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Second periodic report of States parties

Kuwait

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* Annexes may be consulted in the files of the secretariat.

Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1-3	3
Core document	4-58	3
I. General information on the State of Kuwait	4-12	3
II. General framework for the protection and enhancement of human rights	13-53	5
III. Information relating to non-discrimination, equality and available remedies	54-58	16
Information on legislative, judicial and administrative measures taken by the State of Kuwait to implement the articles comprising Parts I, II and II of the Covenant	59-218	17
Article 1	59-60	17
Article 2	61-65	17
Article 3	66-67	18
Article 4	68-75	18
Article 5	76	19
Article 6	77-88	19
Article 7	89-99	22
Article 8	100-116	24
Article 9	117-123	26
Article 10	124	27
Article 11	125	28
Article 12	126-132	28
Article 13	133-135	29
Article 14	136-144	29
Article 15	145-147	31
Article 16	148	31
Article 17	149-153	31
Article 18	154-157	32
Article 19	158-164	32
Article 20	165-167	33
Article 21	168-169	34
Article 22	170-181	34
Article 23	182-194	37
Article 24	195-198	39
Article 25	199-200	39
Article 26	201-216	40
Article 27	217-218	42

Second report of the State of Kuwait on the International Covenant on Civil and Political Rights

Introduction

1. From its inception down to the present day, the State of Kuwait has striven consistently to build a society in which the principles of human rights and the desire to enhance them and preserve them from any violation or abuse are firmly rooted. Owing to this unshakable faith permeating the socio-cultural fabric of Kuwaiti society, the State has enacted and implemented a number of legislative measures aimed not merely at ensuring the optimal realization of these concepts, but at applying them, in such a way as to protect every inhabitant of Kuwait, to human rights of all kinds. The State of Kuwait has not been content to safeguard human rights within its territory: it has also striven to cooperate with all members of the international community (States and organizations) to establish and strengthen mechanisms designed to develop, enhance and deepen those rights in a shared effort to ensure that all members of the international community will enjoy the greater development and prosperity to which they aspire.

2. The State of Kuwait acceded to the International Covenant on Civil and Political Rights in 1996, and the articles of the Covenant have been incorporated into its domestic law under Law No. 12 of 1996, promulgated on 3 April 1996. Kuwait's accession to the Covenant is a concrete indication of the depth of its concern with human rights issues, which have become one of the advanced international human community's lofty goals. The State of Kuwait has also acceded to a number of other human rights instruments (see par. 13 below).

3. To begin with, it should be noted that this report comprises two parts. The first part is the core document, consisting of:

- I. General information on the State of Kuwait.
- II. The general framework for the protection and enhancement of human rights.
- III. Information relating to non-discrimination, equality and available remedies.

The second part deals with legislative, judicial and administrative measures taken by the State of Kuwait to implement the articles comprising Parts I, II and III of the Covenant.

Core document

I. General information on the State of Kuwait

Democratic, economic and socio-cultural characteristics

4. This information will be found in the annexes listed below, which are available at the Secretariat.

- (i) A compact disc issued by the Central Bureau of Statistics (statistical yearbook) containing information and statistical data on the following issues:
 - Population and housing
 - Workforce
 - Agriculture and fishing
- (ii) Natural conditions, climate and environment

- Energy
- Trade, transport and communications
- Economic statistics
- Services
- Main economic indicators in the States of the Gulf Cooperation Council.

(iii) Volumes containing statistical data on persons employed in the Governmental sector as of 30 June 2007. Volume I deals with Government ministries and agencies, volume II deals with commissions, boards and agencies with dependent budgets, while volume III deals with corporations that are wholly State-owned.

(iv) A publication on the basic features of the national workforce in the private sector as of 30 June 2008.

(v) A publication on the basic features of the immigrant workforce in the private sector as of 30 June 2008.

(vi) Yearbook of social statistics, 2007.

The constitutional, political and legal structure of the State

5. Kuwait is an independent, fully sovereign Arab State. Its religion is Islam, its official language is Arabic, and its form of government is democratic. As noted in an explanatory note to the Constitution, the Constitution, in this democratic system that has adopted it, marks out a middle way between a parliamentary system and a presidential system. One unmistakable indication that the system of government embodies basic democratic principles is that Kuwait operates on the principle of the separation of powers, with cooperation among them.

6. One entire part of the Kuwaiti Constitution, divided into five chapters, is devoted to these powers. The first chapter states that the legislative power is vested in the Amir and the National Assembly in accordance with the Constitution. The executive power is vested in the Amir, the Cabinet and the Ministers, and judicial power is vested in the courts, which exercise it in the name of the Amir within the limits set by the Constitution.

7. The second chapter of the above-mentioned part of the Constitution deals with the powers of the Head of State:

(a) He exercises his powers through his Ministers, and he appoints, and may dismiss, the Prime Minister;

(b) He is the Commander-in-Chief of the Armed Forces, and he appoints and dismisses officers in accordance with the law;

(c) He issues implementing regulations to give effect to laws, and regulations necessary for the organization of public services and administrative bodies in the State;

(d) He appoints civil and military officials and political representatives to other States.

8. The Amir's powers also include other legislative and executive powers.

9. The other public powers in the State, as set forth in the Constitution, are outlined in the paragraphs below.

Legislative power

10. Under article 79 of the Constitution, legislative power is vested in the Amir and the National Assembly, which comprises 50 members, elected directly by universal suffrage and secret ballot for a term of four years. This is the body that enacts legislation under the Constitution. The third chapter of this part of the Constitution sets forth provisions relating to legislative power.

Executive power

11. Executive power is vested in the Amir and the Cabinet, which has control over State departments and agencies, formulates the general policy of the Government, oversees its implementation, and supervises the performance of work in governmental administrative bodies. Each Minister supervises the affairs of his Ministry and carries out the general policy of the Government; he also formulates directives for his Ministry and ensures that they are implemented.

Judicial power

12. Judicial power is vested in the courts, which exercise it in the name of the Amir. The independence of the judiciary is guaranteed by the Constitution and by law. The underlying principle is that the honour of the judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and freedoms. Judges, in administering justice, are not subject to any authority. The law guarantees the independence of the judiciary and the safeguards and provisions relating to judges. The Constitution devotes a separate chapter to the judicial power.

II. General framework for the protection and enhancement of human rights

13. It will be useful to begin with the fact that the State of Kuwait has acceded to a number of international human rights instruments in the field of human rights, including:

- (i) Slavery Convention
- (ii) Protocol amending the Slavery Convention (1926)
- (iii) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
- (iv) International Convention on the Elimination of all Forms of Racial Discrimination
- (v) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- (vi) International Convention on the Suppression and Punishment of the Crime of Apartheid
- (vii) Convention on the Rights of the Child
- (viii) Convention on the Elimination of All Forms of Discrimination against Women
- (ix) Convention on the Prevention and Punishment of the Crime of Genocide
- (x) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity

- (xi) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- (xii) International Covenant on Civil and Political Rights
- (xiii) International Covenant on Economic, Social and Cultural Rights
- (xiv) International Convention against Apartheid in Sports
- (xv) Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- (xvi) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

14. Moreover, the State of 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.

15. Kuwait's Constitution may be regarded as the political and legal umbrella of the rules of human rights in Kuwait generally. In addition, a number of the country's laws relating to everyday aspects of life were enacted before the promulgation of the Constitution with the object of providing safeguards for justice for individuals in Kuwait, including in particular the Criminal Code and the Code of Criminal Procedure and Trials, both of which date from 1960. The Constitution itself is clearly concerned with human rights, the effort to achieve a better future with greater prosperity for the homeland, and the Arab tradition of attachment to individual personal dignity and the interests of the country, as may be seen from the fact that most of its provisions enshrine the principles on which the international community is based, as expressed in the relevant international instruments.

16. In addition, the establishment of the Constitutional Court pursuant to Law No. 14 of 1973 has served to safeguard these rights and freedoms and ensure their effective application. Kuwait has also enacted legislation aimed at protecting the adequate enjoyment of those rights.

The principles of international human rights instruments contained in Parts I and II of the Constitution of Kuwait

- The people are the source of all powers; sovereignty, resident in the people, belongs to the community (art. 6);
- Justice, equality and liberty (art. 7);
- Protection of the family, motherhood, childhood and youth (art. 9 and 10);
- Care and social security for all citizens in old age, illness or inability to work (art. 11);
- Free education guaranteed and promoted by the State (art. 13);
- Promotion of science and literature and encouragement for scientific research (art. 14);
- The right to health care (art. 15);
- Individuals' right to own property, and the sanctity and protection of public property (art. 16 and 17);
- The inviolability of private property; no one may be expropriated except in the public interest under the circumstances specified by law and subject to the condition that fair compensation is paid (art. 18);

- The right to hold public offices (art. 26);

The principles of international human rights instruments contained in Part III of the Constitution of Kuwait

17. This Part is devoted to public rights and duties. It contains many of the principles enshrined in international instruments dealing with human rights. Those principles are as follows:

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

Principles contained in Part IV of the Constitution of Kuwait

18. The five chapters comprising this Part define the bases of the system of government in the State, the three powers and their specific features and functions, as discussed at greater length earlier in this report. The principle of the separation of powers is enshrined in article 50. In chapter 5 of this part, important fundamental principles concerning the judiciary are formulated: the integrity of the judiciary is deemed to be the basis of governance and the guarantee of rights and freedoms. The following principles are formulated:

- The principle of the independence of the judiciary and the freedom of judges from interference (article 163);
- The principle of the right of recourse to the courts (article 164).

19. The Constitutional Court was established pursuant to law No. 14 of 1973. The Constitutional Court has sole authority to interpret the text of the Constitution and to decide in all disputes relating to the constitutionality of laws, regulations and other statutory instruments. Rulings of the Constitutional Court are binding upon all and upon other courts.

20. When we come to consider the matter of human rights as they relate to education, we find that Kuwait has made great strides. This aspect is discussed in the following section.

Legislation pertaining to education

21. As the State of Kuwait evolved over time, various laws and decrees with a bearing on education were adopted before the promulgation of the present Constitution. These are summarized below:

(a) In 1955, a report on education known as the Matti-‘Aqrawi report was published. It set forth the general principles relating to human rights, including (i) elimination of illiteracy, (ii) propagation of the spirit of democracy, (iii) the importance of establishing common compulsory education, (iv) giving citizens the opportunity of completing their education. It is clear from the report that the right to education is inextricably bound up with the principle of justice and equal opportunity, along with particular emphasis on basic education.

(b) In 1965, the Compulsory Education Act was adopted. It provided that education was to be compulsory and free for all, including both boys and girls.

(c) At the time that Act was adopted, the compulsory period was eight years. It became nine years after the education system was overhauled in 2005.

(d) Completing the development of Kuwait’s educational system, the University of Kuwait was founded in 1966.

(e) In 1979, an Amiri decree was issued defining the areas of competence of the Ministry of Education.

(f) In 1981, in accordance with the principle of education as a right enjoyed by all, the Eradication of Illiteracy Act was adopted.

(g) In 1987, a special Act was adopted supplementing existing legislation in the matter of public education, defining education as a right of all Kuwaitis that was provided free of charge by the State.

National policies on human rights education

22. Education and human rights are closely associated, in the first place because education is recognized as a right in itself, while at the same time it is also a means of teaching human rights. In addition to its national policies on human rights education, Kuwait has played a prominent role in this area, as will be seen from the discussion below.

Arab Plan for Human Rights Education, 2009-2014

23. Kuwait led and participated effectively in the work of preparing the Arab Plan for Human Rights Education under the auspices of the Arab League. All the Arab States approved the Plan at the Arab Summit Conference held in Damascus in 2008. The Plan’s objectives are as follows:

- (a) Integration of human rights into the education system at all levels;
- (b) Professional development and training for human resources in the field of human rights education;
- (c) Preparation of the educational environment for human rights education;
- (d) Action to broaden community participation in the task of spreading a culture of human rights;

(e) 24. The Arab Plan for Human Rights Education focuses on general principles, of which the most important are listed below:

(f) Universality and inclusiveness: all people enjoy the same rights, and there is no basis for discrimination among them;

(g) Comprehensiveness and integration: human rights form a single indissociable whole;

(h) Equality and non-discrimination: human rights are a right enjoyed by every individual without any form of discrimination based on race, colour, nationality, language, religion, political or other opinions, racial, national or social origin, wealth, place of birth, or any other circumstance;

(i) Participation: all individuals and peoples have the right to participate effectively and meaningfully in social and economic development.

