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2009 Human Rights Report: Kuwait

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BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR
2009 Country Reports on Human Rights Practices
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Kuwait is a constitutional, hereditary emirate ruled by the Al Sabah family. The country has a population of 3.44 million, of whom 1.1 million are citizens. Local observers and the press considered the May 16 parliamentary election generally free and fair. Civilian authorities generally maintained effective control of the security forces.

The government limited citizens' right to change their government and form political parties. There were a few reports of security forces abusing prisoners and at least one investigation and prosecution related to prisoner abuse. The government limited freedoms of speech, religion, and movement for certain groups and, although widely regarded as allowing considerably free media, occasionally limited media freedom. The status of stateless Arab residents (called "Bidoon") remained unresolved. Government corruption and trafficking in persons remained problems. Women did not enjoy equal rights, although some advances were made. Expatriate workers faced difficult conditions in the domestic and unskilled service sectors.

On October 20, the Constitutional Court ruled that a woman can obtain a passport without her husband's permission. On October 28, the same court ruled that female members of parliament (MPs), female candidates for parliament, and female voters are not legally required to wear the hijab, a headscarf worn by some Muslim women, thereby settling a contentious issue of how to interpret the 2005 women's suffrage amendment to the 1962 election law.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Articles 53, 159, and 184 of the criminal law code prohibit torture and other cruel, inhuman, or degrading treatment or punishment; however, some police and members of the security forces reportedly abused detainees during the year. Police and security forces were more likely to inflict such abuse on noncitizens, particularly non-Gulf Arabs and Asians, and there were several reported accounts of police abuse of transgender persons. The government stated that it investigated all allegations of abuse and punished some of the offenders; however, in most cases the government did not make public either the findings of its investigations or any punishments it imposed.

In late January a court sentenced three police officers accused of torturing a young man to two years in prison. The case was appealed on February 10, but the Court of Appeals had not returned a verdict at year's end.

There were no further developments concerning the allegations that security officials abused hundreds of Bangladeshi workers in the wake of July 2008 labor strikes.

Prison and Detention Center Conditions

The Central Prison Complex houses the country's only three prisons: a low-security men's prison, a high-security men's prison, and a women's prison. The prison complex slightly exceeded its 4,000-person capacity; there were 211 inmates in the women's prison and 3,834 inmates in the men's prisons. The country also has a 1,000-person capacity deportation center in Talha that is not part of the prison complex. The 2006 construction of new men's prisons resulted in an improvement in prison and detention center conditions; however, some detention facilities lacked adequate sanitation and sufficient medical staff. Authorities reportedly mistreated prisoners and failed to prevent inmate-on-inmate violence.

While the Ministry of Interior (MOI) gave some nongovernmental organizations (NGOs) such as the Al-Takaful Prisoner Care Society unfettered access to prisons, the Kuwait Human Rights Society (KHRS) issued a statement August 1 criticizing the MOI for barring KHRS representatives from visiting the low-security prison. On July 7, the parliamentary Human Rights Committee visited the Central Prison Complex following up on an earlier visit. The committee chair

expressed his satisfaction that the MOI had dealt with sanitation problems and a lack of medical staff observed during previous visits.

During the year the KHRS visited the Talha Deportation Center (used as a holding facility for expatriate laborers) and stated that the center provides detainees sufficient food and adequate medical services.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. There were a few reports that police sometimes arbitrarily arrested nonnationals.

Role of the Police and Security Apparatus

The police have sole responsibility for the enforcement of laws not related to national security, and State Security oversees intelligence and national security matters; both are under the purview of civilian MOI authorities. The military is responsible for external security.

The police were generally effective in carrying out core responsibilities; however, there were frequent reports of corruption, especially when one party to a dispute had a personal relationship with a police official involved in a case. There were reports that police showed favoritism towards citizens. On September 7, police arrested and briefly detained a foreign citizen after three Kuwaiti men beat him for interfering in a dispute between a domestic worker and an employer; the three Kuwaitis involved were not arrested.

There were also reports that some police stations did not take seriously the requests of complainants, especially foreign nationals. Unlike in previous years, there were no reports that police sometimes obstructed foreign nationals' access to the justice system.

In cases of alleged police abuse, the district chief investigator examines abuse allegations and refers cases to the courts for trial.

Arrest Procedures and Treatment While in Detention

A police officer generally must obtain an arrest warrant from a state prosecutor or a judge before making an arrest, except in cases of hot pursuit. There were few reports of police arresting and detaining foreign nationals without a warrant during the year. The courts generally do not accept cases without warrants issued prior to arrests. According to the penal code, a suspected criminal may be held at a police station without charge for as long as four days, during which authorities may prevent lawyers and family members from visiting. In such cases lawyers are permitted to attend legal proceedings but are not allowed to have direct contact with their clients. If charges are filed, a prosecutor may remand a suspect to detention for an additional 21 days. Prosecutors also may obtain court orders for further detention pending trial. There is a functioning bail system for defendants awaiting trial. The bar association provides lawyers for indigent defendants; in these cases defendants do not have the option of choosing which lawyer will be assigned to them.

Of the 4,035 persons serving sentences or detained pending trial, an estimated 150 were held in the "state security ward" on security grounds, including some held for collaborating with Iraq during the 1990-91 occupation. Arbitrarily lengthy detention before trial was a problem, and approximately 10 percent of the prison population consisted of pretrial detainees.

During the year foreign nationals at the Talha Deportation Center were generally incarcerated between 10 days and two months awaiting deportation. Some prisoners were held for longer periods, due to court delays.

