



# The Universal Periodic Review

## Stakeholder Report – Joint Submission for the 21<sup>st</sup> session of the UPR Working Group

January-February 2015

### **Background on Coalition:**

*Kuwait Civil Alliance* is a coalition established on January 14<sup>th</sup> 2014 for the purpose of preparing a joint-submission to the Universal Periodic Review of Kuwait to be examined in the 21<sup>st</sup> session of the UPR working group in 2015. The coalition aims to promote the state's strides in implementing the recommendations adopted and ensuring its commitment to their realization. It is comprised of six civil society organizations working on various issues in the field of human rights.

**Parties Involved:** **Kuwait Graduate Society:** dedicated to the promotion of civil liberties, **Human Line Organization:** active in the field of advocacy, legal observing and the preparation of human rights reports, **Kuwaiti Bedouns Congregation:** active on issues of stateless citizens, **Social Work Society of Kuwait:** aimed at advancing the rights of migrant workers, **Youth Association of Kuwait:** involved in youth-related issues and development, **Musawah Group:** working on issues of women's rights.

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\*Kindly note that the original version of the report was submitted in Arabic.

## **1. Violence Against Children:**

1.1 Despite Kuwait's support of recommendations (10, 34, 55, 56, 63) of the Universal Periodic Review, there are still indicators on the spread of physical, sexual and psychological violence phenomenon against children in Kuwait. Due to the lack of official statistics, with the exception of some unclear and inaccurate statistical data, these indicators cannot be verified.

1.2 The Ministry of Education lacks the compulsory mechanisms and adequate capacities to follow-up on complaints in order to ensure that official procedures are applied and assaulted children are being protected and rehabilitated irrespective of whether this assault occurred at a child's school or home.<sup>1</sup> It has also been observed that hospitals' investigators tend to conceal many of the cases that doctors report of suspected domestic violence believing themselves to be protecting a family's unity. Moreover, the fact that disciplinary beating is neither criminalized nor clearly defined by Kuwaiti law, leads investigation authorities to suppose no crime was committed.

1.3 In the case that a child decides to file a legal complaint against his/her guardian or caretaker due to incurring physical or sexual violence, investigation bodies will refrain from accepting his/her complaint owing to him being under the legal age of 21 years and thereby requiring the prior consent of his guardians to file the complaint.<sup>2</sup> Even in cases where a case is registered against a guardian, there are no mandatory procedures for separating a child from his guardians until the case is settled because of the absence of appropriate shelters for assaulted children.<sup>3</sup> Furthermore, there's currently no child protection law to provide any specific protection measures.

### **Recommendations:**

1. Collecting precise and sufficient statistical data on the phenomena of violence against children.
2. Developing national mechanisms to protect children from abuse.
3. Amending legislation to criminalize disciplinary beating
4. Amending legislation to provide special protection for children against violence and enabling them to file complaints, independent of their guardians, in case of being assaulted and developing procedures of investigation bodies in dealing with domestic violence complaints.
5. Providing a hotline and shelter for children who incur domestic violence.

## **2. Child Marriage:**

2.1 Article 24 of law 51/1984 regarding Family and Personal Status allows minors to contract a marriage upon reaching puberty while article 26 of the same law specifies the age of notarizing the contract to be 15 years for females and 17 for males. Statistics calculated between the years 2008-2011 indicate that girls under the age of 15 get married annually in numbers that range between 51-261 while the number of marriages for girls between the ages of 15-19 range from 2662-3051 at a rate of 14.5-21% of total marriages.<sup>4</sup>

### **Recommendation:**

1. Amending legislation to determine 18 as the legal age for entering into a marriage contract.

## **3. Child Custody:**

3.1 Despite Kuwait's support of UPR recommendation 34, Kuwaiti laws divide the responsibility of caring for a child into guardianship and custody. In terms of the law, custody is defined as caring and rearing whereas guardianship is the authority, which entails the control exerted over the child's financial and personal matters to ensure their best interest and is divided into guardianship over a child's legal and financial matters. In case of a conflict arising between parents, this division of responsibility can lead to the misuse of one's legal capacity over their child, which may affect the interest of a child. Kuwait applies two personal status codes, which are the Sunni and Jaafari. Divorce procedures in the Jaafari code are difficult on wives as they allow women to give up their right to custody in order to get a divorce, which may have a social or psychological effect on the child.<sup>5</sup>

3.2 In the case that custody is not granted to a mother, this right passes to a series of relatives as stipulated by the law without considering the best interest of the child as an essential standard. When

a child reaches the age of choosing his custodian, he/she is required to decide publicly at court in the presence of his parents, which places a child in a difficult social and psychological situation.

3.3 A non-Muslim woman is prohibited from having custody over her child on a discriminatory basis once he/she turns seven years.