Supreme Human Rights Committee

25. Under two Ministerial Decrees, Nos. 169 and 204 of 2008, the Supreme Human Rights Committee was established and named and its functions defined. The Committee is headed by the Minister of Justice and the Minister of Religious Endowments and Islamic Affairs. Its membership includes senior representatives from all ministries concerned with human rights issues: the Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Social Affairs and Labour, the Ministry of Religious Endowments and Islamic Affairs, the Ministry of Education, the Supreme Judiciary Council, and the Office of the Public Prosecutor. The composition of the Committee has been carefully designed to include all executive bodies concerned with human rights issues in order to ensure that the Committee will be effective in responding to anyone who comes before it alleging that his human rights have been violated or denied.

26. This Committee has been granted all the powers required to enable it to discharge its functions effectively. The most important of those functions are as follows:

(a) Submitting opinions and advice to decision-makers in the State on all matters with a bearing on human rights;

(b) Reviewing existing laws and regulations and formulating recommendations for amendments;

(c) Expressing opinions on international instruments relating to human rights;

(d) Preparing responses to reports issued by intergovernmental and civil organizations on the human rights situation in Kuwait;

(e) Coordination with agencies concerned with human rights issues;

(f) Fostering awareness of human rights through the various media, and training specialized personnel capable of fostering such awareness.

27. The above list of the Supreme Human Rights Committee's functions is not exhaustive. It has three specialized subcommittees:

Subcommittee I – local monitoring

28. This subcommittee is concerned with monitoring the human rights situation within the State of Kuwait and preparing periodic reports on that situation which it submits to the Supreme Committee. It also receives complaints from various bodies and organizations about violations of human rights, and it establishes fact-finding teams to investigate such complaints and obtain statements and clarification from the bodies and organizations concerned.

Subcommittee II – international communications

29. This subcommittee is responsible for coordination with international governmental and non-governmental organizations working in the field of human rights, exchanging information with them and monitoring Kuwait's public image at the international and regional levels. The subcommittee also considers the most recent human rights protection measures throughout the world and adopts them with a view to applying them locally. Furthermore, it monitors the situation of Kuwaiti citizens outside the country to make sure that they are enjoying all their civil, economic, social and personal rights and that those rights are not being violated.

Subcommittee III – Inculcation of the principles of human rights

30. This subcommittee works to inculcate sound human-rights concepts throughout Kuwaiti society. It informs citizens and residents of their rights and responsibilities, and it monitors the modernization of school curricula at all levels to ensure that they include an adequate quantity of human-rights content to enable pupils to learn about the subject.

Analysis of the current situation of human rights education

31. The present situation of human rights education may be regarded as a stage in which the work accomplished in previous stages is being rounded off and completed, with the subject being taught in accordance with human values in general. The present situation may be analysed as follows:

I. Curricula

32. When official education in Kuwait was just becoming organized, there was a clear emphasis on basic teaching and learning, with their cognitive, vocational and emotional aspects. Accordingly, we may say that all human values, including human rights, peace, democracy, tolerance and others, are included in school curricula. These values are inculcated through:

- (a) Educational objectives in Kuwait at all levels (general, promotional, curricular and behavioural);
- (b) Action to ensure that all schoolbooks contain these values, presenting them explicitly at times and by implication at other times. These concepts and values are included in textbooks on Islamic religion, Arabic language, social studies and other subjects;
- (c) Emphasis on accounts of daily life and practical exercises in the educational setting;
- (d) Numerous surveys on the presence of those values in school programmes and a mechanism to ensure that they are included.

33. As a result of recent changes in many aspects of education, both locally and world-wide, and also as a result of the urgent need to inculcate human values, with particular emphasis on some of them, such as human rights, democracy, peace and international understanding, Kuwait has embarked on a number of unambiguous steps along those lines. Since the mid-1990s, it has been establishing specialized committees to research a mechanism for developing school programmes that deal with human rights and democracy and pave the way for the attainment of those goals.

34. In the years 2000, a specialized committee was established to design school programmes on the Constitution, human rights and democracy. This was followed by the formation of drafting committees tasked with the preparation of those programmes. In 2006, a new specialized committee in the field of human rights was formed, made up of leading authorities in the following fields:

1. International law;
2. The Constitution;
3. Human rights;
4. The social sciences;
5. Basic principles of education and curricula;
6. Social subjects;
7. Arabic language;
8. Curriculum management.

35. The Committee's work has proceeded step by step, as follows:

- (a) Definition of a philosophy on the teaching of the Constitution and human rights;
- (b) Preparation of the conceptual and cognitive framework for the subject in a form that reflects the scope and continuity of the field of study in a progressive way, such that each stage serves as preparation for the next;
- (c) Formulation of the general objectives of the subject;
- (d) Formulation of the specific objectives for each grade;
- (e) Preparation of the study material and related activities;
- (f) Subdivision of the study material in accordance with the following procedure:
 - (i) Grade 10: Principles of democracy, the Constitution and human rights
 - (ii) Grade 11: Human rights: a grasp of the concept and its importance, features and origins, together with detailed study of particular human rights, such as the right to life, equality, human dignity, freedom of belief, opinion and expression, education and learning, the rights of women, the rights of children, political rights and the duties of the individual
 - (iii) Grade 12: The Constitution and public powers.

36. The Committee has completed a number of its tasks, including the following:

- (a) Establishment of an intellectual and cognitive basis for the subject that distinguishes it from other subjects and endows it with an appropriate measure of distinctiveness, especially inasmuch as the subject comprises an array of intellectual, educational, legal and political components;
- (b) Emphasis on direct, goal-oriented teaching with a view to ensuring that the pupil derives maximum benefit from his study of the subject, retains a sound understanding of the technical terms involved, and obtains a good grasp of the content;
- (c) Preparation of a teacher's guide;
- (d) Keeping in touch with the field through meetings and educational colloquia;

- (e) Organization of a training course for male and female instructors in social subjects;
- (f) Organization of a training course for male and female teachers of the Constitution and human rights.

The philosophy of the Constitution and Human Rights course

37. It is of the utmost importance for the pupils to possess an understanding of the concepts of democracy and their meanings, the several parts of the Constitution and its laws, and human rights and their aims, in a straightforward, undirected legal and educational context, to enable them to acquire, as they grow up, an abundant body of valid knowledge and sound thinking, understanding that the differences between States and individuals in their understanding of democracy and its applications are by no means analogous to doctrinal or tribal differences or anything else that may affect our national unity.

38. In the light of the foregoing discussion, it appears that the philosophy of the Constitution and Human Rights course is founded upon:

- (a) The importance of the Constitution and its contents, including articles that govern the relations between individuals and the governing power or between one individual and another, articles that organize their lives in all spheres of political, economic and social activity, and articles that safeguard their rights and prescribe their duties;

- (b) The view that human rights are universal and an integral part of human life, indeed, the basis of human existence, happiness and welfare; human dignity, justice, equality and all that is conducive to the well-being and prosperity of individuals and society are realized only through them. A comprehensive view is presented.

39. The Constitution and human rights philosophy is realized through general educational concepts (knowledge, values, attitudes, skills and applications) within the following frameworks:

- (a) Knowledge: through the presentation of facts and information relating to the Constitution and human rights for the purpose of forming a firm structure of knowledge, awareness and understanding of the importance of the Constitution and human rights;

- (b) Values and attitudes: through the presentation of the values associated with the Constitution and human rights for the purpose of forming a positive attitude toward them and a sense of their importance for individuals and society;

- (c) Skills and applications: through social skills and study skills and practical application in various situations relating to the Constitution and human rights.

40. Islamic law, i.e. the Shari'a, the provisions of the Constitution and the law, and international instruments are the foundation-stones of the philosophy of the Constitution and Human Rights course and the guide to the content and objectives of the curriculum.

41. On the basis of the philosophy of the Constitution and Human Rights course, the goal is to strengthen pupils' attachment and allegiance to the homeland through personal development in its intellectual, emotional and social aspects, and to apply this in their working lives through the following general objectives:

- (a) Pupils' awareness of the importance of democracy, the Constitution and human rights;

- (b) Pupils' familiarity with facts and information relating to democracy, the Constitution and human rights;

- (c) Preparation of pupils for life experience in accordance with the principles of democracy, the Constitution and human rights;

- (d) Enabling pupils to strengthen and interiorize the human values related to the Constitution and human rights;
- (e) Fostering of positive attitudes toward democracy, the Constitution and human rights in pupils;
- (f) Development of pupils' allegiance and attachment to their country;
- (g) Development of pupils' critical thinking skills.

42. The Constitution and Human Rights course has been taught since the 2006 school year, beginning with Grade 10 in that year and continuing with Grade 11 in 2007 and Grade 12 in the 2008 school year. Suggestions from the field and exhaustive studies of the actual situation showed that it was imperative for these three textbooks to be consolidated into one, for the following reasons:

- (a) To ensure optimization of their educational value, especially in view of the fact that they contain special knowledge and skills;
- (b) To avoid the risk of fragmentation and dispersal for teachers and pupils;
- (c) To take account of pupils' level of maturity and the timeliness of teaching these values in accordance with the approach adopted in these books;
- (d) To ensure that the teaching of these subjects in the intermediate stage (life skills) will prepare pupils for these concepts, such as "the Constitution and non-violence" and other subjects.

II. The teacher

43. The success of any educational project depends to a large extent on the teacher, because it is really he who implements the educational program and projects. He is also the real connecting link between the field and decision-makers. This importance of the teacher was decisive for the organization of specialized training courses, and consequently the Ministry of Education undertook the following actions:

- (a) Enrolling some teachers and technical instructors in local, regional and international specialized training courses and workshops on the teaching of human rights, international humanitarian law and democracy;
- (b) Organizing training courses for technical instructors;
- (c) Organizing training courses for teachers under the supervision of technical instructors;
- (d) Organizing seminars and discussion groups to promote awareness of democracy and human rights education;
- (e) Continuing media campaigns on those concepts and how they are taught.

III. The pupil

44. The Ministry of Education regards pupils as being of particular importance in the field of democracy and human rights education, as will be clear from the following indicators:

- (a) The teaching of topics with a bearing on human rights and democracy is implicit in all programmes;
- (b) The teaching of specialized subjects at the intermediate level, such as proficiency in 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 on such matters as research, reports and illustrations with a bearing on human rights;
- (f) Emphasis on those concepts through in-class and extracurricular activities;
- (g) Field visits for pupils to organizations concerned with human rights, such as the Human Rights Association, the National Assembly and others;
- (h) Establishment of cultural seminars aimed at propagating awareness of the concept of human rights and democracy among pupils;
- (i) The University of Kuwait offers a course entitled “Human Rights and its distinctive goals”.

IV. Teaching methods and approaches

45. Although teaching methods and approaches are tailored to the various subjects, the fact remains that the teaching of values (including, of course, human rights) has its own distinctive requirements, owing to the difficulty of assessing it at the time it is taught; it is an expression of a value-laden factor that must be evaluated in terms of its impact on the pupil’s behaviour over the long term.

46. Training courses and technical meetings have been used to achieve emphasis on the use of methods and techniques that are expressly adapted to human rights issues. These include (the list is not exhaustive):

- (a) Co-operative education;
- (b) Approaches to the teaching of values;
- (c) Problem-solving;
- (d) Brainstorming;
- (e) Dialogue and discussion;
- (f) Mimicry.

47. Another outcome has been a focus on particular activities, including:

- (a) Field visits;
- (b) Research and reports;
- (c) Gathering illustrations and data;
- (d) Competitions;
- (e) Participation in work within the school.

Teaching human rights outside the school setting

48. Owing to their cultural nature, human rights are integral and all-inclusive, like the climate, and consequently it is impossible to focus exclusively on the school setting while ignoring the environment surrounding the school. Accordingly, a major concern has been propagation and the teaching of human rights in society as a whole, with active participation in civil society institutions. Here we see the role of the media and communication in the propagation and teaching of human rights, in contrast to the view of education as something that takes place exclusively inside school premises.

49. Kuwait has endorsed the Arab Plan for Human Rights Education, Part I of which deals with human rights education in the school setting, while Part II is concerned with other institutions. The objectives of the plan in that connection are defined as follows:

I. Training

50. Training in this area is aimed at groups that have a fundamental, direct position in the field of education for individual and collective rights and are instrumental in shaping public opinion. These groups include teachers and supervisory personnel within youth associations, women's clubs, summer camps, centres for the protection of juvenile delinquents, sports associations, and, in brief, all the institutions of civil society. The training aspect of human rights education aims, through other education-related social institutions, at the following objectives:

- (a) Training of specialists in the field of human rights education practically and institutionally;
- (b) Creation and adaptation of educational programmes and tools that are tailored to the needs of different sectors;
- (c) Encouragement for partnerships and strengthening relations between institutions, organizations and training centres specializing in the field of human rights and institutions of information and scientific, cultural and technical production; action to create effective communication among all partners.

