



FAQ on Women's Rights According Kuwait's Laws

WRACATI PROJECT

Promoting Women's Rights & Legal Empowerment



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Preface

WRACATI Documents

Few things are more important than knowing your legal rights as a citizen. We are blessed that the Women's Cultural and Social Society (WCSS) has compiled the laws in Kuwait as they relate to women and children's rights in the family - marriage and divorce, as well as economic empowerment, citizenship, nationality and political rights, and protection from violence. The basis for these laws originate with the Constitution of Kuwait, signed into law by His Highness, the Amir, Sheikh Abdulla Al-Salem Al-Sabah in 1962.

Kuwait's Constitutional Preamble guarantees political freedom, equality, and social justice:

In the Name of God the Compassionate, the Merciful
We, Abdallah Al Salem Al Sabah, Amir of the State of Kuwait,

Desirous of fulfilling all the exigencies of democratic rule in our beloved homeland; Confident in the role this Nation can play in the wake of Arab nationalism, of service to world peace and of civilization;

Striving towards a better future in which the Nation may enjoy an abundance of comfort and a higher international standing, a future which shall provide citizens with ample political freedom, equality and social justice as well, which shall brace the props of those traits in which the Arab spirit is kneaded such as pride in the dignity of the individual, jealous watch over the commune bonum, counsel in rule and safeguard of the homeland's unity and stability;

After perusal of Ordinance No. 1/1962 regarding the organic system of rule during the transitional period; And in accordance with the decision of the Constituent Assembly: Hereby sanction and promulgate this Constitution.

Preface

In addition to Kuwait's Constitution, other laws and international conventions have been implemented to uphold these basic human rights. Unfortunately, legal systems are complicated and people usually come to know about their rights only after they have been violated. Consequently, it is important to acquaint women of their legal rights in order for them to avoid problems, and if problems arise, to understand how to navigate the judicial system in their favor.

This is the importance of the WRACATI Documents. The United Nations Development Program in Kuwait initiated this project whereby the laws relating to women's role in the family and in the workplace were compiled in Arabic into 4 handbooks. The Women's Cultural and Social Society together with the Ministry of Planning implemented the WRACATI Documents in Kuwait as the first Gulf Cooperation Council country, an important first step towards supporting women's rights.

As Soroptimists, it is our mission to promote economic empowerment, to work to end violence against women, and to promote education - what could be more powerful than to inform women of their Constitutional and legal rights? We have sought to do this by translating into English the WRACATI documents so that they can be distributed throughout Kuwait and the GCC; not only to citizens, but to the countless expatriates, companies, and embassies who may not be proficient in Arabic.

It is important to acknowledge the women who dedicated many hours to this project. First of all, thanks to Ghada Al-Ghanim, head of the WRACATI Project and Board member in the Women's Cultural and Social Society. We thank the members of her team who compiled the original laws: Athra Al-Refai, Shaikha Al-Julaibi, Esra Al-Ameri and Asma Al-Ghanim.


To our Soroptimist Sisters, Dr. Alanoud Al-Sharekh for introducing the WRACATI Documents to our Soroptimist Club and facilitating the introduction to Ghada; Alreem Al-Shami, Zahrah Al-Qattan, Aisha Al-Fuwaires,

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Dr. Linda Fouke and Dr. Shurooq Amin for their translations and proofreading. And last, but not least, Dr. Amar Behbehani, Hawra Al-Maqseed, and Dr. Nowall Al-Sayegh for layout design, formatting and typesetting. We are in your debt.

These WRACATI Documents are the result of many hours of dedication by concerned and talented women. It is our hope that the women of Kuwait will become empowered and better able to take control of their lives and the lives of their children by knowing their rights and protection under the law. Where there are legal loopholes and laws that need to be eliminated or updated, we cannot depend on the goodwill of others; women must become more aware, educated and united in creating the country of Kuwait as it was envisioned in the Constitution: “a future which shall provide citizens with ample political freedom, equality and social justice as well”.

These WRACATI Documents are only the beginning of a movement for gender equality and social justice. En Sha'allah together we will reach our goals to build a strong Kuwait for all of its citizens.



Dr. Stacey Al-Ghawas
Founding President
Sorooptimist International Club Kuwait
Kuwait Sorooptimist Society for Societal Development

25 February 2017
Kuwait National Day

A Brief on the Project

The WRACATI Project seeks to support the endeavors directed at the legal empowerment of women in Kuwait, by acquainting them with all of their rights that were granted by the Constitution and legislations of Kuwait, as well as the international conventions it has signed.

The WRACATI Project complements the efforts of The United Nations Development Program in Kuwait which aims to enable women in all domains. This project is comprehensive and encompasses collecting, revising and refining legal material, and presenting it to women and the whole of society afterwards as well as enhancing the skills and training of the specialists and the related bodies. The project has been implemented in six Arab countries and the resultant success it has achieved in those countries was the incentive for its implementation in Kuwait. This makes Kuwait the first of the GCC countries to implement this project.

Partners



The United Nations Development Program (Kuwait Office)

The Kuwait Office oversees the implementation of the project to insure the compatibility of the outcome and quality with the requirements and standards of The United Nations Development Program, as well as the Action Plan of the National Program 2010-2014, The Strategy for the Integration of the Social Elements, and its operational plan.



Women Cultural and Social Society

In order to insure the local characteristic of the project and its continuity in the long term, The Women Cultural and Social Society was chosen as a local partner for what it represents in a long and renowned history in calling for women's rights and gender equality in Kuwait, as well as the successful collaborative programs it has implemented with several partners.

The project was implemented under the auspices of
The General Secretarial of the Supreme Council for Planning and Development.

LEGAL KNOWLEDGE HANDBOOK SERIES
FAQ on Womens Rights According Kuwaits Laws

1

**WOMEN'S RIGHTS
TO FAMILY AND MARRIAGE**

Ms. Athra Al-Refaie

Women's Rights to Marriage and Family Marriage

Q1. What is the meaning of an official marriage?

A1. Marriage is a contract which is defined by law as the enjoyment of both spouses of each other perpetually, in pursuit of an and it is fulfilled in the presence of a register official (marriage official). According to the Law, the supreme meaning of marriage is to build a good society, based on a life of tranquility, love and compassion.

Q2. How is marriage verified?

A2. Marriage is verified through authentication at the Department of Legal Authentication that is affiliated with the Ministry of Justice. If the contract has not been authenticated at the department, a lawsuit may be made to prove the marriage. The contract is accepted under either of the two conditions, the husband's affirmation of its validity, or testimony of two men or a man and two women.

Q3. Is a lawsuit to prove or deny parentage through marriage permissible?

A3. Yes, it is permissible.

Q4. What is a dowry?

A4. A dowry is the money paid by the husband to the wife when they marry and it is not a main condition of marriage.

Wife's Alimony

Q5. What is the reason to mandate alimony?

A5. Alimony is the wife's right as the husband is the one who is responsible for spending – even if the wife is rich and able to spend – on condition that the wife is linked to the husband by a valid marriage contract, and their marriage is continuing.

Wife's Alimony

Q6. When does the alimony end?

A6. Alimony ends with the death of the wife, or with divorce, or with the issue of a final ruling of recalcitrance.

Q7. Can a wife's right to request for alimony debt be dropped?

A7. Alimony does not drop even if there was no agreement on it between the spouses, or it was not mandated by a decree. The wife is allowed to request previous alimony by lawsuit, provided that it does not exceed two years prior to the date of the lawsuit.

Q8. Does alimony stop with the death of either of the spouses or by divorce?

A8. Alimony does not stop with the death of either of the spouses nor by divorce. If the husband dies, the wife can receive her frozen alimony from the legacy he has left. If the wife dies, her frozen alimony becomes the legacy she leaves to be inherited. Additionally, the divorced wife has the right to receive the frozen alimony during the time of marriage, unless the alimony was paid to the husband in exchange for the divorce.

Q9. Is it mandatory to give the wife alimony before the marriage is consummated?

A9. Yes, it is mandatory to give the wife alimony before the marriage is consummated as of the date of the marriage contract, since the consummation of the marriage is not an impediment to the alimony.

