



## KUWAIT

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SCORES	2004	2009
Nondiscrimination and Access to Justice	1.9	2.2
Autonomy, Security, and Freedom of the Person	2.2	2.4
Economic Rights and Equal Opportunity	2.9	3.1
Political Rights and Civic Voice	1.4	2.3
Social and Cultural Rights	2.8	2.9

On a scale of 1-5, with 1 representing the least rights and 5 representing the most rights available.

### INTRODUCTION

Since the 1960s, Kuwaiti women have enjoyed access to higher education and relative freedom to advocate for improved economic and cultural rights, particularly as compared to women in neighboring countries. Kuwait's first women's organizations actively lobbied for the broader involvement of women in the labor market, equal political rights, and greater cultural and educational opportunities. It was the 1990–91 Iraqi occupation of Kuwait, however, that arguably served as a catalyst for the eventual liberalization of women's political and social rights. During that period, many women assumed important social responsibilities and were instrumental in the survival of their besieged community. Some volunteered in hospitals to compensate for the lack of medical staff; others smuggled food, money, and weapons across military checkpoints.

The ousted government made several public promises that after Kuwait was liberated, women would “play a greater role and make more noble contributions” to the country that they had valiantly helped to defend, an apparent nod toward granting them rights on par with men.<sup>1</sup> After the occupation ended, women did assume new and influential titles including university rector, vice-president of the Kuwait Oil Company, and even ambassador when, in 1993, Nabila al-Mulla became the first female ambassador in the Gulf region.<sup>2</sup> True political equality, however, remained elusive as the Election Law (No. 35 of 1962) continued to ban political rights for women for another decade.

In May 1999, during an interregnum between parliaments, the emir of Kuwait promulgated a decree granting women the right to vote and run for office in parliamentary and

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\* Freedom House would like to thank Dr. Luba al-Kazi and Dr. Badria al-Awadhi for their review of and helpful insights regarding this chapter.

municipal elections. However, the decree was overturned by the parliament several months later. In protest, civic activists organized a series of demonstrations, during which hundreds of women stormed registration offices in an attempt to vote and enter their names on the ballots. After being turned away, they challenged this in courts in hopes that the judiciary would hold the election law unconstitutional.<sup>3</sup> However, the cases were dismissed on technicalities, sparking mass demonstrations and bringing the issue to the international forefront.<sup>4</sup> Another government-sponsored bill that would give women the right to vote and run in municipal councils was rejected by the parliament in 2003.

Because of the combined efforts of activists, lawyers, politicians, and everyday citizens, women were finally granted full political rights in May 2005. Consequently, in the 2006 and 2008 municipal and national elections, Kuwaiti women voted and ran as candidates. This provided women with the unprecedented potential to directly influence Kuwaiti society, especially because the elected National Assembly has the power to overturn decrees issued by the emir.<sup>5</sup> The government has also integrated women into the national decision-making process by assigning ministerial portfolios to three women and appointing two others to the Municipal Council, which controls the administration of public services.

Despite these significant developments, Kuwaiti women still face discrimination in many areas of life. They remain prohibited from serving as judges and joining the military, have unequal marital rights, and are not allowed to pass their nationality on to their children and foreign-born husbands. They also lack equal rights in laws regulating social security, pensions, and inheritance. Provisions regarding inheritance, however, are mandated in the Koran and take into consideration that men, legally and socially, bear the burden of fiscal responsibility for all female family members. As a result there is little, if any, political or popular will to change this practice.

Advocacy for women's rights in Kuwait has been strong and visible in recent years, particularly with respect to political participation. Nonetheless, activists today face new challenges: female election turnout has been relatively low, and no female candidates have been elected to the parliament. Furthermore, the amended election law requires all voters and candidates, regardless of their gender or religion, to adhere to the principles and rules of Shari'a (Islamic law). This ambiguous requirement has led conservative Islamist parliamentarians to exert mounting pressure on the government to compel women ministers to wear the veil, with the National Assembly's legal and legislative committee going so far as to find female ministers who refused to wear the *hijab* (headscarf) while being sworn in guilty of having violated the constitution and the elections law.<sup>6</sup>

Islamists have dominated Kuwait's parliament since the first postwar national elections in 1992. Their rise to power is partly the result of their strong grassroots organizations and community-outreach programs. Their message of social justice, anticorruption, and religious authenticity has had a great appeal among the electorate, including women. While the Islamists' call to make Shari'a the main source of legislation has been a contentious issue in national politics, they have succeeded in passing a number of laws with conservative overtones. These efforts include a women's early retirement bill intended to enable mothers to devote their time to child rearing, a measure imposing gender segregation in postsecondary schools, and a law that criminalizes cross-dressing.<sup>7</sup>

Government restrictions on nongovernmental organizations (NGOs) and freedom of assembly present additional challenges to women's rights activists. Formal political parties are banned, but numerous informal political groups are active both inside and outside the parliament.

Kuwait's NGOs, which have had a wider impact on society than many political groups, are controlled and funded by the state. The government has, however, made some institutional efforts to address human rights issues directly. The Kuwait Human Rights Society was finally licensed in 2004 after much struggle, and the following year, the Ministry of Justice established a Human Rights Committee to review and address human rights violations in accordance with national laws. In addition, the parliament's Human Rights Defense Committee set up an Expatriate Workers Affairs Committee to deal with individual complaints from foreigners living in the country.

