

**Shadow Report
On the Implementation of the
The International Convention on the Rights of Persons with Disabilities
By the State of Kuwait**

**Prepared By
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Introduction

Ten years have elapsed since the start of the Kuwaiti Association for the Fundamental Elements of Human Rights (KABEHR) in 2005. During this period, KABEHR has succeeded in realizing many achievements that have had an impact in the promotion and protection of human rights in Kuwait, according to its mission of paying due care to human rights and establishing them from the Shariah perspective.

KABEHR has been a forerunner in terms of its local, regional and international achievements. It has been present in most of the changes that have occurred to the human rights issues of the State of Kuwait. It has kept up with the march of human rights development and confirmed its position by its vigorous presence and active participation.

Foremost among these achievements was its presence at the meetings of the United Nations committees concerned to discuss the reports of the State of Kuwait on its commitment to the terms of the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child. KABEHR had previously sent its human rights report to the said committees. These international contributions by KABEHR emanated from its firm belief in the need for synergy of civil society institutions, international organizations and the UN bodies to change and empower human rights and fundamental freedoms.

These contributions and positive steps have been well received locally, regionally and internationally. KABEHR has become a destination for cooperation and partnership by human rights activists and civil society organizations locally, regionally and internationally.

We pray to God Almighty to help us carry this trust and responsibility to support and protect the vulnerable and the oppressed, establish justice and show the beauty and grandeur of the Islamic Shariah and Islam as a religion that consecrates human rights principles and standards and makes compliance therewith an act of worship and closeness to God.

Kuwaiti Association for the Fundamental Elements of Human Rights

Definition

Kuwaiti Association for the Fundamental Elements of Human Rights is a civil society institution, based in the State of Kuwait. It operates under an official license No. 99/2005 by the Ministry of Social Affairs and Labor.

Message

Care of human rights from the perspective of Islamic Shariah.

Vision

Pursue to protect human rights by all available means against any violation through awareness, positive communication and wise methods in coordination with the concerned authorities.

Goals

- To raise awareness and education on the legitimate rights that safeguard human dignity.
- To defend these rights and strengthen its protection mechanisms in accordance with Islamic Shariah.
- To monitor human rights violations and follow them up with the concerned authorities in a wise manner.
- To repel suspicions raised about Islam in the field of human rights.
- To purify Kuwait of any violations and defend the reputation of Kuwait in international forums.

Statute

Cairo Declaration of Human Rights in Islam launched by the Organization of the Islamic Cooperation (OIC).

KABEHR Board Organizational Structure

Chairperson

Dr. Yusuf Diab Al-Saqr

Deputy Chairperson

Mr. Fahd Mubarak Al-Dhaen

Cashier

Mr. Ahmad Abbas Al-Rashedi

Secretary

Ms. Muna Fahmi Al-Waheeb

Member

Mr. Ali Abdul-Rahman Al-Husainan
Furaij

Member

Mr. Abdul-Razzaq Abdullah Al-Masaud

Member

Mr. Al-Harith Abdullah Al-

Specialized Committees

Human Resources Development Committee

Woman and Child Committee

Information and Cultural Committee

Complaint Committee

Health Committee

Committee of UN Mechanisms for Protection of Human Rights

Report Review

As KABEHR is an officially declared and licensed human rights civil association in the State of Kuwait number under No. (99/2005), it embarked on the issuance of this report to do its part towards the rights of persons with disabilities and to remove all violations to enhance the pioneering reputation of Kuwait in the field of human rights by monitoring the most important human rights issues relating to persons with disabilities. In the preparation of this report, we relied on specific criteria, namely:

- 1- Reference of human rights in the State.
- 2- Harmonization between domestic laws and international conventions.
- 3- Suggestions, complaints and ideas received by KABEHR.
- 4- Cooperation, coordination and consultation with a number of figures and actors in the field of the rights of persons with disabilities.
- 5- Monitoring violations of the rights of persons with disabilities as well as the studies and research on this matter.

First: Overview of the Rights of Persons with Disabilities in the State of Kuwait

The Islamic Shariah has taken care of the disabled, acknowledged rights to persons with disabilities, taken care of them and ordered care and gentle treatment to them without any humiliation or ridicule. In the light of this Divine sense, Kuwait has sought for a long time to care for them. It established an independent body called the "Supreme Council for the Affairs of the Disabled," which turned in 2010 into the "Public Authority for Persons with Disabilities" following the adoption of the Law (08/2010) on the Rights of Persons with Disabilities.

The Government of the State of Kuwait provided the space for the non-profit associations concerned with the issues of persons with disabilities by facilitating granting the legal licenses required for the work of these associations. Kuwait was the first Arab state that enacted laws for persons with disabilities, the latest of which was Law (08/2010) on the Rights of Persons with Disabilities. In 2013, Kuwait issued Law No. 35 of 2013, including the approval of the State of Kuwait to accede to the International Convention on the Rights of Persons with Disabilities despite some reservations to certain articles thereof.

