



**WORLD Policy  
Analysis Center**

**KUWAIT: A BRIEF ON THE IMPLEMENTATION OF CEDAW  
COMMITMENTS FROM ARTICLES 2, 5, 11, 16,  
AND GENERAL RECOMMENDATION NO. 12**

*Information for the Committee on the Elimination of Discrimination Against Women  
86th<sup>th</sup> Pre-Session Working Group, February/March 2023*

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## INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 86<sup>th</sup> Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following areas:

1. Non-discrimination in Work and Employment (Article 11)
2. Sexual Harassment and Sex-based Harassment in Work and Employment (Gen. Rec. No. 12)
3. Paid Maternity and Paternity Leave (Articles 11, 5)
4. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our constitutional and legislative findings, as well as suggested questions for the Committee to ask Kuwait and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed constitutional and legislative excerpts documenting our findings. We hope the Committee will recommend that Kuwait address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Kuwait for having provisions in place, we hope the Committee will recommend that Kuwait work with stakeholders to overcome any obstacles in implementing these provisions.



## SUMMARY OF FINDINGS AND RECOMMENDATIONS

### 1. Non-Discrimination in Work and Employment (Article 11)

Our systematic review of national legislation found that Kuwaiti women are protected from workplace discrimination in pay and terminations through the country's labor code. Additionally, a recently passed ministerial decree created broad protections against workplace discrimination on the basis of gender, pregnancy and marital status.

#### RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

##### **We hope the Committee will:**

In its list of questions, ask Kuwait:

- Can Kuwait specify if the broad provisions prohibiting gender discrimination in Article (1) of recently-passed Decree 177 have been interpreted, through case law or otherwise, to protect against discrimination in specific areas not protected by the Labour Law, such as hiring, training or promotions?
  - If Kuwait cannot, recommend that Kuwait amend its legislation in the near term to explicitly protect women from direct and indirect discrimination at work in:
    - employment opportunities or hiring
    - training
    - promotions or demotions

In its concluding observations, recommend that Kuwait:

- Amend its legislation to extend its new protections against discrimination on the basis of pregnancy and marital status to include family status as well.

### 2. Sexual Harassment and Sex-based Harassment in Work and Employment (General Recommendation No. 12)

Our systematic review of legislation found that Kuwait recently passed Ministerial Decree No. 177 of 2021, effective September 2021. We commend Kuwait for taking this important step towards prohibiting workplace sexual harassment. However, the new law, which provides broad protection against all forms of sexual harassment, could be made stronger by adding important specific elements common to comprehensive anti-sexual harassment legislation.



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Kuwait: Can Kuwait clarify if the reporting procedure outlined in Article (3) of Decree 177 protects workers against retaliation by their employer if they bring forward workplace sexual harassment claims?
  - If Article (3) of Decree 177 does not offer this protection, recommend in its concluding observations that Kuwait amend this important new legislation to ensure that women are not penalized for reporting sexual harassment in the workplace.
- In its list of issues, ask Kuwait: Can Kuwait outline any concrete, near-term plans to pass supplemental legislation or regulations to Ministerial Decree No. 177 to ensure that the law includes specific elements important to comprehensive anti-sexual harassment legislation, including:
  - A prohibition of sexual harassment that explicitly extends to anyone in the workplace, including supervisors, co-workers, and third-parties, such as customers, clients, or contractors
  - A clear and explicit definition of sexual harassment behaviors, including quid pro quo, conduct that creates a hostile work environment, and sex-based harassment
    - If concrete, near-term plans are not in place, recommend in its concluding observations that Kuwait pass and implement legislation or regulations that explicitly develop a comprehensive prohibition on sex-based and sexual harassment and which includes the elements listed above.

### 3. Paid Maternity and Paternity Leave (Articles 11, 5)

Our systematic review of national legislation found that Kuwait provides 70 calendar days of paid maternity leave to new mothers. However, we did not identify any legislative provisions that provide any paternity leave to new fathers in Kuwait.



