

**Shadow Report on the Level of the State of Kuwait's  
Implementation of the International Covenant on Civil and  
Political Rights  
Session No. 136**

**Prepared by  
The Kuwaiti Association for The Basic Evaluators of Human  
Rights  
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## **Introduction:**

The Kuwaiti Association for The Basic Evaluators of Human Rights is keen to participate in various international events related to the human rights situation in Kuwait, especially after obtaining the consultative status with the Economic and Social Council, in the belief that the protection and promotion of human rights will be achieved through concerted national efforts at both the governmental and non-governmental levels.

**Before recounting its observations and recommendations, the Association expresses its sincere gratitude to the Kuwaiti Government for its efforts to promote the Kuwaiti human rights record, its respect for the Shari'a and The Constitution and not practicing anything that goes against them.**

## **Observations and Recommendations**

### **First: Enforcement of the Covenant's provisions (art. 2)**

1. We note that the Covenant's provisions are not published in the form of awareness-raising that is societally required
2. National remedies continue to lack judicial decisions based on the Covenant's provisions
3. With regard to aliens, they cannot exercise a number of Covenant rights on an equal basis with citizens and the law does not guarantee an effective remedy for violations of the Covenant's rights and freedoms

### **Second: Equality between men and women (art. 3)**

1. We note that there is a corroboration of women's rights by allowing them to assume the judiciary and the prosecutor's office, as well as allowing them to enter the military.
2. We note that the principle of equality between women and men in the general context is evident through the consideration of the general jobs of women, as well as the presence of women in the police, the judiciary system and other occupations, which in the past have been only for men
3. The State of Kuwait should review the Nationality Law in order to ensure equality between women and men in enabling Kuwaiti women to grant their nationality to their children and non-Kuwaiti husbands similarly to men.
4. We urge that the observations of the Committee on the elimination of all forms of discrimination against women should be disseminated to all ministries of the State, the

National Assembly and the judiciary and to all segments of society in order to ensure the awareness and implementation thereof as we note a shortcoming in this aspect; the same shortcoming of the Covenant provisions.

5. We emphasize the need to enact a law guaranteeing equality between women and men, which should include a definition of discrimination against women, in accordance with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women granted that the law does not contradict with Islamic Shari'a in any of its articles
6. We note that Bedoon women continue to suffer discrimination against them and their children in the right to education, employment, health care and the right to obtain a passport for travel when needed
7. We recommend the necessity of both authorities addressing the humanitarian situation of Bedoon women lifting discrimination against them by granting them all their rights under the present Covenant
8. We encourage the relevant authorities to make the necessary adjustments to ensure that the procedures for filing complaints by women victims of discrimination are facilitated while ensuring that they are provided with the necessary legal assistance
9. We recommend that the legislative and executive authorities should make the necessary amendments to the 06/2010 Law on Employment in the Private Sector in order to prohibit direct and indirect discrimination against women in accordance with the principles of ILO Convention No. 111/1958 concerning all aspects of employment.
10. We urge the relevant authorities in Kuwait to enact a law protecting women, especially women with disabilities, from forced sterilization or abortion.
11. We note that the Law 08/2010 on the Rights of Persons with Disabilities does not contain special articles as general principles of the rights of women with disabilities in accordance with the framework of Articles 6 and 7 of the International Convention on the Rights of Persons with Disabilities.
12. We recommend that disabled women should be equal to disabled men in all their privileges and that all laws that contravene this recommendation should be amended.
13. With regard to the Housing Act 2/2011, we recommend raising the age of a divorcee to 40 years instead of 21 years in order not to discriminate between a divorcee of a foreign spouse and a divorcee of a Kuwaiti spouse.
14. We recommend raising the value of a housing loan to 100,000 KWD for a Kuwaiti woman who is divorced or widowed from a foreign husband, and divorced or widowed from a Kuwaiti husband; granted that all divorcees from the same foreign husband with children get equal amounts, so that justice and equality can be achieved without preference for one

category over another. It is essential that this loan includes single and divorced women with no children and without prohibitive conditions.

### **Third: Right to life (art. 6)**

1. It is noteworthy that the use of the death penalty in Kuwait is linked in its application and implementation with the scope of the provisions of the Islamic Shari'a due to many considerations like the attainment of criminal and social deterrence in order to confront the crimes and acts committed that pose a direct and serious threat to the security, entity and stability of society.
2. We note, however, that the legislature has surrounded the death penalty and its execution with a plethora of guarantees for the attainment of procedural prudence.
3. We note that there is a difference between the death sentence and the execution of the sentence. It is also noted that most death sentences are not executed.
4. We commend the official position of the Kuwaiti State, which rejects the abolition of the death penalty as it is a legitimate Shari'a law despite international pressure to abolish it.

