



**Kuwait's Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

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

**The World Coalition Against the Death Penalty
and**

The Cornell Center on the Death Penalty Worldwide

for the

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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. Established 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 publications. 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 is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, 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.

The Cornell Center on the Death Penalty Worldwide is a US-based research, advocacy, and training center focused on capital punishment and international law. It publishes reports and manuals on death penalty issues, provides transparent data on death penalty laws and practices around the world, trains capital lawyers in best practices, and engages in targeted advocacy and litigation. Its staff and faculty advisors have collectively spent more than eight decades representing hundreds of prisoners facing the death penalty. In 2019 it was awarded the World Justice Challenge Award in recognition for its work on behalf of death-sentenced prisoners in Malawi.

EXECUTIVE SUMMARY

1. This report suggests questions that the Committee on the Elimination of Discrimination against Women should pose to the Government of Kuwait in its List of Issues, particularly with respect to the death penalty. Kuwait carried out approximately seven executions in November 2022. Since 2017, Kuwait has abandoned its de facto moratorium on the death penalty and has executed 14 people. Women remain at risk of being sentenced to death, and Kuwait's retention of the death penalty and its practices regarding the death penalty present an ongoing risk of discrimination against women.

Kuwait fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women.

2. Kuwait is a retentionist country, and since the end of a facto moratorium in 2017, the State party continues to sentence women to death, violating the rights of women based on the crimes for which women are sentenced, the lack of protections entrenched in the law, discriminatory penal provisions, and gender-based violence.
- 1. Kuwait retains the death penalty and the mandatory death penalty continues to place women at risk of being sentenced to death.**
3. The death penalty is available in Kuwait for murder as well as for drug-related offenses that do not involve intentional killing, and therefore do not constitute the “most serious crimes” under Article 6 of the International Covenant on Civil and Political Rights.¹ After a five-year de facto moratorium, in 2017 Kuwait carried out two mass executions.² Kuwait hung seven people in January 2017, and another seven people in November 2022; at least five of the fourteen were women.
4. The Kuwaiti Government lacks transparency regarding the number of women sentenced to death. In 2021 at least five individuals were placed on death row, and as mentioned in the preceding paragraph, in November 2022, Kuwait executed seven people—five men and two women.³ The Office of the High Commissioner for Human Rights and Amnesty International identified the individuals as “four Kuwaiti nationals—three men and a woman—an Ethiopian woman, a Pakistani man and a man from Syria.”⁴
5. Official information about the charges that led to the executions is lacking. In the cases of the women executed in 2022, a government spokesperson provided the only official information to the state-run KUNA news agency: “The Ethiopian woman was executed for intentional

¹ Amnesty International, *Death Sentences and Executions 2018* (2019), 12. Available online at: <https://www.amnesty.org/download/Documents/ACT5098702019ENGLISH.PDF>.

² Amnesty International, *Kuwait: Authorities must halt imminent execution of seven prisoners* (Nov. 15, 2022), <https://www.amnesty.org/en/latest/news/2022/11/kuwait-authorities-must-halt-imminent-execution-of-seven-prisoners/>.

³ *Kuwait Hangs Seven People in First Executions Since 2017*, Al Jazeera, (Nov. 16, 2022), <https://www.aljazeera.com/news/2022/11/16/kuwait-executes-seven-people-despite-international-outcry>.