Q10. How is the amount of the alimony estimated?

A10. The alimony is estimated based on the husband's financial and social status during the time he is supposed to provide expenses to his wife.

Q11. Is it permissible to impose alimony on the absent husband?

A11. Yes, it is permissible since the husband's absence does not impede imposing the alimony.

Wife's Alimony

Q12. What are the conditions that merit alimony?

- A12. A. The validity of the marriage contract.
B. Retention is achieved for the benefit of the husband or to prepare for retention, and if it was not achieved for a reason that is irrelevant to the wife.

Q13. Does the wife's illness, affluence, or difference in belief from her husband prevent her from receiving alimony?

- A13. No, It does not prevent it.

Q14. Is the wife permitted to require the right to education or work in the marriage contract?

- A14. Yes, the wife is permitted to require the right to continue her education or her work in the marriage contract, and the husband must be committed to this requirement during the marriage.

Q15. What is waiting period ('Ida) alimony?

- A15. Waiting Period alimony is essentially a wife's alimony, since a divorced wife is required to wait for the period of three months. It includes payment for food, clothes and residence just like a wife.

Q16. Who receives the waiting period alimony?

- A16. The rule: waiting period alimony is granted to all divorced wives, except the divorced before the marriage is consummated for she is not required to wait for the time period between divorce and marriage to end.

Q17. What is a time frame for the ending of the waiting period?

- A17. For the divorced, whether it was revocable or irrevocable divorce, the time frame is three menstruation cycles, or three Arabic months for women who do not have menstruation either for being of a young or old age. If the woman was pregnant, then she must wait until she gives birth.

Wife's Alimony

Q18. When does the waiting period begin?

A18. It begins from the date of divorce, which means the date of its declaration and not the date of having knowledge of it.

Q19. What is the time period for which the divorced wife deserves the waiting period alimony?

A19. After 3 months the divorced wife deserves the waiting period alimony.

Q20. When is the waiting period alimony dropped?

A20. The waiting period alimony is dropped in the case where the wife is recalcitrant, or renounces Islam.

Q21. Is the wife permitted to waive her waiting period alimony given during her marriage?

A21. It is not permitted unless it was in exchange of divorce.

Mut'aa

Q22. What is Mut'aa?

A22. Mut'aa: It is compensation to the divorced wife for the pain she endures because of the divorce, and to alleviate any offense. Also, it is considered as a testimony that the divorce did not take place for a fault in her, but rather for an excuse related to the divorcing husband. Under Ja'afarian doctrine, the woman does not receive a mut'aa because it is not mentioned nor legislated.

Q23. What is the purpose for Mut'aa?

A23. The purpose for mut'aa is to compensate for the unfair divorce committed by the husband, and the wisdom behind its legislation is to console the divorced wife in respect of the husband's abuse of his right to divorce.

Mut'aa

Q24. What are the conditions for Mut'aa?

A24. There are 4 conditions:

- A. Marriage is consummated and valid.
- B. Divorce occurrence, regardless of its type.
- C. The divorce occurs without the wife's consent (judgment over consent is subjective to the judge).
- D. The wife must not be the cause of the divorce.

Q25. Does the woman divorced on exoneration deserve compensation for Mut'aa?

A25. The divorced wife does not have the right to demand for Muta'a in the divorce on exoneration, only if she claims that she was forced to waive her right to Mut'aa.

Q26. Does the woman divorced under a court ruling deserve Mut'aa?

A26. Yes, the woman divorced under a court ruling can get compensated with Mut'aa, considering that the issue of the divorce serves as evidence that the divorce is done without the wife's consent or a reason that may be referred to her.

Q27. Does the recalcitrant wife deserves Mut'aa?

A27. The issued court ruling about the recalcitrance of the wife shows that the divorce is caused by the wife- yet she may prove otherwise.

Q28. How is Mut'aa estimated?

A28. Mut'aa is estimated as an expenditure of at least one year, and it is assessed based on the divorced husband's financial and social status, the divorce's circumstances, and the length of the marriage.

Q29. Is it permissible to pay Mut'aa in installments?

A29. Yes, it is permissible - but it must be under the request of the respondent.

Child Support

Q30. What are the conditions for the father to offer child support?

A30. There are three conditions:

A. The child must be poor, without any money. In case he had an amount of money, it must be insufficient to support him, and the father becomes obligated to provide the remainder of the necessary amount.

B. The child is unable to get money due to young age, gender, disability, or study.

C. The father must be rich, or able to earn money.

Q31. Does child support have to be given by the father even if they have different religious beliefs?

A31. Yes, it must be given.

Q32. Who is responsible of proving the child's financial status and his/her need for child support?

A32. Originally, the child is considered financially incompetent, only if the father claims otherwise which he has to prove by all means of certified evidence until the child reaches fifteen years old - after that age, the responsibility of providing evidence will lie on the child.

Q33. To what extent does the limited-income father have to be committed to pay child support ?

A33. If the father was poor but was able to earn money, then he must provide child support, while if he was poor and unable to earn money, then he is not obligated to provide child support.

Q34. Is it mandatory for an absent father to provide child support?

A34. Yes, if the father was absent and had money, a ruling is passed to provide support from his money to the child after proving the paternity, and if the father did not have money, the mother is ordered to borrow and the father is responsible for the debt.

Child Support

Q42. For how long is the nursery allowance deserved?

A42. The nurse's right to the nursery allowance begins after the divorce, whether the nurse was the mother or the grandmother of the child, and it lasts for the male child until the age of 7 and for the female child until the age of 9. Based on the Ja'afarian doctrine, the nursery allowance is deserved after the divorce until the age of 7 for both males and females.

Q43. What is the wet nurse allowance ?

A43. It is a sum of money that is paid by the obligated to the wet nurse in exchange for breastfeeding the infant.

Q44. For how long is the wet nurse allowance deserved?

A44. The wet nurse allowance is given for two whole years - two Islamic years - from the date of nursing, which is the infant's date of birth and his/her emergence into life.

Q45. What are the conditions for the wet nurse allowance ?

A45. The mother deserves the wet nurse allowance only if she was divorced.

Q46. What is the residence allowance ?

A46. It is a sum of money that is paid by the obligated in exchange for the child's residence.

Q47. What are conditions for the child to deserve the residence allowance ?

A47. The child deserves it if he/she was not residing with the father.

Q48. Does the child deserve the residence allowance if he/she was residing with the father?

A48. The child does not deserve it in that case.

Child Support

Q49. When does the child's right to the residence allowance end?

A49. The child's right to the residence allowance stands until the age of 15 for the boys as the boy becomes able to earn suitable money, while for the girls it stands until the girl's marriage or when she could earn enough money to provide for herself.

Q50. What are the conditions that require the guardian to support his descendant?

A50. Under two conditions, if the descendent was poor – even if he/she was able to earn money, or if the guardian was affluent.

Q51. How much time are the relatives allowed to demand for allowance ?

A51. The relatives' right to the allowance comes into effect since the date of the ruling for they are not allowed to demand it for any time period prior to filing the lawsuit, whether the period was long or short.

Q52. When does the relatives' allowance drop?

A52. It drops with the death of the respondent or the plaintiff.

Q53. Is it permitted to agree on paying the frozen allowance in installments at the Office of Settlement?

A53. Yes, it is permitted.

Child's Custody and Visitation

Q54. What is a Child Custody Case?

A54. It is a lawsuit to claim the responsibility of raising and taking care of the child.

Q55. What is a Visitation Case?

A55. It is a lawsuit that could be filed by either of the two parents or the grandparents -in case of the parent's absence - to obtain the right to visit the child who is under the custody of one of the parties.

Child's Custody and Visitation

Q56. What are the conditions for a female custodian?

A56. She must be as follows:

- A. An adult of sound mind.
- B. Of good health and fit physical condition to take over custody.
- C. Trustworthy.
- D. Not married to a man foreign to the child, whether the marriage has been consummated or not.

Q57. What happens in case the female custodian lacked one of the required conditions?

A57. Her claim to the custody is dropped, and it is moved to whoever follows her in the order. Nevertheless, the right would return to her once she fulfills the requirements.