3.4 If one of the parents is denied visitation rights, the police station becomes the place where visitation rights are enforced, even though this procedure conflicts with article 215 of the Civil and Commercial Proceedings Law 38/1980. This may result in an unfavorable experience for the child and thus lead the parent to forgo their right and jeopardize familial ties to protect their child from this experience.

#### **Recommendations:**

1. Amending legislation to combine the custodian and guardianship systems according to the best interest of the child
2. Amending legislation to guarantee that custody and guardianship are awarded based on the child's best interest, while enabling joint custody
3. Amending legislation to prevent a child from directly choosing between his parents at court
4. Amending legislation to eliminate discrimination between Muslim and non-Muslim women in the custody of their Muslim children.
5. Provide suitable shelters for a parent to forcibly see his/her child in case the custodian denies him/her the right.

#### **4. Education:**

4.1 Based on Article 40 of the Kuwaiti Constitution, education, at its primary stages, is free and compulsory for Kuwaitis. Article 1 of law 11/1965, on compulsory education, indicates that education for non-Kuwaitis is neither free nor compulsory with the exception of some groups who are granted free education. Private Schools, offering an acceptable quality of education, have high tuition fees, unattainable for most non-Kuwaiti families. This reflects the high cost of land, which the school facility is built on.<sup>6</sup>

4.2 The current procedures being applied deprive non-Kuwaiti children from registering in school if the child's residency or their father's is not valid or if he/she were a stateless citizen with no valid security card.<sup>7</sup> There is a segment of stateless citizens (*Bedoun*) whom the country denies the issuance or renewal of expired security cards. Although this segment is usually exempted from having a valid security card, this practice is not guaranteed.

4.3 Public schools accept Kuwaiti students only with a few exceptions, which lead to an almost entire segregation between Kuwaiti and non-Kuwaiti students and thus reduced tolerance with foreigners.<sup>8</sup>

4.4 Most segments of *Bedoun* and expats were denied the right to free public education in its different stages after Kuwait's liberation in 1991.<sup>9</sup> A charity fund was established by the Council of Ministers to finance the education of these segments in private schools through governmental funding and minimal support from government and private sector charities.<sup>10</sup> The fund covers the minimum rate of private school tuitions categorized (A). Due to limited number of seats, some students are forced to register in public schools categorized (B), which require them to pay an extra 30%.

4.5 Tuition fees of Private Universities exceed the financial ability of middle class income families, consequently, the *Bedoun* who are of a lower income status aren't able to enroll in private schools.<sup>11</sup> Furthermore, the only public and free university, Kuwait University, accepts no more than 100 *Bedoun* in some of its colleges, after meeting specific conditions and attaining percentages that surpass those required of citizens.<sup>12</sup>

4.6 Although curriculums include human rights education, the past years have seen a reduction in the quantity of lessons and the school grades they're taught in. School curriculums, moreover, discourage tolerance and advocate violence in some cases such as their teachings on the religious obligation of killing an apostate.<sup>13</sup>

4.7 Private schools in Kuwait are only permitted to teach public curriculums, unless authorized by the Ministry. Private education bylaws prohibit the teaching of curriculums that conflict with religious

creeds, (meaning Islamic faith).<sup>14</sup> Consequently, bylaws don't accredit certificates of schools that want to teach other religions.

4.8 There is gender discrimination among applicants of the Public Authority for Applied Education and Training (PAAET), which is a government institution. PAAET acceptance grades required from females are higher than those required from males in similar fields while noting Kuwait University has recently revoked its discriminatory procedures based on acceptance grades after the issuance of two court orders against it and further noting Kuwait's support for UPR recommendations (81,82,83,84,85,86,89,90,91).<sup>15</sup>

**Recommendations:**

1. Taking the necessary procedures to reintegrate Kuwaiti with non-Kuwaiti students on a wider range throughout the educational stages
2. Amending legislation to enforce compulsory education at its primary stages for non-Kuwaitis
3. Allocating land for private schools in an effort to lower tuition fees
4. Enhancing human rights education and tolerance in curriculums and removing subjects that advocate hatred and violence.
5. Amending educational policies and bylaws to facilitate the joining of the Bedoun segment.
6. Amending policies and bylaws to accredit the certificates of schools wishing to teach religions other than Islam.
7. Adopting gender equality in admissions policies within all educational institutions.

