



الجمعية الكويتية لحقوق الإنسان
KUWAIT SOCIETY FOR HUMAN RIGHTS

A Report submitted to the
Human Rights Committee on

Adopting The List of Issues for State of Kuwait at the 136th Session

For the period from 10th of October –
4th of November 2022

July 2022

Introduction:

The Kuwait Society for Human Rights (KSHR) seeks to disseminate a culture of respect for human rights, enhance awareness of international human rights conventions, and defend all individuals whose rights are violated. As part of the Society's endeavors to protect and promote these rights, the Society presents in this report its most significant observations and recommendations regarding the adoption of the list of issues for the State of Kuwait after providing the fourth periodic report of the Human Rights Committee on the extent of its commitment to the International Covenant on Civil and Political Rights.

Hence, this report has been prepared as per the following parameters:

- ▶ **Concluding remarks provided by the Human Rights Committee on the 3rd periodic report of the State of Kuwait.**
- ▶ **The International Covenant on Civil and Political Rights.**
- ▶ **The 4th periodic report submitted by the State of Kuwait to the Human Rights Committee in 2020.**
- ▶ **Harmonization of local laws to the International Covenant pertaining to Civil and Political Rights.**
- ▶ **Recommendations of the workshops implemented by KSHR.**
- ▶ **Complaints received by KSHR.**
- ▶ **Violations monitored by KSHR monitoring teams.**

1 . Implementation of the International Covenant on Civil and Political Rights within the framework of national legislation:

- ▶ Through practical practice on the ground, KSHR finds that the Kuwaiti judiciary relies in most of its judgments on the local laws, excluding international covenants and agreements ratified by the State of Kuwait. Through our research, we were unable to reach a judicial ruling passed by the Kuwaiti judiciary that based on the International Covenant on Civil and Political Rights, and this indicates the few or even scarcity of judicial rulings with respect to implementing the provisions of international conventions ratified by Kuwait in general and the International Covenant on Civil and Political Rights in particular.
- ▶ Limited number of training programs and courses that aimed at qualifying and raising the awareness of judges and the Public Prosecution members about international human rights law and the implementation and implementation of the International Covenant on Civil and Political Rights ratified by the State of Kuwait, given that Article (70) of the Constitution stipulates that after ratification, sanction and publication in the Official Gazette, the treaty shall have force of law.

Recommendations

1. We urge the Committee to request the Kuwaiti government to explain the procedures recently taken to activate the International Covenant on Civil and Political Rights in the courts and within the administrative actions, and what is the mechanism followed to invoke

the Covenant directly before the local courts, and the results which such mechanism has achieved accordingly.

2. We encourage the Committee to ask the government to provide the steps that it has taken to intensify the training programs and courses aimed at raising the awareness of judges, the members Public Prosecution and judicial officials with regard to the international human rights law, and the commitment to enforce and apply the International Covenant on Civil and Political Rights, which ratified by the State of Kuwait.

2 . Bedoon:

- ▶ The Kuwaiti government calls the Bedoon “illegal residents”, considering that they are not stateless, but are in violation of the residency law, and asks them to ratify their legal status, hence the Kuwaiti government does not grant the Bedoon any clear or specific opportunity to obtain Kuwaiti citizenship, as it considers that the issue of obtaining Kuwaiti citizenship is a sovereign matter determined by the state at its sole discretion according to its higher interests and is subject to controls and conditions regulated by the Kuwaiti Nationality Law No. (15/1959) and its amendments.
- ▶ Referring to Law No. (15/1959) and its amendments, one of the conditions for granting Kuwaiti citizenship is that Article No. (4) Paragraph (1), as amended by Law No. 100/1980, stipulated that every person has lawfully resided in Kuwait for at least twenty consecutive years or for at least fifteen consecutive years if he is an Arab belonging to an Arab country, while the Kuwaiti government considers that the Bedoon are (illegal residents).
- ▶ In 2010, the Kuwaiti government established the “Central System for The Remedy of Situations of Illegal Residents” to address the Bedoon’s status, and it has become a tool of pressure through its arbitrary measures and the pressure exerted on the overwhelming majority not to renew their security identification, unless they sign a statement that they hold the citizenship of other countries.
- ▶ On August 29, 2021, the Official Gazette had published two decrees; the first decree No. 159 of 2021 regarding the extension of work period of the Central system for the remedy of situations of Illegal Residents for two years, as of November 9, 2021, and the second decree No. 160 of 2021, which includes the reappointment of Chief Executive Officer of the Central System for The Remedy of Situations of Illegal Residents with the rank of Minister.