II. Awareness-raising

51. This operation is aimed at the various components of society, including institutions, associations and individuals, but more particularly at those who to date have remained untouched by education and training activities in the field of human rights.

52. Human rights education is aimed at the objectives outlined below, working through other education-related social institutions in the area of awareness-raising:

- (a) Enabling broad spectra of groups in society to benefit from awareness campaigns focusing on human rights;
- (b) Bringing about the inclusion of awareness campaigns focusing on human rights in the programmes of political, economic and cultural institutions;
- (c) Strengthening a culture of dialogue on the values, principles and concepts of human rights among all components of society.

53. Possible awareness-generating programmes might include:

- (a) Training for specialists who have had experience with awareness-generating in other fields;
- (b) Creation of various information programmes on human rights education;
- (c) Monitoring information programmes to determine to what extent they are consistent with the values and principles of human rights;
- (d) Enlisting the cooperation of specialists in the cultural field in designing awareness campaigns dealing with human rights;
- (e) Activating the role of mosques and religion in propagating a culture of human rights, and benefiting from their knowledge in clarifying the meaning of rights and duties.

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

Judicial or administrative authorities with jurisdiction in matters covered in the Covenant

54. Article 1 of the Decree promulgating Law No. 23 of 1990 on the Organization of the Judiciary, as amended by Law No. 10 of 1996, lays down the two following basic principles:

First, the courts have all-inclusive jurisdiction to decide in all civil, commercial, administrative and personal status disputes as well as criminal cases. The purpose of this principle is to maintain the unity of the court system in the State, thus strengthening the principle of the equality of litigants.

Second, the rules governing the type or degree of court jurisdiction are established by law. No subordinate statutory instrument may define or alter that jurisdiction. Under the above-mentioned Law, the courts of Kuwait comprise the Court of Cassation, the Court of Appeal, the Court of First Instance, and the Court of Summary Procedure.

55. Under article 166 of the Constitution, the right of recourse to the courts is guaranteed to all, and any individual who alleges that any of his rights has been violated in the State of Kuwait has the right to go before a Kuwaiti court and claim redress for the injury he has suffered. Furthermore, the purpose of Law No. 23 of 1990 on the Organization of the Judiciary is to strengthen the principle of the independence of the judiciary.

56. In addition, the Code of Criminal Procedure and Trials, in accordance with international standards of justice, provides litigants with legal safeguards, including an open trial, the right to be represented by counsel, and other safeguards that ensure a fair trial.

57. The provisions of the International Covenant on Civil and Political Rights 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 to the National Assembly with the appropriate statement. A treaty has the force of law after it is signed, ratified and published in the Official Gazette. However, treaties of peace and alliance, treaties concerning the territory of the State, its natural resources or sovereign rights, or public or private rights of citizens, treaties concerning trade, navigation and residence, and treaties entailing additional expenditure not provided for in the budget, or involving amendment of the laws of Kuwait shall come into force only when provision for this is made by law. In no case may treaties include secret provisions contradicting those declared.”

58. Publication is the final phase in the legislative process, and it is intended to provide publicity by the executive branch as a prerequisite for application. Laws are published in the Official Gazette in the Arabic language within two weeks following their adoption, and enter into force one month after publication. This time-frame, however, may be extended or abridged by a specific provision of law. Upon its publication in the Official Gazette and the expiry of the specified time-limit, a law enters into force and thus becomes binding upon all and sundry, regardless of whether they have knowledge of its publication. Publication is a prerequisite for legislation of all kinds, and constitutes a directive to all agencies and authorities to apply the law in their respective areas of competence.

II. Information on legislative, judicial and administrative measures taken by the State of Kuwait to implement the articles comprising Parts I, II and II of the Covenant

Article 1

59. Kuwait supports the right of peoples to self-determination in accordance with the Charter of the United Nations, and has supported their legitimate struggle to achieve independence. It has consistently taken and continues to take positive positions in international forums, such as its support for all international decisions affirming the right of peoples to self-determination.

60. The Constitution of Kuwait affirms that all natural resources are the property of the State, and that the State shall ensure their preservation and proper exploitation, due regard being given to the requirements of State security and the national economy. In Kuwait, public property is inviolable and may not be confiscated, and its protection is the duty of every citizen.

Article 2

61. Article 29 of the Constitution sets forth the principle of equality in detail, stating that all people “are equal in human dignity and in public rights and duties before the law, without distinction as to race, origin, language or religion.

62. In this context, it may be instructive to quote the Constitution’s Explanatory Note (Annotations) to this article:

“This article establishes the principle of equality in rights and duties in general. It then proceeds to specify the most important application of that principle by stating that there shall be no distinction on the grounds of race, origin, language or religion. The terms “colour” and “wealth” are not included in the list, although those terms are used in the Universal Declaration of Human Rights, since there is not the least hint of racial discrimination in the country.”

63. It is also noteworthy that the rights of foreign nationals are guaranteed under the Constitution, which is based on respect for human rights. However, this does not include rights that are reserved for citizens exclusively, such as the right to vote, the right to stand for election to public office, the right to free education and the right to own property. Otherwise, a foreign national in the State of Kuwait enjoys the rights and freedoms proclaimed by the Constitution for all people, such as equality before the courts and other judicial bodies, as well as all legal safeguards provided by Kuwaiti law in this respect. A foreign national also has the freedom to choose his work, the freedom to enter and leave the country, freedom of belief and freedom to perform his religious rituals, and all other rights that Kuwaiti law has established for Kuwaiti citizens and residents.

64. It is worth recalling here the explanatory declaration made by Kuwait at the time of its accession to the International Covenant on Civil and Political Rights in respect of articles 2 and 3. In essence, the Government of Kuwait stated that while it supported the lofty principles enunciated in those two articles, which were in conformity with the provisions of the Constitution, particularly article 2, the exercise of the rights formulated in those articles would be subject to limits established by Kuwaiti law.

65. However, the explanatory declarations and reservations to articles 2 and 3 must not be taken as carrying the slightest implication that Kuwait interprets the provisions of the Covenant in such a way as to jeopardize any of the rights or freedoms recognized therein.

Article 75 of the Constitution states that “the principles of liberty and equality provided for in this Constitution may not be proposed for revision except to increase the guarantees of liberty and equality.”

Article 3

66. The State of Kuwait’s concern for its women citizens has led to the creation of an enlightened workforce in various economic sectors. Under the Constitution, women have the right to work and to choose the type of work they do, in addition to their freedom to engage in commercial and professional activities of all kinds. The State has facilitated access by women to all levels of education and their assumption of public offices on an equal footing with men. Furthermore, women enjoy special entitlements to enable them to fulfil their role as mothers, such as special childbirth and maternity leave with full pay.

67. Kuwaiti women have occupied many of the highest posts in the land. Women have been elected as members of Kuwait’s Parliament (the National Assembly), owing to a legislative amendment, Law No. 67 of 2005, that gave women the right to stand for election to that body, and the 2009 elections resulted in the election of four women members. This reflects the fact that Kuwait is concerned to be a State in which women have equal rights with men, without discrimination, and shows clearly that women are coming to play a larger role in political life than was formerly the case.

Article 4

68. It is well known that Kuwaiti law, beginning with the Constitution, allows for the possibility that the country may be confronted with exceptional and extraordinary situations that call for extraordinary and exceptional measures. In that connection, article 69 of the Constitution states, “The Amir may proclaim martial law in cases of necessity determined by law and in accordance with the procedure specified by law. Martial law shall be proclaimed by decree. The decree shall be referred to the National Assembly within fifteen days following its issue for a decision on whether martial law shall continue. If martial law is proclaimed at a time when the National Assembly is not in session, the decree shall be referred to the new Assembly at its first sitting. Martial law may not continue unless the National Assembly decides that it shall continue, by a majority vote of its members. In all cases, the matter is referred to the National Assembly in accordance with the above procedure every three months.”

69. Examination of this article and the annotation thereto clearly reveals an overriding concern to ensure that the criteria established by law are applied in order to ensure that martial law shall always be subject to the restrictions appropriate to a State characterized by the rule of law.

70. At a certain juncture, circumstances made it imperative to enact a national law, Law No. 22 of 1979, on the application of martial law. Later, in 1980, legislation on general mobilization was enacted in the form of Law No. 65 of 1980.

71. Kuwait has taken legal and practical measures to deal with situations arising from martial law, and a number of positive features of the period of martial law may be noted, emphasizing the respect and protection given by the Kuwaiti authorities to the rights and fundamental freedoms of individuals. Those features may be summarized as follows:

- Martial law and the curfew were of limited duration;
- Houses could be searched only with a warrant in writing issued by a member of the Military Prosecutor’s Office;
- Military courts were established;

- Trial were public;
- Rulings of the military courts were not final.

This reflects the concern of Kuwait's legislature to ensure that the safeguards provided by law were respected, leaving no opportunity for the violations or arbitrary behaviour that might have occurred.

72. Decree No. 14 of 1991 proclaiming martial law was issued on 26 February 1991. Article 1 of that decree stated that martial law was declared in Kuwait for a period of three months. A number of orders and decisions were issued, putting the decree into effect and revealing the State of Kuwait's concern to provide more judicial and moral safeguards for individuals who were brought before the military courts on suspicion of collaboration with the authorities of the Iraqi regime during the occupation.

73. The Military Governor-General issued order No. 9 of 1991 creating a special office under his authority to review sentences handed down by the military courts. Article 2 of the order provided that that office would comprise a number of justices of the Court of Appeal, to be appointed by the Minister of Justice. Article 3 of the order provided that the function of the office would be to review sentences handed down by a military court to ascertain whether they were consistent with the law. The conclusions were to be submitted by the Minister of Justice, along with his own opinion, to the Military Governor-General for approval, substitution of a heavier or lighter penalty, or suspension of the sentence.

74. Other measures provided that judgements handed down by a military court were not final. After the period of martial law had expired, those judgements were referred to the State Security Court, which in its turn lightened many of the sentences; this happened in approximately 16 cases.

75. It is noteworthy in this connection that martial law has been proclaimed in Kuwait only twice. The first time was in 1976, at the time of the Israeli aggression against the United Arab Republic, and the second time was on the occasion of the brutal Iraqi aggression against the territory of Kuwait in 1991.

Article 5

76. Kuwait does not interpret in any way provisions in the Covenant as implying any right to engage in any activity aimed at the destruction of any of the rights or freedoms recognized therein. Article 75 of the Constitution states that "the principles of liberty and equality provided for in this Constitution may not be proposed for revision except to increase the guarantees of liberty and equality."

Article 6

77. The State of Kuwait respects the right to life, and has endeavoured to protect every person's right to life by prescribing heavy penalties in the Criminal Code and supplementing legislation for anyone who seeks to violate that right, including the death penalty for the most serious crimes in that connection, in accordance with paragraph 1 of article 6 of the Covenant. Under articles 149 and 149 bis of the Criminal Code, anyone who commits the crime of murder under aggravating circumstances is liable to the death penalty. Under article 180 of the Code, anyone who commits the crime of abduction under aggravating circumstances is also liable to the death penalty. Under articles 180 and 187 of the Code, anyone who commits the crime of rape under aggravating circumstances is liable to the death penalty, and under articles 1 and 2 of Law No 31 of 1971 amending the Criminal Code, anyone who wilfully commits acts endangering the independence of the country shall be found guilty of high treason and is liable to the death penalty. Under articles 23 and 24 of that law, anyone who seeks to take the life or endanger the safety or

liberty of the Amir or the Crown Prince, opposes the powers wielded by the Amir, or uses force to overturn the existing system of government in Kuwait, is liable to the death penalty. Under articles 31 bis and 32 bis of Law No. 47 of 1983 on the control and regulation of drugs and drug trafficking, anyone found guilty of trafficking in narcotics under aggravating circumstances is liable to the death penalty.

78. In accordance with the provisions of article 6, paragraph 4 of the Covenant, the Criminal Code provides that in some cases, offenders liable to the death penalty may be sentenced to life imprisonment instead, at the discretion of the court trying the case.

79. Article 211 of the Criminal Code provides that every sentence of death handed down by a criminal court shall automatically be referred to the High Court of Appeal within one month of the date of the sentence, if an appeal has not previously been lodged by the convicted person. The High Court of Appeal shall exercise all the rights vested in it in considering the appeal.

