



الجمعية الكويتية لحقوق الإنسان  
KUWAIT SOCIETY FOR HUMAN RIGHTS

**A Report on Women's Rights in Kuwait**  
**Submitted to the Committee on Elimination of**  
**Discrimination against Women during the Session 68**

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## Introduction:

Kuwait Society for Human Rights (KSHR) exerts all possible efforts to disseminate the culture of respect for human rights and raise awareness about international conventions of human rights as well as defending all individuals whose human rights are breached. As part of KSHR keenness for protecting such rights, it submits this report- about the most important changes and variables that occurred in the field of women rights in the State of Kuwait- to Session 68 of CEDAW Committee. KSHR also calls the concerned committees with the convention of elimination of discrimination against women via this report to direct questions to the State of Kuwait. However, the report is prepared in accordance with the following criteria:

- Recommendations accepted by the Kuwaiti government during submitting its third and fourth report to the Committee on the Elimination of Discrimination against Women in Session 50, 2011.
- Harmony between national laws and the Convention on the Elimination of All Forms of Discrimination against Women.
- Workshops` recommendations executed by KSHR.
- Complaints received by KSHR.
- Violations observed by KSHR observation teams.
- Studies and researches conducted by KSHR.

We will attempt through the report to address the most important issues related to women, as follows:

## 1. Enforcing Convention:

The State of Kuwait has already approved the Convention on the Elimination of All Forms of Discrimination against Women through the Amiri decree 24/1994. Thus, it became part of the national laws of the State of Kuwait, but we note lack of activating convention as required in terms of the level of direct implementation and priority amongst national laws as well as presenting convention and publishing it widely. The Kuwaiti judiciary did issue sentences based on the convention, even though the Kuwaiti Constitution according to Article (70) gives the international treaties and conventions the force of law after approving them and publishing them in the official Gazette since they become part of the legal framework of the state.

Therefore, we in KSHR call the relevant committee for asking the Kuwaiti government about the following:

- 1- We call the committee for asking the Kuwaiti government about the procedures adopted in terms of commitment to enforcing convention provisions and the achieved results.
- 2- What are the steps that the Kuwaiti government adopted to ensure enforcing convention in the legal framework of Kuwaiti laws to make convention as an effective framework for all laws, decisions, sentences and policies concerning equality and supporting women issues?

## 2. Discriminatory Laws

National laws include discriminatory articles such as citizenship law 15/1959. It stipulates in article (2) that each new born is Kuwaiti if he/she was born abroad to a Kuwaiti father, excluding the Kuwaiti woman from naturalizing her sons. Penal Code through Article (153), discriminates between men and women in terms of committing murder crime for adultery, as it belittled the case from a criminal act into misdemeanor for men. If the woman commits the same crime for adultery purpose, against her husband, then she faces murder crime sentence that reflects discrimination between men and women. Article 186 of Kuwaiti Penal Code criminalizes rape and sexual assault but it doesn't criminalize husband rape and sexual assault of husband against his wife as violation and violence against women. Law 47/1993 about housing welfare, some of its provisions amended by law 2/2011, includes discriminatory provisions against the Kuwaiti divorced, widows or married to non-Kuwaiti husbands. Article (28 duplicate) of the same law, amended by law 2/2011, stipulates that Savings and Credit Bank assumes the responsibility of providing convenient low cost housing service in accordance with the provisions of the decree mentioned in article (28 duplicate B) of this law to the following categories:

- Kuwaiti women married to non-Kuwaiti husband and has children.
- Kuwaiti women married to non-Kuwaiti husband residing in Kuwait and doesn't have children, provided that marriage happened before 5 years.
- Kuwaiti divorced woman and widow who don't have children as well as single Kuwaiti women aged 40 years, provided setting aside housing service for two female relatives of first, second or third degree.

The Kuwaiti divorced woman and widow who has Kuwaiti or non-Kuwaiti children is entitled to a loan that doesn't exceed KD 70,000. So, the law discriminates between women according to social status, and loan procedures for men are much easier.

