



الجمعية الكويتية لحقوق الإنسان
KUWAIT SOCIETY FOR HUMAN RIGHTS

REPORT ON WOMEN'S RIGHTS IN KUWAIT

Submitted to the Committee on the Elimination of
Discrimination against Women (CEDAW)

Kuwait Society for Human Rights

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INTRODUCTION:

Kuwait Society for Human Rights is working on spreading the culture of respect for human rights and to promote awareness of international human rights instruments and the defense of all individuals whose human rights are violated, and in the framework of the society that keen to protect and promote these rights. The Society in this report is presenting the most important developments and changes that have occurred for women's rights in Kuwait since 2010 until the date of this report, is also demanding that the society through this report a number of reforms in line with the Committee on the Elimination of Discrimination against Women (CEDAW), This report has been prepared in accordance with the following criteria:

- Recommendations accepted by the Kuwaiti government when submitted its third and fourth report to the Committee of the Elimination of All Forms of Discrimination against Women Fifteenth session 2011.
- Adapted the local laws to the Convention on the Elimination of All Forms of Discrimination Against Women.
- The recommendations of the workshops carried out by the Society.
- Complaints received by the Society.
- Violations that are monitored by the Society through the monitoring teams.
- Studies and research conducted by the society.

We will try through this report to address the most important issues related to women as following

1 | NATIONALITY ACT:

Although the Kuwaiti Constitution has been stated in Article (29) states that:

(People are equal in human dignity, and they are equal in the law in public rights and duties, it does not discriminate because of sex, origin, language or religion). However, the reality is reflected in the presence of Kuwaiti legislator legislated laws distinguished between men and women based on sex, such as the Nationality act No. 15 of 1959. In Article (2) states that the Kuwaiti person who is born in Kuwait or abroad for a Kuwaiti father ruling out the Kuwaiti women to pass their nationality to their children as men. Therefore the law rested on blood right of the Father without any limitation or condition while the mother's right restricted by conditions where the text in Article (3) she has the right to grant citizenship to her son if the unknown father or the proportion did not prove to his father. In addition, giving the nationality to her son here is subject to the discretionary authority of the minister of interior.

As well as in paragraph (2) of Article (5), which stipulated that the Son of Kuwaiti women married to foreigners to keep residency until reaching the age of puberty if his father was a foreign war prisoner, or divorced his mother irrevocable divorce, or died and here over a period 5 years is required, and also gives the right to the authority of the Minister of the Interior. As that of Article (8) of the same law gave the man the right for granting the nationality to his foreign wife without giving this right to the Kuwaiti women.

From the above, we find that this law is contrary in some of its articles with paragraph (2) of Article (9) of the Convention on the Elimination of All Forms of Discrimination against Women, and the reservation by Kuwait, as the issue of citizenship is a matter of sovereignty in government's view. Also, deprived the Kuwaiti women who married to foreigners the right to grant citizenship to their children seriously effects where the children cannot get the right to the inheritance of their mother in immovable funds (like real estate. The reason is not to allow foreign ownership in Kuwait, and in spite of allowing their children to occupy certain public jobs and admission to military and the Ministry of Interior; however, they paid less than their fellow citizens did in the same work.

RECOMMENDATIONS:

1. Enable Kuwaiti woman to grant her children citizenship without restriction or condition.
2. Granting the right of the Kuwaiti woman to grant her nationality to her foreign husband's as men.
3. The society recommends the need to harmonize the national legislation with the Convention on the Elimination of All Forms of Discrimination against Women.
4. Allow the children of the Kuwaiti women to have a legacy of their mother immovable money such as real estate funds, according to the Kuwaiti Personal Status Law No. 51 of 1984 in its articles 288 289, which showed the terms of inheritance.
5. Equality in the salaries of the children of the Kuwaiti women with their fellow citizens, in application of the principle of salary in exchange for the effort and not based on the nationality.

2 | DOMESTIC VIOLENCE:

We can say that the phenomenon of violence against women has become a problem in the Kuwaiti society, especially the domestic violence because of the aggravation of this problem without finding any good solutions. The doer who is assaulting a reassuring not to hold him accountable because of the prevailing stereotypes in society, but not to adopt the Kuwaiti government to legislate a clear and specific to criminalize acts of domestic violence, and fear of the victim to submit a request, and the lack of a safe haven to protect it increased this problem.