⁴ Amnesty International, *Kuwait: Authorities must halt imminent execution of seven prisoners* (Nov. 15, 2022), <https://www.amnesty.org/en/latest/news/2022/11/kuwait-authorities-must-halt-imminent-execution-of-seven-prisoners/>.

killing” and the female Kuwaiti was found “guilty of premeditated crime.”⁵ Regarding the 2017 executions, Human Rights Watch reported that “the Filipina and Ethiopian women, migrant domestic workers, were convicted of murdering members of their employers’ families.”⁶

6. 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.⁷ Courts reportedly fail to consider gender-specific mitigation.
7. Women who face extensive gender-based violence are disproportionately affected by the death penalty, including those who seek to protect themselves against their abusers.⁸ Long histories of gender-based violence can result in complex trauma and can exacerbate psycho-social or intellectual disabilities.⁹
8. In a groundbreaking 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 violence¹⁰ and manipulative or coercive relationships with male co-defendants.¹¹ Cornell’s data indicate that most women under sentence of death have been sentenced to death for the crime of murder.¹² These women have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.¹³ In many cases, the abuse has occurred repeatedly. Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.¹⁴ 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

⁵ *Kuwait prosecution oversees execution of 7 convicts*, Kuwait News Agency (Nov. 16, 2022), <https://www.kuna.net.kw/ArticleDetails.aspx?id=3069030&Language=en>.

⁶ Amnesty International, *Kuwait: First Executions in 4 Years* (Jan. 26, 2017), <https://www.hrw.org/news/2017/01/26/kuwait-first-executions-4-years>.

⁷ U.S. State Department, *2021 Country Reports on Human Rights Practices: Kuwait*. Available online at: https://www.state.gov/wp-content/uploads/2022/03/313615_KUWAIT-2021-HUMAN-RIGHTS-REPORT.pdf.

⁸ 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).

⁹ 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).

¹⁰ 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 online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹¹ 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/>.

¹² *Id.* at 11.

¹³ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 4. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹⁴ *Id.*

pressured or tricked into transporting drugs) as mitigating factors during sentencing.¹⁵ Research also indicates that courts also fail to account for power dynamics and tactics of coercive control that may affect a woman's involvement in and culpability for a crime.

9. 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."¹⁶
10. Moreover, the Cornell Center 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."¹⁷
11. Women perceived as the perpetrator of the crime are more likely to receive a harsher punishment than men accused of similar offenses.¹⁸ The death penalty disproportionately affects those individuals who face "gender stereotypes, stigma, harmful and patriarchal cultural norms, and gender-based violence."¹⁹ This has an "adverse impact on the ability of women to gain access to justice on an equal basis with men."²⁰
12. 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 deprivation and many are illiterate, which can reinforce unequal access to effective legal representation.⁴² These women are more likely to be illiterate and unaware of their legal rights.⁴³ Illiteracy and lack of education among poor women 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.

II. Migrant domestic workers are at particular risk of being sentenced to death (Concluding Observations para. 37(d), (f)).

¹⁵ 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/>.

¹⁶ 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/>.

¹⁷ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 4. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

¹⁸ Emma Milne & Jackie Turton, *Understanding Violent Women*, in WOMEN AND THE CRIMINAL JUSTICE SYSTEM: FALLING VICTIM AND OFFENDERS? 119, 124-25 (Palgrave Macmillan, 2018).

¹⁹ OHCHR, *Death penalty disproportionately affects the poor, U.N. rights experts warn* (Oct. 10, 2017), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>.

²⁰ U.N. Office of the High Commissioner for Human Rights, *Death penalty disproportionately affects the poor, U.N. rights experts warn* (Oct. 10, 2017), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22208&LangID=E>.

