**The National Association of Familial Security “ Rawasi “**

**The Report of the National Association of Familial Security "Rawasi"
Parallel to the Third Periodic Report of the State of Kuwait**

 **Submitted to the UN Commission for Human Rights 2015**

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**Introduction**

In accordance with Resolution No (95/A) for the year 2011 of the Ministry of Social Affairs and Labour in the State of Kuwait, the National Association of Familial Security "Rawasi", was promulgated and published in the Official Gazette “Kuwait Today” in its issue No (1029) on 29th May, 2011. “Rawasi” Association is a public benefit association aimed at protecting familial security in the society by defending the rights of families and their members socially and legislatively, and by seeking to introduce legislations and laws that realize this aim. The Association diligently strives to activate and apply the legislations and laws of the Civil States that ensure the realization of familial security.

**Some of the Association’s Achievements:**

* The Association, in cooperation with the Commission for Human Rights of Kuwait Lawyers Association, has drafted a fully integrated bill to regulate the process of recruiting and employing domestic workers. The draft bill comprises 21 articles that maintain the rights of workers and their families, and regulate and balance the rights and duties of each party. This draft bill was raised to the former Prime Minister His Highness Sheikh Nasser Mohammad Al-Sabah on 2nd October, 2007.
* The Association submitted on 16th June, 2008 to the Parliamentary Women Affairs Committee a draft bill proposal that stipulates granting Kuwaiti women the right to transfer their nationality to their children from their non-Kuwaiti spouses, without any discrimination between them and the children of Kuwaiti men who are married to non-Kuwaiti spouses.
* The Association has drafted proposals and recommendations for the establishment of the Family Court and submitted them to His Excellency the former Minister of Justice Rashid Al-Hammad on 29th April, 2010.
* The Association has continued its presence and active motion to advocate for and gain the civil rights for women and families more effectively after its official promulgation. The Association has also continued its communication with the Parliamentary Women Affairs Committee and its submission of legal and civil proposals to members of the National Assembly that call for the prevention of discrimination between male and female nationals in regards to human and civil rights. The Association’s activities expanded beyond the national borders to attend the forum on discussing the Report of the State of Kuwait on the Rights of the Child in Geneva in September 2013, and it also attended the discussion of the Report of the State of Kuwait On Cultural, Economic and Social Rights in Geneva in November 2013. The Association also submitted its first parallel report to the Report of the State of Kuwait for the Universal Periodic Review (UPR) of Council of Human Rights in the United Nations (the 21st Session) in December 2014, and it also attended the discussion of the report in Geneva on January 28th, 2015.

By virtue of its belief in the need for creating an influential partnership between civil society institutions and international and UN organizations, the National Association of Familial Security "Rawasi" has worked on the preparation of this report, which is parallel to the Third Periodic Report of the State of Kuwait submitted to the Commission for Human Rights, and which will be discussed in June, 2015, to contribute in providing useful information to follow up the implementation of international conventions and recommendations, and to express its concern about the conditions that conflict with the terms of the conventions ratified and accessioned by the State Party, and the experts’ recommendations on its previous report which it had approved.

The government did not discuss with the National Association of Familial Security "Rawasi" its report, which was submitted to the Commission on Civil and Political Rights in November 2014.

**First: Women**

Despite granting women their political rights to vote and run for parliament in 2005, they have been deprived of their civil rights to the present day.

**1. Nationality:**

- Although the Kuwaiti Constitution does not discriminate against women on grounds of gender, the nationality law is arbitrary to women as it discriminates between women and men as provided for in the following clause (“Nationality is granted to each child born to a Kuwaiti father); this clearly and explicitly conflicts with the Constitution and also with Article 2 of the Convention on the Elimination of All Forms of discrimination against Women as Kuwaiti women cannot transfer their nationality to their children, whereas men can.

- Pursuant to the present law, spouses of Kuwaiti men shall be granted the Kuwaiti nationality, while Kuwaiti women do not have the right to transfer their nationality to their alien spouses.

