



Shadow Report on:

*Combined Third and Fourth Periodic Report of the State
of Kuwait to the Committee on the Convention on the
Elimination of All Forms of Discrimination against
Women*

The 50th session

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Submitted by:

Kuwait Society for Human Rights

State of Kuwait

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1- Enforcement of the Convention in Kuwaiti Legislations

According to Article 70 of the Kuwaiti Constitution, the international treaties have the force of law after signed, ratified and published in the official Gazette, yet not adequate procedures followed by both Executive and Judicial powers to enforce this constitutional text in national laws. Review of the schedule of sessions by Institute for Judicial Studies organized for judges and prosecutors, shows no training related to the conventions on Human Rights except the International Humanitarian Law. But some concerned judges and lawyers participated in training sessions and workshops organized by institutions of civil society regarding certain conventions.

Recommendations:

- 1- Inclusion of the basic conventions on Human Rights in regular training of members of Judicial Authority and Lawyers*
- 2- Urge the government to conform the national laws with the articles stated in the Convention on the Elimination of All Forms of Discrimination against Women*

2- Discrimination against Women:

Article 29 of Kuwaiti Constitution states: ' *All people are equal in human dignity, and in public rights and duties, without distinction as to race, origin, language or religion*'. But, the Kuwaiti Penal Code does not include any article to criminalize and punish those practice discrimination based on gender.

Recommendation:

Amend the Kuwaiti Laws in order to criminalize and impose penalties on practices of discrimination against women.

3- Kuwaiti Nationality:

The option to pass nationality to her children if irrevocable divorced or widowed, puts the Kuwaiti woman married to non Kuwaiti in dilemma. Most of the time the family ties are broken and children affected in case of permanent stay in Kuwait or being bidoon.

Recommendation:

3-Amend law of nationality to enable Kuwaiti woman transfer her nationality to her children

4- Violence against Women:

Article 120 of Kuwaiti Code of Criminal Procedures and Trials states:

"The person who is accused on a felony shall have the right to retain somebody to defend him. The court shall delegate a lawyer to carry on this mission, if the accused does not retain a lawyer.

The person who is accused on a misdemeanour as well as other parties to dispute shall always have the right to retain somebody to attend with him or them".

So, under Kuwaiti legal obligations, the court is committed to provide lawyers for the accused in criminal cases who can not afford appoint one, but not the victims in similar situation.

Sometimes, the victims resort to the Kuwaiti Lawyer Society where some members may volunteer to defend them free of charge on humanitarian grounds.

The Secretariat General in the Ministry of Endowments provides hotline psychological support to victims of violence. But this is not enough for woman subjected to violence because the working hours are limited to work days only and their support is confined to psychological guidance not legal and secure aid which most needed in such cases. Also, no shelters are available for married women subjected to violence and the Care Centres attached to the Ministry of Social Affairs and Work refrain from the reception of girls under 18 subjected to family violence. . A girl, over 18, was subjected to severe torture by her family, the Kuwaiti Society for Human Rights addressed the care centre to accept her admission but they refused despite concerns of being subjected to more violence. The given excuse for refusal is that such cases are not included in the decree of its establishment. The Kuwaiti Society for Human Rights expresses concern towards refusal of admission of a girl over 18 by the care centre

Recommendations:

4- Amend existing laws to oblige court provide lawyer for certain category of violence victims including those of marital violence.

5- Government or civil society should establish a charity fund aimed to provide legal assistance to victims of violence.

6- Create a 24 hour hotline to provide secure, legal and psychological assistance to victims of

family violence.

7- Build shelters for women victims of family violence

5- Detention and Arrest of women:

It is obligatory, according to Kuwaiti Law of Prisons, to put female detainees under supervision of female guards during all the period of detention. But, in practice, this does not occur in early detention centres prior to interrogation or trial. They are kept under the supervision of male policemen where prevented from contacting relatives, lawyers, visits by relatives or friends or make phone calls. Because of this isolation from the outside world, they are targets of sexual harassment or rape. The lack of camera devices makes it difficult to prove the allegations of being subjected to sexual attack. It is worth mention that the Forensic Medicine and Criminal Identification Bureau are attached to the Ministry of Interior but not the judiciary, this suspects the credibility of both bodies specially if security forces are involved.

Concern is increased in case of expatriate, non Arabic speaking, women because of the possibility of being deported prior given chance to complain.

The Kuwaiti parliament passed a bill to merge the General Directorate of Investigations with the General Prosecution to ensure judicial independence. But the government returned the bill to the parliament. It needs majority vote to pass.

