economic well-being (as well as in order to reduce the percentage of disability).

118. Postnatal checks are carried out in medical centres at their healthy child clinics, which joined with child-friendly hospitals in taking the initiative to promote breastfeeding and reduce the marketing of breast-milk substitutes in accordance with the International Code on Marketing of Breast-milk Substitutes.

119. Premarital screening centres for prospective married couples were also established under the Premarital Screening Act No. 31 of 2008. The screening includes testing for sexually-transmitted diseases, such as AIDS, hepatitis B and C, and syphilis, and for genetic diseases common to the region, such as sickle cell anaemia and thalassaemia. It also includes health and psychological counselling, inoculation, and treatment, as required. Marriage was deemed to be unsafe in the case of 3 per cent of all those who attended for screening and half of that percentage took the decision not to marry after learning of the result and receiving counselling (and it should be mentioned here that, in some countries, the proportion of those deciding not to proceed with an unsafe marriage amounted to 9 per cent).

120. In 2008, the crude birth rate had moved in a positive direction, standing at 17.3 live births per 100,000 population, while the crude death rate stood at 1.7 deaths per 100,000 population, producing a natural increase rate of 15.6. Kuwaitis are the longest-living population in the region, with an average life expectancy at birth of 78.6 years.

121. Mother and child clinics also deliver care during all growth stages of the foetus and child, and healthy child clinics are widespread throughout the country; there are 87 such centres offering treatment for malnutrition, anaemia, obesity and smoking, as well as related health advice. They also promote awareness in order to reduce the number of accidents in the home and minimize the use of traditional therapies (the use of kohl containing lead has been eliminated, as has the cauterization of children as a traditional therapy).

122. Persons with severe disabilities are looked after in social care homes, which are staffed by doctors and female nurses and located within proximity of the specialist medicine area so that these persons receive the best and fastest possible service if they need to be admitted to hospital for treatment.

123. Legislation was also promulgated in November 2009 by Ministerial Decision No. 314, which requires all doctors to report cases of physical, sexual and psychological abuse to which children under 18 years of age may be subjected and which established committees in every health district for monitoring and following up such cases. The country's legal authorities are thus notified so that medical treatment and psychological therapy can be started, together with an investigation, in order to bring a rapid end to the child's suffering. Between 1 August 2008 and 31 July 2009, 40 cases of severe harm were recorded. Sentence has been passed in six of these cases and three more are pending.

124. Awareness programmes dealing with the neglect of minors have been stepped up through the committees on children's rights established in the health districts to secure coverage of prevention and treatment services.

125. The State has increased the customs and excise duty on tobacco by 100 per cent and there is a draft agreement among the Gulf States to raise it to 200 per cent. Under the Smoking Control Act of 1996, it is prohibited to offer tobacco and cigarettes to anyone under 21 years of age (youth campaign). Article 4 of the Act also prohibits smoking in

public places (non-smoking campaign) and the explanatory note contains a section on the effect of smoking on the mother and foetus.

126. Twenty-five years have passed since Kuwait's first case of AIDS was discovered in 1984. In 2009, however, 160 persons in Kuwait were living with the disease, 119 of them male and 41 female. Of these patients, 131 are receiving antiviral treatment, 101 of them male and 30 female.

127. All migrants undergo an AIDS test, which is one of a series of tests carried out for epidemic diseases. Anyone who tests positive is prevented from entering Kuwait and sent back to his home country, and a report is filed in his name.

128. In February 2010, a ministerial decision was issued to designate the functions and responsibilities of the national AIDS programme, which will effectively increase public awareness of how to prevent both the disease, particularly among the most vulnerable groups, and mother-to-child transmission of the virus. Diagnosis and treatment consistent with global health standards are easily accessible in Kuwait.

129. Under Act No. 31 of 2008, prospective married couples are required to undergo screening to restrict the spread of the disease. In the event of a positive AIDS diagnosis, the legal requirement is that the other party must be notified for protection and treatment purposes. Genotyping and phenotyping testing is also available for all AIDS patients.