### **Fourth: The right not to be subjected to torture nor treatment or punishment that is cruel, inhuman or degrading. In particular, no medical or scientific experiment may be conducted on anyone without their free consent (art. 7)**

1. We value the adoption of the electronic bracelet for those sentenced with simple punishments not exceeding 3 years except in some cases
2. We value the decision on family visits in prisons
3. We note through several visits to prisons and detention centers that they are inadequate and do not meet international and humanitarian standards
4. We note that large numbers of detainees are overcrowded in small, poorly ventilated rooms, which shows that the file of police stations and detention centers needs to be reviewed by the Ministry of Interior. That led to the spread of the coronavirus by some patients which is contrary to the methods and protocols followed nationally against spreading the virus.
5. We emphasize the importance of adhering to the provisions of the Constitution, national legislation and international covenants specifically promulgated for the regulation and care of the rights of prisoners and detainees
6. We have monitored some cases where pre-investigation detainees are prevented from contacting their families or lawyers or prevented from allowing their families to visit them
7. The State of Kuwait should ensure that the United Nations minimum standards of the treatment of prisoners are fully respected

8. We would like to express our fear and deep concern regarding the statements made by one of the most prominent officials in the Ministry of Interior in April 2014, in which he admitted that investigation personnel beat detainees during their investigations.
9. We recommend the execution of the provisions of the Constitution, in particular article 31, which stipulates that a person may not be arrested, imprisoned, searched, grounded or restricted in his residence or movement, except in accordance with the provisions of the law. No person shall be subjected to torture or degrading treatment. Article 34 provides that an accused person shall be innocent until proven guilty in a legal trial in which he is guaranteed the necessary warranties to exercise the right to defend self and it prohibits physical or moral abuse of the accused

#### **Fifth: Slavery and compulsory labor "forced labor" (art. 8)**

1. It is noticeable that there are many manifestations of human trafficking
2. We note many manifestations of compulsory work, especially what many labor workers, domestic workers, security workers and some employees of mobile taxi companies experience
3. The sponsorship system should be abolished in accordance with Kuwait's voluntary pledge to the Universal Periodic Review Mechanism 2010 and an alternative and appropriate system should be put in place
4. Examples of violations of migrant workers' rights are
  - Coercing some employers to work in exposed places at temperatures of up to 50 degrees Celsius or more despite several decisions prohibiting this act and criminalizing it
  - Workplaces sometimes lack occupational health and safety rules and requirements
  - Compelling some workers to sign blank papers (bills of exchange) to coerce them and have them put in prison sometimes especially in mobile taxi companies
  - Some workers are forced to work for more than eight hours a day in addition to being denied vacations and public holidays
  - Many employers withhold the worker's official papers, especially passports

#### **Sixth: The right to liberty, security of person and non-arbitrary detention - treatment of detainees (arts. 9 and 10)**

1. It is important to respect article (30) of the Constitution, which stipulates that personal freedom is guaranteed, and article (35) of the Constitution, which stipulates that freedom of belief is absolute. The State protects the freedom to practice religious rites in accordance with established customs granted that this does not go contrary to public order or morals. It is noticeable that freedom and personal security receive the attention of all stakeholders and society in general.
2. We stress that it is imperative to commit to:
  - Prisons Regulations Act No. 26 of 1962

- Provisions of the Universal Declaration of Human Rights and the Cairo Declaration on Human Rights in Islam and the Arab Charter on Human Rights in this regard
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- International Covenant on Civil and Political Rights
- International Body of Principles for the Protection of All Persons under Any Form of Protest or Imprisonment 1988
- International Standard Minimum Rules for the Treatment of Prisoners
- International Basic Principles for the Treatment of Prisoners
- International Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- International Code of Conduct for Law Enforcement Officials

### **Seventh: Expulsion of aliens (art. 13)**

- 1- It is noticeable the continuation of expulsion and deportation of large numbers of foreign workers under the pretext of violation of the Residency Act and that they are marginal employment. This coincides with weak prosecution of sponsors who have caused the recruitment and trading of such labor.
- 2- We recommend that decisions on administrative deportation of foreigners should be subject to judicial authority and demand that no foreigner be deported from Kuwait except through a final court judgement.

### **Eighth: Religious freedom (art. 18)**

We stress the need to respect the provisions of article 35 of the Constitution, which stipulates that freedom of belief is absolute and that the State protects the freedom to practice religious rites in accordance with established customs, granted that this does not go contrary to public order or morals

### **Ninth: Freedom of opinion and expression (art. 19)**

- 1- We urge the two authorities to amend the Electronic Media Law to bring it into line with the National Constitution and international instruments.
- 2- The Government should ensure that all individuals exercise their right to freedom of opinion and expression in accordance with article (19) of the Covenant and in line with Shari'a and Constitution regulations and it should also protect media pluralism.
- 3- We stress on the obligation of the Government of the State of Kuwait to allow and promote freedom of opinion and expression in accordance with the guarantees of the provisions of

the National Constitution relating to visual and audio media, publications and propagations or social media networks.