Kuwaiti Personal Status Law 51/1984 did not give women the right of guardianship and custody over their children wherein Article (209) asserts that:

- A- Guardianship belongs to the father then grandfather according to inheritance system, provided that guardianship goes to first degree relative.
- B- B- If there are more than one guardian then the court selects the best one.
- C- If there is no guardian then the court appoints any good one.

Kuwaiti civil law 67/1980 asserts such points through Article (110), which stipulates:

- The guardianship over funds of minor goes to the father then grandfather and then a guardian appointed by the court, with consideration to provisions of Article (112).
- The father or grandfather is not allowed to refuse guardianship unless he submits an acceptable excuse.

Therefore, women do not have the right of guardianship over their children only after a sentence of the court. Furthermore, many internal regulations do not give women the right of guardianship over their children for managing their public affairs, therefore:

- 1- We call the CEDAW Committee to request the Kuwaiti government to explain the steps taken to amend article (2) of citizenship law and to withdraw its reservation on item (2) of Article (9) of the Convention, especially after five Kuwaiti MPS submitted a special draft law in January 2017. The new draft proposes that every child born in Kuwait or abroad to a Kuwaiti mother or father is eligible for Kuwait citizenship.
- 2- What are the steps taken by the Kuwaiti government for cancellation or amendment of Article (153) of the Penal Code which cancels the offense and reduces the responsibility for the man, excluding women, in the so-called honor crimes.
- 3- We call the committee for asking the Kuwaiti government to clarify its procedures in terms of granting housing loans for Kuwaiti women.
- 4- We call the committee to ask the Kuwaiti government to clarify the adopted steps for withdrawing its reservation on item (1) of Article 16 of the Convention.
- 5- The Kuwaiti Constitution stipulates equality without discrimination according to sex, color, language, or religion in accordance with Article (29) and the Kuwaiti laws in general did not discriminate against women and prohibit discrimination according to Article 1 of the Convention.

- 6- What are the steps taken by Kuwait to adopt specific legislation criminalizing acts of domestic and sexual violence, including the amendment of Article (186) of the Penal Code for criminalizing marital rape?

### **3. The National Apparatus for Supporting Women:**

Despite the lack of a national human rights institution so far, law (67) that was enacted in 2015 for establishing National Body of Human Rights, there are national sub-committees look after women's affairs. One of these committees is Women's Affairs Committee, subsidiary of the cabinet in addition to Woman & Family Affairs Committee in the Kuwaiti Parliament which is an interim committee including 5 members, MPS, including only female MP "Safaa Al-Hashem". However, we note that these committees lack a comprehensive plan to achieve gender equality and discuss the current legislation related to women and enacting new laws and monitoring implementation. Therefore, we call the committee for asking the Kuwaiti government about the following:

1. We call the Committee for asking the Kuwaiti government to show the adopted steps about endorsing a comprehensive action plan for these mechanisms to achieve gender equality, and promote the participation of women at decision-making level.
2. Clarifying the role of these mechanisms in achieving gender equality and what are the human and financial resources allocated for each mechanism.

### **4. Political and Public Life:**

Discrimination on basis of social gender influenced the rate of women participation in leading positions in the government, where the participation is limited and does not exceed one female minister or two since the first access of woman to the cabinet in 2005. In the current government, there is one female minister, the Minister of Social Affairs and Labor. Women presence in the parliament is very low as well. Now, there is only one female MP out of 50. Female presence in Public Prosecution and judiciary positions is also very limited. In 2014, 22 women were accepted to hold the position of Public Prosecutor at Public Prosecution, but this step was suspended later on. The Kuwaiti women have not occupied the position of a judge yet, diplomatic participation

of women is very low and their representation is almost non-existent in the municipal councils and the boards of non-governmental organizations.

- 1- We call the committee for asking the Kuwaiti government to clarify the possibility of adopting special procedures on the national and international standards to endorse quotas for Kuwaiti women in order to accelerate their participation in public & political life and help them hold leading positions.
- 2- We call the committee for asking the State of Kuwait to show the measures taken in order to continue promoting and facilitating the representation of women in parliament, ministerial positions, appointing woman as General Attorney and judge as well as helping her hold leading positions of civil service including appointing women as head of diplomatic missions abroad.