Recommendations

1. We encourage the Committee to ask the Kuwaiti government to clarify the mechanism used by the Central System as per the road map set by the Supreme Council for Planning and Development and adopted by the Council of Ministers under Emiri Decree No. (1612/2010) in dealing with the Bedoon who are entitled to obtain the Kuwaiti citizenship and who have a census of 1965, and to provide a census of the number of those who obtained citizenship and the number of those who meet the requirements in accordance with the Kuwaiti Nationality Law No. (15/1959) and its amendments, and what is the government’s vision for those who are not entitled to hold the Kuwaiti citizenship.
2. We urge the Committee to request the government to clarify that the Central System does not renew the security identifications that the Bedoon hold, except after they sign a statement that they hold the citizenship of other countries, and they sign written acknowledgments to waive any claim to Kuwaiti citizenship, and to clarify the consequences of refusing to sign

a permit of subordination to another country and waiving the right to demand the Kuwaiti citizenship.

3. We ask the Committee to ascertain the government's intention regarding the possibility of creating an effective mechanism other than the Central System for the remedy of the Bedoon situations.

3 . The Women:

- ▶ Women suffer discrimination in a number of laws and regulations, such as the Penal Code through Article (153), the Nationality Law, the Residential Welfare Law, where women do not have the same housing rights as men, the Persons with Disabilities Law, the Civil Code, the Personal Status Law on guardianship, wardship, trusteeship and student affairs regulations and rules in the Ministry Education^[1], and therefore the achievement of the principle of equality with men in any entity rather than another, does not mean that Kuwaiti women were able to take a step towards overcoming the issues of discrimination against them.
- ▶ Low participation of women in political and public life in light of the complete absence of women in the National Assembly membership, and the reduction of their representation in the cabinet formation, as there is only one female minister therein. With respect to the Municipal Council elections for the year 2022, we noticed the lack of women's participation in running for the Municipal Council elections for the year 2022, and only one woman applied in elections^[2], and 10 candidates won the membership of the council, all of them were males, and the municipal council consists of (16) members; ten of whom are elected according to Law No. (35/1962), while the government appoints six members; four women and two men have been appointed therein.
- ▶ In July 2022, the president of the National Assembly submitted a proposed legislation stipulating that a new paragraph should be added to Article 1 of Law No. (35) of 1962 stating that the number of male or female winners, in each electoral district, should not be less than one-fifth of the number of seats allocated to each constituency, so that the number of seats for women should be (10); two female members for each constituency.
- ▶ The political empowerment of women in the State of Kuwait, subject to the Global Gender Gap Index for 2022, issued by the World Economic Forum, is number (145) out of (146), i.e. the penultimate place^[3], as women suffer from the societal intellectual system that decline their role and reduce their potential. Perhaps the greatest evidence proving this is that the recent National Assembly elections in which women went in droves to vote for men without giving them a voice to their womenfolk, thus they are in urgent need of capacity building and political and social empowerment programs.
- ▶ By-elections obscure women's limited access to parliament. These elections are gatherings in Diwanis that are carried out by tribesmen and are illegal and informal, through which it was agreed on a representative for them in parliament before standing for the official parliament elections so that they ensure that this person reaches the parliament. Additionally, the Political parties and movements exclude women from among their candidates, and accordingly the first victim of these practices is women.

[1] Ministry of Education website in the State of Kuwait :
<https://www.moe.edu.kw/student/Pages/Regulations.aspx>

[2] Candidate for the Municipal Council elections for the year 2022 Prof. Zainab Al-Hasawi.

