



Kuwait's Compliance with Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: The Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

for the 81st Session of the Committee Against Torture
28 October–22 November 2024

Submitted 30 September 2024

The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty (WCADP), an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report outlines human rights violations in Kuwait in the context of the death penalty and persons charged with capital crimes. The media and NGOs report that law enforcement officers and other government officials torture, abuse and mistreat individuals, including LGBTQI+ individuals, during arrest (including arbitrary arrests), interrogation, and imprisonment. Kuwait continues to impose and carry out death sentences, including for offenses that do not constitute the “most serious crimes.” Women in conflict with the law face intersectional discrimination, particularly in capital cases, because the criminal legal system does not account for their lived experiences, including gender-based violence, trafficking, and poverty.

Kuwait fails to uphold its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

I. Kuwait continues to violate its obligations under article 15 (List of Issues Prior to Reporting (LOIPR), para. 34).

2. In its LOIPR, the Committee requested “information on the concrete measures taken to ensure respect, in practice, for the principle of the inadmissibility of evidence obtained through torture or cruel, inhuman or degrading treatment,” as well as examples of cases that courts have dismissed due to the introduction of such evidence.”¹
3. In its Fourth periodic report, Kuwait points to Article 184 of the Criminal Code, which states that anyone who arrests, imprisons, or detains another person not in accordance with law or without following due procedure and where such arrests, imprisonments, or detentions are “accompanied by physical torture or threat of death,” the perpetrator shall be liable for up to 7 years of imprisonment.² Kuwait also references other prohibitions against coercion of defendants in criminal cases and a provision in the Code of Criminal Procedure that “stipulates that any confessions made as a result of torture or coercion shall be regarded as null and void.”³
4. Despite these legal provisions, there are reports of law enforcement officers, including members of the Ministry of Interior’s Drug Enforcement Directorate (DEGD) and Kuwaiti State Security (KSS), engaging in abuse and other ill-treatment mistreatment during arrest or interrogation.⁴
5. The U.S. Department of State in 2023 reported “credible indications that police, KSS members, and DEGD officers abused prisoners during arrest or interrogation.”⁵ Additionally, KSS force members have allegedly beaten noncitizens at police checkpoints and in detention.⁶ Various foreign nationals have reported “credible” cases of abuse by law

¹ Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 34.

² Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 7.

³ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶¶ 125-126.

⁴ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 2-6.

⁵ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 2-6.

⁶ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 3.

enforcement officials, including KSS, DEGD and other police officials, during arrest and interrogation.⁷

6. In June 2022, Kuwaiti media reported that a Kuwaiti citizen was admitted to an intensive care unit following torture involving members of the criminal investigation department.⁸ Additionally, in December 2023, Kuwaiti media reported that the Kuwaiti defence minister ordered an urgent investigation into the case of a Kuwaiti citizen who was allegedly illegally arrested and tortured by the ministry of defence intelligence.⁹
7. Members of the LGBTIQ+ community have also reported multiple forms of physical, emotional, and verbal abuse that constitute torture at the hands of the police while in detention, including rape, blackmail, being forced to strip and parade around police stations, being forced to dance for officers, sexual humiliation, and solitary confinement.¹⁰
8. While the U.S. Department of State details certain positive efforts by the Kuwaiti government to investigate and punish these official acts of torture and ill-treatment, they remain frequent in nature.¹¹

II. Kuwait fails to respect safeguards and due process rights for people suspected of criminal offenses (LOIPR paras. 3, 4, 5 and 6).