On July 7, due to pressure from the parliamentary Human Rights Committee, the MOI released Ahmad Al-Shammari, a Bidoon, from the Talha Deportation Center, where he had been detained for five years.

Amnesty

On February 28, holding to an annual tradition, the emir freed and pardoned 99 prisoners.

e. Denial of Fair Public Trial

The law provides for an independent judiciary and the right to a fair trial and states that "judges shall not be subject to any authority"; however, the emir appoints all judges, and the renewal of judicial appointments is subject to government approval. Judges who are citizens have lifetime appointments; however, many judges are noncitizens who hold one- to three-year renewable contracts. The Ministry of Justice (MOJ) may remove judges for cause but rarely does so. Foreign residents involved in legal disputes with citizens frequently claimed the courts showed bias in favor of citizens.

The secular court system tries both civil and criminal cases, all of which originate with the Court of First Instance, composed of a three-judge panel. Both defendants and plaintiffs may appeal a verdict to the High Court of Appeals, with a three-judge panel that may rule on whether the law was applied properly as well as on the guilt or innocence of the defendant. These decisions may be presented to the Court of Cassation, where five judges review the cases to determine only whether the law was properly applied. The emir has the constitutional authority to pardon or commute all sentences.

Shari'a (Islamic law) courts have jurisdiction over family law cases for Sunni and Shia Muslims. Secular courts allow anyone to testify and consider male and female testimony equally; however, in the family courts the testimony of a man is equal to that of two women.

The Constitutional Court, whose members are senior judges from the civil judiciary, has the authority to issue binding rulings concerning the constitutionality of laws and regulations and also rules on election disputes.

A martial court convenes in the event the emir declares martial law. The law does not specifically provide for a military court or provide any guidelines for how such a court would operate. The military operates tribunals that can impose punishments for offenses within the military.

Trial Procedures

By law criminal trials are public unless a court or the government decides "maintenance of public order" or "preservation of public morals" necessitates closed proceedings. There is no trial by jury. Defendants enjoy a presumption of innocence and have the right to confront their accusers and appeal verdicts. Defendants in felony cases are required by law to be represented in court by legal counsel, which the courts provide in criminal cases. The bar association is obligated upon court request to appoint an attorney without charge for indigent defendants in civil, commercial, and criminal cases, and defendants used these services. Defendants have the right to confront witnesses against them and present their own witnesses. Defendants and their attorneys generally have access to government-held evidence relevant to their cases and to appeal their cases to a higher court. The law affords these protections to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides for an independent and impartial judiciary in civil matters; however, rulings occasionally were not enforced. Administrative punishments, such as travel bans, are also available in civil matters.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for individual privacy and the sanctity of the home, and the government generally respected these rights in practice. Security forces occasionally monitored individuals' private communications and activities.

The law forbids marriage between Muslim women and non-Muslim men and requires male citizens serving in the police force or military to obtain government approval to marry foreign nationals. In practice the government offered only nonbinding advice in such matters and did not prevent any such marriages.

The government may deny a citizenship application by a Bidoon resident based on security or criminal violations committed by his or her family members.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and the press "in accordance with the conditions and in the circumstances defined by law." In practice the government sometimes did not respect these rights, and journalists and publishers practiced self-censorship. According to Freedom House's annual Freedom of the Press report, the country has a considerably free press, including electronic media.

Individuals were able to criticize the government freely in private and informal gatherings but could incur jail time and/or fines for attacking Islam, the emir, or the crown prince. Pointed criticism of ministers and other high-ranking government officials continued to be widespread, even though authorities arrested and detained individuals, including opposition political candidates, for incitement or criticism of the emir.

On April 17, police detained former MP Dhaifallah Bu Ramiya for telling an election rally that Defense Minister Shaykh Jaber Mubarak Al Sabah, a senior member of the ruling family, was not fit to become prime minister. The former MP faced charges of disparaging the powers of the emir, who has the right to appoint the prime minister. After being detained for three days, Ramiya was released on bail and continued his ultimately successful election campaign.

On April 19, police arrested and detained parliamentary candidate Khalifa Al-Kharafi overnight; Al-Kharafi had said during a television interview that neither the emir nor the defense minister possessed the faculties needed to run the state. No charges were brought against him.

On June 12, authorities released an Australian woman sentenced in April to two years in prison for insulting the emir and allowed her to return home. The woman, arrested in December 2008, allegedly insulted the emir while arguing with airport security guards.

The country had 14 Arabic and three English-language daily newspapers, all of which were privately owned. Print media generally exhibited independence and diversity of opinion, although there were reports that media outlets sometimes practiced self-censorship to avoid unnecessary conflict with the government. In late 2008 the government lifted a ban dating from 2007 on the import and circulation of several Egyptian newsletters. The government owned nine local radio and five television stations, and there were more than 16 privately owned television stations. In July 2008 media workers united to form an independent journalists' union.

The law prohibits the publication of material criticizing Islam, the emir, the constitution, or the neutrality of the courts or public prosecutor's office. The law also mandates jail terms for anyone who "defames religion," and any Muslim citizen may file criminal charges against an author the citizen believes has defamed Islam, the ruling family, or public morals. The number of such cases filed against journalists and television stations continued to increase; more than 100 were filed during the year, most of which resulted in fines.

On November 22, police arrested journalist Mohammad Abdulqader al-Jassem on charges that he made slanderous remarks against the prime minister during a "diwaniya," an informal weekly social and political gathering. Diwaniyas have generally been considered a space for free and open political discourse. At year's end Al-Jassem was free on bail and awaited trial.

