



**ABOLISH
ARTICLE
153**



**Institute on
Statelessness and
Inclusion**



Global
Campaign
for **Equal
Nationality
Rights**

KUWAIT

**Submission to the UN Universal Periodic Review
Thirty-fifth Session of the UPR Working Group of the Human Rights Council
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Submitted by: Equality Now, the Global Campaign for Equal Nationality Rights, Kuwaiti Women without Limits, Abolish 153 organization and the Institute on Statelessness and Inclusion

Equality Now

Americas Office
125 Maiden Lane
9th Floor, Suite B
New York, NY USA
Phone: +1-212-586-0906
Email: info@equalitynow.org
www.equalitynow.org

Kuwaiti Women without Limits

Kuwait .hawally
P.O box 3766
Zip Code 32068
State of Kuwait
Email: Kuwaitiyatwb@gmail.com

Global Campaign for Equal Nationality Rights

c/o Women's Refugee Commission
15 West 37th Street, 9th Floor
New York, NY USA
Phone: 212-551-1431
Email: CatherineH@wrcommission.org
www.equalnationalityrights.org

Abolish 153 organization

Mishref block 4, Street 4, House4
Kuwait, Kuwait
Email: aalsharekh@gmail.com
<http://abolish153.org/>

Institute on Statelessness and Inclusion

Gestelsestraat 134,
5615 LJ Eindhoven, The Netherlands
Email: info@institutesi.org
www.institutesi.org

Introduction and Summary

1. Equality Now is an international human rights organization with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992. Campaign Abolish Article 153 is a local non-governmental organization led by a group of activists, concerned with ending all forms of violence against women in Kuwait. Kuwaiti Women without Limits is a group volunteers, believes in Kuwaiti citizenship rights and seeks to achieve justice among members of the community. The Global Campaign for Equal Nationality Rights mobilizes international action for the removal of gender-discriminatory provisions from all nationality laws, through its coalition of national, regional and international organizations and activists, including steering committee members Equality Now, Equal Rights Trust, the Institute on Statelessness and Inclusion, Women's Learning Partnership and Women's Refugee Commission.
2. In this submission, Equality Now provides information as stipulated in the Universal Periodic Review (Third Cycle): information and guidelines for relevant stakeholders' written submissions. The submission details our concerns regarding Kuwait's discriminatory provisions in the nationality law, and Articles 182 and 153 of the Kuwaiti Penal Code (Impunity for Rapist and "Honor" killing crime). We make key recommendations for action by the government of Kuwait to better address these areas of concern.

Discrimination in Nationality Law No. 15 / 1959

3. We remain concerned that the Kuwaiti nationality law of 1959 does not recognize the right of Kuwaiti women to transmit their nationality to non-Kuwaiti spouses and children on equal terms with Kuwaiti men. Article 2 of the law states that "any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be Kuwaiti national himself". Article 3 states that Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person [upon his attaining his majority who was] born in, or outside, Kuwait to a Kuwaiti mother whose father is unknown or whose kinship to his father has not been legally established. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals until they reach their majority. Article 11 provides that the children of a Kuwaiti national man, being minors, shall also lose their Kuwaiti nationality if they themselves acquire ipso facto the nationality of the State according to the law of which their father has become naturalized if that law so provides. Such children shall reacquire Kuwaiti nationality upon informing the Minister of the Interior within two years following their attaining the age of majority of their wish to do so.
4. The Nationality Law of Kuwait, which denies women equality with men in terms of nationality, undermines a woman's status as an equal citizen and contradicts the Kuwaiti Constitution, which stipulates in Article 29 that "all people are equal in human dignity and in public rights and duties before the law..." and in Article 7 that "justice, liberty and equality are the pillars of society..."