130. Kuwait adopted measures to combat influenza A(H1N1) virus, which were as follows:

- Thermal camera monitoring at entry points during the seasons of travel and the major and minor pilgrimages (hajj and `umrah), and concerted health, education and information efforts to raise public awareness about protection against the pandemic through educational workshops, printed materials, bulletins in audiovisual and printed form, and illustrated posters displayed in streets and health centres in all languages, with no community overlooked
- Supply of schools with disinfectants, and the provision of guidance and adequate training for nursing and educational personnel in the interests of the coordination and operation of the clinics reopened in public and private schools of all levels (primary, intermediate and secondary) at the start of the 2009/10 school year
- Supply of medication and oral vaccine doses for all members of every group in the community. For transparency purposes, the number of infected persons and deaths were initially announced on a daily basis and then on a weekly basis once the pandemic had receded

131. The World Health Organization has commended the efforts made in this sphere. Here, we should state that regular immunization is compulsory in Kuwait pursuant to Act No. 8 of 1969. The Minister is also empowered to issue a decision to introduce compulsory immunization against any disease and to enlist the services of the police, if necessary.

132. Immunization is provided free of charge to all age groups and all nationalities from birth onwards. Coverage stands at 99 per cent for immunization against measles and hepatitis B and with the triple vaccine.

133. Ninety-five per cent of tuberculosis cases are now detected through the direct monitoring system, and a widespread campaign to inoculate children against measles was recently conducted and announced across the media.

134. Pursuant to Cabinet Decision No. 855 adopted at meeting No. 39-2-2003, a charitable health care fund was established on 7 September 2003 for the benefit of disadvantaged persons of all nationalities.

135. Ministerial Decision No. 8/2003, issued by the Minister of Awqaf and Islamic Affairs, also provided for the establishment by Bait al-Zakat of a charitable fund to provide health care for disadvantaged residents of Kuwait, irrespective of sex, colour and religion, serve the community, complement the work of State agencies, and provide a firm foundation for charitable and humanitarian work.

136. The fund's resources amounted to KD 2,475,000 in State subsidies and contributions from the governmental and private sectors (Secretariat-General of Awqaf: KD 250,000; Ministry of Finance: KD 1 million; Minors' Affairs: KD 400,000; Kuwait Finance House: KD 800,000). The total number of beneficiaries came to 63,885.

Fund expenditures as at 31 December 2009

| | | |
|---|---------------------|---------------------|
| Social security charges (various nationalities) | KD 1 718 513 | 58 per cent |
| Health insurance charges for illegal residents | KD 1 004 408 | 34 per cent |
| Insurance card issuance fees | KD 237 315 | 8 per cent |
| Total | KD 2 960 236 | 100 per cent |

| <i>Type of insurance</i> | <i>Number of individuals</i> | |
|--|------------------------------|---------------------|
| Health insurance for illegal residents | 49 204 | 77 per cent |
| Health insurance for various nationalities | 14 681 | 23 per cent |
| Total | 63 885 | 100 per cent |

(N.B.: The contract between Bait al-Zakat (the first party) and the Ministry of Health (the second party) is worth KD 100,000 annually.)

137. The mortality rate in Kuwait has fallen and all children have easy access to their health care needs. Healthy child clinics have been established in 87 health centres to provide guidance and develop preventive health care for parents with respect to family planning and fighting malnutrition, obesity and pollution.

138. As article 26 of the Convention on the Rights of the Child recognizes for every child the right to benefit from social security, including health insurance, and states that the benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child:

- All child citizens receive free health care from the Government
- Non-Kuwaiti children receive health care through health insurance
- Children of illegal residents whose fathers are military personnel, or whose mothers are Kuwaiti, or whose parents have disabilities, receive free health care (Ministerial Decision Nos. 172 and 330 of 2009)
- All children, regardless of colour, ethnicity, religion or nationality, receive free treatment in Kuwait's hospitals in the case of emergencies, accidents, medical assistance and emergency surgical procedures
- All children with AIDS or cancer receive free treatment and health care

139. The free care provided in Kuwait's hospitals for Kuwaiti and other children with cancer or an incurable disease also includes care for the child and his family if the child

cannot be restored to health. In the terminal stages of disease, supervised medical, social and psychological care is provided in a non-hospital environment at the Bayt Abdullah Children's Hospice, which is equipped with rest and recreational facilities, exudes a family atmosphere and has a palliative care team working with patients and their relatives. The project will come to fruition at the end of 2010.

140. The care of persons with disabilities is undertaken by various governmental entities, including the Ministry of Education, the Ministry of Social Affairs and Labour.