80. Under article 217 of the Code, a death sentence may not be carried out until it has been approved by the Amir. The convicted person is kept in prison until the Amir has issued his decision to approve or commute the sentence or to grant pardon. If the Amir approves the sentence, the presiding magistrate issues an order for execution of the sentence, and the execution itself is supervised by the Public Prosecutor and one or more examining magistrates selected by him. Under article 238 of the Code, the Amir may issue a full pardon at any time for one or more particular crimes. Pardon is deemed to be equivalent to a verdict of innocent: all judicial proceedings, all previous rulings and opposition to the court's judgement all become null and void. However, a full pardon does not prevent a civil lawsuit for compensation. The same article provides that the Amir, after a sentence has been handed down against a particular individual and before or during the serving of the sentence, may issue an order excusing the convicted person from serving the sentence, reducing the sentence, or commuting it to a lighter sentence. An order of this kind does not nullify the court's judgement, but merely alters the type or severity of the penalty or causes it to be deemed to have been served.

81. In conformity with article 6, paragraph 5 of the Covenant, article 218 of the Criminal Code provides that where a woman sentenced to death is pregnant and delivers a live infant, the death sentence shall be suspended and the matter referred back to the court that imposed the sentence of death for commutation to a term of life imprisonment.

82. Under article 14, paragraph 1, of Law No. 3 of 1983 on Juveniles, where an underage person commits a crime punishable by death, the judge in the case is required to sentence him to a term of imprisonment of not more than ten years.

83. Under the Criminal Code and supplementing legislation, the court has the option of imposing a sentence of life imprisonment or the death penalty in cases where the latter is not expressly specified. Under Kuwaiti law, courts are required to interpret the provisions of the Criminal Code narrowly in order to safeguard the interests of the accused person, in accordance with the principle that the provisions of law must not be interpreted in an unduly broad fashion by the improper use of analogy. Furthermore, the higher Kuwaiti courts have never tended to confirm the death penalty for external or internal security-related offences.

84. It is noteworthy in this connection that Kuwaiti law provides for this penalty along with other penalties for certain specified offences because Kuwaiti legislators believe that it represents a just and lawful punishment for acts deemed to constitute the most serious crimes. However, capital punishment is attended by a number of safeguards, namely:

- Capital punishment is the exclusive prerogative of the judiciary, which is known for its impartiality and independence;

- All judicial safeguards for accused persons are guaranteed in accordance with international criteria, including in particular article 6 of the International Covenant on Civil and Political Rights;
- Under the Code of Criminal Procedure and Trials, all degrees of judicial procedure must have been exhausted before a sentence of death is rendered, and every criminal court that hands down a death sentence is required automatically to refer it to the Court of Appeal, even where the convicted person himself does not lodge an appeal (article 211). Under Kuwaiti law, then, this penalty is subject to many safeguards to ensure that justice has been done and that all the evidence justifying the sentence in the case has been meticulously examined. Kuwaiti law thus endeavours to protect the rights of the society in which that punishment is imposed.

85. To elaborate further on the position of Kuwaiti legislation on the right to life, we may note that under the Criminal Code, abortion is deemed to be a punishable offence. In accordance with the provisions of article 6, paragraph 5 of the Covenant, article 155 of the Criminal Code seeks to protect the individual's right to life by providing that every newborn child is a person the killing of whom is murder once he or she has left the mother's womb alive, regardless of whether he or she has breathed or not, regardless of whether independent circulation of the blood has been established or not, and regardless of whether the umbilical cord has been cut or not. Under article 174 of the Code, every person who administers to any woman, whether pregnant or not, with or without her consent, or causes to be administered to her, drugs or other harmful substances, or uses force or any other means, with the intention of causing abortion, is liable to a term of imprisonment of not more than ten years, or of not more than 15 years where the act is committed by a medical doctor, a pharmacist, a midwife or a member of any profession supporting the medical or pharmaceutical professions. Article 176 of the Criminal Code provides a lighter penalty, in the form of a term of imprisonment of not more than five years, for any pregnant woman who takes drugs or other harmful substances, or uses force or any other means, with the intention of causing herself to abort and actually aborting, or who allows another person to cause her to abort.

86. To consider another aspect, article 159 of the Code prescribes a term of imprisonment of not more than five years and a fine for every woman who wilfully kills her infant at birth in order to conceal an illicit relationship. Such a woman is not subject to the heavier penalties prescribed for murder under the Code.

87. Kuwaiti law seeks to safeguard every pregnant woman's right to life and health, and accordingly, under article 175 of the Code, a person who procures an abortion for a pregnant woman is not liable to the penalty that he would otherwise incur provided he possesses the necessary knowledge in abundance and acts in good faith in the belief that the abortion is necessary in order to preserve the woman's life. It should be noted that in providing for these penalties, Kuwaiti law sought and continues to seek only to protect human life and affirm the right to life.

88. The Fatwa Directorate of the Ministry of Religious Endowments and Islamic Affairs recently issued a fatwa specifying those cases in which abortion is permissible under Islamic law. The fatwa stated:

1. No doctor may lawfully perform an abortion on a pregnant woman where one hundred and twenty days have elapsed from the time of conception except to save her life from a risk arising from the pregnancy.
2. Abortion is lawful with the consent of both spouses if fewer than forty days have elapsed from the time of conception.

3. Where more than forty days but fewer than one hundred and twenty days have elapsed, abortion is lawful only in two cases:

(a) Where continuation of the pregnancy would entail a serious and intolerable risk for the woman's health, or a risk that would continue after the birth;

(b) Where it appears that the foetus would be born with a serious physical deformity or mental deficiency which there would be no hope of correcting. The abortion procedure must be performed in a Government hospital, except where circumstances make this impossible, and may not be performed after forty days except upon the recommendation of a medical committee made up of three specialist physicians, including at least one specialist in obstetrics and gynaecology, provided the recommendation is endorsed by two Muslim physicians who are outwardly of good character. The purpose of this requirement is to protect the unborn child's right to life.

Article 7

89. Various articles of the Code of Criminal Procedure and Trials provide explicitly that a suspect may not be subjected to torture. Under the law, the police have the right to stop and arrest citizens, but only subject to the condition that every such action may be carried out only as part of an ongoing enquiry, where there are clear indications that the citizen in question has committed a felony or other offence, where he is found in flagrante delicto, or in other circumstances justifying the police in stopping or arresting him in the interests of preserving public safety for all citizens.

90. Under article 60 of the Code of Criminal Procedure and Trials, police officers are required to turn arrested persons over to an examining magistrate. No arrested person may be held for more than four days in the absence of an order in writing for preventive detention issued by an examining magistrate. Under article 69, no one may be held in preventive detention for more than three weeks. Where a suspect has been held for more than six months following the date of his arrest, his detention may be renewed only at the order of the court considering the case, at the request of the examining magistrate, after the suspect's statements have been heard and the findings of the examination of the case taken into account. The court may order the detention renewed for not more than 30 days at a time (article 70).

91. Under article 71, every suspect must be given a hearing before an order for his detention or a renewal thereof may be issued. Where such an order is issued in respect of a suspect who is at large, the suspect must be given a hearing within 24 hours from the time of his arrest.

92. In the context of the foregoing, it is quite clear that under Kuwaiti law, preventive detention is hedged about with all necessary safeguards to ensure that no individual is subjected to any form of arbitrary treatment. Those safeguards are divided into substantive safeguards and formal safeguards. The former category includes the requirement for a preventive detention order issued by the competent authority, the requirement concerning justifications for preventive detention, the stipulation that those indications must be clear, and respect for the accused person's right to a defence. The latter category includes the requirement that preventive detention orders must be in writing and must contain information relating to the suspect, including his name, age and nationality, and information relating to the offence that has occurred, the serial number of the report, the date and time of the arrest, and the period of detention.

93. In accordance with the terms of articles 7 and 10 of the Covenant, the Office of the Public Prosecutor in its capacity as the investigating authority is responsible for dealing with cases of mistreatment on the part of police officers or prison officials. The

Investigations Directorate within the Ministry of the Interior deals with cases of mistreatment constituting criminal offences under the law.

94. The functioning of correctional institutions and their various departments is regulated by the Prison Organization Law (Law No. 26 of 1962), as are their internal regulations and model rules for the treatment of inmates. Articles 58, 59 and 60 are particularly noteworthy in this connection: article 58 deals with the punishments that may be meted out to disobedient inmates, beginning with a warning and thereafter by degrees up to solitary confinement and reduction of the inmate to a lower category.

95. Article 59 provides that a prison officer may impose one or more of these punishments, or may make them contingent on another act of disobedience in the future.

96. Article 60, for its part, provides that such punishments as shackling or downgrading a prisoner may be applied only where expressly ordered by the Minister of the Interior.

97. Article 10 of the Covenant reads as follows:

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

98. Kuwaiti law has adopted this article in the text of the Prison Organization Law (Law No. 26 of 1962). Article 2 of that Law provides that there shall be separate prisons for men and women, and that juvenile offenders shall be detained in a separate prison reserved exclusively for them. Article 25 provides that inmates shall be divided into two groups, one group consisting of persons in preventive detention who have been sentenced simply to prison, and the other consisting of persons who have been sentenced to penal servitude at hard labour. Article 26 provides that separate facilities shall be provided for each group. Article 27 provides that inmates shall be divided into different categories on the basis of age, record of previous convictions, type of offence, length of sentence and status in general. Article 85 provides that inmates shall be socially, culturally, spiritually and psychologically rehabilitated, while article 86 provides that in all cases of persons sentenced to a term of imprisonment for a felony, a committee shall be established consisting of an officer, a psychologist, and a clergyman to examine their social and psychological condition and formulate recommendations for appropriate treatment while in prison and means of rehabilitating them.

99. Kuwait has sought to facilitate visits by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees to Kuwaiti prisons, and to promote international oversight of conditions in them. It has also held a number of meetings with representatives of the ICRC in the course of their visits to correctional institutions in Kuwait.

Article 8

100. Slavery, the slave trade and other similar practices are prohibited in Kuwait, inasmuch as they constitute a form of servitude which is incompatible with human dignity and values and with the human right to freedom and the life of dignity for which human beings strive. Under article 185 of the Kuwaiti Criminal Code,

“Every person who brings in or takes out of Kuwait another person with the intention of disposing of that person as a slave, and every person who buys, offers for sale, or claims another person as a slave, shall be liable to a term of imprisonment of not more than five years.”

101. Under Kuwait’s Criminal Code, the exploitation of children for purposes of prostitution is also prohibited. Part II of the Code, which deals with crimes against honour and good reputation, provides severe penalties for persons convicted of such crimes, especially when offences against children or minors are committed by a blood relation or guardian of the victim, or by a person who is legally responsible for his or her care or in a position of authority over him or her. Under article 187 of the Code, “every person who engages in sexual intercourse with a female person, without compulsion, threat or ruse but knowing that she is insane, mentally retarded, under 15 years of age or otherwise deprived of her volition or not in possession of her faculties, or knowing that she does not know the nature of the act in which she participates or believes that it is a lawful act, shall be liable to imprisonment for life.” Where the crime is committed by a blood relation or guardian of the victim, or by a person who is legally responsible for her care or in a position of authority over her, or employed in the service of the victim or the service of any of the above-mentioned persons, the perpetrator is liable to the death penalty.

102. Articles 200 and 201 provide that everyone who in any way incites or abets a person, male or female, to commit acts of indecency or prostitution shall be liable to a term of imprisonment of not more than one year, a fine of not more than 1 000 rupees, or both. If the victim is under 18 years of age, the penalty shall be a term of imprisonment of not more than two years, a fine of not more than 2 000 rupees, or both. Everyone who causes a person, male or female, to commit acts of indecency or prostitution by the use of compulsion, threats or ruse shall be liable to a term of imprisonment of not more than five years, a fine of not more than 5 000 rupees, or both. If the victim is under 18 years of age, the penalty shall be a term of imprisonment of not more than seven years, a fine of not more than 7 000 rupees, or both.

103. Articles 202 and 203 provide that every person, male or female, whose living is obtained, in whole or in part, from the avails of a person who practices acts of indecency or prostitution by coercing, influencing or inducing that person to engage in such acts, whether with the consent of the person concerned and for no consideration or in consideration of protection and non-interference, shall be liable to a term of imprisonment of not more than two years, a fine of not more than 2 000 rupees, or both. Every person who establishes or manages a place for acts of indecency or prostitution or in any way helps to establish or manage such a place, shall be liable to a term of imprisonment of not more than three years, a fine of not more than 3 000 rupees, or both. Everyone who openly in a public place incites to acts of indecency or prostitution shall be liable to a term of imprisonment of not more than two years, a fine of not more than 2 000 rupees, or both. Everyone who prints, sells, distributes or exhibits illustrations, drawings or likenesses or other items that are offensive to decency shall be liable to the above penalties.

