



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org – cedaw@ohchr.org

REFERENCE: YH/follow-up/Kuwait/61

22 September 2015

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined third and fourth periodic reports of Kuwait at the Committee's fiftieth session, held in October 2011. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/KWT/CO/3-4). You may recall that in the concluding observations, the Committee requested Kuwait to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraph 31 and in paragraph 35 of the concluding observations.

The Committee welcomes the follow-up report received with a 15-month delay in January 2015 (CEDAW/C/KWT/CO/3-4/Add.1) under the CEDAW follow-up procedure. At its sixty-first session, held in July 2015 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 31** of the concluding observations that the State party “compile data regarding the number of reported cases of domestic and sexual violence against women, the number of criminal investigations and prosecutions, and the sentences imposed on perpetrators, as well as regarding the remedies, including compensation provided to victims since 2005, disaggregated by sex, age, nationality and relationship between victim and perpetrator”: The Committee **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “adopt specific legislation to criminalize acts of domestic and sexual violence, including the amendment to article 186 of the Criminal Code to criminalize marital rape, seeking inspiration from other countries

His Excellency
Mr. Jamal M.I. Alghunaim
Permanent Representative of the State of Kuwait
to the United Nations Office at Geneva
Avenue de l'Ariana 2
1202 Geneva

Email: info@kuwaitmission.ch

with similar cultural specificities which have taken steps in this regard”: The State party mentioned that the Kuwaiti Penal Code criminalizes all instances of violence and assault against women, including domestic violence, indecent assault and rape. It added that, according to article 186 of the Penal Code, anyone having sexual intercourse with a woman without her consent, through the use of force, threats or deception, shall be liable to the death penalty or life imprisonment. Moreover, the State party indicated that the Ministry of Justice has set up a committee to review its operative legislation in order to ensure compliance with established international standards and promote the values of equality and justice. Furthermore, a joint action committee was established to, inter alia, identify Kuwaiti legislation relating to the protection of women and remove all forms of discrimination, scrutinize similar legislation in Arab States and make use of it to amend Kuwaiti legislation, and review bills proposed by members of the National Assembly on the civil and political rights of women and prepare an opinion thereon for submission to the relevant authorities. The Committee acknowledges the existence of general provisions in the Penal Code criminalizing violence against women and the establishment of a joint action committee to identify the Kuwaiti legislation relating to the protection of women. However, it considers that the State party failed to adopt specific legislation to criminalize acts of domestic and sexual violence, including the amendment to article 186 of the Criminal Code to criminalize marital rape. The Committee considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “assist women victims to report incidents of domestic and sexual violence to the police, including by providing legal, medical and psychological assistance and rehabilitation, including adequate shelters”: The State party mentioned that the right to litigation is guaranteed to all by article 166 of the Constitution and that, in the event of assault, victims may have recourse to the judiciary by filing charges with the competent authorities. It also indicated that the Ministry of Interior established a community police department whose responsibilities include monitoring victims of violence, providing them with psychological and social assistance and managing the resolution of domestic disputes by amicable means. Further, the Ministry of Social Affairs and Labour caters for the welfare of certain social categories, including members of broken families, through the establishment of shelter facilities. Besides, the General Secretariat of Endowments has established a joint national committee to monitor instances of domestic violence and put in place measures to treat victims on the basis of a comprehensive strategy. The Committee welcomes the measures taken by the State party to provide psychological and social assistance to victims of domestic violence, as well as shelter facilities to members of broken families. However, it considers that the reconciliation approach envisaged by the community police department to address cases of domestic violence may deter the victim from reporting such cases to the police. Moreover, the Committee considers that the State party failed to provide information on shelters for women victims of domestic and sexual violence, and to indicate whether legal and medical assistance is provided to assist them to report such incidents to the police. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “ensure that all reported incidents of domestic and sexual violence are promptly and impartially investigated and prosecuted, and that victims thereof receive adequate remedies”: The State party mentioned the establishment of a public prosecutor’s office specializing in family affairs and of a centre in each governorate to settle family disputes and protect members of the

