



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the third periodic report of Kuwait\*

1. The Committee considered the third periodic report of Kuwait<sup>1</sup> at its 30th and 32nd meetings,<sup>2</sup> held on 28 and 29 September 2021, and adopted the present concluding observations at its 57th meeting, held on 15 October 2021.

#### A. Introduction

2. The Committee welcomes the submission of the third periodic report by the State party, and the supplementary information provided in the replies to the list of issues,<sup>3</sup> as well as the updated common core document of the State party. The Committee appreciates the constructive dialogue held with the State party's delegation.

#### B. Positive aspects

3. The Committee welcomes the legislative, institutional and policy measures taken by the State party to enhance the realization of economic, social and cultural rights, as referred to in the present concluding observations. In particular, the Committee welcomes progress made in relation to certain labour rights of domestic workers and the passing of laws on protection against domestic violence and against sexual harassment in the workplace. The Committee also welcomes the State party's international cooperation and assistance, including financial, in the context of the coronavirus disease (COVID-19) pandemic, as well as the amnesty issued by authorities to migrant workers who overstayed their visas owing to circumstances related to the pandemic.

#### C. Principal subjects of concern and recommendations

##### Domestic application of the Covenant

4. While noting that as a constitutional principle, international treaties ratified by the State party form an integral part of its national legislation, the Committee is concerned that certain rights protected by the Covenant are not fully incorporated into its national legislation, and is also concerned by the lack of examples of the Covenant being invoked in courts (art. 2 (1)).

5. **The Committee recommends that the State party fully incorporate all Covenant rights into its domestic legal order and ensure that awareness of the Covenant and the**

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\* Adopted by the Committee at its seventieth session (27 September–15 October 2021).

<sup>1</sup> [E/C.12/KWT/3](#).

<sup>2</sup> See [E/C.12/2021/SR.30](#) and [E/C.12/2021/SR.32](#).

<sup>3</sup> [E/C.12/KWT/RQ/3](#).



**justiciability of the rights therein is raised among judges, lawyers and public officials, including through training measures.**

#### **Reservations and interpretive declarations**

6. The Committee is concerned that the State party's reservation to article 8 (1) (d) adds to uncertainty that impedes the right to strike. The Committee is also concerned that the State party maintains its interpretative declaration with regard to articles 2 (2) and 3 of the Covenant, in relation to non-discrimination and equality between men and women, amounting to a reservation incompatible with the object and purpose of the Covenant. Considering that around 70 per cent of the State party's population are non-Kuwaitis, the Committee is also concerned about the detrimental impact that the State party's declaration made with regard to article 9 of the Covenant has on the enjoyment of economic, social and cultural rights of a large part of its population (art. 2 (1)).

**7. The Committee recommends that the State party review its reservations and interpretative declarations made upon ratification of the Covenant and give non-nationals access to its contributory social security schemes for old-age pension and unemployment. The Committee reminds the State party that cultural and other local practices are no justification for any form of discrimination. The Committee also refers the State party to its general comment No. 19 (2008) on the right to social security.**

#### **National human rights institution**

8. While noting that the National Bureau for Human Rights was established by Act No. 67 in 2015, the Committee is concerned that the Bureau's structure is not compliant with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular with respect to its independence from the Government. Furthermore, while the Committee was informed that a commission on economic, social and cultural rights forms part of the Bureau, it notes that article 9 of Act No. 67 does not explicitly include a standing committee on economic, social and cultural rights (art. 2 (1)).

**9. The Committee recommends that the State party take legal, structural and budgetary measures to strengthen and guarantee the independence of the National Bureau for Human Rights in accordance with the Paris Principles. The Committee further recommends that the State party take steps to ensure that the Bureau's mandate explicitly covers all economic, social and cultural rights guaranteed by the Covenant.**

#### **Climate change**

10. The Committee notes with concern the lack of details provided by the State party regarding progress made towards its commitments under the Paris Agreement and in setting a quantitative greenhouse gas emissions reduction target, and regarding steps taken to monitor the environmental performance of State institutions (art. 2 (1)).

**11. The Committee recommends that the State party:**

**(a) Take concrete steps and track its progress towards fulfilling its nationally determined contributions under the Paris Agreement;**

**(b) Set a quantitative greenhouse gas emissions reduction target and intensify efforts to this end;**

**(c) Incorporate the nationally determined contributions into the development plans and strategies developed within the framework of its "New Kuwait" vision for 2035;**

**(d) Ensure that the Supreme Council for the Environment appoints observers to monitor the environmental performance of State institutions and that mechanisms are put in place to ensure that follow-up actions to their findings are taken. The**

**Committee refers the State party to its statement on climate change and the Covenant,<sup>4</sup> adopted on 8 October 2018.**

#### **Business and economic, social and cultural rights**

12. The Committee is concerned about the absence of specific measures taken by the State party to ensure that public and private business entities under the State party's jurisdiction exercise due diligence and respect economic, social and cultural rights throughout their operations, including overseas operations, and to monitor them to this end (art. 2 (1)).

