

**Kuwait**  
**UPR Submission**  
**21<sup>st</sup> session (Jan-Feb 2015)**

**20 May 2014**

The Kuwaiti Association of the Basic Evaluators of Human Rights (KABEHR) participates keenly in international activities related to the situation of human rights in Kuwait, especially after having attained consultative status to the United Nations Social and Economic Council, and works from the belief that protection and strengthening of human rights can not be achieved without joining concerted national efforts on both governmental and non-governmental levels.

KABEHR is interested in the following: list its main observations and recommendations to Kuwait concerning the extent of implementation of its voluntary pledges and the observations and recommendations that it received before the Universal Periodic Review (UPR) mechanism in its eighth session, so to achieve complete implementation of its international commitments and pledges.

1. Need to establish an independent national body for human rights, whose work is fully consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).
2. Need to develop a national strategic plan for the protection and promotion of human rights.
3. Kuwait continues to lag in pursuing social, civil, and humanitarian regularization of stateless persons.
4. Need to enact a law regulating labor conditions for domestic workers, ensure their rights and codify their responsibilities vis-a-vis business owners.
5. Need to enact a comprehensive law for the rights of the child, in accordance with the provisions of the Convention on the Rights of the Child and its protocols ratified by Kuwait.
6. Importance of expediting the enactment of a law to establish a Family Court.
7. Need to amend the law combating the trafficking of persons and the smuggling of migrants, so to be consistent with the provisions of the Protocols of the United Nations Convention Against Transnational Organized Crime, concerning combating the trafficking of persons and smuggling of migrants.
8. Need to include a definition of the crime of torture within the legal provisions of the Kuwaiti Penal Code, so to correspond completely with articles 1 and 4 of the Convention Against Torture, and with article 7 of the International Covenant on Civil and Political Rights.
9. Work to amend national legislation to be in alignment with international human rights conventions and instruments to which Kuwait has acceded.
10. Need to abolish the Kafala labor sponsorship system, and put in place humane alternate systems to ensure protection of the rights of migrant workers in the private sector.
11. Work on withdrawing Kuwait reservations on some articles in the conventions and human rights instruments, insofar as they do not contradict provisions of Islamic Sharia.
12. Need to work for Kuwait accession to those agreements it has not yet ratified, in particular: the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families (1990), the First Optional Protocol to the International Covenant on Civil and Political Rights, on the submission of complaints by individuals, the Convention on the Reduction of Statelessness, the Convention on the Status of Stateless Persons, and those ILO Conventions not ratified by Kuwait to date.



13. Need to improve working conditions and occupational safety for migrant workers, especially in the private sector.
14. Need for more exerted efforts to promote education and awareness of human rights within Kuwaiti society.
15. Take realistic and reliable measures to ensure that migrant workers retain possession of their travel documents.
16. Set up realistic and appropriate mechanisms for monitoring and follow-up on the work and activities of bureaus recruiting and bringing in domestic workers.
17. Overall, the Kuwait government must implement its various voluntary pledges in the field of human rights, insofar as they do not contradict the provisions of Islamic Sharia.

Following on the above, KABEHR is interested in the following: inclusion of its principle observations and recommendations to the Kuwait government concerning the situation of human rights in the country, in the hope that the Kuwaiti government will reconsider the issues so to lay out radical solutions with the cooperation of civil society organizations and all concerned parties:-

#### **Observations and recommendations concerning the stateless**

1. The problem of the stateless remains unresolved, despite their numbers reaching 120 thousand.
2. This group has long been deprived the most basic human rights, such as the right to education, work, and healthcare.
3. We are concerned over the use of excessive force and repression against stateless demonstrations, especially in the Taima region.
4. This is despite the government's creation of a central agency to deal with their affairs. We have reservations about this due to the lack of clarity in the scope and mechanisms of the agency's work, and the time frame within which it is supposed to reach a solution to the problem, and because unfortunately, the agency has increased Bidoun suffering through the security restrictions placed on them, preventing them from exercising many of their rights.
5. Despite the Kuwaiti government taking some steps to ease the suffering of the stateless, the majority of them remain deprived of their most basic human rights.
6. We recommend and urge that the Kuwaiti government not abuse security restrictions against the stateless.
7. Enact a humane national rights law governing the civil and social rights for stateless persons.
8. Kuwait should put an end to the practice of discrimination against the Bidoun, including the implementation of the nationality law.