9. The Committee asked Kuwait to provide information on the measures taken, and the procedures in place, to ensure that “all detainees enjoy in practice all fundamental legal safeguards from the outset of their deprivation of liberty, in particular the rights to have access to a lawyer, to request and receive an examination by an independent physician of their choice, to be informed of their rights and of the charges against them, to notify a relative or any other person of their choice of their arrest, and to be brought promptly before a judge.”¹²
10. In its State Party Report, Kuwait points to provisions in the Code of Criminal Procedure (Act No. 17 of 1960), as amended by Act No. 35 of 2016, which provide for accused persons, detainees, and inmates, as applicable, to have the right to a lawyer, medical examinations, information regarding their rights and the charges against them, appeals of their sentence, and the ability to notify a relative or other person of their choice of their arrest.¹³ Kuwait further notes that there are steps in place to ensure that law enforcement officials respect fundamental legal safeguards for detainees, such as surveillance cameras in places of detention, a special detention register, periodic visits to places of detention by officials, daily detention reviews covering the time of detention and reason for the deprivation of liberty, daily inspections of temporary detention centers, police stations, and

⁷ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 3.

⁸ *Torture problem continues in Kuwait as reforms lag*, The Arab Weekly, June 6, 2022, <https://the arabweekly.com/torture-problem-continues-kuwait-reforms-lag> (accessed August 30, 2024)

⁹ B. Izzak, *Minister orders torture probe*, Kuwait Times, December 7, 2023, <https://kuwaittimes.com/article/8787/kuwait/politics/minister-orders-torture-probe/> (accessed August 30, 2024)

¹⁰ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 59.

¹¹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 2-4.

¹² Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 3.

¹³ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 13.

investigation and enforcement offices.¹⁴ Kuwait states that if the result of any of the foregoing measures indicate that law enforcement officials have mistreated persons deprived of their liberty, “the authorities do not hesitate to launch administrative inquiries” into such law enforcement officials.¹⁵

11. Despite the foregoing legal safeguards and due process requirements, Amnesty International reported that Kuwaiti security forces arbitrarily held eight individuals (all of whom were over 50 years of age and at least two of whom suffered from serious health issues) without charge for over a month and interrogated them for several days without access to, or the presence of, a lawyer.¹⁶ Without providing any specific evidence, government sources had accused the individuals of aiding Hezbollah.¹⁷ Amnesty International contacted Kuwait’s National Diwan for Human Rights to request information about the identities, dates of detention, and charges with respect to certain other individuals detained as part of the same case, but the organization did not respond.¹⁸
12. The U.S. Department of State reported several instances of arbitrary arrests, in certain cases based on speech on social media.¹⁹ A former parliamentarian, Abdulrahman al-Anjari, and a prominent advocate for Bidoon rights, Fadel Farhan Saket (known as Abu Turki), were arrested and detained for remarks on social media.²⁰
13. Additionally, people facing state security charges are routinely denied access to their lawyers, interpreters, and document translators before hearings, and there are other instances where authorities have detained some individuals, especially in drug and state security cases, for up to two weeks without notification of the charges against them.²¹ Those people were also not permitted to make any telephone calls to lawyers or family members.²²

III. Conditions of detention continue to violate the Convention (LOIPR para. 18).

14. The Committee asked Kuwait (i) to provide statistical data on the occupancy rate of all places of detention, and (ii) to describe the measures taken to reduce prison overcrowding and improve the material conditions in all places of detention.²³
15. In its State Party Report, Kuwait provides the requested statistics concerning the number of pretrial detainees and convicted persons, along with the occupancy rate of places of

¹⁴ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 14.

¹⁵ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 15.

¹⁶ Amnesty International, *Kuwait: Authorities must release arbitrarily detained individuals*, (December 14, 2021), Available at <https://www.amnesty.org/en/latest/news/2021/12/kuwait-release-arbitrarily-detained-individuals/>.

¹⁷ Amnesty International, *Kuwait: Authorities must release arbitrarily detained individuals*, (December 14, 2021), Available at <https://www.amnesty.org/en/latest/news/2021/12/kuwait-release-arbitrarily-detained-individuals/>.

¹⁸ Amnesty International, *Kuwait: Authorities must release arbitrarily detained individuals*, (December 14, 2021), Available at <https://www.amnesty.org/en/latest/news/2021/12/kuwait-release-arbitrarily-detained-individuals/>.