Despite an apparent interest among the political elite in minimizing abuse and discrimination on a wider societal level, the issue of women's rights is more complex due to the country's patriarchal culture and conservative interpretation of Islam. Existing national laws that enforce gender stereotypes do not individually threaten the great progress made in women's rights in recent years. Instead, these measures, if enforced together and furthered in the name of conservative moral and religious order, may one day cause Kuwaiti women to lose their hard-fought autonomy and personal freedoms. Elastic and outwardly benign laws, such as that which requires voters and political candidates to adhere to Islamic regulations without clarifying what the regulations entail, permit the conservative elements of Kuwaiti society to further their agenda without raising alarm in more moderate segments of society.<sup>8</sup>

This prompts the question of what women's rights NGOs should do to preserve the gains to date and advance citizenship rights in the future. There is no single solution to this challenge. One possible strategy is to engage in an open dialogue with the Islamist groups and their supporters, with the goal of reaching a consensus on what constitutes women's civil rights. Women's groups may also need to influence the representation of women in the media to highlight the social realities of women's lives, as well as reenergize their campaign message with new ideas, such as the notion of social justice, to appeal to a larger segment of society. Finally, they should reach out to other local NGOs both to galvanize support for female political candidates and to encourage greater coordination among such candidates during national and local elections.

### **NONDISCRIMINATION AND ACCESS TO JUSTICE**

Over the past five years, Kuwait has made limited progress in bringing national laws in line with international standards for nondiscrimination. Until recently, the country lacked an institution devoted specifically to the enforcement of human rights, instead relying on several independent committees within different governmental bodies. In 2005, the Ministry of Justice set up a Human Rights Committee to review and address human rights violations. Little information is available, however, on the committee's work or its effectiveness.

Although Kuwait's constitution recognizes the principle of equality among its citizens regardless of "race, origin, language, or religion," it contains no specific protections against gender-based discrimination, and national laws continue to discriminate against women. In a few glaring instances, such as the Social Security Law (No. 22 of 1987) and the Housing Assistance Law (No. 47 of 1993), Kuwait's laws and policies still treat women as dependents of men rather than individuals with equal rights and responsibilities.

Female Kuwaiti citizens remain unable to confer their nationality on their children or foreign-born spouses, while Kuwaiti men are permitted to exercise this right. A Kuwaiti woman

married to a foreign national can transfer her nationality to her children only if the father is unknown or has died, or if there has been an “irrevocable” divorce. Conversely, the foreign-born wife of a Kuwaiti man may become a Kuwaiti national after 10 years or less of marriage.

The noncitizen husbands of Kuwaiti women, like temporary foreign workers, are treated as guest workers under the Residency Law (No. 17 of 1959). To remain in the country, both populations must have valid work permits, pay residency fees, and renew their residency permits every three years or less. The same conditions apply to the mature children of Kuwaiti women married to noncitizens. On the other hand, the foreign wife of a Kuwaiti man is granted immediate residency upon marriage.<sup>9</sup>

Kuwait has a three-tiered judicial system consisting of the courts of first instance, the appeals court, and the Court of Cassation. Additional specialized courts exist for administrative, military, and constitutional cases. Personal matters, including marriage, divorce, and inheritance, are governed by Shari‘a but handled in the state’s court system. For these matters, Sunni and Shiite Muslims have recourse to courts that adhere to their respective schools of Islam. Family law courts value the testimony of a woman as half that of a man, but all other courts consider the testimony of men and women to be equal. This deeply ingrained tenet of Shari‘a has gone unchallenged due to its presence in Islam.

The criminal procedures code provides all residents, regardless of their gender or nationality, with equal access to courts and entitles them to a court-assigned lawyer and an interpreter. All victims have the right to seek recompense through the courts, but enforcement mechanisms to ensure the implementation of judicial decisions remain weak.<sup>10</sup> Most foreign-born domestic workers are unaware of their legal rights and are often reluctant to bring charges if they have suffered a serious offense or violence at the hands of their employers.

Kuwait’s penal code is generally nondiscriminatory, although it still permits reduced sentences for men who commit honor killings. In principle, all perpetrators of murder, rape, kidnapping, or violence against women are subject to penalties ranging from lengthy prison sentences to the death penalty. According to Article 153 of the Penal Code (No. 16 of 1960), however, if a husband kills his wife or her illicit partner during an adulterous act, his sentence is capped at three years in prison. The same penalty applies for anyone who, in the heat of the moment, kills his daughter, sister, or mother for their involvement in acts of *zina* (unlawful sexual relations) carried out before him. Honor killings in Kuwait are rare, and in the past five years only one was reported: the murder of a young woman by her brothers in 2006. More recently, a young girl was given police protection after reporting that her family intended to kill her over an affair with an unrelated man in 2008. The male members of her family were arrested, detained for questioning, and later released on bail.<sup>11</sup>

Kuwait continues to implement the death penalty, but mothers of dependent children are not executed, and the penal code prohibits the execution of pregnant women. Women are housed in a separate prison from men, and those who are pregnant are exempted from prison work and receive special treatment in terms of food and rest.<sup>12</sup> In 2008, the emir responded to a direct appeal by the president of the Philippines and reduced the death sentence of a Filipina domestic worker to life imprisonment for the murder of her Kuwaiti employer. Another Filipina maid is on death row for killing her employers’ two children. The Court of Cassation has submitted the death sentence in that case to the emir for final approval.<sup>13</sup>

Sexual relations outside marriage are considered moral crimes, and those engaging in such activities run the risk of arrest, imprisonment, and deportation. Prostitution is illegal. Under Article 194 of the penal code, consensual sexual relationships between adults who are not

married to each other are punishable by up to three years' imprisonment. Article 195 mandates an even harsher punishment for adultery: any married person who has consensual sexual relations with a person other than his or her spouse can be punished by up to five years' imprisonment.

