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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Initial reports submitted by States parties under  
articles 16 and 17 of the Covenant\***

**Addendum**

**KUWAIT**

[Original: Arabic]  
[21 September 2002]

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\* Annexes can be consulted in the files of the secretariat.

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## Introduction

1. The State of Kuwait has always upheld the principles of human rights and continues to work towards their strengthening and development, keeping abreast of the positive evolution in concepts and ideologies aimed at bolstering these rights, which have become one of the most noble objectives of a humane and civilized international community.
2. This conception constitutes one of the fundamental principles upon which domestic and foreign relations policies of the State of Kuwait are based. Since its inception, over 250 years ago, the State of Kuwait has endeavoured to create a society where human rights and liberties are protected. Against this backdrop, legislation was promulgated to stay apace with the development of such principles ensuring that the State of Kuwait adhered to them to the letter. This policy was crowned by the adoption of the 1962 constitution, only one year after gaining independence. This constitution, with its provisions, has become a comprehensive document that reflected all the civilized values and principles that Kuwaiti society believed in, respected and implemented. Within this context legislation was promulgated to govern the various aspects of daily life of individuals and society alike in a State where the rule of law and constitutional institutions ensured respect for human rights and fundamental liberties.
3. With this in mind, the State of Kuwait worked to enhance and strengthen ties with other members of the international community in an endeavour to contribute to the development of such rights and to ensure greater prosperity for mankind. To realize that goal the State of Kuwait pursued a number of avenues, prominent among them that of accession to international instruments. The State of Kuwait is now signatory to 14 conventions, including the covenant which is the subject of this report, the International Covenant on Economic, Social and Cultural Rights. The State of Kuwait ratified the Covenant by Law No. 11 of 1996 (3 April 1996) and the ratification was deposited with the Secretary-General of the United Nations in New York on 21 May 1996. The Covenant went into force on 21 August 1996 in accordance with article 27, paragraph 2.
4. The competent authorities in the State of Kuwait, in compliance with the provisions of article 16, paragraph 1, of the Covenant, stipulating that States parties undertake to report on the measures taken to promote such rights and progress achieved in their observance, have the pleasure to present to the Committee on Economic, Social and Cultural Rights its first report on the Covenant.
5. The report comprises two chapters, including a general preamble of four sections comprising information on land and population, the general political structure of the State, economic, social and cultural features, and general information on the legal framework for protecting human rights, and information and publication.
6. Chapter II covers legislative, legal and administrative measures taken by the State of Kuwait in accordance with the articles under parts I, II and III of the Covenant.

## I. GENERAL

### A. Land and population

7. This section provides detailed and accurate information on the demographic and population situation in Kuwait in addition to other information that a reporting State is obliged to adhere to in accordance with the guidelines governing country reports.

8. The State of Kuwait would like to make it clear that information requested under this section are documented in official publications issued by the competent Kuwaiti authorities. Since such publications cover the full range of such information, this report will refer to such publications and consider them as an integral part. They include the Ministry of Planning booklet (see annex 1),\* and the "Annual Statistical Volume - 1997" (see annex 2).

9. The above publications provide data and statistics on the following:

(a) Geographical location: The State of Kuwait lies north-west of the Arab Gulf between 28.30° and 30.06° latitude north and 46.30° and 48.30° longitude east. She is bordered by Iraq to the north and north-west, Saudi Arabia to the south and south-west, and the Arab Gulf to the east, with an area of around 18,000 square kilometres;

(b) The population, by nationality, education and gender, according to the April 1995 census is 1,575,983 inhabitants including 655,820 Kuwaitis (41.6 per cent) and 920,163 non-Kuwaitis (58.4 per cent). The 1998 census puts Kuwait's population at 2,270,865, including 786,010 Kuwaitis and 1,484,855 non-Kuwaitis;

(c) Government housing programmes and distribution of housing units by province;

(d) Labour force by sector, nationality and education;

(e) National revenue and expenditure. National income amounted to 10.21 billion Kuwaiti dinars (KD was equivalent to US\$ 4.3) in 1996, while per capita for the same year was put at KD 5,824;

(f) External trade, industry, agriculture, fisheries and livestock;

(g) Education in terms of number of schools, students by level and nationality, and adult education and illiteracy centres; and

(h) Health services in terms of number of hospitals, beds and staff in both the public and private sectors.

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\* Annexes can be consulted in the files of the secretariat. See list at end of document.

## **B. General political structure of the State**

10. This section deals with the various aspects of the general political structure of the State, in the forefront of which are the form of the State, the regime of governance and the Powers.

11. As far as the form of the State and the regime of governance are concerned, Kuwait is an independent and sovereign Arab State. The Kuwaiti people are part and parcel of the Arab nation. The religion of the State is Islam and the official language is Arabic. The regime of governance is democratic where the people are sovereign and are the source of all Powers. Sovereignty is exercised as stipulated in the constitution of the State. Justice, liberty and equality are the cornerstones of the Kuwaiti society where cooperation and empathy prevail among citizens.

12. To shed more light on the nature of the democratic regime in Kuwait, reference should be made to the explanatory note attached to the constitution. The constitution saw in this democratic regime a middle-of-the-road approach combining parliamentary and presidential forms of governance with a greater inclination towards the former, in view of the fact that a purely presidential regime is intended for republics. True to the genuine principles of democracy, the regime of governance in Kuwait adopted the tested and trusted constitutional principle of separating between the Powers without overlooking the need for their cooperation. The constitution forbade any of the Powers to delegate all or part of its powers to the other.

13. The Kuwaiti constitution, which includes five chapters, allocated chapter IV with its five sections to the question of "the Powers". At the outset it states that the Emir and the People's Assembly, in accordance with the constitution, shall head the legislature; that the Executive shall be headed by the Emir, the Council of Ministers and the ministers as stipulated in the constitution; and that the Judiciary be left to the courts, in the name of the Emir and within the limitations of the constitution.

14. Section two of the same chapter refers to the Head of State. His powers include, inter alia, the exercise of his executive authority through his ministers, the appointment and dismissal of the head of the Council of Ministers, assuming the role of Commander-in-Chief of the armed forces with the power to appoint and dismiss officers in accordance with the law, the adoption of regulations necessary for the implementation of laws and disciplinary measures, the adoption of rules governing the running of public institutions, and the appointment of civil servants, army officers and political representatives to foreign countries. In addition to the above, the provisions of the constitution provide for other powers for the Emir.

15. The legislature is headed by the Emir and the People's Assembly, which has 50 members elected through a direct secret ballot for a period of four years. The legislature is charged, in accordance with the constitution, with enacting laws. Article 79 states that no law shall be passed without the approval of the People's Assembly and the Emir. The Assembly has the power to propose bills and enjoys a supervisory role over the functioning of the Government. The Assembly also has the power to ratify international conventions and agreements entered into by the State of Kuwait under article 70, paragraph 2, of the constitution, in view of the importance of such instruments to the State.

16. Section three of the Kuwaiti constitution outlines the provisions relating to the legislature, and Law No. 12 of 1963 on the Rules of Procedure of the People's Assembly regulates the organization of work within the Assembly and other related matters. Law No. 35 of 1962 and its amendments, on the other hand, take care of the elections for the Assembly (see annex 3). The legislature has the widest scope of legislative competence.

17. The Executive branch is presided over by the Emir and the Council of Ministers, which controls the interests of the State, lays down government policy and supervises the conduct of functions in public departments. Each minister is charged with a portfolio and is responsible for implementing government policy through guidance and supervision of his own department.

18. The courts, in the name of the Emir, are in charge of the judiciary, the independence of which is guaranteed by the constitution and is enshrined in the laws. The integrity of the judiciary and judges is the basis for protecting rights and liberties. According to the constitution, no one can infringe upon a judge's decision, and the law guarantees the independence of the judiciary and rulings by judges. The Kuwaiti constitution contains a full section with 12 articles underscoring the principle of the independence of the judiciary.

19. Law No. 23 of 1990 was passed to regulate the functioning of the judiciary. It determines the types of courts and their degrees and organization, how the Higher Judiciary Council is set up and its mandate, the appointment of judges and their promotions, as well as the role and duties of the public prosecution service.

20. Driven by the desire to ensure greater independence of the judiciary, immunity and guarantees for judges to maintain the lofty status of the legal system, the legislature has amended Law No. 10 of 1996 (see annex 4).

21. As a means of supervision over laws enacted by the legislature and their compatibility with the constitution, article 173 of the constitution lays the groundwork for the Constitutional Court, with a mandate to settle disputes relating to the constitutionality of laws and regulations. The same article provides the necessary guarantees to the Government or other parties for recourse. It stipulates that, if the Constitutional Court were to rule that a certain law was in violation of the constitution, then that particular law would be null and void. This constitutional text was further strengthened by Law No. 14 of 1973 setting up the Constitutional Court.

### **C. Economic, social and cultural features**

22. The total area of the State of Kuwait is 17,818 square kilometres. The total population is 2,270,865 according to the 1998 census, including 786,010 Kuwaitis and 1,484,855 non-Kuwaitis. Population density was 124 inhabitants per square kilometre in 1998, compared to 98 inhabitants in 1996.

23. According to the 1998 census, the population in the 0-9 years age group stood at 400,045 inhabitants, including 239,409 Kuwaitis and 160,636 non-Kuwaitis. In the 10-24 years age group, there were 496,475 inhabitants, including 254,153 Kuwaitis and 242,322 non-Kuwaitis. In the 25-44 age group there were 1,061,090 inhabitants, including 197,540 Kuwaitis and 863,579 non-Kuwaitis. In the age group 45 years of age and above there were 313,204 inhabitants, including 94,785 Kuwaitis and 218,469 non-Kuwaitis.

24. National revenue in 1998 was 10.41 billion dinars, compared to 8.75 billion dinars in 1996. Per capita income was KD 5,824.

25. Illiterate inhabitants were put at 211,546, including 46,332 Kuwaitis and 156,414 non-Kuwaitis. Inhabitants able to read and write were put at 462,611, including 41,848 Kuwaitis and 420,763 non-Kuwaitis.

#### **D. General human rights information**

##### **The general legal framework that guarantees economic, social and cultural rights in the State of Kuwait**

26. It is worth noting that the political and legal systems of the principles and provisions governing basic human rights applied in the State of Kuwait are embodied in the constitution adopted on 11 November 1962. It is the main law of the State in which this system is enshrined in several areas, including the form of the political system, the foundations of society, rights and duties, and the separation between Powers. The Kuwaiti constitution, as such, is the political and legal umbrella under which human rights fall in the whole of Kuwait. Under this umbrella a host of legislation has been adopted guaranteeing human rights in political, civil, penal, economic, cultural and social domains as well as other areas related to human rights in Kuwait, taking into account the existence of other legislation governing the various aspects of daily life that date back to periods prior to the adoption of the current constitution. This legislation aimed at providing justice to the individual in Kuwait. Prominent among such legislation are the Penal Code and Penal Procedures Law, both of 1960.

27. The document declaring the adoption of the Kuwaiti constitution outlines the careful consideration given by the constitution to the principles of human rights. This document emphasized that the constitution was adopted to complement the foundations of democratic rule in the State of Kuwait and to bring about a better future based on prosperity and international recognition, to guarantee its citizens greater political freedom, equality and social justice, and to further uphold the Arab traits of pride, dignity, the interest of the public, consultation (*shura*) and the unity of the nation.

28. Against this background, the Kuwaiti constitution underscores the importance of human rights, giving them due attention and respect. Most chapters and sections in it touch upon the principles adopted by the international community and expressed in international instruments dedicated to such rights. The constitution highlights the following human rights principles in its chapters I and II:

- The people are the source of the authorities and sovereignty is to the nation (art. 6);
- Justice, liberty and equality are the cornerstones of society, and cooperation and empathy are the bonds that bring citizens together (art. 7);
- Protecting the family, motherhood, childhood and providing young people with good upbringing (arts. 9 and 10);

- The provision of social security to citizens in old age, illness or during incapacity to work (art. 11);
- Guaranteeing government-sponsored education (art. 13);
- Looking after science and literature and encouraging scientific research (art. 14);
- The right of individuals to ownership, the sanctity of State property and its protection (arts. 16 and 17);
- Protection of private property, where no expropriation of property is permitted except for public interest and in accordance with the law. Compensation in this case should be fair (art. 18); and
- The right to hold public office (art. 26).