13. In its 2017 Concluding Observations, the Committee recommended that Kuwait “[a]dopt and enforce laws and regulations that include adequate legal remedies and complaints mechanisms, to protect documented and undocumented women migrant workers from abuse, sexual harassment and forced labour,” and also “[c]ontinue efforts to completely abolish the *kafala* (sponsorship) system.”²¹
14. The Sixth Periodic Report states that Kuwait has enacted laws and regulations “to ensure legal remedies and complaints mechanisms to protect migrant workers from any kind of abuse or sexual harassment in forced labour.”²² It describes a process by which the government can receive such complaints, but it does not provide data as to the number of complaints, how they are resolved, or whether the perpetrators are held accountable. The report further states that “the General Workforce Authority has been conducting a review of all laws and regulations governing [the domestic employment sector] with a view to aligning them with international standards.”²³ The report also notes that the term *kafil* (sponsor) is not in Kuwait’s labor code. The labor code “gives the worker the freedom and space to move from one employer to another within certain guidelines.”²⁴
15. As discussed in paragraph 5 above, several of the women executed since 2017 were migrant domestic workers, and two of them were executed for murdering members of their employers’ families.
16. Despite nominal protections provided under a 2015 domestic workers law,²⁵ migrant domestic workers continue to face exploitation, forced confinement to their employers’ houses, and physical and sexual abuse. Many domestic workers said they have not been able to claim their rights under the new law, in part because of the *kafala* (sponsorship) system under which they cannot leave or change employers without their employers’ consent. Those who flee their employers can be arrested for “absconding.”
17. Human Rights Watch in a 2022 report observed that migrant workers remain vulnerable to abuse due to the *kafala* system, particularly migrant domestic workers. The organization reports “migrant domestic workers face additional forms of abuse, including being forcibly confined in their employers’ homes, and verbal, physical and sexual abuse. While government shelters and complaint procedures exist for victims, there are serious barriers to accessing

²¹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 37(d), (f).

²² United Nations Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/6, ¶ 103.

²³ United Nations Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/6, ¶ 104(e).

²⁴ United Nations Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/6, ¶ 104(f).

²⁵ United Nations Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/6, ¶ 103.

them, particularly for abuses like owed or delayed wages.”²⁶ Many domestic workers attempt to escape their workplace or die from suicide.²⁷

18. While there is no specific information available regarding Kuwait, the 2018 Cornell study referenced above observed that in other countries in the region, many women on death row are migrant domestic workers.²⁸ In many cases, such as the two cases described in paragraph 5, the female domestic worker was accused of killing her employer or a family member of 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.”²⁹
19. There is no information to suggest that courts in Kuwait take these multifaceted forms of oppression, including sexual harassment and gender-based violence, into account in capital cases against foreign domestic workers.

III. Women are at risk of being sentenced to death for drug-related offenses.

20. As mentioned in paragraph 3, Kuwait maintains the death penalty for drug-related offenses. Kuwait’s authorization of the death penalty for drug-related offenses places women at heightened risk. The Executive Director of Harm Reduction International has observed that “[p]eople on death row for drug offences tend to be involved at the lowest level of the drug trade, and are generally marginalized in society. Gender, socio-economic position, ethnicity and foreign status in a country add intersectional vulnerability to this context.”³⁰ She explains that although “some women engage in the drug trade through their own volition, for others, a narrower range of choices, along with poverty, coercion, violence, manipulation, and the survival needs of a family play a significant factor in their involvement.”³¹ Research from the Cornell Center illustrates “the alarming extent to which women sentenced to death for drug offences experienced gender bias in criminal proceedings and violations of their right to a fair trial.”³²

²⁶ Human Rights Watch, *Kuwait: Events 2022* (accessed Jan. 25, 2022), <https://www.hrw.org/world-report/2023/country-chapters/kuwait>.

²⁷ Human Rights Watch, *Slow Reform: Protection of Migrant Domestic Workers in Asia and the Middle East*, (Apr. 27, 2010), <https://www.hrw.org/report/2010/04/27/slow-reform/protection-migrant-domestic-workers-asia-and-middle-east>.

²⁸ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 17-18. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

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

³⁰ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

³¹ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

³² Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 2021), 5. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

21. The Cornell Center’s research has found that foreign nationals are over-represented among women sentenced to death for drug-related offenses.³³ Rule 66 of the Bangkok Rules specifically addresses the need to take measures to avoid secondary victimization of many foreign-national women.³⁴ The Cornell Center’s research also revealed that in many cases, women become involved with the drug trade under the influence or pressure of a male partner, and that partner typically suffers fewer criminal consequences than the woman.³⁵

IV. The Criminal Code includes a discriminatory provision related to so-called honor killings (Concluding Observations paragraphs 15(c), 16).