- 4- We stress the need to respect the provision of article (36) of the Constitution, which provides for freedom of opinion and scientific research. Everyone has the right to express and disseminate his opinion in words, writing or otherwise, in accordance with the conditions and stipulations prescribed by law.
- 5- We commend the Emiri Special Amnesty for some opinion holders and consider it tangible progress in the context of the affirming the freedom file, which is one of the most important pillars of human rights, and we hope that it will be inclusive as it promotes and upholds tolerance values at the national level.

#### **Tenth: National, racial or religious hatred and incitement to discrimination, hostility or violence (art. 20)**

- 1- We note the increasing incidences of hate speech against foreigners during the Covid-19 crisis.
- 2- We stress the importance of launching a national program that aims at reducing and abolishing hate speech as well as promoting human values.
- 3- We are concerned that hate speech towards migrant workers has continued to grow in the years 2019, 2020 and 2021.
- 4- We are deeply concerned by the high frequency of discrimination discourse based on nationality, which sometimes amounts to contempt for and incitement against migrant workers.
- 5- We recommend that all forms of discrimination should be combated in accordance with article (29) of the National Constitution, article (2) of the Universal Declaration of Human Rights and article (5) of the International Convention on the Elimination of All Forms of Racial Discrimination

#### **Eleventh: Peaceful assembly (art. 21)**

- 1- We recommend that peaceful assemblies should be available by choice, and that there are no restrictions to the general origin of this right, in accordance with the Constitutional Court's ruling of 1 May 2006 that articles (4) and (16) of Act No. 65 of 1979 on public meetings and gatherings are unconstitutional.
- 2- We recommend that the role of relevant entities of the Government is limited to securing the gathering after notification of its location and timing.

#### **Twelfth: Individual's right to freedom of association with others (art. 22).**

- 1- We recommend reviewing some of the conditions required by the relevant authorities in order to create associations; conditions including the lack of financial support from the State or a headquarters through which the association operates.

- 2- We stress the need to develop the texts and articles of Act No. 24/1962 on clubs and associations of public benefit in order to bring them into line with the development of civil society institutions at this stage.
- 3- We stress the need to allow non-citizens to enjoy the right of creating associations with others in accordance with the principle of the National Constitution as well as article 22 of the Covenant.

### **Thirteenth: Family (art. 22)**

- 1- We appreciate the adoption of the Law on Protection against Domestic Violence and call for the implementation of all its provisions to promote national remedies for all family members.
- 2- We appreciate the role of "Community Police" in receiving complaints of family and domestic violence against women, which enhances legal remedies for women victims of domestic violence, and we stress the need for further efforts in this context.
- 3- We recommend that the two authorities enact a law criminalizing all forms of domestic violence in a holistic sense.
- 4- We urge relevant authorities to conduct specialized training courses for the police, public lawyers and the judiciary on effective investigation of acts of violence against women in order to ensure punishment for it
- 5- We recommend the importance of activating the shelter center for battered women under the Supreme Council for the Family Affairs.
- 6- We recommend the need to disseminate the procedures and measures in place regarding the operationalization of battered women's shelters, including the mechanism of receiving complaints and taking legal action therein.
- 7- We call on the relevant authorities to imperatively take measures to ensure that women are under the supervision of female guards at all stages of detention to ensure that they are not subjected to sexual harassment or violence

### **Fourteenth: The rights of the child (art. 24)**

- 1- We demand that the Child's Rights Act be activated
- 2- We have noted several violations of children's rights in 2021, most notably the case of child Barak Hussein and his need for treatment
- 3- We value the release in December 2018 of a 9-article declaration on the adoption of child protection controls on social media prepared by the National High Commission for Child Protection in collaboration with the Juvenile Protection Service.
- 4- The State of Kuwait should ensure that every child has the right to a nationality, in compliance with article 24, paragraph 3, of the Covenant
- 5- We recommend that the two authorities enact a law criminalizing all forms of domestic violence in a holistic sense.
- 6- We recommend further concrete and realistic measures in the area of protection of child's rights



- 7- The State shall adopt ingenious and creative children and develop their skills until they become self-reliant youth.
- 8- The State of Kuwait should protect the child from any violation he or she is subject to by the parents, a sibling, relatives, a domestic worker or from abroad by imposing on the offender a maximum penalty
- 9- We recommend the need for the establishment of a shelter for abused children with the necessary psychiatric treatment.
- 10-The State shall assume responsibility for the orphan child by caring for him or her and providing an environment that compensates for the absence of his or her parents if he or she does not find a relative to care for him or her.
- 11-It is necessary to hold accountable the educator or teacher who psychologically or physically berates a child with harmful words, actions, gestures, beatings or other types of psychological or physical violence.

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