

Shadow Report

The Kuwaiti Association of the Basic Evaluators of Human Rights

The State of Kuwait

On the implementation of the provisions
of the Convention on the Rights of the Child
in the State of Kuwait

Report Preparation Coordinator

The Kuwaiti Association of the Basic Evaluators of Human Rights

Non-governmental association holding consultative status to
the Social and Economic Council
since July 2012

**The State of Kuwait
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Introduction

The Kuwaiti Association of the Basic Evaluators of Human Rights (KABEHR) was established in 2005 under Ministry of Social Affairs and Labor formal license number 99/2005, and obtained consultative status to the United Nations Social and Economic Council in July 2012.

Since its foundation, the Kuwaiti Association of the Basic Evaluators of Human Rights has laid out goals, objectives, and activities that have allowed it to achieve significant impact on the promotion and protection of human rights in the State of Kuwait. In its mission to foster human rights rooted in the vision of Islamic Sharia law, KABEHR seeks to increase awareness of human rights legitimacy, to protect and preserve them, and defend against any human rights violation, erosion or doubt as to their concordance with Islamic Sharia law. Emphasizing that Islam is a religion of tolerance, justice, and fairness, the organization works together with concerned authorities to keep Kuwait free of any human rights violations.

Through its social mission, KABEHR aims to ground the issue of human rights from an Islamic Sharia perspective and to build bridges of communication between local and international human rights organizations. It further seeks to create a formal entity for human rights issues in Kuwait, to publish an international encyclopedia covering the legitimacy of human rights, and study ways to increase coordination between government and civil society organizations in the field of human rights. It also seeks to serve as a resource information clearinghouse for entities working in human rights issues, both domestically and abroad, and to collaborate with international human rights bodies to design and implement training programs in the field of human rights protection and promotion of freedoms.

The KABEHR has been a strong presence in the human rights changes occurring in Kuwait, keeping pace with rights developments and taking a firm stance through its active participation.

One of the organizations notable achievements has been its attendance in the eighth session of the Human Rights Council's Universal Periodic Review (UPR) in Geneva, May 2010, during the presentation of the government report prepared by the State of Kuwait, which was preceded by KABEHR's submission of its rights report on Kuwait to the Secretariat of the UN Council.

In September of the same year, the KABEHR attended and participated in the speech given before the Kuwaiti delegation in the Human Rights Council, in the follow-up to setting human rights recommendations for the State of Kuwait. The association's role was distinguished in being the only rights association to participate in giving a speech before members of the Council.

The organization has participated and contributed in various other international forums, among the most important being its attendance in the 103rd session of the United Nations Human Rights Council in October 2011. The council is responsible for discussing the state reports on their commitments to the terms of the International Covenant on Civil and Political Rights.

KABEHR has prepared numerous shadow reports on the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, and the International Covenant on Economic, Cultural, and Social Rights. KABEHR's participation at various international levels has enabled it to become the the first Kuwaiti rights association to be granted international consultative status to the Social and Economic Council, as of July 2012.

KABEHR's engagement in these international activities comes from its firm belief in the need to build synergies among civil society institutions, international organizations and UN bodies, in order to promote change and empower human rights in a world that is dominated by injustice, unfair policies and conflicting interests, at the expense of justice and the law.

I. Physical and sexual violence against children

There are many indicators that the rates of physical and sexual violence against children in Kuwait continue to increase. Although most of these cases go unreported, a quick field survey conducted by the Society for Human Rights among pediatricians in public hospitals indicates that all hospital pediatric divisions face the problem on an almost daily basis.

Till now there exists no designated entity to which concerned parties such as healthcare providers, psychologists, or a child himself, may go to report directly known or suspected incidents of children being subjected to neglect, abuse, molestation, physical or sexual violence. There is no entity with the legal mandate to provide direct child protection.

Further, doctors are not able to admit children to hospital for protection without the parents' consent, and the parents have the right to remove the child from the hospital at any time merely by signing discharge papers.