This issue has been recognized through the Complaints Committee in the society. Most of the women who are victims of domestic violence when they contact us cannot come to make a complaint because of the fear from their relatives who attacked them. And the biggest problem when the victim is not a Kuwaiti (foreign wife) and does not have any relatives inside Kuwait. Based on the recommendation (31) of the concluding observations of the Committee on the Elimination of Discrimination against Women in the session for the year 2011, that Kuwait should carry out a data collection disaggregated by gender, age, nationality, and the relationship between the victim and the perpetrator, and the number of the reported cases of the domestic and sexual violence against women, the number of criminal investigations and the number of cases in which the perpetrators prosecuted and the sanctions issued against them and the compensations awarded to the victims.

We are in the society have not been able to obtain declared statistics by the authorities, but we can infer the extent of the growing problem of domestic violence through the increasing the number of divorce cases. According to the statistics of the Central Statistical Office In 2013, the number of divorces reached to 6904 in comparison to 2012 that was 6672. In 2011, the number was 6254 and in 2010, the number was 5965. We can see that divorce cases are continuously increasing in each year from the previous one, which gives us an indication of the concern of, exacerbate of this problem.

When we talk about the domestic violence, we should mention the marital rape, which is a form of domestic violence, where the Kuwaiti Penal Code came by its general and comprehensive provisions. But it does not fit with the privacy of the subject, for example, Article 186 of the Kuwaiti Penal Code criminalizing rape and indecent assault but did not consider the martial rape as an attack and violence against women.

RECOMMENDATIONS:

1. The society recommend the needs to adopt clear and specific legislation to criminalize domestic violence in all its forms, including amendments to the text of Article 186 of the Penal Code to criminalize marital rape.
2. The society urges the authorities to help the battered women when submitting a complaining through the provision of a dedicated hotline to report the incidents of the domestic violence and to provide them with the necessary protection.
3. The need to provide legal, medical and psychological assistance and rehabilitation through rehabilitation programs.

4. The Kuwaiti government should be urged to provide a regular training for police, prosecutors and judges on the effectiveness of the investigation and punishment for acts of domestic violence in all its forms.
5. The society urges the authorities of the need to provide necessary assistance to non-citizens women who are victims of domestic violence from their husbands, and that is to deal with their complaint seriously and provide adequate protection for them.
6. Provide a sufficient number of shelters and care homes for all battered women by the family without discrimination and restrictions associated with age or marital status or citizenship.
7. The society urges the Kuwaiti government to provide data and statistics of the cases of the domestic violence in terms of the number of complaints, investigations, proceedings, convictions, offers and compensation to the battered victims. In addition, the rehabilitation in order to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women at the national level.
8. considering that the domestic violence is the most comprehensive rather than the family violence, we in Kuwait society for Human Rights recommend to activate the necessary protection to the domestic workers who are subjected to domestic violence, abuse and exploitation as most of the victims have benefited from during the Complaints Committee in the society that hospitals, police stations did not deal with their complaint in serious and effective way.

3 | HONOR KILLINGS:

Although paragraph (g) of Article (2) of the Convention on the Elimination of All Forms of Discrimination against Women provides the abolition of all national penal provisions which constitute discrimination against women. However, the Penal Code characterized in Article (153) between men and women in terms of punishment imposed on the commission of the crime of murder motivated by adultery, given that honor killing is not a big phenomenon in the Kuwaiti society, as it is in many Arab countries. Nevertheless, this type of crime poses many questions being the only crime that is often where others sympathize with the perpetrator not with the victim, but they consider the perpetrator or the victim of the traitor party notorious prompted him to commit a crime of honor.

Article (153) of the Penal Code establishing this concept in the Kuwaiti society where the article says that (everyone who surprises his wife in the act of adultery, or surprised his daughter or his mother or his sister engaging in sexual intercourse with a man and killed her or who was with her or kill them together, shall be punished by imprisonment for a term not exceeding three years and a fine not exceeding 3,000 rupees or both).

Therefore, the legislator reduced the responsibility and eased the offense from a felony to a misdemeanor for a man in the case of on this offense, but women did not get the same right in

case proceeded to killings of adultery by her husband, but they punish felony murder and this is what constitutes a clear and explicit distinction between men and women and therefore there is a contradiction and conflict between what the text of the Kuwaiti Penal Code and the Convention on the Elimination of all Forms of Discrimination against Women through what is stipulated in this agreement aimed to a full equality.

RECOMMENDATIONS:

1. Amending Article 153 of the Penal Code, which removes the offense and reduces the responsibility of the man, through the imposition of equal sanctions to both of them when they committed the same offense.

