



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Summary record of the 1435th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 26 July 2016, at 3 p.m.

Chair: Mr. Modvig

Contents

Consideration of reports submitted by States parties under article 19 of the Convention
(continued)

Third periodic report of Kuwait (continued)

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

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Third periodic report of Kuwait (continued) (CAT/C/KWT/3; CAT/C/KWT/QPR/3)

1. *At the invitation of the Chair, the delegation of Kuwait took places at the Committee table.*
2. **Mr. Aldeen** (Kuwait) said that a number of legal guarantees were in place to protect persons in detention. They included provisions in the Criminal Code envisaging penalties of up to 5 years' imprisonment for public officials guilty of committing acts of torture or ill-treatment, and provisions in the Code of Criminal Procedure for ensuring that all detained persons were duly registered and that persons wrongfully detained were released immediately. The Prisons Act expressly forbade any form of corporal punishment or degrading treatment. The Ministry of the Interior had set up an office to receive and investigate complaints from prisoners concerning abuses of their human rights, and places of deprivation of liberty had been fitted with cameras to monitor daily activities there.
3. Civil society organizations were active within prisons and other places of detention, which were under the authority of the Ministry of the Interior not the Ministry of Justice. The body responsible for monitoring such places, also by means of unannounced visits, was the Office of the Public Prosecutor. Regular visits were also carried out by national and international human rights organizations, including the Human Rights Committee of the National Assembly, the Kuwait Bar Association, the International Committee of the Red Cross (ICRC) and Penal Reform International, while diplomats had the right to visit nationals of their countries in detention.
4. The prison authorities would not accept any prisoner who had not first undergone a thorough medical examination. If prisoners showed signs of bodily injury, they would be examined by a doctor and the case could be referred to the investigating authorities. Doctors working in prisons applied the Istanbul Protocol and were required by law and by their own code of conduct to report any signs of torture or ill-treatment. Doctors who failed to fulfil that obligation faced possible criminal or disciplinary action. Moreover, the staff of emergency departments in Kuwaiti hospitals included an investigator who examined doctors' reports and took the necessary legal action. The independence of prison doctors was guaranteed by the fact that they worked not for the Ministry of the Interior but for the Ministry of Health.
5. The Ministry of the Interior had set up a special support group composed entirely of female officers who provided support for women in detention. Homosexual prisoners were held separately from other prisoners and, if they wished, were offered special counselling. Kuwaiti prisons had capacity for 4,824 inmates but currently housed only 4,748. In the event of the death of a prisoner, his or her remains were made available to the family, who were free to choose the type of funeral rites and the location of burial, whether in Kuwait or abroad.
6. The Salam Centre had been set up in 2009 to provide counselling and rehabilitation for persons released from the Guantánamo Bay detention camp. None of those persons had reoffended or faced court proceedings in Kuwait. A commission created in 2011 had proposed regulations that had proved effective in eliminating overcrowding in places of detention, including the Talha deportation centre. Although the buildings of the Talha centre were very old, they were continually being refurbished. Plans to build a new centre were well advanced and had been submitted to ICRC for it to express its views.

7. Before a person was deported, the possible dangers they could face in their country of origin were examined. In fact, since 2011, 2,710 deportation orders had been overturned for humanitarian reasons. Since August 2015, the Office of the United Nations High Commissioner for Refugees had maintained a presence in deportation centres and had recently declared that no one was being held in conditions that merited their being included in the resettlement programme. The allegations about the expulsion of Syrian and Lebanese nationals were untrue.

8. Although the Department of Forensic Medicine was not part of the Ministry of the Interior but of the judiciary, it cooperated closely with security and law enforcement agencies. Article 58 of the Prisons Act, under which a convicted prisoner could be held in shackles for up to one month as a disciplinary measure, had not been applied for a long time. In any case, there were plans to update the Act, which dated from 1962, as part of an ongoing project to modernize the country's prisons. The project also contemplated the construction of new prison facilities in line with international human rights standards. The Ministry of the Interior had a number of centres where law enforcement officials received training in international treaties, including the Convention.