On December 24, upon his return into the country, police arrested former parliamentary candidate Mohammed Al-Juwaihel on charges of unlicensed broadcasting, making false claims, and compromising national security. The government filed charges for public remarks broadcast by Al-Juwaihel on his satellite outlet in which he reportedly insulted certain MPs and made derogatory comments about Kuwaitis with dual citizenship and those of tribal and Bidoon origin. He was released on a 5,000-dinar (\$17,400) bail on December 31.

Fuad al-Hashem of the daily newspaper *Al-Watan* continued to refuse to pay a 2008 fine of 7,190 dinars (\$25,000) for defamation as a result of three cases brought to court by the Qatari prime minister, who accused Al-Hashem of harming his reputation in articles dealing with his relations with Israel.

The MOI censored all books, films, periodicals, videotapes, and other imported publications deemed morally offensive, although satellite dishes were widely available and allowed some citizens to receive unfiltered media. The MOI controlled the publication and distribution of all informational materials.

On August 25, the MOI ordered the cancellation of the television series *Sawtik Wossel* (*Your Voice Has Been Heard*). The show featured parodies of various prominent political figures, including the prime minister and the speaker of parliament. During the year columnists and editors used their publications to discuss, and in some cases criticize, the MOI's decision, without government interference.

The law requires a newspaper publisher to obtain an operating license from the MOI. Publishers may lose their license if their publications do not appear for three months in the case of a daily newspaper, or six months in the case of a less frequent publication.

Internet Freedom

According to 2008 International Telecommunications Union statistics, approximately 34 percent of the country's inhabitants used the Internet. The government monitored Internet communications, such as blogs and discussion groups, for defamation and security reasons. The Ministry of Communications (MOC) continued to block Web sites deemed to "incite terrorism and instability" and required Internet service providers to block other Web sites, some political. Internet cafe owners were obligated to obtain the names and civil identification numbers of customers and to submit the information to the MOC upon request.

Academic Freedom and Cultural Events

The law provides for freedom of opinion and of research; however, academic freedom was limited by self-censorship, and the law prohibits academics from criticizing the emir or Islam.

The MOI reserved the right to approve or reject public events and rejected those it deemed politically or morally inappropriate. There were no updates in the Commercial Attorney's Office's investigation of a hotel owner and party organizers for sponsoring a mixed-gender dance in August 2008.

The MOI censored films for profanity, nudity, sexual contact, kissing, and extreme violence.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected the right in practice. Organizers of public gatherings of more than 20 persons must inform the MOI of their plans.

The law also protects diwaniyas. Many adult male citizens, including members of the government and of the National Assembly, and increasing numbers of female citizens hosted or attended diwaniyas to discuss current economic, political, and social issues. A few women held female-only diwaniyas, and a small number of diwaniyas were open to both sexes.

Freedom of Association

The law provides for freedom of association; however, the government restricted this right in practice. The law prohibits officially licensed groups from engaging in political activities.

The government used its power to license associations as a means of political control. There were 73 officially licensed NGOs in the country, including a bar association, professional groups, and scientific bodies. The Ministry of Social Affairs and Labor (MOSAL) did not license any new NGOs during the year. There remained 149 NGOs pending licensing by the

MOSAL; many had been waiting years for approval.

The 45 NGOs licensed prior to 2004 continued to receive an annual government subsidy of 12,000 dinars (\$41,800) for their operating expenses, including travel to international conferences. NGOs licensed since 2004, when the MOSAL resumed issuing licenses after a long period of refusing to do so, received no financial assistance. The MOSAL rejected some license requests on the grounds that established NGOs already provided services similar to those the petitioners proposed. The MOSAL can also reject an NGO's application if it deems that the NGO does not provide a public service. The minister has discretion to change a proposed NGO's name prior to licensing and sometimes did so on the grounds that the name was too close to that of an already existing NGO. Members of licensed NGOs must obtain permission from the MOSAL to attend international conferences as official representatives of their organization.

There were dozens of unlicensed civic groups, clubs, and unofficial NGOs in the country. These unofficial associations did not receive government subsidies and had no legal status.

c. Freedom of Religion

The constitution provides for freedom of religion; however, the government limited this right. The constitution protects the freedom to practice religion in accordance with established customs, provided it does not conflict with public policy or morals. The constitution declares that Islam is the state religion and that Shari'a is "a main source of legislation."

Non-Muslim religious groups unanimously reported that the government respected freedom of belief, but non-Muslim religious organizations had more difficulty operating due to registration requirements. The government did not recognize some Christian churches, and those churches could not operate openly. Some recognized churches complained that their quota of visas allotted by the government did not meet their needs for clergy and other staff. Shia faced some disadvantages in comparison with Sunnis.

Members of religions not sanctioned in the Koran, such as Baha'is, Buddhists, Hindus, and Sikhs, may not operate official places of worship, but they were allowed to worship in their homes without government interference. There is no specific law banning the establishment of other non-Muslim places of worship; however, in practice the government denied permission to the few groups that applied for licenses to build new places of worship, deterring some religious groups from applying.

Islamic religious instruction is mandatory in all government schools and in any private school that has one or more Muslim students. The law prohibits organized religious education other than Islam; however, in practice the government allowed non-Muslim religious instruction as long as no Muslim students were taking part in the education. The government did not interfere with religious instruction inside private homes.

Muslims who wished to convert from Islam to another religion faced intense societal pressure and generally had to hide their new religious affiliation. The law prohibits naturalization of non-Muslims and forbids marriage between Muslim women and non-Muslim men; these prohibitions effectively coerced individuals to convert to Islam.