104. In respect of paragraph 3 of article 8 of the Covenant, under which forced or compulsory labour is prohibited, it is noteworthy that forced labour and the exploitation of workers are prohibited under the Constitution and laws of Kuwait. Article 41 of the

Constitution provides that every Kuwaiti has the right to work and to choose the kind of work he will do.

105. Under article 42 of the Constitution, forced labour is prohibited for everyone except where otherwise provided by law because of a national emergency and with fair remuneration.

106. In conformity with these constitutional provisions, Kuwait's labour laws include provisions for the protection, care and welfare of workers, whether national or alien. This is yet another manifestation of Kuwait's policy of establishing a society characterized by justice and social well-being both for citizens and for aliens.

107. Law No. 38 of 1964, on labour in the private sector, contains many legal and financial safeguards for workers, a separate chapter being devoted to each of those categories. The provisions of Law No. 28 of 1969, on labour in the petroleum sector, are similar to those of the Law on labour in the private sector and strengthen them in some respects.

108. We may note here that the labour laws in the State of Kuwait essentially establish minimum criteria for the protection of workers in their relations with their employers and contain many legal safeguards for them. The first-mentioned of the above laws contains, in chapter V, provisions relating to the employment of minors: a minor may be employed only after reaching 14 years of age, to ensure that he has received a measure of education. There are also provisions for the protection of those who wish to receive training in a trade or craft and the regulation of their training to ensure that their rights are respected, in line with the most recent guidelines of the relevant International Labour Organization conventions. Furthermore, under article 18 of the law, the employment of young persons of either sex who are under 14 years of age is prohibited.

109. Chapter VI of this law contains provisions relating to the employment of women that are consistent with women's nature. Women workers are granted greater protection and consideration and safeguards for facilities and amenities designed to enable them to cope with their responsibilities both in the workplace and in the home. Under articles 23 and 24, for example, the employment of women for night work or in industries or occupations that are hazardous or harmful to health is prohibited.

110. The law provides that the workday shall be eight hours, and that no worker may be required to work for more than five consecutive hours without a break for rest of at least one hour. It also provides that working hours shall be reduced where the work is exceptionally onerous or hazardous or under inclement weather conditions. Where circumstances make it necessary for a worker to continue working beyond the normal working hours, he is eligible for extra pay for the additional hours at the rate of his normal pay plus 25 per cent. Overtime hours are defined as hours which a worker is required, by a written order, to perform beyond the regular working hours.

111. Kuwaiti law also enshrines the right of workers to work under natural, just conditions as one of the fundamental rights of workers established by international labour conventions. Workplaces must meet specified requirements to ensure acceptable human conditions. Other requirements under the law include lodging, transportation, food and drink, supplies and the like. The Kuwaiti legislature considered all these matters, and provision is made for them in the labour laws.

112. One of the most important features of Kuwait's labour laws is the matter of compensation for on-the-job injury or illness. To provide even more safeguards for workers, the Ministry of Social Affairs and Labour is empowered to conduct industrial inspections and to oversee the implementation of the relevant laws and their implementing regulations.

113. Furthermore, the State of Kuwait, concerned as it is to protect workers and safeguard their rights, has ratified 19 International Labour Organization conventions concerned with the protection of workers' rights. Perhaps the most important of these conventions are the following:

- Convention No. 29 (1930) concerning forced or compulsory labour;
- Convention No. 105 (1957) concerning the abolition of forced labour;
- Convention No. 111 (1958) concerning discrimination in respect of employment and occupation;
- Convention No. 138 (1973) concerning minimum age for admission to employment;
- Convention No. 182 (1999) concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

114. Kuwait has also entered into seven bilateral agreements, as well as 13 memorandums of understanding dealing with employment exchange.

115. Moreover, Kuwait has implemented a series of measures designed to realize more safeguards for workers. Some of the most noteworthy of these are listed below:

(a) Formation of a committee within the Ministry of Social Affairs and Labour to study cases of contravention of the Law on Labour in the Private Sector. The implementing order was Ministerial Decision No. 47 of 2001.

(b) Promulgation of regulations on financial security for workers in the private sector under Decision No. 134 of 2001 of the Ministry of Social Affairs and Labour.

(c) The Ministry of Social Affairs and Labour has set up a number of committees to organize relations between the two parties to labour contracts, including an adjudication committee on absenteeism reports, a committee on labour disputes, a tripartite joint committee, and a committee on contraventions.

(d) Establishment of a list of industries in which the employment of minors is prohibited, under Ministerial Decision No. 149 of 2004.

116. In this connection, it is noteworthy that the relevant Kuwaiti authorities are concerned to provide more legal rights and safeguards for workers. They are currently engaged in the preparation of a new draft Law on labour in the private sector with provisions that will be consistent with ILO conventions.

Article 9

117. Paragraph 3 of article 9 of the International Covenant on Civil and Political Rights reads as follows: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody..." This same wording is used in the provisions of Kuwaiti law dealing with this issue.

118. In accordance with the provisions of article 9 of the Covenant, Kuwait has striven to protect the right to freedom and security. The grounds and rules of procedure that must be observed by the police in making arrests are set forth in article 52 of the Code of Criminal Procedure and Trials. Under article 60 of the Code, the police are required to hand over an arrested person to an examining magistrate; no one may be held in custody for more than four days in the absence of a written order for preventive detention from an examining magistrate. The Code confirms the importance of the safeguards on preventive detention that were discussed earlier in this report.

119. Under article 226 of the Code, no person may be arrested or detained without a valid warrant issued by the competent authority, and then only in accordance with the conditions and procedures established by law. Furthermore, no convicted person may serve a prison sentence in any place other than the prisons specified by the laws and regulations currently in force.

120. In accordance with the provisions of paragraphs 2 and 3 of article 9 of the Covenant, article 71 states that every suspect must be given a hearing before an order for his detention or a renewal thereof may be issued. Where such an order is issued in respect of a suspect who is at large, the suspect must be given a hearing within 24 hours from the time of his arrest.

121. Under the law, then, the authorities do not have absolute power in making arrests: officers are subject to a maximum time limit for proceeding to investigate crimes, identify their perpetrators, and gather all necessary information about them, in accordance with the provisions of article 39, paragraph 1 of the Code, which establishes new law enforcement structures.

122. In accordance with the provisions of paragraph 4 of article 9 of the Covenant, article 227 of the Code provides that when an examining magistrate is informed that a person has been arrested without good cause, he shall initiate an investigation immediately and shall go to the place where the person in question is being held and shall order his release. The same procedure is followed in the case of an abducted person. In all these cases, the person responsible must be punished without delay. The Code safeguards the accused person's right to a defence: article 75, paragraph 1 provides that every accused person has the right to be accompanied by counsel.

123. On occasion, individual police officers may engage in excessive behaviour, but the culprits are promptly called to account. This is something that is not restricted to Kuwait, but occurs in every other State in the world as well. An aggravating factor may be the nature of the tasks performed by police officers and their work in fighting crime. Consequently, many reports on police officers tend to confirm that the allegations made against them are false, and are made in an attempt to deter them from proceeding with their valid, lawful procedures against the informant, or to frighten them into not taking the action that the law requires of them against lawbreakers, and are mere fabrications designed to avert suspicion. But when investigation shows that an allegation of wrongdoing against a police officer is well founded, Kuwait is not slow to have the offending officer disciplined or turned over to the courts for prosecution. This matter is addressed in article 53 and 54 of Law No. 31 of 1970 amending certain provisions of the Criminal Code (Law No. 16 of 1960). Furthermore, the law provides that every individual whose rights are proved to have been infringed is entitled to appropriate compensation.

Article 10

124. The State of Kuwait provides all safeguards ensuring that persons deprived of their liberty are treated appropriately and with respect for their dignity. Kuwait's treatment of these persons is based on Law No. 26 of 1962 on Prison Regulations, under which the competent authorities are required to treat persons deprived of their liberty decently and to improve their conditions, as we have seen earlier in the comments relating to article 7. Furthermore, that same law provides for the establishment of a juvenile court with sole jurisdiction to hear cases involving minors accused of felonies or misdemeanours or who have become delinquent. Under the same law, a special prosecution service is established for juvenile cases. The law also provides for the establishment of social welfare institutions to care for juvenile delinquents until such time as their social situation has improved. There are also correctional institutions for juvenile offenders who have been sentenced to a term

of imprisonment by a juvenile court. These institutions are run by specially trained officers from the Ministry of Social Affairs and Labour.

Article 11

125. Failure to fulfil a contractual obligation is not a criminal offence under Kuwaiti law, and accordingly, no one can be imprisoned for that reason. Contracts are binding on both parties, and article 209 of Law No. 67 of 1980, the Civil Code, provides that where one of the parties fails to fulfil his obligation, the other party may petition a court for cancellation of the contract and claim compensation, where indicated. Article 219 of the Code provides that a party to a contract may refuse to fulfil his obligations under the contract where the other party has failed to fulfil his obligations.

Article 12

126. Kuwait's Constitution and laws guarantee the right to freedom of movement, freedom to choose or change residence, and freedom to return to one's country. They also protect the right of anyone to seek political asylum in order to escape persecution in his country of origin. The Constitution enshrines the principles formulated in article 12 of the Covenant in its article 31, which provides that 'No person shall be compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the provisions of the law,' while article 28 provides that "no Kuwaiti may be deported from Kuwait or prevented from returning thereto."

127. It is worth noting at this point that the principles contained in article 28 are absolute and may not be qualified or restricted by any law. Furthermore, under article 46 of the Constitution, political refugees may not be extradited under any circumstances.

128. In accordance with the terms of paragraph 3 of article 12 of the Covenant, the State of Kuwait does not impose any restrictions on the rights and freedoms enumerated in paragraphs 1 and 2 of that article, except as provided under Kuwaiti law where deemed necessary on various grounds. The right to liberty of movement, like other rights and freedoms, is subject to regulation, limitation and sometimes restriction for good and valid considerations, such as national security, public order, public health or morals, or the rights and freedoms of others. This is set forth in article 31 of the Kuwaiti Constitution, which provides that liberty of movement shall not be restricted, except as provided by law.

129. Pursuant to the above-mentioned constitutional principles, Law No. 11 of 1962 on passports and amendments thereto provide that a Kuwaiti citizen must be in possession of a passport upon leaving or returning to Kuwait. The law also provides, under article 1, that travellers may leave the country and return to it only at designated exit and entry points.

130. Under the same law, a passport may be issued only to persons who possess Kuwaiti nationality in accordance with the nationality laws in force at the time the passport is issued. An application for the issue or renewal of a passport may be denied, or a previously issued passport withdrawn, where there are serious justifying considerations. Under article 19 of the law, the determination of such considerations is left to the discretion of the Minister of the Interior, providing that the Minister may decide, for good reason, to refuse to issue or renew a passport or to withdraw a passport that has previously been issued.

131. In this connection, we may note here that under Law No. 17 of 1959 on alien residency, foreign nationals may enter and reside in Kuwait subject to two fundamental conditions: first, that the foreign national has a valid passport issued by the competent authorities of his country of origin or any other recognized authority, or a document issued by such competent authority in lieu of a passport; and second, that the foreign national

holds an entry visa issued by a designated Kuwaiti embassy abroad or by the Directorate of Immigration Affairs. The law also provides that the residency of a foreign national in Kuwait shall not exceed five years, but may be renewed.

132. Foreign nationals residing in Kuwait enjoy freedom of movement and residence and freedom to change their place of residence on an equal footing with Kuwaiti citizens. A foreign national who is authorized to reside in Kuwait is free to leave the country and return to it. Under article 31 of the Alien Residency Regulations, a foreign national residing lawfully in Kuwait may be authorized to leave the country for a period exceeding six months under certain circumstances.

Article 13

133. A foreign national may be expelled from Kuwait only by a court order or in pursuance of a decision reached in accordance with the law. Under article 16 of the Alien Residency Law, the Director, Police and Public Security Forces may issue a written order for the expulsion of any foreign national, even where the national in question is in possession of a valid residence permit, in the following cases:

- (a) Where the foreign national has been convicted of an offence by a court of law and the court recommends his expulsion;
- (b) Where the foreign national has no visible means of support;
- (c) Where the Director, Police and Public Security Forces deems that the expulsion of the foreign national is necessary in the public interest or for the preservation of public order or public morals.

134. In this context, it is noteworthy that under article 46 of the Constitution, the extradition of political refugees is prohibited. Moreover, Kuwait does not deport any person to a country in which he may face persecution or oppression of any kind, in accordance with the non-return principle: no individual is expelled to a country where his life or freedom may be in jeopardy.

