

Kuwait Bar Association holds panel discussion in presence of group of jurists

Lawyer Dr Alkhateeb calls for amendment of Article 60 bis of penalty code

KUWAIT CITY, Dec 25: Kuwait Bar Association held a panel discussion entitled "Conventions that need to be ratified – a working day on enforced disappearance and combating torture" at the theater of the late Hamad Al-Issa at the Association's headquarters.

The panel was moderated by the civil rights activist Hadeel Bouqreis, with the participation of the Chairman of the Central Committee of Kuwait Democratic Forum Bandar Al-Khairan, the civil rights activist Dr. Abdulaziz Al-Arayedh, assistant professor of criminal law at the Kuwait International Law College, Lawyer Dr. Fawaz Khaled Alkhateeb, the Kuwaiti human rights trainer, Engineer Adel Al-Qallaf, and lawyer Abdulaziz Abu Mijdad.

In the beginning, Dr. Abdulaziz Al-Arayedh spoke about the terminology related to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) and how it relates to the Convention against Torture, explaining the means for protecting the rights of the forcibly disappeared or those at risk of torture. Engineer Adel Al-Qallaf explained the ICPPED and how it relates to the United Nations Convention against Torture, discussing their articles, and Mr. Bandar Al-Khairan presented Examples of some cases in which violations occurred against the defendants. Then Dr. Fawaz Alkhateeb and Abdelaziz Boumejdad touched on the legal aspect of the defendants' rights.

Freedom

In turn, Dr. Fawaz Alkhateeb pointed out that there is an ongoing conflict between security, rights and freedoms in human history, and this is also reflected in the development of criminal law as it moved from the era of revenge to the era of punishment up to our current era, in which jurists seek to consolidate the concept of reform instead of punishment. Alkhateeb added that the founding council's minutes of the Kuwaiti constitution revealed the concern of the security men about the crime and the concerns of the jurists over the violation that might occur on the accused, which was reflected in the articles of the Kuwaiti Constitution that prohibited torture, degrading treatment and abuse. It emphasized the principle of innocence of the accused and the importance of achieving a legal trial in which the necessary guarantees for exercising the right of defence were



Lawyer Dr. Fawaz Khaled Alkhateeb

secured.

Alkhateeb added that the countries of the world unanimously agreed on the importance of establishing the foundations of justice and defence guarantees. As a result, the Working Group on Arbitrary Detention was established under Resolution 42 of 1991, issued by the UN Human Rights Council. The Working Group seeks to investigate cases of arbitrary arrest and detention and examine the legal basis for deprivation of freedom, as well as there must be a legal justification for forfeiture of liberty by a judgment or a decision from the investigation authority as per articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant as well as in Articles Nos. 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration. He pointed out that the United Nations seeks to establish universal values and urges all states to fully abide by the international laws related to the enjoyment of a fair trial as stipulated in the Universal Declaration of Human Rights and the relevant international covenants accepted by the concerned states.

Alkhateeb indicated that the UN Human Rights Council has made clear the axioms that may sometimes be absent from the minds of security officers, including that the arrest must be based on a written arrest warrant and the suspect or accused must know the reason for his arrest immediately in accordance with the seventh principle of the basic principles and guidelines of the United Nations on remedies and procedures relating to the right of any person deprived of his lib-

erty to appeal his detention (arrest) before the court; As well as Article (2.9) of the International Covenant on Civil and Political Rights, adding that knowing the reason for the arrest allows the person to challenge the legality of his detention as stipulated in Principle 10 of the Basic Principles and United Nations Guidelines on Remedies and Procedures, indicating that this order is stated in the Kuwaiti law, but not optimally applied. "The investigation authority renews the accused presentation day by day, which prevents the accused from directly seeking a legal remedy until a decision is issued to imprison him at the end of the period (21 days in felonies and 10 days in misdemeanors).

Violates

Alkhateeb added that some departments Of criminal investigation take measures of solitary confinement against the accused is an apparent form of arbitrary detention that violates a person's right to be recognized as a person before the law under Article (16) of the Covenant. The Covenant considers that solitary confinement in itself is torture, according to the decision of the General Assembly No. 60/148, indicating that solitary confinement is an exceptional measure that should not be used "and if necessary, then for the shortest period, given that detention of up to fifteen days amounts to torture and cruel, inhuman and degrading treatment as stipulated in UN resolutions."