**5. Stereotyping:**

5.1 Despite the recent and limited efforts, which the state put forth to change stereotypical images of females, it still works to reinforce and fix the stereotypical roles of males and females through academic curricula<sup>16</sup> and public workshops that establish traditional gender roles in society.<sup>17</sup>

5.2 Segregation of gender is enforced in public and private universities and the PAAET, based on law 24/1996 and law 34/2000, as well as free public schools.<sup>18</sup>

**Recommendation:**

1. State takes necessary procedures to eliminate stereotypical images of the roles of males and females.

**6. Marriage:**

6.1 Article 29 of law 51/1984 on Personal Status denies a maiden (*beker*) under the age of 25 the right of contracting her own marriage without the permission of her legal male guardian (*wali*), unless she raises charges against him for abusing his right over her. The matter is then left subject to the discretion of the Judge, as stipulated in article 31 of the same law. A woman not considered a virgin (*thayeb*) is not required to get the approval of her male guardian to get married, however, he needs to be notified and his decision heard. Nonetheless, she is still not permitted to contract her own marriage unless through her male guardian or a Judge, based on article 30 of the same law. Although the law requires the consent of a woman for marriage, it does not stipulate hearing her direct verbal approval or having her signature on the marriage contract, which may lead to marrying her off without her knowledge or consent.

**Recommendation:**

1. Amending legislation to enable women to contract their own marriages without the need for a legal male guardian or a judge in addition to necessitating their signature on the contract.

**7. Violence Against Women:**

7.1 Despite Kuwait's support of recommendations (34,55,56,57,58,63), the procedures followed to report on cases of domestic violence are the same standard procedures followed in other cases, which do not afford confidentiality or protection for the informer. It is believed that most women refrain from reporting a complaint in case of incurring violence due to social stigma. Moreover, specialized institutions do not provide adequate statistical information on domestic violence.

7.2 There are no government or private shelters to accommodate battered women, which leads many assaulted women to refrain from filing a complaint against their assaulters for lack of a place to shelter them after the complaint is filed.

7.3 Article 153 of Penal Code 16/1960 reduces the sentence of any man that surprises his wife, mother, sister, daughter in the act of adultery (in flagrante delicto), immediately kills her or the man committing the act with her or both, shall be imprisoned for a period not more than three years.

Women who commit equivalent crimes do not benefit from similar reductions.

**Recommendations:**

1. Amending legislation to provide special procedures for reporting cases of domestic and sexual violence.
2. Publishing clear and adequate statistical information on domestic violence
3. Amending legislation to remove reduced sentences of “honor killings”
4. Provide shelters for assaulted women and their children.

**8. Passing the Nationality:**

8.1 Based on articles (1,2,3,5,7) of law 15/1959 regarding Kuwaiti Nationality, the nationality is passed by blood mandatorily through the father, however, it does not pass through the mother. There are nonobligatory exceptions stipulated by law like: the death of the father, divorce, the father being a PoW, martyr or being born to an unknown father but it is still discretionary in all cases. In the case that nationality through a mother is passed, the children are considered naturalized citizens (denied full rights of native-citizens), hindering their rights to vote, be elected and hold ministerial office.

**Recommendation:**

1. Amending the Kuwaiti nationality law to allow women the equal right as men in passing their nationality to their children.

**9. Right to Litigation:**

9.1 Although the Kuwaiti constitution guarantees the absolute right to litigation, Articles (1,2) of the Legislative Decree Regulating the Judiciary (23/1990) state that some issues are excluded from litigation such as issues of sovereignty. Therefore, a number of disputes are excluded from being looked into by courts such as the granting of Kuwaiti nationality, its withdrawal and revoking and decisions on deportation and administrative removal, which denies some people any redress for abuses and injustices. Moreover, the Law concerning Clubs and Public Welfare Societies deprives those whose requests for establishing their societies were denied the chance of appealing at court.

**Recommendations:**

1. Guaranteeing the right to litigation in all issues without exceptions.

**10. Judicial Independence**

10.1 Articles (5,163) of the Kuwaiti constitution stipulate the separation of all branches of government and judicial independence, however, articles number (4,6,7,8,12,16,17,20,25,31,32,35,41,63,67,69,70) of Decree Regulating the Judiciary deprive the judiciary of its administrative and financial independence making it greatly dependent on the Ministry of Justice. The law grants the Minister of Justice (MoJ) the ability to influence appointing, promoting, punishing, discharging and transferring judges and members of the prosecution service by his recommendation to the Council of Ministers for issuance of decrees to appoint and promote judges and having supervision over the Judiciary and Public Prosecution. It is important to note that many judges are non-Kuwaiti, therefore, they are required to renew their contracts every two years, which affects their autonomy since this matter is subject to the approval of MoJ.

10.2 Currently there are no laws, which subject a judiciary to suit in case of corruption or malpractice of the judiciary body. The judiciary also lacks clear mechanisms codified within a legal framework to deal with complaints against judges. Judges are moreover permitted with some regulations, according to article 25 of the Decree Regulating the Judiciary, to be delegated work outside the judiciary while in judicial office. Furthermore, the supporting bodies of the judiciary such as the General Department of Investigations and

the General Department for Criminal Evidence are bodies of the Ministry of Interior and not the Supreme Judicial Council.<sup>19</sup>

### **Recommendations:**

1. Amending legislation to ensure the absolute financial and administrative independence of the judiciary and including the bodies supporting the judiciary under it.
2. Amending legislation to increase the efficiency of supervisory mechanisms over the judiciary.