141. A number of civil society organizations, such as the Kuwait Society for Persons with Disabilities, the Centre for Child Evaluation and Teaching, the Society for Guardians of the Disabled, the Club for Speech-impaired Persons and the Association for the Blind, and the Ministry of Social Affairs provide comprehensive residential, day and home care services for persons with disabilities. Measures taken are as follows:

1. Research and studies are conducted for the purpose of developing programmes to build the capacities and skills of children with disabilities;
2. Attention is given to programmes for early detection of disability and early intervention, and to ensuring access to health care and rehabilitation for children with disabilities;
3. Activities for raising awareness of the causes of disability are organized for families and communities in order to minimize those causes;
4. Personnel working with children with disabilities receive training in modern educational methods and use of the assistive technologies provided;
5. Families receive assistance, support and training in how to deal appropriately with children with disabilities;
6. Material support is provided for impoverished families who have dependent children with disabilities and efforts are made to secure their essential needs.

142. The State also provides social care for this group of persons under the social services umbrella. Such care and services are among the rights to which the group is entitled, as affirmed by the principle articulated in article 10 of the Constitution, which provides that: "The State cares for young persons and protects them from exploitation and from moral, physical, and spiritual neglect." The Constitution also prescribes aid in the event of sickness or inability to work, in addition to social insurance services, social assistance and health care.

143. On the basis of these two principles laid down in the Constitution, the State took the following action:

1. It established social institutions offering accommodation, training and rehabilitation for persons with disabilities and older persons in order to transform them into productive social forces;
2. It established the Higher Council for Persons with Disabilities, which provides financial support to the tune of KD 31 million for the education of such persons;
3. The Council is also resolved to pay a disability living allowance, thus far amounting to an overall total of KD 50,805,000, to persons with disabilities who are aged 18 and over. Those aged under 18 receive social aid under the Public Assistance Act No. 22 of 1978;
4. The aid received by this group since 1 April 2008 amounted to KD 15,653,632 as at 2009 and KD 19,724,198 as at 2010;

5. On the strength of the above-mentioned financial support provided by the State to persons with disabilities, the Higher Council for Persons with Disabilities offers a number of social, housing and health services for Kuwaiti and other persons with disabilities;

6. There are eight associations and clubs that play a key role in working with persons with disabilities, whose skills they seek to develop, including by affording them the opportunity to perform to the best of their abilities;

7. It ratified the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention No. 159 (1983) on 4 May 1998.

144. The Rights of Persons with Disabilities Act No. 8/2010, which is modelled on the Convention on the Rights of Persons with Disabilities, incorporates various rights, in particular:

1. The right to education, habilitation, rehabilitation and employment;
2. The right to health care, housing and social services;
3. The creation of a friendly environment suited to the special needs of persons with disabilities so that they can benefit from all State-provided services.

145. In order to guarantee the rights of this group, ensure recognition of its humanity and engage it in the development of society, the legislature entrusted the implementation of these goals to an independent authority concerned with persons with disabilities. The authority's membership includes representatives of the group from its own agencies. A public authority for the affairs of persons with disabilities was also created pursuant to Act No. 8/2010, section VIII of which sets out the powers vested in the authority to supervise activities relating to the care and habilitation of these persons.

146. It is worth mentioning that the State is in the final process of acceding to the Convention on the Rights of Persons with Disabilities.

147. The State is concerned to provide financial assistance to families in line with the principles on which society is founded, including social solidarity, and pursuant to Act No. 22/1978, which contains further rules and bases for the award of public assistance, as follows:

- (a) Loss of the family provider, as in the case of widows and orphans (arts. 2 and 18);
- (b) Sickness or certified incapacity of the family provider (art. 2);
- (c) Financial inability of the family provider to meet his private expenses, as in the case of insolvent persons and the families of persons serving a prison sentence;
- (d) Other special cases, such as disaster-stricken families who do not fall within the categories entitled to assistance (art. 29);
- (e) The above-mentioned Act permits the allocation of additional assistance to families and individuals shouldering specific burdens or for the achievement of social aims other than those mentioned in the preceding articles;
- (f) Pursuant to the above Act, a decree was promulgated under which the amounts of assistance were increased and the categories of needy persons entitled thereto were defined as follows:
 - (i) Widows supporting children and lacking a source of income;
 - (ii) Divorced women who have completed their legally specified waiting period (after which remarriage is permitted) and who, lacking a source of income to support

their children by their former husband, require State assistance to ensure a decent life for themselves and their children;

(iii) Older persons over 60 years of age who lack a source of income to support their wives and children;

(iv) The wives and children of convicted prisoners for whom the State has an obligation to ensure a decent life when they lack any source of income;

(v) Persons with disabilities who are over 18 but under 60 years of age and who are totally or partially incapable of earning a living to support their families;

(vi) Sick persons who are incapable of earning a living to support themselves, their wives and their children;

(vii) Financially insolvent persons whose family income is too low to support their wives and children and who are found to be incapable of performing other types of work to increase their income;

(viii) Anyone who lacks a source of support and can prove that he is enrolled at a school and continuing his compulsory education.