135. There are a number of individuals who are currently in detention pending expulsion for one of the above-mentioned reasons. The State of Kuwait is prepared to make all information about these individuals available.

Article 14

136. The Constitution of Kuwait and Kuwaiti law provide for the rights set forth in this article. Under article 162 of the Constitution, “the honour of the judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and freedoms.” Article 166 of the Constitution provides that the right of recourse to the courts is guaranteed to all on a footing of equality, and every individual may seek redress at law at any time. Article 163 formulates the important basic principle of the independence of the judiciary and non-interference with the course of justice, as follows: “In administering justice, judges are not subject to any authority. No interference whatsoever is allowed with the conduct of justice. Law guarantees the independence of the Judiciary and states the guarantees and provisions relating to judges and the conditions of their irrevocability.”

137. The right of everyone to a fair trial by a competent and impartial tribunal is safeguarded under article 165 of the Constitution, which provides that “sittings of the courts are to be public, except where otherwise provided by law.” Criminal courts in Kuwait are divided into two categories: trial courts, comprising a court that tries cases of misdemeanours and a court that tries felonies, and courts of appeal, comprising the Lower Court of Appeal and the High Court of Appeal.

138. Article 34 of the Constitution states that “An accused person is presumed innocent until proven guilty in a legal trial at which the necessary safeguards for the exercise of the right of defence are secured.” The Code of Criminal Procedure and Trials provides that in criminal cases, a penalty may be imposed only after a trial conducted in accordance with the rules and procedures prescribed by law.”

139. Provision is made for the guarantees contained in paragraph 3 of article 14 of the Covenant under the Code of Criminal Procedure and Trials, notably in articles 120, 121, 141, 143, 155, 158, 163, 170 and 171, which assure an accused person of a number of legal safeguards, such as the right to be represented by counsel for his defence (article 120), the right to be present at all court proceedings (article 121), the right of the parties and their counsel to be present at all sessions of the court, even when the trial is held in camera (article 141). The right of the accused person to be informed of the nature of the charge against him is safeguarded under article 155, which provides that the charge shall be read out in court and explained to the accused person, and that his attention shall be drawn to the fact that he is not required to speak or respond. Under article 170, the court is required to enlist the assistance of an interpreter whenever an accused person or a witness does not know the Arabic language.

140. Under Kuwaiti law, a juvenile is presumed innocent until his guilt is established according to law, i.e. he is innocent until the reverse is proved. Law No. 3 of 1983, the Law on Juveniles, provides that a minor, his family or his guardian may be convicted of an offence only following a thorough investigation and a fair trial. One or more juvenile courts, each with a single magistrate, have been established in every judicial district. Under article 26 of the Law, these juvenile courts have sole jurisdiction to hear cases involving young offenders, and sole authority to look into the circumstances of minors who are at risk of delinquency and whose cases the Youth Welfare Commission has seen fit to submit to the court, acting through the special prosecution service for juvenile cases.

141. The Law on Juveniles provides for the institutional care of young offenders to ensure that they are treated in a manner appropriate to their status. The Law provides that young offenders shall be turned over to the specialized agencies of the Ministry of Social Affairs and Labour, which are responsible for preparing suitable facilities for their reception.

142. Paragraph 4 of this article of the Covenant is concerned with the right of a person convicted of a crime to his conviction and sentence being reviewed by a higher tribunal. This right is guaranteed under article 199 of the Code of Criminal Procedure and Trials, which provides that any judgement rendered by a court of first instance may be appealed.

143. Procedures for appeal are set forth in some detail in articles 200 to 213. A judgement may be appealed within 20 days after it is given if given in the presence of the defendant or after both parties have been heard, or within 20 days after it become final if given in absentia (article 201). An appeal must be submitted in writing to the clerk of the court that delivered the judgement; that court refers the petition for appeal together with the entire file of the case to the competent court of appeal within a period of three days (article 203). Article 211 provides that a sentence of death delivered by a criminal court shall be referred by the court itself to the High Court of Appeal. Article 213 provides that where the defendant himself submits an appeal or a petition for review, the appeal or the petition shall not be held against the defendant.

144. The right of appeal is guaranteed, not only under the Code of Criminal Procedure and Trials, but also under the Law on Juveniles in respect of judgements concerning young offenders. Under article 36 of the Law on Juveniles, an appeal from a judgement of the juvenile court may be lodged in accordance with the Code of Criminal Procedure and Trials. Article 37 provides that an appeal may be lodged by the young offender himself, his

legal representative, or the prosecutor's office for cases involving young offenders; the appeal is brought before the Lower Court of Appeal where the offence is a misdemeanour, or with the High Court of Appeal where the offence is a felony.

Article 15

145. Article 32 of the Constitution of Kuwait reads as follows: "No crime and no penalty may be established except by virtue of law, and no penalty may be imposed except for offences committed after the relevant law has come into force."

146. Article 1 of the Kuwaiti Criminal Code enshrines another fundamental principle, namely that no act constitutes a crime, and no penalty shall be applied thereto, except as provided by law.

147. Article 14 of the Code provides that an offence is punishable in accordance with the relevant law in force at the time the offence was committed. Furthermore, no penalty may be applied for an act committed before the law providing for such penalty came into force. Under article 15 of the Code, where, subsequent to the commission of an offence and before a final verdict has been reached, a law that is more favourable to the defendant is enacted, that law alone shall apply. However, where a final sentence has been passed in respect of an act punishable by law and subsequently a new law is enacted that makes the act in question unpunishable, the new law shall apply, and the sentence shall be null and void.

Article 16

148. Under article 9 of the Kuwaiti Civil Code, the natural personality of an individual begins when he or she is born alive and ends with his or her death, regardless of whether the death or life is actual or legal. Needless to say, the matter of determining birth and death is covered in the relevant provisions of law.

Article 17

149. It is noteworthy that under article 38 of the Constitution of Kuwait, the inviolability of homes is safeguarded. That article provides that "Places of residence shall be inviolable. They may not be entered without the permission of their occupants except in the circumstances and in the manner specified by law."

150. The right to confidentiality of communication of all kinds is protected by article 39 of the Constitution, which reads as follows: "Freedom of communication by post, telegraph and telephone and the secrecy thereof is guaranteed; accordingly, censorship of communications and disclosure of their contents are not permitted except in the circumstances and in the manner specified by law."

151. Under article 17 of Law No. 32 of 1982 on the Organization of Civil Data, any person may request an official statement containing all civil data relating to him, his parentage, offspring or spouses, and, in the case of a head of family, relating to persons whom he is legally required to register in accordance with the law. However, the law does not authorize the disclosure of the above information to anyone other than the person concerned, except upon the production of a valid power of attorney signed by the person concerned.

152. Article 55 of Law No. 31 of 1970 amending certain provisions of the Criminal Code provides that any public officer or employee, or any person performing a public function, who uses his public office as a pretext to enter the residence of any person without his consent or in circumstances other than those specified by law, or in disregard of the rules and procedures prescribed by law, commits an offence and is liable to a term of imprisonment of not more than three years, a fine of not more than 225 dinars, or both. Under article 122 of the

Criminal Code, any public officer who enters the residence of any person without his consent, or in circumstances other than those specified by law, commits an offence and is liable to a term of imprisonment of not more than three years, a fine of not more than 3 000 rupees, or both. Under article 1 of Law No. 19 of 1976 on the abusive use of the telephone, everyone who deliberately harasses others by telephone commits an offence and is liable to a term of imprisonment of not more than six months, a fine of not more than 100 dinars, or both.

153. The Criminal Code, Law No. 16 of 1960, contains a separate chapter devoted to offences against the character, honour or reputation of a person, and provides penalties for any act or offence that is likely to detract from the reputation or offend the honour or standing of any person. Anyone may bring a civil action against any person or newspaper for invasion of privacy or the publication of information offensive to his honour or reputation.

Article 18

154. The rights stipulated in this article are enshrined in article 35 of the Constitution of Kuwait, which provides that the State protects the freedom of practising religion in accordance with established customs, provided that it does not conflict with public policy or morals. That right is also safeguarded under the Criminal Code: article 109 of the Code imposes penalties on whoever vandalizes, damages or desecrates a place prepared for the observation of religious worship, or, knowing the significance of his act, commits within such a place an act that detracts from respect for the religious observances performed therein.

155. Article 110 of the same Code states that whoever knowingly and understanding the significance of his act desecrates a place set aside for burial of the dead, the keeping of dead bodies or the performance of funeral rites, causes a disturbance to people gathered to perform funeral rites, or profanes the sanctity of a dead body shall be liable to a term of imprisonment of not more than one year, a fine of not more than 1 000 rupees, or both.

156. Article 111 of the Code provides that whoever disseminates through the public media views that constitute ridicule, contempt or disparagement of a religion or religious sect, or an attack on the beliefs, precepts, rites or teachings of such religion or religious sect, shall be liable to a term of imprisonment of not more than one year, a fine of not more than 1 000 rupees, or both.

157. Confirmation of this is to be seen in the fact that in Kuwait, a Muslim country with residents of various nationalities, cultures and ethnic origins, all people engage in their religious worship in complete freedom, without interference, coercion or intimidation on the part of the State. Under Kuwaiti law, all expatriate communities in Kuwait are allowed to establish their own schools with no restrictions apart from those prescribed by law.

Article 19

158. The Constitution guarantees freedom of the press, printing and publishing and freedom of thought and the expression of opinion. This is a basic principle. However, that principle is subject to exceptions where the material published is injurious to public morals or the dignity or freedoms of individuals. Under Law No. 3 of 2006 on printing and publishing, which has replaced Law No. 3 of 1961, there is now scope for the publication of many new newspapers, subject to the ability of the persons concerned to fulfil the attendant conditions.

159. Article 19 of that law prohibits the publication of material disparaging, ridiculing or expressing contempt for the divinity of God, the Holy Koran, the prophets, the noble companions or wives of the Apostle of God, peace be upon him, or the members of his house, peace be upon them, by any of the means contemplated in article 29 of Law No. 31

of 1970 amending certain provisions of the Criminal Code, Law No. 16 of 1960. Paragraphs 3 and 7 of article 21 prohibit the publication of material injurious to public morals or constituting incitement to disturb public order, break the law or commit crimes, even where no crime is actually committed, or offensive to the dignity, lives or religious beliefs of other persons, or to incite hatred or contempt for any group in society, publish information about their financial situation, or to reveal confidential information with intent to damage their reputation, assets or commercial good name.

160. In addition, article 111 of the Criminal Code provides that anyone who broadcasts via any of the media opinions ridiculing, disparaging or belittling any religion or sect, regardless of whether the material so broadcast refers to the beliefs, rites, rituals or teachings of the religion or sect concerned, shall be liable to a term of imprisonment of not more than one year, a fine of not more than 1000 rupees, or both.

161. Under article 112 of the Criminal Code, it is not an offence to broadcast a programme, deliver a lecture or publish a scholarly article or book dealing with a religion or religious sect in a sober, balanced style devoid of inflammatory phraseology, where it appears that the originator is acting in good faith and with the intent of producing scholarly criticism.

162. Under article 113 of the Criminal Code, every person who publishes a scripture revered by any religion and distorts it in order to alter its meaning with intent to disparage the religion in question is liable to a term of imprisonment of not more than one year, a fine of not more than 1000 rupees, or both.

163. It is clear from this brief survey of the above-mentioned provisions of law that all of them are designed to penalize affronts to religion as such, without specifying the name of the religion or sect. Kuwait law thus protects all religions and sects without exception. At the same time, article 2 of the Constitution states that “The religion of the State is Islam, and the Islamic Shari‘a shall be a main source of legislation,” and it follows that opposition to the Islamic religion is deemed to be a breach of public order the perpetrator of which deserves to be called to account and punished, based on the provisions of Kuwait’s criminal law.

164. We may recall this point that the Law on printing and publishing enacted by the country’s legislative power provides that the denigration of the divinity of God, the prophets or religious beliefs is a criminal offence. This law is regarded as a source of pride for Kuwait, because it is aimed at those who attempt to deny the spiritual side of human life.

Article 20

165. Article 167 of the Constitution states that “Peace is the aim of the State.” This is emphasized by article 68, which uses the term “war” but with the qualifier “defensive”, and goes on to state clearly that “offensive war is prohibited.” Such is the policy that has consistently been pursued by Kuwait, a peace-loving nation that rejects war and war propaganda as well as any action conducive to war. Kuwait has voiced these principles in all international forums, and has always called for the preservation of international peace and security and the resolution of all disputes by peaceful means.