9. **Ms. Al-Ataya** said that Act No. 35 of 2016 had extended the period a suspect could be held in detention in the case of certain serious crimes. The previous 48-hour period had been considered too brief to complete all the procedures involved in investigating certain modern offences such as transnational and organized crime, cybercrime and terrorism. Despite the change, all the suspect's legal guarantees remained in place and the detention procedure was subject to regular judicial review. In 2014, 80 cases of abuse of authority by law enforcement officials had been investigated and 5 officials had been dismissed; 65 such cases had been investigated in 2015 and 14 so far in 2016.

10. Act No. 68, concerning domestic workers, had been passed in 2015. The Department of Domestic Labour in the Ministry of the Interior had been set up to help those workers and ensure that they were well treated and duly paid by their employers. A booklet in Arabic, English and Hindi was distributed to domestic workers arriving in the country to help them understand their rights, which included the right to receive overtime payments, not to be obliged to work outside Kuwait without their express agreement and to maintain possession of their own passport.

11. **Mr. Almahana** said that the Convention could be invoked in cases of judicial cooperation and the extradition of offenders. Accused persons had the right to contact a lawyer and any other person whom they wished to inform about their situation. The lawyer could accompany them at every stage of the investigation, including interrogation, which had to be postponed at the request of the accused person if the lawyer was not present. Accused persons and their lawyer also had the right to examine all evidence relevant to the case, including confidential evidence, and the lawyer could put arguments and questions, and proffer written submissions, to the investigating authorities on behalf of his or her client.

12. There was no truth to the allegations that the confessions of the members of the so-called Abdali cell had been extracted under torture. No exceptional measures had been used in that case, in which a number of Kuwaiti citizens with links to a terrorist group had been found in possession of large quantities of arms, ammunition and explosives. The accused, arrested in August 2015, had immediately been referred by the Office of the Public Prosecutor for medical examination, when it had appeared that some of them had sustained bodily injuries. In the end, 26 persons were sent for trial on a number of serious charges. The court ordered further individual medical examinations and taken testimony from forensic doctors before eventually concluding that the allegations of torture were untrue and that the confessions had been given freely. The court had based its findings on the absence of injuries on the bodies of the accused persons and on photographic evidence taken during

the medical examinations. On 26 January 2016, the court had handed down sentences ranging from death to imprisonment and fines, while a number of the accused had been acquitted. The Court of Appeal had likewise ruled that no torture had taken place and had largely upheld the original sentences, although some of the prison terms had been reduced and there had been further acquittals. The case was currently before the Court of Cassation.

13. The allegations that the confessions of the persons convicted for their role in the suicide bombing of the al-Sadiq mosque had been extracted through torture were baseless, as investigations ordered by the courts had shown. The investigation, like that of the Abdali cell, had been conducted in accordance with articles 12 and 13 of the Convention.

14. Twenty police officers had been accused of involvement in the death under torture of Mohamed Ghazi al-Maymuni al-Matiri. Although several of them had been acquitted, others had received penalties ranging from fines or dismissal to 15 years' imprisonment. The victim's family had been awarded compensation of roughly US\$ 1.8 million.

15. Under article 159 of the Code of Criminal Procedure, the criminal courts were granted the right to exclude confessions obtained under torture. The means of investigating allegations of torture were similar to those of investigating allegations of any other serious crime.

16. Allegations that human rights defenders were harassed or persecuted on account of their human rights advocacy, which was not a crime in Kuwait, were baseless. Charges were brought against such persons, who did not enjoy blanket immunity from prosecution, only when they broke the law.

17. Also unfounded were allegations that people taking part in authorized demonstrations were harassed. Demonstrators were dealt with according to the law, and only after they had been urged to disperse were those who had committed acts of vandalism or blocked traffic arrested. In accordance with Ministerial Decision No. 33 of 2011, which contained a set of guidelines for dealing with demonstrations, it was lawful to fire on demonstrators only in highly exceptional circumstances. Any abuses by the security forces were examined by the Office of the Public Prosecutor and the courts. A number of demonstrators charged with crimes had been acquitted by the courts.