22. In its 2017 Concluding Observations, recommended that Kuwait abolish Article 153 of the Criminal Code, which reduces the sentence for a man who kills a woman in the name of so-called honor.³⁶ Any penal provisions which permit honor killings violate Kuwait’s obligations under the Convention.³⁷
23. In its Sixth Periodic Report, Kuwait stated: “with regard to the allegation that penalties provided for in article 153 of the Criminal Code (No. 16 of 1960) create inequality because mitigating circumstances may be granted to a man but not to a woman, it should be underscored that the mitigating circumstances are not unconditional.”³⁸

V. The exclusion of women from leadership positions, particularly in the judiciary, exacerbates gender bias in capital proceedings (Concluding Observations paragraph 30).

24. In its Concluding Observations, the Committee noted with concern the low participation of women in leadership positions, including in executive positions, and their limited roles as ambassadors, ministers or parliamentarians.³⁹ The Committee pointed out as an example the lack of participation by women in the Women’s Affairs Committee, in which only one of the five participating parliamentarians is a woman.⁴⁰

³³ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses (Sept. 2021), 6. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

³⁴ Bangkok Rules, Rule 66, (last visited Sept. 29, 2022). Available at: <https://cdn.penalreform.org/wp-content/uploads/2016/07/BangkokRules-Updated-2016-with-renumbering-SMR.pdf>.

³⁵ Cornell Center on the Death Penalty Worldwide, “No One Believed Me”: A Global Overview of Women Facing the Death Penalty for Drug Offenses, (Sept. 2021), 6. Available online at: <http://filesserver.idpc.net/library/No-One-Believed-Me.pdf>.

³⁶ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 15(c).

³⁷ United Nations Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 14.

³⁸ United Nations Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 16.

³⁹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 30.

⁴⁰ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/CO/5, ¶ 18.

25. The Sixth Periodic Report states that women enjoy the same right of access as men to all posts without legal obstacles. The State Party alleged that women contribute actively to decision-making at the level of minister in the Council of Ministers, deputy minister, public agency director, ambassador and Municipal Council member. The Sixth Periodic report limits itself to confirming women do not face *legal* obstacles in accessing posts but stays silent about any practical obstacles due to traditions or stereotypes.
26. Out of fifty elected members of the National Assembly, only two are female. There have never been more than four female members of the National Assembly.⁴¹ The participation of women in the justice system remains low. The Sixth State Party report sets out there are currently 55 Kuwaiti female prosecutors. As of 1 September 2020, As recently as 2021 only fifteen Kuwaiti judges were women.⁴² The absence of women making key decisions over the course of criminal prosecutions contributes to a justice system's failure to take into account women's experiences.⁴³ The exclusion of women from positions of power in the Kuwaiti penal system exacerbates the effects of gender bias at every stage of capital proceedings.

VI. The Government of Kuwait fails to combat gender-based violence and stereotypes, placing women at further risk of being sentenced to death (Concluding Observations paragraphs 24-27).

27. As described in greater detail above, gender-based violence is often one component of the profiles of women sentenced to death and a contributing factor to the circumstances leading to the crimes for which women are sentenced to death, particularly in the context of the murder of family members who have perpetrated gender-based violence.⁴⁴
28. Women who face extensive gender-based violence are disproportionately affected by the death penalty, including those who seek to protect themselves against their abusers.⁴⁵ Long histories of gender-based violence can result in complex trauma and can exacerbate psycho-social or intellectual disabilities.⁴⁶ Yet the police present a bottleneck for women reporting gender-based

⁴¹ *Women return to Kuwait parliament for first time since 2020*, The National UAE (Sep. 30, 2022), <https://www.thenationalnews.com/gulf-news/2022/09/30/women-return-to-kuwait-parliament-for-first-time-since-2020/>.