### **11. Sponsorship (Kafil) System:**

11.1 A non-Kuwaiti employee requires a *Kafil* or sponsor to enter the state of Kuwait for work and continue in his/her job. Kuwaiti regulations require the sponsor to be the employer, granting him an excessive authority over the migrant worker, which may be abused.<sup>20</sup> The systems, which regulate the relationship between employer and employee are divided into three: private sector labor is regulated by Private Sector Labor Law 6/2010 and the Alien's Residence Law, the government sector is regulated by the Civil Service Law and the Aliens' Residence Law, while migrant domestic workers are regulated by the Aliens' Residence Law and Ministry of Interior Decisions.

11.2 A migrant worker in the private sector is required to get the approval of his/her employer to work elsewhere in the first three years of his/her employment unless he/she files a complaint - of which the outcome is uncertain - against the employer to the Ministry of Social Affairs and Labor proving the employer committed a breach of contract.<sup>21</sup> The sponsor has the right to terminate the worker's residence permit at anytime based on article 25 of the executive regulations of the Aliens' Residence Law.<sup>22</sup> A sponsor is able to report his worker to be absconding to the concerned authorities, without having to prove it, which results in his/her imprisonment and deportation. This may lead some employers to coerce their employees into forced labor, which may be considered a form of human trafficking.<sup>23</sup>

11.3 Sponsors of domestic workers have the power to transfer the residency of their employees without their prior consent, while workers are required to have the approval of their employees before they transfer to a new sponsor.<sup>24</sup> There is no complaint mechanism that compels employers to transfer the residency of their employees. Employers have the right of canceling workers' residencies and thereby leading to their deportation. In addition, the sponsor is able to report his/her employee as absconding without having to provide proof, which may lead to his/her imprisonment and deportation.<sup>25</sup> In the case that an employer abuses his powers, he would be able to coerce the domestic worker into working, which may be considered a form of human trafficking.

11.4 The current regulations prohibit domestic workers from transferring to another employer without the approval of their current one.<sup>26</sup> If he/she is found working somewhere without the consent of their legal sponsor then his legal residency will be canceled and procedures are taken for his deportation.<sup>27</sup> Based on the current system, the employer pays what may exceed \$3,000 as a recruiting fee for domestic workers to the recruitment agency.<sup>28</sup> Consequently, some employers, whose workers want to transfer their work, demand their workers, or the new employer, to make a payment for their approval.

11.5 The current regulations do not necessitate the consent of domestic workers to change their employer but merely requires the approvals of the old and new employers, which may result in transferring the employment of some workers without their agreement.<sup>29</sup>

### **Recommendations:**

1. Amending legislation to abolish the sponsorship (*kafil*) system currently applied.
2. Amending legislation to balance the unequal power dynamics between sponsor and migrant worker
3. Amending legislation to enable migrant workers of having the liberty of changing their employment and being protected from imprisonment or deportation in case they refuse to continue working.

### **12. Domestic Workers: Registering Complaints:**

12.1 Migrant domestic workers face difficulties when filing complaints due to ignorance of their rights since contracts are not drafted in the workers native language and the worker is not required to keep a copy of the contract.<sup>30</sup> Consequently, workers face excessively long working hours without sufficient rest periods or time off and unfavorable housing and living conditions. The worker is moreover unaware of the place and procedures of filing a complaint due to the absence of government mechanisms to guarantee the worker's knowledge of his/her rights and how to demand them.

12.2 Several cases of forced confinement to the household have been recorded, which prevents a domestic worker from filing a complaint. Although physical confinement is restricted by Kuwaiti law, official authorities have not provided the number or type of complaints and cases filed on this issue. We are yet to hear of any such cases that have been arbitrated.<sup>31</sup>

12.3 If a worker is able to file a complaint, the most he can get is the payment of his deserved wages and repatriation since contracts do not stipulate any penalties on the employer except in the case of terminating a contract.<sup>32</sup> A sponsor is able to forbid the worker from working somewhere else or terminate his/her residency and report him/her as absconding for his/her residency to become illegal, leaving a worker who files a complaint in a vulnerable state.<sup>33</sup>

12.4 Due to the absence of a law regulating domestic work, state bodies do not deal with their complaints as worker complaints but according to their contract, thereby denying them the right to present their complaint to the Labor Department at the Court of First Instance, which facilitates the procedures of labor disputes. Domestic worker contracts, moreover, lack essential rights that are granted to migrant workers in the government and private sectors, in addition to lacking a clear job description about the nature of domestic work, which may lead to overburdening a domestic worker with chores that exceed his/her ability.<sup>34</sup>

**Recommendations:**

1. Passing the necessary legislation to regulate domestic work within a labor law that upholds their basic rights as a minimum and stipulates sanctions for its violation
2. State takes the necessary procedures to ensure domestic workers are aware of their rights and mechanisms of complaint, punishing employers in case they restrict their workers' freedom of movement and publishing statistical information on cases of physical confinement.
3. State makes the necessary amendments to regulations to enable a worker who files a complaint from staying in the country and transferring to another employer.