- Since the present Nationality Law (15/1959) was promulgated before the Kuwaiti Constitution, which was issued on 11th November, 1962, this means that the Constitution repeals what was provided in it, and that this conflicting law should be amended pursuant to the articles of the Constitution.

- The Kuwaiti Nationality Law may grant nationality to the children of Kuwaiti women married to non-Kuwaiti spouses upon permission granted by a decision made by the Minister of Interior, and that is in special cases (such as *the death of the spouse*, *irrevocable divorce* or *being* *one of those covered by the Census* of the year 1965); however, this law is considered arbitrary for two reasons: first, it drives the families of Kuwaiti women married to aliens to file for irrevocable divorce from their spouses in an endeavor to grant their children the Kuwaiti nationality and subsequently obtain their civil rights; and second, the governmental procrastination in granting nationality to this category has left many families on the waiting list to obtain the nationality for decades although they have satisfied all the terms and conditions.

**2. Housing**

Kuwaiti women are not granted houses on equal footing with men; instead, they are given an interest-free housing loan. In the housing loan, the sum of 100,000 KWDs is allocated to men, whereas only 75,000 KWDs is allocated to women, which is an express discrimination.

**3. Women in Leadership Positions**

Women’s representation in legislative and executive bodies is marginal compared to men; Currently, there is only one woman minister in the Council of Ministers, while Kuwait's National Assembly does not contain any woman member. As for leaders in the public sector, the number of women does not exceed 36, while the number of men leaders is 492; hence, the percentage of women in leadership positions is 7.3% (a leadership position means one of the following: Undersecretary of the Ministry, Assistant Undersecretary, Chairperson of Board of Directors, Director General). Nevertheless, the ratio of female contribution in economic activity reached 46.9% for the year 2014, while unemployment rate among Kuwaiti women reached 3.4%.

4. **Children of Kuwaiti Women Married to Aliens:**

- Although these children are deprived of Kuwaiti nationality, they do not enjoy any benefits either, like the rest of the aliens residing in the country. Kuwaiti women sponsor their children from birth until they finish school, and after they complete their studies, children of Kuwaiti women shall look for corporations or agencies to work for in order to maintain their residence permit in the country.

- Children of Kuwaiti women married to aliens may not inherit their mother's house (if she owns one) and that is due to the fact that aliens are not entitled to own property in Kuwait.

- Children of Kuwaiti women shall not be employed like other Kuwaitis, and though the government has saved a lot for their education in basic education and university education, it outsources workers from overseas with high salaries without benefiting from hiring the children of Kuwaiti women who have the scientific and professional competence.

- Children of Kuwaiti women are underpaid and their salaries are very low when compared to Kuwaitis; children of Kuwaiti women earn lower salaries than Kuwaitis and also lower than GCC nationals who were born to a non-Kuwaiti father or mother, and also lower than workers outsourced from overseas.

**Recommendations:**- The Kuwaiti Nationality Law shall be amended to grant women the right to transfer their nationality to their non-Kuwaiti children. “Rawasi” Association has submitted a draft bill on this subject which has been rejected by the National Assembly of Kuwait.

- Kuwaiti women’s spouses shall be granted the Kuwaiti nationality on equal footing with Kuwaiti men who have the right to naturalize their alien spouses.

- The Kuwaiti nationality shall be granted to children of divorcees, widows, and those included in the Census of the year 1965 immediately without any restrictions or further delay.

- Kuwaiti women married to alien spouses shall be granted houses on equal footing with Kuwaiti men, and they shall be granted similar loans to those of Kuwaiti men without discrimination.

- Children of Kuwaiti women shall be entitled to inherit their mothers’ properties after their mothers’ death as part of their right of inheritance. Inheritance right is governed by Islamic Shari’a as provided for in article 18 of the Kuwaiti Constitution, and as specified in articles 288, 289 of Kuwaiti Personal Status Law No. 51 of 1984 on the terms and conditions of inheritance.

