



Human Rights Watch
Concerns and Recommendations on Kuwait
**Submitted to the UN Human Rights Committee in advance of its Pre-
Sessional Review**
August 7, 2015

Human Rights Watch welcomes the upcoming review of Kuwait by the Human Rights Committee. This briefing provides an overview of our main concerns in relation to Kuwait's compliance with the International Covenant on Civil and Political Rights (ICCPR). We hope that it will inform the Committee's pre-sessional review of Kuwait and that the issues outlined here will be included in the list of issues that the Committee will submit to the government of Kuwait in advance of the review.

Freedom of Expression (article 19):

The Kuwaiti authorities have invoked several provisions in the constitution, penal code, Printing and Publication Law, Misuse of Telephone Communications and Bugging Devices Law, Public Gatherings Law and National Unity Law to prosecute over a dozen people over the last few years for criticizing the emir, the government, religion, and the rulers of neighboring countries in blogs or on Twitter, Facebook, or other social media.¹ These include the constitution and penal code, laws on printing and publishing, public gatherings, and misuse of telephone communications, and the National Unity Law of 2013. Those prosecuted have faced charges such as harming the honor of another person; insulting the emir or other public figures or the judiciary; insulting religion; planning or participating in illegal gatherings; and misusing telephone communications. Other charges include harming state security, inciting the government's overthrow, and harming Kuwait's relations with other states. In the last 12 months, courts convicted at least five of those charged, imposing prison sentences of up to six years and fines.

¹ Human Rights Watch, *World Report 2015: Kuwait* (United States of America: Human Rights Watch 2015), <https://www.hrw.org/world-report/2015/country-chapters/kuwait>.

The government took sweeping new powers to block content, deny access to the Internet, and revoke service providers' licenses without giving reasons under a new telecommunications law adopted in May 2014. The law imposes severe penalties on people who create or send "immoral" messages, and gives unspecified authorities the power to suspend communication services on national security grounds. Any communication service provider that "contributes" to the dissemination of messages that violate these vague standards can be punished. The law provides no opportunity for judicial review.

In June 2015, Kuwait passed a new cybercrime law that includes far-reaching restrictions on Internet-based speech.² Article 6 of the law imposes prison sentences and fines for insulting religion and religious figures, and for criticizing the emir over the Internet. Article 6 also prohibits Internet-based statements deemed to criticize the judicial system or harm Kuwait's relations with other states, or that publicize classified information, without exceptions for disclosures in the public interest.

Article 7 imposes a punishment of up to 10 years in prison for using the Internet to "overthrow the ruling regime in the country when this instigation included an enticement to change the system by force or through illegal means, or by urging to use force to change the social and economic system that exists in the country, or to adopt creeds that aim at destroying the basic statutes of Kuwait through illegal means." The law empowers the authorities to close all outlets or locations in which these crimes are committed for one year and confiscate devices used in committing them.

Revocation of Citizenship (article 24):

The government has adopted a new method to penalize some critics. Between July and September 2014, it revoked the citizenship of 33 individuals, including three apparently for political reasons.³ The revocation process allows no room for appeal or review. The government has resorted to deportations to remove non-citizens of whom it disapproved.⁴

² "Kuwait: Cybercrime Law a Blow to Free Speech," Human Rights Watch news release, July 22, 2015, <https://www.hrw.org/news/2015/07/22/kuwait-cybercrime-law-blow-free-speech>.

³ "Kuwait: Government Critics Stripped of Citizenship," Human Rights Watch news release, *October 19, 2014*, <https://www.hrw.org/news/2014/10/19/kuwait-government-critics-stripped-citizenship>.

⁴ *Dispatches: In Kuwait, Deported for an Opinion*, Human Rights Watch news release, *June 7, 2014*, <https://www.hrw.org/news/2014/06/07/dispatches-kuwait-deported-opinion>.

Treatment of Minorities (article 27):

At least 105,702 Bidun residents of Kuwait remain stateless.