4 | HOUSING ACT:

Article (2) in paragraph (f) of the Convention on the Elimination of All Forms of Discrimination against Women (take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women). But the law No. 47 for 1993 about the residential care includes discriminatory articles against women. Then the Law No. 2 of 2011, which included the amendment of some articles in detail, especially Article 28, with regard to social situation of the Kuwaiti women, but it did not solve the problem since the value of the loan as stipulated in Law No. 47 of 1993 in Article 28 it is 70 thousand dinars.

But through what has been monitored by the society that the loan that women can get is less than what is provided, and is subject to the terms of incapacitating. While, the men have the right to apply for land for building as well as get a loan, while not available for women.

RECOMMENDATIONS:

1. Enable Kuwaiti women of the get the opportunity to receive an equal housing loan for the loan received by the man, without restriction or condition and without discrimination by social status.
2. Urge the Government to facilitate the procedures for women's access to housing loans.
3. The government is required to remove all discriminatory provisions of the Residential Care Act.

5 | POLITICAL AND PUBLIC LIFE:

Article (7) of the Convention on the Elimination of All Forms of Discrimination against Women, confirmed to take all appropriate measures to eliminate discrimination against women in political and public life where paragraph (b) to participate in the formulation of government policy and the implementation of this policy and and perform all tasks at all levels of government, but there is concern that the low percentage of women's participation in positions of leadership in the government. As a limited number did not exceed more than a minister or two women ministers since the entry of Kuwaiti women in the first ministerial formation in 2005.

Her parliamentary representation is not better than her ministerial composition but less than that. At this moment women do not have a representation in the Kuwaiti Parliament which consist of (50) men, even that, the Committee of Women and Family Affairs in the Kuwaiti Parliament that includes (5) members all of them are men. Where the only woman who was in the National Assembly is Safa Abdulrahman Al Hashem who has submitted her resignation almost a year ago, while for the diplomatic representation is not also the best case. Despite the fact that Article (8) of CEDAW emphasized the increased chance of women's representation to the Government on the international level.

In addition, the right of women in positions of the public prosecutors and the judiciary. In 2014 ,22 women accepted for the position of Deputy Director General in the Department of Public Prosecutions, and then close the door of entry temporarily as the Supreme Judicial Council believe that this suspension is temporary to evaluate women's work During the year and ensure he ability to assume the post of attorney. This is what constitutes discrimination against women because of the performance evaluation is subject to women only without men even if temporarily. In addition, the women did not occupy the post of judge at the date of writing this report, despite the fact that Kuwaiti women involved in the support functions of the judiciary, including the functions of the investigators of the public prosecutor, and in the functions of the state lawyers of the Department of Fatwa and Legislation, which the heads of the defense of the government in the task of administrative issues.

Paragraph (c) of Article (7) of the Convention on the Elimination of Discrimination against Women has emphasized the need for the participation of women in all organizations and NGOs concerned with the public and political life of the country, but the available data and statistics we have indicate that the weakness of women's participation in general on the boards of associations departments and non-governmental organizations Society and almost 114 associations , as well as the case for unions and their number in Kuwait and 71 union federations and 46 union, so the low representation did not live up to the required level.

RECOMMENDATIONS:

1. Urge the government to start the application (the quota) as a kind of positive discrimination in favor of women and temporary mechanism to expand the size of women's political participation to facilitate the process of change occurring social and accept women in places of decision-making.
2. The government should continue to encourage and facilitate the representation of women in parliament and in ministerial positions and appointed the position of judge and remove

discriminatory decisions against her to start her work as prosecutors, and increase the level of representation in the diplomatic missions abroad.

3. The government is required to do an amendment to the laws that regulate the work of NGOs, trade unions and federations, to include quotas to ensure women's participation in management boards of public benefit associations, trade unions and federations.
4. The government is required to develop a national plan of action to give effect to Security Council resolution 1325 on women, peace and security, and implement awareness campaigns and the importance of the decision on the establishment of social peace.

6 | JURISDICTION OVER THEIR CHILDREN:

Although the article (16) in subparagraph (f) of the Convention on the Elimination of Discrimination against Women stated the need to respond appropriately to grant the same right and responsibilities of guardianship and adoption of children for women. On the other hand, similar social institutions where there are these concepts in national legislation and in all cases that interests of children welfare.