Kuwait ratified the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1994 with reservations on Article 9, paragraph 2 concerning citizenship rights and Article 7 regarding equal voting rights. Reservations were also appended to Article 16, paragraph 1(f), which calls for equal rights on guardianship and the adoption of children, on the grounds that they were incompatible with Shari'a. In December 2005, Kuwait lifted its reservation related to women's political participation and subsequently took steps to integrate women into the political sphere as government ministers.

Women's rights activists are generally free to advocate openly against discriminatory laws and women's unequal access to justice. Although activists and organizations, in particular the Women's Cultural and Social Society (WCSS), have lobbied for laws that would permit women to pass their Kuwaiti citizenship to their noncitizen children, the government has not taken any measures to address gender inequality in nationality laws.

### RECOMMENDATIONS

1. The government should amend the Kuwait Nationality Act of 1959 to ensure that Kuwaiti women have the same rights as Kuwaiti men to transfer citizenship to their children and foreign-born spouses.
2. The government should remove all reservations to CEDAW and take steps to bring national laws into conformity with the convention; Kuwaiti NGOs should jointly produce a shadow report that monitors the government's implementation of CEDAW.
3. The government and NGOs should create and promote legal resource guides, community seminars, and public awareness campaigns that educate women, particularly domestic workers, about their legal rights and steps to enforce them.
4. The government should amend the penal code to eliminate leniency for honor killings.

### AUTONOMY, SECURITY, AND FREEDOM OF THE PERSON

The state religion of Kuwait is Islam, and the majority of Kuwaiti nationals are Muslim; roughly 70 percent of those are Sunni and 30 percent are Shiite. Foreign nationals, however, make up 68 percent of Kuwait's resident population and include Muslims, Christians, Hindus, and Sikhs. The government has actively promoted religious tolerance and interfaith dialogue in recent years.

Muslim women have the freedom to practice their religion. A growing number of Kuwaiti women are choosing to adhere to an Islamic lifestyle by wearing the hijab, attending Islamic schools, and performing the *haji* (pilgrimage to Mecca). They see Islam as an intrinsic part of their cultural identity and many reach out to teach others the values and principles of Islam, reflecting the long-held practice of Kuwaiti women serving as religious teachers. Non-Muslim women also enjoy religious freedom. Kuwait has officially recognized seven Christian denominations: Roman Catholic, Anglican, Greek Orthodox, Armenian Orthodox, Coptic Orthodox, Greek Catholic, and National Evangelical. Minority groups such as Sikhs, Hindus, Buddhists, and others are allowed to practice their religions but are limited to private homes or the premises of the recognized churches.

Kuwaiti women enjoy relatively uninhibited freedom of movement and may travel abroad without a *muharam* (male relative). Many companies send their female employees abroad for business trips or conferences, and it is uncommon for women to face problems in their employment due to gender-related travel restrictions. Under Article 15 of the Passport Law (No. 11 of 1962), however, a married Kuwaiti woman cannot apply for a passport without the consent of her husband, while an unmarried woman over 21 years old does not require permission to obtain a passport. Social norms, rather than law, require Kuwaiti women to notify or, depending on the strictness of their family, get permission from their parents to travel abroad or visit friends at night. Police generally do not arrest and return a woman to her family if she is found to be traveling alone.

Depending on their sect, Muslim women are affected by one of two sets of active family laws in Kuwait. Personal life for Sunnis is regulated by the Personal Status Law (No. 51 of 1984), based on the Maliki school of Sunni Islam, while Shiite family law is based on the Jaafari school of interpretation. The treatment of women differs slightly under the two schools, particularly in areas of marriage, child custody, and inheritance. For instance, Sunni family law is more restrictive toward women's marital rights, while Shiite family law is more restrictive toward women's custody rights. Furthermore, while Sunni family law allows women to inherit a physical piece of property, under Shiite law a woman can inherit only the value of the property.<sup>14</sup>

The personal status law legitimizes male dominance over women. While it requires husbands to support their wives and children, the law nevertheless does not endow the husband with the absolute right to expect *ta'a* (obedience). Article 89 specifies that a husband should not forbid his wife from working outside the home unless the work negatively affects "family interests," but the phrase is ambiguous and can be interpreted as referring to the stability of the marriage or the upbringing of the children.

