

Kuwait

Submission to the United Nations Universal Periodic Review

35th Session of the Working Group on the UPR United Nations Human Rights Council [January 2020]

Submitted By:

International Alliance for peace and development

<https://iapd.international/en/>



International Alliance for Peace and Development

The IAPDA seeks to promote for peace and sustainable development all over the world. The IAPDA works to counter hatred, violence and extremism and to work side by side with the UN mechanism and other affective institutions all over the world.. The association is based on international human rights conventions adopted by the UN General Assembly, as well the recommendations and commentaries of the international bodies established by these conventions or any other mechanism based on the UN charter

Introduction:

The Government of Kuwait has taken positive steps in the field of human rights, since the second cycle of the Universal Periodic Review (UPR) of Kuwait in January 2015, in which the Government of Kuwait accepted 182 of the 282 recommendations submitted to it. For instance, in September 2018, the National Committee for International Humanitarian Law, which was one of the recommendations submitted to it by a large number of States, was established to review judicial decisions and legislation in relation to international humanitarian law in accordance with the obligations of the Geneva Convention.

The establishment of an independent national human rights institution, in accordance with the Paris Principles, is a fundamental demand for civil society organizations because of its positive impact on the promotion and protection of human rights. The establishment of this institution complete the role of relevant civil society organizations and promotes coordination between government and civil society.

In 2015, Law No. 67 enacted by the Government of Kuwait for establishing the National Bureau for Human Rights, which contributes to the promotion and protection of human rights in Kuwait. However, the International Alliance for Peace and Development has reservations on many articles of the law that do not comply with the Paris Principles, such as the manner in which members of the council are appointed and establishing it as part of the Council of Ministers. The Alliance remains concerned about the persistent violations of human rights in Kuwait, which will be highlighted in this report.

Although Kuwait has received and accepted many recommendations on the rights of migrant workers, they continue to face various violations. In 2018, the government terminated employment contracts of more than three thousand migrant workers in the public sector, as a measure of the workforce nationalization policy.

In addition to the continuation of the kafala (sponsorship) system, the Aliens Residence Law of 1959 and the accompanying regulations

governing the kafala system in Kuwait, which ties a worker's visa to their employer and prevents them from changing jobs without the employer's consent. Kuwait has taken a positive step by issuing the administrative Decree No. 842 of 2015 that allows migrant workers to transfer their kafala to a new employer after three years of employment provided that they are notified 90 days before. However, migrant workers continued to face exploitation and abuse under the kafala system. Migrant domestic workers, mostly women, remained especially at risk and exposed to physical, sexual and psychological abuse by their employers¹.

In September 2017, a decision was issued provides for paying health insurance fees by migrant workers in addition to paying for various health services. Therefore, this decision is considered an additional burden on migrant workers, especially in the poor living conditions they suffer.

In January 2018, the Ministry of Interior(MOI) offered a general residency amnesty for all visa violators and absconders – including an estimated 154,000 expatriates – to either pay a fine and adjust their status if they were gainfully employed or return to their home countries without paying any outstanding fines and would still be eligible to return to Kuwait with a new work permit².

The MOI's Domestic Labor Department (DLD) investigated employers and recruiting agencies, in addition to initiating investigations following grievances filed by employees, NGOs, embassies of labor-sending countries, and private citizens, and subsequently arbitrated such grievances. MOI authorities continued to investigate domestic worker recruitment agencies and residences to ensure compliance with the 2015 domestic labor law. During the reporting period, officials conducted 17,560 such inspections, referred more than 440 for criminal investigations following trafficking screenings, blacklisted 500

¹ Amnesty international , 2019 , <https://www.amnesty.org/en/documents/mde17/9909/2019/en/>

² Refworld, june 2018 , <https://www.refworld.org/docid/5b3e0afea.html>

employers, and permanently shut down 82 recruitment agencies for domestic labor law contraventions.

In January 2018, authorities launched the Mobile Labor Disputes Office to help workers in remote areas of the country file complaints against labor law violating employers. Kuwaiti authorities did not categorize or investigate labor violations of domestic workers as human trafficking and continued to typically treat such cases as administrative infractions, using official arbitration resulting in monetary compensation and repayment of back-wages to victims, application of administrative fines, and closure of recruitment firms to resolve such cases. Many domestic worker abuse cases were not prosecuted due to lack of evidence or witnesses.

Human Trafficking

The Government of Kuwait demonstrated significant efforts to eliminate human trafficking by initiating more investigations and prosecutions; and operationalizing a government-run central recruitment company intended to reduce recruitment costs and combat illegal recruiting fees. The government also established a specialized prosecutorial unit to expedite trafficking cases; and formally passed and funded its five-year national strategy to combat trafficking.

In 2017, the public prosecutor's office created a specialized unit to manage, investigate, and expedite the processing of trafficking cases. During the year, the government investigated 60 potential trafficking cases. The government apportioned an annual budget of 2 million Kuwaiti dinar (\$6.6 million) for shelter operations and protection programs for trafficking victims. It also increased its efforts to prevent human trafficking. In February 2018, the Council of Ministers officially approved and funded Kuwait's national strategy to combat trafficking and tasked the Ministries of Justice and Foreign Affairs to commence implementation. Several ministries, in collaboration with international organizations, printed and disseminated anti-trafficking pamphlets and actively participated in public awareness campaigns that warned against

using illegal domestic worker recruitment companies and stressed the importance of hiring workers with the requisite documentation³.