The absence of Kuwaiti legal provisions to ensure the protection of children from violence and to punish offenders is one reason for the aggravation of the problem. There is an urgent need for child protection centers with legal force in Kuwait, as well as to provide psychologists in all schools in all levels of education.

The Kuwaiti Association of the Basic Evaluators of Human Rights recommends the government of the State of Kuwait to issue special legal regulations to address problems of family violence, especially against children.

II. Pediatric healthcare

Privacy

All patients have the right to enjoy privacy and confidentiality, including older children and adolescents. However, Kuwait has not shown interest in requests to provide privacy and confidentiality to this age group through, for example, the provision of healthcare consultations without parental presence, or without informing parents of the diagnostic results and treatment. Children are not given a choice as to whether or not they want their health information to be shared, nor with whom.

Vaccinations

Kuwait is an advanced country in the field of vaccinations; KABEHR notes that the State has recently developed periodic vaccination schedules of appropriate frequency intervals, in keeping with international requirements. The vaccination coverage rate is very high, thanks to preventive health centers spread across the country, as well as school health departments and media outreach in vaccination campaigns. It has come to KABEHR's attention that the State has already begun the creation of a National Immunization Committee, based on the recommendations of the World Health Organization (WHO), to be an independent entity not subject to the organizational structure of the Ministry of Health, which will monitor the State's public immunization and vaccination plan. If this be the case, we consider it to be an achievement advanced to Kuwait's credit in the field of vaccinations.

Accompaniment

Children have the right to be accompanied by one of their parents during hospital stays, noting that government hospitals in Kuwait forbid the father from accompanying the child in hospital, stating that only female chaperones should be in the pediatric wards. This can place the family in a difficult position, if the mother is not present or is occupied with the other children at home, and can frequently lead to the child being on his own and unaccompanied in the hospital. Therefore, we call for all Kuwaiti hospitals to have pediatric wards that allow fathers to accompany their children on the ward.

Stateless Bidoun children

KABEHR highlights the rights violations of a large sector of stateless Bidoun children (of undetermined nationality) in accessing health care and treatment, due to their inability to obtain valid residency cards from the Central System for the Affairs of Irregular Migrants that would qualify them for health insurance. This lack of healthcare access due to lack of identification papers for the child or the child's father is in flagrant violation of the child's right to treatment.

III. Comprehensive legislation for the rights of the child

In light of the Convention on the Rights of the Child, although there have been significant ongoing efforts to develop legislation with legal provisions for the comprehensive protection of children's rights, planned laws have not yet been enacted.

KABEHR emphasizes the importance of enacting comprehensive legislation on the rights of children, given the pledge voluntarily made by the State of Kuwait before the International Human Rights Council, within the discussions of its periodic report during the Comprehensive Review of Human Rights (May 2010) and within the framework of its pledges in the development plans approved under Law No. 9 for the year 2010.

IV. Rights of children in foster care under the Ministry of Social Affairs and Labor

In June 2010, a KABEHR delegation made an inspection visit to a Children's Home in the Family Nurseries Administration in the social welfare sector. The delegation went to the Family Nurseries Administration headquarters, where the administrators gave them background information on the recently planned projects to develop the home.

They then went to the Children's Home, where a supervisor gave them an overview of the home and the challenges it was facing. The delegation asked several questions and discussed the hardest challenges facing the workers in developing the home. The home houses up to 50 children whose parents are unknown (34 boys / 16 girls).

The home has only 15 caregivers, which is a very small number considering the services that the home should provide the children, and considering that the caregivers are divided into three shifts (morning, evening, and night). There may be some times (in the night shift) with only one caregiver supervising all children's sections in the home, or sometimes no supervisor at all.