Q58. What are the procedures to prove paternity?

A58. Filing a request before the Paternity Cases Committee, attached to the marriage contract.

Q59. What are the procedures to disprove paternity?

A59. Filing a request before the Paternity Cases Committee in seven days from the birth date or awareness of it.

Q60. Is the DNA Paternity Test endorsed as a valid tool to prove paternity?

A60. No, not. Paternity is proved in terms of "bedding" in correlation to the marriage contract

Q61. How is paternity proved in terms of "bedding"?

A61. It refers to proving paternity in accordance to the period of the marriage contract, correlated with the period of the pregnancy. Consequently, paternity is not taken into account if the marriage period was four months, while the pregnancy was nine months.

Child's Custody and Visitation

Q62. What is the valid length for pregnancy designated by the law?

A62. The length of pregnancy has to be not less than six Arabic months, and not more than 365 days.

Q63. Can I reclaim custody if I got divorced from my foreign husband?

A63. Yes, provided that the divorce is irrevocable.

Q64. Can I reclaim custody of my children after the agreement to waive it to the father?

A64. Yes, but it would fall under the judge's discretion, who would consider the reasons behind it.

Q65. Can I reclaim custody of my children after it was dropped by the father due to my ill health?

A65. Yes, you can, after submitting to the judge proof of your recovery.

Q66. Can I demand custody of my disabled child?

A66. Yes, custody conditions apply to disabled children.

Q67. Can I demand custody of my fully disabled child who is 15 years old?

A67. Child custody for boys expires when they reach the age of 15, but you can demand custody of the disabled child after filing a case at the Personal Status Department.

Q68. To whom does custody transfer if the father passes away?

A68. Custody transfers to the paternal grandfather if he was available, if not then custody of Kuwaiti minors transfers to Public Authority for Minors Affairs (PAMA).

Q69. Does the mother have the right to demand custody of her children in case of the father's death?

A69. Yes, the mother can demand custody of her children provided that she refers to PAMA and proves the grandfather's delinquency.

Child's Custody and Visitation

Q70. What is the Custody's order of succession for women?

A70. succeeds in the following order: the mother, the maternal grandmother, the maternal aunt, the mother's maternal aunt, then her paternal aunt, then the paternal grandmother, the sister, the paternal aunt, the father's paternal aunt, the father's maternal aunt, the niece from the aunt's side, the niece from the uncle's side – precedence for full blood relations - then the mother and the father for everyone. If there was no one who qualifies for taking custody, it will transfer to the selected guardian, whom the judge would choose based on the best interest of the child. In the Ja'afarian doctrine, custody belongs to the mother until the age of 7 for males and females, and then it transfers to the father. The female is given the choice at the age of 9, whereas it is the age of 15 for the male, or the age of puberty, whichever comes first.

Q71. How is custody moved from one custodian to another?

A71. Custody does not move from one custodian to another unless by final court ruling.

Q72. Does child support move to the new custodian when custody is assigned to her?

A72. Yes, it does.

Q73. Is custody a right that belongs to the custodian or the child?

A72. Custody is a right that belongs to both the custodian and the child. If they overlap, then the child's takes precedence.

Q74. Is it permissible for a custodian to waive her right to custody while there is no other available custodian?

A74. No, it is not. The custodian in the case is obliged to the custody so that the child would not lose his right. In the Ja'afarian doctrine, the waiver of custody is taken into account.

Child's Custody and Visitation

Q75. Is the custodian permitted to reclaim her right of custody after waiving it?

A75. Yes, she is permitted even if the ruling of the waiver was issued, because her right to drop custody does not include the child's right of custody, and the child's right takes precedence over her.

Q76. Is the woman permitted to drop her right of the child's custody in exchange for divorce?

A76. It is not permitted because the right of custody is decided for the benefit of the child and not for the custodian.

Q77. Is it permissible for the woman to agree with her husband to waive her right to the child's custody in exchange for the settlement of a debt to him?

A77. It is not permissible, and that agreement will be nullified because it requires waiving the child's right to custody, which she does not own.

Q78. What is the age limit for women's custody?

A78. Women's custody begins from the birth of the child until the age of 15 for the boys and marriage for the girls. However, in the Ja'afarian doctrine, women's custody begins from the child's birth until the age of seven, from which custody goes to the father.

Q79. Does child support shift to the new custodian?

A79. Yes, it does.

Q80. What are the boundaries of the female custodian's right to move to another country with the child?

A80. We need to differentiate between two cases:

1. If the female custodian wishes to travel for a brief period for recreation, in which case the father cannot object.
2. If she wishes to reside in another country, then she must obtain approval from the father.

Child's Custody and Visitation

Q81. What are the boundaries of the male custodian's right to move to another country with the child?

A81. If the child is in the father's custody, the father has the right to travel with him. However, he cannot prevent the mother from seeing her child because that right is warranted to her by Islam and the law.

Q82. What are the designated places for visitation?

A82. The choice for places of visitation is up to the judge to decide and can be in the father's house or the mother's, if she has custody over her young child.

Q83. What is the allocated period and times for visitation?

A83. It must not exceed three hours per week, and it has to be between 9 a.m. and 7 p.m. with the consideration it takes place during official holidays and does not conflict with school days. In the end, it is up to the judge's discretion.

Q84. Is it permitted to enact the rule for visitation coercively if the custodian objects to allow it?

A84. It is not permitted, so it does not have psychological effects on the child. In that case, whoever presides to the rule gets to file a suit to request to change custody from the person who objected it to whoever succeeds him/her in the order of potential custodians.

Q85. How can the objection to enact the rule of visitation be proved before a family court?

A85. There are many ways to prove it, and the best one would be to refer to the police station to record the incident of not allowing visitation.

Child's Custody and Visitation

Q86. Is it permitted to reenact the visitation rule after the objection to enacting it has been proven?

A86. Yes, reenactment of the visitation rule is permitted with the same execution of deed every time the objection to enact that rule is proven – an exception from general rules, which state that the execution of deed is not to be used more than once.

Divorce (Talaq) and Conditional Divorce (Tatliq)

Q87. What does divorce mean in Sharia law?

A87. Divorce refers to the dissolution of the valid marriage bond by the unequivocal articulation of the phrase of divorce, or any other phrase that has the same effect, produced by the one who owns the bond of marriage, and that is the husband or a representative of him. In principle, the husband is the one to sign the divorce, unless the wife has stipulated in the marriage contract that she owns the bond of marriage, and so in this case she signs the divorce herself in his stead.

Q88. How is divorce effected?

A88. Through articulation, or gesture or writing. In order for the divorce to take effect, the term used to actuate it must be unequivocal.

Q89. What does Conditional Divorce (Tatliq) mean?

A89. It refers to a divorce signed by the judge.

Q90. Is it permitted to file for Conditional Divorce if the marriage was not officially registered?

A90. It is not permitted until the marriage is verified.

Q91. What is a revocable divorce?

A91. It is a divorce that occurs by the husband before the end of the waiting period. During this period, the husband is permitted to return to his wife without a new contract or a dowry.

Divorce (Talaq) and Conditional Divorce (Tatliq)

Q92. What is a minor irrevocable divorce?

A92. It is a divorce that occurs by the husband, and he holds on to it until the end of his wife's waiting period. In this case the husband is not permitted to return to his wife without a new contract and dowry.

Q93. What is a major irrevocable divorce?

A93. It is a divorce that occurs by the husband when he has already divorced his wife twice, and he is not permitted to return to his wife unless she is married to another after her divorce from him and after she is divorced from her other marriage.

Q94. Does divorce occur under insanity, insobriety, or coercion?

A94. Divorce does not occur under coercion, insanity, or insobriety.

Q95. What are the types of Conditional Divorce (Tatliq) cases?

A95. 1. Divorce for refusing to provide.
2. Divorce due to a fault.
3. Divorce due to harm.
4. Divorce demanded by the wife.
5. Divorce due to Ila' (husband's vow to refrain from intercourse).
6. Divorce due to absence.
7. Separation due to imprisonment.
8. Dissolution of marriage due to the difference in religious beliefs.

Q96. What does divorce for refusing to provide mean?