- Increasing the ratio of women’s representation in legislative and executive bodies, and the ratio of their holding of other leadership positions to reach at least 30%.

- Enacting Laws that would facilitate the permit of residence in Kuwait for the realization of familial security.

- Employing the children of Kuwaiti women on equal footing with other Kuwaitis via the [Civil Service Commission](http://www.csc.net.kw/), and benefiting from their expertise.

- Children of Kuwaiti women shall be granted equal salaries to those earned by Kuwaitis pursuant to the principle of remuneration on the basis of work effort rather than on the basis of nationality of the worker.

- All forms of discrimination among citizens shall be eliminated.

**Second: The Child**

The Kuwaiti National Assembly approved on 24th March, 2015 the Child Protection Act during its second deliberation and referred it to the government, together with parliamentary and governmental emphasis on the importance of this law.

The draft bill comprises 97 articles in seven chapters, in addition to an introductory chapter (pursuant to article 24 of the Rights of the Child in the International Covenant on Civil and Political Rights).

**Recommendations:**- All articles of the new Child Protection Act shall be activated by the executive bodies of the State, and mechanisms of their implementation shall be determined.

- All bodies concerned with the enforcement of the law shall be made aware of and trained on the methods of professional application.

- The State shall, through their specialized programs, involve the civil society organizations concerned with children in the care, protection and development of children.

**Third: Education**

- **Human Rights Education**: Education on Human Rights is currently limited to one year only in the secondary stage of school, which is not sufficient since children should be aware of these concepts from the early formative years of their lives.

- **Koranic schools for the Stateless (Bedoon):** Stateless (Bedoon) students may not study in the public schools of Kuwait; however, a number of them (those who have a card issued by the Central Agency for Illegal Residents) study in private schools at the expense of the Kuwaiti Ministry of Education. There are a number of stateless children (Bedoon) who were deprived of their birth certificate and were unable to attend school, which require them to be in possession of a birth certificate. For this reason, non-governmental entities launched in late 2014 a project called Koranic Schools (Katatib) for a period of time to educate these children who were deprived of education. The term (Katatib) goes back to an era of a century ago when there was no formal education, and it currently refers to a kind of low quality educational authority. This project faced serious reactions from the Kuwaiti society, which led to its elimination.

**Depriving Female Stateless (Bedoon) Students from Participating in National Events:**

In the first quarter of 2015, a number of female stateless students who had chosen to participate in a national event held at Bayan Palace to celebrate the National Holidays were prevented from participation after they had been selected to participate, and before the commencement of the show, they were told that they had been eliminated from participation because they did not hold civil IDs! This behavior had a negative impact on the psyche of children.

**Recommendations:**

- Developing curricula for Human Rights Education for all stages of education, and this shall no longer be limited to only one year in high school.

- Not to involve stateless children (Bedoon) in political issues, as all children have the right to education.

- Every stateless child shall have the right to be registered and to obtain a birth certificate immediately after birth in accordance with article 24 of the International Covenant on Civil and Political Rights.

**Fourth: Mental Health**

Till today there is no law governing the process of detaining mental patients in Kuwait, as some of them are still subject to compulsive detention in hospitals, not because they need real medical treatment but rather because of a greed urge driven by their relatives to seize their funds or because of their relatives’ desire to exploit the salaries they receive from the government as monthly benefits. There is no way to discharge such patients from the hospital after their recovery unless taken by the next of kin who admitted them to the hospital, and if their next of kin refused to assume responsibility, they will remain in hospital for unlimited period.

The Kuwaiti National Assembly’s Commission for Legislative and Legal Affairs approved in early January 2015 a draft bill submitted by some members of parliament to regulate the mental health treatment, which consisted of 50 articles, and which is awaiting endorsement and activation. However, the proposal of this draft bill did not include a detailed description of the many rights ensured for everybody by the Kuwaiti Constitution such as the right to education and the right to work and others, as it is natural to secure these rights for patients if there were no reasonable medical reasons that would potentially prevent granting them these rights.