The government prohibited non-Muslim missionaries from proselytizing to Muslims, although they may serve non-Muslim congregations. The Islamic Presentation Committee, under the authority of the Ministry of Awqaf and Islamic Affairs (MAIA), actively proselytized to non-Muslims.

The government does not permit the establishment of non-Islamic religious publishing companies, and only one private company had an import license for non-Muslim religious materials.

Societal Abuses and Discrimination

Although discrimination based on religion reportedly occurred on a personal level, most observers agreed it was not widespread.

During the year there were markedly fewer instances of anti-Jewish rhetoric by the media than in previous years. There were no known Jewish citizens and an estimated few dozen Jewish foreign resident workers.

The MAIA's "moderation" project, which aimed to discourage extremism among Muslims and improve the image of Muslims among non-Muslims, has been dormant since the end of 2008.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irfr/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution generally provides for freedom of movement within the country; however, numerous laws constrain foreign travel, and the government placed some limits on freedom of movement in practice. Although the government contributed 575,000 dinars (\$2 million) to the Office of the UN High Commissioner for Refugees (UNHCR) during the year, it was uncooperative with most UNHCR efforts to provide implementation of protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In contrast with 2008, there were no reports of laborers claiming they were not allowed to leave the residential camps where they lived.

Women, persons younger than 21, and Bidoon faced problems with or restrictions on foreign travel. Although not

sanctioned by law, MOI regulations mandate that all persons younger than 21 obtain permission from their father or another male relative to receive a passport and travel abroad and that a married woman obtain her husband's permission to apply for a passport. However, on October 20, the Constitutional Court issued and began enforcing a final ruling confirming a woman's right to obtain a passport without her husband's approval. A husband may still request that immigration authorities prevent his wife's departure from the country for 24 hours, after which a court order may extend the travel ban. The government restricted the ability of the Bidoon population to travel abroad. It permitted some Bidoon to travel to Saudi Arabia for the annual hajj and continued to issue increasing numbers of "Article 17" passports (temporary travel documents that do not confer nationality) for Bidoon, including more than 18,000 in 2008 and more than 2,500 in January 2009.

The law also permits the government to place a travel ban on any citizen or foreigner accused or suspected of violating the law, and it allows citizens to petition authorities to do so. In practice this resulted in citizens and foreigners arbitrarily being prevented or delayed from departing the country.

The law prohibits the deportation or forced exile of citizens, although the government can revoke citizenship of naturalized citizens for various causes, including felony conviction and subsequently deport individuals. The government cannot revoke the citizenship of individuals who are born citizens.

During the year several hundred Bidoon emigrated from the country to Australia, the United States, New Zealand, and Canada.

Protection of Refugees

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967. The laws do not provide for the granting of asylum or refugee status, there is no system for providing protection to refugees, and the government did not grant refugee status or asylum during the year. The country's immigration regulations prohibit local settlement for asylum seekers. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The constitution prohibits the extradition of political refugees; the government often kept such persons in detention until they agreed to return to their home country or made alternative travel arrangements, and it rarely granted them permission to live and work in the country.

Stateless Persons

According to the law, Kuwaiti citizenship is derived entirely from the father; children born to citizen mothers and nonnational fathers do not inherit citizenship unless the mother is divorced or widowed. The law further fails to provide nonnationals, including Bidoon and non-Muslims, the opportunity to gain nationality on a nondiscriminatory basis.

Although the exact number of Bidoon residents was unknown, the Ministry of Planning estimated there were more than 100,000 Bidoon in the country at the end of 2006, the last year the government collected those statistics. The government continued to discriminate against Bidoon in areas such as education, employment, medical care, and freedom of movement. Bidoon children may not attend public schools. Although the government accepted Bidoon in an increasing number of government positions, it barred them from enlisting in the armed forces. Bidoon generally did not qualify for the subsidized health care that citizens received, and the government also made it difficult for Bidoon to obtain official documents necessary for employment or travel, such as birth certificates, civil identification cards, driver licenses, and marriage certificates.

There were at least two developments in Bidoon rights during the year.

On March 25, the Court of First Instance decided to issue a marriage certificate to a Bidoon woman married to a Kuwaiti citizen. Based on this precedent, on April 5 and again on May 26, the same court affirmed a Bidoon man's right to receive a marriage certificate and birth certificates for his children. Neither the justice nor health ministries had complied with these court orders by year's end.

On May 21, the Ministry of Health passed a resolution allowing free access to government health clinics for any Bidoon child who had a Kuwaiti mother (free access would end once a child turns 18, whereas Kuwaiti citizens receive free clinic access for life). This resolution also allows free health clinic access for life for all Bidoon whom the Ministry of Health deemed to have disabilities.

During the year the government did not grant citizenship to any Bidoon, despite having granted citizenship in 2008 to 573 Bidoon on the basis of sufficient ties to the country. More than 80,000 Bidoon citizenship requests were pending at year's end. Many Bidoon were unable to provide documentation proving sufficient ties to the country or present evidence of their original nationality. However, the government maintained that the vast majority of Bidoon were concealing their true identities and were not actually stateless.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their representatives in the legislative branch of government, and citizens exercised this right in practice. Citizens had only a limited, indirect impact on control of the executive branch, as the constitution stipulates that the country is a hereditary emirate. The elected National Assembly must approve the emir's choice of crown prince (the future emir) and may remove the emir from power if it declares him unfit.

Elections and Political Participation

On May 16, two months after the emir dissolved the National Assembly, tribal candidates gained seats in a parliamentary election that was generally considered free and fair. It was the third election in three years, due to the emir's constitutional dissolution of parliament in May 2006, March 2008, and March 2009.