29. Human rights principles covered by chapter III of the constitution, which deals with the rights and duties, includes a large number of the principles enshrined in international conventions relating to human rights. They are as follows:

- No person shall be deprived of their nationality except within the limitations of the law (art. 27);
- No Kuwait national shall be deported from his country (art. 28);
- Equality and non-discrimination because of colour, race, language or religion: All citizens are equal, in rights and duties, before the law (art. 29);
- Rights and freedoms such as individual liberty (art. 30), freedom of faith (art. 35), freedom of expression and scientific research (art. 36), freedom of the press, printing and publication (art. 37), freedom of private life and housing (art. 38), freedom of correspondence by mail, telegram and telephone (art. 39), the right to organize and freedom of association (art. 43) and the right to congregate (art. 44);
- No person shall be arrested, detained, searched or has his movement or residence restricted. No person shall be tortured or subjected to degrading treatment (art. 31);
- No crime or punishment unless based on the law (art. 32);
- A person is innocent until proven guilty in a court of law, where the right to defence lawyers is guaranteed (art. 34);
- The right to education: Primary education is free and compulsory in accordance with the law (art. 40);

- The right to work (art. 41);
- The prohibition of extraditing political asylum-seekers (art. 46); and
- Exemption of low-income groups from taxes (art. 48).

30. Principles covered by chapter IV of the constitution, in its sections one, two, three, four and five, sets out the basis of the regime of governance of the State, the three Powers, their competence and functions. Article 50 of the constitution underlines the separation between the Powers. Section five in this chapter lays special emphasis on the main principles governing the judiciary and its independence as a guarantor of rights and liberties. It states the following principles:

- The independence of the judiciary and immunities granted to judges (art. 163); and
- The right to litigation (art. 166).

31. From the above one can deduce that the Kuwaiti constitution encompassed a vast range of the principles in the Universal Declaration of Human Rights and other related international instruments, including the International Covenant on Economic, Social and Cultural Rights. The legislature goes even further. To ensure that such rights and liberties are properly protected and respected, a constitutional court was set up by Law No. 14 of 1973 to oversee the interpretation of constitutional texts and to settle disputes on the constitutionality of laws, decrees and regulations. This court's decisions are binding on all courts and individuals.

32. To put these advanced constitutional texts into effect, the State of Kuwait adopted the necessary legislation for the enjoyment of such rights. No effort was spared to ensure that such legislation were equitable, contemporary and compatible with the needs of the present era. They were intended to guarantee equality among citizens in the context of a modern State governed by the rule of law.

33. All this is backed by Kuwait's accession to a number of international instruments on human rights, the provisions of which were integrated into Kuwaiti laws. The most recent of such instruments include:

- The Convention on the Rights of the Child, ratified by Decree No. 104 of 25 September 1991;
- The Convention on the Elimination of All Forms of Discrimination against Women, acceded to by Kuwait by Emiri Decree No. 24 of 17 January 1994;
- The International Covenant on Civil and Political Rights, acceded to by Law No. 12 of 3 April 1996;
- The International Covenant on Economic, Social and Cultural Rights, acceded to by Law No. 11 of 3 April 1996;

- The Convention on the Prevention and Punishment of the Crime of Genocide, acceded to by Law No. 1 of 3 January 1995;
- The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, acceded to by Law No. 3 of 3 January 1995;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Law No. 1 of 16 January 1996; and
- The International Convention against Apartheid in Sport, acceded to by Law No. 15 of 14 July 1998.

### **Legal and administrative authorities with the mandate to deal with matters governed by the Covenant**

34. As far as the authorities charged with human rights issues are concerned, it is worth noting that Law No. 23 of 1990, as amended by Law No. 10 of 1996, laid two basic foundations for organizing the judiciary. The first is the comprehensive jurisdiction of the courts in the settlement of all disputes, civil, commercial, administrative, civil status and criminal. The reasoning behind such an approach is unifying the judiciary within the State with the aim of ensuring equality among those involved in litigation and avoiding the ensuing problem of deciding which court should deal with which case.

35. The second foundation is that law decides the specialization of courts, in terms of quality or value, and that there should be no lower legislative authority that should regulate or amend the work of the courts in compliance with article 164 of the constitution, which stipulates that only the law shall determine the function and competence of the courts. The above-mentioned law, in its third article, refers to the organization and levels of courts, including appeals courts.

### **Means of remedy and recourse available to individuals**

36. Any individual, claiming alleged violations of his rights in the State of Kuwait, has the right, in accordance with the provisions of the constitution and by law, to put his case to all Kuwaiti courts within their specializations. This is clearly stated in article 166 of the constitution, where the right to litigation is guaranteed to all. The law determines the procedures to exercise this right. Section five of chapter IV of the constitution includes a host of principles, which guarantee the individual that right.

37. Law No. 23 of 1990, on organizing the judiciary, contains numerous provisions related to the courts of law. They are intended to uphold the independence of the judiciary.

38. The law on criminal trials and procedures, on the other hand, regulates measures and requirements to launch criminal court action. It also provides parties to litigation all legal guarantees ranging from public hearings and the presence of a defence lawyer to other prerequisites provided for by Kuwaiti legislature, which is in line with international justice standards.

## **Implementation of international instruments in the State of Kuwait including the International Covenant on Economic, Social and Cultural Rights**

39. The implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights in the State of Kuwait falls under the mechanism outlined in article 70 of the constitution, which stipulates:

“The Emir shall enter into treaties by decree and shall immediately notify the People’s Assembly, providing the appropriate explanation for such entry. The agreement shall, after signing and ratification and publication in the Official Gazette, have the force of law. Treaties on peace, alliances, territory of the State, natural resources, sovereignty, citizens’ rights, public property, commerce, navigation rights, residence and other treaties that entail expenditure not allocated for in the budget of the State or [that] entail amendment to Kuwaiti law shall only come into force by law. Such treaties shall, in no circumstances, contain secret provisions contrary to those made public.”

40. This article shows that treaties entered into by the State of Kuwait have the force of law in the country. They are in the public domain and courts adhere to them. Consequently, Kuwait’s accession to the International Covenant on Economic, Social and Cultural Rights and the completion of constitutional procedures, entail the adoption of the Covenant as a national Kuwaiti law to be observed by all authorities at all levels.

### **E. Information and publications**

41. Article 70 of the Kuwaiti constitution, referred to earlier, stipulates that no treaty can come into force and become binding before the completion of all constitutional procedures and publication in the Official Gazette. The same article also exclusively lists the treaties that can only come into force by law.

42. Publication is the last phase in the legislative process. It is intended to enable the Executive to put any treaty into force. Laws are published in the Official Gazette within two weeks of adoption and come into force one month after publication. This time frame can be reduced or extended by specific provision in the law itself. A law comes into force once it is published in the Official Gazette and the designated time for entry into force had elapsed. Legislation, regardless of nature, must be published and such publication is tantamount to instructions to the competent authorities to implement that law. It is worth noting here that human rights treaties entered into by Kuwait, including the International Covenant on Economic, Social and Cultural Rights, were the subject of the above-mentioned procedure, and made public in the Official Gazette for all to learn of.

43. In conclusion, the dissemination of knowledge about human rights issues and the efforts being made by the State of Kuwait to perpetuate the lofty principles enshrined in international treaties on human rights constitute a fundamental approach to dealing with cultural and information policies. On the cultural level, human rights subjects have been introduced to the curriculum of schools and a number of academic faculties at universities. The media, print and audio-visual, has engaged in an intensive coverage to spread human rights issues and their noble principles among Kuwaiti society.

## **II. LEGISLATIVE, LEGAL AND ADMINISTRATIVE MEASURES TAKEN BY KUWAIT IN OBSERVANCE OF THE ARTICLES UNDER PARTS I, II AND III OF THE COVENANT**

### **Article 1**

44. This provision deals with the right of peoples to self-determination, and to protecting their natural wealth and resources. The State of Kuwait firmly believes that the right of peoples to self-determination is inalienable, as embodied in the Charter of the United Nations. It constitutes one of the main goals that the United Nations should endeavour to realize, and one of the principles according to which a number of nations won independence. It is, therefore, incumbent on all members of the international community to make a concerted effort to help nations still under foreign occupation, in their legitimate struggle to gain independence.

45. With this conviction in mind, the State of Kuwait has adopted positive stands in the international arena in this regard. She has supported international resolutions backing the right of peoples to self-determination and has played an honourable role in supporting the struggle of peoples for independence and the right to dispose of their economic resources.

46. The Kuwaiti constitution emphasizes the fact that all natural resources and their revenue belong to the State, and that it is for the State to protect and prudently exploit such resources, taking into account its security and economic interests.

47. The constitution also emphasizes that the national economy should be based on social justice, through striking a balance between the public and private sectors, with the objective of realizing economic development, increasing production, raising the standards of living and guaranteeing citizens' welfare. It equally makes reference to the fact that ownership, capital and labour are the main pillars of the social structure of the State and are a source of national wealth, and that they all represent individual rights of a social function regulated by the law. The Kuwaiti constitution guarantees private ownership and forbids expropriation of private property except in circumstances where public interest is involved. Then, the process is governed by the law to determine fair compensation. Public property in the State of Kuwait has its sanctity and every citizen is required to respect that.

48. Any obligation for the development of a natural resource or a public facility can only be entered into by law and for a specific period of time. Preliminary processes shall guarantee the rights of research and exploration operations, public tendering and competition. Any monopoly can only be granted by law and for a determined period only.

### **Article 2**

49. Article 2 of the Covenant stipulates that the States parties undertake to guarantee that the rights enunciated in it will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status.

50. In this context, the State of Kuwait would like to emphasize that Kuwaiti society, which is based on justice and equality, vehemently rejects all forms of discrimination and makes no distinction between men and women when it comes to the enjoyment of their rights.

51. All citizens are guaranteed, by the constitution, the full enjoyment of their rights without discrimination as to sex, colour, religion or age.

52. Article 7 of the constitution underscores this principle. It refers to equality as one of the pillars of Kuwaiti society. A similar reference is also made in the preamble, where equality is qualified as one of the cornerstones of society.

53. Article 29 details the elements of the principle of equality. It stipulates that all citizens are equal in human dignity before the law, in rights and duties regardless of sex, race, language or religion.

54. It is also worth noting the contents of the explanatory note, which interprets the above article. The note states:

“This article emphasizes equality in rights and duties in general. Special emphasis, then, is laid on the application of this principle by referring to non-discrimination as to sex, race, language or religion. The article chose not to include ‘colour or wealth’, although such reference is made in the Universal Declaration of Human Rights, because such reference was intended to deal with apartheid, which does not exist in the country. The text of the article suffices to refute any similarity. The fact that discrimination on the basis of wealth is non-existent in Kuwaiti society negates the need for a specific text.”

55. The Kuwaiti constitution, as respects human rights, also guarantees Kuwaiti nationals and non-Kuwaitis the same rights, except for rights enjoyed by Kuwaitis such as the right to vote and the right to ownership. Foreigners in the State of Kuwait enjoy the rights and liberties guaranteed in the constitution. These include freedom, individual security, humane treatment, equality before the courts of law and legal institutions, legal guarantees provided for by Kuwaiti law, the freedom to choose work, the freedom to leave and enter the country, freedom of faith and practice and other rights enshrined in laws applicable to Kuwaitis and non-Kuwaitis on the territory of Kuwait.

56. The State of Kuwait would like to refer to the explanatory declaration made when acceding to the International Covenant on Economic, Social and Cultural Rights. Regarding article 2, paragraph 2, and article 3, while the State of Kuwait fully endorses the provisions in both articles, which are compatible with the Kuwaiti constitution, namely article 29, the exercise of such rights falls within the limitations of Kuwaiti law.

### **Article 3**

57. This article calls for ensuring the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant. In response to this provision, the constitutional legislator, in the early part of chapter II of the constitution, stipulates that equality

is one of the main pillars of Kuwaiti society and that such equality is guaranteed regardless of sex or any other reason. Reference has been made earlier also to article 7 of the constitution on the principles of justice and equality.