After an initial registration period for citizenship ended in 1960, authorities shifted Bidun citizenship claims to administrative committees that for decades have avoided resolving the claims. Authorities claim that many Bidun are “illegal residents” who deliberately destroyed evidence of another nationality in order to receive the benefits that Kuwait provides to its citizens.⁵

Members of the Bidun community frequently take to the streets to protest the government’s failure to address their citizenship claims, despite government warnings that Bidun should not gather in public. Article 12 of the 1979 Public Gatherings

Law bars non-Kuwaitis from participating in public gatherings. At least seven were arrested for taking part in protests in 2014.⁶

In recent interviews with the media, government officials have suggested that Kuwait may ‘solve’ the problem of the Bidun community’s nationality claims by paying the Comoros Islands to grant the Bidun a form of economic citizenship, thus regularizing them as foreign nationals in Kuwait.⁷

Women’s Rights (articles 2, 23, 26):

In March and April 2014, the Justice Ministry prohibited women, but not men, from applying for legal researcher posts until the two-year evaluation of the first group of women admitted in 2013 is completed. A legal researcher post allows women for the first time to become eligible, pending evaluation, for posts as prosecutors, enabling them thereafter to pursue careers as judges. In

⁵ Human Rights Watch, *World Report 2015: Kuwait*.

⁶ Human Rights Watch, *World Report 2015: Kuwait*.

⁷ Belkis Wille (Human Rights Watch), “Kuwait’s Plan to Pawn Off its Stateless” commentary, *Al Nahar*. March 26, 2015, <http://www.hrw.org/news/2015/03/26/kuwait-plan-pawn-its-stateless>.

April 2014, a court struck down the Justice Ministry's order and 21 women have now been admitted.⁸

Women continue to face discrimination in many aspects of their lives, and large legal gaps remain in protections for women. Kuwait has no laws prohibiting domestic violence, sexual harassment, or marital rape. Legislation proposed in April to penalize sexual harassment had still to be debated by November 2014. Kuwaiti women married to non-Kuwaitis, unlike Kuwaiti men, cannot pass on their citizenship to their children or spouses. Kuwaiti law also prevents a woman marrying a partner of her choice without her father's permission.⁹

Migrant Workers (articles 2, 21):

Of Kuwait's 2.9 million population, about two million are migrant workers. Recognizing the vulnerabilities of foreign migrant workers, particularly domestic workers who are excluded from the Labor Law or any other legal regime, in 2013 the authorities opened a shelter for domestic workers who flee abusive employers. Inadequate staffing prevented the shelter from becoming fully operational and providing in-house services. Designed to accommodate up to 700 people, the shelter had 210 women residing there in September 2014. The shelter accepts victims on referral from a foreign embassy or international organization. Victims are not able to leave the shelter unescorted if they want to return to the shelter.¹⁰

In June 2015, Kuwait passed a new law giving domestic workers enforceable labor rights.¹¹ This law grants domestic workers the right to a weekly day off, 30 days of annual paid leave, a 12-hour working day with rest, and an end-of-service benefit of one month a year at the end of the contract, among other rights.

However, the law lacks key protections found in the general labor law. The labor law – Law no.6 of 2010 on Labor in the Private Sector – provides for a 48-hour work week, or 8 hours a day, and an hour of rest after every 5 hours of work. But the domestic workers law provides for a maximum 12-hour working day with unspecified "hours of rest" and one day off a week. The labor law also

⁸ Human Rights Watch, *World Report 2015: Kuwait*.

⁹ Human Rights Watch, *World Report 2015: Kuwait*.

¹⁰ Human Rights Watch, *World Report 2015: Kuwait*.

¹¹ "Kuwait: New Law a Breakthrough for Domestic Workers," Human Rights Watch news release. June 30, 2015, <https://www.hrw.org/news/2015/06/30/kuwait-new-law-breakthrough-domestic-workers>.

has detailed provisions for sick leave, under article 69, including 15 days at full pay, whereas the domestic worker law simply requires employers to provide medical treatment. The domestic worker law also falls short by failing to set out enforcement mechanisms, such as labor inspections. It prohibits employers from confiscating workers' passports, a common abuse, but fails to specify penalties. The new law does not guarantee the right to form a union. Kuwaiti authorities should address these gaps in the implementing regulations.¹²

The new law will come into force once Kuwait's Emir has formally approved it and the final text is published in the Official Gazette.