Alkhateeb also indicated that depriving the accused of the aid of lawyers by the police at the beginning of



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the arrest is a procedure that is contrary to the articles of the Kuwaiti Code of Criminal Procedures, and it is inconsistent with the 17th and 18th principles of the set of principles related to the protection of all persons subjected to any form of detention, and it is inconsistent with Article 14 of the Covenant and Rule 61 of the Nelson Mandela Rules adopted by the United Nations in the Standard Minimum Rules for the Treatment of Prisoners.

Alkhateeb indicated that there are timid amendments by the Kuwaiti legislator towards these self-evident rights, starting with Law No. 17/1960 then Law No. 27/1965, Law No. 3/2012 and Law No. 35/2016 regarding arrest and detention and its duration and enabling the accused to contact a lawyer immediately upon arrest, and these texts are not applied in practice, claiming that the accused did not ask for a lawyer; it is ridiculous, given that even children know about the right to the presence of a lawyer in light of the publicly available visual programs.

Alkhateeb believed that solutions to the dilemma of the conflict between security and rights and

freedoms must be legislative, as the police force is always under pressure of time to solve the mystery of the crime, as Kuwaiti law allowed the policeman to investigate for 48 hours in misdemeanors with the accused and 4 days in felonies. The police seek to maintain security by collecting the evidence to refer the suspect to the competent investigative authority to investigate the crime. The accused is the weakest party in this equation because he has no contact with the outside world. The police must enable the suspect to reach for a lawyer, first of all, to prevent the deviation of the authority in inflicting coercion against the accused to extract a confession that may be unreal and may be the result of psychological or physical pressure, which contradicts the considerations and guarantees of justice as constitutional rights.

Rights

Alkhateeb concluded by submitting a proposal for a legislative amendment to Article 60 bis that all investigation procedures must be recorded visually and audibly in accordance with what is applicable in developed countries, and

that the police authority must be obligated to read the basic rights of the accused by explaining his entitlement to refrain from answering any questions and to get a lawyer before answering, adding that this would activate enabling the accused to communicate with their families and lawyers; and in the presence of lawyers, "we will reduce the incidence of abuse and torture, and the recordings will be under the consideration and oversight of the fair judiciary whenever the defence requests to ensure that the procedures were in accordance with the legal frameworks, and that this would not conflict with the requirements of justice, rather, it will enhance it, as the investigation authorities must make use of modern technology and tools."

The Kuwait Lawyers Association (Bar) announced later that it adopts the recommendations to amend Article 60 bis of the Penal Code by recording the investigation procedures visually and audibly and reciting the fundamental rights to the suspects and will communicate to the National Assembly to proceed with the necessary legislative steps in the near future.

LuLu Hypermarket launches Xmas, New Year promotion



LuLu Hypermarket, the leader in hypermarket retailing in the region, is ending the year with an amazing Christmas and New Year promotion sale. The spectacular promotion was launched on 23 December at the Al-Dajeej outlet, with a cake-cutting ceremony by top management of the hypermarket in Kuwait, with assistance from little Santa helpers.

The promotion, which is taking place at all LuLu Hypermarket outlets in Kuwait, was also marked by a special Christmas-New Year 20 meter cake-cutting ceremony at the Al-Rai branch a day earlier.

The cake-cutting function at Al-Dajeej outlet was followed by several contests and competitions for children, including a Christmas Santa fashion-show contest, a Christmas cake decoration contest, and a Christmas tree decoration contest. More than 120 young contestants participated in the three events, with the first, second and third place winners in each contest winning exciting prizes, and all participants receiving consolation prizes.

During the week-long Christmas-New Year celebration period a wide range of products



are available at special discounted prices and on exclusive promotional offers. A sensational 'Year-end' deal is also being launched as part of the celebrations, with select products being offered at unbelievable one-off prices. The Christmas-New Year promotion at LuLu Hypermarket is supported by Joyalukkas Jewellers, Malabar Gold and Diamonds, and Kent water purifiers.

A festive atmosphere, reflecting the celebratory mood of the year-end festive season, prevails at all branches. Merry, rotund Santas are present at each branch welcoming shoppers with chocolates and other goodies, while colorful displays and large cutouts of the season's celebrations are present at entrances and along aisles of the hypermarket. Special Christmas-New Year 'Selfie' counters are also a major draw during the promotion.

The Christmas-New Year promotion is in line with LuLu Hypermarket's endeavor to partner and actively participate in celebrations and festivals of the community, and to offer the widest range of quality products at attractive and competitive prices to mark these festive occasions.

