

**The Report Shadow For
The Kuwaiti Association for the Basic Evaluators of Human Rights
State of Kuwait
About the level of execution of the international convention for
Economic, social and cultural rights
In the state of Kuwait**

**Coordinator for Preparing the Report
The Kuwaiti Association for the Basic Evaluators of Human Rights
(A private Human rights association – obtained the international
advisory place in the economic and social council – July 2012)
State of Kuwait
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Introduction and Preface

The Kuwaiti Association for the Basic Evaluators of Human Rights was established in 2005 under official license No. 99/2005 issued from ministry of social affairs and labor, and obtained the international advisory place in the economic and social council since July 2012.

The Kuwaiti Association for the Basic Evaluators of Human Rights fixed as activities a group of aims and objectives, and the association succeeded since its origination in attaining many achievements which have major effect on reinforcing and protecting human rights with reference Islamic Sharia, and from association aims and objectives it always seeks to achieve is to spread of awareness of human sharia rights, and protecting these rights and maintaining thereof and defend them against any infringement or violation or suspicion in relation to Islamic Sharia, and confirming that Islam is the religion of tolerance, justice, and fairness and this in coordination with authorities concerned with a method depending on wisdom, and working on cleaning Kuwaiti clothes from any infringement to human rights.

The Kuwaiti Association for the Basic Evaluators of Human Rights aspires, through its societal message, to originating the case of human rights from a sharia point, and being keen to bridge communication with local and international human rights organizations and societies, and seeking to establish an official authority including all what is related human legitimate rights, and searching the ways of leveraging the level of coordination between governments and NGOs in the field human rights, and working on providing center a database and connecting them with authorities concerned with human rights locally and abroad, in addition to seek to cooperation with international bodies in preparing and executing training programs in the field of protecting human rights and reinforcing their freedoms.

The association is still in the field in almost all changes occurred for right cases in the state of Kuwait, and hence coping with the track of right development and confirming its effective participation.

The most important achievements were in May 2010 for the 8th session of the conference of comprehensive periodic demonstration at human rights in Geneva, with presenting the government report prepared by state of Kuwait, which is preceded by the association sending its report about right for Kuwait to the secretariat of UN, and so the association in SEP from the same year attended and participated in a speech presented by Kuwait delegation in the council of human rights in the occasion of establishing the recommendation of state of Kuwait as to right cases, where the role of the association in this international congregation since it's the only right association which participated by presenting a speech before council members, in addition to many other international participations in which the association was keen to be present, notably the presence of the association on May September in manifestations of the 103rd session of united nations human rights committee which is concerned about discussing states reports about their Comply with the provisions of the International Covenant on Civil and Political Rights, preceded by sending their human rights report to the committee about the degree of Kuwait comply with the provisions of the International Covenant on Civil and Political Rights. Furthermore, the Kuwaiti Association for the Basic Evaluators of Human Rights had also prepared the report of its second shadow, in which includes the comply level of Kuwait with the international agreement on the elimination of all discrimination forms. It is no doubt that all these international participations lead the association obtaining international advisory position as a first Kuwaiti human rights association in the economic and social council since July 2012.

These international participations of the association came from the point of deep faith in the necessity of solidarity of civil society institutions and international and national organizations for change and enabling human rights in a world overwhelmed with injustice and controlled with unfair policies and contradicting interests on the account of justice and law.

General Note about the extension of execution of the state of Kuwait to the international convention of civil and political rights:

1- **Kuwaiti Association for the Basic Evaluators of Human Rights confirms that** there is unjustified margining for the role of civil society organizations in the field of human rights inside the state of Kuwait, especially in relation to process of preparing related national reports, where some civil society organizations were margined in the process of preparing government report, and so the report is not presented in the preparation phase or after preparation to concerned NOGs and hence they cannot comment and provide views about what is provided therein in terms of right suggestions.