¹⁹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 8.

²⁰ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 8.

²¹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 7.

²² U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 7.

²³ Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 18.

detention, disaggregated by sex, age, and nationality.²⁴ Kuwait also references certain measures taken, and laws in place, to improve prison overcrowding and the material conditions in places of detention, including articles of the Prisons Act No. 26 of 1962, which contain measures to ensure the health of inmates and the cleanliness of places of detention and provide for daily physical exercise opportunities for inmates.²⁵ Kuwait also highlights certain measures it is taking to improve poor ventilation and insufficient daylight in prisons, including a plan to build a modern prison that complies with international ventilation standards.²⁶

16. Despite Kuwait's efforts, prison overcrowding remains a significant problem. According to Kuwait's Ministry of Interior, the designed capacity of the Central Prison was 2,709 persons but it held 3,308 persons as of October 2023, and the designed capacity of the public prison was 856 but it held 1,192 persons as of October 2023.²⁷ Local NGOs also reported overcrowding at Kuwait's deportation centers throughout 2023.²⁸
17. Other NGOs that study the judicial system believe that the number of Ministry of Justice judges and prosecutors is insufficient to process cases in a timely manner.²⁹ Detainees are sometimes held beyond the maximum pretrial detention period of six months.³⁰ While the Kuwaiti Government claims that it resolves most deportation cases within three days, international organizations conversely report that deportation cases can take up to a month to conclude.³¹ Furthermore, there have been numerous reports of abuse and mistreatment at detention facilities in Kuwait, including beatings, fights between people in detention and prison officials, and sexual and physical abuse.³²
18. Between 2016 and 2019, the International Committee of the Red Cross conducted dozens of visits to and inspections of prisons and detention centers each year, but has not conducted any visits since that time.³³

IV. Kuwait persists in using the death penalty (LOIPR para. 35).

19. The Committee asked Kuwait to indicate whether the State Party "envisage[d] reinstating the de facto moratorium on the use of the death penalty and ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty."³⁴

²⁴ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 90.

²⁵ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶¶ 91-93.

²⁶ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶¶ 91-93.

²⁷ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 5.

²⁸ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 5.

²⁹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 8.

³⁰ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 8.

³¹ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 8-9.

³² U.S. Department of State, *2023 Country Reports on Human Rights Practices: Kuwait*, 5-6.

³³ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 102.

³⁴ Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 35.

20. In its State Party Report, Kuwait responds that Kuwaiti legislation prescribes the death penalty “solely for the most serious crimes, in accordance with the provisions of article 6 of the International Covenant on Civil and Political Rights.”³⁵ Kuwait also reports that the death penalty is incorporated into its domestic law through Islamic sharia, in which retribution penalties are mandatory, and that abolition of the death penalty would be “absolutely incompatible” with sharia.³⁶ Kuwait highlights various procedural safeguards with respect to “the imposition and enforcement of the death penalty,” including: every death sentence is subject to a mandatory appeal; authorities may execute a person only with the approval of the Amir (who has the authority to commute a death sentence or issue a full pardon) and only on the basis of a final judgment from a competent and impartial court; capital cases include legal procedures intended to ensure a fair and impartial trial; and executions are suspended until all appeals and other legal protections have been exhausted.³⁷ Kuwait further notes that current law does not allow for the death penalty to be imposed upon individuals under the age of 18, “mentally unsound” persons, or pregnant women.³⁸
21. Notwithstanding these restrictions, Kuwait continues to mete out death sentences and carry out executions.³⁹ In 2022, Kuwait executed seven people (four Kuwaiti citizens and three foreign nationals, including two women) in a mass execution.⁴⁰ In 2023, Kuwait executed five individuals by hanging, including a Sri Lankan national for a drug-related offense.⁴¹ Kuwaiti courts imposed at least five death sentences in 2021 and sixteen in 2022.⁴² In 2022, the Kuwaiti government again voted against the UN General Assembly resolution calling for a moratorium on use of the death penalty.⁴³

³⁵ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 129.

