



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

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Committee against Torture

**List of issues prior to submission of the third periodic report
of Kuwait, adopted by the Committee at its fiftieth session
(6-31 May 2013)**

The Committee against Torture at its thirty-eighth session (A/62/44, paras. 23- 24) established a new optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Articles 1 and 4

1. With reference to the Committee's previous concluding observations (para. 7)¹ please provide detailed information on the measures taken to adopt a definition of torture in domestic penal law consistent with article 1 of the Convention, and which also includes appropriate penalties taking into account the grave nature of such acts.²

Article 2³

2. In the light of the Committee's previous concluding observations (para. 8), please provide information on the steps taken, and procedures in place, to ensure that:

(a) All detainees are informed of their rights at the time of arrest and of the charges against them and are promptly brought before a judge;⁴

(b) All persons deprived of their liberty are guaranteed access to a lawyer of their choice, the right to notify a relative or trusted individual of their detention, and the right to be assisted by an interpreter, when required. Please clarify whether all detainees have the right to have a lawyer who can freely advise his client during police questioning;⁵

(c) All detainees undergo a medical examination, and all medical certificates that indicate injuries compatible with torture and ill-treatment are systematically brought to the attention of the relevant prosecutor. How are detainees provided with information on their right to request an independent examination by a doctor and to ensure the accuracy of medical reports, including the right to see the reports?

3. Please provide detailed information on the measures adopted to guarantee the full independence and impartiality of judges and prosecutors, by ensuring, *inter alia*, that appointments are made according to objective criteria. Please include information on the appointments procedure for judges and the regulations that govern their tenure and the procedure by which they can be dismissed.⁶

4. Have any measures been adopted to establish an independent national human rights body, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), annexed to General Assembly resolution 48/134 of 20 December 1993?⁷

5. Further to the Committee's previous concluding observations (para. 23), please provide information, disaggregated by age and ethnicity of the victims, on the number of

¹ Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/KWT/CO/2.

² CCPR/C/KWT/CO/2, para. 16; A/HRC/15/15, para. 78; A/HRW/WG.6/8/KWT/3, para. 19.

³ The issues raised under article 2 could also be relevant to other articles of the Convention, such as article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2008) on the implementation of article 2 by States parties: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture ... In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the same general comment.

⁴ CCPR/C/KWT/CO/2, para. 19; A/HRW/WG.6/8/KWT/3, para. 26.

⁵ CCPR/C/KWT/CO/2, para. 19; A/HRW/WG.6/8/KWT/3, para. 26.

⁶ A/HRC/WG.6/8/KWT/3, para. 27.

⁷ CERD/C/KWT/CO/15-20, para. 10; CAT/C/KWT/CO/2, para. 27. See also CCPR/C/KWT/CO/2, para. 5; A/HRC/15/15, paras. 57, 72, 74; A/HRC/WG.6/8/KWT/2, paras. 6-7; A/HRW/WG.6/8/KWT/3, para. 6.

complaints, investigations, prosecutions, convictions and sentences handed down in cases of gender-based violence since the consideration of the second periodic report of Kuwait in 2011.⁸ Please also provide information on the measures adopted, including legislative, to address concerns regarding domestic violence, sexual harassment and marital rape.⁹

6. Please provide updated information, disaggregated by age, sex and ethnicity of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed on cases of human trafficking since the consideration of the State party's previous report.¹⁰ Please also provide additional information on:

(a) Any new legislation or measure that has been adopted to prevent, combat and criminalize trafficking in persons;

(b) The measures adopted to ensure that victims of human trafficking have access to effective remedies and reparation;

(c) The signature of bilateral or subregional agreements with the countries concerned, including neighbouring countries, to prevent and combat human trafficking.

