



## Kuwait

Submission to the Committee on the Rights of the Child

87<sup>th</sup> Pre-Sessional Working Group, June 2020

NGO Report

### **Submitted By**

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## Table of Contents

Introduction .....	1
Summary of Key Recommendations .....	2
Detail .....	3
General Principles: Equality and Non-Discrimination (Article 2) .....	3
Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and Gen Comment No. 4).....	4
<b>Recommended Questions for the List of Issues .....</b>	<b>5</b>
<b>Recommended Concluding Observations .....</b>	<b>5</b>



## 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 87<sup>th</sup> Pre-Sessional Working Group of the Committee on the Rights of the Child.

This brief will focus on the following two areas:

- General Principles: **Equality and Non-Discrimination**
- Special Protection Measures: **Child Marriage**

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 summary section, we provide an overview of our constitutional and legislative findings, and suggest questions for the Committee to ask Kuwait regarding areas that may not be fully consistent with CRC commitments. We hope the Committee will include these questions for Kuwait in its list of issues, and where applicable, make the recommendations outlined below in its concluding observations. We also hope the Committee will recommend that Kuwait address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.





## SUMMARY OF KEY RECOMMENDATIONS

### ***Areas where Kuwait does not appear to have relevant provisions in place:***

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#### **A) Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)**

Based on our systematic review of legislation and country reports, Kuwait establishes a minimum age of marriage for girls of 15 years old, whereas the minimum age of marriage for boys is 17 years old. This age is below the CRC standard. Moreover, there is a gender disparity in the minimum age of marriage that allows girls to be married two years before boys.

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

- In its list of issues, ask Kuwait: Can Kuwait outline any concrete, near-term plans to pass legislation that raises the minimum age of marriage for both girls and boys to 18 years old?
  - If Kuwait does not have concrete, near-term plans in place, recommend in its concluding observations that Kuwait pass and implement legislation that protects all children under the age of 18 from early marriage and eliminates all gender disparities in the law, consistent with concerns the Committee has previously raised (CRC/C/15/Add.96, para.15 and CRC/C/KWT/CO/2, para. 26).

### ***Areas where Kuwait has provisions in place, but where these provisions do not appear to fully address the commitments Kuwait has made through its ratification of the CRC:***

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#### **A) General Principles: Equality and Non-Discrimination (Article 2)**

Based on our review of full-text national constitutions, Kuwait's constitution guarantees equality before the law to all persons regardless of sex, origin, language, and religion. However, some groups guaranteed equality in Article 2.1 of the CRC are not covered by this constitutional provision, including persons facing discrimination based on race, colour, political or other opinion, property status, disability status, or birth status.

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

- Recommend in its concluding observations that Kuwait consider amending its constitution to add explicit guarantees of equality regardless of race, colour, political or other opinion, property status, disability status, and birth status, consistent with CRC commitments. These guarantees could be added to Article 29 of the constitution, which already guarantees equality before the law based on other personal characteristics and statuses.





## Detail

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.

### GENERAL PRINCIPLES: EQUALITY AND NON-DISCRIMINATION (ARTICLE 2)

Article 2.1 of the CRC states that:

*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*

Constitutions state the values of a country, outlining the rights of people living within the country and profoundly influencing norms and practices. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws, as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution took any approach to equality across the grounds listed in article 2.1 of the CRC by prohibiting discrimination based on each specific status, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

#### KUWAIT'S CONSTITUTIONAL PROVISIONS

Based on our review of full-text national constitutions, Article 29 of Kuwait's constitution guarantees equality before the law to all persons regardless of sex, origin, language, and religion. However, some groups guaranteed equality in Article 2.1 of the CRC are not covered by the constitutional provisions above including persons facing discrimination based on race, colour, political or other opinion, property status, disability status, or birth status.

##### **Constitution of Kuwait, 1962**

*Article 29 [Equality, Human Dignity, Personal Liberty]*

*(1) All people are equal in human dignity and in public rights and duties before the law, without distinction to sex, origin, language, or religion.*

*(2) Personal liberty is guaranteed.*





**SPECIAL PROTECTION MEASURES - CHILD MARRIAGE (ARTICLES 19, 24, 28, 34, AND  
GENERAL COMMENT NO. 4)**

General Comment No. 4 (2003) states that:

*The Committee strongly recommends that States parties review and, where necessary, reform their legislation and practice to increase the minimum age for marriage with and without parental consent to 18 years, for both girls and boys.*

Child marriage has life-long health, educational, and economic consequences. For girls in particular, child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Convention, specifically the right to protection from violence (Article 19), the right to health (Article 24), the right to education (Article 28), and the right to protection from sexual exploitation and abuse (Article 34).

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, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBASE, and official country websites.

#### KUWAIT'S LEGISLATIVE PROVISIONS

Despite previous concerns by the Committee, our systematic review of legislation and country reports concludes that Kuwait's Personal Status Law still legally allows girls to be married at the age of 15. Moreover, there is a two-year gender disparity in the minimum age of marriage between girls and boys. The minimum age of marriage for boys is 17 years old.

#### **Personal Status Law, 1984**

*Article (26): The documentation of marriage is prevented and cannot be officially recognized if the girl has not reached 15 years of age and the boy 17 years of age at the time of the official documentation.*





## Reference Sheet

Kuwait: Recommended Questions for the List of Issues and Concluding Observations

*For the Committee on the Rights of the Child, 87th Pre-Sessional Working Group, June 2020*

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*Recommended Questions for Kuwait's List of Issues:*

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Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

- Can Kuwait outline any concrete, near-term plans to pass legislation that raises the minimum age of marriage for both girls and boys to 18 years old?

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*Recommended Concluding Observations for Kuwait (where Kuwait's responses to questions from the list of issues do not indicate gaps have been addressed):*

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General Principles: Equality and Non-Discrimination (Article 2)

- Recommend in its concluding observations that Kuwait consider amending its constitution to add explicit guarantees of equality regardless of race, colour, political or other opinion, property status, disability status, and birth status, consistent with CRC commitments. These guarantees could be added to Article 29 of the constitution, which already guarantees equality before the law based on other personal characteristics and statuses.

Special Protection Measures: Child Marriage (Articles 19, 24, 28, 34, and General Comment No. 4)

- If Kuwait does not have concrete, near-term plans in place to pass legislation that raises the minimum age of marriage for both girls and boys to 18 years old, recommend that Kuwait pass and implement legislation that protects all children under the age of 18 from early marriage.

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*Brief prepared by the WORLD Policy Analysis Center, University of California, Los Angeles - [www.worldpolicycenter.org](http://www.worldpolicycenter.org)*