[3] Page 16 Sub-indicator on the political empowerment of women in the State of Kuwait.
For the report, see the hyperlink: <https://www.weforum.org/reports/global-gender-gap-report-2022>

- ▶ Despite Kuwait's adoption of Law No. (16) of 2020 concerning protection from domestic violence, which provides for the establishment of shelters and accommodation centers for abused women, the allocation of a hotline to receive complaints of domestic violence, allowing the issuance of emergency protection orders and formation of the National Committee for Protection from Domestic Violence, violence against women has not ceased and murders have occurred, killing women, which indicates that the law is not effective to the required level, in the absence of shelters for abused women, and the articles and provisions of the law are not accompanied by the executive plans and follow-up on their implementation.

Recommendations

1. We ask the Committee to request the Kuwaiti government to clarify the procedures taken or envisaged towards amending laws and regulations that still discriminate against women.
2. We urge the Committee to request the Kuwaiti government to clarify the extent to which special measures can be adopted at the national and international levels, such as the adoption of a quota or quota law for women in order to expedite their participation in political and public life, and their access to leadership positions.
3. We appeal to the Committee to request the government to provide information on awareness campaigns and actions taken regarding women's civil and political rights in order to encourage their participation in the political and public life.
4. We ask the Committee to request the Government to indicate the measures taken to overcome the entrenched discriminatory stereotype against women in society, and the outcomes of those measures.
5. We encourage the Committee to ask the Kuwaiti government to clarify the measures and procedures taken to activate the law No.(16/2020), the reason beyond not activating the work of the shelters, the mechanism used to receive complaints from abused women and provide updated data about the number of reported cases and the number of criminal investigations and trials and penalties for perpetrators, as well as with regard to remedies, including compensation for women accordingly.
6. We ask the Committee to request the Kuwaiti government to provide information on the mandate of the National Committee for the Protection from Domestic Violence, to provide detailed information on the Committee's implementation plans and follow-up, and the coordination mechanism with relevant civil society organizations, and to provide information on the Committee's work on awareness and educational programs against domestic violence and their numbers, in addition whether an annual report was issued by the Committee on domestic violence and complaints received by the competent departments and authorities.

4 . Torture:

- ▶ In January 2022, four (4) State Security officers detained an officer working in the Ministry of Interior for days in a cold room (refrigerator), which prompted the Ministry of Interior to issue a statement announcing the arrest, investigation and referral of those involved to the Public Prosecution, where they were charged with kidnapping and torturing an officer working in the Ministry of the Interior.

- ▶ In June 2022, a Kuwaiti citizen was subjected to torture by members of the Criminal Investigation Service, where he was transferred to the hospital and entered the intensive care unit. Activists published a medical report stating that such citizen suffers from sudden loss of consciousness and weakness on the right side of his body, along with a hemorrhagic clot in left side of the brain^[4].
- ▶ In July 2022, a Kuwaiti citizen died during his arrest by security men, as initial information indicates that he was subjected to violence and beatings during his arrest in the “Jahra Stables” area, where he died in Jahra Hospital. According to information indicated and circulated by many activists on the social networking site (Twitter), that he died of a cerebral hemorrhage and there were signs of torture on the body^[5].

Recommendations

1. We appeal for the Committee to request the Kuwaiti government to provide information on cases of torture and the reason beyond their increase recently, and to indicate the mechanism followed to receive complaints against security men at the Monitoring and Inspection Department within the Ministry of Interior, and to provide statistics on the number of cases reported to the Department, the number of investigations, trials, and penalties imposed on offenders, besides with regard to remedies and compensation.