18. Complaints of ill-treatment could be submitted to the police, the Office of the Public Prosecutor, the General Department of Investigations or, in the event that the complainant wished to avoid ordinary channels, to one of two parliamentary bodies empowered to verify allegations of ill-treatment and take appropriate legal measures.

19. The employer of Fula Tombo Vanessa, a domestic worker, had recently been sentenced to 3 years in prison and 6 months of hard labour for having caused her serious injuries. The court had also awarded the victim compensation of approximately US\$ 16,500. Act No. 68 of 2015 provided a number of guarantees to domestic workers, including the right to weekly rest. Domestic workers could report abuse by telephone.

20. **Mr. Aldhuwikh** (Kuwait) said that the prohibition of torture was enshrined in the Kuwaiti Constitution. The Criminal Code, for its part, contained a clear definition of torture that had been amended to bring it into line with the definition contained in article 1 of the Convention.

21. The Criminal Code also prohibited all forms of trafficking in persons. Kuwait had ratified the United Nations Convention against Transnational Organized Crime and the Smuggling of Migrants Protocol, and as the Constitution stated that all ratified instruments would become domestic law as soon as they entered into force, all governmental bodies in the country were bound by law to respect the provisions of those instruments. The justice system was duty-bound to protect trafficking victims and ensure that the Trafficking in Persons and Smuggling of Migrants Act No. 91 of 2013, which focused on prevention and

protection, was strictly enforced. Accordingly, a shelter had been set up for trafficking victims, and the prosecution of alleged traffickers was expeditious. In addition, an interministerial committee had developed a national strategy to combat trafficking in persons and submitted it to the Government for review.

22. The Kuwait Institute for Legal and Judicial Studies organized courses to familiarize judges and prosecutors with international human rights instruments, in particular insofar as they related to trafficking in persons. Five trafficking cases had been brought before the courts. In one case, a defendant, a Kuwaiti national, had received a 15-year prison sentence. The four other cases were pending.

23. Act No. 67 of 2015 provided for the establishment of a national human rights institution (Diwan) in line with the Paris Principles. The institution was best described as an independent, standing body responsible for monitoring the human rights situation in the country. The Act also provided for the establishment within the Diwan of several standing committees, one for each broad human rights area and one responsible for receiving complaints.

24. In Kuwait, death sentences were imposed only for the most serious crimes in accordance with the law in force at the time of commission of the crime. No one was executed immediately after having been given a death sentence, and people with mental disabilities were never given such sentences. Death sentences were handed down only by competent courts, and all prisoners awaiting execution were entitled to seek clemency. They were also entitled to appeal their sentence. The Amir had the final say on whether a death sentence was carried out. Kuwait had carried out five executions in recent years — four for premeditated murder and one for the abduction and rape of children.

25. The judiciary was independent, in accordance with the Constitution and national laws. Foreign judges were appointed pursuant to bilateral judicial cooperation agreements. They were seconded for a set period of time and then returned to their country of origin. A committee comprising judicial experts, judges and legal practitioners was tasked with reviewing and amending national laws and regulations, and submitting the proposed amendments to parliament. The training offered to judges was available to foreign as well as Kuwaiti judges.

26. **Mr. Alghunaim** (Kuwait) said that his Government was determined to put an end to human trafficking. The Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, had been invited to visit the country, and preparations for that visit were under way.

27. **Mr. Alwahib** (Kuwait) said that his Government considered the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness to be irrelevant to the situation in Kuwait. Under Kuwaiti law, the persons in question were not “stateless persons”, but rather “illegal residents”, and the Central Bureau for Illegal Residents had been established to deal with their situation, taking into account the human dimension of the problem.

28. A law had recently been adopted allowing the granting of Kuwaiti citizenship to a large number of illegal residents. On the other hand, it had been determined that some 8,000 illegal residents were in fact nationals of neighbouring countries and had been hiding that fact in order to benefit from the many subsidies provided by the Kuwaiti Government. A special law was in place to regulate the granting of Kuwaiti citizenship to the children of Kuwaiti mothers.