Second: Data and Figures

- **There are ten associations officially announced and directly concerned with the rights and issues of people with disabilities in the State of Kuwait, namely:**
 - 1- The Blind Association
 - 2- The Deaf Association
 - 3- The Welfare of the Disabled Association
 - 4- The Autism Association
 - 5- The Association of the Parents of the Disabled
 - 6- The Kuwaiti Association for the Follow-up of the Issues of the Disabled
 - 7- The Kuwaiti Deaf Club
 - 8- The Disabled Club
 - 9- The Down Association
 - 10- The Multiple Sclerosis Association
- **There are three associations concerned with the follow-up of the issues of persons with disabilities but not officially declared until the writing of this report:**
 - 1- Warba Club of for the Disabled
 - 2- The Association of Persons with Severed Organs
 - 3- The Kuwaiti Association for Special Needs
- **The number of persons with disabilities officially registered reached about fifty thousand people.**

Third: KABEHR Observations and Recommendations on the Law of the Rights of Persons with Disabilities 08/2010

- 1- The provisions of the law do not have a definition of discrimination based on disability as defined by Article (2) of the Convention.
- 2- The provisions of the law do not have a provision that corresponds to Article (3) of the Convention on the definition of general principles.
- 3- The provisions of the law limit its scope of application to the citizens and children of Kuwaiti women married to non-Kuwaitis while they exclude people with disabilities from non-Kuwaitis. This contradicts the text of Article (3-B) of the Convention, which makes non-discrimination one of the general principle of the Convention, as well as Article (5) of the Convention on equality and non-discrimination.
- 4- The Law safeguards the civil and political rights of persons with disabilities, while it does not provide for the protection of their economic, social and cultural rights in accordance with Article (4) of the Convention.
- 5- The Law does not have special articles, such as general principles for the rights of women and children with disabilities, according to the framework of Articles (6) and (7) of the Convention.
- 6- The Law does not have a special provision that corresponds to the text of Article (10) of the Convention on the right to life.
- 7- The Law does not provide for the empowerment of persons with disabilities to have access to the new technology and information and communication systems, while access to information is a general principle of as stipulated by Article (9) of the Convention.
- 8- The Law does not an article that corresponds to Article (12) of the Convention with regard to equal recognition before the law.
- 9- The Law does not an explicit provision on access to justice, as addressed by Article (13) of the Convention, as well as liberty and security of persons in accordance with the provisions of Article (14) of the Convention.
- 10- The provisions of the Law do not include a special provision on freedom of movement. They do not also include any text that prohibits torture or cruel, inhuman or degrading treatment or punishment, as enshrined in Article (15) of the Convention in this regard. This also applies to Article (16) of the Convention on freedom from exploitation, violence and abuse and Article (17) of the Convention on protecting the integrity of the person.
- 11- The provisions of the Law do not have a special provision on liberty of movement and nationality as addressed in Article (18) of the Convention.
- 12- The provisions of the Law do not have an explicit on freedom of expression and opinion, and access to information as emphasized by Article (21) of the Convention, respect for privacy and respect for home and the family as in Articles (22) and (23) of the Convention.

13- Amendment of Article (9) of the Law on the Rights of Persons with Disabilities to be as follows:

"The government shall provide educational services and teaching aids for persons with disabilities on an equal basis with others in education. It shall consider the special needs in terms of communication, language and necessary accommodative arrangements. It shall provide them with specialized educational and professional staff, raise their efficiency and give them material and moral incentives. All the educational, professional and certification tests offered by government or civil agencies shall consider the needs of persons with disabilities. The government shall provide the required audio and visual aids and sufficient guarantees to create a climate acceptable to help them complete their education. The Ministry of Education shall bear the costs of the assessment tests of slow learners and provide specialized centers for these tests from the effective date of this Law."

14- Amendment of Article (10) of the Law on the Rights of Persons with Disabilities to be as follows:

"The government shall take all effective administrative and organizational arrangements required for the integration of persons with disabilities and slow learners in various stages of public education within educational and rehabilitative curricula in line with their sensory, physical and mental abilities to qualify them for integration into the society, work and production."

15- Amendment of Articles (49) and (52) so that the two councils include a chair and a representative of each association or club specialized in disability.

16- Amendment of Article (58) to cancel or change it to give the opportunity for renewal and to determine selection criteria.

17- Alleviate and eliminate some of the stringent conditions to get privileges.

18- Add special homes to Article (20) so that the physically disabled can communicate socially.

19- Add sister, brother, son or daughter to Article (40).

20- Expand the purpose of Credit Bank grant to include modifying the status of the disabled.