Then the KABEHR delegation visited the different sections in the home to see the conditions for the children there. We noticed the tangible efforts made by charity organizations and volunteer groups and individuals to improve and develop the home for the children's rehabilitation with furnishings in the different sections. Below are some of the key observations made by the delegation during their visit:

Severe shortage or lack of qualified specialists

- Social services: two workers, one as staff-member, one provided by a charity fund
- Psychologists: None
- Education specialists / teachers: None / only two teachers and two subjects: Arabic and Social Studies
- Speech specialists: None
- Learning Disabilities Specialists: None
- Other specialists: None

Lack of specialized teachers to set a follow-up plan for psychological and social cases

- There is only one psychologist in the administration, but no specialized academic team working with him.
- Number of social workers: Only two
- External doctors: When seminars are able to be coordinated with outside lecturers, the workers do not seem interested to participate in them. Management needs to firmly announce to all workers that participation should be obligatory, and not leave it up to each individual to decide whether to participate or not.

Launching the surrogate mother project - SOS

Out of 60 candidates for employment in the Surrogate Mother project, eight were accepted in their interviews, to be distributed over all of the care homes. This would mean a continued shortage of sufficient surrogate mothers to provide care in the children's homes, so the project has not yet been launched.

Camera surveillance system

In a camera surveillance system, veiled female workers should not fear being filmed, as the cameras will be monitored by female deputy managers, supervisors, or other female workers assigned to this task.

Academic delays

A noted negative phenomenon in the children is that, as they progress in their studies, they experience increasing academic failure, leaving a mark on them, except in rare cases. It is important for the authorities designing programs to bear this in mind, to incorporate intensive support in the home and outside it, to offset the weaknesses in the children's learning. It is also important to conduct, in coordination with specialized bodies, a test survey to assess their intelligence levels.

This phenomenon is accompanied by behavioural disturbances as they progress through childhood, as indicated in various reports and also from statements made by the management during our visit to the Children's Home.

Two cases from among these children were referred to the Office of Social Development. It is worth highlighting that the children in this category suffer from a deterioration of their mental health, regardless of the superior physical and residential care that they may receive from the State. Therefore we would suggest opening branches of the Office of Social Development within the social welfare programs.

Group care

The children in the Home lack a closed family environment that would ensure full privacy for them and their family. The different children's sections in the home are open, and at any time the children can visit and go back and forth between their respective sections in the home, without the least privacy.

The system of care in the Children's Home falls under what is called "group care", and not individual care. Education regulations consistently view this as among the least successful methods for raising young people, and can cause abnormalities that could place them in the global category of having "special needs", and requiring ultra sensitive care under a very highly qualified supervisory care team.

Follow-up plans for the children

The volunteer team in the Home has exerted much commendable effort, establishing a culture library and computers for the children's skill development. Though the efforts are much appreciated, they are far short of filling the large gap in the children's urgent needs, setting up their life skills and developing their minds, and investing their energies. However, we hardly see anything other than the volunteers' efforts in this area.

Lack of supervisor training

The Family Nurseries Administration officials related to us that only the eight female employees accepted into the Surrogate Mother Project would be able to take part in the training, and that in only one of the series. The other caregivers and supervisors who were already working caring for the children would not have the chance to join the education training sessions.

The fundamental problem is found in the character of those working caring for the children, under what is called "observed supervision." Those workers are supposed to handle the children's education well, but we observed that the workers are often young in age and without any education experience. We in KABEHR suggest that the age for direct employment in childcare be 35 years, though that would affect their approved leave after completion of the intensive educational training.

Workers work hours

Number of supervisors in morning shift:	8	
Number of supervisors in evening shift:	10	
Number of supervisors in night shift:		sometimes none

Supervisor qualifications and time

High school / Secondary school

Special training

Psychological preparedness

Time: afternoon/evenings 1pm - 7pm; nights from 7pm - 7am

One of the biggest difficulties discussed was the lack of staff in the social welfare sector, financial staff, and lack of approval to date, despite approval in other sectors under the Ministry of Social Affairs, as well as:

- Lack of demand for social care and caregiver professions, leading to staff shortages within the Home and a number moving over into administrative positions.
- Female caregivers accept to work the morning shift, but few accept to work the

afternoon/evening and night shifts.

