

## **Global Campaign for Equal Nationality Rights, Kuwaiti Women without Limits, Abolish Article 153, Equality Now and Institute on Statelessness and Inclusion**

### **Joint Oral Statement to the Human Rights Council at the 35<sup>th</sup> Session of the Universal Periodic Review**

#### **Kuwait**

I make this statement on behalf of the Global Campaign for Equal Nationality Rights, and its coalition members including Kuwaiti Women without Limits, Equality Now, and the Institute on Statelessness and Inclusion, and Abolish Article 153. My comments will focus on discriminatory provisions in Kuwait's nationality law and articles of the Penal Code that foster impunity for rapists and "honor" killing crime.

The 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.

By denying women equality with men, the Nationality Law undermines women's status as equal citizens. The law also contradicts the Kuwaiti Constitution, which stipulates in Article 29 that "all people are equal in human dignity and in public rights and duties before the law..." and in Article 7 that "justice, liberty and equality are the pillars of society..." Women's unequal ability to confer nationality on spouses also negatively impacts women's ability to freely choose a spouse, to form a family, and to ensure family unity. Discrimination in the nationality law perpetuates statelessness and other human rights violations.

UN committees including the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child have urged Kuwait to ensure gender equality in the 1959 Nationality Law and to undertake a comprehensive review of all existing laws that affect gender equality.

In its responses to the recommendations made by six Member States during its 2<sup>nd</sup> cycle Universal Periodic Review session in 2015, the delegation indicated that "there is no intention to amend the legislation on this issue since it is a sovereign matter" and that Kuwaiti citizenship law "provides children of Kuwaiti women with Kuwaiti citizenship in certain cases for humanitarian reasons."

Article 182 of the Kuwaiti Penal Code exempts rapists from punishment if they marry their victims, thereby promoting violence against women and girls. It states that 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. Women and girls who are kidnapped and/or raped are often forced into marrying their perpetrators due to family and societal pressure.

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 300 Rupees (KD 225).

In 2017, the Human Rights Council recommended that all nations remove any provisions that enable, justify or lead to forced marriage, including provisions that enable perpetrators of rape to escape prosecution and punishment by marrying their victims, in particular by repealing such laws.<sup>i</sup> 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,”<sup>ii</sup> and to “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)”.<sup>iii</sup>

Based on the above information, we urge reviewing States to make the following recommendations to Kuwait:

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.

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<sup>i</sup> Available at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Documents.aspx>

<sup>ii</sup> Available at

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKWT%2fCO%2f5](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fKWT%2fCO%2f5)

<sup>iii</sup> [CEDAW/C/KWT/CO/5](#)