**13. Withholding Travel Documents:**

13.1 According to the general rules of the law, and based on Decision 194Ain/2010, employers are prohibited from withholding workers' travel documents,<sup>35</sup> nevertheless, employers still confiscate their employees' passports.<sup>36</sup> It is believed that the reason for withholding passports is enabling a sponsor from canceling an employee's legal residency in case he/she absconds since regulations allow an employer to sponsor a limited number of workers who cannot be substituted unless their legal residency is canceled first.<sup>37</sup>

**Recommendation:**

1. Making the necessary adjustments so the employer will not need to withhold the worker's travel documents to recruit new employees.

**14. Forming Unions:**

14.1 No segment is precluded from the right of forming a labor union, according to article 43 of the Kuwaiti constitution. Kuwait, moreover, ratified ILO Convention 87, which guarantees all workers the right in establishing unions and other workers' organization of their own without previous authorization. Kuwaiti labor law regulates labor unions; however, in 2010 a new labor law was legislated limiting the freedom of unions and associations that were granted by the previous law. Non-Kuwaiti workers were denied from declaring their unions, which deprives them from gaining legal status, privileges and protection usually granted to a union. Kuwaiti legislation does not regulate the work of professional associations, which prevents them from gaining legal status.<sup>38</sup>

**Recommendations:**

1. Amending necessary legislation in Labor Law to assure the right of all Kuwaiti and non-Kuwaiti workers in forming their unions without restrictions or discrimination
2. Amending necessary legislation to regulate professional associations.

**15. Safety Procedures:**

15.1 Although articles (80,81,82,83,84,85,86,87) of Private Sector Labor Law 6/2010 require employers to maintain safety standards in the work environment, and in spite of the Ministry of Social Affairs issuance of decisions and substantive regulations that determine the features of safety and the bodies of inspection and investigation, the sanctions imposed by the law based on article 141 do not provide effective deterrents but

limited to petty fines ranging between 100-200 KD, which are doubled if repeated within three years (approximately 350-700 US dollars).

**Recommendation:**

1. Amending legislation to change regulations of inspection and sanctions for safety procedures

**16. Minimum Wage:**

16.1 Ministerial Decision 185/2010 established minimum wage at 60 KD while Article 34 of the Private Sector Labor Law obligated the employer of providing accommodation with specified requirements if the employee is on a government contract or works in a remote area or if the employer had offered to provide accommodation.<sup>39</sup> However, in the cases not specified by the ministerial decision, a migrant worker is required to pay for his own accommodation, which would consume more than one-third of his salary making him unable to maintain an adequate standard of living.<sup>40</sup>

**Recommendation:**

1. Amending legislation to guarantee the right for accommodation to all migrant workers who receive minimum wage.

**17. Freedom of Opinion:**

17.1 The Print and Publication law number 3/2006 regulates the material permitted to be published on paper and highlights sanctions for disobeying the law through articles (19,20,21,26,28) while the Audio-Visual Media Law 61/2007 through articles (11,13) regulates the spread of visual and audio material and sanctions for violating. Both laws provide a greater protection to Islamic Religion than that offered to other religions and criminalizes “defaming of the Emir”. Violating the provisions of these laws might be punished by a year in prison and incurring large fines and shutting down of the media outlet. It is important to note the Prosecution’s tendency to take a fundamentalist approach in interpreting provisions of the law when raising charges. Books in Kuwait, moreover, undergo prior revision before being sold and the procedures of a plaint for redress of a decision for censoring books are lengthy and hard.

17.2 Articles (14,15,25,26,29,30,33,34) of law 31/1970 with penal code amendments regulate national security cases with sanctions ranging from 3-25 years of prison. Most of the provisions of these articles are vague, loosely termed and can be easily abused. Article 29, for instance, criminalizes adopting certain ideas even without spreading them. Article 25, which sanctions anyone who objects to the rights and authorities of the Emir or faults him, was also used to prosecute more than 60 people over the past three years taking part in national protests, some of whom were convicted. A pardon was issued by the Emir for those who were convicted of “defaming” him but only included seven people excluding those whose ruling was not enforced or their cases not settled. Article 15 has been continuously used against Twitter users as a response to hate campaigns with religious undertones that were sparked on a national level. Charges were also raised against individuals who criticized neighboring monarchs.<sup>41</sup>

17.3 Articles (109,110,111,112) of Penal Code 16/1960 regulate the protection of religions and religious beliefs and mandates jail terms reaching one year. This law has been used repeatedly due to religious campaigns, it was also noted that charges are only raised on cases that touched on religious beliefs prevalent in society.<sup>42</sup>

17.4 Moreover, the National Unity Law 19/2012 was decreed with the intention of prohibiting the denigration of people on the basis of religious sect or heritage, mandating sanctions that may reach seven years in prison and hefty fines, which are doubled if the act is repeated. This law lacks clear definitions, which may lead it to become an instrument easily exploited amidst sectarian and social struggles.