- Staff shake-ups in residential facilities due to a large number of requests to transfer employment from one center to another sector.
- Dilapidated building that needs full renovation.
- The Civil Service Bureau shortening the period of professional performance development training for staff.

Recommendations from the inspection visit to the Children's Home of the Family Nurseries Administration in the social welfare sector:

1. Encourage people to embrace family to alleviate the suffering of these children.
2. Provide personnel specialized in developing young people's conscious education.
3. Open branches of the Office of Social Development within the care facilities.
4. Facilitate coordination among relevant public benefit organizations, together with people with special needs and family nursery management.
5. Facilitate the tasks of volunteer work teams inside the facility.
6. State-sponsored care system similar to SOS to care for orphans.
7. Approve financial staff for the social services sector.
8. Invest in the staff working in the social care sector through vocational training.
9. Preparation and processing of a new qualified and building.
10. Work to provide trained specialized staff, especially in those specializations not currently available.
11. The need to expedite the launch of the Surrogate Mother Project.
12. The need to place surveillance cameras in all rooms and sections of the home, to protect children from any violence against them.
13. Activate internal procedural rules in the Home, with disciplinary provisions for offenders, as not doing so will inspire complacency in the children's good behaviour.

V. Rights of children in the Disabled Home of the Administration for Disabled Care in the social welfare sector.

KABEHR made an inspection visit to the headquarters of the Disabled Care Administration (women, children) and saw a group of disabled residents there. The delegation asked several questions and discussed at length the challenges facing the disabled care workers.

The staff indicated that there were a total of 162 disabled residents in the home, ranging in age from four years to 55 years of age, 36 male residents and 126 female residents. There were 35 who were ambulatory, and 127 bedridden. The residents' nationalities were as follows: 121 Kuwaiti nationals, 17 from Gulf Cooperation Council member states, 11 from other countries, and 13 of undetermined nationality.

There were very few caregivers working closely with the disabled residents: only 50 caregivers total, with not more than 40 on active duty, divided into three shifts (morning, evening, night). Sometimes during the night shift, there may be a single caregiver covering all sections of the home, or sometimes no one at all. The delegation then visited some sections of the care facility to view the conditions of the disabled residents.

One of the biggest difficulties discussed was the lack of staff in the social welfare sector, financial staff, and lack of approval to date, despite approval of other sectors under the Ministry of Social Affairs, as well as:

- Lack of demand for social care and caregiver professions, leading to staff shortages within the care facility.
- Many workers refuse to work the night shift (7pm - 7am), and at times the evening shift (1pm - 7pm).

Recommendations from the inspection visit to the Disabled Care Home under the Disabled Care Administration in the social welfare sector:

- Approve financial staff for the social welfare sector.
- Vocational training for staff working in the social welfare sector.

KABEHR observations on the rights of disabled children:

1. There is some discrimination against children in Ahliya private schools, integrated inclusion schools, and some other government schools, that have not done any diagnostic assessments, which affects the children's academic performance and future (children with learning difficulties, slow learners, and other disabilities)
2. There are no doctors specialized in disability related illnesses or dentistry, so when a child with disabilities presents himself, the doctors all try to refer the child to another doctor or hospital.
3. Laws for the protection of persons with disabilities do not extend to Bidoun children (of undetermined nationality), especially in terms of educational and job services.
4. Lack of integrated education methods for the disabled in schools, isolating the child from his community
5. Recreational and social building infrastructures not handicap access equipped for those with motor and hearing disabilities (markets - recreational facilities).
6. Some curricula are not appropriate for different types of disabilities (cognitive disability, Down Syndrome, multiple disabilities) when they concern students of general education.
7. Lack of clubs for mentally disabled as requested by parents and guardians.
8. Repeated mis-diagnoses in mental and cognitive disabilities, having negative effect for some people from childhood onward.
9. Concentrating disabled children of different disabilities all in one classroom in some private schools.
10. Delays in diagnosis of children with Down Syndrome by several months or up to a year after their birth, and then a diagnosis of only moderate disability (instead of severe retardation) deprives the child of some privileges in accordance with Kuwait Disability Law 8/2010.
11. Lack of sufficient and appropriately equipped public and private buildings for use by those with motor, visual, and hearing disabilities.
12. Limited public information about associations working on the rights of persons with disabilities.