Although there is no formal law banning political parties, the government did not recognize any political parties or allow their formation. Nevertheless, tribal affiliations and several well-organized, unofficial blocs closely resembled political parties in National Assembly elections. Assembly candidates must nominate themselves as individuals and may run for election in any of the country's electoral districts. Tribes dominated two of the five constituencies and exerted influence on the other three. Tribal leaders excluded women from the tribal primaries.

On April 12, police arrested trade unionist Khalid Al-Tahous, a parliamentary tribal candidate, for "incitement against the state" after he told an election rally that tribes would oppose any attempts to enforce the law prohibiting tribal primaries. After being detained for eight days, he apologized for his statements and was released on bail to continue his ultimately successful election campaign.

In addition to the four women elected to the National Assembly in May, the emir appointed a woman as minister of education. There has been a female minister in every cabinet since 2005.

There were nine Shia members in the parliament, the most ever elected to the National Assembly since its 1962 founding. There were also two appointed Shia members of the cabinet.

Section 4 Official Corruption and Government Transparency

The law mandates criminal penalties for official corruption; however, the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. Twenty percent of the respondents in a Transparency International poll released June 3 claimed to have paid a bribe or to know someone in their household who had done so in the past year. Respondents believed public officials and civil servants were the most corrupt entities, and they perceived the judiciary and parliament as less corrupt. According to the poll, respondents thought corruption was less prevalent in the country than experts believe it is. The Audit Bureau is the government agency responsible for combating government corruption.

The MOSAL and MOI continued to discover dozens of cases during the year of ministry employees forging documents to enable the importation of foreign workers. Violations were referred to investigative bodies within the ministries and then sent to the Attorney General's Office for action. Courts rarely took rigorous action against the violators; however, on October 30, a court sentenced three officials charged with embezzlement to seven years in prison and a 3.4 million dinar (\$12 million) fine.

Public officials were not subject to financial disclosure laws.

The law provides for public access to unclassified government information by citizens and noncitizens alike. The government enforced this law.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The law permits the existence of NGOs; however, the government continued to deny licenses to some NGOs. NGOs may not engage in overtly political activity and are prohibited from encouraging sectarianism. They must also demonstrate that their existence is in the public interest. The only local independent NGOs dedicated specifically to human rights were the KHRS and the Kuwaiti Society for Fundamental Human Rights. Other local licensed NGOs devoted to specific groups, such as women, children, foreign workers, prisoners, and persons with disabilities, were permitted to work without government interference. An unknown number of local unlicensed human rights groups operated without government restriction during the year. The government and various National Assembly committees met regularly with local NGOs and responded to their inquiries.

The government permits international human rights organizations to visit the country and establish offices, although none operated in the country. The International Office for Migration regional director visited the country during the year.

The government permitted visits by international governmental organizations and continued to cooperate fully with the work of UN special rapporteurs for Iran and Iraq and the high-level representative of the UN secretary-general on the issue of Kuwaiti citizens missing in Iraq since the end of the 1991 Gulf War.

The National Assembly's Human Rights Committee is an advisory body that primarily hears individual complaints of human rights abuses. Committee members also visited the Central Prison during the year (see section 1.c.).

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, origin, disability, or language; however, in practice the government did not uniformly or consistently enforce laws against discrimination, and a number of laws and regulations discriminated against women, noncitizens, and domestic workers.

Women

Violence against women continued to be a serious and underreported problem. Rape carries a maximum penalty of death, which the country occasionally imposes for the crime; however, spousal rape is not a crime. The media reported hundreds

of rape cases during the year. Many of the victims were noncitizen domestic workers. Police occasionally arrested alleged rapists, and several were tried and convicted during the year; however, laws against rape were not always enforced effectively. According to foreign diplomatic sources, victims reported that the majority of police stations and hospitals handled their cases in a professional way, but others did not.

The law does not specifically prohibit domestic violence; cases are tried instead as assault, and a victim of domestic violence may file a complaint with police requesting formal charges be brought against the alleged abuser. Each of the country's 83 police stations reportedly received weekly complaints of domestic abuse. However, even with documented evidence of the abuse, such as eyewitness accounts, hospital reports, and social worker testimony, police officials rarely arrested perpetrators of domestic violence. Noncitizen women married to citizens reported domestic abuse and inaction or discrimination by police during the year. A woman may petition for divorce based on injury from abuse, but the law does not provide a clear legal standard as to what constitutes injury. In addition, a woman must provide at least two male witnesses (or a male witness and two female witnesses) to attest to the injury. The courts have found husbands guilty of spousal abuse; however, most domestic abuse cases were not reported, especially outside the capital, and individuals reportedly bribed police officials to ignore domestic abuse charges. Abusive husbands, if convicted, rarely faced severe penalties. There were no shelters or hotlines specifically for victims of domestic violence, although a temporary shelter for domestic workers housed victims during the year.

Honor crimes are prohibited; however, the penal code reduces penalties for such crimes to misdemeanors. The law states that a man who sees his wife, daughter, mother, or sister in the act of adultery and immediately kills her and/or the man with whom she is committing adultery faces a maximum punishment of three years' imprisonment and a 225 dinar (\$784) fine. There have been no reported cases of honor crimes in recent years.

Police actively enforced laws against pandering and prostitution, reporting 632 arrests and 351 convictions. During the year police also uncovered numerous prostitution rings. However, according to reports the prostitution rings were largely made up of women who were not being forced or held captive against their will. The police Criminal Investigation Division determined whether prostituted women were being held against their will based on evidence of coercion, such as doors that locked from the outside and barred windows. The government generally deported prostituted persons to their countries of origin; however, some were released after signing a pledge of good conduct. Pimps, usually nonnationals, received lengthy jail terms. Some unemployed runaway foreign domestic workers were recruited or kidnapped and forced into prostitution.

