

Gender Discrimination and the Denial of Nationality Rights in Kuwait

UPR Info Pre-sessions 35th session Statement by the
Global Campaign for Equal Nationality Rights on behalf of
co-submitting partners Equality Now, Kuwaiti Women without Limits,
Abolish 153 organization and the Institute on Statelessness and Inclusion



Gender Discrimination in the Nationality Law

- Kuwaiti nationality law of 1959 does not recognize the right of Kuwaiti women to transmit their nationality to non-Kuwaiti spouses and children on equal terms with Kuwaiti men.
- Article 2 of the law states that “any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be Kuwaiti national himself”
- Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person [upon his attaining his majority who was] born in, or outside, Kuwait to a Kuwaiti mother whose father is unknown or whose kinship to his father has not been legally established.
- Article 11 provides that the children of a Kuwaiti national man, being minors, shall also lose their Kuwaiti nationality if they themselves acquire ipso facto the nationality of the State according to the law of which their father has become naturalized if that law so provides.

Impact of Gender Discrimination in the Nationality Law:

- Denies women equality under the law
- Contradicts the Kuwaiti Constitution:
 - Article 29 : *“all people are equal in human dignity and in public rights and duties before the law...”*;
 - Article 7 *“justice, liberty and equality are the pillars of society...”*
- Exacerbates a sexist and discriminatory framework for women’s role in the family and society
- Negatively impacts women’s ability to freely choose a spouse, to form a family, to choose a place of residence, and to ensure family unity
- Can be linked with Gender-based Violence
- Perpetuates statelessness and results in violations of every child’s right to acquire and retain a nationality

1st and 2nd Cycle UPR on Nationality Rights

During the 1st cycle:

- Several States encouraged Kuwait to take steps to address discrimination against women in the nationality law.
- Kuwait did not support these recommendations.

During the 2nd cycle:

- Six Member States made recommendations that Kuwait amend its nationality law to uphold gender equality.
- Kuwait's delegation indicated, *"there is no intention to amend the legislation on this issue since it is a sovereign matter"* and Kuwaiti citizenship law *"provides children of Kuwaiti women with Kuwaiti citizenship in certain cases for humanitarian reasons."*

Gender discrimination in Kuwaiti Penal Code

- Article 182 of the Kuwaiti Penal Code exempts rapists from punishment if they marry their victims thereby promoting violence against women and girls.
- If a perpetrator of rape legally marries the victim with the permission of the victim's guardian, and the guardian requests that the perpetrator not be punished, then the perpetrator will enjoy impunity.
- Article 153 of the Kuwaiti penal code stipulates that a man who finds his mother, wife, sister or daughter in the act of adultery and kills them is only punished by a maximum of 3 years in prison and/or a fine of 3000 Rupees (KD 225).

Gender discrimination in Kuwaiti Penal Code

- In 2017, the Human Rights Council recommended that all nations remove any provisions that enable perpetrators of rape to escape prosecution and punishment by marrying their victims.
- In 2017, the CEDAW Committee called on Kuwait to:
 - *“Repeal article 182 of the Criminal Code in order to prevent kidnappers and rapists from avoiding criminal prosecution by marrying their victim,” ...*
 - *“Abolish all discriminatory provisions contained in the Personal Status Act, including those regarding the legalization of child marriage...and in the Criminal Code, including those providing for reduced sentences for men who kill women in the name of so-called honour (art. 153).”*

Recommendation:

1. Comprehensively review and amend the Nationality Law to ensure that Kuwaiti women, regardless of marital status, have equal rights with men to transfer citizenship to their spouses and children.
2. Repeal Article 182 of the Kuwaiti Penal Code that pardons rapists and perpetrators from punishment when they marry their victims.
3. Abolish Article 153 of the Kuwaiti Penal Code that provides reduced sentences for men who kill women in the name of so-called honor.

Thank you.