#### **Observations and recommendations concerning migrant workers**

1. We have observed that four years after the enactment of the labor law (6/2010) concerning work in the private sector, there are no government mechanisms to monitor the extent of business owners' implementation of and compliance with the law.
2. Abolish the Kafala labor sponsorship system and replace it with facilitatory procedural systems, based on the pledges that Kuwait has voluntarily made in the context of the UPR Kuwait Report discussion.
3. We recommend to amend the law so to allow for appeals to administrative deportation rulings.
4. The government should provide workers who report abuse with appropriate shelter of humanitarian standards.



### **Observations and recommendations concerning human trafficking**

KABEHR notes omission in the law combating the trafficking in persons and smuggling of migrants (91/2013) of many provisions contained in the UN Convention Against Transnational Organized Crime's supplementary Protocols to Prevent, Suppress and Punish Trafficking in Persons and Smuggling of Migrants. These legislative shortfalls include:

1. Creation of a national body or entity for the activation and implementation of the law provisions.
2. Measures to assist and protect victims of trafficking in persons and smuggling of migrants.
3. Mechanisms to provide information to victims on the judicial and administrative procedures related to their situation.
4. Measures to provide physical, psychological, and social recovery for victims of trafficking in persons and migrants.
5. Procedures to ensure speedy return of victims of trafficking and smuggling of migrants back to their home countries without delay.
6. Social awareness on the issue of trafficking in persons and smuggling of migrants.
7. Procedures and mechanisms for cooperation with non-governmental human rights organizations.
8. Thus, KABEHR sees in this context that the government and the Kuwait National Assembly should fill these legislative gaps through amendments to accommodate all the provisions in the Protocols ratified by them.

### **Observations and recommendations concerning the freedom of opinion and expression**

1. KABEHR expresses its concern over the relative decline in the freedom of opinion, observed on various levels.
2. Bringing opinion holders to trial causes concern and consternation for the current and future freedoms of expression of opinion.
3. We feel a great deal of concern over the prosecution of several bloggers and tweeters due to their opinions and political orientations.
4. We are concerned over official bodies monitoring and blocking some websites and closing down some newspapers, such as Al-Watan and Alam Al-Youm, as we consider this to be in contradiction to the text of article 36 in the constitution.
5. The government should guarantee all people to exercise their right to freedom of opinion and expression, and should also protect the pluralism of the media.
6. KABEHR stresses the need for Kuwait to commit to providing for and strengthening the freedom of opinion and expression as mandated in the Kuwaiti constitution guarantees, in applying related legislative provisions in audio-visual media, printing, publications and social networking.

### **Observations and recommendations concerning public freedoms**

1. KABEHR has observed several instances of security use of excessive force during peaceful gatherings, such as the seminar "Ella el Dostour" in December 2010.
2. KABEHR calls for procedures facilitating licensing and publicizing of civil society associations.
3. KABEHR calls for abolishing some prohibitive conditions imposed by the civil society associations license granting authorities, including prior consent to absence of financial support from the state or the location in which the association conducts its activities.
4. Kuwait should ensure that all individuals under its jurisdiction enjoy full exercise of their rights, in accordance with article 21 of the International Covenant on Civil and Political Rights, providing for the right to peaceful demonstration.



5. Despite the National Unity law decree for combating racism, KABEHR nevertheless sees that the provisions of the decree, and especially its penal texts, may permit state authorities to take arbitrary measures in its implementation and application on the ground. KABEHR therefore urges the government of Kuwait to adhere to the principles and fundamentals of human rights and freedoms in applying the decree.