A96. It refers to when the husband refuses to provide for his wife. If he has evident money, a ruling is issued to oblige him to spend from of his money. If he does not have money, and has not stated whether he is insolvent or affluent while insisting on not providing, then, in that case, the judge signs the divorce.

Divorce (Talaq) and Conditional Divorce (Tatliq)

Q97. What are the conditions of divorce for not providing?

A97. There are several conditions including the husband's refusal to provide for his wife, his lacking evident money from which she can have her allowance, and his insistence on not providing, then he must divorce her.

Q98. Is divorce for not providing valid in case of the wife's recalcitrance?

A98. This divorce is withheld when the wife's recalcitrance is proven in a final ruling.

Q99. What is divorce due to a fault mean?

A99. It refers to when the wife asks for divorce from her husband if she has found a fault that cannot be treated or could be treated but after a long time, and she cannot stay with him without being susceptible to harm as in the case of insanity or leprosy.

Q100. What are the conditions for divorce due to fault?

A100. The conditions are:

1. If the wife found a major fault in her husband whether it was mental, physical, or sexual.
2. That fault cannot be treated or it would take a long time.
3. If the wife is harmed by this fault in a tangible way as in being susceptible to contamination, or psychological or moral damage.
4. If the wife was not informed about this fault before marriage and has accepted it after marriage, then she does not have the right to the divorce due to fault. When she acquires knowledge of the fault and has accepted it whether before or after marriage she loses her right to this divorce.

It is notable to mention that infertility does not count as a cause for divorce due to fault.

Divorce (Talaq) and Conditional Divorce (Tatliq)

Q101. What does divorce due to harm mean?

A101. It refers to when the wife claims that her husband is causing harm in a way that impedes the intimacy between them, in which case she is permitted to ask the judge for this divorce. Then if the harm has been proven and reconciliation between them has failed, the judge would divorce her irrevocably.

Q102. What are the conditions for the harm that permits the wife to ask for a divorce from her husband?

A102. The conditions are:

1. If the harm is committed by the husband unto his wife, regardless if it was done by choice or force.
2. If the harm claimed by the wife was caused by the discord between them, in a way that impedes intimacy between them.
3. And that the harm claimed by the wife must be within the husband's capability, whether to effect it or remove it.

Q103. How can the wife prove the harm brought on her by her husband?

A103. Harm can be proven through all proof methods, such as by issuing penal rules to her advantage, or by witnesses' statements.

Q104. What does divorce due to absence mean?

A104. It refers to when the husband is absent for a year or more without an acceptable excuse. Then the wife is permitted to ask the judge for an irrevocable divorce if she was harmed by his absence, and if he had money by which she could provide for herself.

Q105. What are the conditions for divorce due to absence?

A105. The conditions are:

1. If the husband is absent from his wife, residing in another country other than the one she is in.
2. If the husband's absence does not have an acceptable excuse like work or education.

Divorce (Talaq) and Conditional Divorce (Tatliq)

Q105. What are the conditions for divorce due to absence? *Continued*

- A105. 3. The wife must file for a divorce after one full year or more from his absence.
4. The wife must be harmed by his absence, and suit for divorce must be related to the harm.

Q106. What does divorce due to imprisonment mean?

- Q106. The wife of a man sentenced by a final ruling to a punishment that restricts his freedom for three years or more, has the right to ask the judge for a divorce after a year of her husband's imprisonment. This divorce is irrevocable and founded on harm, and if the husband had money, she can use it to provide for herself.

Q107. What is the meaning of Khula' (divorce demanded by the wife)?

- A107. The wife asks for khula' if she cannot bear living with her husband, and she fears that it prevents her husband from receiving his religious rights, so this divorce is introduced in exchange of her cordial waiver of all of her religious monetary rights.

Q108. What is the meaning of obedience from wife to husband?

- A108. The obedience of a divorced wife for her ex-husband includes the dutiful obedience in the marital house where they both reside.

Q109. What are the conditions for the wife's obedience to her husband?

- A109. The wife's obedience to her husband is correlated with a few conditions:
1. That the husband fulfills her immediate dowry, while the Ja'arfari doctrine necessitates that he fulfills the immediate delayed dowry.
2. That he provides a suitable residence.
3. That she can trust him with herself and her money.

LEGAL KNOWLEDGE HANDBOOK SERIES
FAQ on Womens Rights According Kuwaits Laws

2

**WOMEN'S RIGHTS
TO CITIZENSHIP, NATIONALITY
AND POLITICAL PARTICIPATION**

Ms. Shaikha Al-Julaibi

First: Rights to Nationality

Q1. Is the Kuwaiti nationality granted to the children of the Kuwaiti woman married to a foreigner?

A1. Children of a Kuwaiti woman from a foreign father are granted the Kuwaiti nationality based on Article 5 paragraph 2 only if she is widowed, or divorced irrevocably, or if her husband is held captive and the children have kept their continued residency in Kuwait until reaching the legal age of 21. The Minister of Interior may issue a decree to treat the underage foreign children whose mother is Kuwaiti the same as a national until they come of age, and the decree is published in the official Gazette.

Q2. Does obtaining a foreign nationality from the mother's side conflict with the Kuwaiti nationality?

A2. Any Kuwaiti citizen that willingly chooses to obtain another nationality loses by Law the Kuwaiti nationality.

Q3. Based on Article 8 of Kuwait's Nationality Law, does the divorce of a naturalized female citizen (wife of a Kuwaiti) cause the revocation of the Kuwaiti nationality?

A3. No, the naturalized wife of a Kuwaiti does not lose her Kuwaiti nationality in case the marriage ends in divorce or death, except if she decides to reclaim her original nationality.

Q4. Is the wife of a Kuwaiti granted the Kuwaiti nationality?

A4. The foreign wife of a national is granted the Kuwaiti nationality based on Article 8 paragraph 1, under the following conditions:

1. Declaration of her desire to obtain the nationality.
2. The continuation of the marital status for 15 years.

*In case the marriage ends in divorce or death, she is granted nationality if she has Kuwaiti children and has maintained a legal residence in Kuwait.

Q5. Is the female Kuwaiti citizen entitled to apply for a passport without the consent of her husband?

A5. The consent of the husband is not necessary to apply for a passport.

First: Rights to Nationality

Q6. According to Article 8 of the Nationality Law, if the naturalized wife of a Kuwaiti decides to retain her original nationality later on, does the Kuwaiti nationality terminate?

A6. The Kuwaiti nationality terminates in the case of retaining the original nationality.

Q7. Is the foreign widow or divorcée of a Kuwaiti citizen granted the Kuwaiti nationality?

A7. In case the marriage ends in divorce or death, she is granted the nationality if she has Kuwaiti children and has maintained a legal residence in Kuwait.

Q8. Does the revocation of the nationality of a Kuwaiti father cause the termination of the nationality of his children and his naturalized wife?

A8. The effect of the loss of nationality on the wife and offspring:

Cause of Loss	Article #	Status	The Effect on Wife and Offspring
Giving incorrect or false information that leads to the grant of the nationality.	13/1	Naturalization	The nationality may be withdrawn from wife and minor children.
The commission of a crime involving moral turpitude or dishonesty during the first 15 years of gaining the nationality.	13/2	Naturalization	The nationality is not withdrawn from wife and minor children.
Removal from public office due to disciplinary reasons during the first 10 years of nationality grant.	13/3	Naturalization	The nationality is not withdrawn from wife and minor children.

First: Rights to Nationality

Cause of Loss	Article #	Status	The Effect on Wife and Offspring
Due to national security reasons, whether internal or external.	13/4	Naturalization	The nationality may be withdrawn from wife and minor children.
Entry into military service for foreign countries	14/1	Original Nationality Naturalization	The nationality is not withdrawn from wife and minor children.
Working for the advantage of a country which is in war with Kuwait, or a country with which Kuwait has ended all diplomatic relations.	14/2	Original Nationality Naturalization	The nationality is not withdrawn from wife and minor children.
Joining an authority that plans to undermine the social and economic system, and disloyalty to the state.	14/3 13/5	Original Nationality Naturalization	The nationality is not withdrawn from wife and minor children. The nationality may be withdrawn from wife and minor children.
Attaining Another Nationality	11	Original Nationality Naturalization	<p><i>The Wife:</i> Whether Kuwaiti by origin or naturalized, she does not lose her nationality unless she decides to take on her husband's foreign nationality.</p> <p><i>Minor Children:</i> They do not lose their nationality unless they choose to take on their father's foreign nationality.</p>

First: Rights to Nationality

Q9. In which cases are the foreign children of Kuwaiti women treated as Kuwaitis until they come of age?