5 . Administrative Removal:

- ▶ The Ministry of Interior announced the deportation of (7,808) residents from the country in the first half of 2021, for various reasons, including violating the residence law, committing criminal cases, traffic violations and other issues^[6].
- ▶ The Ministry of Interior has wide authority in administrative deportation within the concept of (public interest) without specific controls, and we recently monitored through complaints received by KSHR the deportation of certain migrant workers for unclear grounds; some of which were just accusations without a clear conviction, including absent reports by employers filed against their workers, and some for traffic violations, or violating the residency law, and they were expelled without giving them the right to appeal.
- ▶ Certain workers who are subject to administrative deportation in the deportation center (Talha Prison) suffer from prolonged detention, especially workers who are financially indebted, or those who did not have embassies for their countries in Kuwait to obtain the travel documents.

Recommendations

1. We urge the Committee to ask the government to provide statistics regarding the number of administrative deportees during the years (2019-2020-2021), the number of detainees held for more than thirty days in the deportation center, and the possibility of activating the role of the judiciary and making it the competent authority to consider the issue of deportation and provide the necessary guarantees such as the right to appeal and providing the grounds for deportation.

[4] Kuwaiti citizen called Abdullah Fahd Tami, 29 years old.

[5] The deceased Kuwaiti citizen Walid Saud Al-Sulaili, 35 years old.

[6] The Ministry of Interior, via its account on the social networking site Twitter:
https://twitter.com/Moi_kuw/status/1411715935271018506

6 . Human Trafficking:

- ▶ The Kuwaiti government did not meet the minimum standards with respect to combating human trafficking in light of the Public Authority for Manpower’s continued use of routine arbitration and administrative penalties to resolve grievances and complaints brought thereto by migrant workers in lieu of deeply investigating about the applicability of the standards of Law No. 91 /2013 on combating human trafficking and migrants smuggling in such complaints and refer thereof to the competent authorities.
- ▶ The national referral system to prevent human trafficking is not activated to the required level by the permanent national Committee concerned with the implementation of the national strategy to prevent human trafficking and smuggling of migrants, provided that this system shall include stages starting from identifying the victim, then reporting, transferring and documenting the victims, investigation and prosecution, then providing protection and assistance and ending with voluntary return and reintegration.
- ▶ Recently, the General Department of Criminal Investigation, through the Anti-Human Trafficking Department, has designated a hotline to receive reports and complaints of human trafficking^[7].

Recommendations

1. We urge the Committee to request the Kuwaiti government to provide information on the progress made in the national referral system to prevent human trafficking, the number of awareness and training programs, and the number of law enforcement personnel who have been qualified and trained by the Permanent National Committee concerned with carrying out the National Strategy to Prevent Trafficking in Persons.
2. We request the Committee to ask the government to provide information on the mechanisms and oversight measures on foreign labor recruitment companies.
3. We urge the Committee to request the government to provide statistics on the number of reported cases of human trafficking crimes, the number of investigations and trials, and the penalties imposed on perpetrators, besides with regard to remedies and compensation.

7 . Domestic Workers:

- ▶ The number of employees in the domestic work sector is (593,648) until the end of 2021, as per the labor market information system in the Central Statistical Bureau^[8], that (89%) of female homeworkers do not receive annual paid leave from their employers, despite Law 68 of 2015 regarding Domestic workers stipulated that the female homemaker is entitled to obtain the said leave as prescribed in Article No. 22, while (11%) of female workers obtain annual leave, and the most deprived categories of annual leave are married workers at a percentage of (88%) who have worked for the employers for more than three years^[9].

[7] Hotline to receive reports and complaints of human trafficking :1888688.

[8] Central Statistical Bureau <https://lmis.csb.gov.kw/IntegratedDataView?OID=1&QID=30>

[9] *ibid*. A study by the Kuwait Society for Human Rights in cooperation with market (MEPI) 2021, on the impact of the Covid-19 epidemic on women’s rights in the State of Kuwait, Refer to the hyperlink:

https://kuwaithr.org/news/society-news/item/download/39_88a748dfd8aa0436dc2dcefa4a11f1aa.html

- ▶ Increasing number of complaints received by KSHR from homeworkers and employers via the hotline owing to violations and breaches of recruitment agencies and their non-compliance with laws and regulations, the increase of the activity of illegal intermediaries, and thus the offices resorted to employ female workers by the rental system for the employers against a high monthly wage paid to these offices. In return, homeworkers get low monthly wages, taking advantage of the increasing demand from employers, however these practices are in contrary to Law No. 68/2015 with regard to domestic workers.