VI. Detention of children and their involvement in political conflicts

The security forces detained a group of children in December 2012 during some of the demonstrations and marches. KABEHR holds reservations about the participation of children in

protests of this kind, to protect them from harm and injury from the firing of smoke bombs etc; but at the same time it denounces the detention of children as an inappropriate breach of Convention articles and local customs.

November 2011 saw clear violations of the rights of groups of children who were forced into the middle of political conflicts between the government and the opposition. They were taken from the care facilities of the Ministry of Social Affairs and Labor in vehicles specially for this purpose, and brought to participate in the pro-government political rallies. This exposed their lives to danger in light of the political strife in the country.

VII. Education

The educational curriculum at all educational levels is weak and does not keep pace with the students' abilities, nor develop their skills, since much of the curriculum relies on theory rather than application. This was confirmed in a survey published by the Al-Qabas newspaper in December 2008, conducted among 100 teachers from schools throughout Kuwait. In the survey results, 77% of responding teachers stated that they do not teach all the subjects in the curriculum syllabus, compared to 23% of teacher respondents who stated that they do stick to teaching the whole curriculum. Sixty-two percent of the sample stated that the Ministry of Education curriculum needs further review and modification.

The Ministry of Education has recently developed a series of textbooks for various education grade levels. However, some specialists have stated that the delays in modifying the country's education curriculum is a shortcoming in the Ministry of Education's performance, reflects poorly on the capacity of this curriculum to keep pace with educational developments around the world, and results in negative impact on the educational outcomes at all grade levels, especially in the primary and intermediate school levels.

A significant number of Bidoun children (of undetermined nationality) and their families face enormous hardships enrolling in both government and private schools. This is due to their inability to obtain birth certificates that would enable them to get the identity papers required by the Ministry of Education for school enrollment. Whether the problem is due to security issues or procedural errors, KABEHR stresses that it is a flagrant violation of children's right to education, penalizing the child for that which is out of his hands to control.

VIII. Combating family violence

What is called family or domestic violence is, in real terms, broader than violence just within the concept of family. Domestic violence is not limited in its scope to individual members of the family unit (spouses, regardless of background, configuration, offspring, etc) but also extends logically to encompass everyone residing in the home, including domestic workers.

Whatever the nature of the violence - domestic violence or family violence - it is well established that the Eastern nature of our Arab societies, and especially in the Gulf, have continually undermined legislative efforts to codify penal provisions against domestic or family violence.

It is for these obstacles and legislative considerations, we see that the Kuwaiti penal legislation is limited to - in terms of violence within the home or family - a number of penal provisions against violence in general, and procedures for enforcement and reporting violations.

IX. Participation of civil society organizations

It is KABEHR's assessment that there is unjustifiable marginalization of the role of civil society organizations in the field of human rights in the State of Kuwait, especially in terms of preparing related national reports. Most civil society organizations are sidelined from participation in governmental report preparation. The report is not presented to relevant non-government rights associations at any point during or after its drafting phase, so they are unable to comment on the rights propositions laid out in the report.

X. Recommendations from the eighth session of the Universal Periodic Review of Human Rights (UPR)

The session in May 2010 discussed the State of Kuwait's national report on the state of human rights in the country, and in September of that year reviewed and set out recommendations. Kuwait accepted nine important recommendations to work on, including: to accelerate progress in establishing a national human rights institution according to the Paris Principles; and to exert every effort to enact legislation to combat human trafficking and the smuggling of migrants for forced labor and sexual exploitation, in keeping with the UN Convention Against Transnational Organized Crime and the Protocols thereto.