Kuwaiti society continues to uphold the notion that the role of women should be primarily limited to the domestic sphere, taking care of children. Reflecting this tendency, a 2006 bill that received wide support would have, among other things, granted stay-at-home mothers a monthly allowance of 250 dinars (US\$880). The proposed bill—containing 27 articles regarding women's social security, housing benefits, and work leave—was put on the agenda in the parliament, but it was later withdrawn following objections from women's rights organizations. Objections were raised specifically to articles that would have increased maternity leave from 40 days to 70 days and provided for six months of paid child-care leave with the option to extend it to three years at quarter pay. Women's rights advocates claimed that the prolonged leave would encourage women to stay at home, depriving the labor market of their productivity while discouraging the private sector from recruiting women due to the financial burden it would impose on employers.<sup>15</sup>

Women have unequal marriage rights under Kuwaiti law. A husband is allowed to have more than one wife under both Sunni and Shiite family law without the permission or even the knowledge of his first wife. A wife may not petition for divorce on the grounds that her husband has taken another wife. However, the personal status law bars the husband from bringing his second wife to live with the first unless the first wife agrees. Article 85 states that a husband must provide each wife with accommodation, although an aggrieved first wife does not always file a complaint in court. Furthermore, under Article 86, a husband cannot have adult male family members unrelated to his wife live in the same house with her.

Under the personal status law, a divorced woman retains custody of her children until her sons reach 15 years of age and her daughters are married. Shiite family law, however, grants a

divorced mother custody of her daughter until the age of nine and the son until the age of two.<sup>16</sup> Child-support benefits offered by the state are allocated solely to men, even when a woman is awarded custody rights. In both schools of Islam, the mother forfeits her right to custody if she remarries. Should a husband divorce his wife on the grounds of her infidelity, he can receive custody of his young children, and the family courts are often willing to take issues of infidelity into account when judgments are made concerning child custody and maintenance.<sup>17</sup>

Kuwaiti women are provided with some protection against arbitrary divorce and mistreatment. A woman may receive financial compensation equal to one year of maintenance if her husband divorces her without her consent, but implementation of court verdicts is often irregular.<sup>18</sup> A woman has the right to seek a divorce if her husband fails to maintain her financially. In that case, the judge can grant the husband a period of time in which to pay maintenance, and if he fails to do so his wife may seek a divorce. She also has the right to seek a separation from her husband on the grounds of *darar* (physical or moral injury) or if he has deserted her, including if the husband is sentenced to a term of imprisonment. In such cases, however, proof of injury is required, which is often difficult to obtain because women are reluctant to file complaints with the police and do not report causes of injury to doctors. Unsupportive and untrained police and doctors who examine abuse cases also hinder the gathering of evidence.

Women do not have the legal right to choose their future marital partners freely and independently. By law, a Sunni woman cannot conclude a marriage contract without the presence and consent of her *wali* (marriage guardian). The wali is usually the woman's father or, in his absence, her brother, uncle, or other close male relative. The presence of the wali is required even in the case of divorcees, widows, and women who have reached the age of maturity, which is 25 years in Kuwait. Under Shiite family law, the participation of the guardian is not required; a woman who has reached the legal age for marriage may marry whomever she wishes, and the validity of the contract is not dependent on the presence of the guardian.<sup>19</sup>

A woman may refuse to marry altogether and remain single, but the social burden placed on aging single women is so high that most women prefer an unhappy marriage to the stigma associated with being a spinster. If a wali has refused the choice of husband of a woman over the age of 25, Sunni family law grants her the right to petition the family court to act as a surrogate wali. Regardless, she may not be forced into a marriage and must always agree with the final decision. Some women opt to marry outside Kuwait to circumvent the marriage restrictions, but these marriages are not legally recognized within the country, and the head of the bride's family has the right to ask the court to annul the marriage.

The minimum legal age for marriage is 15 for girls and 17 for boys. Within the urban community, it is rare for girls to be married at an early age or forced into marriage. However, arranged marriages between families of similar social standing are still the norm.

Kuwait's penal code prohibits all forms of slavery, torture, cruelty, or degrading punishments regardless of age, gender, religion, or nationality. No instances of slavery-like practices such as forced marriages and confinement to the home have been formally reported in recent years, but there are no specific protections against these practices either.

Kuwait's Labor Law (No. 38 of 1964) specifies that a working day should be restricted to eight hours. However, this law does not apply to domestic workers, the majority of whom are women working long hours at very low wages. Ministerial Decree (No. 60 of 2007) prohibits the increasingly common practice of employers withholding the passports of domestic workers.<sup>20</sup>

Domestic workers may take legal action against their employers by filing complaints directly with the police, and all abused employees may complain to Kuwait's administrative courts.

In recent years Kuwait has made strides toward increasing protections for domestic workers. In 2005, the parliament's Human Rights Defense Committee set up the Expatriate Workers Affairs Committee to deal with individual complaints from foreigners living in the country. In addition, a shelter for runaway domestic workers has been created, and it operates closely with the Kuwait Union of Domestic Labor Offices (KUDLO). Licensed in 2003 for the protection of domestic workers, KUDLO provides a wide range of services for abused workers, including free legal counsel.<sup>21</sup>

Data and research on domestic violence in Kuwait continues to be sparse, making it difficult to assess the severity of the problem. No known NGO or government office works efficiently to collect such statistics. This scarcity of information is partly due to the societal belief that domestic violence is a family affair. Fear and shame often discourage victims of abuse from filing complaints with the police, and little effort has gone into providing assistance or protection to such victims. There are no laws against domestic violence, nor are there any shelters, support centers, or free legal services to aid female victims.

By contrast, gender-based violence such as rape and sexual assault that occurs outside the home tends to receive more scrutiny from the police and the press than incidents of domestic violence. Anyone found guilty of sexual violence may face a prison sentence or the death penalty, depending on the severity of the case. There have been reports of physical abuse of female detainees in police custody, but no monitoring mechanism is in place to record such violations systematically.