However, some officials continued to use arbitration and administrative penalties to resolve grievances filed by domestic and other migrant workers, instead of investigating such cases as human trafficking crimes. Protracted litigation and subsequent appeals processes led most victims to decline to file court cases. Also, the Government has not regularly used formal procedures to identify victims.

Violations of Women's Rights

Despite Kuwait's acceptance of a large number of recommendations on the promotion of women's rights, some discriminatory practices are still practiced against women in Kuwait. For instance, Kuwait's Constitution, in article 2, reads that "All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion".

Kuwait has also ratified a number of international conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination by Law No. 33/1968 and the Convention on the Elimination of All Forms of Discrimination against Women by Amiri Decree No. 24/1994. However, discrimination still exists due to certain laws that enacted by Kuwaiti legislators as the very laws discriminate between men and women on the basis of gender such as citizenship law No. 15/1959. Because of certain laws enacted by Kuwaiti legislators because the same laws discriminate between men and women. The Nationality Law No. 15/1959, in article 2, states that "each new born is Kuwaiti if he/she was born in Kuwait or abroad to a Kuwaiti father, excluding the Kuwaiti woman from naturalizing her sons or her foreign husband like the Kuwaiti man who can naturalize his foreign wife."

³ Ibid , <https://www.refworld.org/docid/5b3e0afea.html>

Under article 153 of Kuwait's Criminal Law, if a man who kills his mother, sister, daughter or wife for adultery, or a man committed adultery with his mother, sister, daughter or wife, will only be accused of a misdemeanor punished by three years jail time maximum and/or a fine. The law belittled the case from a criminal act into misdemeanor for men. If the woman commits the same crime for adultery purpose, against her husband, then she faces murder crime sentence that reflects discrimination between men and women⁴.

Kuwait's Personal Status Law No. 51/1984 did not give women the right of guardianship and custody over their children wherein article 209 asserts that guardianship belongs to the father then grandfather according to inheritance system⁵.

Discrimination on basis of social gender influenced the rate of female participation in leading positions in the government, whereas the participation is limited and does not exceed one female minister or two since the first access of woman to the cabinet in 2005. Female presence in Public Prosecution and judiciary positions is also highly limited. In 2013, a judiciary sentence was issued and granted women the right to hold the position of Public Prosecutor then they will be qualified to hold the position of judge. In 2014, 22 women were accepted to hold the position of Prosecutor at Public Prosecution, but this step was suspended later on. Judiciary Supreme Council indicated that such a suspension is temporary to assess female prosecutors` performance within a year to make sure if they are qualified to these positions. This is discrimination as female prosecutors subject to assessment while male prosecutors don't. The Kuwaiti woman didn't hold the position of judge till now as well.

⁴ Kuwait Times , women rights , 9/2016 <https://news.kuwaittimes.net/website/women-rights/>

⁵ Kuwait society for human rights, report 2017 , p p 5 :6

https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/KWT/INT_CERD_NGO_KWT_28063_E.pdf

The representation of women in the Kuwaiti parliament is highly limited. According to UN Women, in 2017, the State of Kuwait ranked 184th out of 193 in total for its percentage of women in parliament.

In May 2018, the government organized a high-level visit to Washington to train and empower a group of 15 Kuwaiti women who were selected to participate in a year-long pilot training program called EKWIP (Empower Kuwaiti Women in Politics) to prepare them to run for elected office, assist in other women's political campaigns, or advance professionally in other sectors. The group visited congressional offices, embassies, universities, and think tanks. Referring to the group as "our future leaders"⁶.

Discrimination against Bedoons

The problem of "Bedoons" stateless people, who are called by the Kuwaiti government "Illegal Residents", is one of the most complicated problems that affect political, economic, social and humanitarian aspects of the country. The number of Bedoons estimated around 120,000 while the number of Bedoons eligible to the Kuwaiti citizenship according to the Nationality Law No. 15/1959, estimated about 35,000. It seems until now that there is no serious and practical solution for this problem. The government still delays the solution of this issue through transferring applications submitted by the Bedoon to various administrative committees and authorities, which have avoided settling these requests for decades.

It is undeniable that the government provided some services to the Bedoon such as providing health care services to those who hold personal cards issued by the Central Apparatus in addition to education services to the sons of individuals of the Ministry of Defense and employees of the Ministry of Education. It also allowed them to register births and obtain marriage contracts and death certificates. But there are still some

⁶ The century Foundation , 2018 <https://tcf.org/content/report/kuwaiti-women-leaders-aim-bring-gender-parity-politics/?agreed=1>

administrative obstacles and these procedures do not make effective progress towards resolving their cause and ending their suffering especially officials of Ministry of Interior stated that 70% of Bedoon are completely excluded from the possibility of obtaining the Kuwaiti citizenship⁷.

Recommendations

The International Alliance for Peace and Development recommends the Government of Kuwait to:

- Accede to international human rights conventions to which they have not yet acceded, in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- Pursue efforts to strengthen the enforcement of Law 68/15 on Employment of Domestic Workers to ensure protection of their rights.
- Fully implement the new national strategy to combat trafficking in persons; and pursue efforts to raise awareness and prevent trafficking.
- Abolish Kafala system and adopt an alternative regulation that ensures the full enjoyment of freedom in the labour market.
- Amend the Kuwaiti Nationality Law to allow the children of Kuwaiti women to be naturalized.
- Grant the Bedoons all civil and political rights, in accordance with the principle of justice and equality.

⁷ Ibid, Kuwait society for human rights, p 9

- Abolish all discriminatory provisions against women in the Personal Status Law.