**Recommendations:**

1. Amending legislation to guarantee freedom of opinion and expression according to human rights standards.
2. Amending legislation to eliminate the previous revision of books, assure transparency and simplify procedures for plaints of book censorship.

**18. Right of Peaceful Assembly:**

18.1 Article 44 of the Kuwaiti constitution provides for freedom of assembly mandating a law to regulate it. The Public Gatherings Law 65/1979 requires prior permission for the assembly, with a wide capacity to



prevent the assembly, with sanctions ranging from a month to two years. Article 12 of the law prohibits the participation of non-Nationals in processions, demonstrations and gatherings thereby violating article 44 of the constitution, which grants the responsibility of regulating gatherings and assemblies to the law not prohibiting them.

18.2 Charges for demonstrating, sometimes rallying and vandalism, were raised against more than 150 people for demonstrating mostly on issues regarding stateless citizens and national protests of the opposition.<sup>43</sup> Security forces used violence to disperse some of these demonstrations with their batons, teargas and water pipes. The court later acquitted most of those prosecuted in these cases of all charges, however, there are still cases being looked into by the court.

**Recommendations:**

1. Amending legislation to guarantee the full right of peaceful assembly for all without any distinction.
2. Abstain from using violence against peaceful assembly; and refrain from using excessive violence in case an assembly ceases to be peaceful.

**19. Freedom of Belief:**

19.1 Article 35 of the Kuwaiti constitution upholds a person's right to freedom of belief and worship. Articles 2-12 of law 5/2005 concerning Kuwait Municipality grant the Municipality Council the capacity to license places of worship for non-Muslims. Non-Muslims are estimated to be 921,996, 235547 of whom are of religions not registered by official authorities and 686449 are Christians.<sup>44</sup> This massive number of Christians is not proportionate to the number of worship places available, which are 13 churches. Hence, there is a church for every 52,803 Christian, thereby exceeding the church's capacity to administer and hold these numbers. Furthermore, there are no licensed places of worship for religions other than Christianity and no license has been issued in the past years to build any new places of worship.

**Recommendation:**

1. Authorize the establishment of worship-places for all religions.

**20. Discrimination on the Basis of Religion:**

20.1 Article 4 of Emiri Decree 15/1959 of the Kuwaiti Nationality Law prohibits naturalizing non-Muslims. The Decree of naturalization is rendered void if the person naturalized renounces Islam or behaves in a manner clearly indicating his intention to abandon Islam. Non-Muslims are also prohibited to work in the General Department of Investigations, the Public Prosecutors office and the Judiciary, while the Personal Status law denies apostates from Islam the right to get married.

**Recommendation:**

1. Amending legislation to eliminate discrimination based on religion

**21. Welfare Societies:**

21.1 According to articles (2,3,4,9,11,13,27 and 27 {1 repeated}) from law 24/1962 concerning Clubs and Welfare Societies, civil society organizations (CSOs) are required to obtain a governmental license to be formed. The concerned Ministry has the right of rejecting the request while the harmed party can only seek redress from the Council of Ministers but is not able to take the case to court. Only 88 CSOs were granted a license whereas hundreds of requests were rejected.<sup>45</sup> The aforementioned law allows the Ministry of Social Affairs and Labor to interfere, in some cases, in dissolving or changing the administrations of these organizations and their work. This law also prohibits non-Kuwaitis from founding societies or being full members with voting rights of established societies.

**Recommendations:**

1. Amending legislation so the establishment of CSOs does not require prior authorization
2. Amending legislation to ensure no government interference in the work of CSOs.

**22. Right to Housing:**

22.1 Article 2 of law 5/2005 concerning Kuwait Municipality grants the Municipality council the authority to decide on the establishment of new neighborhoods and cities. Metropolitan areas makeup only 8% of Kuwait's total land area. Prices of rent and residential lands are high compared to the income-levels of different segments. During the years 2009-2013 the price of residential areas has approximately increased at a rate of 67-75% and on an average of 11% yearly while GDP per capita based on purchasing power parity only increased during the same period at a rate of 17% and on average of 3% yearly. Therefore, the head of

a Kuwaiti household monthly pays 28% of his income for rent.<sup>46</sup> Article 11 of Law Decree 35/1978 concerning real estate rent allows the owner of the real-estate to raise rent at a rate of 100% once every 5 years.