58. To further illustrate the importance attached by the Kuwaiti legislator to the principle of equality, article 176 of the constitution prohibits any amendments to the provisions on freedoms and equality except when such changes are intended to widen the scope of liberties and equality. Article 29 also makes reference to the principle of equality, stating that all citizens are equal in their rights and duties before the law.

59. In other cases, the constitutional legislator underscores the significance of equality without using the term. Article 13, for example, stipulates that "education is a prerequisite for the development of society and is guaranteed and promoted by the State". Article 11 states that the State shall guarantee all citizens assistance in old age, illness and disability, and shall provide every citizen with social security and assistance, and health care.

60. Article 41, on the other hand, provides for the right of every Kuwaiti to work and the choice of work. Other articles under chapters II and III of the constitution make reference to the equal rights of men and women to education, work, social assistance and other rights.

61. The State has also paid great attention to women and, by doing so, has created an educated workforce in the various sectors. The constitution guarantees women the right to work and the choice of work and the freedom to be involved in business and professional activities. The State has also provided women with the opportunity of education at all levels, to assume public office on an equal footing with men, as well as the enjoyment of her role as a mother. Women enjoy all maternity benefits such as paid leave on giving birth, half-pay for maternity leave and other leave to look after her children while maintaining her post and grade. Women are also guaranteed half-pay and job security when accompanying their spouse on foreign duty. All these steps are part of Kuwait's drive to stay abreast of the developments in woman's status and the enjoyment of her rights.

62. It is worth mentioning here that women constituted 28 per cent of the labour force in 1996 in all sectors. This figure shows the awareness of society of the importance of the role of Kuwaiti women and the greater need for their playing a bigger role in the process of social and economic development. A table (see annex 5) shows the number of women in the education sector.

63. The role of Kuwaiti women is not confined to paid work. They are heavily involved in voluntary work through national societies covering a range of cultural, social, artistic and professional activities. Kuwaiti women also play a major role in following up and analysing the situation of women, the problems they face, and ways of resolving such problems in cooperation with Government agencies and civil society organizations.

64. The principles laid down by Kuwaiti society in dealing with women's issues have been translated into practical measures. Kuwaiti women, today, occupy senior positions in society. For the first time in the Arab world, there is a woman at the helm of a Kuwaiti university. There are also two women occupying the post of under-secretary at two ministries, Higher Education

and Planning. A larger number of Kuwaiti women are assistant under-secretaries, senior civil servants and directors on the boards of cooperatives. This trend is complemented by a range of benevolent organizations involved in women's affairs, which is an indication of the importance women's status assume within Kuwaiti society.

65. Against this background, it is clear that Kuwaiti society recognizes all citizens as equal in rights and duties regardless of their sex. The State of Kuwait, thus, has made every endeavour to accede to international anti-discrimination treaties including the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

#### **Article 4**

66. Article 4 stipulates that States parties should recognize that, in the enjoyment of those rights provided in conformity with the Covenant, the State may subject such rights only to such limitations as determined by law. The State of Kuwait would like to point out that the rights mentioned in the International Covenant on Economic, Social and Cultural Rights are fully recognized by the Kuwaiti constitution. They are clearly provided for in the provisions of the constitution (as will be explained item by item in detail in a latter part of this report) and underlined in the relevant Kuwaiti laws and legislation.

67. Exceptional circumstances and emergencies faced by the State, however, may lead to the suspension of some of the articles of the constitution, leading to the imposition of limitations on the rights in this Covenant. Article 181 of the constitution determines what circumstances may lead to suspension. It specifies the imposition of martial law and stipulates that only then can suspension be resorted to and within the limitations of the law.

68. In accordance with nationally and internationally recognized human rights laws, States may resort to imposing martial law to deal with emergencies. But such measures are the exception and not the rule. Such measures should be taken for a specified duration without prejudice to individual fundamental rights. The declaration of martial law, as explained by the memorandum on Kuwaiti martial law of 1967 signifies a transition from a normal situation to which citizens accustomed, to exceptional measures that deal with unusual requirements.

69. Kuwait, having made every endeavour to implement the principles of supremacy of the law and legal institutions in accordance with human rights, has only declared martial law on two rare occasions in its history. The first, in 1967 for a period of seven months. The second, in 1991 following the liberation of Kuwait from the heinous Iraqi invasion. That period was limited to the minimum possible period and lasted four months only, during which human rights standards were applied in accordance with international instruments and treaties.

70. It must be emphasized, however, that the Kuwaiti experience in dealing with such situations remains, according to international circles monitoring similar cases, one of the best examples. (For more information on this question, the State of Kuwait refers readers to the detailed report submitted to the Commission on Human Rights relating to minimum humanitarian standards in compliance with the Commission's resolution 1995/29, entitled "minimum humanitarian standards", adopted on 3 March 1995 (see annex 6).

### **Article 5**

71. The State of Kuwait does not interpret any of the provisions in article 5 in a manner that would undermine any of the rights recognized by this Covenant. Reference was made above to article 175 of the constitution, prohibiting any amendments to provisions relating to liberties and rights guaranteed by the Kuwaiti constitution, except when such amendments are intended to expand their scope.

### **Article 6**

72. Article 6 calls on the States parties to recognize the right to work. The Kuwaiti constitution guarantees this right and the State has a responsibility to provide work to all citizens able to work. Article 41 of the constitution states that every Kuwaiti has the right to work and to choose the type of work. It also states that it is the duty of every citizen to seek decent and productive work, while it is the State's responsibility to ensure just working conditions and remuneration.

73. Article 42 of the constitution stipulates that no individual shall be forced into working, except in circumstances specified by law for national interest and in return for a fair compensation. Article 22 of the constitution also stipulates that laws should be based on sound economic principles while taking into account the fundamentals of social justice in the relation of employers and workers.

74. In pursuance to these constitutional provisions, Law No. 15 of 1979, with its amendments, was promulgated by decree to regulate employment in the civil service sector. This law is applicable to governmental organizations and the bodies that are regulated by special laws or bodies not included under civil service laws. Such provisions do not apply to the military - army, police and National Guard - in which employment is governed by special laws.

75. Article 2 of the above law defines a government organization or body as a ministry, department or administrative unit with an allocation from the State budget. While a civil servant is defined as the individual employed by any government organ or body regardless of nature of work or post title. The law also governs the rights and duties of government employees. Law No. 20 of 1981 provides for the creation of a tribunal within the "macro" court to settle industrial relations disputes in the civil service.

76. As for the private sector, Law No. 38 of 1964 and its amendments take care of the regulation of employment, while Law No. 28 of 1969 deals with employment conditions in the oil industry. Both laws provide protection for workers on Kuwaiti territory. Such a policy is representative of Kuwait's endeavours to create a society based on social justice and welfare.

77. Law No. 38 of 1964 on employment in the private sector encompasses a host of legal and financial guarantees for workers. Similar provisions are included in Law No. 28 of 1969 on the oil sector.

78. Labour laws in Kuwait aim to set a bottom-line standard for worker protection in dealing with employers. Laws contain a variety of legal guarantees for workers. The first law in chapter V has special provisions on the employment of teenagers. It stipulates that teenagers can

only be employed when they have reached the age of 14 and after their completion of a certain level of education. This requirement is clearly emphasized in article 18 of the above-mentioned law. The prohibition applies to teenagers of both sexes. Other articles regulate the status of those wishing to acquire a professional skill in a particular industry. They are provided with specific training in a way that their rights are protected in accordance with international labour conventions.

79. Chapter VI deals with the employment of women. They take into account the situation of women and provide them with the necessary protection while guaranteeing them the conditions enabling them to strike a balance between their duties at the place of work and at home. Articles 23 and 24 of the law prohibit night work for women, employment in dangerous industries or in jobs hazardous to their health.

80. The law has determined working hours to be eight per day. Workers may work five consecutive hours with a minimum break of one hour before resumption of duties. In the case of taxing jobs, work hazardous to health or working in difficult weather conditions, hours are reduced. If extra hours above a normal working day are needed, the worker is entitled to 125 per cent remuneration per extra hour. Extra hours are meant to be the overtime a worker is asked to perform in writing having completed his normal shift.

81. The legislator has also borne in mind the need to guarantee workers a safe working environment and just conditions as part of the enjoyment of basic human rights as stipulated for in labour conventions. Labour laws require that certain conditions at the workplace as well as proper accommodation, transport, food, drink and supplies be met. The law also lays special emphasis on compensation for work injuries and professional illnesses in the line of duty. Further guarantees to worker safety are provided through inspection powers given to the Ministry of Social Affairs and Labour to ensure the implementation of labour laws.

82. Moreover, the State of Kuwait, in its drive to further guarantee worker rights, has ratified 15 international instruments adopted by the International Labour Organization (ILO), the most recent of which was Convention No. 159 (1983) on Vocational Rehabilitation and Employment (Disabled Persons), on 4 May 1998.

83. The State of Kuwait, in compliance with this convention and its noble objectives, had already passed, before ratification, Law No. 49 of 1996 on the welfare of the disabled (see annex 7). It includes a number of privileges and rights for the disabled intended to help them reintegrate into society. Public and private sector institutions, hiring 50 persons or more, are required by law to employ disabled workers at a rate of no less than 2 per cent of their Kuwaiti workforce.

84. Article 2, dealing with the scope of application of the law, permits the competent authority to apply the same provisions to disabled non-Kuwaitis resident in the country. The legislation underscores the humanitarian and individual aspects of the disabled. Hence, reference is made to "disabled persons" in line with contemporary terminology used in this regard.

85. Finally, it is important to note the binding nature of this law. Government departments and the private sector are obliged to hire the disabled. Civil servants or employers who refuse to employ a disabled person referred by a competent authority without justifiable grounds face a penalty of KD 500, as provided for in article 21 of the law.

86. While still on the subject of the right to work, the State of Kuwait would like to make it clear that there is no unemployment in the country in the economic meaning of the word. The rate of 4 per cent unemployment is due to voluntary redundancies for reasons of seeking better job opportunities. The Government ensures that job opportunities are provided to both men and women.

87. Out of the desire by the competent Kuwaiti authorities within the State to provide wider legal guarantees and rights to workers in line with the pertinent international labour standards, the Ministry of Social Affairs and Labour has embarked on drafting a new labour law. The draft legislation was examined by the three partners in the production process (Government, workers and employers) with technical assistance from the ILO. The State of Kuwait requested the organization to send experts to help formulate the draft law. The ILO commissioned Dr. Hatam Qatran to make final remarks on the draft before submission to the competent authorities for approval.

88. In conclusion, the State of Kuwait would like to emphasize that continued efforts are made by the State to create job opportunities in all walks of life while allowing the individual full freedom to choose the type of work compatible with his abilities. It is equally important to note here that drudgery and forced labour are prohibited in Kuwait. They are viewed as inhumane and constitute a form of exploitation that runs contrary to the Kuwaiti constitution and laws.

### **Article 7**

89. Article 7 calls on States parties to recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure the rights mentioned in its paragraphs.

90. The State of Kuwait, in this regard, would like to point out that employment in the public or private sectors alike involved good working conditions, high wages and the highest standard of living in the region. That is why Kuwait has become attractive for imported labour, with more than 600,000 employees from 138 countries employed in the private sector alone (see annex 8).

91. Law No. 38 of 1964, in its chapter VII, regulates the level of wages. The legislator has ensured that the definition of workers' wages, as the most fundamental right, was absolutely clear and that such a clear definition was essential to maintain healthy industrial relations between workers and employers.

92. In article 28, the law defines a wage as the basic remuneration gained by a worker in return for his work in addition to other benefits such as pay raises, bonuses, commissions, grants or periodic gratuities, which are viewed as an integral part of a pay package. These are the forms of remuneration the legislator saw fit to add to the basic wage to guarantee workers a decent standard of living. These benefits are defined as follows:

- Pay raise: An increase in wage given to the work for considerations such as seniority, inflation or added family responsibility;
- Bonus: Remuneration paid to a worker for extra efforts that may have contributed to reduction of operating costs, increase in profitability, prevention of loss or consistency in performance;
- Commission: Remuneration paid as a percentage of targets achieved by the employee;
- Grants: Remuneration paid to a worker at the end of a season, religious and national holidays or at year's end; and
- Gratuities: Payments by customers to staff for quality services rendered.