166. Various articles of the Constitution of Kuwait contain the fundamental principles of justice, equality and the elimination of discrimination between people in economic, social, cultural or other matters. Perhaps the articles of the Constitution that illustrate this most cogently are the following:

Article 7: “Justice, liberty and equality are the pillars of society; cooperation and mutual help are the firmest bonds between citizens,” and

Article 29: All people are equal in human dignity and in public rights and duties before the law, without distinction as to race, origin, language or religion.”

167. Other national statutes dealing with this issue include:

Article 6 of Law No. 24 of 1962 on associations of general interest prohibits societies or clubs from engaging in political activities or religious disputes or fomenting sectarian or ethnic antagonism;

Article 7 of Law No. 42 of 1978 on sports organizations prohibits sports organizations from interfering or engaging in political matters or religious disputes or fomenting sectarian or ethnic antagonism;

Article 73 of Law No. 38 of 1964 on work in the private sector prohibits trade unions and employers’ organizations from becoming involved in religious or sectarian issues;

Article 27 of Law No. 3 of 1961 on printing and publishing prohibits the publication of any matter that may constitute instigation to commit crimes or foment hatred or dissension among the members of society;

Articles 109 to 111 of the Criminal Code deal with outrages against religions.

Article 21

168. The right of assembly is deemed to be a form of freedom of the expression of opinion and a means of exchanging views and communication between individuals. That right, in both its public and private aspects, is enshrined in article 44 of the Constitution, which provides that individuals have the right of private assembly without permission or prior notice, and that the police may not attend such private meetings. The same article lists various kinds of public assemblies and formulates the principle that they are all lawful, whether they are in the form of rallies in public places or consist of processions through the streets or gatherings of people in public squares. However, all the above-mentioned forms of assembly are required to comply with the terms and conditions prescribed by law, and are subject to the essential condition that their ends and means are peaceable and not contrary to public morality. Under the terms of the Criminal Code, an assembly in a public place is not prohibited unless its purpose is to commit crimes or disturb public order.

169. On 1 May 2006, the Constitutional Court of Kuwait issued an historic ruling declaring that Law No. 56 of 1979, on public assemblies and gatherings, was unconstitutional. This is a striking illustration of the scope of the judiciary’s power to exercise prompt oversight of the human rights situation and to correct any distortion that may have come to affect the general rights and freedoms of individuals. The ruling emphasized that individuals may not lawfully be denied freedom of expression, freedom of assembly, and freedom to come out in protest demonstrations to express their opinions and demands, provided they remain within the bounds of public order and public morality and do not harm the national interest or jeopardize public property.

Article 22

170. It is important to note that Law No. 24 of 1962 on clubs and associations of general interest does not restrict freedom to form popular associations, including associations concerned with human rights. On the contrary, the provisions of that Law serve to organize the founding of such associations, pursuant to article 43 of the Constitution. Clear evidence of this is to be found in the fact that no fewer than 70 associations of general interest had

been founded up to the year 2007, including six that are active in the field of human rights. These are:

- (i) The Human Rights Association of Kuwait (founded on 12 June 2005);
- (ii) The Kuwaiti Association for Democratic Development;
- (iii) The Kuwaiti Association for the Fundamental Elements of Human Rights;
- (iv) The Social Work Association;
- (v) The Solidarity Association for the Care of Prisoners;
- (vi) The Transparency Association of Kuwait.

In addition, 38 employers' associations had been founded up to the year 2007 (see appended table).

171. In this connection, we may note that Law No. 24 of 1962, on clubs and associations of general interest, was amended in 1994 by Law No. 14 of 1994 (text appended).

172. A new draft bill on clubs and associations of general interest has been submitted to the Council of Ministers. In addition, the political leadership has issued directives to the appropriate bodies instructing them to promote the founding of more trade unions and associations of general interest. These developments are part of an ongoing activation of the principle of providing greater opportunities for all active civil society sectors to play their several roles in the field of fostering human rights.

173. Furthermore, domestic associations have participated and continue to participate at the local, regional and international level in many activities of various kinds. They have also organized many events in their respective areas of interest. The following list offers a few examples, but it is by no means exhaustive.

Kuwait Union of Women's Associations:

- Meeting of the Governing Board of the International Women's Alliance, New Delhi
- Second Regional Conference of Women Parliamentarians, Abu Dhabi

Economic Association of Kuwait

- Forum on Women in Economic Society

Women's Cultural and Economic Association

- Second Regional Conference of Women Parliamentarians, Abu Dhabi

174. Chapter XIII of Law No. 38 of 1964, on labour in the private sector, regulates the founding of trade union organizations and businessmen's associations. A survey of the contents of that chapter is enough to reveal that under Kuwaiti law, there are no restrictions on the establishment of trade unions and employers' associations. Indeed, under article 74 of the Law, a union or employers' association is deemed to be legally founded by the mere act of filing the necessary documents with the Ministry of Social Affairs and Labour, provided the Ministry does not express an objection to the new organization within fifteen days of the date of filing.

175. The above-mentioned principle is well established in the jurisprudence of Kuwaiti courts. Every trade union or businessmen's association is deemed to be a corporate entity in the eyes of the law as of the date the founding documents are filed with the Ministry. Additional confirmation is to be found in the fact that no fewer than 54 trade unions and professional associations have been established to date (see appended table). Furthermore, Kuwait has signed many International Labour Organization conventions with a bearing on this matter, including:

- (a) Convention No. 87 (1848) concerning Freedom of Association and Protection of the Right to Organize;
- (b) Convention No. 144 (1976) concerning Tripartite Consultations to Promote the Implementation of International Labour Standards

176. Kuwait wishes to emphasize that it is bound by legislative and judicial principles that are established both in law and in fact, and that it is also bound by international conventions regulating the right to form and join trade unions. Confirmation of this is to be found in the drafting of new legislation authorizing the founding of unions for workers in government agencies: Law No. 11 of 2003 amending article 69 of Law No. 38 of 1964 provides that:

“The provisions of this chapter shall apply to employees and workers in the Government sector and the petroleum sector, in so far as those provisions are compatible with the laws regulating their affairs.”

177. Workers inside Kuwait, whether citizens or non-citizens, enjoy the benefit of labour laws designed for their protection and care, in accordance with the spirit of the Constitution. Law No. 38 of 1964 on labour in the private sector contains many legal and financial safeguards for workers; an entire chapter of the Law is devoted to that subject.

178. The labour laws of Kuwait aim basically at setting minimum conditions for the protection of workers in their relations with their employers. These laws thus contain many legal safeguards for workers; chapter V of the Law, for example, contains provisions concerning the employment of minors, including the stipulation that minors under 14 years of age may not be employed.

179. The relevant Kuwaiti authorities, concerned as they are to provide more legal rights and guarantees for workers, are currently engaged in preparing new draft legislation on labour in the private sector.

180. Law No. 38 of 1962 on labour in the private sector is designed to safeguard the right of all workers to join trade unions and participate in their activities in various ways. This is clear from Chapter XIII of the Law, which is concerned with workers' and employers' organizations. Article 69 provides that employers have the right to form associations and that workers have the right to organize trade unions in accordance with the provisions of the Law. Under article 70, workers employed in the same enterprise, profession or craft or in similar or related professions or crafts have the right to organize unions to protect their interests, defend their rights, pursue the improvement of their material and social conditions and represent them in all matters of concern to them. The procedures that are to be followed for the formation of such unions are described in article 74 of the Law.

181. The same does not apply to political parties, however. It is well known that there are no political parties in the State of Kuwait. The Annotation to article 43 of the Constitution reads as follows:

“Article 43 establishes the freedom to form associations and unions, but does not provide for the formation of organizations whose general description is such that they may be termed political parties. That is to say, the wording of this article does

not expressly authorize the formation of such parties. At the same time, the absence of such a provision does not mean an ironclad constitutional ban intended to restrict any action to authorize the formation of political parties indefinitely, in the event that the legislature should deem such action appropriate at some future time. Under this article, then, the freedom to form parties is neither obligatory nor prohibited; the matter is left to the normal legislative process, with no specific requirement either way.”

Article 23

182. The State of Kuwait’s concern for the family is apparent in many relevant statutes. The fundamental principles underpinning society, which are designed to preserve the human person, protect his or her rights and freedoms, and define the responsibilities of the State toward the family and children, are laid down in the Constitution, notably in articles 8, 9, 10 and 11.

183. The State of Kuwait is committed to providing families with protection, welfare and a life of dignity, as may be seen from the paragraphs below.

(a) The State undertakes to provide every family with suitable housing to ensure its privacy, security and stability;

(b) The State undertakes to provide free education for all, convinced as it is of the importance of education as a tool in the service of the family and its development;

(c) The State provides all citizens and residents with free health care in the belief that protecting the family from disease and ensuring its healthy growth are means to build a strong and stable society;

(d) The State provides aid for citizens in old age or sickness; it also provides all citizens with social welfare and security to support individuals and the family in general, and to insure the family against future emergencies that may affect it or endanger its well-being.

184. Other legislation includes chapter V of Kuwait’s Code of Personal Status, which contains provisions on the nursing and care of infants and the conditions relating to them. Chapter VI regulates parents’ obligations in respect of expenditure for their children’s maintenance.

185. The enactment of Law No. 61 of 1976 on Social Security and amendments thereto extended the social safety net to all Kuwaitis in all employment sectors: the Government sector, the petroleum sector and the private sector. The Law also makes optional coverage available to some categories of Kuwaitis who are not employed in any of these sectors, such as business owners, self-employed persons in various professions, members of the National Assembly, members of municipal councils, mayors and members of other groups whose eligibility is determined by a decision of the Minister of Finance.

186. Under the provisions of the Law on Social Security, all military personnel, including the army, the police and the National Guard, are excluded from coverage. All such persons are covered instead under the provisions of Law No. 27 of 1961 on pensions and retirement benefits of military personnel and members of the armed forces.

187. Kuwaitis working outside Kuwait, or working in Kuwait for an employer to whom Law No. 61 of 1976 does not apply, may choose to participate in the insurance scheme provided for in chapter III of that Law, having due regard to the provisions of Law No. 11 of 1988.

188. In addition, the enactment of Law No. 22 of 1987 has provided a means of covering major hardship situations that may befall a Kuwaiti family, including:

- (a) The situation of widows and orphans following the death of the family provider;
- (b) Illness or disability of the family provider;
- (c) Inability of the provider to meet necessary expenses, as where he is indigent or imprisoned;
- (d) Other emergency situations, such as being struck by a calamity or bereavement, where the family does not belong to a category that is eligible for assistance.

189. Under the same Law, additional aid may be made available to families and individuals to enable them to cope with unforeseen obligations or to achieve social goals in situations other than other described above.

190. Furthermore, on humanitarian grounds and in order to protect Kuwaiti mothers and their children from possible hardships, Kuwaiti law provides that the provisions relating to public assistance shall extend to a Kuwaiti wife married to a non-Kuwaiti and her children where the husband has become disabled and is unable to work, as attested by a medical certificate, or where he is unable to provide for his family because of circumstances beyond his control. The latter situation is included under the provisions of Law No. 54 of 1979 amending the Law on public assistance.

191. Kuwait's Criminal Code includes provisions aimed at preserving family unity and protecting families from possible disintegration, dissolution or collapse. Article 132 of the Code, for example, specifies that its terms do not apply to spouses and family members who conceal a family member against whom an arrest warrant has been issued, or who help him flee from justice. Under article 133 of the Code, they are also exonerated in cases where they harbour a family member who has committed a felony or misdemeanour, or conceal evidence of a crime. Article 197 provides that an offended spouse may stop the institution of a criminal prosecution against a spouse, whether husband or wife, who has committed adultery on condition that the conjugal relationship is resumed as before. The offended spouse may also ask that the legal procedure in such a case be discontinued at any state, or that a final judgement be suspended. Article 241 of the Code provides that a person who commits theft, extortion, fraud or betrayal of trust against a husband, wife, parent or child shall be liable to criminal prosecution only at the victim's request. Moreover, the victim may request that the prosecution be dropped at any stage in the proceedings, and has the right to request suspension of the final sentence at any time.

192. Associations of general interest play an important role in supplementing the State's efforts to protect and defend families. These associations pursue different objectives, but in their various ways all of them are beneficial to society and individual family members through their scientific, cultural or educational activities, which contribute to the progress and well-being of families. The list of such associations includes the sports clubs active throughout the country, the Kuwaiti Association for the Advancement of Children, the Women's Social Association, the Islamic Welfare Society, the "Bayadir al-Salam" (Peace Forums) Society, the Scientific Club, the Kuwaiti Association for the Welfare of the Disabled, and others.