Counter-Terrorism Measures (article 17):

Extremist militant groups Jabhat al-Nusra and the Islamic State, also known as ISIS, are responsible for systematic rights abuses, including the intentional targeting and abduction of civilians during military operations in Syria and Iraq in 2014. Media reports indicate that ISIS members have included Kuwaiti nationals, and that individual Kuwaitis have financed and supported ISIS and Jabhat al-Nusra military operations.¹³

In August, Kuwait announced new measures to curb funding for extremists. These included banning all fundraising in mosques, requiring greater transparency from charities regarding the sources and destinations of their donations, and obtaining receipts.¹⁴

In July 2015, in response to a suicide bomb attack on the Shia Imam Sadiq Mosque, which killed 27 people, Kuwait became the first country to pass a law requiring that all Kuwaiti citizens and residents provide DNA samples to the authorities as part of a new counterterrorism law.¹⁵

The Death Penalty (article 6):

¹² "Kuwait: New Law a Breakthrough for Domestic Workers," Human Rights Watch news release.

¹³ "Report: Kuwait detains ISIS suspects," *Al Arabiya*, September 18, 2014, <http://english.alarabiya.net/en/News/middle-east/2014/09/18/Report-Kuwait-detains-ISIS-suspects.html>.

¹⁴ Human Rights Watch, *World Report 2015: Kuwait*.

¹⁵ "Kuwait: New Counterterror Law Sets Mandatory DNA Testing," Human Rights Watch news release. July 20, 2015, <https://www.hrw.org/news/2015/07/20/kuwait-new-counterterror-law-sets-mandatory-dna-testing>.

In 2013, Kuwaiti authorities carried out two rounds of executions, the first time the country had applied the death penalty since 2007. It has not carried out any executions since then. Kuwaiti authorities are currently seeking the death penalty for 11 suspects in the Shia Imam Sadiq Mosque bombing.¹⁶

Recommendations:

Regarding freedom of expression:

- Amend provisions in the - constitution, penal code, Printing and Publication Law, Misuse of Telephone Communications and Bugging Devices Law, Public Gatherings Law and National Unity Law that prohibit insulting the Emir, rulers of other countries, the prophet, Islam, and other government officials, which infringe upon the right to free speech;
- Do not prosecute anyone for the peaceful exercise of their freedom of expression, including criticism of public officials.

Regarding citizenship:

- Cease revoking Kuwaiti citizenships as a means of silencing opposition voices and create a procedure to challenge revocation decisions;

Regarding the treatment of minorities:

- Implement a strategic plan to remedy Kuwait's longstanding problem of Bidun statelessness, in accordance with international legal standards and in consultation with UNHCR and local civil society organizations. Publish a timetable for ending statelessness in Kuwait and dedicate adequate resources to expediting resolution;
- Grant temporary legal residency to Bidun pending resolution of their claims to Kuwaiti nationality. Cease treating the Bidun as "illegal residents";
- Grant nationality to children born in Kuwait who would otherwise be stateless;
- Grant nationality to long-term residents with strong claims to nationality, including residents who lack documented ties to other states and whose primary place of residence, familial, economic, and/or social ties are within Kuwait;

¹⁶ "Kuwait seeks 11 death terms over mosque bombing," *Ahram Online*, July 15, 2015, <http://english.ahram.org.eg/NewsContent/2/8/135433/World/Region/Kuwait-seeks--death-terms-over-mosque-bombing-Medi.aspx>

- Issue travel documents, marriage registration, death certificates, and drivers' licenses to all Bidun who require them;
- Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

Regarding women's rights:

- Amend Kuwait's Nationality Law to recognize Kuwaiti women's right to confer nationality on spouses and children on an equal footing with the right enjoyed by Kuwaiti men;
- Ensure that women have absolute equality before the law;
- Amend Personal Status Law No. 51 of 1984 and the application of personal status laws in line with international human rights standards. In particular, amend the provisions that discriminate against women with regards to giving testimony in court, inheritance, marital rights, and divorce.

Regarding migrant workers:

- Ratify the International Labour Organization's Convention on Decent Work for Domestic Workers;
- Replace the current sponsorship (*kafala*) system with domestic worker residency permits overseen by the government;
- Amend the new domestic workers law to afford domestic workers the same rights as those provided to other workers under the labor law;
- Improve conditions of shelter facilities, including sufficient staffing in the workers' native language, medical assistance, and counseling to workers fleeing situations of abuse.

Regarding Terrorism and counterterrorism laws:

- Revoke or amend the mandatory DNA collection law to bring it into conformity with and uphold the right to privacy.

Regarding the Death Penalty:

- Stop seeking the death penalty in new cases and put in place a moratorium on the death penalty for those convicted.