#### **Observations and recommendations concerning prisons, arrest and detention centers**

1. We are deeply concerned about the high rate of cases of torture in arrest and detention centers, one of which led to the death of citizen Mohamed Al Maimouni in early 2011. This is in addition to two cases of torture, one of them an Egyptian expatriate in the Al Naqra police station, and the other a Syrian expatriate in the Maidan Hawally station, and one case of indecent assault on a Saudi by a police officer.
2. We are concerned that the conditions in police stations and detention centers in Kuwait do not meet humane standards, crowding a large number of detainees into small, poorly ventilated rooms, as confirmed in the Parliamentary Commission on Human Rights in April 2014.
3. In our visit to the central prisons, we found a number of humanitarian, constitutional, and legal violations; we submitted a report on these violations to the competent authorities, and it was also published in the media.
4. We call on the government to adhere to constitutional provisions, national legislation and international instruments regarding the regulation of the rights and care of prisoners and detainees.
5. The government should allow human rights organizations to visit detention centers and correctional institutions, in both regular periodic and unannounced visits.
6. We stress the need to separate the General Department for Criminal Evidence and the General Department for Investigations from the Ministry of the Interior, and to take the constitutional and legislative measures required to implement this separation.
7. Kuwait should ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are fully respected.
8. KABEHR expresses its deep concern and alarm over statements from the Director General of Nationality and Travel Documents in April 2014, in which he admitted that detectives have beaten detainees during interrogation. KABEHR calls for transparent and impartial investigation and punishment of human rights violators.

#### **Observations and recommendations concerning women and children**

1. Kuwaiti women still face many difficulties in obtaining all their civil and social rights.
2. The proposed law on women's employment rights contains clear discrimination between married women with children, married women without children and unmarried women.
3. The Housing Act 2/2011 and the Credit and Savings Bank Law 3/2011 contain clear discrimination against Kuwaiti women, in terms of Kuwaiti women divorced or widowed from foreigner spouses versus Kuwaiti spouses.
4. There is a clear lack of family awareness and education programs for women before marriage.
5. Widespread practice of physical, verbal, and psychological violence against women.
6. 35% of Kuwaiti women are subjected to beatings and physical abuse.
7. It is important to enact comprehensive laws for the rights of the child, in light of Kuwait's voluntary pledges before the International Human Rights Council in the discussion of its UPR human rights report (May 2010).



8. Kuwait to withdraw its reservation on paragraph (b) in article 25 of the International Covenant on Civil and Political Rights, as well as its similar reservation on the Convention on the Elimination of All Forms of Discrimination Against Women, regarding to the right to vote and run for office.
9. Kuwait should ensure all children the right to a nationality, in compliance with paragraph 3 of article 24 in the International Covenant on Civil and Political Rights, and end discrimination between men and women in the issue of nationality transfer. It should also ensure that citizenship applicants receive notification as to reasons for denial, and should establish a review procedure for such applications.
10. Comprehensive legal legislation should be enacted concerning the rights of the child, including specifying what is meant by child, and statements enumerating the rights of the child; principles of health care for children; procedures and provision for registry of births; child health, nutrition, and vaccinations; principles for social and alternative care; child rights to education; frameworks for protection and rehabilitation of children with special needs (handicapped); and regulations for criminal treatment of children.
11. We recommend taking further concrete and tangible measures in the sphere of social and family life of the child.
12. Need to amend the Kuwaiti nationality law, to allow Kuwaiti women to pass Kuwaiti nationality to her children from non-Kuwaiti nationals.
13. Need to create a special Family Court, as pledged by Kuwait in its development plans for the years 2010-2011 and 2013-2014, issued pursuant to Law No. 9 for the year 2010.
14. The state should foster gifted and creative children, and develop their skills to become resilient and self-reliant youth.
15. Kuwait should protect children from exposure to any violation, be it from their parents, siblings, relatives, house servant, or from outside the home, and should punish the offenders to the maximum penalties.
16. The State should take responsibility for the upbringing and maintenance of 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.
17. 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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