Fourth: KABEHR Observations and Recommendations on the Rights of Persons with Disabilities in the State of Kuwait

KABEHR highlights hereunder its most important observations and recommendations addressed to the Government of the State of Kuwait to implement all its commitments under the International Convention on the Rights of Persons with Disabilities:

- 1- KABEHR notes the bureaucracy faced by many persons with disabilities when they refer to the governmental bodies and institutions to accomplish some of their transactions.
- 2- KABEHR urges and encourages the executive authority to activate all the articles and texts of the International Convention on the Rights of Persons with Disabilities as required particularly with regard to their employment and treatment and the establishment of a special hospital to them.
- 3- KABEHR notes that there is a clear encroachment by the community on the rights of persons with disabilities as regards the use of their parking places carelessly and without active deterrent penalties.
- 4- KABEHR urges the concerned authorities to provide a sign language interpreter in all State facilities.
- 5- KABEHR notes the weakness of social culture, both in understanding the ways and methods of dealing with persons with disabilities or caring for their issues and rights.
- 6- KABEHR notes that there is a dearth of campaigns and activities aimed at caring for people with disabilities and their rehabilitation both socially and professionally.
- 7- KABEHR notes the limited number of schools and institutes dedicated to persons with disabilities compared to their numbers that exceeded fifty thousand disabled.
- 8- KABEHR urges the competent authorities to improve the level of care in existing schools and equip them as required, specifically with regard to autists.
- 9- KABEHR urges and encourages the government to allow the non-Kuwaitis and *Bidoon* (i.e. the stateless) to enroll in government schools for persons with disabilities. KABEHR considers this a discrimination that violates the International Convention on the Rights of Persons with Disabilities. This also forces non-Kuwaitis to resort to the costly private schools, which cares for this segment.
- 10- KABEHR noted that the Public Authority for Persons with Disabilities did not implement some final and enforceable judgments issued in favor of some complainants against the Authority.
- 11- KABEHR stresses the need to follow the concluding observations of the United Nations Committee on Civil and Political Rights and the Committee on Economic, Social and Cultural Rights, particularly with regard to the integration of persons with disabilities in the educational process.

- 12- KABEHR urges the Public Authority for Persons with Disabilities to consider the international standards on classification of the degree of disability.
- 13- KABEHR recommends raising the level of coordination between the Public Authority for Persons with Disabilities and civil society organizations concerned with the issues and rights of persons with disabilities.
- 14- KABEHR urges the Government of the State of Kuwait to withdraw its reservations to certain articles of the International Convention for the Rights of Persons with Disabilities, which do not conflict with Islamic Shariah.
- 15- KABEHR emphasizes the need to adhere to the classification of persons with disabilities in the Law (08/2010) into four categories (physical mobility, audio, visual, mental).
- 16- KABEHR urges and encourages the Kuwaiti government to stop to decide on complaints and grievances filed to the Diagnostic Medical Committee by voting mechanism and recommendations, and replace it with another mechanism that depends on medical diagnosis by specialist physicians.
- 17- KABEHR encourages stakeholders to activate Article (68) of the Law (08/2010) on granting powers of inspection and judicial arrest to the Committee of Friends of the Disabled.
- 18- KABEHR notes the need to provide a sign interpreter in all ministries and National Assembly.
- 19- KABEHR stresses the need for equality between the disabled men and women in all the privileges they obtain and amend all laws that are inconsistent with this recommendation.
- 20- KABEHR stresses the need to enable the persons with disabilities who are employees at civil society organizations and the invitees to participate at internal or external conferences to get the right of representation of official missions and facilitate the procedures for these missions, conferences and various activities by all State institutions.
- 21- KABEHR asserts the need to provide an office for persons with disabilities in every ministry to facilitate their procedures and transactions.
- 22- KABEHR stresses the need to oblige the guardian of the disabled to register his son or daughter with the entity responsible for persons with disabilities in Kuwait.
- 23- KABEHR stresses the importance to establish special sections on books, references and research for persons with disabilities in the State libraries.
- 24- KABEHR encourages the enacting of a law that requires the Ministry of Education to set a near-term schedule for the integration of students with disabilities at public schools as per the type of disability. It shall also prepare the schools for this purpose, benefit from the experiences of countries and the opinion of experts in this field, include educational integration within the Ministry's strategy, and qualify the environment surrounding the students with disabilities.

- 25- KABEHR recommends the need to establish the Special Faculty of Education and provide the same with the necessary specialized educational staff.
- 26- KABEHR urges the concerned authorities at the Ministry of Social Affairs and Labor to work on the qualification and rehabilitation of the mentally disabled after the age of 18 in a national productive project and market the related production, and open evening rehabilitative centers for them.
- 27- KABEHR encourages announcement of the associations that deal with persons with disabilities, especially those still under announcement with the need to provide support and headquarters for the existing associations and those still under announcement.
- 28- KABEHR recommends the need to support the establishment of a national project and media campaign for the prevention of disability within the norms of Islamic Sharia.
- 29- KABEHR encourages the need to grant Kuwaiti nationality to the divorced mother of the disabled that spent the related whose husband failed to express the desire to obtain Kuwaiti nationality.
- 30- KABEHR stresses the need to amend Article (2) of the Kuwaiti Nationality Law to conform with the Law on Rights of Persons with Disabilities, and treat the child of the Kuwaiti female citizen as being Kuwaiti for his/her lifetime.

Kuwaiti Association for the Fundamental Elements of Human Rights

A civil association, promulgated and officially licensed under No. 2005/99

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