A9. Children of a Kuwaiti woman who is a widow or an irrevocable divorcee of a foreign husband, or wife to a captive foreign husband, may be treated as Kuwaitis by a decree from the minister of interior until they come of age.

Q10. What are the conditions for the grant of the Kuwaiti nationality?

A10. Conditions for the grant of the Kuwaiti nationality are as follows:

Type of Nationality	Article #	Guidelines for the grant
The original Kuwaiti nationality	1	<p>1. Those who lived in Kuwait before the year 1920 and have maintained a living continuously until 1959.</p> <p>2. Those born to a Kuwaiti father carrying an original nationality.</p>
Subsequent Kuwaiti nationality	4	<p>1. Maintaining a legal residence in Kuwait for 20 years, and as an exception 15 years for Arab nationals.</p> <p>2. Works, testified for good conduct, and has not been convicted of a crime involving immorality.</p> <p>3. Knowledge of the Arabic language.</p> <p>4. Has provided services that the country is in need of.</p> <p>5. Islam to be Muslim by birth, or has converted to Islam and proclaimed conversion for at least 5 years.</p>

First: Rights to Nationality

Type of Nationality	Article #	Guidelines for the grant
Subsequent Kuwaiti Nationality	5	<ol style="list-style-type: none"> 1. Has provided great services to the country. 2. The children of a Kuwaiti woman, who is a widow or a divorce of a foreign husband, or wife of a captive foreign husband. 3. Long residence in Kuwait.
Kuwaiti Nationality in Extension	7	<p><i>The wife:</i> She must declare her desire to obtain the nationality during the first year after her husband is granted nationality.</p> <p><i>Minor children:</i> Are granted nationality with their father.</p> <p><i>Children born after the grant:</i> Are granted an original nationality.</p> <p><i>Adult sons and grandsons:</i></p> <ol style="list-style-type: none"> 1. Works, testified for good conduct, and has not been convicted of a crime involving immorality. 2. Knowledge of the Arabic language. 3. Islam –to be Muslim by birth, or has converted to Islam and proclaimed conversion for 5 years at the least. 4. Normal residence in Kuwait for 15 years.
Kuwaiti Nationality in Extension	8	<p>The foreign wife of a Kuwaiti:</p> <ol style="list-style-type: none"> 1. Declaration of her desire to obtain the nationality. 2. Continuation of the marriage for 15 years.

Second: Women's Political Participation and Elections

Q1. What are the conditions required for women to run for membership of the National Assembly?

- A1. is required for the female candidate to:
- A. Own an original Kuwaiti nationality.
 - B. Be 30 years old or above.
 - C. Capable of reading and writing in Arabic.
 - D. Abide by the rules and provisions adopted in the Islamic Law
 - E. Not to be a member of the ruling family.
 - F. Not to be convicted in any felony or a crime involving moral scandal or dishonesty, unless she has been rehabilitated.
 - G. Not to be a member of the police force.

Q2. What are the conditions required for women to vote for candidates for the National Assembly?

- A2. It is required for the female voter to:
- A. Own a Kuwaiti nationality.
 - B. The naturalized citizen is able to vote after 20 years from obtaining the Kuwaiti nationality.
 - C. To have reached the legal age of 21.
 - D. To be registered in the election list.
 - E. Not to be a member of the police force.

Q3. What are the crimes specified by the election Law?

- A3. Penalty: "Shall be punished by imprisonment for a period of no more than six months, and a fine not more than 100 KD, or either of the two penalties," for the following actions:
- ¥ Insertion of a name in the election list or neglect of the insertion of the name.
 - ¥ Insertion of one's name or someone else's name while lacking the required conditions and being aware of it, and not inserting another name or removing it.
 - ¥ Printing or publishing documents promoting the election without mentioning the name of the publisher

Second: Women's Political Participation and Elections

Q3. What are the crimes specified by the election Law? *Continued*

- A3. ¥ Voting in the election knowing that said name has been inserted in the election list without a right, or has lost some of the required conditions to execute the right to vote, or the right has been suspended.
- ¥ Giving opinions on behalf of third parties intentionally.
- ¥ Using the right to vote more than once per time.
- ¥ Disclosure of the confidential voter's opinion without their consent.
- ¥ Entering the election halls without a right, and refusing to exit when instructed by the committee.
- ¥ Insulting the voting committee or one of its members.

Penalty: "Shall be punished with imprisonment for no more than 5 years, and a fine not less than 2000 KD and not more than 5000 KD, or either of the two penalties," for the following actions:

- ¥ Using force or intimidation to prevent a voter from using their right to vote, or forcing them to vote in a specific way or not to vote.
- ¥ Committing manipulation whether publicly through any means of media or publication, or covertly through messages or phone calls, or through mediators to buy votes in exchange of money, or through providing, offering or promising a voter something to have him vote in a specific way or not to vote.
- ¥ Accepting or demanding any benefit for themselves or someone.
- ¥ Broadcasting false news about other candidate's conduct among the voters with the purpose of affecting the election.
- ¥ Entering the voting halls with a weapon.
- ¥ Entering the voting halls with a device, whether visible or concealed, to capture what proves them voting for a specific candidate.

Second: Women's Political Participation and Elections

Q3. What are the crimes specified by the election Law? *Continued*

Penalty: “ shall be punished with imprisonment for a period of no more than 5 years, and a fine of not less than 2000 KD and not more than 5000 KD, or either penalties,” for the following actions:

- ¥ Embezzling, hiding, destroying or corrupting the election list or any other paper related to the election, or manipulating the election results in any way.
- ¥ Disrupting the freedom of voting or the system of voting through the use of force or intimidation or joining a mob, riot or demonstration.
- ¥ Robbing the voting box or destroying it.
- ¥ Organizing or participating in a partial election, which takes place in an unofficial form prior to the date of the elections where a candidate or more is chosen to represent a specific group or a sect.
- ¥ Using places of worship or of knowledge to call for voting for a certain candidate, or harming a certain candidate.
- ¥ Using money of societies and unions or their headquarters to call for voting for a certain candidate, or harming a certain candidate.

Note: The attempt of any of the previously stated crimes is punished by the same penalties stated for the complete crime.

Third: General Questions

Q1. Do laws apply retroactively?

A1. Laws apply with immediate effect (as of the date of their effectiveness) and do not apply retroactively unless there is a legal text that declares so, whereas The Penal Code does not apply retroactively in any case.

Q2. Is it permissible to punish an individual for a crime committed by another?

A2. No, penalty is personal in Kuwait's Penal Code.

Q3. Is it permissible to confine an individual's freedom in terms of imprisonment, inspection, residence or transport?

A3. It is not permitted to arrest, or imprison, or inspect an individual, or restrict their residence, or confine their freedom, except if it was based on a legal text, or conditions specified by the law.

LEGAL KNOWLEDGE HANDBOOK SERIES
FAQ on Womens Rights According Kuwaits Laws

3

PROTECTING WOMEN FROM VIOLENCE

Ms. Esra Al-Amiri

Places and Forms of Violence

Q1. What are the places where women are most susceptible to confront any form of violence?

A1. A woman may confront violence at different places, whether in the small setting of her home at the hand of a family member, or at public places (shopping malls, health clubs, roads and streets, grocery stores, restaurants, cafes, etc.) by a stranger, or at her workplace by her manager or a colleague, or at detention centers (such as police station or prison) by security men or prison staff, or by the society and its institutions.

Q2. What are the forms of violence that a woman may confront?

A2. Violence has different forms and types. It is not necessarily achieved physically.