2- **As to public freedoms**, the file of public freedoms knew significant progress in 2011 and 2012, in which Kuwait acquired internationally the 78th position and the first position in the Arab level in press freedom in 2011, conforming to the report of “Murassilun bela hudud” organization, meaning that Kuwait progressed by nine positions as per the organization classification. Although this significant progress, we are worried about the file of freedom of opinion and expression, especially about pursuit of social media bloggers and talkers as well as control and censure of some web sites and closing some newspapers, that we consider as a contradiction with the article 36 of the Kuwaiti constitution.

3- **As to The general framework of the report of the State of Kuwait**

Notes sparingly report in listed and enumerated criteria and mechanisms theory, the report addresses only - in its entirety - outs theory of rights and freedoms rights whether constitutional or legal and so we find that the report has moved from the majority of Themes, from pinpointing the real situation and realistic procedural rights in Kuwait, and sufficiency by focusing on educational mechanisms and ignores many of the human rights aspects of life that was supposed to in the report of the State of Kuwait to be covered by what is come to explain in detail.

The talk about the constitutional and legislative provisions would put our hands only on a small part of the human rights framework and human terms that constitutional and legislative provisions do not lead inevitably and never to extract the real image and full human policy of Kuwait government towards the promotion of equality and rejection of racial discrimination, and hence the sighting report the official Kuwait impossible for him certainty or assurance that there can be no real problem about equality and rejection or anti-racism especially and that fact is often different from what dictates to us the constitutional provisions and legislation, texts alone do not enough unless accompanied by efforts by real procedural and formal, social and popular cooperation that would all achieve the lowest rates of racial discrimination within the State of Kuwait.

4- **As to the principles of the International Covenant on Economic, Social and Cultural Rights**, without distinction of any kind on the basis of race, color, sex, language, religion or political or other opinion, national origin or social origin, property, birth or other status, Noting that the vacant Kuwaiti national legislative system is vacant of legislative texts which especially include the definition and criminalization and enumerates acts of racial discrimination, according to what is a prerequisite for achieving the goals of the International Covenant on Economic, Social rights, where it does not exist in the legal system of national merely texts legislative sporadic not correspond whatsoever with the requirements of anti-and combat all forms and photos and acts of racial discrimination.

5- As to the recommendations of the eighth session of the Universal Periodic Review of human rights (UPR)

And which events took place during the month of May of the year 2010 witnessed a discussion of the State of Kuwait national report on the state of human rights as well as to review and install the recommendations in September of the same year, where he accepted Kuwait nine important recommendations should work to accomplish, namely: -

- The adoption of the resolution mentioned in Article 5 of the new labor law No (6/2010) on domestic workers.
- Accelerate the establishment of a national institution for human rights in accordance with the Paris Principles, which assumes as independent and open civil society.
- Issue a standing invitation to special procedures and respond in a reasonable period of time to requests for treaty bodies, both with respect to submit periodic reports or respond to communication, as the case may be.
- Directing an open and standing invitation to all special procedures.
- To respond to the requests of the Special Rapporteur on trafficking in persons, especially women and children to visit Kuwait.
- Ensuring equal employment opportunities for women and to promote women's participation in the workforce by hiring women for jobs experts and supervisory positions in all ministries and the diplomatic corps and the judiciary.
- Develop and implement a national plan of action to promote gender equality and ensure the integration of a gender perspective in all levels and areas, under recommendations (CEDAW).
- Make every effort to enact legislation to combat trafficking in human beings and smuggling of migrants for the purposes of sexual exploitation and forced labor, and in line with the United Nations Convention against Transnational Organized Crime and its Protocols, also pledged to do so in the national report.
- Cancel the current sponsorship system and replace it with regulations in accordance with international standards.