**Recommendations**

Approving a Mental Health Act that complies with International Humanitarian Standards.

**Fifth: The Family**

The statistics issued by the Ministry of Justice for the year 2013 indicated that the total number of divorce cases have risen from 6672 cases in 2012 to 6904 cases in 2013, with an increase of 232 cases estimated at 3.5%. As such, divorce rates are progressively increasing year after year at an alarming rapid rate, which may disturb familial and societal security.

**Recommendations:**
To speed up the implementation of the law concerning the establishment of the Family Court which was adopted by the Ministry of Justice in cooperation with the Supreme Judicial Council and approved by the Kuwaiti National Assembly in February 2015. The draft bill of this law has taken into account the mechanisms that would address cases of domestic violence that end in divorce, and that would reduce the rate of its occurrence.

**Sixth: Domestic Labour**

Kuwait depends on a large proportion of domestic workers, which exceeds one-third of the workforce in the State according to the statistics of 2014. Despite the great need for these workers, the mechanisms of their recruitment and the sponsor system constitute a major obstacle towards ensuring the rights of these workers. In addition, there are no laws that protect the rights of these workers comparable to those enjoyed by the rest of alien workers in the labour sector; it is possible to force this vulnerable category of workers to work sometimes without paying them their salaries, or providing them with food, and they are subjected to physical and mental abuse, and if they had the desire to work somewhere else, they do not have the freedom to do so, and they may consequently be arrested, imprisoned or even deported from the country forever.

The mechanism of recruiting domestic workers to work in the State often depends on retainers agencies, and the violations of workers' rights during the period between the signing of the contract and the commencement of work are enormous and mostly represented by: the physical exploitation of the women workers by the employees of these retainers agencies, and workers’ trafficking by inciting these workers to escape from their sponsors’ homes.

Despite the promulgation of the latest Labour Law in the Private Sector No. 6/2010, the provisions provided therein excluded the regulation of domestic labour affairs, and up till today there are no laws that protect the rights of domestic workers from abuse, and protect families from exploitation and affliction.

**Recommendations:**
- Abolishing the sponsorship system as soon as possible.

- Promulgating a competent and integrated law in accordance with the international labour standards to regulate the recruitment and employment of household workers so as to ensure the rights of both workers and employers.

**Seventh: Public Benefit Associations**

The current law prohibits aliens from voting or running for board membership. In addition, some public benefit associations are financially sponsored by the Ministry of Social Affairs which provides them with a head office to carry out their activities while depriving other public benefit associations which were promulgated after 2006 from financial support and an allocation of a head office despite their influential efficacy on the development of society.

**Recommendations:**

- Allowing aliens to vote and to be nominated for board membership of public benefit associations.

- Supporting all active public benefit associations equally and without any discrimination, and providing them with appropriate head offices to carry out their activities.

**Eighth: The National Foundation for Human Rights**

Despite the Ministerial Resolution No. 77 of the year 2011 which established a committee to draft a bill to create a National Foundation for Human Rights in accordance with the principles of Paris, we are deeply concerned about the delay in the establishment of this National Foundation.

**Recommendations:**- Speeding up the establishment of a National Foundation for Human Rights in accordance with the Paris Principles.

- The National Foundation for Human Rights shall be established in accordance with International (A Rank) Standards.

**Ninth: The Role of Civil Society in the Preparation of Reports**

To date, the role of civil society in the preparation of government reports is marginal, and we have not been involved in the preparation of the Third Periodic Report submitted by the State of Kuwait to the Commission on Civil and Political Rights, while public benefit associations have been active and keen on following up the issues that concern the community and recording them in their reports.

**Recommendations:**
- The need for the government to involve civil society organizations in the process of preparing the National Reports of the State of Kuwait.