93. Article 27 of the Labour Law in Kuwait stipulates that women shall be paid a wage similar to that earned by men for the same type of work, a policy the State of Kuwait has adopted to ensure equality of pay regardless of sex, religion or race. This principle is also enshrined in article 29 of the Constitution: "All individuals are equal in human dignity and before the law. They are equal in rights and duties regardless of sex, race, origin, language or religion."

94. Against this background, an amendment to Law No. 38 of 1964 on employment in the private sector was adopted recently. Law No. 2 of 1997 amended article 2 of the former law where a number of categories were excluded from the scope of application. The decision was taken by Kuwait out of the conviction that change was necessary to eliminate any provision that may have been interpreted as a form of discrimination.

95. Law No. 38 of 1964 makes no reference to a minimum wage. The text leaves remuneration to agreements between worker and employer. The new labour law, however, bearing in mind the need to establish sound industrial relations, authorizes the minister to set a minimum wage in certain industries and for certain professions. In the public sector, wages are determined according to grades, qualifications, experience and the rules set in Decree No. 15 of 1979 and its amendments on the civil service.

96. When it comes to working conditions guaranteeing health and safety, the legislator guarantees workers just and safe working conditions as an acquired right as stipulated in the conventions of the ILO. Chapter IX of the Labour Law contains the obligations of employers towards workers in terms of protection measures in the working place as decreed by the Ministry of Social Affairs and Labour. Employers are required to carry out a medical test on workers after joining their enterprise. They must also ensure that workers receive proper accommodation, drinking water, supplies and transport for those who work in remote areas.

97. Meeting all health and safety regulations is guaranteed by an inspection regime provided by the labour inspectorate within the Ministry of Social Affairs and Labour. The inspectors enjoy powers bestowed upon them by article 95 of the Labour Law. It stipulates that industrial inspectors attached to the ministry are charged with ensuring that laws and regulations on safety and health are met.

98. Concerning equality in gaining promotion, it is based solely on merit and without discrimination. In every Government or private enterprise there is a designated body in charge of employment policy. Its duties involve the application of laws and regulations and the civil service code when it comes to recruitment, promotion, terms of employment and termination of service.

99. Rest and working hours provisions are determined by Kuwaiti law to be 8 per day or 48 hours a week, not including rest periods. Teenagers, however, have been singled out by the legislator to work fewer hours. By law, an employer can only make them work four consecutive hours before a break of one hour, and a maximum of six hours per day.

100. The law also authorizes the Minister of Social Affairs and Labour to increase or reduce working hours in a number of industries or sectors, or for some categories of workers as the situation dictates. Working hours in restaurants, hotels or hospitals may be increased, while in taxing or hazardous professions they may be reduced. But the law stipulates that if working-hours regulations are not met, then compensation is due to workers for overtime at 125 per cent of the going rate for a normal working hour. The worker must be instructed in writing to work overtime.

101. Law No. 104 of 1994 on overtime work (see annex 9) sets the regulations to be followed by employers on instructing workers to work extra hours. This legislation is in line with the Hours of Work (Industry), Convention No. 1 (1919), and the Hours of Work (Commerce and Offices) Convention No. 30 (1930). Kuwait acceded to both instruments on 21 September 1961.

102. Chapter VIII of the Labour Law, in article 36, covers workers entitlement to the number of leave days with full pay and paid annual holidays depending on years of service. It is worth mentioning here that the State of Kuwait on 21 September 1961 had acceded to the ILO Holidays with Pay Convention No. 52 (1936). This convention, along with other ILO instruments, acceded to by Kuwait, applies to all workers in the private sector.

103. The State of Kuwait would like to refer to the recent statement made by the ILO regional adviser on vocational training in Kuwait, Dr. Abou Bakr Abdin Badawi, to the local daily, *Al-Anba'*, in its issue No. 8115 dated 17 December 1998, where he pointed out that the ILO had not received any complaints on migrant workers from official or non-official sources inside Kuwait.

104. He also pointed out that the ILO had sent a special envoy to Kuwait on three occasions to help review the new draft labour law, and that the expert had made his remarks on the draft, which were taken into consideration before submission to the Council of Ministers (see annex 10 for this statement).

105. In conclusion, and in view of the statement made by the ILO representative in Kuwait, it is fair to say that workers in Kuwait enjoy a high degree of basic guarantees to work and to earn a living under laws that protect their rights and interests.

## Article 8

106. When it comes to the right to form trade unions, the Kuwaiti Constitution, in article 43, states that the right to form trade unions and federations on a national basis and through peaceful means is guaranteed in accordance with the conditions determined by law, and that no person shall be forced into joining a trade union or a federation. The Kuwaiti legislator also guarantees the right of individuals to form their own unions or associations and join the union or association of their choice without hindrance or coercion.

107. In observance of this constitutional principle on labour matters, Law No. 38 of 1964 was enacted and later amended to regulate work in the private sector. It deals, particularly in one chapter in detail, with workers' and employers' education. Article 69 refers to the right to form employers' associations and unions for workers. Associations or unions set up in accordance with the provisions of this law have a juridical personality. The same provisions apply to workers in the public sector.

108. As a result, 38 trade unions and employers' associations were formed in Kuwait (see annex 11), and a unions' general federation emanated from the process. The General Federation for Kuwaiti Trade Unions was created in 1986 in accordance with article 80 of the Labour Law, which also stipulates that unions and associations formed under this law can come under the umbrella of a general federation. Only one federation, however, is allowed in the country. The Kuwaiti legislator, through this provision, aims to create one workers' federation to be the focal point of all workers issues channelled by trade unions representing workers within the one enterprise or the one profession, and that such a federation would represent workers in international conferences. Workers, being one of the three elements of the production process, need to have their rights and interests protected.

109. The law outlines the categories that have the right to form unions. Article 70 states that workers in the same enterprise, one profession or linked industries are entitled to organize themselves into unions to defend their rights and interests, improve their financial and social conditions, and to represent them in all matters of concern to them. A closer look at this provision shows that the legislator has taken into account the professional interests of workers, freedom of association and their right to organize if they were in the same profession or in linked industries, so that such associations or unions can look after their interests and represent them.

110. The Kuwaiti legislator, on the other hand, has imposed some nominal restrictions on the forming of trade unions. Article 71 of the Kuwaiti Labour Law states that no trade union is allowed to form if it had less than 100 members and that only one union is permitted in any enterprise or profession. Such restrictions are in no way intended to undermine workers' rights. Rather, they aim to unify their stands and preserve their interests.

111. Article 74 of the Kuwaiti Labour Law, dealing with the general restrictions on forming trade unions, makes it a requirement that a minimum of 15 Kuwaiti nationals be members of the union before it is recognized. The legislator sees the need to have a core national labour force for any formed union, taking into consideration that Kuwait attracts a large number of migrant workers to meet the country's economic and social development needs. Moreover, this percentage is modest when one looks at the provision of article 71 on a minimum membership of 100 to recognize a trade union.

112. The same law, in Chapter XIII, sets out other nominal membership conditions. Article 72 prohibits association to a trade union for those under the age of 18 years. It also requires workers to obtain a good character reference certified by the Ministry of the Interior to join a union. Non-Kuwaiti nationals must satisfy the two previous conditions, have a valid work permit and have been in the country for the past five years. This is attributed to the fact that non-Kuwaiti workers' status is not permanent, and this condition aims to ensure that they had not committed acts contrary to social norms or public law in the country before joining a trade union.

113. As for the right of trade unions to establish national federations or confederations and their right to form or join regional and international organizations, article 79 of the Labour Law allows unions and associations, formed in accordance with its provisions, the right to form federations to serve their common interests. Only unions or associations representing the same sector, industry, profession or related industries producing goods of similar nature, are permitted to join in one federation. Article 80 of the same law permits unions and associations to form a general confederation. Only one general federation is permitted in the country for the reasons cited previously. This federation is the representative of all these unions and associations at international conferences.

114. Article 84, on the other hand, allows unions and associations to become members of Arab and international organizations with which they share common interests. They are required, however, to notify the Ministry of Social Affairs and Labour of their association within one week of admission to such organizations.

115. When it comes to the right of trade unions to function freely, this right is fully guaranteed and without any restrictions. By doing so, they are exercising their full rights, including that of expression of opinion in the way they see appropriate. Trade unions freedoms, nonetheless, are restricted by article 73 of the Labour Law, which prohibits them from involvement in political, religious or sectarian questions, in financial and property speculation, and accepting grants and donations without the permission of the Ministry of Social Affairs and Labour.

116. The legislator attributes such restrictions on involvement in political, religious and sectarian matters to the main objectives behind forming trade unions, namely, protecting workers' rights and interests within a labour framework and improving their social conditions regardless of nationality, religion or any other consideration. Such restrictions do not run contrary to what is stipulated in article 35 of the Kuwaiti Constitution, which guarantees the right to freedom of religion, practice and worship to all those on Kuwaiti territory without discrimination.

117. The ILO Freedom of Association and the Protection of the Right to Organize, Convention No. 87 (1948), emphasizes that the basic objective of the instrument is to protect trade union rights and protect the professional interests of workers without involvement in any activity outside the scope of specialization. The State of Kuwait acceded to Convention No. 87 on 21 September 1961.

118. As concerns paragraph 1 (d), the State of Kuwait had expressed its reservations on this provision. However, it must be pointed out that, from a legal standpoint, there are no legislative restrictions on the right of workers to strike to gain labour concessions. And the law does not

impose a ban on strikes except when they are likely to disturb the peace through resorting to riots and vandalism. Kuwait, like any other country, has the right to adopt legislation to guarantee public order and security without imposing a ban on the right to strike.

119. The fact that Kuwait had not adopted legislation to regulate strikes does not mean that strike action is prohibited, because in accordance with the legal rule acts not banned by the law are permitted. The labour law on the private sector does not refer, either explicitly or implicitly, to resorting to strikes. It neither guarantees such right as a healthy practice nor does it describe it as an offence punishable by law.

120. Workers, in various cases, may resort to strikes to force employers to meet their demands and to rectify working conditions, leading to industrial disputes between the parties. And because of the negative consequences of strikes and collective disputes on labour relations and the national economy, the Kuwaiti legislator, through Law No. 38 of 1964 on employment in the private sector, in its chapter XIV, laid the basis for the resolution of collective labour disputes by means of conciliation and arbitration.

121. Article 88 of the same law outlines dispute settlement measures as follows:

(a) Direct negotiations between employers or their representatives and the workers or their representatives. If an amicable agreement is reached it must be deposited with the Ministry of Social Affairs and Labour within seven days of conclusion in accordance with the steps prescribed by the Ministry;

(b) If no agreement is reached between the two parties, one or both parties or their representatives may apply to the Ministry of Social Affairs and Labour to intervene to settle the dispute;

(c) If the Ministry of Social Affairs and Labour fails to resolve the dispute within 15 days from application for settlement, the dispute is then referred to a labour arbitration committee composed of:

- A High Court of Appeals member nominated by the General Assembly of the court, to be chosen on an annual basis;
- A chief prosecutor appointed by the Attorney-General;
- A representative of the Ministry of Social Affairs and Labour appointed by the minister.

122. Both employers and workers or their representatives (not exceeding three) may appear before the tribunal. The tribunal's decisions are final and binding on both parties. This shows that the Labour Law has mapped out a way for the resolution of labour disputes without resorting to other means, through adherence to the steps outlined in article 88 of that law.

123. Strike action is not a criminal act. However, in compliance with article 8 of Convention No. 87 concerning the freedom of association and the Protection of the Right to Organize, which had been integrated into domestic laws since 21 September 1964, workers and employers and their organizations must respect the law before going on strike. This ultimately means that they should respect the provisions of article 88 of the law referred to earlier on the settlement of disputes.