And the Kuwaiti Association for the Basic Elevators for Human Rights, as recommended in the framework of its social role as one of the institutions of civil society concerned with the protection and promotion of rights and freedoms of man, Fu urges and encourages the Kuwaiti government that is working hard to implement those recommendations voluntary pledges International in accordance with Islamic law and the Kuwaiti constitution within international instruments ratified by the State of Kuwait, and especially with regard to the pledge to establish a national independent human rights .

6 - **Regarding women's equality with men**, still Kuwaiti women deprived of the right to grant citizenship to their children as men do; further, the Kuwaiti women married to non- Kuwaiti men are not entitled to grant the Kuwaiti nationality to their husbands despite the fact that the Kuwaiti Law grants the nationality of the Kuwaiti husband to his wife after 5 years from applying for the Kuwaiti nationality, and upon no condition. We pay tribute here to the adoption of Women Residential Law under which women are granted residential loans with no interests in the same way as men.

7- **The right to strike**, it is still the State of Kuwait to keep the reservation display concerning to paragraph 1 / d of Article (8) of the International Covenant on Economic, Social rights, and to ensure that everyone has the right to strike, and in this regard, the Kuwaiti Association for the Basic Elevators of Human Rights, urges Kuwait to consider withdrawing its reservation concerning paragraph 1 / d of Article (8) of the Covenant, and then allow the right to strike, the association finds also that is that is necessary after this to organize human strike and organize its mechanisms under the provisions of a special law issued specifically for this purpose, and so as not to be misused rights to strike and so it is not used in order to threat the economic and social interests within the State of Kuwait.

8- **Freedom to choose a spouse**,

The paragraph (1) of Article (10) of the International Covenant on Economic, Social and Cultural Rights, came to state that "marriage should be free consent of the couple," and here Kuwait Association for the basic elevators for human rights, finds that the suspension of marriage of a Kuwaiti citizen with a foreigner at getting prior authorization from the Commission Kuwaitis from abroad marriage, problem within the scope of the Ministry of Justice, but is incompatible and inconsistent with the freedom in marriage under the Covenant that assures to all, and then it is necessary to limit the work of the Committee referred to on just advice and guidance those who want to marry, without interference or influencing freedoms of marriage in any form.

9- **Regarding the creation of conditions which would assure to all, medical service and medical attention in the event of sickness**, and that required by article 2/12 / d of the Covenant, that States take the necessary measures that permit the provision of services and medical care to all people, and here the Kuwaiti Association for the Basic Elevators For the human refers to the study prepared by World Health Organization in a report published in the middle of August 2009 in the Kuwaiti newspapers, which ensured that prices of medicines in Kuwait are exaggerated; the Kuwaiti state employer may be obliged to pay between 3 and 8 days of his salary to buy the medications prescribed for common diseases, while non- Kuwaiti skilled worker is obliged to pay between 8 to 22 from his salary for the same reason.

The Association has already dealt with the same case at various events and meetings, and sooner after the Association's issuance of its report on the reality of human rights in Kuwait in 2009, the Ministry of Health declared the reduction of the prices of medicines and pharmaceutical products by 5%, but such percentage does undoubtedly still far from the required ambitions.

Regarding health based expatriates suffering, it is to be mentioned that a Decree Law 1/ 1999 which obligates the expatriates with health insurance during their stay in Kuwait, and the average value of health insurance for an expatriate is 50 KD per year; further, the provision of the present Law obligates the employer (In accordance with Article II) to the insurance premiums or the health insurance. However, the reality of the labor market in Kuwait that this value is borne by the expatriate in most cases.

Although, the provision of this Law gave, those who are covered by health insurance, a coverage for medical and health basic services, whether diagnostic or therapeutic, and it, further, listed in its forth Article a statement of such services, and then gave the Minister of Health the authority to determine those services, but, unfortunately, the current applicable system in Kuwait does not cover the simplest health needs of the expatriate, for example, the expatriate is still in need to pay- over the health insurance amount- an amount of 1 KD for each review of the clinic, and 2 KD for each review of the hospital, and he is further required to pay amounts for most of the medical examinations necessary for diagnosing his case, for example, he is required to pay 10 KD per normal Sonar, 75 KD per color X- ray, 90 KD per MRI, 75 KD per cardiac catheterization and other amounts, which range between 3 to 10 KD per one test, for medical tests such as the examination of

iron, vitamins, thyroid and hormones and others; and the same applies to the stateless, thus, these matters stand as obstacles preventing doctors from getting the correct diagnosis under the inability of many of them to bear such amounts.