148. Families also receive assistance through social assistance offices, each of which serves various residential districts.

149. Furthermore, on humanitarian grounds and in recognition of the need to protect Kuwaiti mothers and their children in difficult circumstances with which they might be faced, the Kuwaiti legislature decided that the Public Assistance Act would also apply to the Kuwaiti wives of non-Kuwaitis and their children from the latter if the husband was medically certified to be incapable of performing any work or if he was faced with unforeseen circumstances necessitating assistance. This provision was added under the terms of Act No. 54 of 1979 amending the Public Assistance Act. The amendments also made provision for other exceptional cases in which, for example, assistance became payable, on humanitarian grounds, to the children of a Kuwaiti widow or divorced woman who had been married to a non-Kuwaiti husband. This constituted an exception to the rule that the Public Assistance Act applied solely to Kuwaiti families and individuals. It is evident from the above that Kuwaiti law has endeavoured to guarantee a standard for Kuwaiti and non-Kuwaiti children.

G. Education, leisure and cultural activities (arts. 28, 29 and 31)

150. Education in Kuwait is free of charge at all stages, from kindergarten to university. It is also compulsory in the primary and intermediate stages, i.e., for a period of nine years. Kuwait has made significant progress on student enrolment ratios. According to data for 2008, the enrolment ratio for the kindergarten stage was 89.8 per cent, as against 99.3 per cent for primary education (it should be 100 per cent, but some students opted for private education). This figure is based on the total number of children attending schools. In the intermediate stage, the gross enrolment ratio is 100 per cent and the net enrolment ratio is 84.7 per cent, and in secondary education the enrolment ratio is 92.4 per cent.

151. Kuwait has diversified the type of instruction provided in different streams in secondary education. The trend towards diversification began in the mid-twentieth century, with the initial steps taken in 1956. The first college of industrial education was established in 1962, followed by the establishment of a commercial college in 1963 and the introduction of a system of vocational education for girls. The system remained in operation until 1975, when it was agreed to shelve it because it was not fit for purpose. In 1978, the Ministry of Education decided to pilot a syllabus designed by educational experts

to prepare learners for life by offering them the chance to study technical and vocational subjects.

152. To keep pace with wider changes and to meet the development needs of learners, the Ministry launched a study on the possible introduction of two different streams in secondary education: an academic track and a technical track. The academic stream was launched in 2006 and the plans for introducing technical education are moving forward.

153. Kuwait University opened its doors in 1966. Its colleges (law; arts; sciences; engineering and petroleum; ancillary medicine; education; sharia; administrative sciences; social sciences; women's college; medical sciences centre; medicine; and higher studies) had the capacity to accommodate a very large number of students. The State then authorized the establishment of private universities, subject to the fulfilment of a given set of conditions. Some years later, the General Authority for Applied Education was established with colleges offering basic education; technology studies; commercial studies; health sciences; and nursing studies. Special institutes have syllabuses on subjects such as communications; aviation; training in electricity and water systems; industrial training; vocational training; special courses; nursing; construction training; secretarial and office work skills; tourism; cosmetics and fashion. The idea is to give everyone access to higher education, although admission to Kuwait University is based on ability, for which the student is tested. The area of specialization is then chosen in the light of the percentage scores earned in the test.

154. The interest of the Ministry of Social Affairs and Labour in children's recreation includes the child's enjoyment of leisure times. It has therefore taken care to develop its children's services and activities with a view to creating a sound and healthy educational and psychological environment conducive to the child's overall growth and progress. In delivering children's activities and programmes, the Ministry of Social Affairs and Labour ensures that:

- Children have access to play areas and spaces for indoor activities (drawing and artwork) and self-expression, such as drama and archery
- Creative and gifted children are able to discover their talents through play, drawing and testing, and that a benchmark is set for identifying the distinguishing features and intelligence levels of these children

155. The Ministry does its utmost to direct attention to children with disabilities and to involve them in all occasions that concern them, the aim being to integrate them into the community.