124. Moreover, the State of Kuwait would like to outline some of the cases where strike action was taken without any attempt on the part of the authorities to prevent such action from taking place or suppressing it. These actions were not accompanied by acts of violence. Examples include:

- The strike by bank employees for better wages organized by the bank workers union in 1975;
- The strike by workers in the production sector and the fire brigade of the Kuwait Oil Company in January 1980. The same group of workers organized another strike in January 1981 in protest over demands to do other jobs in addition to their assigned tasks;
- The call for a strike by workers in the National Petroleum Company in 1983. The strike was later called off after the company agreed to meet some of the workers' demands and to refer the others to the conciliation committee at the Ministry of Social Affairs and Labour; and
- The strike by workers of the Kuwait Oil Company in 1994 because of the freeze imposed on staffing, and the strike by the workers of the National Petroleum Company in 1997 for the same reason. In both cases an amicable resolution was agreed and the outcome was deposited with the Ministry of Social Affairs and Labour.

125. For more details on this article, the Committee's attention is drawn to the report of the State of Kuwait of 1996 on the Convention on Freedom of Association and Protection of the Right to Organize No. 87 (1948), and the response of the State of Kuwait to the remarks by the ILO legal experts.

### **Article 9**

126. Article 9 recognizes the right of everyone to social security, including social insurance. In conformity with this article, the State of Kuwait endeavours to ensure that all Kuwaitis and non-Kuwaitis (in accordance with the law) enjoy social services provided by the State in line with the solid foundations Kuwaiti society was created upon, prominent among which is social solidarity.

127. Article 11 of the Kuwaiti Constitution stipulates that the State shall provide assistance to citizens in old age, sickness or disability to work and to provide them with social security, social assistance and health care.

128. The competent authorities within the State have, in observance of that article, adopted legislation to ensure the implementation of the provisions of article 11. The Ministry of Social Affairs and Labour plays a leading role in the process. The ministry provides homes for old people, for the disabled and handicapped as well as care homes for other special categories requiring special social assistance. Social care is not limited to financial assistance but goes as far as providing other services.

129. Special reference must be made here to the centre for mobile domestic care for the elderly, founded recently. It is expected that old people's homes would be closed down as part of the five-year plan of the Ministry of Social Affairs and Labour in view of the great success of the project of providing care to the elderly at home. The project is a pioneering one in international terms. The objective behind the project has been to provide old people with health, mental-health and rehabilitation care at home in the midst of the family (see annex 12).

130. The State also passed Law No. 9 of 1962 on public assistance, which is aimed at providing help to every Kuwaiti facing difficulty in life. This was followed by the adoption of Law No. 5 of 1968 to deal with the shortcomings of the previous law. On 4 July 1978, Law No. 22 of 1978 was enacted to regulate the entitlement to and method of granting public assistance to Kuwaiti families and individuals. Article 2 states that this law applies to Kuwaiti families and individuals entitled to such assistance in categories as decided by decree.

131. Law No. 22 of 1978 is intended to cover the main risks facing Kuwaiti families such as:

- Loss of the breadwinner (widows and orphans);
- Illness or disability of the breadwinner;
- Inability of the breadwinner to meet daily life expenses, and inmates' families; and
- Other cases such as families affected by calamity that do not fall into other categories.

132. The above law allows for additional assistance to families and individuals to meet specific burdens or to achieve specific social goals other than those mentioned earlier. To put the above law into force, a decree was passed to determine the amount of public assistance. Assistance, accordingly, was raised and categories to benefit from such elevated help were as follows:

- (a) Widows with children and no breadwinner;
- (b) Divorced mothers, following the period of grace decided by Shariah law, with children from the dissolved marriage and having no breadwinner in the family. The State is bound to provide them with a decent living;
- (c) Individuals over the age of 60 years without income or responsible for a spouse and children;
- (d) Families of prison inmates who were the breadwinners for their dependants. The State is responsible for the families' welfare;

- (e) Individuals with total or partial disability, aged between 18 and 60 years, who are unable to support their families;
- (f) Individuals suffering from an illness and unable to support their families;
- (g) Low-income individuals who are unable to supplement their income to support their families; and
- (h) Individuals enrolled in full-time education with no source of income.

The above categories receive assistance through 19 social units dispersed all over residential areas, each unit serving five areas.

133. The Kuwaiti legislator, out of humanitarian considerations, saw it fit that the public assistance law should cover Kuwaiti women married to non-Kuwaiti nationals and their children if the husband fails to find work on medical grounds or for reasons beyond the husband's control. The same assistance is provided to a Kuwaiti woman divorced from her non-Kuwaiti spouse. Law No. 54 of 1979, as an amendment to the public assistance provisions, introduced these two cases.

134. The State of Kuwait, out of the firm belief that social insurance is a basic right of individuals and a vital element in securing social stability, has also passed Law No. 61 of 1976, on social insurance, and its amendments. In this regard reference must be made to the explanatory note submitted by the State of Kuwait upon accession to the International Covenant on Economic, Social and Cultural Rights relating to this article. It points out that, although Kuwaiti legislation guaranteed workers, Kuwaiti or otherwise, their full rights, social insurance provisions applied to Kuwaiti nationals only.

135. Social insurance law covers all Kuwaitis in the public, private and oil sectors and is characterized by its comprehensive scope. It does not only cover the risks of death and old age, but also extends to disability and illness. It also covers those who do not have employers but choose voluntarily to enlist in the system. In such cases, employers, self-employed persons, freelancers, members of the People's Assembly and municipal councils, mayors and other categories may enjoy such benefits by a decision from the Minister of Finance.

136. In accordance with the above law, groups that may benefit include:

- Kuwaiti nationals working for an employer. For this group national insurance is mandatory;
- Kuwaiti nationals insured in accordance with article 53 of the National Insurance Law. They include members of the People's Assembly and municipal councils, mayors, freelancers and traders.

137. The army, the police and the National Guard are exempt from this law, but are subject to Law No. 27 of 1961 on salaries, pensions and bonuses for the military.

138. To complement the previous law, another piece of legislation, Law No. 11 of 1988, was passed to regulate social insurance contributions by expatriates and those who come under similar categories. Kuwaitis working locally or abroad, for an employer not subject to Law No. 61 of 1976, may voluntarily join the insurance scheme provided for in chapter III of that law without prejudice to the provisions of Law No. 11 of 1988.

139. Also, the State, driven by the desire to guarantee citizens an acceptable standard of living, passed Law No. 56 of 1989 on pay increases for beneficiaries for new children. This law was adopted upon the instructions of the Emir. Pensions for civil servants and the military are raised with the birth of every new child, even if the individual is no longer in the service.

140. Concerning work injuries the Labour Law of 1964 regulating the private sector deals with such injuries in its chapter XII. According to this law, a worker is entitled to full compensation for work injuries or diseases without the burden of proving that the employer or his representative is at fault, except in cases where injury is self-inflicted. An injured worker shall receive full wages while recovering from work-related injuries for six months, after which he is entitled to 50 per cent until he is fully recovered, pronounced unable to work or dead.

141. Kuwaitis and non-Kuwaitis serving in the public sector, are compensated for any injuries sustained in the line of duty in accordance with Council of Ministers' resolution No. 15 of 16 October 1983 and the Civil Service Office circular No. 15 of 1983. Special reference in this regard must be made to resolution No. 45 of 1995 concerning the case of a non-Kuwaiti nurse employed by the Ministry of Health for injuries sustained while on the job. She received compensation in the amount of KD 500.

#### **Article 10**

142. Article 10 recognizes that the family is the natural and fundamental group unit of society and that it should be accorded the protection of society and the State. The State of Kuwait has attached special attention to this, as reflected in the number of laws relating to the family. Such legislation aims to guarantee all families security and stability.

143. The Kuwaiti constitution, which is the legal framework of social legislation, has, in a number of provisions, outlined the principles and foundations on which Kuwaiti society is based. They all aim to protect the human being and his liberties and rights. The constitution also predetermines the responsibility of the State vis-à-vis the family and childhood as follows:

- Article 8: the State shall protect the pillars of society, guarantee security and stability and equal opportunity to all citizens;
- Article 9: the family is the foundation of society and is based on religion, morals and love of the nation. It shall be protected and strengthened by the law. The family shall protect motherhood and childhood;

- Article 10: the State shall protect children and young persons from exploitation and practices harmful to their morals, health or spirit; and
- Article 11: the State shall provide citizens with assistance in old age, in illness or in cases of incapacity to work. It shall also provide them with social assistance, social security and health care.

144. As far as the term “family” is concerned in Kuwaiti law, according to article 15 of the Civil Law, “the family of a person includes the wife and next of kin. Next of kin are those with a common origin”. This kinship is defined by article 16 of that law as direct kinship, which means the relationship between the origins and the races.

145. The State has taken it upon itself to provide protection, care and decent living to the family through:

- (a) The provision of appropriate family accommodation to guarantee privacy, security and stability;
- (b) The provision of free education to all out of the belief that education is important in improving the lot of the family;
- (c) The provision of free health care to all nationals and residents on its territory out of the belief that the protection of the family from disease and a healthy upbringing guarantees a strong and healthy society; and
- (d) The provision of assistance to citizens in old age or during sickness, and the provision of social insurance to all citizens in support of individuals and the family in general in anticipation of any future emergencies that may affect the structure of the family.

146. It may be useful at this juncture to refer to some of the objectives upon which social interdependence are based on to provide protection and ensure development of the Kuwaiti family in the State of Kuwait. They include:

- (a) Strengthening relations between social institutions and education, in other words between the family and the school, to nurture democracy in future generations;
- (b) Diversifying services rendered to children and young persons (social, health, sport);
- (c) Developing non-profit organizations and improving coordination among them to provide better services that are compatible with the needs of local communities and building family potential;
- (d) Providing preventive and remedial care to young persons and potential offenders through creating a healthy family climate; and
- (e) Strengthening the role of women in the process of economic and social development while emphasizing their role in caring for the child and the family.

147. To meet these objectives and others set by the State, the competent authorities within the State and within their mandate have taken the appropriate measures. With regard to special protection for mothers before and after childbirth, particularly working mothers, the State has provided maximum protection for the mother because of the fundamental role she plays in Kuwaiti society. In addition to the free health care referred to earlier, the Civil Service Law guarantees every employed mother a two-month birth leave with full pay, a maternity leave for four months at half-pay and a family care leave without pay after the earlier two.

148. On the other hand, the Labour Law provides additional protection for working women. Articles 23 and 24 prohibit night work and hazardous work for women. They are also entitled to fully paid birth leave for 70 days in accordance with article 25 of that law. In addition to the measures taken by the State in providing protection for the family, non-profit organizations complement this work by scientific, cultural and educational activities. These organizations take the form of sport clubs, societies, associations and care centres. Examples include the Kuwaiti Society for Child Welfare, the Women's Social and Cultural Society, the Islamic Care Association, the Bayader Al-Salam Society, the Science Club and the Kuwaiti Care Centre for the Disabled.

149. The Child and Mother Centre was set up recently to operate under the supervision of the Ministry of Education and the National Committee for Education and Science and Culture (UNESCO) as a liaison agency. The centre is intended to create the right climate for children to grow in Kuwait, especially in the wake of the Iraqi aggression on the country. It also aims to improve the quality of life of families through continued education and useful activities (see annex 13, comprising a number of monthly publications by the centre, as well as the joint project between the supervising bodies dealing with the rights of the child and women in Kuwait, 1998).

