



Musawah Oral Statement: KUWAIT

68th Session of the CEDAW Committee

Monday, 30TH October 2017

Thank you Madam Chair,

According to Article 7 of the Kuwaiti Constitution - justice, freedom, and equality are the *pillars of Kuwaiti society*. However, laws pertaining to marriage and family in Kuwait are in grave contradiction with this statement.

First, there is no family law that is uniformly and equally applicable to all citizens. The Kuwaiti Personal Status Act governs matters of marriage and divorce for the majority Sunni population, whereas there is no codified law for Kuwait's Shi'a minority, leading to arbitrary and unpredictable standards of justice.

Second, the Kuwait Personal Status Act is not based on equality between spouses, but rather on a framework of 'maintenance for obedience', whereby a wife is expected to 'obey' her husband in return of maintenance and protection from him.

This framework, coupled with women requiring the permission of male guardians to enter marriage, means that Kuwaiti women - no matter the level of empowerment in other sectors - are consistently treated as inferior in the context of marriage and family. Sunni women do not even have to be present during marriage ceremonies or sign their marriage forms and could potentially be married off without their knowledge.

Child marriages continue to be recognized and permitted in Kuwait. The Personal Status Act does not stipulate a minimum age of marriage. It merely requires that both parties have reached puberty for a marriage to be valid, and permits registration of marriages for girls as young as 15 and boys as young as 17.

Muslim husbands are allowed to marry up to four wives without any legal conditions. Polygamy is also not recognized as a condition for divorce by wives, unless stated in the marriage contract. Therefore many women are forced into polygamous marriages at the will of their husbands.

Additionally, a husband can unilaterally repudiate a marriage without restrictions, while a wife can only obtain a divorce under certain conditions or with the consent of her husband. Even in cases of divorce for harm, a woman's testimony alone is insufficient.

Musawah asserts that such discriminatory laws and practices cannot be justified in the name of religion and must be changed to ensure equality and justice for women.

Positive legal developments in other Muslim contexts indicate a trend towards egalitarian family laws. Taking into account today's lived realities, many Muslim countries have used diverse juristic tools and concepts within Muslim legal theory, as well as human rights principles, to ensure equality for women under the law.

Kuwaiti government must reform its family laws, within an urgent and definite timeline, to end systemic discrimination against women and give equal rights to all women in the realm of marriage and family.

Open, inclusive, public debate regarding diversity of opinion and interpretations in Muslim family laws and practices, must be encouraged. Civil society groups and individuals advocating for gender equality in family law reform must be heard and proactively engaged.

Equality of men and women can no longer be sacrificed in the name of religious rights under any circumstances.