Based also, on what stated in the note No. (14) of the concluding observations of the Committee on the Convention in session in 2011 urged Kuwait to ensure the implementation of the Convention are fully implemented. In paragraph (b) of the same note mentioned, however, that woman in Kuwait do not enjoy the right of the guardianship and stewardship of their children as the Kuwaiti Personal Status Law. No. 51 of 1984 confirmed in Article (209) (a) that the mandate on the self to the father, then the grandfather close relative then to relative himself in the order of inheritance. (B) If there are several beneficiaries of the guardianship, the Court choose the good one among them. (C) If there is no worthy, the Court appointed the good from others. Also, Article 110 of the Kuwaiti Civil Law No. 67 of 1980, which stipulates:

1. The mandate the money of the child to his father, then chosen for the guardian of the father, then the father and grandfather, then the guardian appointed by the court, taking into account as required by Article 112.
2. The father and grandfather cannot to step down from the guardianship without an acceptable excuse.

Therefore, women do not have the right of jurisdiction over their children except by order of the court, and many of the internal regulations do not give women the right to jurisdiction over their children in managing public affairs.

RECOMMENDATIONS:

1. The government is required to amend the national legislation to empower women of their right to jurisdiction over their children and give them equal rights with the father to the children.
2. Amendment on the internal regulations to grant women the right to manage the affairs of their children in conformity with their interests.

7 | EDUCATION:

Despite the fact that Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women calls to take all appropriate measures to eliminate discrimination against women in the field of education, but there is still discrimination against women in this area, where the curriculum is still exposed incomplete traditional image which does not match the real roles in life, which negatively affects the look of women for itself by the society's perception. Which does not fit with the roles and positions of women in society and dedicated to traditional attitudes toward women through the concentration of those approaches highlighting the role of the traditional woman (wife, mother, housewife and obedient daughter) and attention to domestic responsibilities and the education of their children.

The school system of the Ministry of Education states in Article 6 of its general rules that ((conversion of the student to the evening education if she got married during the years of study while retaining the marks in the two semester systems in courses system according to regulations exams)). Which means in case that she proceeded to marry during the period study in one of the three stages of education from the school and in return allow them to register in the learners care centers which provide education but with less discipline which is necessary for the students in those stages to complete their studies and get good educational degrees.

We note that the reason for requesting cancellation of their point of view due to the unwillingness of the school administration that she will share her sexual experience after marriage with her classmates and that makes fear of moral corruption among the students and this is a clear discrimination in education and is not a logical justification.

In addition, Law No. 24 of 1996 on Higher Education in Article (1) of Law No. 34 of 2000 on the establishment of private universities in the article (6) of paragraph (1) may prevent mixing and adopted the education system is separated between the sexes as the only university study, thus enhancing the discriminatory system against women.

RECOMMENDATIONS:

1. Call the government to reconsider the curriculum development, particularly in the early stages and focus on the role of women by traditional and community.
2. The amendment of the list of the school system to allow a married student to continue her education in the morning in order to ensure access to proper education.
3. Urge the Government to mainstream gender concepts among university students and raise the awareness among the society about the gender.
4. Encourage the development of girls with sporting talent, and work to provide institutions for taking care about their talents development at the local and global level.
5. Enrich the curriculum materials related to women's rights and the dissemination of the conduct of the pioneers in the Kuwaiti women who have made a positive change in the society.

6. Rehabilitate those in charge of the development of curriculum in the field of gender.
7. Develop the written language in the curriculum of dependency style and preference for the man and deal with the women and men as they are partners in life.
8. Amend Act No. 24 of 1996 on Higher Education and Law No. 34 of 2000 on the establishment of private universities and provide mixed education system in education .

8 | DETENTION CENTERS AND PRISONS:

The society was keen to transfer the true picture of the situation of women on the ground, it was necessary to mention the practices of detention of women.

Where that Law No. 26 of 1962 organizing prisons stipulated in Article (4) the need for the detainees women to be supervised females jailers throughout the period of detention in prisons. This law does not include the first detention centers run-up to the investigation and trial, where they are detained in police stations at the hands of police officers from the males. That making them vulnerable to abuse such as sexual abuse or rape, harassment, as they are prevented from contact with the outside world and barred from the visit, and thus the risk for them is getting worse in this period because there is not any camera in the detention centers, which makes the act of proving abuse is difficult.