193. With regard to paragraphs 2 and 3 of article 23 of the Covenant, upon acceding to the Covenant, the State of Kuwait made an interpretive declaration to the effect that in the event of any discrepancy between the provisions of the article in question and Kuwait's own Code of Personal Status, it would be the provisions of the Code that would apply. In that connection, Kuwait recalls that as regards the right to marry, the freedom to choose a spouse and the age of marriage, all matters pertaining to marriage, divorce and other

personal status matters are regulated by the Code of Personal Status, which was brought into force by Law No. 51 of 1984. The provisions of the Code are derived from the tenets and principles of the noble Islamic Shari‘a, which among religious laws is known to be one that has best regulated personal status matters.

194. In addition to the provisions of the Code of Personal Status relating to marriage, Law No. 5 of 1961 was enacted to regulate marriages between Kuwaiti citizens and foreign nationals. Articles 33 to 49, which are in Part II, chapter 1 of that Law, deal with such cases and explain which provisions of law are applicable.

Article 24

195. Paragraph 3 of this article of the Covenant states that every child has the right to acquire a nationality. In that connection, it is noteworthy that the provisions of Kuwait’s Law No. 15 of 1959 on nationality are consistent with the terms of that paragraph and regulate in detail all matters relating to Kuwaiti nationality. Article 2 provides that every child born to a Kuwaiti father shall have Kuwaiti nationality. The crucial aspect is the blood, not the territory. Every child whose father is a Kuwaiti citizen is entitled to Kuwaiti nationality, regardless of whether the child is born in Kuwait itself or abroad. The crucial aspect is the father’s nationality at the time of the birth of the child.

196. Article 3 provides that a child born to a Kuwaiti mother shall have Kuwaiti nationality where the identity or the nationality of the father is unknown. Under the same article, every child born in Kuwait to unknown parents shall have Kuwaiti nationality.

197. Kuwaiti law gives primary consideration to the welfare and protection of children, as is necessary in view of their status as minors. Safeguards for protection and care of the family and young people are provided in a number of the articles of Kuwait’s Constitution, inasmuch as they are the bases on which Kuwaiti society is founded. The Constitution emphasizes the role of the family, for a closely knit family is the best means of ensuring that children are protected from exploitation and harm. A number of the relevant articles of the Constitution have been mentioned earlier in this report, including in particular articles 9, 10 and 11.

198. Kuwaiti law includes a number of statutes that are expressly concerned with the protection and welfare of children:

- (i) Law No. 3 of 1983 on Juveniles
- (ii) Law No. 16 of 1960, the Criminal Code
- (iii) The Foster Family Code
- (iv) Law No. 97 of 1983 establishing the General Authority for Minors’ Affairs
- (v) Law No. 51 of 1984, the Code of Personal Status

Article 25

199. Article 26 of the Constitution states, “Public office is a national service entrusted to those who hold it... Public officials, in the exercise of their duties, shall aim at the public interest.” Kuwaiti law includes a number of statutes designed to regulate Government service, including:

- (a) Decree-law No. 15 of 1979, promulgated on 4 April 1979, on the Civil Service;
- (b) Law No. 23 of 1990 on the Organization of the Judiciary, as amended by Law No. 10 of 1996;

(c) Law No. 32 of 1967 and amendments thereto, on the Army. The provisions of this law apply only to military personnel. Civilians employed by the armed forces are covered by the above-mentioned law on the Civil Service;

(d) Law No. 23 of 1968 on the Police.

200. The State of Kuwait has achieved great progress in granting women access to higher education, including freedom to practise the profession of law. Women have begun to participate in work of a judicial nature, such as serving on civil and commercial arbitration committees and the Bar Association's disciplinary committee, and now undertake criminal investigations in the Ministry of the Interior's Investigations Directorate. Women also occupy senior posts in bodies that assist the judiciary and in the field of law, including both governmental organizations, such as the Fatwa and Legislation Directorate of the Council of Ministers or the Municipality of Kuwait, and in the private sector.

Article 26

201. The Constitution of Kuwait contains many provisions concerning fundamental principles aimed at realizing justice and equality and eliminating discrimination among people in various economic, social, cultural and other fields. Article 20, paragraph 2 is particularly noteworthy in that respect, but other significant articles are:

Article 7: Justice, liberty and equality are the pillars of society; cooperation and mutual help are the firmest bonds between citizens.

Article 29: All people are equal in human dignity and in public rights and duties before the law, without distinction as to race, origin, language or religion.

202. It is clear from the contents of this article that there is no discrimination between people as regards the applicability of the law to them. This is also laid down in article 134 of the Constitution, which provides for equality in respect of public service posts: all individuals are equal as regards the principle of appointment to public service posts, salaries, wages, and the rights and duties associated with public service employment. This principle is confirmed by the Constitution, the Civil Service Law, and the labour laws in force in the country. Nor is there any discrimination between people before the courts, and judicial procedures are applied equally to all. Litigation procedures are readily available to all on an equal basis, and the right of access to the courts in both civil and criminal matters is equally available to everyone, without exception or discrimination.

203. In this connection, it should be noted that the term "bidoon", which is commonly used to designate certain groups of Arab residents, is imprecise and has no legal standing in Kuwait. The official term applied to this group is "illegal residents", in accordance with Decree No. 58/1996 establishing the Executive Committee on Illegal Residents Affairs. The Government has worked with these illegal residents since 1985 and has enacted legislation designed to develop solutions in this matter. The crowning statute was Amiri Decree No. 58/1996, establishing the Executive Committee and mandating it to develop appropriate solutions to the problem, having regard to all its dimensions and consequences, human, security-related, social, cultural, economic, national, ethical and even international, both at the present time and in the future. Under article 2 of the Decree, the Committee was instructed to take all executory measures to address the situation of the group of illegal residents in accordance with the general framework, principles, bases, criteria and decisions which the Council of Ministers has adopted in the matter, having regard to the imperatives of the national interest. The Committee was also instructed to monitor the implementation of the Council's decisions concerning the group in question.

204. The State of Kuwait is persuaded that the solution to this problem will not emerge from an all-embracing vision encompassing an array of problems and issues affecting the

sovereignty, security and stability of the State. Out of the comprehensive framework that Kuwait has adopted have come a series of practical steps aimed at developing a definitive solution to the problem on the basis of a number of principles and building-blocks, of which the most important are the following:

- A situation of legality in the matters of work and residence in the country represents an incontrovertible basis for all non-Kuwaiti residents, inasmuch as the sanctity of the law and the rule of law must be respected.
- Illegal residents fall into two basic categories. The first of these comprises persons whose employers can confirm that they were registered at the 1965 census or earlier. Such confirmation does not imply any obligation on the part of the State vis-à-vis the persons in question, but it does represent a basis for examination of their situations in preparation for appropriate action on a case-by-case basis. The second category comprises persons whose employers cannot confirm that they were registered at the 1965 census or earlier. These are persons whose legal situation must be regularized by drawing on the substantial facilities afforded by the State. That is to say, their situations must be regularized in such a way as to enable them and their families to live and work in the country legally and avoid the penalties and criminal sanctions prescribed by the relevant statutes (Council of Ministers Decision No. 675, adopted at its meeting No. 2-40/98, held on 6 September 1998).

205. The Executive Committee on Illegal Residents Affairs has also been entrusted with the task of working in cooperation with other agencies to develop plans and working procedures to activate the laws and the penalties prescribed by law for persons who break the laws of the land, such as the laws on nationality, residence and employment, the Criminal Code, and others (Council of Ministers Decision No. 262/I/1-11, adopted at its meeting No. 26/1999, held on 27 June 1999).

206. At its meeting No. 16/2005, held on 26 April 2005, the Council of Ministers expressed its appreciation for the efforts of the Executive Committee and decided that all relevant agencies should conform to the Committee's decisions relating to conditions and rules governing the issue of documents and practical measures taken in respect of illegal residents in Kuwait, especially in the matter of determining nationality, and that the Committee, as the reference body for the residents in question, should scrutinize and confirm all official documents issued by governmental agencies in respect of them. This decision was reconfirmed by Council of Ministers Decision No. 1197, adopted at its meeting No. 52-3/2007, held on 3 December 2007.

207. Moreover, on 14 June 2005 Ministerial Decision No. 779/2005 was issued, establishing a committee named the Joint Committee to Investigate Kuwaiti Nationality. Its task is to examine all applications for Kuwaiti citizenship by naturalization, in accordance with the provisions of articles 3, 5, paragraphs a, b and c, 7 bis and 8 of Amiri Decree No. 15/59 constituting the Law on Kuwaiti Nationality, as amended by subsequently enacted statutes. The membership of the new committee includes the Secretary of the Executive Committee on Illegal Residents Affairs. Many of those residents have now been granted Kuwaiti nationality in accordance with the rules and criteria established by law.

208. The State of Kuwait functions on the basis of certain fundamental constants that are rooted in its human and cultural interaction with all those who live in its blessed land, consistent with the form into which Kuwaiti society has gradually been moulded in the course of its long history filled with human initiatives and unbounded generosity, providing aid and assistance to all those who need it in every corner of the world. Kuwait, with its human, Islamic and national foundations, respects the right of every person residing in its territory to human dignity. Translated into practical terms, this means providing health care and education for all residents who need them, regardless of nationality, including illegal

residents, in cases of pressing humanitarian issues. Accordingly, two charitable funds have been established, one to provide health care to needy illegal residents and others, and the other to provide their children with education, in accordance with conditions and criteria designed to attain humanitarian ends and make optimal use of available resources to help deserving persons, in so far as such actions are not incompatible with the overriding national interest, in an effort to solve the problem of illegal residents.

209. The education fund referred to above provided 15 370 pupils with assistance for a total expenditure of 4 million dirhams in the 2006-2007 school year. Furthermore, the Council of Ministers has decided that an adult education (literacy) programme is to be established, and that its costs are to be defrayed out of the fund as well.

210. The health fund, for its part, has provided 60 000 persons with assistance at a total cost of 1 800 000 dinars for treatment, specialized radiography and required analyses. Concerning employment, most of the members of the group here under consideration are self-employed or work in the private sector without restrictions, in accordance with the Law on labour in the private sector, the provisions of which do not place any constraints upon them. Accordingly, they are free to enter any profession or occupation: their numbers include physicians working in Kuwait's hospitals, both Government-run and private, while others are university professors or military officers with the Ministry of the Interior and the Ministry of Defence.

211. The issue of birth certificates is governed by Law No. 36/1969 on the organization of birth and death records after entry of the relevant data. Among the essential data that appears on a birth certificate is the nationality of the child's parents, and it is not unusual for the father or mother to refuse to accept their child's birth certificate.

212. The issue of passports to members of this group is the responsibility of the Nationality Directorate. Passports are issued to them to enable them to perform the religious rituals of the minor pilgrimage (*'umrah*) or the *hajj* pilgrimage, or for medical treatment or study abroad, in accordance with the regulations currently in effect. Between 30 June 2006 and 20 January 2008, 32 772 passports were issued to members of this group.

213. Any member of this group who is registered with the Executive Committee on Illegal Residents Affairs and is at least 18 years of age is eligible for a driver's licence without restrictions.

214. It is clear from the foregoing that the Government of Kuwait has not been slow to extend the hand of assistance and support to members of this group in all areas. It has also naturalized Christians who held Kuwaiti passports issued before 1959, in accordance with the decision of the Supreme Committee on Nationality in 1961.

216. Under article 7 of Amiri Decree No. 15 of 1959, it is not a condition of nationality for the wife and children of a naturalized Kuwaiti citizen to be of the Islamic faith, and consequently the Christian wife of a naturalized Kuwaiti citizen can herself acquire Kuwaiti nationality. When a Kuwaiti Muslim marries a Christian wife, she acquires Kuwaiti nationality automatically. When a Kuwaiti Christian marries (of necessity) a Christian wife, who may be of foreign nationality, the wife has the right to acquire Kuwaiti nationality if she so desires, despite being a Christian.

Article 27

217. The Government of Kuwait guarantees that all those who live in its territory, whether citizens or aliens, and including illegal residents, shall enjoy the rights set forth in the Covenant, in so far as they are not incompatible with the provisions and terms of the Constitution of the land or the provisions of relevant legislation, and with no discrimination between people on any basis, whether religious, ethnic or sectarian.

218. Sufficient evidence of this is to be seen in the fact that the relevant authorities in Kuwait have issued numerous permits to all sorts of factions and ethnic groups for celebrations and gatherings of many kinds and various events in an effort to increase the range of freedoms and to foster dialogue among them.