## 5. Domestic Violence

Discrimination is one of the basic reasons behind violence, particularly against women. We regret that there are no clear statistics in Kuwait about cases of violence against women because the majority of people consider them as cases of privacy that must be unannounced. The Kuwaiti government didn't endorse a clear legislation to criminalize acts of domestic violence besides the fear of the victim to report the case to the relevant authorities due to the lack of safe shelters for violence female victims. When such cases are referred to courts then they are filed as assault issues, hence it is hard for women to prove that they were hurt due to domestic violence. It is also difficult to prove moral violence which is usually classified as either misdemeanors or felonies according to the medical reports, the seriousness of attack and the consequent effects. Therefore, we urge the CEDAW Committee to ask the government about:

- 1- We call the committee for asking the Kuwaiti government to show the adopted mechanism for receiving complaints from women, victims of discrimination, particularly the legal assistance they need, including complaints about acts of domestic and sexual violence, and categorizing them according to sex, age and citizenship.
- 2- What are the available procedures to help female victims of domestic or sexual violence such as providing legal, medical and psychological assistance in addition to rehabilitation and providing them with appropriate and safe shelters?
- 3- We call the committee for asking the Kuwaiti government about procedures adopted for overcoming the typical discrimination entrenched in the community concerning the role of women and men and their responsibilities in the family, society and the results of those procedures.
- 4- What are the measures taken by the Kuwaiti government to engage media and non-governmental organizations in combatting typical discrimination about the role of women in society?

## 6. Work in Private and Public Sector:

Remark 40 of the concluding remarks of the Committee on the Elimination of Discrimination against Women in session 50, in October 2011, asserted the need for adding “discrimination ban” to Law 6/ 2010. The ban, which is expected to be part of law 6/2010, should prohibit direct and indirect discrimination based on causes mentioned in International Labor Organization (ILO) Convention 111/1958 concerning discrimination in employment and occupation in relation to all aspects of work, particularly the prohibition of sexual harassment. It should also ban discrimination on multiple grounds, including sponsorship system and its consequent effects, while working in the government sector is organized by law 15/1979 about civil service for citizens and expatriates, but appointment of non-Kuwaitis is based on temporary contracts according to circulation 6/1979 about the rules and provisions of the appointment on a temporary basis. Such contracts shrink the rights granted by the Civil Service Law, wherein the maternity leave of expatriate employee is just for one month but the Kuwaiti female employee or the wife of a Kuwaiti citizen gets two-month-leave. She is also entitled to motherhood leave for four months with half salary.

Regarding implementation of the circular issued by the civil service commission about some employment provisions included in law 21/2015, concerning child rights, wherein the circular referred to Article 55 of the law which stipulates that the working mother who breastfeeds her child during the two years following the date of delivery, deserves two hours off a day to breastfeed her child without any reduction in pay). Although the circular indicated that reducing work hours is a must and the law did not discriminate between Kuwaiti and non-Kuwaiti female employees, some government authorities implement this just for the Kuwaiti female employee, as a result we call the committee for:

1. Does labor law 5/2010 concerning the private sector include a provision prohibiting direct and indirect discrimination based on ILO Convention 111/1958? Does the very law include provisions that prohibit upgrade or downgrade that aim at subjecting certain employees for sexual harassment or because of rejecting such harassment as well as provisions for protecting the rights of victims of such cases especially women.
2. The committee calls the Kuwaiti government for showing all steps taken for reviewing sponsorship system in order to reduce the dependence of migrant domestic helpers, especially women, to their employers and reduce the vulnerability of their situation.
3. We call the committee for asking the Kuwaiti government to show adopted procedures for implementing Law 21/2015 concerning child rights and some functional provisions the law included.