³⁶ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 129.

³⁷ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 129-135.

³⁸ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶ 136-138.

³⁹ Amnesty International, *Kuwait: Five hanged as Kuwait continues execution spree into second year*, (July 28, 2023), Available at <https://www.amnesty.org/en/latest/news/2023/07/kuwait-five-hanged-as-kuwait-continues-execution-spre-into-second-year/#:~:text=Kuwait's%20Office%20of%20Public%20Prosecution,illegal%20resident%E2%80%9D%20and%20convicted%20of>.

⁴⁰ Amnesty International, *Kuwait: Five hanged as Kuwait continues execution spree into second year*, (July 28, 2023), Available at <https://www.amnesty.org/en/latest/news/2023/07/kuwait-five-hanged-as-kuwait-continues-execution-spre-into-second-year/#:~:text=Kuwait's%20Office%20of%20Public%20Prosecution,illegal%20resident%E2%80%9D%20and%20convicted%20of>.

⁴¹ Amnesty International, *Kuwait: Five hanged as Kuwait continues execution spree into second year*, (July 28, 2023), Available at <https://www.amnesty.org/en/latest/news/2023/07/kuwait-five-hanged-as-kuwait-continues-execution-spre-into-second-year/#:~:text=Kuwait's%20Office%20of%20Public%20Prosecution,illegal%20resident%E2%80%9D%20and%20convicted%20of>.

⁴² Amnesty International, *Death sentences and executions 2022*, (May 16, 2023), ACT 50/6548/2023, Available at <https://www.amnesty.org/en/documents/act50/6548/2023/en/>.

⁴³ The Advocates for Human Rights, *The Compliance of Kuwait with the Convention on the Rights of the Child Alternative Report about the Rights of Children Whose Parents are Sentenced to Death or Executed*, accessed on Aug. 27, 2023, available at:

V. Women in conflict with the law face intersectional discrimination (LOIPR paras. 7-8).

22. The Committee requested information about “measures taken to combat all forms of violence against women,” as well as “support services available to victims of all forms of violence against women that involve actions or omissions of the State authorities,”⁴⁴ and information regarding “trafficking in foreign women on the domestic labour market . . . by recruitment agents who sell the services of such women on multiple occasions under slave-like conditions to various employers.”⁴⁵
23. Kuwait’s State Party Report outlines relevant provisions criminalizing domestic violence and trafficking in persons and services available to victims, but the provisions pertaining to domestic violence appear to apply only to people within the family unit, and not people in the household such as domestic workers.⁴⁶ Moreover, the State Party Report concedes that marital rape is not criminalized.⁴⁷ The State Party Report further outlines various legal provisions prohibiting forced labor and exploitation as well as the existence of a shelter for female migrant workers.⁴⁸
24. None of these responses, however, envision that women who experience human trafficking or gender-based violence may themselves be in conflict with the law, or foresee the need to address discrimination within the criminal legal system as it interacts with these defendants.
25. As stated in paragraph 21 above, Kuwait executed two women in 2022—one Kuwaiti and one Ethiopian. Regarding the two women executed in 2022, a Kuwaiti government spokesperson provided the only official information to the state-run KUNA news agency: “the female Kuwaiti . . . was found guilty for premeditated crime,” and “the Ethiopian woman was executed for intentional killing.”⁴⁹ Even though no further official information is available, it is likely that the Ethiopian woman was a migrant domestic worker.⁵⁰ According to one report, Kuwait is facing a shortage of domestic workers “because of the reluctance of a number of countries to send their citizens, especially their female citizens, to work as maids in Kuwait after several workers were subjected to harsh treatment.”⁵¹ According to one

<https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CRC%20Shadow%20Report%20Children%20of%20People%20Sentenced%20to%20Death%20final.pdf>

⁴⁴ Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 7.