29. **Ms. Al-Zamel** (Kuwait) said that, pursuant to legislation adopted in 2015, minors were kept separate from adults in Kuwaiti prisons. An ad hoc public prosecution unit had been established to investigate and prosecute crimes committed by minors. A juvenile court

had also been established, along with a special police unit to protect children from crime. A number of institutions were in place to accommodate minors in conflict with the law at various stages of the proceedings. Counselling was provided to the families of the minors to facilitate their rehabilitation, and a standing committee had been established to protect their interests.

30. **Mr. Aljaafur** (Kuwait) said that the Public Authority for Manpower certainly took into account the humanitarian crisis stemming from armed conflicts and other developments in the region and had issued a decision to facilitate procedures for nationals of Yemen, the Syrian Arab Republic and Somalia. The Public Authority offered protection to all members of the workforce without discrimination. An ad hoc department had been established within the Public Authority to settle all work-related disputes and offer full protection to workers.

31. More than 21,600 workplace inspections had been conducted to ensure that occupational safety and health regulations were being followed. The inspection regime was based on clear standards, and inspectors were required to submit reports and statistical data to the central administration. They underwent training over a period of two years, and the diploma they received after completing that training entitled them to priority consideration over other civil servants when applying for other posts.

32. A special training session for female inspectors had been attended by 50 women. His Government was continuously working to improve the training in cooperation with international organizations, such as the International Labour Organization (ILO) and the International Organization for Migration (IOM). In 2015, a total of 12 joint training sessions had been carried out with those two organizations.

33. **Mr. Alghunaim** (Kuwait) said that his country had hosted three of the four international humanitarian pledging conferences held to raise money in support of Syrian refugees. The country was widely known as a major donor of humanitarian assistance.

34. **Mr. Bruni** (Country Rapporteur) said that, during the Committee's previous dialogue with representatives of Kuwait held five years earlier, that delegation had made it clear that the Minister for Foreign Affairs had agreed to withdraw the State party's reservation to article 20 of the Convention. The State party's report, however, seemed to contradict that. Clarification on the matter should therefore be provided.

35. While the adoption of anti-terrorism legislation was perfectly legitimate, that legislation must take into account article 2 (2) of the Convention. He asked to what degree the national human rights institution enjoyed independence and what resources were available to it. Also, automatic deportation was not permissible under article 3 of the Convention, even in the face of a threat to public order.

36. While he welcomed the fact that unannounced visits could be made to places of detention, such visits were merely a first step, and follow-up action should also be taken. In that regard, he wished to know what follow-up action had been taken in response to the visit report issued by a parliamentary commission in April 2014, which had indicated that detention conditions in police stations and detention centres did not meet humane standards. The Committee had received reports that there were no female police officers assigned to police detention cells, which left women in police custody in a very delicate situation.

37. He asked what was preventing the State party from ratifying the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. He noted the information provided on the practice of shackling detainees in the Talha detention centre but also asked the delegation to comment on allegations about the use of very small punishment cells with deplorable living conditions.

38. With respect to the Abdali cell, the allegation of concern to the Committee was that the persons accused of terrorism had not been granted authorization to undergo an independent medical examination. He requested clarification as to whether the death penalty could be imposed on minors as young as 16 years. He was still unclear about the status in the State party's legal system of the definition of torture set out in article 1 of the Convention. Lastly, he asked whether the State party would consider establishing heavier penalties for torture, given the gravity of the offence.

39. **Mr. Hani** (Country Rapporteur) asked whether the State party had any plans to contribute to the United Nations Voluntary Fund for Victims of Torture. He underscored the need for forensic doctors to be independent and emphasized that they should not have to report to the Ministry of the Interior. He requested statistical data on women's representation in places of detention. With regard to the persons who had been held in the Guantánamo Bay detention camp and had never been charged with an offence by Kuwaiti authorities or by the authorities of the United States, he asked whether Kuwait would help them to obtain redress for the torture they had endured.