⁴² United Nations Committee on the Elimination of Discrimination against Women, *Sixth periodic report submitted by Kuwait under article 18 of the Convention, due in 2021* (Dec. 29, 2021), U.N. Doc. CEDAW/C/KWT/6, ¶ 50.

⁴³ The Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime - A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 8. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁴⁴ World Coalition Against the Death Penalty, *Reflecting on the links between the death penalty and gender-based violence* (Nov. 25, 2022), <https://worldcoalition.org/2022/11/25/reflecting-on-the-links-between-the-death-penalty-and-gender-based-violence/>.

⁴⁵ The Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime - A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 8. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁴⁶ The Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime - A Global Overview of Women Facing the Death Penalty* (Sept. 2018), 8. Available online at: <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

violence,⁴⁷ and the law requires two male witnesses.⁴⁸ When survivors of gender-based violence kill their abusers, sentencing courts often fail to take the history of gender-based violence into account in mitigation of a death sentence.

29. In its Concluding Observations, the Committee expressed concern with the discriminatory stereotypes that persist towards women.⁴⁹ The Government of Kuwait has been silent on the role of men perpetuating these harmful stereotypes and has not created opportunities to educate men otherwise.⁵⁰ Discriminatory divorce laws trap women, sometimes requiring years of process to obtain separation despite documentation of abuse.⁵¹
30. Kuwait has made some efforts to combat domestic violence, including the creation of family courts to deal with domestic violence cases and the drafting of a law that: (1) Defines “domestic violence”; (2) Provides for shelters, psychological counselling and legal assistance to victims; and (3) Establishes a domestic violence hotline for complaints.⁵² The new law, however, does not set out penalties for domestic violence as a crime on its own, and does not include violence perpetrated by former intimate partners or protect women engaged in relationships outside of wedlock, including women who are engaged or unofficially married.⁵³ Furthermore, a woman must produce a report from a government hospital describing her injuries and have two male witnesses. Although a woman may petition for divorce based on injury from domestic violence, the law does not provide a clear legal standard for what constitutes injury.⁵⁴
31. The Government of Kuwait is falling short of its obligation to eradicate gender-based violence, including sexual violence. A 2018 study found that 53.1% of women in country have experienced gender-based violence.⁵⁵ Women in Kuwait report that police stations do not take seriously reports by both citizens and non-citizens of domestic violence and sexual assault.⁵⁶ As a result of this lack of protection, incidents of gendered violence are significantly under-reported.⁵⁷ Simmering tensions based on a culture of impunity around gender violence prompted activists to launch a countrywide social-media campaign called Lan Asket (“I will

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5, ¶¶ 24-27.

⁵⁰ Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5.

⁵¹ World Report 2021 Kuwait, *Country Chapters*, Human Rights Watch.

⁵² Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the fifth periodic report of Kuwait* (Nov. 22, 2017), U.N. Doc. CEDAW/C/KWT/CO/5,

⁵³ *Dignity, Freedom, and Justice For All*, TIMES OF Kuwait, (Dec. 10, 2022), <https://timeskuwait.com/news/dignity-freedom-and-justice-for-all/>.

⁵⁴ 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.

⁵⁵ Fatima Al-Salem, *Fifty-three Percent of Kuwaiti Women are Abused by Men*, AL QABAS, (Nov. 23, 2018), %53 من الكويتيات معنفات من الرجل (alqabas.com).

⁵⁶ 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.