There is no specific law that addresses sexual harassment; however, the law criminalizes "encroachment on honor," which encompasses everything from touching a woman against her will to rape, and police strictly enforced this law. Perpetrators face fines and jail time. Human rights groups characterized sexual harassment against women in the workplace as a pervasive but unreported problem.

Women enjoyed the right to decide freely and responsibly the number, spacing, and timing of their children. Oral contraceptives were available over the counter. A 2004 study found the contraceptive needs of 90 percent of nonpregnant, married Kuwaiti women were being met despite the absence of a formal family planning program.

Women have some political rights; however, they do not enjoy the same rights as men under family law, property law, or in the judicial system, and they continued to face discrimination in many areas. Nevertheless, women attained prominent positions in government and business. A parliamentary committee for women's and family affairs exists, and female MPs made up four of its five members.

Women continued to experience legal, economic, and social discrimination. Shari'a discriminates against women in judicial proceedings, freedom of movement, and marriage. Inheritance is also governed by Shari'a, which varies according to the school of Islamic jurisprudence the different populations in the country follow. In the absence of a direct male heir, a Shia woman may inherit all property, while a Sunni woman inherits only a portion, with the balance divided among brothers, uncles, and male cousins of the deceased. When the children of a divorced woman reach age 18, she loses her right to live in housing purchased through the government loan program, regardless of any payments she may have made on the loan, and a female citizen married to a noncitizen cannot, by law, qualify for the loan program. Female citizens married to noncitizens are also required to pay annual residence fees of 217 dinars (\$756) for their husbands and children; the law grants residency only if the noncitizen husband is employed. Citizen women cannot pass citizenship to their noncitizen husbands or their children. Male citizens married to female noncitizens did not face such discrimination in law or practice.

The law provides for a woman to receive "remuneration equal to that of a man provided she does the same work"; however, it prohibits women from working in "dangerous industries" and in trades "harmful" to health. In June 2008 the Constitutional Court ruled that the housing benefits package outlined in a resolution by the Council of Ministers for judges, attorneys general, and counselors in the legal advice and legislation department was unconstitutional. According to the resolution, married employees of both genders received a housing allowance of 323 dinars (\$1,125), single male employees received 217 dinars (\$756), and single female employees received nothing. Educated women maintained that the conservative nature of society limited career opportunities, although there were limited improvements. Women made up 50 percent of the 263,000 citizens working in the public sector, 39 percent of the 57,000 working in the private sector, and 70 percent of college graduates.

The law requires that classes at all universities, private and public, be segregated by gender. Public universities enforced this law more rigorously than private universities.

On March 26, the first female police officers graduated from the Support Authority Institute at the Saad Al-Abdallah police academy.

On October 28, the Constitutional Court ruled that female MPs Rola Dashti and Aseel Al-Awadhi did not violate the Shari'a requirement of the electoral law by going uncovered (not wearing a hijab) and, as a consequence, would not have their National Assembly seats revoked. The ruling also determined that female candidates for parliament and female voters are not legally required to wear the hijab.

Children

The government is generally committed to the rights and welfare of citizen children, although noncitizen children received less support and attention. The government did not issue birth certificates to Bidoon children despite several court decisions against the government during the year (see section 2.d.), and many Bidoon children could not receive free public services. The government automatically granted citizenship to orphaned or abandoned infants, including Bidoon infants.

For citizen children, education is free through the university level and compulsory through the secondary level. Education is neither free nor compulsory for Bidoon and expatriate children. Some Bidoon children attended private schools, and some did not attend school at all. The Charity Fund to Educate Needy Children, administered by the MOI, MAIA, and Ministry of Education, paid school fees for more than 11,000 Bidoon children since its creation in 2003.

There was no societal pattern of child abuse.

The legal age for girls to marry is 15, but younger girls continued to marry within some tribal groups. The MOJ estimated the prevalence at 2 to 3 percent of total marriages.

Trafficking in Persons

The law does not explicitly prohibit trafficking in persons, although it prohibits transnational slavery and forced prostitution. Trafficking in persons was a serious problem.

The country was a destination and transit point for men and women for forced labor. Female migrant workers were sometimes victims of sexual exploitation. Victims came from South and East Asia, including Bangladesh, India, Pakistan, Sri Lanka, Nepal, Indonesia, and the Philippines, although individuals from other countries such as Ethiopia and Eritrea also reportedly were trafficked. Hundreds of thousands of Egyptians worked in the country, and some were subjected to trafficking, particularly in the form of debt bondage. There were reports that foreign workers younger than 18 were employed in homes in the country, but most trafficking victims were adults.

Principal traffickers were sending-country labor-recruitment agencies and host-country sponsors (employers) of foreign workers. The primary method to obtain and transport victims was for sending-country labor recruitment agencies to offer valid contracts to workers, inflating salary figures and misrepresenting the labor conditions, and then not honor those contracts. There were reports that employers gave workers new contracts at lower salaries than those they signed previously or deducted multiple fees from their salaries. Some companies reportedly kept workers' debit cards and withdrew part of the salary after the paycheck had been deposited. Workers found it difficult to leave these situations for several reasons: employers frequently withheld workers' passports or otherwise restricted their movements; employees often were in debt from their travel to the country; and employers could file or threaten to file criminal charges against workers for absconding. Some workers also faced physical and sexual assault as a means of forcing them to work.

Traffickers also forced some female domestic workers into prostitution after they had escaped an abusive employer or deceived them with a promise of a job in a different sector.