In addition, both of the two forensic and criminal evidence are following ministry of Interior, not to the judiciary, which affects the credibility issues that have security men accused. The concern is growing for women migrant workers in general, and domestic workers in particular, for several reasons, including the keep them away from their parents or they do not have relatives, or they cannot speak Arabic language in the absence of translators to help them communicate with stakeholders and to find out the reason for their arrest and informing them of the charges against them this for the detention centers, but for prisons during investigation and execution of the penalty period. (33-34) on the special provisions for pregnant women and postpartum However, these provisions are not sufficient to provide adequate protection to their specific needs, with the need to be activated on the ground.

RECOMMENDATIONS:

1. The society recommends the need to change the organization of the Prisons Act to include preliminary detention centers that women can be detained under the supervision of women police officers at all stages of detention of women.
2. Urge the government of the need to update the prisons legislation by adding more of the provisions and rules that take into account gender and provide appropriate protection to their specific needs, and activated the operation on the ground.
3. The need to provide translators in the initial stages of the investigation to enable the detained women to defend themselves.

4. Enable immigrant women in general to get the right of appeal to the judicial and administrative authorities, with regard to the decisions of deportation from the country.

9 | WORK IN THE PRIVATE SECTOR:

Observation confirmed 40 of the concluding observations of the Committee on the Elimination of Discrimination against Women in session of October 2011, on the need to include the Law No. 6 of 2010, the private work in the private sector and the prohibition of direct and indirect discrimination on the basis set out in ILO Convention No. 111 of 1958, on discrimination in employment and occupation in relation to all aspects of the work, particularly the prohibition of sexual harassment and discrimination on multiple grounds, including the sponsorship system and the related lack of access of women migrant prime contractors on the social guarantees and the lack of appropriate legal redress mechanisms for them .

However, the law No. 6 of 2010, on working in the private sector did not include any modification since its release with respect to discrimination in employment and occupation, and the sponsor system and its mechanisms, and no ratification of the ILO Convention No. 189 of 2011 which concerning decent work for domestic workers, estimated the number of domestic workers in Kuwait for more than 660 thousand working the equivalent of one-third of migrant workers in Kuwait, mostly from Asia and Africa.

The National Assembly has approved a domestic labor law in the year 2015 and represents law legislative and basic rule in protecting the rights of domestic workers, which gives domestic workers the right to have a day off rest per week and a holiday for a month pay per year, and select the number of working hours per day for 12 hours with a break and text the usefulness of the end of the service estimated one month for each year of employment at the end of the contract in addition to other rights. The new law is considered the as an important step because for the first time gives the domestic workers) rights. But it still missing some of the basic forms of protection provided by the labor law which sets out the work in the law No. 6 of 2010 on work in the private sector the number of work hours per week to 48 hours, or eight hours a day, and hour to rest after every five hours of work, but the law on domestic workers specifies the number of hours work every day for 12 hours does not specify the number of «hours of rest», with one day of rest per week. Work on the provisions relating to holiday illness law also stipulates, in Article 69, including an exclusive 15-day wage, but domestic workers law only provides for the employer to assume their medical treatment.

The law also lacks to any enforcement mechanisms such as labor inspections to ensure adequate housing, working hours and other things that scared many workers to file a complaint on them. in addition to the above, and despite the fact that the new law prohibits employers from confiscating passports of workers, It is a recurring violation, but it does not provide for any sanctions against those who do so, and does not guarantee the right of workers to form trade union, so the concerned authorities to address these gaps before starting work with this law.

RECOMMENDATIONS:

1. Encourage the government on the need to include the Labour law of the civil sector on a comprehensive provision prohibiting the direct and indirect discrimination on the bases of the ILO Convention No. (111) of 1958 with respect to all aspects of the work, particularly the prohibition of sexual harassment and discrimination on multiple grounds, including the sponsorship system and the related lack of women migrant workers for prime contractors on social guarantees, particularly women, and to provide an appropriate mechanism for them to seek legal redress.
2. Advocate with the government to cancel the sponsorship system to reduce the dependency of domestic workers, especially women, to employers to reduce the vulnerability of their situation, and work on the development of alternative system that protect the rights for everyone.
3. Encourage the Government to take actions and do some procedures to ensure that migrant domestic workers have access to basic health care services, including care services.
4. The government is required to update the legislation governing the affairs of migrant workers, especially women, in order to ensure the rights in line with international conventions and agreements.
5. Encourage the Government to speed up the start of the practical implementation of the new law, which regulates the work of the migrant domestic workers, and to address deficiencies and gaps in it.
6. Consideration of the ratification of the ILO Convention No. 189 for the year 2011 for decent work for migrant domestic workers.

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