150. When it comes to protecting children from economic and social exploitation, the State has adopted a range of legislation to provide such protection. They are as follows:

(a) Juvenile Law No. 3 of 1983: This law provides for the creation of institutions and homes extending care to young persons. Such institutions are charged with drawing up care programmes and reform services for delinquents or vulnerable groups who are the victims of exploitation or lack of attention. These programmes aim to help offending young persons to change behaviour and attitude, reintegrate into society socially, psychologically and educationally through social, health, professional, scientific and religious services;

(b) Penal Law No. 16 of 1960: The provisions of this law are intended to protect children from all forms of violence, harm, physical or mental abuse, lack of attention, exploitation and sexual abuse. This law is very clear on severe punishment for perpetrators of such offences against minors;

(c) Family fostering law: The State of Kuwait has paid special attention to the status of illegitimate children and has endeavoured to regulate their cases through legislation. Law No. 82 of 1977 aims to encourage families to care for and help bring up children of unknown parentage with the help and supervision of the Ministry of Social Affairs and Labour in a way that would guarantee the rights of the foster child. This law is the strongest legislation yet to ensure that the rights of children of unknown parentage. Fostering here means that custody of a child, or more than one, is given by children homes affiliated to the Ministry of Social Affairs to

a foster family to look after and bring up on behalf of the State in line with the regulations and conditions set out by the law. The role of the fostering department at the Ministry of Social Affairs, set up by Ministerial Order No. 179/1993, is not confined to referring children to families alone, but also to follow up their cases while with foster families. If the foster family fails to meet the standards determined by the law the child is removed from their custody and is returned to a children's home;

(d) Law No. 97 of 1983: This law set the stage for the adoption of legislation to set up the Public Authority for Minors' Affairs, which is an independent body that comes under the direct supervision of the Minister of Justice. The authority has all the powers to act as a guardian or custodian. It exercises the following functions:

- Overseeing the interests of minors and unborn children who have no guardian or custodian;
- Overseeing the interests of individuals not in control of their faculties, missing persons or persons outside Kuwait where the courts have not appointed a guardian to manage their wealth;
- Supervising the execution of guardians and custodians of their duties;
- Managing the wealth entrusted to it; and
- The Authority looks after orphans by providing care and assistance on monthly, seasonal or one-off payments to those in need among them. It also organizes visits to those living in other Gulf and Arab countries to get acquainted with their living conditions, help solve their family and financial problems and extend assistance to them on equal footing with their peers living in Kuwait.

(e) Law No. 51 of 1984 on civil status: This law was passed on 7 July 1984 to deal with child protection. In chapters IV, V and VI of Part Three, it regulates custody, maintenance and independence respectively guaranteeing children care and decent upbringing. In addition to the above-mentioned laws, the State has worked to ensure that childcare is incorporated into national development plans as the case was in the five-year plan (1985-1986 to 1989-1990). The main objectives were:

- Ensuring care for children in pre-school age and working to accommodate all such children in kindergartens to expand their horizons while supporting their families and other institutions that contribute to child education;
- Providing a healthy environment free from pollution and degradation while ensuring that improved health services are guaranteed to all members of society with special emphasis on some categories like children, pregnant women, the disabled, the handicapped and the elderly;

- Extending necessary social services to children and orphans deprived of family care; and
- Expanding the scope of social, cultural and sport services to children and young persons.

151. In addition to the above measures and laws adopted to protect children and young persons, as referred to in article 6 of this report, the Labour Law contains a wide range of provisions on the employment of young persons. Article 18 prohibits the employment of persons of both sexes under the age of 14. By doing so, the legislator has set a minimum working age, the contravention of which would be punishable by law. Adulthood, set at 21 years by article 96 of the Kuwaiti civil code, entitles an individual to full legal independence.

152. For further details on this part of the report, the State of Kuwait would like to refer to its first report to the Committee on the Right of the Child (CRC/C/8/Add.35) and its first report on the International Covenant on Civil and Political Rights (CCPR/C/120/Add.1).

### **Article 11**

153. Article 11 recognizes the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing. The State of Kuwait, driven by its responsibility to provide stability and security and the minimum standard of living for its nationals, has promulgated a wide range of legislation aimed at providing social and economic security.

154. At the forefront of providing social services is housing. Since the early 1950s, the State of Kuwait has attached paramount importance to housing issues over a number of phases. This was crowned by the setting up of the Public Housing Authority by Law No. 15 of 1974. This authority has made outstanding achievements manifested in major construction projects, within the urban development framework, where a wide range of Kuwaiti families enjoyed a high standard of accommodation in terms of design and specifications (see annex 14 on the number of housing units and public utilities built by the State Enterprise for Housing Care in its first to fifth five-year development plans).

155. One of the most important developments in this process is the passing of Law No. 47 of 1993, which set up a public institution with an independent budget to overlook the housing sector. This body enjoys numerous powers, most prominent among them is the current and future allocation of plots, making land the main capital of this institution. It has the power to acquire property and to dispose of estates, set up holding companies or investing in other companies, as well as the right to invest in housing care ventures.

156. In addition to the role played by this authority in providing housing and plots of land to citizens, there are housing loans in the range of KD 70,000 to help them build their own houses on land of their own choice or plots provided by the State in a queue system. The Loans and Savings Bank is charged with the provision of such loans.

157. As regards the right of everyone to be free from hunger, to improve methods of production and the methods of distribution of food and the reform of agrarian systems, the State has ensured that basic commodities and foodstuffs are available at acceptable prices, by the policy of subsidizing prices in relation with the increase in standards of living.

158. The Ministry of Trade and Industry, acting on behalf of the State, provides needed goods and basic commodities at subsidized prices. These include rice, sugar, milk, vegetable oil and children's food. Construction materials are also subsidised. An attached table lists the quantities of subsidized goods and the amounts of subsidies during 1997 (see annex 15).

159. The Ministry of Trade also issues ration coupons for needy families on a voluntary basis. By the end of 1995, the equivalent of 94,882 coupons were distributed, benefiting 891,113 individuals, 63 per cent of whom were Kuwaiti nationals. The attached table shows the number of coupons and the numbers of Kuwaiti and non-Kuwaiti persons benefiting from the system (see annex 16). Ration coupons are one of the means resorted to by developed nations to ensure food security for their citizens.

160. Moreover, the State provides interested citizens with plots of agricultural land and financial support for reclamation and cultivation, and the production of agricultural produce. The State Enterprise for Agriculture and Fisheries is charged with regulating the distribution process and the financing of agriculture-related research. Important strides have been made in this area, contributing to the realization of self-sufficiency and competition with imported produce.

161. The State of Kuwait, driven by the sense of international duty to contribute to the development needs of developing and least developed countries and to alleviate poverty worldwide, has also set up a number of specialized bodies and institutions to extend economic aid to such nations to enable them to fulfil their economic and social programmes.

162. In 1961, the Kuwaiti Fund for Arab Economic Development was founded, with the aim of providing assistance and loans to Arab and other developing countries to enable them to execute development programmes. It is worth noting here that the fund is a non-profit organization and provides soft loans with negligible interest rates for development purposes in the Arab world and in other developing countries. The attached booklet lists the achievements of the fund in the humanitarian domain and includes the 36th annual report of the fund for 1998 outlining the activities undertaken and projects financed (see annex 17).

163. In 1982, the Kuwaiti Zakat House was set up to channel funds accumulated from legal *zakat* banks towards projects serving the public in accordance with Islamic Shariah. The House, since its creation, has provided multifaceted assistance to individuals and institutions in need domestically and abroad. At the national level, financial and in-kind assistance and interest-free loans have been extended to needy families, widows, orphans, the elderly, the sick and low-income households (see annex 18 for the annual report of 1997, with a summary of domestic and foreign assistance granted).

164. The State did not confine its efforts to the setting up of the above-mentioned bodies. It went further by taking initiatives at the international level when, in 1988, His Royal Highness the Emir called at the United Nations for the cancellation of all foreign debts incurred by the

developing nations. In October 1990, while Kuwait was still under the heinous Iraqi occupation, His Highness ordered the cancellation of all interest due to the State of Kuwait and a review of the debts of by the least developed nations. As part of Kuwait's commitment to the international community to cancel debts, the State of Kuwait adopted Law No. 4 of 23 January 1995, according to which debts by the Arab Republic of Egypt and the Syrian Republic were cancelled as well as interest to other developing nations.

165. Kuwait's stand in this regard is compatible with the right to development and has held the view that the debt burden constituted an obstacle in the way of sustainable development as was underlined by the international consultations of 1991. The consultations emphasized the importance of the enjoyment of the right to development as a human right and that the debt burden, having dire consequences for the poorer and least developed countries in particular, affected such rights.

166. The State of Kuwait is at the forefront of donor States. Total contributions to poor nations and developing countries represented 4 per cent of the national income, amounting to more than US\$ 1 billion annually. The role of economic and social assistance does not stop with State institutions. The State encourages private charitable organizations and institutions to provide aid to nationals of other countries (see annex 19 for a summary of study on the role of Kuwaiti charities, their names and their assistance to developing nations).

#### **Article 12**

167. Article 12 recognizes the right of everyone to the enjoyment of the highest attainable standard of mental and physical health care. The State of Kuwait has paid particular attention to this right, as indicated in the constitutional principles that guarantee and provide for health care. The pertinent laws uphold the same principles.

168. Article 11 of the constitution stipulates that the State shall guarantee assistance to citizens in old age, illness and inability to work, and shall provide social security, social assistance and health care.

169. Article 15 of the constitution stipulates that the State shall be responsible for public health, disease prevention and treatment of disease and epidemics. The Ministry of Health is the designated government body to discharge such duties. The ministry, as the supervising body in charge of health matters, is also responsible for supervising the work of all other institutions and individuals whose work is health-related to ensure the highest standard of services.

170. In addition, the Government has set up maternity and child centres all over Kuwait to design projects and draw up programmes to protect children from disease and epidemics that may affect their growth and lives. They are also responsible for launching awareness campaigns for all segments of society on the dangers of disease on public health. The most recent of such programmes was the two-phase national polio campaign, which covered all children in Kuwait. As for primary health care, the State of Kuwait pays particular attention to the reduction of infant mortality rates and combating their causes. In 1994, the rate was reduced to 11.2 per thousand births.

171. As far as measures taken by the State in combating malnutrition and epidemics are concerned, it is important to emphasize that all preventive and clinical health-care services, primary or otherwise, are free of charge. Vaccines and immunizations are also free of charge, contributing to the absence of polio and diphtheria cases in the past few years and a reduction in the occurrence of cases related to communicable diseases (see annex 2, page 283 of the 1997 statistical volume).

172. When it comes to malnutrition, the State attaches special importance to child nutrition and the provision of healthy food, especially at schools, thus eliminating cases of malnutrition among children.

173. The State has also ensured that clean drinking water is available to all the population at home. Law No. 12 of 1964 covers the prohibition of pollution caused by oil slicks in navigable waters, bearing in mind the consequences of such pollution on water resources and public health, in view of Kuwait's dependence on the desalination of seawater for drinking purposes.

174. The State has also promulgated a wide range of legislation and laws to regulate environmental and industrial health, including Law No. 62 of 1980 on the protection of the environment, according to which the Environmental Protection Council was set up and charged with overseeing the protection of the environment. Then, Law No. 21 of 1996 was adopted and amended by Law No. 16 of 1996 to set up the Public Authority for the Environment, which inherited the mantle of the former agency. One of the main objectives of the new body has been to mitigate the negative effects of industrial and urban development on the environment and subsequently on human beings, especially when it comes to health, social and psychological aspects (see annex 20, containing the law setting up the authority and its mission statement).

175. The importance attached by the State to environmental issues is reflected by the appointment of the First Deputy Prime Minister and Minister of Foreign Affairs as head of the board of the authority, and the membership of three ministers, including the Minister of Health, as well as other members qualified in the area of environmental protection. Decree No. 215 of 1996 governs the appointment of board members.

176. In the same vein, the State of Kuwait has entered into a number of international treaties relating to the environment (see annex 21 for a list of international instruments entered into by Kuwait).

177. In addition to the earlier statement on the provision of the highest standards of physical mental health care, the State has adopted a policy of disseminating sound health practices among citizens and information about the dangers posed by some diseases. The Ministry of Health has published a number of booklets and flyers and had them distributed free to health centres and schools. They outline measures that citizens can take for protection against and treatment of such diseases. The Ministry also organizes seminars and lectures for students to give them guidance on public health-related matters.

178. The State of Kuwait also celebrates World Health Day in coordination with the World Health Organization (see annex 22, containing a number of publications celebrating the event of 1998).

179. The State strives to ensure the enjoyment of the right to health, including the rights of the disabled as was pointed out earlier in this report. Law No. 49 of 1996 guarantees such rights. Under chapter II, there are 13 articles dedicated to the provision of continued prevention and treatment locally and, if need be, abroad to mitigate the consequences of disability during pregnancy and after birth. The State celebrates 3 December of each year designated by the General Assembly as International Day of Disabled Persons (see annex 23 for a special publication on the day).