22.2 During the same period the prices of residential lands increased at an approximate rate of 102% for low-income areas reaching the price of 200,000 KD. It also increased to 73% for middle-income areas and 53% for high-income areas, which means that of a middle-income family needs to save for 24 years to buy land in a low-income area. Kuwaitis are also able to apply for government housing but need to wait for a period that may reach 16 years.<sup>47</sup>

22.3 It is believed that the increase in rents was a result of the increase in wages of Kuwaitis in the government sector and not due to a change in rates of supply and demand. Consequently, migrant workers, who make-up 83% of the labor force, were the largest segment harmed in addition to the *Bedoun* segment who are of low income and are not able to own property. The state, moreover, did not provide an adequate number of residential lands during that same period; in addition, it did not enforce strict regulations controlling land speculation (*mudharabah*) in the absence of an independent body to regulate the price of real estate.

**Recommendation:**

1. State takes necessary procedures to provide more residential lands and ensure that people are protected from increases in housing price.

**23. Stateless Citizens (Bedoun):**

23.1 Nationality law 5/1959 regulates the granting of Kuwaiti nationality. The law defines original Kuwaiti nationals as those residing in Kuwait before 1920. The implementation of this law was administered for the first time by the committee for granting citizenship, established pursuant to an Emiri Decree.<sup>48</sup> Since Kuwait lacked any census before the year 1950, the committee had to examine applications on its own without referring to clear standards for examining citizenship applications. The committee's work lasted a short period of time and was restricted to its presence in limited places and did not include an awareness campaign on the nature of its work and importance, especially with the spread of illiteracy amongst the population. Consequently, some inhabitants did not apply for citizenship due to their unawareness of its importance. Moreover, seeking redress for decisions of the committee or discussing them was not allowed since naturalization is considered an issue of sovereignty. The government of Kuwait confessed in the state's political statement delivered by Sheikh Jaber Al-Ahmad Al-Sabah, prime minister of Kuwait at that time, to the National Assembly on 24<sup>th</sup> June, 1970 that there were those who deserved Kuwaiti citizenship but were not granted it.<sup>49</sup> Successive Kuwaiti governments neglected this issue, which lead to its aggravation through the continuous growth in numbers of stateless citizens who are not able to attain their human right to citizenship except through the state of Kuwait, the country they were born in.

23.2 Successive Kuwaiti governments identified the *Bedoun* using a number of designations such as "nomads," the term "*Bedoun*" followed and was later substituted with "non-Kuwaiti" then "stateless citizen" and shortly after Kuwait's liberation the term was changed to "illegal resident".<sup>50</sup> This final term denied the *Bedoun* of inclusion under the labor law and, hence, were deprived of the essential rights guaranteed by this law. Moreover, members of this segment are always susceptible to administrative removal or judicial deportation.

23.3 The number of *Bedoun* is 111,493, some of whom work in the military under relatively acceptable working conditions whereas only 1% works in the large government sector, suffering from great discrimination in wages, holidays and other occupational privileges because they are either employed as unofficial workers who are paid a salary but do not enjoy other employee privileges or on a fixed-rate contract.<sup>51</sup> Hence, being excluded from labor law denies them protection from employment on unfair contracts or without contract.

23.4 Some members of this segment were denied security cards because the Central Bureau for Illegal Residents either denies or cancels their registration or demands that they alter their status; consequently they are either refused or constrained from attaining essential rights like driver permits, government work, health, education, passports and official documents.

23.5 Denial of security cards is justified by security restrictions, which lack a clear legal definition. Initially, these restrictions were to prevent someone from obtaining citizenship due to government belief that he/she might be holding another nationality. This concept later evolved to include people who were believed to be cooperating with the invading powers and those committing crimes. It was later used as a punishment mechanism against active members of this segment demanding their rights as it is considered a precautionary security restriction.<sup>52</sup> Security restrictions placed on those registered in the Central Bureau allow a person to obtain a temporary security cards valid for 3 months, which does not enable them from getting a driver's license, passport or government work. It is important to note that security restrictions also include a person's family. A person is prevented from knowing the nature of the security restriction, discussing it, or making a plea to the authorities that placed the restriction to remove it. Note Kuwait's support of recommendations (101,102,103).

**Recommendations:**

1. Change the term "illegal resident" to enable members of this segment to attain their essential human rights, according to law.
2. Amending legislation to enable the judiciary to look into citizenship disputes.
3. Amending labor laws to include *Bedoun* segment
4. Not tying the attainment of a valid security card and other human rights to security restrictions and enabling judiciary supervision over it.

**24. Mental Health Act:**

24.1 Kuwait lacks the minimum standard of laws required to regulate the procedures of treating and admitting people living with mental illnesses to the hospital. Currently, minimal administrative decisions regulate matters relative to in-patients but lack sufficient measures that would be provided by laws to protect this segment's basic rights of treatment, freedom and essential civil rights. Some patients suffer unjustified detention because their families refuse receiving them and there are no substitute shelters to accommodate them. This problem is prevalent among children due to the absence of legislative frameworks, which forces their guardians to receive or deliver them to substitute institutions. Yet, there are no suitable institutions in Kuwait to receive these cases.