Recommendations of the Kuwaiti Association of the Basic Evaluators of Human Rights in its social role as a civil society association concerned with the protection and strengthening of human rights and freedoms: KABEHR urges the government of the State of Kuwait to fulfill these international voluntary recommendations and pledges, as consistent with Islamic Sharia law and the Kuwaiti constitution, and the international commitments set out in the international instruments ratified by the State of Kuwait, in particular: to accelerate the enactment of a decree to create an independent national human rights commission, as well as enact legislation on human trafficking and the smuggling of migrants, especially women and children.

XI. The High Commission for Human Rights

Under Ministerial Decree number 65 for the year 2012, the Ministry of Justice added new mandates to the terms of reference for the High Commission for Human Rights. However, the concrete role of the High Commission for Human Rights in the additional terms of reference has not actually been noted.

KABEHR sees it as necessary to activate all terms of reference within the mandate of the High Commission for Human Rights, and translate them into being real, tangible, and practical, not merely theoretical, at least until an independent national body for human rights is created.

XII. Overall visions and recommendations for children's rights in the State of Kuwait

Before KABEHR presents its recommendations and proposals, we would like to express our deep gratitude to the Kuwaiti government for its efforts in advancing Kuwait's human rights record, and for its deep respect for Islamic Sharia and the Kuwaiti constitution, and in not applying any measures in contradiction thereto.

After the foregoing general observations on the extent of the State of Kuwait's implementation of its national and international obligations with regard to the rights of the child, KABEHR would like to present some recommendations and proposals that it hopes will be adopted by the State of Kuwait, as follows:

1. An overall observation that the official report of the State of Kuwait was rather general in content, the majority of the content focusing on merely enumerating the general legal and constitutional articles that apply to everyone and not specifically children in particular. The special nature of children and their legal and practical standing require special comprehensive legislation to regulate all their rights and protections, in light of the UN Convention on the Rights of the Child.
2. The report focuses a great deal on education, awareness, and studies. Perhaps what is still needed are concrete measures that can translate into real, practical, and tangible official government endeavors, not stopping at merely research and theoretical studies.
3. KABEHR believes that merely enumerating related legislative and constitutional articles alone is not enough; what is really needed is to undertake more concrete and tangible measures within the scope of children's social and family life.
4. The official government report notes that it deals with children's rights not as individual, independent rights, but rather from the view of the child as being merely a non-responsible member in the context of a family. Perhaps this view toward children needs to take into account all dimensions of the rights afforded to children under the UN Convention on the Rights of the Child.
5. KABEHR stresses the need to raise the ceiling of the Kuwaiti government's cooperation with human rights civil society organizations, engaging them in the preparation of the government reporting process for the State of Kuwait. It should strengthen their role in community awareness and outreach activities, especially in combating domestic and family violence, and end any treatment marginalizing the role of non-governmental organizations within the State of Kuwait.
6. There is urgent need to amend the Kuwaiti nationality law, to allow Kuwaiti women to transfer her Kuwaiti nationality to her children from non-Kuwaiti nationals.
7. There is urgent need to create a special Family Court, as pledged by the State of Kuwait in its development plans for the years 2010-2011 and 2013-2014, issued pursuant to Law Number 8 for the year 2010.
8. The State must foster and promote outstanding and creative children and develop their skills, so they can become self-reliant young people.
9. The State of Kuwait must protect children from any violation they might be exposed to, be it from their parents, siblings, relative, domestic worker, or from outside the home, by punishing perpetrators with the highest penalties.

10. The State must take responsibility for the upbringing and maintenance of orphan children whose parents are known to have died, and provide them an alternate environment in place of their parents, if there are no other relatives found able to raise them.

11. Civil society organizations and government bodies must do their part to raise awareness and educate society on the rights of children and how to deal with them.

12. There is an urgent need to hold accountable any caregiver or teacher who reprimands a child with hurtful words, movements, gestures, blows, beatings, or uses any other kind of psychological or physical violence.

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