180. The State has set up a health development endowment fund affiliated to Public Endowment Secretariat. The Fund, driven by the motto "awareness is the path to prevention", endeavours to disseminate information about diseases and methods of prevention through booklets and leaflets. The role of disseminating awareness of and warnings against dangerous diseases and epidemics to protect human life is not confined to the Ministry of Health. Other bodies play an effective role. The Kuwaiti Medical Association and the Patient Assistance Fund are but a few of the civil organizations involved in raising the levels of health awareness. They are also involved in combating the AIDS epidemic, which has become rampant and dangerous worldwide.

181. The State, for its part, guarantees the needs of AIDS victims and has set up a national AIDS committee to coordinate efforts in this area relating to prevention from the syndrome (see annex 24 for publications from 1998). The committee has already organized five international conferences on AIDS.

182. Equally, the State endeavours to provide the highest standards of health services by providing comprehensive coverage to all citizens without any discrimination. Plans and programmes are drawn up to maintain physical and mental health for all. Specialist and general hospitals and clinics as well as health centres are found throughout the country. Government expenditure on the health sector, last year, reached KD 287.5 million (see annex 25, with the 18th report on cost analysis and performance appraisal of the public health sector, 1995-1996, in Arabic, and the 17th report, for 1994-1995, in the English version). These reports show the efforts made by the State in the medical and technical areas in the form of well-documented statistics and based on actual data provided by hospitals and clinics. This demonstrates the State's desire to provide the best health services to citizens.

183. The State of Kuwait would like to note the fact of UNICEF placing Kuwait among the top world nations in terms of child and health care. It makes clear that Kuwait has made tangible progress in protecting children and women. Reference is also made by UNICEF to Kuwait's success in the reduction of infant mortality and the quality of healthcare provided by the State.

### **Article 13**

184. Article 13 recognizes the right of everyone to education and learning. Kuwait attaches paramount importance to education and learning out of the firm belief that they are the prerequisites of creating a culturally and ideologically balanced individual, enabling him to play a constructive role in all walks of life.

185. Against this background, the Kuwaiti constitution guarantees this right. Article 10 stipulates that the State shall ensure the decent upbringing of young persons and their protection from exploitation and moral, physical and spiritual decadence. Article 40 of the constitution guarantees all Kuwaitis the right to education within the provisions of the law and ethics, and that primary education is compulsory and is provided free by the State.

186. Within this context, the State of Kuwait has passed a number of basic laws and regulations relating to education and learning as follows:

- Law No. 1 of 1965 on compulsory education, according to which free compulsory education shall be provided to all Kuwaiti children, male and female, from primary schooling to the end of intermediate education. The State is bound to provide buildings for schools, books and teachers, and all other human and material resources required for the success of compulsory education;
- Law No. 29 of 1966 on regulating higher education, pursuant to which the University of Kuwait was founded;
- Emiri Decree of 7 January 1979, through which the competence of the Ministry of education in running the educational process up to the secondary level;
- Decision No. 10664 by the Minister of Education of 1967 on private education;
- Law No. 4 of 1982 on the eradication of illiteracy, which makes it compulsory for all Kuwaiti males between 14 and 40 years of age and for Kuwaiti females between the ages of 14 to 35 to enrol in an illiteracy-eradication programme;
- Law No. 63 of 1982 on the setting up of the Public Authority for Education and Applied Training;
- Law No. 4 of 1987 on public education; and
- Emiri Decree No. 164 of 1988 on the Ministry of Higher Education.

187. Moreover, a number of decisions and rules aimed at raising the levels and standards of education and learning were adopted to meet the objectives set out in the constitution. Education and learning in Kuwait are subject to the most stringent criteria of planning and study, utilizing different bases and directives to ensure positive outcomes in supporting the educational institutions. To that end, a study on the initial future strategy in education up to the year 2025 was commissioned in 1998 and was published recently. Among the main pillars of the strategy have been a review of the past educational process in Kuwait and the trends for rectifying that process, as well as the advice provided by international, regional and Arab organizations and experts on education efforts in Kuwait and on other contemporary educational experiences and their pros and cons.

188. Added to this scientific and objective approach, aimed at surmounting any shortcomings in application, the State provides for generous financial subsidies to public and higher education. In 1997-1998 allocations to the education sector stood at 10 per cent of the State's annual budget amounting to KD 4.5 billion. It is worth noting that primary and intermediate education is both compulsory and free while secondary, technical and vocational education is also available to all at no cost.

189. Higher education in Kuwait revolves around three main and independent institutions. They are:

- The Ministry of Higher Education, which deals with university education and is responsible for scholarships abroad at bachelor's and master's degree levels;
- The Public Authority for Education and Applied Training, in charge of vocational and scientific education for a period of two years after secondary schooling, four-year diplomas after secondary education or technical qualifications for holders of intermediate education certificates; and
- Higher education at the University of Kuwait leading to a bachelor's degree after four years following the completion of secondary education. This may be followed by a master's degree or a doctorate in certain areas of specialization.

190. The State guarantees free higher education to all citizens based on the conditions of eligibility set out by the above institutions. There is no clear evidence of imbalance in the availability of opportunity on geographical or social groups and categories. It must be noted, however, that at the University of Kuwait female students represent a majority, with 64.5 per cent of entries. This is attributed to the higher number of males studying abroad and the higher percentage of females graduating from secondary education, which is an indication of their superior performance. Female students stand ahead of their male counterparts by 54 per cent to 46 per cent at the Public Authority for Applied Training. (For more information on this question, reference is made to the national reports on the development of education in Kuwait (1994-1995, 1995-1996) to the forty-fifth session of the international conference on education in Geneva. A copy of the English version of the report is attached in annex 26. It contains details and statistics, and all that relates to education and learning in Kuwait.)

191. As for encouraging persons who did not receive basic education or did not finish primary schooling (illiteracy eradication), the State passed Law No. 4 of 1981 on the compulsory eradication of illiteracy. This law has put an end to the many problems facing the struggle for the total eradication of illiteracy. Before its promulgation efforts were made, some of which reduced illiteracy levels drastically, illiteracy rates of 52 per cent for women and 36 per cent for men in the 10 years of age and above category were recorded. Joining illiteracy-eradication centres was then voluntary.

192. These rates, however, and despite all the efforts put in, were by 1981 incompatible with Kuwait's ambitions of staying abreast with the process of development in the various fields. This state of affairs required the adoption of the above law to lay the groundwork of illiteracy eradication from a different perspective. Article 1 states that "the eradication of illiteracy is a

national responsibility aimed at providing illiterates with a degree of education sufficient to raise their cultural and social levels to enable them to contribute to self-development and that development of society and face up to the requirements of life". A careful look at this article shows the different view taken in dealing with illiteracy.

193. It is no longer an educational problem affecting some categories within society, one that the State had to deal with to end illiteracy. Rather, the mission had to be extended to provide illiterates with cultural and social development opportunities to enable them to contribute effectively to comprehensive development plans. To emphasize this aspect of the process, illiteracy eradication has been linked to adult education to enable those with the desire and potential to complete the various stages up to university level or beyond as indicated in the 1997/98 education calendar (see annex 27).

194. The law has taken into account the conditions of illiterates and has endeavoured to help them overcome problems preventing them from enrolling. Article 8 allows attendance during official working hours. Article 20 of the law imposes penalties of up to KD 100 on employers found in contravention of this article. It is also mandatory on all employers to report the number of illiterate workers to the Ministry of Education, while articles 15 to 19 makes joining illiteracy centres and passing exams a prerequisite for employment in civil service and for promotion purposes. Rules and regulations also provide for bonuses and rewards for those who excel or pass exams, with special emphasis on women.

195. After this summary of Law No. 4 of 1981 on the eradication of illiteracy, the campaign was complemented by an Emiri Decree issued on 22 February 1981 setting up "the Committee for the Eradication of Illiteracy", headed by the Minister of Education and two other members representing other related ministries, representatives of popular and civil organizations and specialists in the field. Other subcommittees emanated from the main body by ministerial decision No. 92/1981. They covered information, statistics, technical, health and social activities. Each of these subcommittees launched its own studies on the impact of Law No. 4 of 1981 to foresee the objectives of the campaign, for submission to the main committee.

196. Based upon the various studies submitted, the main committee adopted and the minister passed a number of decisions, prominent among which were:

- Ministerial decision No. 29/82 on illiteracy testing standards and dates of exams;
- Ministerial decision No. 20/82 determining permitted circumstances for missing classes;
- Ministerial decision No. 31/82 on the definition of an illiterate person: an illiterate is "any individual aged 14 years or above and not able to reach the equivalent of fourth grade primary education level of reading and mathematics and no longer enrolled in primary schooling";
- Ministerial decision No. 32/82 on the regulations determining the level of those who read and write but did not obtain a literacy certificate (see annex 28 containing the illiteracy eradication law and the above-mentioned decisions).

197. This serious approach led to the opening of a number of illiteracy eradication centres countrywide. The number of such centres later doubled, with more than one centre allocated to areas where illiteracy is higher, with morning classes for housewives (see annex 29 for a summary of the main statistics on education in Kuwait for school year 1997/98, including numbers of centres, classes, students, teachers and levels at adult education and illiteracy eradication centres).

198. To sum up this point, it is worth pointing out that in the new structure of the Ministry of Education an advisory council, with a secretariat, on adult education and illiteracy eradication has been set up to implement the decisions and recommendations of the council for 1993/94 (see annex 30 on some of the publications of the Ministry of Education regarding illiteracy).

199. As a result of the efforts made by the State of Kuwait, illiteracy figures have dropped as follows:

- 1965: 57 per cent (42 per cent of men and 72 per cent of women);
- 1980: 39 per cent (27.4 per cent of men and 50.5 per cent of women);
- 1985: 26.6 per cent (17.5 per cent of men and 35.6 per cent of women);
- 1988: 20.3 per cent (11.7 per cent of men and 28.8 per cent of women); and
- 1994: 8.3 per cent (4 per cent of men and 12.5 per cent of women).

200. It is worth noting that, 18 years after the launch of the illiteracy-eradication campaign, illiteracy rates in Kuwait have been reduced for both sexes. The 1998 census found that illiteracy levels among men bound by the law to enrol was below 1 per cent and no more than 4 per cent of the male population. The women's illiteracy rate, on the other hand, was put at 11 per cent in general.

201. Finally, Kuwait has adopted future plans and objectives to ensure the full eradication of illiteracy. They include, inter alia, the following:

- A draft law on the two-tier system, intermediate and secondary;
- A draft law on community service programmes providing adult education and illiteracy eradication centres. The bill is intended to introduce electrical, motoring, computer and decoration courses to such centres; and
- Concluding work on a study for a comprehensive school (literacy, intermediate and secondary). The ultimate objective set by the State of Kuwait was to fully eradicate illiteracy by the year 2000.

202. As regards the paragraph on teaching staff, teachers enjoy a prominent position in the educational strategy of the State of Kuwait to the year 2025. Priorities in the strategy are given to teachers' professional and social stability, to encourage dedication to the profession,

incentives and guarantees, the creation of an environment that would attract the best graduates and maintaining highly qualified staff with special emphasis on non-Kuwaiti teachers, who represent an important asset in educating future generations.

203. The State of Kuwait also endeavours to highlight the role of teachers in the building and development of society. Teachers are rewarded for their work by celebrating their contribution at every occasion. Kuwait takes part in the events commemorating world teachers' day. In October 1998, the Minister of Education attended the one-week event when 214 teachers received commendations.

204. Teachers in Kuwait enjoy moral and in-kind benefits, among which are:

- Half-term and end-of-term holidays as well as public holidays;
- In-service training courses, scholarships, and study leave at home or abroad with full pay;
- Female teachers are entitled to a special birth leave of one to two months with full pay, and a special maternity and family leave from six months to four years;
- Offspring of non-Kuwaiti teachers are subject to the same admission conditions to public schools as their Kuwaiti peers; and
- Teachers charged with giving extra classes are entitled to compensation.