5. Two legislative proposals have been submitted to the Kuwaiti Parliament to amend the Nationality Law. In 2017, two members of parliament, Al Hamidi Al Subaie and Dr. Khalil Ali, submitted a proposal to amend Article 2 of the Lawⁱ which provides that “anyone is considered Kuwaiti whomever is born in Kuwait or outside to a Kuwaiti father or mother”. The other legislative proposal sought to grant the children of Kuwaiti women married to non-nationals the right to acquire the nationality upon reaching the age of 21, with certain pre-conditions including residence in Kuwait until reaching adulthood. Both of these proposals are still pending in the parliament with no indication that the proposals will in fact be discussed or considered by the Parliament in the near future.
6. UN committees including the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child have urged Kuwait to ensure gender equality in the 1959 Nationality Law and to undertake a comprehensive review of all existing laws that affect gender equality.
7. In its responses to the recommendations of the Working Group of the Universal Periodic Review session held in January 2015, the delegation indicated that Kuwaiti citizenship law No.15/1959 “provides children of Kuwaiti women with Kuwaiti citizenship in certain cases for humanitarian reasons (art. 3). Article 5 also stipulated that citizenship would be passed on to the children of Kuwaiti women when those children remained residents of Kuwait at the age of majority, especially if their foreign father was a prisoner of war, or if the father had obtained a final divorce, or was deceased”ⁱⁱ.
8. The State of Kuwait did not support the recommendations made by some countries, in the report of the Working Group of the Universal Periodic Review on 16 June 2010, to consider repealing discriminatory laws including the Nationality Law , for example that Kuwait should “[r]eview and amend its laws to ensure gender equality in all its legislation, amongst others, in the Nationality Law, and guarantee that all Kuwaiti women are able to transfer nationality to their children and ensure to all Kuwaiti women equal access to their social and economic rights.”ⁱⁱⁱ
9. In particular, the International Covenant on Civil and Political Rights committee, in its concluding observation on the third periodic report of Kuwait on 11 August 2016 recommended Kuwait “should: (a) undertake a comprehensive review of existing laws to repeal or amend, in accordance with the Covenant, all discriminatory provisions that affect gender equality; (b) take appropriate measures to enhance and promote equality”.^{iv}

Impunity for rapists and so-called honor crimes

10. Article 182 of the Kuwaiti Penal Code exempts rapists from punishment if they marry their victims, thereby promoting violence against women and girls. It states that if a perpetrator of rape legally marries the victim with the permission of the victim’s guardian, and the guardian requests that the perpetrator not be punished, then the perpetrator will enjoy impunity. The law serves to ward off “shame” and preserve the “honor and dignity” of the victim’s family. Women and girls who are kidnapped and/or raped are often forced into marrying their

perpetrators due to family and societal pressure as a way to “save the honor of the family”.

11. Article 153 of the Kuwaiti penal code stipulates that a man who finds his mother, wife, sister or daughter in the act of adultery and kills them is only punished by a maximum of 3 years in prison and/or a fine of 300 Rupees (KD 225).
12. In 2017, the Human Rights Council recommended that all nations remove any provisions that enable, justify or lead to forced marriage, including provisions that enable perpetrators of rape to escape prosecution and punishment by marrying their victims, in particular by repealing such laws.^v In November 2017, the Committee on the Elimination of Discrimination against Women (CEDAW) called on Kuwait specifically to “repeal article 182 of the Criminal Code in order to prevent kidnappers and rapists from avoiding criminal prosecution by marrying their victim with the consent of the victim’s guardian,”^{vi} and to “Abolish all discriminatory provisions contained in the Personal Status Act, including those regarding the legalization of child marriage (arts. 24 and 26), and in the Criminal Code, including those providing for reduced sentences for men who kill women in the name of so-called honour (art. 153)”.^{vii}

Recommendations for Action by the Government of Kuwait

Equality Now, the Global Campaign for Equal Nationality Rights, Kuwaiti Women without Limits, Abolish 153 organization and the Institute on Statelessness and Inclusion respectfully call on the government of Kuwait to:

1. Comprehensively review and amend the Nationality Law to ensure that Kuwaiti women, regardless of marital status, have equal rights with men to transfer citizenship to their spouses and children.
2. Repeal Article 182 of the Kuwaiti Penal Code that pardons rapists and perpetrators from punishment when they marry their victims.
3. Abolish Article 153 of the Kuwaiti Penal Code that provides reduced sentences for men who kill women in the name of so-called honor.

ⁱ In Arabic: <https://raqib50.s3.amazonaws.com/uploads/suggestion/file/1615/46.pdf> (last accessed 3 July 2019)

ⁱⁱ <https://undocs.org/A/HRC/29/17>

ⁱⁱⁱ <https://undocs.org/A/HRC/15/15/Add.1>

^{iv} https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CCPR/C/KWT/CO/3&Lang=En

^v Available at <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Documents.aspx>

^{vi} Available at

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fKW T%2fCO%2f5

^{vii} https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW/C/KWT/CO/5&Lang=En