Although the law does not explicitly prohibit trafficking in persons, traffickers may be prosecuted for transnational slavery, with a penalty of as long as five years' imprisonment, or forced prostitution, with a penalty of as long as five years' imprisonment or seven years' for minors. Penalties for trafficking-related crimes range from fines and incarceration for failure to abide by the standardized domestic labor contract to life sentences and the death penalty for rape. However, in most cases law enforcement efforts focused on administrative measures, such as shutting down companies in violation of labor laws or issuing the return of withheld passports or payment of back wages, rather than criminal punishments for abusive employers.

During the year the MOI's Immigration Investigations Department closed more than 700 false companies that were involved in visa trading and trafficking in persons. The Immigration Investigations Department also made numerous arrests, but the courts did not secure any convictions for trafficking-related crimes. On March 11, the Court of Appeals ruled against two defendants who had been sentenced in June 2008 to two years in prison for selling two domestic workers into sex slavery.

The government assisted some trafficking victims; however, it sometimes detained, prosecuted, or deported victims for acts such as prostitution or absconding, committed as a consequence of being trafficked. On April 14, the government reported it had convicted 351 defendants for prostitution and/or debauchery in 2008. The government sheltered some trafficking victims in a domestic workers shelter, and it occasionally paid for airline tickets to repatriate runaway or abused domestic workers. The Domestic Workers Administration sometimes brokered solutions between employers and former employees. In 2008 the MOSAL and MOI sent officers to International Organization of Migration (IOM) training on managing shelters and assisting trafficking victims. Foreign workers were sometimes unable to afford airfare back home from the country. During the year the government cooperated with the IOM to buy plane tickets home for 400 Sri Lankan and Indonesian workers.

On August 9, the MOSAL issued a resolution to permit most foreign workers to change employers after three years of

work without having to first secure the permission of the original sponsor. The resolution excludes domestic workers, public sector workers, and foreign workers involved in finance management, thereby applying to approximately two-thirds of the country's two million foreign workers. At year's end the MOSAL had not processed any sponsor transfer requests.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with disabilities and imposes penalties against employers who refrain from hiring persons with disabilities without reasonable cause. The law also mandates access to buildings for persons with disabilities. The government generally enforced these provisions. There were no specific reports of discrimination against persons with disabilities; however, noncitizens with disabilities did not have access to government-operated facilities or receive stipends paid to citizens with disabilities, which covered transportation, housing, job training, and social welfare.

Representatives from ministries, other governmental bodies, Kuwait University, and several NGOs constituted the government's Higher Council for Handicapped Affairs, which made policy recommendations, provided financial aid to persons with disabilities, and facilitated the integration of such persons into schools, jobs, and other social institutions. The government supervised and contributed to schools and job and training programs that catered to persons with special needs.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Homosexuality and cross-dressing are illegal. The law punishes homosexual behavior between men older than 21 with imprisonment of up to seven years; those engaging in homosexual activity with men younger than 21 may be imprisoned for as long as 10 years. In 2007 the National Assembly approved a law to impose a fine of 1,059 dinars (\$3,690) and/or one year's imprisonment for those imitating the appearance of the opposite sex in public. There are no laws that criminalize sexual behavior between women.

During the year there were more than a dozen reports of police arresting transgender persons at malls and markets, taking them into custody, beating them and shaving their heads, and then releasing them without charges. For example, on March 10, MOI Criminal Investigations Division officers raided a cafe, arresting five men for cross-dressing.

There were no official NGOs focused on lesbian, gay, bisexual, or transgender matters. Societal discrimination based on sexual orientation was common; official discrimination was less so. There was no government response to either.

Other Societal Violence or Discrimination

There was no reported societal violence or discrimination against persons with HIV/AIDS.

Unmarried men continued to face housing discrimination based solely on marital status. Although the law prohibits single men from obtaining accommodation in many urban residential areas, at year's end the government had not fulfilled a plan to construct housing for them on the outskirts of the capital.

Section 7 Worker Rights

a. The Right of Association

With the exceptions of the country's approximately 560,000 domestic servants and an unknown number of maritime employees, the law provides that workers have the restricted right to join unions without previous authorization. Although 1.5 million foreign workers who are not domestic workers can join unions, they cannot run or vote in board elections. An estimated 100,000 persons, or 5 percent, of a total workforce of two million were organized into unions, mostly in the public sector or petroleum industry. The law empowers the government to interfere significantly in union activities, including the right to strike; however, the government did not impede strikes. To hold a legal strike, a union must obtain permission from the MOI, which did not grant permission for any of the strikes that took place during the year.

The government restricts the right of freedom of association to only one union per occupational trade and permits only one federation, the Kuwait Trade Union Federation (KTUF), which comprises 15 of the 47 licensed unions. Some workers were dissatisfied with the KTUF and instead joined the unlicensed National Trade Union Federation. The law stipulates that any new union must include at least 100 workers, 15 of them citizens. Both the International Labor Organization and the International Trade Union Confederation criticized this requirement because it discourages unions in sectors that employ few citizens, such as the construction industry and much of the private sector.

The government essentially treated licensed unions as parastatal organizations, providing as much as 90 percent of their budgets and inspecting financial records. Union leaders and board members are elected by the union members, who are citizens. It is prohibited for unions to discuss political, religious, or sectarian issues. The law empowers the courts to dissolve any union for violating labor laws or for threatening "public order and morals," although such a court decision may be appealed. The MOSAL can request the dissolution of a union through the Court of First Instance. The emir also may dissolve a union by decree. No union was dissolved during the year. The government denied several public sector and oil sector unions' applications for official recognition during the year on the grounds that the law does not allow for more than one union to represent the same profession or organization.