40. He wished to know the time frame for modernizing the country's prisons and the Talha detention centre, and asked how long detainees typically remained in the centre. He asked whether the cases of deportation and possible refoulement previously referred to were being evaluated individually or collectively. He wished to know whether medical examiners were allowed to report any suspected cases of torture directly to the judicial authorities or whether they had to go through the investigator assigned to the case.

41. He thanked the delegation for the information provided on the new law amending the Prisons Act and asked when that law would be adopted. He recommended that the handcuffing of detainees should be abolished, or at least restricted to a period of no more than 78 hours. With regard to pretrial detention, guarantees must be provided to all accused persons, who should be considered innocent until proven guilty.

42. As for the measures taken to investigate the alleged torture of members of the Abdali cell, he questioned whether the Public Prosecutor's Office was in the best position to evaluate the individuals' injuries. The Court of Appeal had taken a decision after viewing photographs of the injuries, but such photographs could only give a vague idea of the individuals' physical state. He asked whether the Public Prosecutor's Office had conducted a full investigation and whether its observations had been taken into account by the Court of Appeal.

43. The Committee would like to know what steps had been taken following the death of Mohamed Ghazi al-Maymuni al-Matiri to prevent further abuses by law enforcement officials and ensure that the perpetrators of such abuses were not able to pervert the course of justice. Had the severity of such crimes been made clear to those employed in the judicial system? It would be helpful to know whether a follow-up investigation had been conducted in the case of Fula Tombo Vanessa, the domestic worker who had been abused by her employer. Were the telephone lines and information leaflets for domestic workers available in languages other than Arabic? While the Criminal Code had been amended to include a definition of torture, it should also list the appropriate penalties for that crime. In line with article 16 of the Convention, the Criminal Code should also include a reference to other acts of cruel, inhuman or degrading treatment or punishment which did not amount to torture as defined in article 1. It would be helpful to know whether the Institute for Judicial and Legal Studies was open to foreign judges. The Committee suggested that the State party should sign and ratify the Optional Protocol to the Convention and establish a national preventive mechanism against torture. Finally, women should not be sentenced to death for undergoing an abortion.

44. **Ms. Belmir** said that the decision as to whether to impose the death penalty for certain crimes seemed to depend on the nationality of the victims. For example, a man convicted of raping a Kuwaiti woman with whom he had no legal relationship received the death penalty, whereas a man convicted of raping a foreign national, for example a domestic worker, did not. As to honour killings, the Committee could not accept the perceived need to preserve family honour as a legitimate mitigating circumstance. While the State party had made great efforts to improve the situation of domestic workers, some were still working in conditions that amounted to slavery. In one recent case, an employer had permanently scarred a domestic worker by deliberately pouring hot oil on her leg.

45. **Ms. Gaer** said that she would appreciate clarification regarding the number of visits made to prisons in Kuwait by ICRC since 2010 as two conflicting figures had been provided. While the delegation had provided some information on dismissals of law enforcement officials, it would be helpful to know the reasons for those dismissals. The State party had an obligation to protect human rights defenders under article 13 of the Convention, which made clear that steps should be taken to “ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given”. It would also be helpful for the delegation to respond to reports that North Korean workers were stationed in Kuwait. Were they military or civilian workers? Did the Government conduct announced and unannounced inspections of the sites at which they worked? The Committee would also like the delegation to comment on the extremely low number of domestic violence cases that had been recorded: according to paragraph 23 of the State party’s report, only five such cases had been handled in the period 2014-2015.

46. **Mr. Alghunaim** (Kuwait) said that, while human rights defenders received adequate protection, they had to abide by the law. The fact of being a human rights defender could not absolve a person of criminal responsibility, since violations of the law must be dealt with as such in the interests of public order and morality.

47. **Mr. Aldeen** (Kuwait) said that it would be possible to contact ICRC for clarification of the number of its visits to Kuwait since 2010.

48. **Mr. Alghunaim** (Kuwait) said that the employer of the domestic worker who had been scarred with hot oil had been convicted.