H. Special protection measures (arts. 30, 32–36, 37 (b)–(d), 38, 39 and 40)

156. First of all, the extradition of political refugees is prohibited under article 46 of the Constitution of the State of Kuwait. Kuwait has also adopted the principle of non-refoulement, which is to say that it refrains from deporting or extraditing persons to their home country if they provide evidence that they are likely to face danger there.

157. Furthermore, the extradition of persons involved in political crimes is prohibited under the terms laid down in international conventions on the extradition of offenders, in bilateral agreements on judicial and legal cooperation concluded between Kuwait and other countries, and in multilateral regional conventions that have been domesticated.

158. It is worth mentioning that, in 1996, Kuwait signed a cooperation and headquarters agreement with the United Nations High Commissioner for Refugees (UNHCR), which defined the functions of the UNHCR Liaison Office in Kuwait. The Office plays an important role in the protection and monitoring of persons who fall within the UNHCR

mandate, and it cooperates and consults with the Kuwaiti Government concerning the provision of international protection to such persons, in accordance with the UNHCR Statute and other UNHCR-related resolutions adopted by the United Nations General Assembly. The Office also seeks durable solutions to the problems of refugees by facilitating their voluntary repatriation or their integration into new national communities. In cooperation with the Government, UNHCR also plans and provides humanitarian assistance. Each year, the Ministry of Foreign Affairs allocates US\$ 1 million from its budget to support UNHCR.

159. The Government of Kuwait facilitates access for UNHCR personnel to all persons falling within the scope of the UNHCR mandate set out in its Statute. At the international level, Kuwait has endeavoured to support international and humanitarian efforts aimed at ending the suffering of refugees in various regions of the world. It has consistently worked to provide material and moral support for activities undertaken by UNHCR, the United Nations Relief and Works Agency for Palestine Refugees in the Near East and the International Committee of the Red Cross (ICRC). Such support is only one aspect of the humanitarian services and facilities which Kuwait has always extended to refugees. Kuwait has endlessly fought against inhuman practices and spared no effort to fulfil its international obligations.

160. The Standing National Committee on International Humanitarian Law was established under the framework of the Ministry of Justice, pursuant to Ministerial Decision No. 244 of 2006. It is entrusted with following up all matters relating to international humanitarian law and is a consultative body for the State's decision-makers with regard to all matters pertaining to application of the rules of international humanitarian law that are binding on the State. It works with all concerned entities to raise citizens' awareness of those matters.

161. On 12 October 2004, a memorandum of understanding was signed between the Government of Kuwait, represented by the Kuwait Institute for Judicial and Legal Studies, and ICRC, pursuant to which the following two centres were established at the Institute's headquarters:

The first centre: Specializes in international humanitarian law training for judges and members of the Department of Public Prosecutions, organizing a training course at least once every two years for participants from various parts of the Arab world;

The second centre: Is specifically tasked with developing the library of the Kuwait Institute for Judicial and Legal Studies and is thus regarded as a documentation centre for international humanitarian law, international conventions relating to such law, all research and works on jurisprudence, and recommendations made in that regard. It also furnishes the Institute with all of its requirements.

162. In association with ICRC, the Ministry of Foreign Affairs continually runs courses to provide its personnel with an introduction to international humanitarian law. It also held a regional symposium for GCC States from 11 to 12 June 2007, likewise in association with ICRC, on dealing with the human impact of anti-personnel landmines and the explosive remnants of war.

163. The Ministry of the Interior disseminates information on the principles of international humanitarian law to its personnel through its own training courses and curricula.

164. The Military Justice Authority frequently organizes special talks in order to disseminate information on the principles of international humanitarian law to members of the military establishment. A committee on disarmament and international humanitarian law was set up within the Authority to follow up all matters relating to international

conventions of relevance to international humanitarian law in general and to disarmament conventions in particular.

165. The International Legal Relations Branch created at the Military Justice Authority is chiefly concerned with disseminating the principles of international humanitarian law within the military establishment. It also communicates with relevant institutions, in particular ICRC and the Kuwait Red Crescent Society.