Family laws have been increasingly scrutinized in recent years by women's rights NGOs and activists. In 2007, the parliament's Women's Affairs Committee organized a conference on the status of women in national laws, during which calls were made to amend discriminatory provisions of divorce and marriage laws. In 2008, the WCSS, in conjunction with Freedom House and the UN Development Fund for Women (UNIFEM), organized a forum on women's rights and civil status law.<sup>22</sup> Despite these efforts, the government has been slow to introduce and implement changes in legislation regarding women's autonomy, security, and freedom of person.

### RECOMMENDATIONS

1. The government should amend the Passport Law (No. 11 of 1962) to allow married women to obtain their own passports without the consent of their husbands.
2. The government should amend the marriage contract rules under family law to allow all Kuwaiti women over age 18 to marry the partners of their choice.
3. The government or private institutions should fund domestic violence centers to provide temporary shelter, legal assistance, and counseling for battered women.
4. Government agency personnel responsible for law enforcement and health services should receive in-depth training on dealing with violence against women and children so that they are positioned to assist and protect victims of violence more effectively.
5. The government should seek to protect migrant workers from abuse and exploitation—with special attention to female domestic workers—by introducing tougher penalties for employers who violate their rights and making it mandatory for all families to put the wages of their domestic workers in bank accounts, a rule that currently applies to workers in the public sector.
6. The government or other bodies should create an independent women's rights research

center tasked with compiling and publishing qualitative and quantitative data in a range of areas concerning women, such as domestic violence, social policies, employment, and women's health.

### ECONOMIC RIGHTS AND EQUAL OPPORTUNITY

Women in Kuwait enjoy high literacy and employment rates, and their enrollment in postsecondary education and participation in the workforce have increased over the past decade. The government has invested efforts to create more employment opportunities for all Kuwaitis, men and women; however, the results have been mixed.<sup>23</sup>

Kuwaiti women are entitled to own and have full and independent use of their land, property, income, and assets. Nonetheless, their right to inheritance is unequal to that of men in accordance with the Koran, which stipulates that a woman's share is equal to half that of her brother. This reflects the Shari'a requirement that, while a woman may use her inheritance for her sole benefit, a male beneficiary must use his inheritance to support all the dependent female members of his family.

Kuwaiti women may enter freely into business and financial contracts and activities at all levels without the permission of a male family member. All Kuwaitis over 21 years of age may conduct any commercial activity in Kuwait provided that they are not affected by a personal legal restriction, such as a criminal record. In recent years, women have been increasingly willing to start their own businesses and gain economic independence.

According to Article 40 of the constitution, all Kuwaiti citizens are guaranteed free and equal access to the education system from primary school through university, and male and female students are provided with equal opportunities to study abroad. Women have made significant gains in education over the past three decades, and the percentage of young literate women in Kuwait is now equal to that of young literate men.

Women do not face any extraordinary obstacles in attending universities or enrolling in diverse courses of study, and they graduate at higher rates than men. At Kuwait University, however, female students are required to maintain significantly higher grade-point averages (GPAs) than men in order to be admitted into selected fields. For instance, female students must have a 3.3 GPA to be admitted to the engineering department, while male students need only a 2.8 GPA. As women comprise almost two-thirds of Kuwaiti university students, the disparity in admission requirements is officially justified as positive discrimination intended to increase the percentage of male students in certain academic fields.<sup>24</sup> Women outnumber men at the institutions of higher education in Kuwait largely because men often choose to pursue their degrees abroad.

A decade-old debate regarding segregation of postsecondary schools has recently resurfaced in the National Assembly. A 2000 law instituting gender segregation in private postsecondary schools remains unenforced, in part due to the inherently high costs associated with such an endeavor. However, in January 2008 the minister of higher education announced that the law would be implemented. This has left the National Assembly divided as liberal members call for the law to be rescinded or amended while conservative members push for its strict enforcement.<sup>25</sup> A similar law applicable to public postsecondary schools was enacted in 1996 and enforced in 2001, but because Kuwait University is the country's only public university, fewer logistical constraints existed to affect its implementation. In debating whether

to segregate private universities, many have questioned whether men and women will receive equal educations and whether enforcing such measures will lead to greater segregation and conservatism throughout Kuwaiti society in general.<sup>26</sup>

Access to education has enabled women to become financially independent and pursue diverse careers. Women are now found in most professions including engineering, architecture, medicine, and law, as well as on executive boards of major banks and private companies. As of 2007, approximately 51 percent of working age women was employed, with the majority working in the public sector. The Ministry of the Interior has proposed a police academy for women to increase their participation in the police force, and in July 2008, the ministry began accepting applications from women seeking to join. Women still hold predominantly administrative and secretarial positions at the Ministry of Defense, however, and cannot join the army or work as judges in courts. Unemployment has risen recently among both men and women, with 7.5 percent of Kuwaiti female graduates unemployed in 2007, compared with 5.1 percent of Kuwaiti male graduates.<sup>27</sup> All citizens, women and men, are entitled to unemployment benefits equal to the minimum salary permitted in Kuwait.