Even with regard to medications, there are dozens of essential medicines which are prohibited from expatriates, and they cannot get them but through bearing the cost of buying them from pharmacies for high prices, such as some medicines for diabetes, blood pressure, solvents and sprays of asthma, and certain types of antibiotics, and other medicines special to tuberculosis, colonic and gastric ulcers and others. The Ministry of Health has taken a positive step at the beginning of 2010, when it increased the list of medicines allowed for expatriates, and when it exempted the stateless children from the fees for cancer treatment; however, we seek and demand that health insurance covers all medicines and medical products without any exception or discrimination based on nationality.

Regarding AIDS disease, the Association of the basic elevators for human rights sees that there are several legal, social and international requirements that should be nationally considered, in accordance with current international orientations, as well as the human progress that occurs regarding AIDS disease handling and regarding virus holders and infected persons, as the national legislative frameworks do not satisfy, currently, the requirements as well as human and international rights data that are described in this regard especially the second politic announce of 2011, concerning “intensify efforts to eradicate HIV/ AIDS”. The association recommends the government of the Estate of Kuwait, to work seriously in order to eliminate stigma and discrimination against HIV infected and damaged persons, including their families, by different ways such as Sensitization of police, judges and personnel training in the field of health care for non-discrimination and maintaining confidentiality as well as ensuring approval of the support of national campaigns to learn in the field of human rights, awareness on legal matters and providing legal services, monitoring the impact of the legal environment in the prevention of HIV and the provision of treatment, care and support for those infected.

10- About the position of Kuwait to ratify the Convention on the Rights of Handicapped Persons. it is noted that the position of the State of Kuwait is still vague in this regard, despite the issuance of the State of Kuwait for a new law to the rights of persons with disabilities and in the year 2010 (Law 8/2010), but that national position did not record any progress towards ratification of the Convention on the Rights of handicapped persons.

11- As to Human Trafficking, the association noted the default of Kuwaiti government, for issuing law of anti-human trafficking and immigrant smuggling, where no tangible and real procedural steps in this track, despite the state of Kuwait accepted recommendation directed to it upon its comprehensive periodic report about conditions of human rights, as to preparing and issuing law of human trafficking and immigrant smuggling.

Its notice worth that there are no law to criminalize human trafficking till now and this makes a big question mark before the situation of the government and how far it’s serious in treating conditions of human rights and this is default from legislative and executive authorities before those benefiting from the current condition and this leads to recurrent humanitarian violations that may be detected through complaints of damaged people received by the association or through official and independent gazettes.

And so the violations of rights of expatriate workers in Kuwait represent a major problem and a great challenge for being one of the most complicated cases since establishment of the state and till now, since Kuwait depends greatly on coming labor which forms about two thirds of population.

Year 2010 was one of the most years which witness radical developments as to rights of coming labor especially after approving labor law in the private sector No. 6/2010, yet there are some violations still exist against coming labor, due to weak controls of executing law, in addition to

some vague texts that need explanation and demonstration from specialists, and the association has wide hopes on article 9 from labor law which provide for the establishment of a public administration for labor forces to be the initial core for cancelling the sponsorship system, despite government confirmations as to establishing the administration in FEB 2011, yet it didn't demonstrate till now any organizational structure or nature of it, or how it shall work and its new legal role in particular.