- A. Violence could be physical, as exemplified in battery, burning, or any form of bodily harm.
- B. Or it could be verbal, such as when the woman is insulted, slurred at, or addressed in any other demeaning way.
- C. Also, violence could be sexual, and that refers to any sexual act the woman may be subjected to without her consent, starting from what she may receive of obscene gestures, or sexual phrases and expressions, and ending with defamation or rape, including marital rape and incest.
- D. In addition, violence against women may take an abstract form. That means that it does not necessarily have to be in a physical form in order for it to be classified as an act of violence. It could be any offensive act directed at the woman in regard to her gender, such as discrimination between her and her male counterparts in treatment.
- E. Physical violence may also take another form, such as depriving the woman of education, medical treatment, or money.

Domestic Violence

- Q3. Is there a law that prohibits domestic violence in Kuwait?**
A3. No, there is no law that addresses violence within the domain of the family in Kuwait's legislations. However, there are a few Articles from The Personal Status Law and The Penal Law that could be resorted to in case a crime of violence takes place within the household. Yet these Articles are still insufficient, as they do not cover all forms of domestic and family violence. (Articles 160, 161, 162, 163, 178, 180, 181, 184, 186)
- Q4. What is the required minimum age for the female in order for the marriage contract to be valid?**
A4. The Kuwaiti Law does not mention the required minimum age for the validity of the marriage contract. It only necessitates the female to have reached the age of 15 for the contract to be notarized and registered legally.
- Q5. Does the law render the female's parent, guardian, or husband the authority to confine her at home?**
A5. No, no one has the authority to confine another person.
- Q6. What is meant by marital rape?**
A6. It refers to when the husband performs sexual intercourse with his wife without her consent, whether it results in physical harm or not.
- Q7. Does the Private Sector Labor Law include passages that prohibit sexual harassment or discrimination against women at the workplace?**
A7) No, the Private Sector Labor Law does not address issues of sexual harassment or discrimination against women at the workplace. However, in case the woman experiences sexual harassment at work, she then may refer to the following passages from The Penal Law, regardless of what degree the harassment is, whether the rape, sexual molestation, incitement to debauchery, or even obscene gestures or expressions, and whether it is committed by her superior or a colleague. (Articles 186, 191, 198, 199, 200, 201, 210)

Violence in Public Places

Q8. What is the difference between sexual molestation and rape?

A8. Sexual molestation refers to any intended obscene act that reaches a person's body and genitalia, and which violates his/her modesty. It could be committed upon both males and females. For example: touching a woman's breast, or her private parts, even over clothes, or kissing a woman without her consent. Rape, on the other hand, refers to performing sexual intercourse with a woman, in frontal form, without her consent (natural form of intercourse). Thus, this crime is committed upon women exclusively. (According to the text of the law, rape is only committed on women, whereas performing sexual intercourse with a man with the use of force is designated as molestation).

Q9. Does the Law prohibit lewd acts in public places, and gestures or words or incitement to sexual acts?

A9. Yes. The Kuwaiti Penal code contains Articles that outlaw the perpetration of these acts in public places such as roads, streets, shopping malls, restaurants and cafes. (Articles 198, 199, 200, 201, 210)

On the Detention and Arrest of Women

Q10. Is the inspection of women when arrested and detained at police stations or general investigation by male security forces legal?

A7. No, the law has explicitly stated that women are only to be inspected by women, and not abiding the law is absolutely indictable, even if it were with the woman's consent.

Q11. What about the detention of women in prisons? Has the law required them to be detained by women?

A7. Yes, the law has explicitly stated that the superintendent of women's prison must be a woman that is assisted by a female staff.

On Institutional and Legal Violence

Q12. How constitutional are the few passages in the Kuwaiti Legislations which contain explicit discrimination against women?

A12. They are unconstitutional, violating the Constitution of Kuwait which has asserted that people are equal in human dignity, and they are equal before the law in duties and responsibilities without distinction based on sex, origin, language or religion. They also contradict Kuwait's international obligations that it has agreed to voluntarily, such as The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the International Convention for Civic and Political Rights. (Example 153)

On Institutional and Legal Violence

Q13. Is there a center in Kuwait for sheltering battered women or programs for their rehabilitation?

A13. No, there are no centers in Kuwait for sheltering battered women or programs for their rehabilitation according to international standards, despite their necessity. A woman or a girl may hesitate to report a violent incident against her for the reason of not having a shelter to go to where she would be protected from her offender. She would remain under her offender's dominance after she reports him to the related authorities, which could make her susceptible to receive other forms of violence, or even more severe forms than previously, as a retribution for reporting. Having no specialized rehabilitation programs for battered women has detrimental effects on the woman and the society as well. This is due to the fact that violence has severe psychological effects on the victim, which may leave her unable to continue her life in a normal way, whether at home, with members of her family, or at work or any other place.

However, there is a center that receives domestic workers with specific conditions, and there is also The Social Development Office which offers council and guidance for battered women.

Articles

Article 153

Any person who surprises his wife committing adultery, or discovers his daughter, mother, or sister engaged in fornication, and thus murders her at that moment or her partner or both, is to be sentenced to a period of no more than 3 years, and fined with an amount of no more than 3000 Rupees, or either of the two penalties.

Article 160

From the Kuwaiti Penal code: Any person who beats another, wounds them, causes them bodily harm, or violates the sanctity of the body in a physical way, is to be sentenced to a period of no more than two years in prison, and fined with an amount of no more than 2000 KD, or either of the two penalties.

Article 161

From the same law: Any person who causes severe harm unto another by throwing any type of projectile, or hitting them with a knife or any other dangerous object, flinging burning liquid on them, or putting this liquid or any other explosive in a position that could cause harm, or offering them sedatives, is to be sentenced to a period of no more than 10 years in prison, and may be fined with an amount of no more than 10,000 KD.

Article 162

From the aforementioned law: any person who causes harm unto another leading to permanent disability is to be sentenced to a period of no more than 10 years in prison, and may be fined with an amount of no more than 10,000 KD. Said person is to be sentenced to a period of no more than 5 years in prison and fined with an amount of no more than 5000 KD, or either of the two penalties if the assault has led the victim to suffer severe physical pains or was unable to use one body part or more in a natural way within the period of 30 days, without it leading to a permanent disability.

Articles

Article 163

From the Kuwaiti Penal code: Any person who commits a minor assault that does not equal in severity the acts described in the aforementioned Articles, is to be sentenced to a period of no more than 3 months in prison, and fined with an amount of no more than 300 KD, or either of the two penalties.

In the case where the woman was confined by one of her family members, or transferred from one place to another in secret (abduction), then suitable legal measures may be taken against the offenders in accordance with the following texts from the Penal code:

Article 178

Any person who abducts another without his/her consent, and that is by forcing him/her to move from the place where they usually reside to another place where they are confined, is to be sentenced to a period of no less than 3 years and no more than 10 years. If the abduction was conducted through the use of force, intimidation, or treachery, the sentence then comprises a period no less than 7 years and no more than 15 years. In case the victim was mentally ill or mentally demented or is less than 18 years old, the punishment is a life sentence. In all cases, a fine is added to the prison sentence that is no less than 5000 KD and no more than 15,000 KD.

Article 180

Any person who abducts another by means of force, intimidation or treachery with the intention of murder, enforcing harm, rape, defamation, or coercing him/her into prostitution, or blackmailing him/her or another party, is to be sentenced to death.

Article 181

Any person who conceals an abducted person while being aware that he/she is abducted, is to be punished as if they were the abductor. In case this was also aware of the intention of the abduction or its conditions, the punishment then becomes the same of the abductor under these circumstances.

Articles

Article 184

Any person who arrests another, or confines them, or imprisons them in conditions that are not approved by the law, or without heeding the protocols that are approved by the law, is to be sentenced to a period of no more than 3 years, and fined with an amount of no more than 3000 KD, or either of the two penalties. In case these acts were associated with physical torture, or threat of murder, the sentence then comprises of a period of no more than 7 years, and a fine of an amount of no more than 7000 KD may be added, or either of the two penalties.