Certain gender-based restrictions govern women's working hours and conditions. Article 23 of the labor law restricts female employees from working at night and, under Article 24, in jobs that may be hazardous to their well-being. Amendments to the law were passed in 2007 that specifically prohibit women from working between the hours of 8 P.M. and 7 A.M., but exempting those employed in medicine and a few other fields. Women are banned from working in positions that serve only men on the premise of protecting them from immoral exploitation. The amended law also includes a provision that gives the Ministry of Social Affairs and Labor (MOSAL) the authority to inspect employers, file reports, and arrest violators.<sup>28</sup>

Women and men performing the same type of work within the private sector must be paid equal wages under Article 27 of the labor law; similar protections exist in the public sector as well.<sup>29</sup> If a woman feels that she has been discriminated against, she may file a complaint directly with the administrative court or MOSAL. However, MOSAL lacks qualified staff to handle and investigate discrimination cases, and it has been swamped by a deluge of complaints that has rendered its work almost ineffectual. In 2007 alone, MOSAL received 14,840 complaints from expatriate workers, all related to unpaid wages and benefits. To date, 42 percent of these complaints remain unresolved.<sup>30</sup> Although the penal code generally addresses harassment, no laws specifically protect women from sexual harassment in the workplace despite the urgent need for such legislation, particularly among foreign women and domestic workers.

Gender-specific benefits such as the right to maternity leave and child care exist in both the private and public sectors. Working women are entitled to 40 days of maternity leave after delivery and another four months' leave without pay if they certify that they are ill as a result of the pregnancy. Daycare facilities, both publicly and privately funded, are widely available and affordable in all parts of Kuwait for children aged three to six, although some complain that their hours of operation are not adequate for working women.

Women are entitled to pensions, but upon death their benefits are transferred to their dependent children and spouses under specific conditions. Articles 64 and 65 of the social security law state that the pension of the deceased wife goes to the children if they are younger than 28 years old, and to the husband if he is unable to work due to a disability. If the children are employed or the only children are married daughters, the pension expires. If any other family members prove that they were dependent on the woman's income, they receive part of the pension.<sup>31</sup>

Women's rights organizations publicly protested the 2007 labor restrictions for fear that they could pave the way for further discrimination against women. The WCSS held a rally at its headquarters in June 2007 that drew many influential political figures and women's rights activists.<sup>32</sup> Despite this support, gender discrimination and stereotypes are likely to persist in light of the perceived threat of women's employment to men's job prospects and the dominance of conservative groups in the parliament.

### RECOMMENDATIONS

1. The government should enact laws that ensure equal employment opportunities and conduct public-awareness campaigns to eradicate the traditional gender stereotypes that inhibit women's participation in the workforce.
2. The government should set gender-specific hiring targets for government jobs, with an emphasis on recruiting qualified women for expert and supervisory positions in all ministries.
3. The government should establish and provide adequate resources for an independent complaint commission to investigate violations of workers' rights, including gender-based discrimination complaints filed by women against public or private actors and institutions.
4. The government should amend its employment benefits policy to ensure equal rights for men and women.
5. The government should enact legislation that bans sexual harassment in the workplace, assigns penalties for employers who tolerate it, and provides for victim compensation.

### POLITICAL RIGHTS AND CIVIC VOICE

The political rights of Kuwaiti women have sharply improved over the past five years. Today, women may vote and run for office in national and municipal elections and have been appointed to ministerial positions. Since 2004, new laws have been adopted that permit greater freedom of association and expression, but political parties remain banned.

Women have the right to peaceful assembly on par with men and may take part in organized protests and marches. In March 2005, a series of public demonstrations against the exclusion of women from the political process took place in front of parliament. Women were the dominant presence at these protests, although men sympathetic to the cause took part. There were no reports of harassment by the authorities taking place, and the protests were guarded by a heavy police presence. The attention created by these rallies increased pressure on parliament to address the issue, and two months later the election laws were amended to permit full political rights for women.<sup>33</sup>

The Public Gathering Law (No. 65 of 1979) previously required permission from authorities prior to public meetings or rallies, but it was amended in 2006 so that citizens must simply provide notice of organized public gatherings.<sup>34</sup> Neither notification nor permission is required to hold a *diwaniya*, an informal gathering in the home or a room adjacent to the home. Previously confined to the extended family and immediate local community, diwanias now bring together different groups of people, including politicians, and are important arenas for political activity. Only a few are open to both men and women, but during the recent election campaigns a number of women candidates visited diwanias, and some even held their own.<sup>35</sup>

In 2006, the parliament eased restrictions on freedom of expression by amending the Printing and Publications Law (No. 3 of 1961). The amended law prohibits the imprisonment of authors and journalists without a court verdict and gives citizens the right to appeal in court if their applications for newspaper licenses are rejected by the government. Incitement of religious hatred, criticism of the emir, and calls to overthrow the government, however, remain criminal acts punishable by up to one year in prison and fines.<sup>36</sup> Women's rights issues are discussed freely in the media, representing both conservative and more liberal points of view.

Women are not represented in Kuwait's judiciary. While they may hold positions as investigative judges, they are not permitted to serve as judges in court. Women account for 20 percent of the members of the Kuwait Bar Association.<sup>37</sup> Women's participation in the diplomatic corps is restricted, and until recently only a few women were assigned to diplomatic positions.