The law denies domestic servants (one-third of the noncitizen workforce) and maritime employees the right to associate and organize. It also discriminates against more than one million other foreign workers by denying them union voting

rights, barring them from leadership positions, and permitting them to join unions only after five years of residence, although the KTUF stated that this last requirement was not widely enforced in practice. During the year, for the first time, the KTUF worked to promote the rights of noncitizen workers, cooperating with the Embassy of Pakistan to settle the labor disputes of several Pakistani workers in the country.

The law limits the right of workers, especially noncitizens, to strike. Most labor disputes are resolved in compulsory negotiations; if not, either party may petition the MOSAL for mediation. If mediation fails the dispute is referred to a labor arbitration board composed of officials from the Court of Appeals, the Attorney General's Office, and the MOSAL. The law does not contain any provision ensuring protecting strikers from legal or administrative action taken against them by the government. Employers generally try to settle disputes with workers themselves to retain them.

Foreign workers went on strike several times during the year. Most striking workers were employees of cleaning and security companies who claimed they had not received their salaries. In these instances the MOSAL responded by attempting to negotiate a settlement between the workers and the employers.

On April 26, more than 300 cleaning and security company workers staged a strike, claiming they had not received their salaries for four months. The MOSAL summoned the owner of the company and made him pay all late wages.

On July 19, an estimated 120 cleaning workers gathered in front of the Capital Labor Department, claiming they had not received their salaries for more than six months and their company had not renewed their residencies. The MOSAL summoned the owner of the company and made him pay all late wages.

b. The Right to Organize and Bargain Collectively

The law provides workers, with the exceptions of domestic servants, maritime workers, and civil servants, with the right to bargain collectively, subject to certain restrictions; the government generally respected in practice the rights of those workers covered by the law. Collective agreements covered approximately 70 percent of the labor force. There are no restrictions on collective bargaining. There is no minimum number of workers needed for such agreements.

The law prohibits antunion discrimination and employer interference with union functions, and the government generally protected those rights. Any worker alleging antiunion discrimination has the right to appeal to the judiciary. Employers found guilty of such discrimination must reinstate workers fired for union activities. There were no reports of discrimination against employees based on their affiliation with a union.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, "except in cases specified by law for national emergency and with just remuneration"; however, there were reports that such practices occurred. Domestic servitude and forced prostitution were the most common types of forced labor.

Some foreign domestic workers, often trafficked, were victims of forced labor. Physical or sexual abuse of female domestic workers was a serious problem, and police and courts took action against employers when presented with evidence of serious abuse.

There were frequent reports of domestic workers allegedly committing or attempting suicide because of desperation over poor working conditions or abuse. For example, on August 16, a Sri Lankan domestic employee sustained injuries after a failed attempt to commit suicide by jumping from a roof. She alleged that her employer had punished her by pouring boiling oil on her and making her stand on the roof. Authorities took the employee to the hospital and questioned her employer.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits child labor; however, there were credible reports of underage workers, including domestic servants.

The legal minimum age for employment is 18; however, employers may obtain permits from the MOSAL to employ juveniles between the ages of 14 and 18 in nonhazardous trades. Juveniles may work a maximum of six hours a day on the condition that they work no more than four consecutive hours followed by a one-hour rest period.

There were reports that some children were trafficked to the country to provide domestic labor, and some underage workers reportedly falsified their ages to enter the country. There were few reports of underage Asian girls working as domestic servants after entering the country on false travel documents obtained in source countries. Approximately 300 inspectors from the Labor Inspection Department monitored private firms routinely for labor law compliance, including laws against child labor. Noncompliant employers were fined or their company operations were suspended.

e. Acceptable Conditions of Work

The public sector minimum wage for citizens was 217 dinars (\$756) per month, and the public sector noncitizen wage was 97 dinars (\$338). The public sector minimum wage provided a decent standard of living for a citizen worker and family. There was no legal minimum wage in the private sector, except for those domestic workers who had signed contracts in 2006 who received at least 40 dinars (\$140) per month. The MOSAL implemented the minimum wage effectively by requiring companies to provide a monthly wage report with supporting documents.

The law establishes general conditions of work for the private sector. The law limits the standard workweek to 48 hours (40 hours for the petroleum industry) with one full day of rest per week and one hour of rest after every five consecutive hours of work. These standards were not well enforced, and domestic servants and other unskilled foreign workers in the private sector frequently worked in excess of 48 hours a week, often with no day of rest. Workers submitted complaints to the MOSAL's Labor Disputes Department.

The government issued occupational health and safety standards; however, compliance and enforcement by the MOSAL appeared poor, especially with respect to unskilled foreign laborers. A September MOSAL report stated that in the previous 12 months approximately 20,000 industrial and commercial firms had negligently violated professional safety standards and that 3,313 workers were injured on the job. To decrease accident rates, the government periodically inspected enterprises to raise awareness among workers and employers and to ensure that they abided by safety rules, controlled pollution resulting from certain industries, trained workers to use machines, and reported violations. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment, and legal protection existed for both citizen and foreign workers who filed complaints about such conditions. In past years government attention to worker safety issues was limited, resulting in poor training of inspectors, inadequate injury reports, and no link between insurance payments and accident reports. No such cases were reported during the year.

The law provides that all outdoor work stop between noon and 4:00 p.m. during the months of June, July, and August or when the temperature rises to 50 degrees Celsius (122 Fahrenheit) in the shade. The MOSAL monitored work sites to ensure compliance with these rules. There were no reports of violations during the year.

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