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Kuwait: Can Kuwait outline any concrete, near-term plans to pass legislation that increases maternity leave duration to at least 14 weeks, consistent with widely accepted standards set and endorsed by global institutions such as the ILO and UNICEF?
  - If Kuwait does not have concrete, near-term plans to increase maternity leave duration to at least 14 weeks, recommend that Kuwait pass and implement legislation that does so.
    - Also recommend that this legislation be implemented to be inclusive of all female workers, including workers who often lack social protection such as part-time or self-employed women, as well as women working within the informal economy.
- In its list of issues, ask Kuwait: Can Kuwait outline any concrete, near-term plans to pass legislation that provides paid paternity leave to fathers?
  - If Kuwait does not have concrete, near-term plans to provide paid paternity leave to fathers, recommend in its concluding observations that Kuwait pass and implement legislation that does so.

#### 4. Child Marriage (Articles 16, 2)

Kuwaiti civil law sets the minimum age of marriage at 15 for girls and 17 for boys.

**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS**

**We hope the Committee will:**

- In its list of issues, ask Kuwait: Can Kuwait update the committee on the current status of any plans to pass legislation that removes all exceptions that allow both girls and boys under the age of 18 to be married?
  - If concrete, near-term plans are not in place, recommend in its concluding observations that Kuwait pass legislation that establishes 18 years as the minimum age for marriage for both boys and girls, without any exceptions, be they parental consent, court authorization, or religious or customary principles.



## DETAIL OF LEGISLATIVE FINDINGS

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

### 1. Non-Discrimination in Work and Employment (Article 11)

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Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited gender discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination. We also examined whether there were explicit protections from discrimination in terminations on the grounds of pregnancy and marital status, in line with Article 11.2.a) of the Convention, which prohibits “dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status”. We further examined whether explicit protections from terminations on the basis of family status were in place, because of the intersection of family status with both marital status and pregnancy.

Finally, although the Convention focuses only on protecting from dismissal on these grounds, we nevertheless further examined whether discrimination on the grounds of pregnancy, marital status, or family status was prohibited in other stages of employment because of the centrality of these protections from preventing sex discrimination at work, which the convention protects against more broadly.

#### *KUWAIT’S LEGISLATIVE PROVISIONS: Missing important protections against workplace discrimination*

Kuwait’s Labour Law prohibits discrimination in terminations on the basis of gender, and also mandates equal pay for equal work for women and men. Article 46 at the same time protects against retaliatory terminations for bringing forward claims of discrimination.



**Labour Law 2010, with amendments**

*Article (26) A working woman shall be entitled to a remuneration similar to the remuneration of a man if she performs the same kind of work.*

*Article (46) The service of the worker shall not be terminated without any justification or as a result of [their] activity in the syndicate or a claim or [their] legal rights in accordance with the provisions of the law. The service of the worker may not be terminated for reason of gender, race or religion.*

Kuwait recently passed Ministerial Decree 177, effective September 2021. This decree broadly protects against workplace discrimination on the basis of gender, family status and pregnancy, although it contains no protections for the specific areas covered by the Convention.

**Decree 177, 2021**

(1) مادة

مع مراعاة أحكام القانون رقم (28) لسنة 1969 بشأن العمل في قطاع الأعمال النفطية، وأحكام القانون رقم (6) لسنة 2010

بشأن العمل بالقطاع الأهلي وتعديلاته، يعمل بما يلي

يحظر على أصحاب العمل التمييز في التوظيف على أساس الجنس، أو العمر، أو الحمل، أو الحالة الاجتماعية في جميع جوانب العمل دون الإخلال بما تنص عليه أحكام القوانين المعمول بها.

<b>Table 1: Does Kuwait have legislative provisions in place explicitly guaranteeing non-discrimination for women in the following key areas of employment?</b>	
Employment opportunities and hiring	No specific provision, broad protection only
Equal pay for work of equal value	Equal pay for equal work guaranteed*
Training	No specific provision, broad protection only
Promotions and/or demotions	No specific provision, broad protection only
Terminations	Yes
Discrimination on the basis of marital status, family status, and pregnancy	Broad protection on the basis of pregnancy and marital status
Indirect discrimination	No provisions found
Retaliatory action	Yes, for reporting discrimination

\*Although equal pay for equal work is guaranteed, Kuwait lacks the stronger protections of equal pay for work of equal value.