49. **Mr. Almahana** (Kuwait) said that his Government had not taken counter-terrorist measures that conflicted with its obligations under article 2 of the Convention. Acts of terrorism were covered by the existing provisions of the Criminal Code. With regard to the request for clarification on the Abdali cell, it should be noted that regular medical care was available to prisoners and that they were compensated for any violations of their human rights. Both the defence and the prosecution were entitled to submit medical reports and, if necessary, a further report could be submitted. For that reason, the court could not be blamed for the outcome of the prosecution of those implicated in the alleged torture of members of the cell.

50. **Mr. Alghunaim** (Kuwait) said that the Committee could consult the relevant memorandums for further information on the Abdali cell. The Criminal Code had been amended to include a definition of torture that was in line with the definition given in article 1 of the Convention. The Government had not taken any measures that conflicted with its obligations under article 2 of the Convention. Foreign nationals who broke the law were deported at the Government’s expense. The reservations of Kuwait to the provisions of article 20 of the Convention could not be withdrawn until the matter had been considered by various authorities.

51. Female prison guards might be appointed in the future. In April 2014, work had begun on the construction of a new prison complex in line with international human rights

standards, and it would be completed by the end of 2019. It had not yet been necessary for Kuwait to ratify the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees; refugees would be treated well even if those instruments were not ratified. The information mentioned by the Committee on the size of prison cells seemed outdated.

52. **Mr. Aldeen** (Kuwait) said, since 2004, prisons had been constructed in line with international human rights standards. No cells were as small as 1 m².

53. **Mr. Alghunaim** (Kuwait) said that Kuwait was the only State to have instructed lawyers to defend those of its citizens who had been detained at Guantánamo Bay. The Amir had discussed the matter during a recent visit to the United States. While he could not guarantee that Kuwait would contribute to the United Nations Voluntary Fund for Victims of Torture, he would be sure to investigate the possibility of a contribution on his return. The current provisions for pretrial detention gave law enforcement authorities sufficient time in which to conduct their work. Detention facilities had been equipped with video surveillance cameras. Although he did not have precise statistics on the number of cases in which the death penalty had been commuted to a lesser sentence, he could say that it was sometimes not carried out.

54. **Mr. Aldeen** (Kuwait) said that places of detention were monitored to prevent human rights violations by law enforcement officials.

55. **Mr. Alghunaim** (Kuwait) said that law enforcement officials had been dismissed for committing unacceptable acts. As to workers' rights, Kuwait cooperated with ILO, of which it was the most active member State in the Persian Gulf.

56. **Mr. Aljaafur** (Kuwait) said that the authority tasked with conducting inspections of places of work had a presence in every governorate and could be contacted directly by various means.

57. **Mr. Alghunaim** (Kuwait) said that, even though Kuwait was already a regional leader in women's rights, the Committee on the Elimination of Discrimination against Women had been invited to visit the country in late 2016 to support its work in that field.

58. **Ms. Aljalibi** (Kuwait) said that many acts of domestic violence, including verbal and physical abuse, murder, abduction, harassment, incitement to prostitution and rape, were covered by the Criminal Code. More severe sanctions were imposed on a perpetrator who was the legal guardian of the victim, and no distinction was made on the basis of whether or not the victim was a Kuwaiti national. The possibility of introducing a law specifically criminalizing domestic violence had been considered by the National Assembly. Community-based officers received specialist training on domestic violence and supported victims by attending meetings with social and medical workers, providing legal guidance and arranging accommodation in secure centres.

59. **Mr. Almahana** (Kuwait) said it was not true that the penalty imposed on perpetrators of the crime of rape depended on the nationality of the victims, since the Criminal Code did not discriminate on the basis of nationality.

60. **Mr. Alghunaim** (Kuwait) said that his country remained fully committed to upholding the provisions of the Convention and would take additional measures to honour that commitment.

61. **The Chair** said that he was grateful to the delegation for its hard work. The delegation could submit written replies to any questions that it had been unable to answer during the meeting.

The meeting rose at 6 p.m.