205. In addition to the above perks, teachers' pay, compared to that of other civil servants, is complemented by other advantages. While the latter get basic salary (based on academic qualifications) plus bonuses and representation allowances for first grade and above, teachers receive, in addition to a basic salary and social allowances, the following:

- Incentive bonus paid monthly by category in a range from KD 65 to KD 125;
- Teaching allowance of KD 15 per month;
- Supervision allowance for those who supervise and provide guidance in public schools. A senior teacher and technical supervisor, a deputy head teacher and a head teacher and similar category receive KD 10, 15 and 20 respectively, per month;
- Grade allowance ranging from KD 45 to 145 per month depending on seniority and qualifications; and
- Academic qualifications allowance of KD 50 for PhD-holders compared to KD 30 for similar qualifications in the civil service, and KD 25 for master's-degree holders. Civil servants with a master's degree do not get such an allowance.

206. Finally, the State of Kuwait is in the process of adopting supplementary measures to improve the conditions of teachers. The Civil Service Board has approved the payment of:

- Remote areas allowance. The competent authorities (the Ministry of Education), at present, determine which areas are considered remote and the rules of eligibility for such an allowance;
- Rare specialization allowance of KD 50 per month, determined by the ministry concerned and subject to the approval of the board.

207. In conclusion, concerning teachers, it is important to note that the State endeavours to encourage and provide incentives to all teachers. Only recently a decision was taken to award non-Kuwaiti teaching staff a KD 15 monthly allowance and KD 60 per month in accommodation allowance as from 1 September 1996. As for teachers on secondment from other Arab countries, they are awarded an accommodation allowance of KD 120 per month, KD 1,000 in furnishing allowance upon arrival into the country as well as a secondment allowance of KD 525.

208. As regards the paragraph on the liberty to choose non-public schools and the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the minimum standards as laid by the State, the State of Kuwait endeavours to provide every individual Kuwaiti or resident with an education opportunity. Everyone has the liberty to choose the form of education they desire. In Kuwait there are private Arab schools and schools for all other non-Arab communities serving residents on Kuwaiti territory. There are no impediments to establishing private schools except for the conditions set for the applicant.

209. In 1996/97, the number of Arab schools in Kuwait reached 137 and they adopted the public schools curriculum. In the same period there existed 154 foreign schools with curricula depending on the community served. There are English, American, French, Indian, Iranian, Pakistani and other schools. There are schools run by the foreign embassies which are intended solely for the offspring of diplomats. There are Japanese, German and Czech schools. All these (private) schools are subject to the supervision of the Ministry of Education, Private Education Administration, as provided for by ministerial decision No. 322 of 1973.

210. Moreover, there are other, special-needs schools for those with mental or physical impediments preventing them from joining the mainstream system of education, such as the deaf, the speech-impaired, the blind and polio victims. They are taken care of by the special-needs administration. In 1996/97, there were 32 special needs schools (see annex 31 for some of the publications of the Ministry of Education on care provided to those with special needs). For further details on this topic, see State of Kuwait's 1995-1996 report on development in the education sector (referred to earlier at the outset of this article), which was submitted to the forty-fifth International Conference on Education held in Geneva.

#### **Article 14**

211. Article 14 calls on State parties to secure compulsory primary education free of charge. Kuwait, as indicated earlier, attaches special importance to meeting this objective, especially when it comes to primary education.

212. Article 40 of the constitution states that education is a right guaranteed to all Kuwaitis by the State in accordance with the law and within the limitations of public order and moral standards, and that education is compulsory and free of charge in the preliminary level as stipulated for in the law. An interpretation of the intention of the constitutional legislator shows that what is meant by “preliminary level” of compulsory education is up to intermediate education, which means that primary education is included. And since this level of education is compulsory, the State is obliged to provide it free of charge. It is unimaginable that, in addition to being compulsory, parents should have to bear the cost. The constitution, however, did not bar the principle of free education from being extended to other levels as the case is now in Kuwait. Education is provided to everyone in society without distinction between Kuwaiti and non-Kuwaiti nationals.

### **Article 15**

213. Regarding article 15, the State of Kuwait makes every effort to guarantee everyone the right to work in the cultural, literary and artistic fields, and encourages scientific research in every area. Kuwait has made these principles a cornerstone of society. The constitution, in article 14, clearly states that the State is responsible for the patronage of science, literature, the arts and scientific research. This constitutional principle aims to elevate individuals and society to higher levels, to nurture creativity and cultural potential, and to raise their awareness.

214. The task of supervising cultural activities in the State of Kuwait is entrusted to the National Council for Culture, Arts and Literature, in conjunction with the Ministry of Information and other non-profit organizations. In order to realize the objectives of disseminating culture, freedom of scientific research and encouraging creativity, the State of Kuwait has opted for a policy based on the two main aspects of cultural activity, namely the building of important cultural institutions and the provision of financial support to their activities, with the ultimate aim of building the human being.

215. Out of that conviction, institutions like the Ministry of Information, the National Council for Culture and Arts and Literature, the Kuwait Scientific Research Institute, the Kuwait Enterprise for Scientific Advances, the Kuwait Science Club, museums and other centres sponsoring culture were set up. They are all responsible for charting and supervising a cultural policy that, before any other consideration, provides opportunities to citizens with talent enabling them, as thinkers and writers and creators, to express their views freely so long as that creativity is directed at the development and dissemination of culture.

216. The firm belief in the importance of scientific research and creativity in all their aspects have led the State of Kuwait to set up institutions charged with these activities. The National Council for Culture, Arts and Literature, which was formed by the Emiri Decree of 17 July 1973, is one of the most important bodies responsible for planning, supervising and executing all cultural activities. Article 2 of the decree provides for the development, enrichment and enhancement of creative thinking; the creation of the right atmosphere for artistic and literary contributions; the choice of the means to disseminate culture, to conserve heritage, carry out scientific studies, to encourage interest in fine arts; and the strengthening of ties with Arab and foreign cultural institutions. The article also lays the groundwork for a cultural plan based on objective studies taking into account the needs of the country.

217. The National Council, as such, conducts and publishes cultural surveys and studies on the developments in culture. It also designates awards to stimulate cultural activity, which include the State Award and the Literary Award for students. The Council organizes two major annual festivals, the Child Cultural Festival and Al-Quareen Cultural Festival. The Council, as a specialized cultural agency, enjoys financial independence and provides support to local talent. It organizes an annual Arab book fair and supervises the publication of four cultural series namely "Alam Al-Ma'rifa" (the world of knowledge), "Alam Al-Fikr" (the world of thought) and "Al-Ibda' Al-Alami" (world creativity), which are monthly, and "Al-Thaqafa Al-Alamia" (world culture), which is published every two months. They are publications intended for the Arab reader, with the aim of widening his horizons and strengthening his Arab and Islamic cultural identity. Moreover, the Council has a national library open to the public and to researchers throughout the year.

218. Other cultural sectors like the theatre and related productions, museums, archaeology centres, the Islamic Heritage House, Abdulaziz Hussein Cultural Centre in Musharaf and Beit Al-Saddoo, are all affiliated to the Council.

219. The Kuwait Enterprise for Scientific Advances also plays a significant role in this field, especially with publication of scientific works and periodicals. It has its own scientific advances prize for which it sets aside a special fund in support of science and literature and other creativity aspects (see annex 32 for a summary of the Kuwait Prize sponsored by the Enterprise).

220. In addition to the activities undertaken by other public institutions and organizations such as the University of Kuwait and private bodies to disseminate culture and science, a number of community service and continuing education centres, attached to the university, the Public Authority for Education and Applied Training as well as the Ministry of Islamic Affairs and Endowment, were set up.

221. The Kuwait Scientific Research Institute is another link in the chain. It undertakes to spread scientific and cultural awareness through scientific research and encourages Kuwaitis to be involved in scientific research. It also nurtures the spirit of research among young persons. One of the objectives of this institute within the framework of the fourth strategic programme for research, which was part of the 1995-2002 national plan, is to develop research to meet national needs and to enhance Kuwaiti human resources. By the year 2000, the institute is hoping to expand its research and training programmes to serve society and the public interest.

222. Non-profit and benevolent organizations also play a major role in providing cultural and scientific programmes aimed at nurturing individual talent and develop potential.

223. There are also continued cooperation and coordination among the various ministries and institutions involved in culture such as the Ministry of Information; the National Council for Culture, Arts and Literature; the Writers and Cultural Societies' Association; the Kuwait national committee for UNESCO; the Ministry of Higher Education; the Higher Institutes for Music and Theatre Studies; the Kuwaiti Society for the Advancement of Arab Childhood; the Kuwait Enterprise for Scientific Advances; the Kuwait Scientific Research Institute; the Kuwait Research and Studies Centre; and other cultural and scientific-oriented bodies in the country.

The media and information policy of the State revolves around the participation of the public in cultural life with the aim of its enhancement. To that end, a draft law was presented recently with the objective of providing copyright protection for literary, artistic and other works.

224. In order to make the results of scientific research available in the public domain, special regulations for all institutions involved in scientific research, allowing citizens access to such work, were adopted. There are also television and radio programmes that provide readily available applications of technological advances such as computer uses and the Internet, all of which are intended to make daily life easier.

225. The Kuwaiti constitution guarantees the freedom of publication and article 36 stipulates that "freedom of expression and scientific research is guaranteed, and everyone shall have the right to express his opinion verbally or in writing or in any other form, in accordance with law". It is worth noting that the State of Kuwait has entered into a number of bilateral cultural agreements, and has acceded to multilateral instruments of the same nature, the last of which was the convention setting up the World Intellectual Property Organization on 7 January 1998.

### **CONCLUSION**

226. The above statement is a general and comprehensive review of Kuwaiti legislation providing protection for human rights in the State of Kuwait. Kuwaiti authorities, in preparing this statement, have endeavoured to take into account the guidelines set by the Committee. They hope they have been able to touch upon all the elements the Committee had requested information on, especially those relating to the implementation of the provisions of the Covenant in the State of Kuwait. The Government of Kuwait is at the Committee's disposal to provide further information in addition to what is provided in this report when the time comes for the discussion of its contents before the Committee.

**List of annexes\***

1. Statistical booklets by the Ministry of Planning, 1998 and 1999.
2. Annual statistical volume, 1997.
3. People's Assembly Elections Act No. 35 of 1962.
4. Organization of the Judiciary Act No. 23 of 1990 and amendments by Act No. 10 of 1996.
5. Table of female staff in the teaching sector.
6. Copy of the report by the State of Kuwait to the Commission on Human Rights on minimum humanitarian standards.
7. Disability Care Act No. 49 of 1996.
8. Incoming labour statistics in the private sector.
9. Ministerial Decision No. 104 of 1994 on overtime work in the private sector.
10. Statement by the ILO representative to *Al-Anba'* newspaper, edition No. 8115 of 15 September 1998.
11. List of trade unions and employers' organizations.
12. Special report on the activities of the centre for the elderly, August 1998.
13. Monthly publications of the Child and Mother Centre.
14. Table of housing units and public utilities since the setting up of the State Enterprise for Housing Welfare up to the fifth national five-year plan.
15. Table of subsidized basic commodities and amount of subsidies for 1997.
16. Table of ration coupons and number of Kuwaitis and non-Kuwaitis benefiting from the system.
17. Activities of the Kuwait Fund for Arab Economic Development and contributions development institutions and projects undertaken.
18. Financial and in-kind assistance, and easy-term loans to vulnerable groups such as orphans, widows, disabled and sick persons, at home and abroad.

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\* Annexes can be consulted in the files of the secretariat.

19. Summary of study on Kuwaiti charities and their role in providing assistance to developing countries and a list of such organizations.
20. The Public Authority for the Environment Act.
21. List of environmental treaties entered into by the State of Kuwait.
22. Publications to celebrate World Health Day in conjunction with WHO.
23. Special annual publication on disabled persons as proclaimed by the United Nations.
24. Samples of the publications by the National Committee for Combating AIDS.
25. Cost analysis and appraisal of public health services.
26. Details and statistics on education and learning in the State of Kuwait.
27. Statistical agenda, 1997/98.
28. Illiteracy Eradication Act and other decisions.
29. Summary of statistics on the education sector in Kuwait including numbers of centres, classes and students by level of education in illiteracy and adult education centres.
30. Ministry of Education publications on illiteracy eradication.
31. Ministry of Education publications on special-needs students.
32. Resumé on the Kuwait Prize sponsored by the Kuwait Enterprise for Scientific Advances.

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