⁵⁷ 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.

not be silenced”) in 2021.⁵⁸ The campaign documented countless reports of violence and harassment that never gained legal traction, including abuses suffered by female foreign workers seeking to leave abusive situations.⁵⁹ In February 2022, women protested the backsliding of the Government on the rights of women including new male-guardianship rules.⁶⁰

VII. Suggested Questions for the Government of Kuwait

32. The coauthors suggest the following questions for the Government of Kuwait:

- What steps has Kuwait taken to abolish the death penalty and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards?
- Please provide data about the number of women charged with capital crimes, sentenced to death, under sentence of death, or executed in Kuwait since 2017, disaggregated by age, race, nationality, crime of conviction, date of conviction, relationship to the victim (if any), number and age of minor children (if any), status of any appeals or petitions for mercy, current sentence, and current location.
- What standards do courts apply regarding the immediacy and intensity of the threat in order for a defendant charged with murder to successfully plead self-defense? Are those standards subjective (belief of the defendant at that point in time) or objective (belief of a reasonable person in similar circumstances)?
- To what extent do law enforcement, prosecutors, or defense counsel in capital cases receive training on gender sensitivity as it relates to criminal procedure and sentencing outcomes?
- How do authorities ensure that all women accused of capital crimes have access to free and effective legal representation by attorneys who specialize in death penalty cases, ensure access to counsel at all times, from the start of the investigation through any appeals, and ensure that the defense team has sufficient funding to conduct a thorough investigation and to secure relevant expert witnesses, particularly regarding gender-specific defenses?
- What training does the government provide to defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate?
- What steps, if any, has the State party taken to codify gender-specific defenses and mitigation in capital cases, encompassing women’s experiences of trauma, poverty, and gender-based violence?
- What measures has the government implemented 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?
- How does the prison service ensure compliance with the Bangkok Rules?

⁵⁸ 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.

⁵⁹ 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.

⁶⁰ Human Rights Watch, *Kuwait: Events of 2022*, <https://www.hrw.org/world-report/2023/country-chapters/kuwait>.

- What mechanisms are in place to ensure that women in police custody are free from coercion, sexual harassment, and gender-based violence, and how are perpetrators held accountable?
- What remedies are available to women who allege that they experienced gender-based violence while in police custody and/or during the investigation stage of criminal proceedings?
- What measures are in place to ensure that any woman charged with a capital crime fully understands the charges against her and is able to participate actively and meaningfully in preparing her defense? How does the criminal legal system accommodate foreign nationals and other female defendants who do not understand Arabic or women with psycho-social or intellectual disabilities?
- How does the State Party ensure that judges, prosecutors, defense counsel, police, and other individuals in positions of power within the criminal legal system are knowledgeable about gender-based discrimination, domestic violence, and tactics of coercive control that may lead women to commit death-eligible offenses? Specifically, what training programs are available for judges and other actors within the criminal legal system?
- Do the women facing the death penalty have access to qualified legal counsel? Are adequate resources available?
- What training is available to judges and other judicial officers presiding over criminal proceedings, particularly in capital cases, to educate them about the importance of considering gender-specific defenses and gender-specific mitigation in capital trials, including trauma, gender-based violence, economic pressures, and family caretaking responsibilities? What training is available for judges and other judicial officers presiding over criminal proceedings, particularly in capital cases, regarding gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses? Does the State Party provide funding for expert witnesses on these topics if they are relevant to a woman's defense?
- What measures are being taken to facilitate the employment of women in the judiciary and in other government leadership roles?
- What policies are in place to ensure that women under sentence of death have timely and free access to general and female-specific healthcare and counseling, including psycho-social care and menstrual health (e.g., access to sanitary products, soap, etc.)?
- To what extent does the criminal legal system accommodate the language needs of foreign nationals charged with capital offenses, including, for example, interpreters, reading materials in their first language, access to case documents in their first language, and the ability to make additional telephone calls with family members living in other countries?
- Please describe the procedures in place to ensure compliance with the Vienna Convention on Consular Relations when women are suspected of committing capital offenses.
- What efforts has the State Party undertaken to engage civil society in discussions around abolition of the death penalty and alternatives to the death penalty? Please describe any measures taken to eliminate intersecting forms of discrimination in the

criminal legal system against women with disabilities, migrant and refugee women, women from disadvantaged socio-economic backgrounds, and women belonging to minority groups.