⁴⁵ Committee Against Torture, *List of issues prior to the submission of the fourth periodic report of Kuwait*, (June 14, 2019), U.N. Doc. CAT/C/KWT/QPR/4, ¶ 8.

⁴⁶ Committee Against Torture, *Fourth periodic report submitted by Kuwait under article 19 of the Convention, due in 2020*, (Oct. 27, 2020), U.N. Doc. CAT/C/KWT/4, ¶¶ 31-37.

⁴⁷ *Id.* ¶ 38.

⁴⁸ *Id.* ¶¶ 44-50, 59.

⁴⁹ Kuwait News Agency, *Kuwait prosecution oversees execution of 7 convicts*, (Nov. 16, 2022), available at <https://www.kuna.net.kw/ArticleDetails.aspx?id=3069030&Language=en> (accessed on September 6, 2024).

⁵⁰ See *Kuwait turns to domestic workers from Ethiopia amid labour crisis*, Arab Weekly, Dec. 25, 2023, available at <https://thearabweekly.com/kuwait-turns-domestic-workers-ethiopia-amid-labour-crisis> (last visited Sept. 21, 2024).

⁵¹ *Kuwait turns to domestic workers from Ethiopia amid labour crisis*, Arab Weekly, Dec. 25, 2023, available at <https://thearabweekly.com/kuwait-turns-domestic-workers-ethiopia-amid-labour-crisis> (last visited Sept. 21, 2024).

report, the Ethiopian woman worked in the kitchen of a private home and had killed an Indian “colleague” over a dispute about work duties.⁵²

26. Women at risk of being sentenced to death in Kuwait face gender bias throughout the criminal legal process. The legal system fails to account for the context in which women commit crimes and often holds them to higher standards than their male codefendants.⁵³
27. Women who face extensive gender-based violence are disproportionately affected by the death penalty, including women who seek to protect themselves against their abusers.⁵⁴ Long histories of gender-based violence can result in complex trauma and can exacerbate the effects of psycho-social or intellectual disabilities.⁵⁵
28. In a 2018 study, the Cornell Center on the Death Penalty Worldwide found that, in the global context, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence⁵⁶ and manipulative or coercive relationships with male co-defendants.⁵⁷ Cornell’s data indicate that most women under sentence of death have been sentenced to death for the crime of murder.⁵⁸ These women have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.⁵⁹ Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.⁶⁰ At a global level, sentencing courts typically fail to take into account a defendant’s experience as a survivor of gender-based violence or a victim of a manipulative or coercive relationship (for example in cases where women are pressured or tricked into transporting drugs) as mitigating factors during sentencing.⁶¹ Research also indicates that

⁵² *Kuwait: An Ethiopian Is Sentenced to Death for Killing an Indian Colleague*, Hands Off Cain, May 28, 2022, available at <https://www.handsoffcain.info/notizia/kuwait-an-ethiopian-is-sentenced-to-death-for-killing-an-indian-colleague-60352363> (last visited Sept. 21, 2024).

⁵³ U.S. State Department, *2021 Country Reports on Human Rights Practices: Kuwait*, available at https://www.state.gov/wp-content/uploads/2022/03/313615_KUWAIT-2021-HUMAN-RIGHTS-REPORT.pdf.

⁵⁴ World Coalition Against the Death Penalty and The Advocates for Human Rights, *Detailed Fact Sheet, Women Sentenced to Death: An Invisible Reality*, (Oct. 10, 2021).

⁵⁵ World Coalition Against the Death Penalty and The Advocates for Human Rights, *Detailed Fact Sheet, Women Sentenced to Death: An Invisible Reality*, (Oct. 10, 2021).

⁵⁶ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 4, 2018), available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁵⁷ Cornell Center on the Death Penalty Worldwide, *“No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 6, 2021), available at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

⁵⁸ Cornell Center on the Death Penalty Worldwide, *“No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, (Sept. 6, 2021), available at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

⁵⁹ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 4, 2018), available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁰ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 4, 2018), available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶¹ Cornell Center on the Death Penalty Worldwide, *“No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 20120), 6. Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

courts fail to account for power dynamics and tactics of coercive control that may affect a woman’s involvement in and culpability for a crime.