166. Kuwait's Ministry of the Interior is making tremendous efforts to tackle and reduce road accidents by running traffic campaigns and providing guidelines, which has had a major impact on reducing such accidents, particularly those involving children. During 2008, 20 deaths were caused by traffic accidents, whereas only nine such deaths have thus far been recorded during the present year. Neither have any deaths of teenagers from drug addiction or overdoses been recorded during the past five years.

167. The State has taken effective measures and steps to protect children; not only does it protect young persons from all kinds of exploitation but it also treats the welfare of young persons as a priority forming a cornerstone of the State, as already explained elsewhere in this report.

168. The Kuwaiti Constitution sets out the role of the family. The aim of family cohesion is to protect children from deprivation and exploitation. Article 9 of the Constitution states that the family is the basis of society, founded on morality and patriotism, and that the law preserves its identity, strengthens its ties and protects mothers and children.

169. Kuwait is committed to the principle of compulsory education. Article 13 of the Constitution provides as follows: "Education, being a fundamental requirement for social progress, shall be guaranteed and promoted by the State".

170. In addition to the provisions of the Constitution, which set forth the rights of the younger generation vis-à-vis the State, Kuwait has also promulgated numerous legislative enactments to protect children from any form of moral or physical exploitation, as can clearly be seen from the heavier penalties that the Kuwaiti Penal Code prescribes for offences against minors.

171. As already mentioned, the Kuwaiti Labour Code also prohibits the employment of children at a young age for fear that they might be subjected to various forms of exploitation and physical coercion.

172. It should furthermore be noted that Kuwait's legal position is not confined to the promulgation of national legislation to protect children in this regard; as in the past, the State continues to support and commend all international efforts to protect children from all forms of maltreatment. It has also eagerly acceded to international conventions prohibiting such inhuman acts and practices, including:

- The Slavery Convention of 1926
- The Protocol amending the Slavery Convention
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- The ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999

173. Kuwaiti law contains measures to guarantee adequate protection for children against all maltreatment and exploitation, as is evident from examining the Penal Code (Act No. 16

of 1960) and the Juveniles Act No. 3 of 1983. Article 185 of the Penal Code provides that: “Anyone who causes a person to enter or leave Kuwait with a view to disposing of the said person 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 up to five years’ imprisonment and/or a fine of up to 375 dinars.” This provision explicitly criminalizes the sale and trafficking of any human being, whether child or adult.

174. Article 21 of the Code also provides for the punishment of anyone who exposes a juvenile to delinquency by grooming him to commit any of the offences specified in article 1 (c) of the Code, or by helping, inciting or in any way making it easier for the juvenile to engage in such misconduct, even if the juvenile does not actually become a delinquent. The penalty is that specified in article 20 of the Code, namely a term of up to three months’ imprisonment. The cases set forth in article 1 (c) include the following:

- If he is found engaging in acts associated with debauchery, prostitution, gambling or narcotic drugs or enters the service of anyone engaged therein
- If he mixes with vagrants or suspected vagrants or persons who are notorious for their misconduct or corrupt morals
- If he frequently absconds from home or from education or training institutes
- If he has no livelihood
- If he has no fixed abode or habitually spends the night in places not intended for living in or for staying in overnight

175. The Private Sector Labour Code (Act No. 6 of 2010) contains a number of provisions dealing with special protection for juveniles. For example:

- The employment of juveniles (art. 19) of either sex who are under 15 years of age is prohibited
- The employment of juveniles between the ages of 15 and 18 is permitted only if they undergo a medical examination before taking up employment, and at periodic intervals thereafter, and only in industries and occupations that are not hazardous or detrimental to health
- Article 21 prohibits the employment of juveniles at night. The maximum number of working hours for juveniles may not exceed six hours per day, with the proviso that they must not be required to work for more than four hours consecutively, followed by a rest period of not less than one hour. It is prohibited for them to work overtime, on weekly rest days, on official holidays and between 7 p.m. and 6 a.m.
- Under article 20, the employment of persons aged between 15 and 18 is subject to the following conditions:
 1. They must not be employed in industries or occupations designated as hazardous or detrimental to health by the Ministry of Social Affairs and Labour;
 2. They must undergo a medical examination before taking up employment and thereafter at periodic intervals of not more than six months;
 3. The activities in which juveniles may be employed are specified by a decision of the Minister.