Article 3

7. Please describe the measures taken by the State party during the period under review to ensure that no person, who is in danger of being subject to torture if returned to a third State, is expelled. What is the procedure followed when a person invokes this right? Are individuals facing expulsion, return or extradition, informed that they have the right to seek asylum and to appeal a deportation decision? If so, does such an appeal have suspensive effect? According to the information before the Committee, Kuwait endorsed a Gulf Cooperation Council (GCC) security pact in November 2012. Please clarify the content and scope of application of the GCC agreement.

8. As requested in the Committee's previous concluding observations (para. 15), please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. Please include information, broken down by sex, age and country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of the previous report. Please provide details on the grounds on which they were sent back, including a list of countries to which individuals were returned. Please provide updated information on the type of appeal mechanisms that may exist, on whether any appeals have been made and if so, their outcome.¹¹

9. Please indicate the number of cases of refoulement, extradition and expulsion carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of any such assurances or guarantees, whether given or received, and what measures with regard to subsequent monitoring have been taken in such cases?

⁸ CEDAW/C/KWT/CO/3-4, paras. 30-31; CCPR/C/KWT/CO/2, para. 15; A/HRC/15/15, para. 71; A/HRC/WG.6/8/KWT/3, para. 21.

⁹ CEDAW/C/KWT/CO/3-4, paras. 30-31; A/HRC/15/15, paras. 61, 62 and 78.

¹⁰ CAT/C/KWT/CO/2, paras. 24 and 28; CCPR/C/KWT/CO/2, para. 17; CEDAW/C/KWT/CO/3-4, paras. 32-33; CERD/C/KWT/CO/15-20, para. 13; A/HRC/15/15, paras. 9, 23 and 72; A/HRC/WG.6/8/KWT/3, paras. 22 and 40.

¹¹ A/HRC/WG.6/8/KWT/3, para. 40; CCPR/C/KWT/CO/2, para. 20; CERD/C/KWT/CO/15-20, para. 20.

10. With reference to the previous concluding observations (para. 16), please indicate whether the State party intends to ratify the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

Articles 5, 7, 8 and 9

11. Please indicate what legislative or other measures have been taken to implement article 5 of the Convention. Are acts of torture considered universal crimes under national law, wherever they occur and whatever the nationality of the perpetrator or victim? Please provide relevant examples of any such prosecutions.

12. Please inform the Committee of any extradition treaties concluded with other State parties and whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

13. Please clarify what mutual judicial assistance treaties or agreements Kuwait has entered into with other entities, such as countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions concerning torture or ill-treatment. Please provide examples.

Article 10

14. With reference to the previous concluding observations (para. 18), please provide up-to-date information on educational programmes developed by the State party to ensure that all law enforcement officials, security and prison personnel, are fully aware of the provisions of the Convention, that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted.¹² Please indicate whether the State party has developed a methodology to assess the effectiveness of training and educational programmes on the reduction of cases of torture and ill-treatment, and, if so, please provide information on the methodology.

15. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect and document physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)?

Article 11

16. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous report. Please also indicate the frequency with which these are reviewed.

17. With regard to the Committee's previous concluding observations (para. 9), please provide information about the State party's efforts to establish a national system to effectively monitor and inspect all places of detention and to react to the findings of the systematic review. Are representatives of non-governmental organizations, including the International Committee of the Red Cross, permitted to conduct regular and unannounced visits to all places of detention?

18. Concerning the previous concluding observations (para. 19), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality, on the number of

¹² A/HRC/WG.6/8/KWT/3, para. 25.

pretrial detainees and convicted prisoners and the occupancy rate of all places of detention. Please inform the Committee on the measures taken to address concerns regarding prolonged pretrial detention¹³ and the general conditions of detention in all types of detention facilities.¹⁴ Please provide information on efforts by the State party to meet the special needs of minors, women and persons with disabilities in detention.

