
Republic of Kuwait: UPR 49

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I. Introduction

“Take measures to prevent arbitrary detention and abuses of State authority, including by ensuring the effective guarantee of due process and the avoidance of systematic and sustained pretrial detention” (*Malta, Cycle 3: 2015-2020*)

“Strengthen cooperation with human rights mechanisms, especially with special procedures mandate holders” (*Ecuador, Cycle 3: 2015-2020*)

“Take further steps to disseminate a culture of human rights” (*Uzbekistan, Cycle 3: 2015-2020*)

“Intensify efforts to raise awareness in the area of human rights and expand human rights training programmes for public and law enforcement officials” (*South Korea, Cycle 3: 2015-2020*)

Five years on, the facts show that these commitments remain unfulfilled, with little sign of progress.

II. Fair trial rights and judicial independence

Freedom House

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?

1/4

Kuwait lacks an independent judiciary. The emir has the final say on judicial appointments, which are proposed by a Supreme Judicial Council that includes senior judges, the attorney general, and the deputy justice minister. The executive branch approves judicial promotions. Judges who are Kuwaiti citizens are appointed for life, while noncitizens receive contracts for up to three years. The courts frequently rule in favor of the government in cases related to politics.

Arab Times, Kuwait

KUWAIT CITY, Jan 5: The Court of Appeals is set to tackle the case of judges' bribery, forgery and money laundering, after a lower court had ruled the imprisonment, dismissal and fining of six judges, the confiscation of the vehicles they obtained as bribe, and the imprisonment of businessmen, employees and lawyers. Meanwhile, the Criminal Court, in its ruling, affirmed that the accusation of money laundering applies to the convicted judges because it was obtained from the crime of bribery.

Arab Times, Kuwait

KUWAIT CITY, Aug 9: A large-scale 'purge' targeting those suspected of involvement in anomalies in the judiciary has started in line with the bold and quick steps and decisions taken by the judicial authority in cooperation with newly appointed Public Prosecutor Saad Al-Safran, reports Al-Qabas daily quoting a reliable source.

II. Fair trial rights and judicial independence

Human Rights Council
Working Group on Arbitrary Detention

“The deprivation of liberty of Maria Lazareva, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights and articles 9 and 14 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I and III”.

Opinion No. 60/2020 concerning Maria Lazareva (Kuwait)

“The deprivation of liberty of Mr. Samih Maurice Twadros Bowles, being in contravention of articles 2, 3, 6, 7, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 9, 14, 16 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories I, III and V.”

Opinion No. 74/2022 concerning Mr. Samih Maurice Twadros Bowles (Kuwait)

“The deprivation of liberty of Bachar Kiwan being in contravention of articles 3, 6, 8, 9, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 9, 14 and 16 of the International Covenant on Civil and Political Rights, was arbitrary and falls under categories I and III.”

Opinion No. 28/2023 concerning Bachar Kiwan (Kuwait)

II. Fair trial rights and judicial independence

- **Systemic bias against non-Kuwaitis:** The Kuwaiti judicial system consistently disenfranchises foreign nationals, resulting in severe disparities in legal treatment. Foreign residents caught up in legal disputes with Kuwaiti citizens frequently report judicial partiality, with courts usually ruling in favour of citizens over non-citizens. Access to legal representation and due process also remains a challenge: many foreign defendants lack adequate legal protection, leaving them vulnerable to unjust rulings.
- **Escalating persecution of LGBTI individuals:** Since 2022, Kuwait has increasingly targeted LGBTI individuals. Arrests, detentions, and deportations based solely on gender identity or sexual orientation have escalated, with discriminatory laws that disproportionately target foreign nationals being enforced by the authorities. Many of those targeted are denied legal recourse, facing immediate deportation without a fair trial.
- **Discrimination against indigenous Bedouin:** Northern Bedouin communities, denied their citizenship despite being indigenous peoples, are also denied access to Kuwaiti courts.

II. Fair trial rights and judicial independence

Human Rights Watch

“Kuwaiti authorities used provisions in the penal code and national security and cybercrime laws to restrict free speech and prosecute Kuwaitis and non-nationals, particularly for comments made on social media. On July 23, authorities executed five people convicted of drug-related offenses and murder. This is the second time Kuwait has carried out multiple executions in the past two years, which had not previously occurred since 2017.”

Amnesty International

“The Kuwaiti authorities have been escalating the repression of critics throughout 2024, by prosecuting and imposing prison sentences on individuals solely based on their speeches or writings, and stripping people of their nationality, Amnesty International said today.

Over the past six months, Kuwaiti authorities arbitrarily imprisoned at least seven people for publicly voicing their views and opinions, stripped Kuwaiti nationality from at least nine individuals, and prosecuted a parliamentary candidate for criticizing the system of government. This wave of repression was accompanied by Emir Meshal Al Sabah’s decision on 10 May 2024 to dissolve the newly elected parliament and suspend parliamentary government and elections for up to four years.”

II. Fair trial rights and judicial independence

Executions have resumed despite lack of due process.