Article 186

Whoever performs sexual intercourse with a woman without her consent by means of force, or intimidation or treachery is to be sentenced to lifetime in prison or execution. If the perpetrator is a legal guardian of the victim, or in charge of raising or taking care of her, or has an authority over her, or was a servant of hers or of one of the aforementioned, the sentence is death (execution).

Article 191

Any person who sexually molests another, by means of force, intimidation or treachery is to be sentenced to a period of no more than 10 years in prison, and a fine of no more than 10,000 KD may be added.

If the perpetrator is a legal guardian of the victim, or in charge of raising or taking care of them, or has an authority over them, or was a servant of theirs or of one of the aforementioned, the sentence becomes no more than 15 years in prison, and a fine of no more than 15,000 KD may be added.

The previous sentences are to be applied if the victim lacks volition due to young age, madness, or insanity, or if the victim were unaware of the nature of the act, or believed in its validity, or if the act was perpetrated without the use of force, intimidation or treachery.

Articles

Article 198

Any person who produces an obscene gesture or act in a public place, or under the circumstance where they may be seen or heard by someone in a public place, or imitates the opposite gender in any form, is to be sentenced to a period of no more than 1 year in prison, and fined with an amount of no more than 1000 KD, or either of the two penalties.

Article 199

Any person who commits an obscene act in a private place to a woman without her consent, where the act does not reach the level of severity of a molestation, is to be sentenced to a period of no more than 1 year in prison, and fined with an amount of no more than 1000 KD, or either of the two penalties.

Article 200

Any person who incites a male or a female into committing acts of debauchery or prostitution, or assists them in any form, is to be sentenced to a period of no more than 1 year in prison, and fined with an amount of no more than 1000 KD, or either of the two penalties.

If the age of the victim was under 18, the sentence becomes a period of no more than 2 years in prison, and a fine of an amount of no more than 2000 KD, or either of the two penalties.

Article 201

Any person who pressures a male or a female into committing acts of debauchery or prostitution by means of force, intimidation or treachery, is to be sentenced to a period of no more than 5 years in prison, and fined with an amount of no more than 5000 KD, or either of the two penalties. If the age of the victim was under 18, the sentence becomes a period of no more than 7 years in prison, and a fine of an amount of no more than 7000 KD, or either of the two penalties.

Article 210

Any person who proclaims defaming insults to another or to his reputation, in a public place where he could be heard and seen by a person other than the offended, without the insults being based on a factual incident, is to be sentenced to a period of no more than 1 year in prison, and fined with an amount of no more than 1000 KD, or either of the two penalties.

LEGAL KNOWLEDGE HANDBOOK SERIES
FAQ on Womens Rights According Kuwaits Laws

4

**FOR THE PROMOTION
OF WOMEN'S ECONOMIC RIGHTS**

Ms. Asma Al-Ghanim

Woman's Work Rights

Q1. Can a woman with a secondary school diploma or a lesser educational degree apply for a job through the Civil Service Commission?

A1. Yes, under the following conditions:

- A. She has to be above 25 years old.
- B. Either married, divorced or widowed.
- C. And have passed training courses in private institutes, the duration of which must be not less than one training year (9 continuous months), and must be approved by The Public Authority for Applied Education and Training.

In all cases, the applicant must not be enrolled in any university, or educational institute, or any college in The Public Authority for Applied Education and Training, and she must have had ceased serving in the public sector for at least a year before applying.

Q2. If the woman's work was interrupted for a private leave, whether maternity or family care or consulatory, does that affect her Competence Evaluation Report?

A2. The employee is not subjected in any of these cases to the provisions of the Evaluation Report. It is assumed that this employee is not efficient, and thereupon she does not deserve the annual raise or promotion, nevertheless she may receive what is deserved before the passage of a year. The employee is also denied promotion if she was suspended or received any disciplinary penalties (Article 67), or a "poor" evaluation (Article 18, 19)

Q3) When is the woman given the pension on behalf of her children?

A3) She is given the right to receive the pension on behalf of her children if their father has passed away, or in the case of his inability to work or earn a living while not receiving any pay, salary, or support from the government.

Woman's Work Rights

Q3) When is the woman given the pension on behalf of her children? *Continued*

This is also the case if she was providing for her children without receiving alimony from their guardian; and that is according to the following conditions:

1. The death of the father of her children provided that:
 - A. The children do not receive any retirement pay from the government on behalf of their father if he was Kuwaiti.
 - B. The woman and her children do not receive any kind of social welfare, and that must be certified by The Ministry of Social Affairs and Labor.
2. The inability of the father to work or earn a living provided that:
 - A. The father is unable to work or earn a living due to health conditions and that must be certified by the specialized medical body (General Medical Committee).
 - B. The father does not receive a retirement salary - if he is Kuwaiti - and that must be certified by The Public Institution for Social Security.
 - C. The father does not receive any salary or pay from the government, neither the female employee nor their children, and that must be certified by The Ministry of Social Affairs and Labor.
 - D. The father does not receive any income from a private business or real estate of which he can provide for his children - if he is Kuwaiti -, and that must be certified by The Real Estate Registration Office to prove that he does not own any profit-making real estate, and The Ministry of Commerce: Commercial Register- to prove that he does not have a commercial license.

Woman's Work Rights

Q3) When is the woman given the pension on behalf of her children? *Continued*

3. The mother must not receive any form of alimony if:
- A. The father being imprisoned due to the execution of penal verdicts in Kuwait, and that must be certified by The Ministry of Interior - Verdict Execution Office.
 - B. The issue of a verdict of imprisonment against the father in absentia, and that must be certified by The Ministry of Justice.
 - C. The issue of verdict of legal or administrative deportation of the father from Kuwait, if he was non-Kuwaiti, and that must be certified by The Ministry of Justice.
 - D. The father's absence from Kuwait for a long time, or his inability to acquire a residence or entry permit, and that must be certified by The Ministry of Interior.
 - E. The employee's inability to fulfill final verdicts related to alimony, and that must be certified by The Ministry of Justice - Executive Department.
 - F. The father's inability to provide for his children, and that must be proven through a court ruling.

It is notable to mention that the social pension is deserved only for 5 children, according to the Law no. 19 for the year 2000.

Q4. Does the woman receive the social pension on behalf of her children if she is married to a foreigner?

- A4. Yes, in the case of legal or administrative deportation of the foreigner father, and that must be certified by The Ministry of Interior.

Woman's Work Rights

Q5. What are the work leaves during which the female employee does not receive a full salary?

- A5.
1. Half-salary leave:
 - A. The maternity leave for the period of 4 months, which comes after the giving birth leave. The employee receives a full salary for the first month, and half for the last three.
 - B. The accompaniment of a diplomat husband abroad, or who is of the same status.
 2. Unpaid leave:
 - A. Family Care leave, and also the leave for carrying out commercial, industrial or vocational enterprise.

Q6. Giving Birth leave: does it count from the employee's annual leave? Can she take the leave before giving birth or does it come into effect on the day she gives birth? And is the grant of this leave subject to the administration's discretion?

- A6.
- No, it does not count from the employee's annual leave. The essence of the leave is the occurrence of the incident of giving birth within its duration, and that means that it does not necessarily start with the incident of giving birth or thereafter, but it can start before. This is an advantage to the pregnant employee and it offers her the comfort she needs during the end of her pregnancy. It is also in the advantage of the administration, since work may be affected due to the pregnant employee's inability to perform her job efficiently during this period.
1. The duration of the giving birth leave is two months with full-paid salary.
 2. The employee deserves it even if she were on her annual leave.
 3. The administration has no authority over the grant of this leave, for the employee's right to the leave becomes obligatory as of the occurrence of giving birth.

Woman's Work Rights

Q7. Pregnant disabled employee's leave: Are the employees aware of their right to this leave? And how long is it?

- A7. There is no specific information regarding the awareness of this leave; however, there are certain conditions regarding this leave, and they are in the following:
Article (8) of Law no. 49 for the year 1996, regarding the care to the disabled, has stated the grant of this leave to the pregnant disabled employee.
1. This leave is not counted from her other leaves.
 2. Provided that the medical committee recommends that her condition requires the leave.

Q8. Maternity leave: is the grant of the leave subject to the administration's jurisdiction? Does the employee have to apply for this leave directly after giving birth? And if she wanted it after a while of giving birth, can she obtain it?