19. Further to the previous concluding observations (para. 17), please provide information, disaggregated by sex, age, ethnic origin and nationality, on the number of prisoners sentenced to death who are awaiting execution.¹⁵ What are the conditions of detention of death-row prisoners? Please also provide information on the number of executions which have taken place since the consideration of the State party's initial report in 1998, the type of offences for which the death penalty was imposed, and the manner in which the execution has been carried out.

20. In paragraph 13 of its previous concluding observations, the Committee expressed concern at the situation of Guantanamo detainees repatriated to Kuwait and requested the State party to provide information on the exact circumstances of these cases, as well as on any new judicial development. Please send the requested information for assessment.

21. Please clarify whether persons who were reportedly condemned by military tribunals in 1991 are still detained despite having served their sentences.¹⁶

22. Please provide information about the frequency of inter-prisoner violence, including any cases involving possible negligence on the part of law enforcement personnel, and the number of complaints made in this regard. What preventive measures have been taken?

23. Please provide disaggregated statistical data regarding deaths in custody during the period under consideration, broken down by place of detention, sex, age and ethnicity or nationality of the deceased and cause of death.¹⁷ Please provide detailed information on the results of the investigations into these deaths and on the measures taken to prevent the reoccurrence of similar cases. Please indicate whether, in any of the cases, relatives received compensation.

Articles 12 and 13

24. With regard to the Committee's previous concluding observations (para. 10), please provide details on the steps taken to establish a fully independent complaints mechanism to ensure prompt, impartial and full investigations into all allegations of torture.

25. As requested in the Committee's previous concluding observations (paras. 11 and 28), please provide updated statistical data, disaggregated by sex, age, ethnic origin or nationality and place of detention, on complaints of acts of torture and ill-treatment recorded during the reporting period.¹⁸ Please include information on investigations, disciplinary and criminal proceedings, convictions and the criminal or disciplinary sanctions applied. In this regard, please provide examples of relevant cases and/or judicial decisions. Please comment on the status of efforts to prosecute the perpetrators of the murder of Mohamed Ghazi Al-Maymuni Al-Matiri, who was allegedly tortured to death in January 2011 while he was in police custody (see paragraph 12 of the previous concluding observations). Please also provide information on any investigation and any disciplinary

¹³ A/HRC/WG.6/8/KWT/3, para. 23.

¹⁴ A/HRC/WG.6/8/KWT/3, para. 25.

¹⁵ CCPR/C/KWT/CO/2, para. 14.

¹⁶ CCPR/C/KWT/CO/2, para. 27.

¹⁷ A/HRC/WG.6/8/KWT/3, para. 19.

¹⁸ CCPR/C/KWT/CO/2, para. 21; A/HRC/WG.6/8/KWT/3, para. 19.

and/or criminal proceedings related to the alleged ill-treatment sustained by Mr. Nasser Abul during his detention in 2011.¹⁹

26. With regard to the Committee's previous concluding observations (para. 14), please provide updated information on the progress made in clarifying cases of detained and disappeared persons following the 1991 war.²⁰

Article 14

27. In the light of the previous concluding observations (para. 21), please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to the victims of torture, or their families, since the consideration of the previous report. This information should include the number of requests made, the number granted, and the amounts ordered and those actually provided in each case. Please also provide information on any ongoing reparation programmes, including treatment of trauma and other forms of rehabilitation provided to victims of torture and ill-treatment, and on the material, human and budgetary resources allocated for their effective functioning.

Article 15

28. Please provide examples of any cases that have been dismissed by the courts due to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

29. With reference to the previous concluding observations (paras. 22 and 28), please indicate the measures taken to prevent exploitation, mistreatment, forced labour and slavery-like conditions of migrant domestic workers, including forced confinement in the workplace and verbal, physical and sexual abuse. Include disaggregated data on complaints, investigations, prosecutions and convictions of cases of ill-treatment of migrant workers, as well as on compensation and rehabilitation provided to the victims.²¹ In this regard, is the State party reconsidering its system of visa sponsorship (*kafala*), which ties migrant workers to their employer?