Recommendations

1. We urge the Committee to request the government to provide information on efforts to repeal the sponsorship system, and on the progress made in the possibility of amending Law No. 68/2015 by adding an article, which provides the Public Authority for Manpower the right to cancel and transfer the homeworker without referring to the employer's consent.
2. We appeal for the Committee to request the Kuwaiti government to provide information on the measures taken against the recruitment agencies that breached and did not adhere to the regulations and laws, and the number of violating agencies against which certain procedures have been taken in this regard.
3. We urge the Committee to request the government to provide statistics pertaining to the number of domestic workers against whom a report of absence is registered, the number of female homeworkers in the labor shelters, and whether the Public Authority for Manpower provides interpretation services in the complaint departments or not.
4. We urge the Committee to request information about the steps taken to harmonize Domestic Workers Law No. 68 of 2015 and its executive regulations in line with the international standards, including the ratification of ILO Convention No. 189 on Domestic Workers.

8 . Freedom of Opinion and Expression:

- ▶ Over the past years, freedom of opinion and expression has declined as we note that there is a wide space for interpreting what may constitute a crime when expressing, and the competent authorities are still applying provisions in the cybercrime law to restrict freedom of speech and expression.
- ▶ In November 2021, the State Security summoned the head of the Kuwaiti Information Security Association^[10], and referred her to the Public Prosecution, where she was charged with three charges of broadcasting false news that would reduce the prestige of the state, incite panic in society, and endanger the country to suspend its relationship with a friendly country because of an interview she had on Al Shahed channel on a television program called (The Appeal). Through such Television program, she had declared that a non-Kuwaiti firm manages the information and data of citizens and residents through servers located outside the country.
- ▶ In April 2021, the Kuwaiti government adopted Law No. (1) of 2021 for amending certain provisions of Law No. (17) of 1960, regarding the revocation of pretrial detention sentences against those who exercise their right to express their opinion and publish it verbally, in writing, drawing, or otherwise, including the expression of opinion through the media or social networking.

[10] Dr. Safaa Zaman, President of the Kuwait Information Security Association

Recommendations

1. We appeal for the Committee to request the government to provide information on the steps taken to review all laws that contain provisions restricting the freedom of opinion and expression right, aiming to making them consistent with the International Covenant on Civil and Political Rights.
2. We appeal for the Committee to request the government to provide information on the guarantees provided to protect the rights to freedom of expression and the right to privacy by monitoring Internet use.

9 . Freedom of Peaceful Assembly and of Association:

- ▶ The constitution provides for freedom of peaceful assembly, but prohibits non-citizens and Bedoon from peaceful assembly and demonstration. Citizens must obtain permission from the authorities for peaceful assembly. On many occasions, Bedoon activists attempted to campaign or organize a peaceful assembly to demand their rights, however the authorities prevent thereof. Furthermore, some Bedoon activists have been detained and interrogated by the authorities every time they planned for campaigns or protests.
- ▶ The Ministry of Social Affairs applies bureaucratic procedures and a complex routine concerning the official registration of civil society organizations, in addition to prolonging the registration period. Nevertheless, the law confers the Ministry the absolute discretion to reject or accept thereof, and broad powers over civil society associations, whereas non-citizens are not entitled to apply for the registration of civil society associations, syndicates or federations, but they are allowed to join within specific controls.

Recommendations

1. We urge the Committee to request the government to provide information on programs and training courses for law enforcement officials in dealing with peaceful assemblies in order to ensure respecting human rights, and the number of courses and programs during the years (2020-2021-2022).
2. We appeal for the Committee to request the government to provide information on the actions taken regarding reviewing and updating Law No. 24/1962 regarding clubs and associations of public interest with the aim of making it compatible with the International Covenant on Civil and Political Rights.



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