family from acts of domestic violence. The Committee considers that the State party took some positive steps to ensure that all reported incidents of domestic violence are promptly and impartially investigated and prosecuted. However, it failed to provide information on measures taken to ensure that all reported incidents of sexual violence are promptly and impartially investigated and prosecuted, and that victims thereof receive adequate remedies. The Committee considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “provide regular training for the police, prosecutors and judges on effective investigation, prosecution and punishment of acts of domestic and sexual violence against women, including on the guarantees of the right to be represented by an attorney of one’s own choice, and to inform the general public on the criminal nature of such acts”: The State party indicated that appropriate training in the area of human rights, covering domestic and sexual violence against women, is provided to its employees, members of the police and public prosecution service, judges and prison staff. Moreover, the Kuwait Institute for Judicial and Legal Studies provides training in the field of domestic and sexual violence for legal workers in ministries, agencies and civil State bodies, including the judiciary. The State party also seeks to encourage all civil society organizations concerned with human rights and social work to hold courses, forums and awareness-raising campaigns in this field. The Committee commends the State party for providing training on domestic and sexual violence to State employees, including police officers, prosecutors, judges and prison staff. However, it considers that the State party failed to indicate whether these trainings are provided on a regular basis and whether they focus on effective investigation, prosecution and punishment of such acts, including on the guarantees of the right to be represented by an attorney of one’s own choice. It further considers that the State party failed to provide information on the measures taken to inform the general public on the criminal nature of these acts. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “review the existing legal provisions relating to divorce in case of injury as a result of domestic or sexual violence, with a view to facilitating divorce of women victims of such acts, and to provide legal aid to non-citizen women seeking divorce from Kuwaiti men based on the grounds of domestic violence”: The State party mentioned that it took the initiative of preparing a bill to set up a family court in each governorate that has jurisdiction over all Kuwaitis and non-Kuwaitis and represents a new legislative initiative designed to expedite personal status cases, such as alimony, custody, divorce, etc. The legislature seeks to alleviate the burden on women victims of having to give evidence of domestic violence when petitioning for divorce on grounds of injury resulting from ill-treatment. It gives the relevant court full authority to scrutinize all aspects of the case and evaluate the evidence and injury done, namely “the unlawful abuse by one spouse of the other”, which is the reason for the petition for divorce. The Committee welcomes the introduction of a bill to set up a family court that would alleviate the burden on women victims of having to give evidence of domestic violence when petitioning for divorce. However, it considers that the State party failed to review the existing legal provisions relating to divorce in case of injury as a result of domestic or sexual violence. It further considers that the State party failed to indicate whether any steps have been taken to provide legal aid to non-citizen women seeking divorce from Kuwaiti men based on the grounds of domestic violence. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Regarding the recommendation that the State party “amend article 153 of the Criminal Code in order to remove diminished criminal liability and provide more stringent penalties for men who commit so-called “honour crimes””: The Committee **did not receive sufficient information** to assess whether the recommendation has been implemented.

Regarding the recommendation that the State party “further amend the Criminal Code so as to provide equal sanctions for both men and women in relation to killings motivated by adultery”: The State party mentioned that the difference between a man who commits this act and a woman consists in the anguish, mental agitation and extreme anger, distress and shock of the surprise caused in him by the sordid and shameful acts committed by the wife, sister or daughter, which are a violation of his honour and dignity and represent his humiliation in front of all and sundry. A woman whose husband commits such an act will be shamed, dishonoured and her affection for and trust in her husband damaged. The Committee considers that the State party failed to amend the Criminal Code so as to provide equal sanctions for both men and women in relation to killings motivated by adultery. It considers that the recommendation **has not been implemented**.

Regarding the recommendation that the State party “ensure that women are under the supervision of female guards in all places of detention”: The State party mentioned that women detainees are subject to supervision by female guards in all places of detention. It added that articles 3 and 4 of Decree Law No. 23 (1990) stipulate that the women’s prison shall have a female supervisor assisted by an adequate number of female guards. The Committee considers that the State party took significant steps towards the implementation of the recommendation. It considers that the recommendation **has been implemented**.