Kuwaiti women gained access to local and national government structures in 2005, when two were appointed to the Municipal Council. The council, which controls the administration of public services, has 10 elected members and 6 members appointed by the emir. Within the national government, Massouma al-Mubarak became the first woman to hold a ministerial portfolio when she was appointed as minister of planning and minister of state for administrative development affairs in 2005. Currently, two women are ministers in the newly restructured cabinet: Nuryia al-Subeih was appointed minister of education and higher studies in 2007, and Modhi al-Homoud was appointed minister for housing and administrative planning in May 2008. Neither woman wore the hijab when they were sworn in to the new cabinet, and nine Islamist parliamentarians walked out to protest this perceived violation of the Shari'a dress code.<sup>38</sup>

On May 16, 2005, the parliament amended the election law to allow Kuwaiti women to vote and hold elected office.<sup>39</sup> Due to pressure from Islamist parliamentarians, however, the law requires women, both voters and candidates, to "adhere" to the principles and rules of Shari'a. The implications that this provision may have for women's participation in political life are still difficult to gauge; wearing the hijab was not required for women to vote in local and national elections, but segregated polling stations were maintained. Recently, the National Assembly's legal and legislative committee has threatened Ms. al-Subeih and Ms. al-Homoud with dismissal after finding them in violation of the election law and the constitution for their refusal to wear a hijab, indicating that female voters and candidates may be required to do the same in any future elections.<sup>40</sup>

In the 2006 and 2008 parliamentary elections, 27 women ran as candidates, and in 2006 two women competed in a local by-election to fill a vacant seat in the Municipal Council.<sup>41</sup> None of the female candidates were elected, however, perhaps because of low turnout among eligible female voters. Women make up approximately 55 percent of eligible voters in Kuwait, but only 35 percent voted in the 2008 national elections (overall participation among eligible voters was 69 percent).<sup>42</sup> In an effort to address this issue, women's rights advocates are calling for the adoption of electoral quotas to ensure women's presence in elective offices.

Formal political parties remain banned in Kuwait, but their legalization has been repeatedly called for in recent years. There are a number of informal political groups, the most prominent of which are the National Democratic Alliance (liberal), the Islamic Constitutional Movement, and the Islamic Popular Alliance. These operate without government interference and campaign openly during the national elections. Hizb al-Umma, which has recruited women, is a more controversial Islamic political party that formed in 2005.<sup>43</sup> Kuwaiti women are involved in all major political groups and occasionally serve as founding members or

contributing board members, with the exception of the Islamic organizations, in which women's participation is often confined to the women's committees.

Women's rights organizations face procedural obstacles to their creation and management. Requests to establish an NGO must be made directly to MOSAL, which has the authority to license, terminate, and, where fraudulent or criminal activities are involved, dissolve the elected boards of NGOs. Kuwait now has 70 NGOs, 22 of which were licensed between 2005 and the beginning of 2008.<sup>44</sup> Five women's rights NGOs currently operate in the country, all of which receive funding from the government. No new women's rights NGOs were created between 2005 and 2008 because the government rejects license applications if organizations with similar functions already exist. The women's rights groups that do exist are able to work with international and regional organizations and hold international conferences on women's rights.

Kuwaiti women experience only minor restrictions on their freedom of access to and use of information to empower themselves in both their civil and political lives. The internet remains widely available at home, in offices, and in public cafes, but websites deemed immoral or politically radical are censored.<sup>45</sup> Nevertheless, the internet continues to play an important role in women's lives and has enabled women's rights advocates to network with international organizations and share resources.

### RECOMMENDATIONS

1. Women's rights NGOs should initiate public education and advocacy campaigns on the importance of voting, aimed specifically at women, to increase turnout in the next election.
2. The government and NGOs should initiate nonpartisan programs designed to support female candidates, teach them how to campaign and communicate their message effectively, and provide networking opportunities with other elected women leaders from the Arab world.
3. By using Bahrain and the United Arab Emirates as examples of where such changes recently occurred, Kuwaiti NGOs should lobby the government to appoint qualified women as judges.
4. The government should remove all obstacles to the registration and operation of NGOs.

### SOCIAL AND CULTURAL RIGHTS

Kuwait has comprehensive social security and welfare schemes and offers modern health care services to all residents, including noncitizens and migrant workers. Citizens are free to participate in community life and non-Kuwaitis enjoy the right to form their own cultural associations openly.

Women are generally free to make independent decisions about their health and reproductive rights, although limitations to this right exist regarding abortion. Contraceptives are readily available and affordable through government health services, and private pharmacies offer birth-control pills without a prescription. Use of contraceptives is relatively high among educated Kuwaiti women and is the leading method for family planning in the country. As a result, the overall fertility rate decreased from 2.6 births per woman in 2000 to 2.3 births in 2006.<sup>46</sup>

Abortion is legal only if the pregnancy constitutes a serious threat to the health of the mother or if the child would be born with grave, unexpected, and incurable physical or mental defects.<sup>47</sup> Ministerial Decree (No. 55 of 1984) places strict procedural requirements on such abortions, including prior approval by the woman's husband or guardian. Even when permitted by law, doctors are reluctant to carry out the procedure due to the stiff penalties associated with abortion. Any woman who deliberately kills her newborn child to avoid dishonor, as well as any person who supplies a pregnant woman with drugs or other harmful substances, with or without her consent, may be sentenced to up to 10 years in prison.

Women have full and equal access to health care. Health care services at government-run clinics and hospitals are generally provided free of charge or at a low cost for all residents of Kuwait, including noncitizens. Since the mid-1990s, the government and women's groups have organized campaigns to raise women's awareness about female health issues like breast cancer and osteoporosis.

