



## **KUWAIT**

### **Follow-up to the Committee against Torture's recommendations**

**Alkarama Foundation – 23 June 2017**

## 1. Introduction

---

In its Concluding Observations to Kuwait's third periodic review, the Committee against Torture (CAT) highlighted four priority recommendations namely the public condemnation of the use of torture and ill-treatment, conditions of detention, the imposition of the death penalty, and migrant workers. The Committee requested the State party to provide follow-up information on the implementation of these recommendations by 12 August 2017. The following report will address those recommendations that fall within the mandate of Alkarama and on which our organisation can provide accurate information.

## 2. Torture and ill-treatment

---

*Publicly condemn the use of torture and ill-treatment with the clear message by the highest State authority that it will not be tolerated and that those responsible will be held accountable.*

In its response to the Committee's recommendation, the State party reiterated the fact that the Constitution as well as various unrelated provisions within Kuwaiti national legislation prohibit acts that amount to torture.<sup>1</sup> However, these provisions do not unequivocally prohibit torture as they refer to acts that could amount to torture such as assault and battery or abuse of power. Furthermore, in its response, the State briefly mentioned the continuous media appearances of officials who denounce human rights violations, including torture, and explain the procedure to hold perpetrators accountable by "responsibilising them or referring them to justice".<sup>2</sup> Alkarama could not verify this information, but believes the explanation provided by the State falls short of the recommendation made by the Committee.

## 3. Conditions of detention

---

*Ensure that detained persons can complain about their conditions of detention to an independent complaints mechanism.*

In its reply to the Committee's recommendation on independent complaint mechanisms in places of detention, Kuwait Stated that there is ongoing collaboration between the Ministry of Interior (MoI) and all international instances and independent local entities to organise visits to police stations without restriction.<sup>3</sup> However, the very fact that these visits are organised and are not spontaneously conducted, deters their effectiveness.

Furthermore, the State explains that all places of detention are routinely and continuously visited by the Public Prosecution or the General Department of Monitoring and Inspection, whereby surprise inspections are carried out, but the report does not specify whether these bodies have unrestricted access to detainees.<sup>4</sup> The General Department of Monitoring and Inspection is part of the Ministry of Interior and apart from receiving complaints to be forwarded to the competent authorities, one of its functions includes the responsibility to maintain the reputation of the police. The Department's attachment to the MoI and the fact that the police is an agency of the MoI compromise the Department's impartiality and illustrates the lack of an independent complaint mechanism.

## 4. Imposition of the death penalty

---

*The State should as a matter of urgency reinstate a de facto moratorium on the application of the death penalty.*

---

<sup>1</sup> Committee against Torture, *Follow-up State party's report*, 2 May 2017, CAT/C/KWT/CO/3/Add.1, p.5.

<sup>2</sup> *Ibid*, p. 6.

<sup>3</sup> *Ibid*, p.15.

<sup>4</sup> *Ibid*, p.1.

Kuwait has failed to implement this recommendation as it has, in January 2017, executed seven individuals, five of whom were foreign nationals.<sup>5</sup>

In its response to the Committee's recommendation, Kuwait insisted on the fact that death penalty is a sentence allowed for by Sharia law and can therefore not be repealed from Kuwait's legal system and its repeal would constitute a breach of the State's Constitution.<sup>6</sup> The State party has also reiterated the fact that the death penalty applies to drug related offences, in rejection of the Human Rights Council's and Human Rights Committee's interpretation of what constitutes the gravest crimes.<sup>7</sup>

---

<sup>5</sup> The National, *Kuwait hangs seven people*, 25 January 2017, <http://www.thenational.ae/world/middle-east/kuwait-hangs-seven-people> (accessed on 22 June 2017).

<sup>6</sup> Committee against Torture, *Follow-up State party's report*, 2 May 2017, CAT/C/KWT/CO/3/Add.1, p.21.

<sup>7</sup> General Assembly, Civil and political rights, including the questions of disappearances and summary executions, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, 29 January 2007, A/HRC/4/20, para.51.