**Our research found no protections on the basis of family status, as well as no protection against indirect discrimination.**





## 2. Sexual Harassment in Work and Employment (General Recommendation No. 12)

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Referencing Articles 2, 5, 11, 12, and 16 of the Convention, General Recommendation 12 further recommends that States parties implement legislation protecting women from sexual harassment in the workplace.

We systematically reviewed national labor codes, penal codes, equal opportunity, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited sexual harassment at work. We examined whether protections from sexual harassment at work were in line with international agreement of what constitutes key components on sexual harassment. Namely, do laws define sexual harassment to cover quid pro quo and the creation of a hostile work environment; include sex-based harassment as well as sexual-behavior based harassment; protect workers from harassment by co-workers and other actors in the workplace, as well as supervisors; and ensure workers are protected from retaliation for reporting sexual harassment?

*KUWAIT’S LEGISLATIVE PROVISIONS: Recently passed protections against sexual harassment at work*

Ministerial Decree 177 of 2021 introduced a prohibition against workplace sexual harassment, which to our knowledge did not previously exist in Kuwait law. We commend Kuwait for taking this important step.

### **Decree 177, 2021**

مادة (2)

مع مراعاة أحكام القانون رقم (16) لسنة 1960 بإصدار قانون الجزاء وتعديلاته، يحظر التحرش الجنسي في مكان العمل بكافة صوره ووسائله بما في ذلك وسائل التقنية الحديثة دون الإخلال باللجوء إلى أحكام المادتين (198) و(199) من قانون الجزاء المشار إليه

**However**, this new law, while broadly protecting against sexual harassment “in all its form and means”, does not appear to protect workers who report sexual harassment from retaliation by their employer.

## 3. Paid Maternity and Paternity Leave (Articles 11, 5)

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Article 11.2 of the Convention states that:

*In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*

*(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*

*(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*



Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

*To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.*

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.

We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization’s NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

*KUWAIT’S LEGISLATIVE PROVISIONS: Insufficient maternity leave, and no paid leave for fathers*

Based on our systematic review of national legislation and country reports, Kuwait provides 70 calendar days of paid maternity leave to working mothers. This falls short of the internationally-accepted standard of 14 weeks.

***Labour Law 2010, as amended***

*Article (24) A pregnant working woman shall be entitled to a paid maternity leave of 70 days, not included in her other leaves, provided that she gives birth within this period. After the end of the maternity leave, the employer may give the working woman, at her request, an unpaid leave for a period not exceeding four months to take care of the baby. The employer may not terminate the services of a working woman while she is on such leave or during her absence from work because of a sickness that is proved by a medical certificate that states that the sickness resulted from pregnancy or giving birth.*

**Furthermore, we found no provisions that provide paid paternity leave to working fathers in Kuwait.**

#### 4. Child Marriage (Articles 16, 2)

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Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls



and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization's NATLEX database, regional sources, and official country websites.

*KUWAIT'S LEGISLATIVE PROVISIONS: Girls can marry as young as 15, 2 years younger than boys*

Based on our systematic review, Kuwait's Personal Status Law allows underage marriages as long as the girl is 15 or older and the boy is 17 or older.

**Personal Status Law, 1984**

المادة (٢٤)

١- يشترط في أهلية الزواج العقل والبلوغ

ب- وللقاضي أن يأذن بزواج المجنون أو المعتوه، ذكراً كان أو أنثى إذا ثبت بتقرير طبي أن زواجه يفيد

في شفائه، ورضى الطرف الأخر بحالته

المادة (٢٦)

يمنع توثيق عقد الزواج، أو المصادقة عليه ما لم تتم الفتاة الخامسة عشرة، ويتم الفتى السابعة عشرة من العمر وقت التوثيق

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