176. The Kuwaiti Penal Code (Act No. 16 of 1960) deals with criminal responsibility in article 18, which provides that: “Anyone who was under seven years of age at the time of committing an offence shall not be held criminally responsible.”

177. It is noteworthy that Kuwait respects these rights to a large degree through its application of the Juveniles Act No. 3 of 1983, which regulates the treatment of juveniles in the light of their age and also safeguards their social, legal and development-related rights and protects them from any problems that they might encounter. The principle that a juvenile or child should be presumed innocent until proved guilty in accordance with the law is applied in a clear and direct manner to juvenile delinquents who, under the terms of the Act, must be presumed innocent failing proof to the contrary. Article 5 of the Juveniles Act also stipulates that: "Anyone who was under seven years of age at the time of committing an offence shall not be held criminally responsible." The Juveniles Act makes provision for institutional care for juveniles in order to ensure that they are treated in a manner appropriate to their circumstances by stipulating that a juvenile who is at direct risk of becoming delinquent must be handed over to the competent authorities at the Ministry of Social Affairs and Labour, who must provide appropriate premises for his reception. The Juvenile Welfare Authority must also take action with regard to the juvenile within the time limit set by the Minister for Social Affairs and Labour.

178. The age of seven years has been adopted as the age of criminal responsibility for children in many Arab and foreign laws and not in Kuwait alone. Furthermore, although a child is criminally responsible when he reaches the age of seven, he is sentenced only to special measures. As stipulated in article 6 of the Juveniles Act No. 3/1983, these are a reprimand, delivery into the custody of a guardian, legal probation, placement in a juvenile welfare institution, or placement in a correctional facility. These are plainly straightforward measures aimed at the child's reform and correction; they are not intended to cause suffering as in the case of the usual penalties imposed on adults. Together with the Health and Social Committee and the Legislative Committee of the National Assembly, the Ministry has recently been engaged in studying proposals for amendment of the Juveniles Act.

179. With respect to Kuwait's efforts to protect the younger generation, particularly juveniles, the concerned authorities, such as the Ministry of the Interior, frequently organize seminars, talks and regular activities to raise awareness of the horrors and risks of drug-taking and drug trafficking and their immediate psychological, social and economic implications for the younger generation, particularly juveniles. These seminars and talks take place in the Ministry of Education's schools for both males and females located in every education district across Kuwait, starting at the secondary level and continuing up to university level, and in schools for persons with special needs.

180. Numerous activities to raise awareness of the dangers of narcotic drugs have also been carried out in Kuwait's governorates in various markets and shopping malls, in youth clubs run by the Ministry of Social Affairs and Labour, and in public gardens and parks.

181. Kuwait's approach has therefore been to remove juvenile delinquents and juveniles at risk of delinquency from the scope of the Penal Code and to require the comprehensive codification of juvenile law, thereby manifesting its policy of providing social care for juveniles in order to counter the risk of delinquency before they commit an offence and of dealing with those who become delinquent by employing social measures entailing none of the suffering inflicted by punishment.

182. The Juveniles Act accordingly make three distinctions among juveniles, as set out below, with respect to measures and penalties.

Juveniles under seven years of age at the time of committing an offence

183. Such juveniles are not held responsible because, before reaching this age, they are incapable of discernment from the legal standpoint, in conformity with the provisions of Islamic law, according to which this stage is regarded as one in which awareness is lacking

and a minor is seen as a young person without discernment. The stage starts at birth and ends when the young person reaches the age of seven, as provided for in article 5 of the Juveniles Act.

Juveniles over 7 and under 15 years of age

184. Juveniles of this age who commit an offence may be sentenced only to one of the measures listed in article 6 of the Act and covered in detail in articles 7 to 11. These measures are regarded as a special type of criminal sanction suited to the juvenile nature.

Juvenile offenders over 15 and under 18 years of age

185. Juveniles in this age group are either imprisoned as provided for in article 14, or are sentenced to one of the measures stipulated in article 6 of the Act.

186. Article 13 of the Act states that the measures come to a definitive end when the juvenile reaches 21 years of age. The underlying idea is that it is in the juvenile's interest for certain measures to continue until the age of 21, as he will then be better prepared from the vocational and social standpoints for building his future.

187. Under article 24, the juvenile court may suspend all or some of the guardianship rights in respect of the juvenile in three specific instances and it may use its discretion to appoint a person deemed fit to look after the juvenile's rights. An explanation of what is meant by guardian in this particular text is also provided.