And so the association shows its great fears, as to the increase of trading in residences, it's clear that practices of trading in work visas bring about huge proceeds for traders, since the residence trader can sell the sponsorship for foreign worker who may from 500-1500 KD so as to have a work permit and hence can work illegally, and so employers may not pay labor salaries and their requests of longer work hours, and cancel vacations and forcing them to do works not provided in agreements made with them especially in the shadow of no law criminalizing trafficking in humans and so lack of deterrent penal procedures for them such as prosecuting them and preventing them from entering tenders and government auctions.

12- **As to right of domestic labor**, domestic labor in Kuwait represent about 660000 person, third of labor force, and these workers are totally excluded from labor laws which insures protection for other workers, and the association sees that Kuwaiti lawgivers intensify this exclusion in the umbrella of protection since issuing in FEB 2010 new labor law for private sector No. 6/2010 which provisions excluded organization of conditions and cases of domestic labor who endure material violations for human rights, in addition to that there is no law protecting these vulnerable class.

In real facts, there are some maids, forced to work for free, and sometimes they are deprived from food and so endure inhuman treatment many times, and if they try to acquire their rights, they are expatriated to their countries, and the association considers that the government, as to maids enduring abuse, shall provide proper shelter protecting them from abuse and human infringements, and so the government shall remove all heavy legal impediments imposed by employers even on maids who endure abuse, and the association sees that government officials discuss reformation of sponsor system many years ago, yet it's the time to execute tangible and real steps to protect labor rights.

In this context, the association confirms that on the main problems faced by domestic labor, represented in abuse and non-enough and late salaries and forcing maids to work for longer hours up to 18 hours per day, from them some work 365 days a year with no vacation, and some of them have their passports secured and transportation limited, and this infringes personal freedom greatly, and the case of labor and domestic labor is lied in a main problem that needs concentration, which is lack of labor law protecting domestic labor and defining work hours and vacation days and indemnification for vacations.

Some sort of big number of domestic labor offices in Kuwait, is the corner stone of violations endured by domestic labor especially when many of these offices are involved in trading in maids and especially the returns, by way of inciting or forcing them to escape from houses of sponsors to use them in immoral works, especially when some of these offices are managed by persons other than licensees and this situation is used by gangs of trafficking in humans and women abuse.

Kuwaiti Association for the Basic Evaluators of Human Rights is deeply concerned to confirm its refusal, in part and in full to the idea and system of sponsor, and out of its deep faith that this system or labor sponsorship system, represents one of the clear and comprehensive manifestations of right and humanitarian violations, due to its bad implications in terms of huge wasting to humanity, and endless violations for their dignity and basic freedoms, and this is deemed by the association in total violation to all conventions and charters and traditions of territorial, semi-territorial and international human rights, and since the state of Kuwait approved most of these international right conventions, and adopted them nationally, which in their totality oppose

monopoly and compulsory works and aggressing labor rights and freedom of transportation and choice of work, till the end of human and basic rights, yet the government still adopting this aggressive system, which made work agreement in most cases just submission and compulsion agreements, that lack mutual agreement supposed to be in agreements, and for the human dignity that needs reinforcement.

13- **As to compulsory work**, it's denoted the multiple works of human violations as to coming labor according to the nature and nationality of the worker, such as forcing workers to work in open places in temperatures reaching 50 degrees, and sometimes work places lack of rules and requirements of safety and occupational health, and force labor to sign white documents (promissory notes) to be used in suppressing them and bringing them to jail sometimes especially taxi companies, and many employers maintain the official documents of workers, and if those workers witnessed any abuse and tried to escape, sponsors may then accuses them with escaping from work and hence expatriate them pursuant to law and so the government left workers under the mercy of employers and hence leaving them suffer.