29. Cases documented by the Cornell Center have shown violations of women’s right to a fair trial. A 2021 follow-up study demonstrated that “fair trial principles dictate that courts should consider all relevant mitigating circumstances before imposing a sentence. In practice, however, many courts neglect gender-specific mitigation.”⁶²
30. The Cornell Center also found that women are more likely to receive a death sentence when the adjudicating authority perceives that they are violating entrenched gender norms, being cast as the “female fatale” or the “witch.” Women are often put on trial not only for acts they performed but also for allegedly being “a bad wife, a bad mother, and a bad woman.”⁶³
31. Women perceived as the perpetrator of the crime are more likely to receive a harsher punishment than men accused of similar offenses.⁶⁴ The death penalty disproportionately affects those individuals who face “gender stereotypes, stigma, harmful and patriarchal cultural norms, and gender-based violence.”⁶⁵ This discrepancy has an “adverse impact on the ability of women to gain access to justice on an equal basis with men.”⁶⁶
32. Global trends show that women sentenced to death face intersectional discrimination. According to Cornell’s 2018 report, most women on death row come from backgrounds of severe socio-economic disadvantage and many are not literate, disadvantages that can reinforce unequal access to effective legal representation.⁴² These women are more likely to be unaware of their legal rights.⁴³ Illiteracy and lack of formal education among women from disadvantaged socio-economic backgrounds leave them more vulnerable to discrimination, coercion, and exploitation.⁴⁴ This intersectional discrimination exacerbates the risk that a woman charged with a capital crime will be subjected to an unfair trial.
33. Failure to address domestic violence in Kuwait may lead to victim-survivors of domestic violence committing a death-eligible offense. In Kuwait, the police present a bottleneck for women reporting gender-based violence,⁶⁷ and the law requires two male witnesses.⁶⁸

⁶² Cornell Center on the Death Penalty Worldwide, “*No One Believed Me*”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021). Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

⁶³ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, (Sept. 4, 2018), available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶⁴ Emma Milne & Jackie Turton, *Understanding Violent Women*, in *WOMEN AND THE CRIMINAL JUSTICE SYSTEM: FALLING VICTIM AND OFFENDERS?* 119, 124-25 (Palgrave Macmillan, 2018).

⁶⁵ U.N. Office of the High Commissioner for Human Rights, *Death penalty disproportionately affects the poor*, *U.N. rights experts warn* (Oct. 10, 2017), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E> (accessed on September 6, 2024).

⁶⁶ U.N. Office of the High Commissioner for Human Rights, *Death penalty disproportionately affects the poor*, *U.N. rights experts warn* (Oct. 10, 2017), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E> (accessed on September 6, 2024).

⁶⁷ U.S. State Department, *2021 Country Reports on Human Rights Practices: Kuwait*, 29-30. Available online at https://www.state.gov/wp-content/uploads/2022/03/313615_KUWAIT-2021-HUMAN-RIGHTS-REPORT.pdf.

⁶⁸ U.S. State Department, *2021 Country Reports on Human Rights Practices: Kuwait*, 29-30. Available online at https://www.state.gov/wp-content/uploads/2022/03/313615_KUWAIT-2021-HUMAN-RIGHTS-REPORT.pdf.