30. Concerning the previous concluding observations (para. 26), please inform the Committee on measures taken to improve the situation of the Kuwaiti Bidun.²² Please comment on allegations that Bidun detained during the February and March 2011 protests were subjected to beatings and physical abuse in detention. Please indicate whether the State party intends to ratify the Convention on the Status of Stateless Persons and the Convention on the Reduction of Statelessness.²³

¹⁹ Joint urgent appeal, dated 1 July 2011, sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/HRC/19/44, p. 26); allegation letter, dated 12 November 2010, sent by the Special Rapporteur on contemporary forms of slavery and the Special Rapporteur on the human rights of migrants and replies received, dated 18 March 2011 (A/HRC/18/51, p. 138).

²⁰ A/HRC/WG.6/8/KWT/2, para. 23.

²¹ CCPR/C/KWT/CO/2, para. 18; CERD/C/KWT/CO/15-20, paras. 16, 19 and 23; CRC/C/OPSC/KWT/CO/1, paras. 23-24; A/HRC/15/15, paras. 8, 19, 29, 43, 47-48, 50, 54, 59, 66-69, 73-74 and 76; A/HRC/WG.6/8/KWT/3, paras. 22 and 39-45; A/HRC/18/51 (see footnote 19 above).

²² CCPR/C/KWT/CO/2, para. 13; CERD/C/KWT/CO/15-20, para. 17; A/HRC/15/15, paras. 29, 50, 67 and 74-75; A/HRC/WG.6/8/KWT/2, paras. 16-18; A/HRC/WG.6/8/KWT/3, paras. 12-17.

²³ CAT/C/KWT/CO/2, para. 33; CERD/C/KWT/CO/15-20, para. 11.

31. Please comment on reports that lesbian, gay, bisexual and transgender (LGTB) people continue to be subject to discrimination and ill-treatment, including acts of sexual violence. Please provide information on measures taken to address such harassment.

32. Please indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the family, schools, alternative care settings and places of detention for juveniles.²⁴

Other issues

33. Please indicate whether the State party intends to ratify the Optional Protocol to the Convention against Torture and, if so, the status of the ratification process.²⁵

34. In view of the State party's public commitment to the Committee (para. 30), please indicate what steps have been taken to withdraw its reservation to article 20 of the Convention.

35. With regard to the Committee's previous concluding observations (para. 31), is the State party considering the possibility of making the declaration provided for under articles 21-22 of the Convention?

36. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005).²⁶ Please describe the relevant training given to law enforcement officers, the number and types of convictions handed down under such legislation, the legal remedies available to persons subject to anti-terrorist measures, whether there are complaints of non-observance of international standards and the outcome of those complaints.

37. Please provide information on the precise list of offences for which the death penalty can be imposed under national criminal law. Has the State party taken steps to review its legislation with a view to assessing whether offences carrying the death penalty are strictly restricted to the most serious crimes?

38. With reference to its previous concluding observations (para. 34), the Committee invites the State party to update its core document in accordance with the requirements concerning the common core document set forth in the harmonized guidelines on reporting adopted by the international human rights treaty bodies, as contained in document HRI/GEN.2/Rev.6, chap. I.²⁷

General information on other measures and developments relating to the implementation of the Convention in the State party

39. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken since the consideration of the previous report that implement the provisions of the Convention or the Committee's recommendations. This may include institutional developments, plans and programmes, including resources

²⁴ CRC/C/15/Add.96, para. 21; A/HRC/WG.6/8/KWT/2, para. 29; A/HRC/WG.6/8/KWT/3, para. 20; A/HRC/15/15, para. 71.

²⁵ CAT/C/KWT/CO/2, para. 29.

²⁶ S/2001/1221; S/2002/886; S/2003/1103; S/2004/945; and S/2006/903.

²⁷ See CEDAW/C/KWT/34, paras. 5-53.

allocated, and statistical data or any other information that the State party considers relevant.