Although there are no reliable data available, women seem to be protected from harmful gender-based traditional practices such as virginity tests and female genital mutilation. Early marriage has grown uncommon, and cross-cousin marriages are no longer widely practiced.

Women are legally permitted to own their own housing, but unmarried men and women customarily live with their parents regardless of their age. Although the practice is not promoted by the government, landlords often choose to refuse to rent to Kuwaiti women without proof that they are married. No such restrictions are applied to single foreign-born female residents of Kuwait.

Housing is a serious problem for Kuwaiti women, particularly divorced women from low-income groups. The Housing Assistance Law (No. 47 of 1993) is structured around the traditional notion of a family headed by men and excludes women and unmarried men from the right to apply for government-subsidized housing. Moreover, women receive unequal benefits under the government's low-interest loan policy designed to encourage married men to build their own homes. For instance, a Kuwaiti man can apply for a loan up to 70,000 dinars (US\$246,930) if he has been married for more than four years and has children. On the other hand, divorced or widowed Kuwaiti women with children from Kuwaiti husbands can apply for 45,000 dinars (US\$158,700), payable through monthly installments.<sup>48</sup> This disparity is commonly justified with the argument that it is the responsibility of men to support the family under Shari'a.

In 2005, amendments were made to Articles 14 and 15 of the housing law to allow disabled Kuwaiti women who are married to non-Kuwaitis and the families of slain war victims and prisoners of war the right to claim housing benefits. However, Kuwaiti women married to non-Kuwaiti men cannot bequeath state housing to their heirs. Article 32 states that in the event of the wife's death, the children (and, by association, their foreign-born fathers) have the right to stay in the house only until the daughters are married and the sons reach 26 years of age. In the case of the war victim's widow, the house is registered jointly in her and her sons' names even if she has daughters, as the daughters are expected to eventually marry.

The state does not provide for, or acknowledge, female-headed households as the main recipients of welfare benefits. The effects of this policy are exacerbated by the fact that there are no immediate penalties for men who do not financially support children in the custody of their divorced wives, even though such support is required by law. Low-income widows and divorced women with dependent children are entitled to monthly income supplements and rent subsidies, but only if they provide evidence that they have no one to support them and are unemployed.<sup>49</sup> In

2006, 7,087 divorced women and widows received welfare assistance.<sup>50</sup> However, there are no gender-disaggregated data regarding the economic status of women, which has prevented policymakers from implementing effective measures to protect women against economic hardship.

Kuwaiti women are involved in civic life and participate as both members and leaders of many types of NGOs, including mixed-gender professional associations, service-oriented organizations, human rights organizations, and religious groups. The Kuwaiti Human Rights Society, officially licensed in 2004, has two female board members. Women also have the right to join, vote, and hold office in unions and local cooperatives.

Women participate in and influence the media, holding jobs in both print and broadcast outlets as reporters, broadcasters, and producers. In 2008, Kuwait News Agency had 166 female employees, accounting for 38 percent of its total workforce.<sup>51</sup> Women in Kuwait use the media as a vehicle for bringing gender issues to the forefront of the public debate, and most newspapers devote considerable space to the activities of women's groups. Nevertheless, the media continue to stereotype women, often stressing the divisions between women's groups rather than presenting a more positive image of women's rights activists and female political candidates.

Women's rights groups have publicly addressed the economic and social challenges facing women and have lobbied parliament for policy changes. The National Assembly's Women's Affairs Committee and women's NGOs have held frequent meetings over the past three years to promote legislation that effectively protects women's social and cultural rights. Women's rights NGOs have also organized several conferences that highlight the plight of divorcees and female citizens married to noncitizen men. Despite these persistent efforts, the government and the parliament continue to delay the implementation of policies and legislation that would help to achieve gender equality.

### RECOMMENDATIONS

1. The government should commission an independent research institute to review the status of divorced women and female citizens married to noncitizen men. The institute should collect data on their economic situation, paying special attention to their housing rights. Such a project is necessary to assess the needs of these vulnerable groups better and tailor government policies based on the findings.
2. Women's rights NGOs should adopt new information technology and internet tools, such as online petitions or social networking sites, to mobilize support and advocate for reform.
3. The government should promote positive representation and increased participation of women in the media, in part by sponsoring progressive programming and withholding support from counterproductive content in consultation with women's rights NGOs.
4. NGOs should organize workshops to train journalists on gender sensitivity and how to cover women's issues in an effective and objective manner.

### AUTHOR

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### NOTES

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<sup>43</sup> The founders of Hizb al-Umma were arrested and charged with attempting to change the system of government, but they were later acquitted. See “Kuwait” in *Report 2007* (New York: Amnesty International, 2007), [www.amnestyusa.org/annualreport.php?id=ar&yr=2007&c=KWT](http://www.amnestyusa.org/annualreport.php?id=ar&yr=2007&c=KWT).

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<sup>49</sup> Public Assistance Law (No. 22 of 1978).

<sup>50</sup> “Future Plans to Link Electronically the Social Care Units with the Ministry of Social Affairs” (Kuwait lawyers’ site, 4 July 2006), [www.mohamoon-kw.com/default.aspx?Action=DisplayNews&ID=7253](http://www.mohamoon-kw.com/default.aspx?Action=DisplayNews&ID=7253), in Arabic.

<sup>51</sup> Author’s interview with officials in Kuwait News Agency (KUNA), June 2008.