34. Foreign nationals employed as migrant workers, such as the Ethiopian woman executed in 2022, face heightened vulnerabilities. On a global scale, “[f]oreign nationals face particular disadvantages in criminal prosecutions: they often do not speak the language of the police or the courts and have difficulty accessing interpreters; they have little local support in navigating the criminal system; and their families are too far to contribute to the background investigation necessary for an adequate defense.”⁶⁹ A ground breaking 2018 study by the Cornell Center on the Death Penalty Worldwide observed that in the region, many women on death row are migrant domestic workers.⁷⁰ In many cases, the female domestic worker was accused of killing her employer, suggesting a “pattern of female migrant domestic workers sentenced to death in . . . Middle Eastern countries, who suffer from intersecting forms of oppression based on class, foreign nationality, precarious immigration status, and gender.”⁷¹

VI. Suggested recommendations for the Government of Kuwait

35. Kuwait should:

- Abolish the death penalty and replace it with penalties that are fair, proportionate, and consistent with international human rights standards.
- In the meantime:
 - Institute a formal moratorium on executions
 - Commute the sentences of any people currently under sentence of death to penalties that are fair, proportionate, and in compliance with international human rights standards.
 - Ensure that individuals charged with capital crimes receive free, effective, and adequately funded legal representation by attorneys with experience trying capital cases.
 - As an incremental measure while working toward abolition of the death penalty, revise the penal code to ensure that the death penalty is an available punishment for only the “most serious crimes” involving intentional killing by the person charged with the death-eligible offense, and expressly prohibit the death penalty for non-lethal drug-related offenses.
 - Collect and regularly publish, on at least an annual basis, disaggregated data on people executed and on death row during the reporting period, disaggregated by sex, age, ethnicity, nationality, crime of conviction, profession at the time of arrest, relationship to any victim or codefendant, age of any dependent children, and current location.

⁶⁹ The Cornell Center on the Death Penalty Worldwide, *No One Believed Me: A Global Overview of Women Facing the Death Penalty for Drug Offenses*, September 2021, available at: “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses (deathpenaltyworldwide.org) at p. 16.

⁷⁰ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 17-18, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

⁷¹ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty*, Sept. 2018, at 28, available at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf> (last visited Dec. 29, 2022).

- Ensure that law enforcement, prosecutors, and defense counsel in capital cases receive training on gender sensitivity as it relates to criminal procedure and sentencing outcomes.
 - Codify gender-specific defenses and mitigation in capital cases, encompassing women's experiences of trauma, poverty, and gender-based violence.
 - Implement measures to ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, domestic violence, and tactics of coercive control that may influence or prompt a woman to commit a death-eligible offense.
 - Ensure that any foreign national in conflict with the law is afforded their right to consular notification under the Vienna Convention.
 - Provide heightened fair trial safeguards in capital cases in which the defendant is a foreign national, including qualified interpretation services from the time of arrest through any appeals.
- Thoroughly and impartially investigate allegations and reports of torture and other ill-treatment by police and security forces during arrest, interrogation, and detention, particularly cases of rape, sexual abuse, and other torture and degrading treatment of LGBTIQ+ individuals.
 - Ensure that judicial officers and prosecutors apply the existing provisions of the Criminal Code and Criminal Procedure Code prohibiting torture in a consistent manner.
 - Expressly bar courts from considering any evidence obtained through torture, except with respect to evidence of the crime of torture itself and create a mechanism by which defense counsel and defendants may raise the issue of inadmissibility before trial. Ensure that all judicial authorities receive adequate training and support to comply with the bar on such evidence.
 - Ensure that the Criminal Code's definition of torture includes rape and sexual abuse.
 - Ensure that the Criminal Code expressly criminalizes marital rape.
 - Increase the number of women with leadership positions in the criminal legal system, including judges, prosecutors, and court administrators.
 - Ensure that there are sufficient judges and prosecutors, with adequate resources, to expeditiously resolve cases, including capital trials and appeals.
 - Reduce the use of pretrial detention to address prison overcrowding or, at a minimum, build additional detention facilities that comply with international standards under the Nelson Mandela Rules and the Bangkok Rules.
 - Authorize international observers and human rights organizations such as the International Committee of the Red Cross to visit and inspect detention facilities.
 - Take concrete measures to improve conditions in prisons for all persons, including people on death row, in accordance with the Nelson Mandela Rules and the Bangkok Rules.