24.2 Moreover, in-patients are not able to enjoy adequate and regular leisure-time outdoors because there is no fence surrounding the premise; therefore, the hospital is not able to prevent them from escaping. Child in-patients are not allowed to spend leisure-time outdoors without prior approval from their guardians.

**Recommendation:**

1. Amending necessary legislation to regulate mental health according to WHO standards.

**25. Environmental Law:**

25.1 Kuwait ratified a number of conventions concerning the environment, which obligate a state to amend national legislation in order to ensure regulating the protection of the environment and natural resources but still did not make the necessary legislative amendments. The environment law is in its final stages to be passed but does not fill the current legislative void. Current legislation grant a number of institutions capacity and authority related to the environment such as the Environment Protection Council, Environment Public Authority, Ministry of Commerce and Industry and the Public Authority for Agricultural Affairs and Fish Resources, which complicates the process of protecting the environment due to an overlap in tasks hindering them from completing their duties.

25.2 Contrary to what is stated in international conventions, Kuwaiti legislation lacks transparency of specialized information on the environment and the inclusion of the public in the process of decision-making regarding environmental issues.

25.3 Despite Kuwait's ratification of UN Framework Convention on Climate Change and the formation of a national committee to follow-up on the implementation of the convention's provisions, the rate of energy consumption did not decline because the state did not take the necessary measures to eliminate or limit the large government subsidization of energy.<sup>53</sup> According to the International Energy Agency's 2011 report, Kuwait generates 2.1% of global greenhouse gas per capita.

**Recommendation:**

1. Amending legislation to enable the country to keep its international commitments toward realizing the goals of the environmental conventions it ratified.

## **26. Biodiversity:**

26.1 Kuwait ratified the Convention of Biological Diversity in response to threats facing its environment. It established a number of natural reserves to protect biodiversity, however, this procedure is insufficient because it is not based on prior biodiversity strategies and scanning. The Reserve's Administration also lacks the necessary tools and methodology to reach its goals.

### **Recommendations:**

1. Pass a biodiversity national strategy
2. Activating natural reserve administration's laws and preparing an integrated plan for its administration.

## **27. Waste Treatment:**

27.1 Kuwait generates one of the largest percentages of municipal, industrial and construction waste in the world ranging between 1.4-1.5 kg. Kuwait disposes of waste by burying it in landfill sites not designed according to environmental standards and close to residential areas due to Kuwait's small size. The country also collects tires in a designated area, which suffered a huge fire in 2012 and smaller fires later and yet the same method of disposal continues.

27.2 Despite Kuwait prohibiting the dumping of sewage water directly in the sea 15 years ago, this process still continues, either in temporary dumping of entirely untreated waste or regular dumping of partly treated waste, due to a weakness in infrastructure.<sup>54</sup> Furthermore, state's supervision over industrial establishments dumping their industrial waste directly in the sea is very weak, which lead to increasing pollution on inhabited beaches.<sup>55</sup>

### **Recommendation:**

1. Taking necessary procedures to treat all waste while ensuring it causes no threat to the environment

## **28. Transparency:**

28.1 Despite Kuwait's ratification of UN Convention against Corruption in 2006 and issuance of law 24/2012 establishing the Public Authority for Anti-Corruption and provisions on financial disclosure, legislation is inactive and insufficient to ensure transparency of government information to the public. The state, moreover, does not provide sufficient statistics on most fields. Government bodies usually refrain from disclosing information about their work to those seeking it. Kuwait's ranking in the corruption index has declined between the years 2010-2013 from 54 to 69.<sup>56</sup>

### **Recommendations:**

1. Amending legislation to ensure transparency of government information
2. Providing detailed and comprehensive statistics and databases according to international standards.

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## **Appendices:**

<sup>1</sup> Appendix 1

<sup>2</sup> Appendix 1

<sup>3</sup> Appendix 1

<sup>4</sup> Appendix 9

<sup>5</sup> Appendix 9

<sup>6</sup> Appendix 1 and 9

<sup>7</sup> Appendix 1

<sup>8</sup> Appendix 9

<sup>9</sup> Appendix 1

<sup>10</sup> Appendix 9

<sup>11</sup> Appendix 9

<sup>12</sup> Appendix 9

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14 Appendix 1  
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40 Appendix 9  
41 Appendix 5  
42 Appendix 5  
43 Appendix 5  
44 Appendix 9  
45 Appendix 9  
46 Appendix 7 and 9  
47 Appendix 7 and 9  
48 Appendix 8  
49 Appendix 8  
50 Appendix 8  
51 Appendix 9  
52 Appendix 8 and 9  
53 Appendix 9  
54 Appendix 9  
55 Appendix 1  
56 Appendix 9