KUWAIT CITY, Jan 19: The Ministry of Interior executed five individuals on Sunday morning, including three Kuwaiti men, a Kuwaiti woman and an Arab expatriate. A total of eight individuals were convicted of premeditated murder and were scheduled for execution, but three of them obtained pardons from the victims' blood relatives just hours before the executions were carried out.

III. Reprisals

“According to the information received, the press release from KPA – a governmental institution, which plays a key role at Ms. Lazareva's case – seeks to threat, intimidate and hinder the work of Ms. Lazareva's legal team by threatening to bring their actions to the attention of the Kuwaiti criminal authorities and by accusing that their acts could constitute a misappropriation of public funds, crimes against the State, treason and international breach of national security... Without prejudging the accuracy of the information received, concern is expressed at the above allegations.”

Diego Garcia-Sayan, Special Rapporteur on the independence of judges and lawyers, 11 September 2019

“... the Working Group referred the alleged violations of the international norms relating to the right to a fair trial, and in particular the alleged intimidation and reprisals against Ms. Lazareva's defence team, to the Special Rapporteur on the independence of judges and lawyers “for consideration and appropriate action”... While we do not want to prejudge the accuracy of this allegation, concern is expressed”

Diego Garcia-Sayan, Special Rapporteur on the independence of judges and lawyers, and Elin Steinarte, Vice-Chair of the Working Group on Arbitrary Detention, 1 February 2021

III. Reprisals

“The Special Rapporteur noted that, in a 17 August 2019 press release, the Kuwait Port Authority made a series of accusations and threats directed at the international law firms, referring to the complaints filed against Kuwait before the UN (KWT 4/2019). The case of Ms. Maria Lazareva, a Russian Federation national and Vice Chairperson and Chief Executive Officer of KGL Investment Company (KGLI), was presented to the Working Group on Arbitrary Detention by her legal team.”

25 September 2020

“In its 25 November 2020 Opinion, the Working Group on Arbitrary Detention noted from the individual communication submitted to it that the legal team had been threatened by the Kuwait Port Authority for filing complaints to the UN special procedures on the case of Ms. Lazareva. According to the source of the communication, the press release of the Port Authority equated the work of the legal team, including its legitimate engagement with UN special procedures, with “treason” and “warned” of the consequences for working on her case. The Government contested these allegations, recalling the principle of freedom of the press guaranteed in the Constitution..”

1 December 2021

III. Reprisals

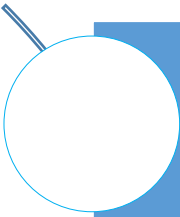
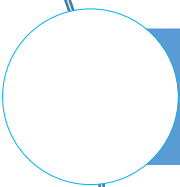
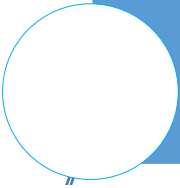
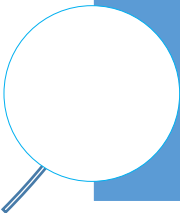
International Bar Association Human Rights Institute and Institute for the Rule of Law of the International Association of Lawyers:

“It is also extremely worrying that when Ms. Lazareva’s legal team engaged UN mechanisms to advocate on behalf of their client, an agency of your Government rebuked and threatened them publicly, calling their work an attack on Kuwait’s national security and making reference to prosecution for treason, a capital offence in your country. It is troubling both that such a threat of reprisal was made in the first place and that it has not subsequently been withdrawn or condemned by the Government. This is indicative of a broader problem in Kuwait, where human rights defenders and others who criticise the Government routinely face unjustified interference with their security and freedom of expression.”

IV. Cooperation with UN human rights mechanisms

- **Acknowledging and accepting the findings of UN human rights mechanisms:** Kuwait must engage constructively with international bodies rather than dismissing their conclusions. For example, the UN WGAD has called for Kuwait to remedy Ms Lazareva's situation without delay, including by protecting her rights, providing compensation, ensuring a full and independent investigation, and taking appropriate measures against those responsible for the violation of her rights. We repeat that call today.
- **Commission independent inquiries into cases of arbitrary detention:** Every documented case of arbitrary detention should be thoroughly investigated, and those affected must receive remedies, including compensation and legal redress.
- **Ensure that fair trial rights are upheld in practice, not just in theory:** The Kuwaiti government must take concrete measures to protect due process and judicial independence, ensuring that courts serve justice rather than ulterior interests.

V. Recommendations

-  Become a party to Optional Protocol I to the ICCPR, to recognise the competence of the UN Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by Kuwait of any of the rights set forth in the ICCPR
-  Allow independent and transparent investigations of cases of arbitrary arrests and detentions and extrajudicial executions
-  Undertake a full review of the judicial system in accordance with international best practices, including the independence, impartiality and competence of the judiciary in order to ensure universal access to fair trials in accordance with Article 14 of the ICCPR
-  Take urgent action to comply with the recommendations of the UN Special Procedures and allow Marsha and Yvan to leave Kuwait safely, remedying the situation without delay and taking appropriate measures against those responsible for the violation of their rights.

Thank you.

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