Regarding the recommendation that the State party “provide for a sufficient number and sufficient quality of shelters for all female victims of violence without restrictions linked to age or marital status”: The State party mentioned that the Ministry of Social Affairs and Labour caters for the welfare of certain social categories, including juveniles at risk of delinquency, children who are of unknown parentage or deprived of family care, and members of broken families, through the establishment of shelter facilities. The Committee considers that the State party failed to indicate whether any measures have been taken to provide for a sufficient number and sufficient quality of shelters for all female victims of violence without restrictions linked to age or marital status. The Committee considers that it **did not receive sufficient information** to assess whether the recommendation has been implemented.

The Committee recommends that, in relation to paragraph 31 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Compile data regarding the number of reported cases of domestic and sexual violence against women, the number of criminal investigations and prosecutions, and the sentences imposed on perpetrators, as well as regarding the remedies, including compensation provided to victims since 2005, disaggregated by sex, age, nationality and relationship between victim and perpetrator;

- 2) Adopt specific legislation to criminalize acts of domestic and sexual violence, including the amendment to article 186 of the Criminal Code to criminalize marital rape, seeking inspiration from other countries with similar cultural specificities which have taken steps in this regard;
- 3) Assist women victims to report incidents of domestic and sexual violence to the police, including by providing legal, medical and psychological assistance and rehabilitation, including adequate shelters;
- 4) Ensure that all reported incidents of domestic and sexual violence are promptly and impartially investigated and prosecuted, and that victims thereof receive adequate remedies;
- 5) Provide regular training for the police, prosecutors and judges on effective investigation, prosecution and punishment of acts of domestic and sexual violence against women, including on the guarantees of the right to be represented by an attorney of one's own choice, and to inform the general public on the criminal nature of such acts;
- 6) Review the existing legal provisions relating to divorce in case of injury as a result of domestic or sexual violence, with a view to facilitating divorce of women victims of such acts, and to provide legal aid to non-citizen women seeking divorce from Kuwaiti men based on the grounds of domestic violence;
- 7) Amend article 153 of the Criminal Code in order to remove diminished criminal liability and provide more stringent penalties for men who commit so-called "honour crimes";
- 8) Amend the Criminal Code so as to provide equal sanctions for both men and women in relation to killings motivated by adultery; and
- 9) Provide for a sufficient number and sufficient quality of shelters for all female victims of violence without restrictions linked to age or marital status.

Regarding the recommendation made in **paragraph 35** of the concluding observations that the State party "further encourage and facilitate women's representation in Parliament and ministerial positions, and their appointment as prosecutors and judges and at the senior level in the civil service, and to increase the representation of women in the diplomatic service, including as heads of its diplomatic missions abroad": The State party mentioned that, as part of the five-year medium term development plan (2010-2014), the Ministry of Social Affairs and Labour is implementing a project for the economic and societal empowerment of women by, inter alia, supporting their political rights and promoting their role in decision-making positions. It further indicated that there is now a female minister and female ministerial undersecretary (deputy minister), a female deputy in the National Assembly, a female ambassador, female head of department, as well as businesswomen, female university lecturers and researchers in specialized scientific institutes and a female adviser on formal legal opinions in Shariah law. Moreover, the Supreme Judicial Council agreed to the appointment of 62 applicants for the position of legal research/deputy public prosecutor, of whom 22 were female graduates from the faculty of law. The Committee notes as positive the efforts made by the State party to support women's political rights and promote their role in decision-making positions. However, it considers that the State party failed to further encourage and facilitate women's representation in Parliament and ministerial positions, and their

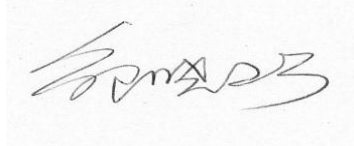
appointment at the senior level in the civil service, and to increase the representation of women in the diplomatic service, including as heads of its diplomatic missions abroad. The Committee considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 35 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to encourage and facilitate women's representation in Parliament and ministerial positions, and their appointment at the senior level in the civil service, and to increase the representation of women in the diplomatic service, including as heads of its diplomatic missions abroad.

The Committee looks forward to pursuing its constructive dialogue with the authorities of Kuwait on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Xiaoqiao Zou
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women