The few days before writing this report, and till writing thereof, witnessed what is described by the association as social massacre where ministry of Awqaf and Islamic affairs issued a resolution providing that the ministry and its administrations shall discharge about 35% from coming labor working therein under the item of assignment infringing international charters of labor, in addition to discharging two-shift workers (morning and afternoon) from one of them and this forms a material damage to the rights of about 1440 employee, and this without giving them any period to find proper alternative, and the association tries, till writing this report, to solve this humanitarian issue with all means and legitimate tools available where the number of damaged persons from this resolutions reached 4000 employee, most of them expatriates, and they include Kuwaiti employees and a somehow big number of non-nationality citizens who endure basically prevention from their civil and social rights.

14- **The situation of illegal residents (stateless)**, where the suffering of the stateless constitutes a major challenge for the Kuwaiti government, civil society institutions and human rights activists in Kuwait, especially with the official significant slackening in settling down the case since the establishment of the State up till now. The Association believes that the issue of the stateless is a pure humanitarian problem; requiring from the State of Kuwait to work in a legislative and realistic way in order to resolve Stateless issue juristically and humanly in a terminal and radical way.

Recommendations and opinions:

Before the Association undertakes listing its recommendations and suggestions, it would like to present its deep gratitude to the Kuwaiti government for its efforts in promoting the Kuwaiti record on human rights, and its profound respect for Islamic Sharia and the Constitution of Kuwait, and declares that it does not violate any of their provisions.

After the foregoing observations on the execution of the State of Kuwait of the International Covenant on Civil and Political Rights, the Kuwaiti Assembly as interested in giving a set of recommendations and proposals, which it hopes that the Kuwaiti Government may adopt, represented in the following:

1- The need to raise the limit of the cooperation between the Kuwaiti Government and civil society human rights organizations, particularly, regarding its participation in the preparation of the reports of the Government of the State of Kuwait; thus terminating any treatment marginalizing the role of the NGO in the State of Kuwait.

2- The need to expedite the establishment of the human rights national independent institution in accordance with the Paris Principles, in execution of the voluntary commitments of the State of

Kuwait in this regard; thus, in this regard, the Association has submitted to the Parliament a draft law for the establishment of Human Rights National Independent Institution.

3- Necessity of issuing legislative texts which especially include the definition and criminalization and enumerates acts of racial discrimination, according to what is a prerequisite for achieving the goals of the International Covenant on Economic and Social Rights.

4- The need to achieve the maximum protection to freedom of opinion and expression, pursuant to the provisions of the International Covenant on Civil and Political Rights.

5- The need to develop the rights and health services for citizens and expatriates in light of the observations of the Association.

6- The need to amend Kuwaiti Nationality Law so as to allow women to grant the nationality to their non - Kuwaiti husbands in the same manner as men do.

7- Consideration of strike right permission, and then withdrawing the reservation of the State of Kuwait concerning paragraph 1/d of article (8) of the international Covenant of economic, social and cultural Rights.

8- The importance of hurrying up in ratifying the agreement of handicapped persons' rights. In this context, the association insists also that there is no obstacle facing the ratification and signature of the agreement of handicapped persons' rights by the State of Kuwait.

9- The need to expedite the issuance of the law against trafficking in human beings and smuggling of migrants in implementation of the commitments of the State of Kuwait during the discussion of the Kuwaiti comprehensive report on human rights in 2010, in line with the commitment of the State of Kuwait to the provisions of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.

10- The importance of a system of procedural law that allows combating illicit exchange of residences.

11- The need to abolish the system of labor sponsorship in order to effectuate international labor standards.

12- The need to expedite the issuance of special legal roles organizing conditions, rights and responsibilities of domestic labors as well as work on the customization of further mechanisms to control the working conditions and protection of expatriate workers on following-up activities of the offices of private servants.

13- Importance of doing the needed procedures as well as legislative and realistic measures in order to avoid all forms of compulsory work especially with the marginalized expatriate workers.

14- Importance of hurrying up in issuing the law of woman's civil and social Rights.

15- The need to seriously strive toward taking more real and legal steps and procedures so as to irrevocably solve the issue of illegal residents (stateless).

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