- A8. There are certain provisions and regulations with regard to this leave, and they are as follows: The legislator has approved in paragraph (b), Article 1 of the Council's resolution 1/1993 to offering a maternity leave for 4 months with half-salary out of respect to maternity, and it is consecutive to giving birth leave. The resolution has been modified by decree no. (6) by the Council of The Civil Service Commission for the year 2011, and has become as follows:
1. The maternity leave is for 4 months, the first month is for a full salary, while the last 3 months are for half.
 2. The leave starts directly after the giving birth leave.
 3. It must be upon the request of the employee.
 4. The employee must be a Kuwaiti or married to a Kuwaiti.
 5. The grant of the leave is subject to the administration's jurisdiction.
 6. It starts directly after the giving birth leave and ends after 4 months, so if the request for it was late, its duration is shortened where it does not exceed the 4 months.

Woman's Work Rights

Q9. Diplomat's wife accompaniment leave, and those of the same status: how long is the leave? Is the grant of the leave subject to the administration's jurisdiction?

A9. The wife of an employee of the Ministry of Foreign Affairs, or any other administration that sends diplomatic missions is granted a special leave for half-salary during the whole stay abroad, and it counts within her service.

Q10. Leave for the employee's wife's accompaniment of her husband abroad: Is it restricted to husbands working in the public sector? And is it limited?

- A10.
1. It must be upon the request of the wife, and for her full salary.
 2. The leave is issued from the related minister, who has authority in issuing or prohibiting it.
 3. The accompanied husband must be a public worker, in the general definition of the word, referring to an employee in any government institution: ministries, authorities, army, police or National Guard.
 4. The accompanied husband must be abroad for a specific cause, whether transfer, or as part of a scientific expedition, or for studies, or an official mission, or deputation.
 5. The leave has no specific time frame, and is connected to the husband in the above mentioned cases.

Woman's Work Rights

Q11. What are the injuries for which the female worker receives the total amount of blood money, half the amount, or a particular percentage of it?

A11. Firstly, she receives total amount of blood money for:

- ¥ Loss of soul
- ¥ Loss of wit or memory
- ¥ Loss of eyesight, even if for one eye A11. Continued
- ¥ Loss of hearing, even if for one ear
- ¥ Loss of sense of smell
- ¥ Loss of sense of taste
- ¥ Loss of voice or speaking ability
- ¥ Breaking of spine, disabling her from standing up
- ¥ Loss of sexual or reproduction ability.

Secondly, she receives half amount of blood money for:

- ¥ Hand cut to the wrist
- ¥ Leg cut to the joint
- ¥ Loss or burst of one of the two functioning eyes
- ¥ Loss of one of the two functioning ears
- ¥ Loss of a woman's breast or cut of a nipple

Thirdly, a particular percentage of blood money for:

A	Loss of a permanent tooth	5% of indemnity
B	Loss of the thumb	15% of indemnity
C	Loss of a finger other than the thumb	10% of indemnity
D	Loss of thumb's phalanx	7.5% of indemnity
E	Loss of a finger's phalanx other than the thumb	3.5% of indemnity

Woman's Work Rights

Q12. Does the Kuwaiti woman working in the private sector receive social pension for her children if her husband was dead or unable to provide for them?

- A12. A. In case of the father's death, without the children receiving a retirement pension for him, or any help from the public treasury on a regular basis.
- B. The father's inability to work for medical reasons, without him receiving a salary, or a retirement pension or any help from the public treasury on a regular basis.

Q13. Do the Civil Service and National Manpower Commission set a quota for female workers out of the overall total of Kuwaitis to be employed in non-governmental bodies?

- A13. The Civil Service and National Manpower Commission do not set a quota for female workers to be employed in non-governmental bodies.

Q14. Are there regulations for the payment of female workers in the private sectors? And is it equal to the male workers?

- A14. The female worker receives an equal payment to the male worker if she performs the same work.

Q15. Does the Public Authority for Minor Affairs hold custody over minors of Kuwaiti mothers and non-Kuwaiti fathers?

- A5. No, the Authority holds:
- A. Custody over Kuwaiti minors who have no guardian, and post-term pregnancy with no guardian.
- B. Guardianship over the incompetent, missing, or absent Kuwaiti whom the court has not assigned a curator to manage their money.
- C. Monitor over the behavior of guardians and curators, only if this task was assigned to the Authority by the court.

Woman's Work Rights

Q16. What is the retirement law for women?

A16. Women and men are covered by the same retirement pension law. The laws of the Public Institution for Social Security (PISS) confirms the eligibility for the pension for those under 50 years old, and complete 20 years of service, and for those above 50, and complete 15 years of service. The pension is not endowed unless the designated age is reached which is currently (48), and it will increase gradually until (55) in 2020.

Q17. Does the retirement age for the married woman differ than the single woman?

A17. Single women are covered by the same retirement law for men. However, it is different for women who are married, divorced or widowed with children, and have completed 15 years of service, for the designated age for legibility for retirement pension for them is (43) until 31/12/2012, and will increase gradually to 50 in 1/1/2020. This age is considered low in comparison with other Arab and foreign countries. The same law applies to married women without children, if the marriage has continued for 2 years before the end of the service. Thus it becomes clear that women in the above mentioned cases are able to retire under simple conditions in terms of the period of service and age, as the principal rule that applies on all is that the period of service must not be less than 20 years, and the age not less than 48 years at the present.

Woman's Work Rights

Q18. Does The Public Authority for Housing Welfare provide housing for Kuwaiti women married to non-Kuwaitis? If not, do they receive rent allowance? And if yes, are there any specific conditions?

A18. Article (28 - A) / law number 2 for the year 2011, in amendment of a few rules of law number 47 for the year 1993 regarding housing welfare (2/2011):
"Kuwait Credit Bank manages providing proper housing for low rental in accordance with the conditions that are defined in the decree referred to in the Article (28 - B) of this law, for the following categories:

1. Kuwaiti woman married to a non-Kuwaiti with no children.
2. Kuwaiti woman married to a non-Kuwaiti resident in Kuwait, with no children, provided that the marriage has lasted for 5 years.
3. Kuwaiti woman with no children whether divorced irrevocably or is a widow, and the single Kuwaiti woman, and each has to be above 40 years old. According to this Article, the housing is provided with the condition that each housing facility has to be shared by two women who are blood-related by first, second and third degree."

Q19. Does The Public Authority for Housing Welfare provide housing for single Kuwaiti women? If not, do they receive rent allowance? And if yes, are there any specific conditions?

A19. Article (28 - A) / law number 2 for the year 2011 in amendment of some rules of law number 47 for the year 1993 regarding housing welfare (2/2011):
"Kuwait Credit Bank manages providing proper housing for low rental in accordance with the conditions that are defined in the decree referred to in the Article (28 - B) of this law, for the following categories:



One of WRACATI Workshops “The Mechanisms for protecting women” – May 2014
For the employees of Ministry of Health, Interior and Social Affairs in Kuwait



The launching of WRACATI Project - 3 March 2012, At Women's Cultural and Social Society (WCSS)



The official launch of WRACATI project website – 5 march 2014 – UN House in Kuwait



Announcing the Declaration of Kuwaiti women - March 2014



One of WRACATI project activity: Training of Trainers (TOT) for Building National Capacities on Human/Women's Rights and Legal Empowerment in Kuwait at Women's Cultural & Social Society. 23-27 June 2013

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مباشر : +٩٦٥ ٢٤٩٢٨٣٧٥ - تلفون : +٩٦٥ ٢٤٨٤٣٣٩٧ - +٩٦٥ ٢٤٨٤٣٦٦٧ - الرقم الداخلي : ١٢
فاكس : +٩٦٥ ٢٤٨١٣١٧١ - +٩٦٥ ٢٤٨٤٣٣٨٥
موقع مشروع ورقتي : www.wracati.com - بريد مشروع ورقتي : info@wracati.com
موقع الجمعية الثقافية الاجتماعية النسائية : www.wcss-kw.org
بريد الجمعية الإلكتروني : info@kwtwcss.org



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