Some MPs suggested a draft bill which included amendment of rules in the Procedure Code and Criminal Procedures to standardize the period prior to detention and ensure the rights of detainees.

Recommendations:

8- Legislate a law or issue a rule to oblige authorities in prisons to keep detained women under supervision of female guards from early stages of their detention and during transference with male guards.

9- Provide interpreters during early stages of interrogation to enable foreign women easily forward complaints in case of assault

10- Provide all police stations and investigation bureaus with complete monitor system to facilitate approval of any assault

11- Both forensic medicine and criminal identification bureau should be attached to the judicial body to ensure more neutrality

12- Enable expatriates to contest before the judicial and administrative bodies against decisions of their deportation.

6- Honour Crimes:

Article 153 of the Kuwaiti Penal Code, states: "*If one judge carries out certain procedures of investigation and records the same in the minutes of investigation, then he was succeeded by another judge, the successor shall rely, in his judgement, on the procedures conducted by his predecessor. The successor shall automatically by himself, or at the request of either party to dispute recur all or part of these procedures.*"

Honour crimes are of social nature not Islamic. Islam do not permit a husband to kill his wife even being caught red-handed with adultery, but the social culture considers such act as means to restore man's dignity before society. The Kuwaiti legislator does not regard such crimes from a religious point but based on emotional and social values. So commutation of penalty applies in such cases.

Recommendation:

The commutation should be reserved only to the judge's estimated authority of decision taking as applied in other crimes and the act committed to be adjusted as crime not offense

7- Stereotyped Image

Despite efforts paid on the government side and the civil society to raise a-ware-ness of women especially the latter's effort to change the stereotyped image of woman, yet the governmental bodies, depend on government expenditure and responsible of systematic awareness, enhance the role of woman as wife and mother only. Thus not enough attention is paid to woman role as employee and essential participant in society building. This, accordingly, distorts women's self image and role in country building.

Study of 29 publications issued by the Ministry of Endowment and the Islamic Affairs and Department of Family Development shows no indications of materials contribute to change the stereotyped image of woman. 'A debate on Successful Marriage' is a publication by the Ministry of

Endowment propagates what believed the celestial role of woman in child bearing and motherhood not participant in public life. On the other hand, the image of man is that of master to obey. In addition, women should not leave home without permission of their husbands. The publication attacked gender equality.

Between years 2002-2007, only 7 sessions out of 80 provided by Department of Family Development, attached to Ministry of Endowment, described woman outside the stereotyped image.

Early stage school curricula contribute to enhance the stereotyped image. They illustrate pictures of males only carrying out outside activities while females stay to do home works. References, most of the time, made to males even when subject related to mutual characteristics like patriotism and scarify.

Recommendation:

Re-orient the governmental bodies and modify the school curricula to emphasize the image of women as employees and equal participants with men in public life as well as wives and mothers.

8- Women and Marriage:

Articles 8-29 and 30 in Kuwaiti Personal Status Law guarantees woman, under 25 years, approval in completion of her marriage, yet contract is void without her guardian's agreement. The guardian's approval is religious obligation.

Also, Kuwaiti law deprives girls under 25 and the deflowered who enjoy this right by Islam, from the right to marry except with direct approval from thea father or the judge. Women, in such cases, can resort to judiciary but social norms hinder their attempts.

Recommendation:

Amend personal status legislation to give any adult, sane or deflowered woman the right to marry without permission of her guardian or the judge.

9- Woman as guardian:

Article 209 of the Personal Status Law states that the person with the most right to the guardianship of a minor is the father, followed by the father's father and the male relatives in order of inheritance. If the father and grandfather are not available and no testamentary guardian has been appointed the court can appoint a guardian.

Article 110 of the Kuwaiti Civil Law states;

13- Guardianship on property of minor child shall be vested in his father, then in the guardian chosen by father, then in parental grandfather, then in the guardian to be appointed by the court, subject to the provisions of article 112.

14-Father or grandfather may not step down guardianship without a reasonable cause".

Thus, according to law, the father, the grandfather and other male relatives are entitled to a guardianship of a minor, but not the mother. The mother can only have the right to guardianship by judiciary sentence.

The guardian is entitled to take decisions on behalf of the minors and represent them before the official bodies.

Rules and regulations of student affairs in the Ministry of Education prevent woman from the right to register or transfer her children unless having formal attorney from the father even if she enjoys custody based on court sentence.

The schools accept the father as guardian of student not the mother.