## 7. Human Trafficking:

Kuwait approved Law 91/2013 on fighting human trafficking and smuggling migrants, but the law is not enforced as required due to the spread of residency dealers. Despite enactment of Law 68/2015 on domestic helpers in Kuwait, which is a positive step that we highly appreciate, we declared reservations on some of its articles since effective protection of all forms of abuse; harassment and violence were not as effective as required. However, Law 68 bans, through Article (5), recruitment offices from publishing advertisements humiliating domestic helpers. Article (10) of the same law stipulates that charging helpers with dangerous works are prohibited as well as any other works that may affect health or offend human dignity. Domestic Helpers Department specialized in following up claims of helpers. If the claims were proved by a clear evidence, then the recruitment office will be banned from issuing visas for new domestic helpers for a certain period determined by the executive draft of the law issued by ministerial decision 2194/2016 through article (20). The period is six months and if the office commits the same violation again then the 6-month-period will be doubled. Therefore, there is no effective penalty against such violations in order to protect domestic helpers.

In 2016, human trafficking cases referred to public prosecution estimated 5, in which accused persons sentenced to 15 years in jail in one of these cases. It also led to deporting 32 Zimbabwean women who have been deceived by recruitment offices in their country that sent them to work in Kuwaiti hospitals and hotels with salaries up to \$ 700. When they arrived in Kuwait, they have found the owners of recruitment offices waiting for them and then distributed them to work at houses as domestic helpers. Although some recruitment offices in Kuwait exploited some of them to work as prostitutes, they were deported without penalizing recruitment offices and even without conducting effective investigation to ensure applicability of criteria of Law 91/2013, therefore we call the committee for:

1. Asking the Kuwaiti government to display procedures taken to address the basic causes of the phenomenon of human trafficking, including their relevance to prostitution and sexual exploitation of women. This also covers foreign female domestic helpers and whether the government gives residence permits to female victims of human trafficking and the women forced to practice prostitution, due to humanitarian reasons.

## **8. Psychological Health:**

The lack of a national legislation about psychological health and regulating entry, exit, treatment and confine of patients who suffer from psychological disorder along with a number of inadequate administrative decisions for protecting and organizing inmates especially the weak ones such as women, kids and workers who subject to sponsorship system. In addition to delay of assessment of cases transferred to Psychiatry Medicine and preparing the necessary medical reports for them. Psychiatric Hospital, unfortunately, has become a temporary detention area for anyone who wants to confine people for personal reasons without doing the required tests that determine whether the persons need to be at hospital or at home. Most complaints KSHR received were from women who exposed to violence from their close relatives then relatives referred them to psychological hospital although most of them didn't suffer from any psychological diseases. We unveiled that by conducting medical tests and our reports were confirmed when their relatives refused to receive them from the hospital again although hospital administration addressed relatives and told them that they don't suffer from any psychological diseases. This is a very serious case, requiring an immediate action to stop therefore we call the committee for:

1. Asking the Kuwaiti government to explain the steps taken about adopting special laws for psychological and mental health, and what are the measures taken to regulate confine of patients who suffer from psychological and mental diseases at hospitals and whether such cases are treated in accordance with international criteria, including court decisions about confining persons and their duration.
2. What are the steps taken by the State of Kuwait to ensure awareness and training of medical staff on a regular basis in order to monitor all acts of domestic violence and reporting such cases to the relevant authorities?

## **9. Education:**

Women face discrimination in this field as educational curriculum still presents incomplete traditional image of women that differs from the real role that women play in society. Curriculum concentrates on displaying the traditional role of women as (wife, mother, housewife and daughter), looking after house affairs and raise the children. Furthermore, Scholastic Internal Draft at Ministry of Education stipulates in Article (6) of general rules (referring female student to evening course if she gets married while study and she keeps her grades in courses system and the two-term-system according to exams drafts). This means that the female student is deprived from study if she gets married during her study and she is allowed to join Learners Care Centers. These centers provide education with less commitment which is necessary for students in such educational stages in order to complete their study successfully and obtain grades meet their ambitions. Therefore, we call the committee for:

1. What are the measures taken by the government concerning the revision of the regulations related to the enrollment of married women in schools and allowing women to join morning courses.
2. We call the committee for asking the Kuwaiti government to display the steps taken for amending curriculum in the various stages to avoid presenting typical discrimination about the roles of women and men.