Recommendation:

15- Carry out necessary legislative amendments to grant women equal guardianship of their children

16- - Amend the rules and regulations of student affairs in the Ministry of Education to grant mothers the same right being guardians as fathers

10- Mental Health:

Based on information derived from series of visits conducted by the Kuwaiti Society for Human Rights

in the period between Sept21st 2010 to Feb1st 2011, the society express deep concern on the conditions

of the mental patients due to lack of legislation to regulate their detention and treatment in Kuwait. With exception of certain rules stated by the hospital management aiming at the protection of doctors and managerial staff from patients' relatives, but the least the interest of the patient. It is believed that several women are admitted not for medical need but because their behaviours do not meet the social criteria or values. Others are admitted by relatives who want benefit from their wealth or even monthly salaries.

It is noted that any treated patient who is able to manage living outside hospital is not discharged without permission of the person who brought him or her. In case of refusal to accept the patient's discharge from hospital by the persosn who brought him her, she remains in hospital despite of recovery.

Kuwait Society for Human Rights constituted a group of entrusted jurists, mental health specialists to prepare a law for mental health conforms international legal measurements and takes into account the specific problems of the society in economic and social terms on other hand.

Recommendations:

Issue legislation for Mental Health conform with international humanitarian measurements

11- Public Posts

The appointment of Dr Masooma Mobarak, first Kuwaiti woman Minister in 2005, is considered a historical change, yet still the participation of women in successive governments is very low. Only two women ministers out of 16 at best cases. It is worth note that the Prime Minister controls the selection of the ministers without reference to the parliament. Dr Masooma, in a debate on ' Kuwaiti woman in decision making positions' arranged by Department of Woman and childhood on 16-5-2011, says that the number of women in leading positions do not exceed 19 compare to 250 men.

The Ministry of Education enjoys the highest rate of leading positions occupied by women in Kuwait. Statistics prepared by the ministry show that women consist 77.5% of the employees while they occupy 33.3% of leading positions. There are 3 women assistant deputy ministers and 9 men. Mrs Tamador Al Sedairawi is the only woman to occupy the post of Deputy Minister ,or under-secretary.

According to Foreign Ministry web site, the diplomatic missions abroad are 82 but only two women are appointed ambassadors at present

Though Article 29 of Kuwaiti Constitution states gender equality and prohibits discrimination, yet Public Prosecution does not appoint women in post of prosecutors. And High Council of Judiciary refuses to appoint them judges. Two women filed cases, one to become prosecutor and the other judge, but both cases are pending. Mr Faisal Al Marshed, in an interview with the Kuwaiti newspaper 'Jaridat al Jareeda' – said after Kuwait agreed to accept a recommendation to enrol women in the judiciary and that such recommendation is compatible with the constitution and laws and, no constitutional or legal text prevents women working in judiciary as judges. He considers the merging of the Public Department of Investigations and Public Prosecution adequate means for woman to enter judiciary.

Recommendation:

17- Increase women number in leading positions to achieve goals of gender equality stated in Kuwaiti constitution.

18- Allow woman enter all fields of employment including judiciary

12- Education of women:

Rules and regulation of student affairs in the Ministry of Education prevent a married student continue her studies in day schools and permits her registration in evening schools. The justification is ethical. It is the fear of ethical corruption among students due to sharing sexual experiences with other married students. This segregation does not exist in the society anymore. The inadequate discipline in evening schools may hinder the girl's ambition to obtain high grades required for enrolment in adequate colleges in future.

Recommendation:

Amend the rules and regulations of student affairs in the Ministry of Education to permit married girls attend same day schools.

13- Human Rights Education:

On 2006, the Kuwaiti government started teaching a course on Human Rights to students in grades ten and eleven, yet changed later to teach only grade twelve. At present, the course is taught once a week over a period of one hour divided between teaching the Kuwaiti Constitution and Human

Rights. This practice is inadequate to gain required information and set the genuine concept on human rights.

Recommendation:

Increase hours and widen range of levels for teaching Human Rights at schools

14- Mixed Education:

Kuwait University provided mixed education in the past until law 24 of segregation between sexes was issued in 1996, but the private universities provide mixed education though the law of their establishment states otherwise. The government schools practice sex segregation while some private schools do not. It is worth mention that the teaching and the administrative staff in Kuwaiti government schools are single sex.

Recommendations:

19- Mixed education should be optional to parents

20- Educational Staff, teachers and administrative, in general schools should consist of both sexes as in the rest of ministries.

15 - Sport Activities:

Women were substantially excluded from participation in sports, but recent years witnessed change. The government allowed establishment of new women sport clubs supported by the Public Authority for Youth and Sport. Such support encouraged women sport clubs to promote their scale of participation rapidly on local and regional levels.

Recommendation:

Increase financial and informative support of sport activities with aim of popularity and promotion.