**13. The Committee recommends that the State party adopt legislative, administrative, educational and other appropriate measures that allow it to monitor and ensure effective protection against violations of Covenant rights linked to business activities, including overseas, by public and private companies under the State party's jurisdiction. The Committee also recommends that the State party ensure it provide victims of such corporate violations of Covenant rights access to effective remedies. The Committee further recommends that the State party adopt a legal framework requiring public and private companies under the State party's jurisdiction: to exercise human rights due diligence in order to identify, prevent and mitigate the risks of violations of Covenant rights; and to account for the negative impacts caused, in whole or in part, by their decisions and operations, and those of entities they control, on the enjoyment of Covenant rights. The Committee refers the State party to its general comment No. 24 (2017) on State obligations under the Covenant in the context of business activities.**

#### **Non-discrimination**

14. The Committee is concerned that the constitutional guarantees of non-discrimination do not include the prohibition of discrimination on all grounds as listed in article 2 (2) of the Covenant. The Committee is also concerned about the lack of a comprehensive anti-discrimination legislation sanctioning discrimination on all grounds and ensuring access to economic, social and cultural rights without discrimination (art. 2).

**15. The Committee recommends that the State party adopt comprehensive anti-discrimination legislation defining, prohibiting and sanctioning discrimination on all grounds, in full conformity with article 2 (2) of the Covenant. The Committee further recommends that the State party include in its next periodic report detailed information on the actual fulfilment of economic, social and cultural rights by the various segments of its population, including statistical data disaggregated by year, sex and other relevant criteria. The Committee refers the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

#### **Discrimination against Bidoon**

16. The Committee is concerned about the slow progress made in the implementation of its previous recommendations regarding the recognition of the status of Bidoon so that they can fully enjoy their economic, social and cultural rights, without discrimination (art. 2).

**17. The Committee recommends that the State party take measures to expedite the implementation of its previous recommendations<sup>5</sup> to find a permanent solution to the status of Bidoon, so as to enable them to fully enjoy their rights under the Covenant.**

#### **Equality between men and women**

18. The Committee recognizes the various positive measures taken by the State party to improve the situation of women, including the introduction of initiatives to empower women in the private and public sectors and the passing of a law on protection against domestic violence in 2020, along with the relevant implementing regulations. With reference to paragraphs 6 and 7 above, the Committee is, however, concerned that discrimination under various laws in the State party continues to hamper women's equal enjoyment of economic,

<sup>4</sup> E/C.12/2018/1.

<sup>5</sup> E/C.12/KWT/CO/2, para. 9.

social and cultural rights, in particular in the Personal Status Act on matters such as nationality, marriage, inheritance, polygamy and parental authority (art. 3).

19. **The Committee recommends that the State party:**

(a) **Remove provisions from its laws that discriminate against women and girls, including provisions that restrict women from conferring their nationality to their non-Kuwaiti spouses or children and from passing on inheritance to their children;**

(b) **Ensure that women have equal rights when entering marriage, during marriage, in obtaining divorce and after divorce, including the abrogation of the requirement of male guardianship for women, and that the State party establish a minimum age of at least 18 years for marriage for both girls and boys;**

(c) **Ensure that perpetrators of domestic violence receive appropriate punishments;**

(d) **Implement, insofar as they relate to economic, social and cultural rights and to the State party's constitutional and legislative framework, the recommendations made by the Committee on the Elimination of Discrimination against Women in 2017.<sup>6</sup> The Committee also refers the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

#### **Migrant workers**

20. The Committee welcomes the initiatives undertaken by the State party to provide vocational and legal training to incoming migrant workers in their country of origin, to enable them to better respond to any abuse or discrimination they might suffer. The Committee also welcomes the establishment of a shelter for female migrant workers and the plans to establish such a shelter for male migrant workers. The Committee is, however, concerned about reports indicating that the labour rights of migrant workers continue to be violated and that the continued existence of the crime of "absconding" makes migrant workers vulnerable to abuse and forced labour. The Committee is further concerned about the administrative decision that work permits for migrant workers over 60 years of age and with only a general secondary education certificate or less will not be renewed (art. 7).

21. **The Committee recommends that the State party take the necessary legislative measures to abolish the crime of "absconding" and ensure that the procedure for the recruitment and employment of expatriate labour effectively safeguards the economic, social and cultural rights of migrant workers and protects them against abuse and exploitation. The Committee also recommends that the State party:**

(a) **Increase the capacity of the labour inspectorate to monitor working conditions in companies in the State party on a regular basis and ensure that sanctions for violations of workers' rights are effectively implemented and that all migrant workers have effective access to courts, tribunals and other dispute resolution mechanisms;**

(b) **Repeal the administrative decision whereby migrant workers over 60 years of age and with only a general secondary education certificate or less do not have their work permits renewed.**

#### **Migrant domestic workers**

22. While welcoming the protections provided to migrant domestic workers under the Domestic Workers Act No. 68 of 2015, the Committee is concerned about continued reports of exploitation and abuse of migrant domestic workers by employers and is also concerned that the enforcement mechanisms of these protections are insufficient (art. 7).

23. **The Committee recommends that the State party take measures to ensure effective enforcement of legislation that protects migrant domestic workers, including**

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<sup>6</sup> CEDAW/C/KWT/CO/5.

by putting in place deterrent penalties for employers who violate this legislation and ensuring that such employers are effectively sanctioned. The Committee further recommends that the State party:

(a) Ensure that migrant domestic workers have effective access to remedies including courts, tribunals and other dispute resolution mechanisms and that it remove any barriers that prevent domestic migrant workers from accessing remedies, such as lack of knowledge of their rights, inability to navigate the relevant bureaucracy, and language barriers;

(b) Raise awareness among the public in general, and in particular among migrant domestic workers, of the Domestic Workers Act and its 2016 implementing regulations and inspection mechanisms, and of remedies available to workers;

(c) Put in place and implement effective mechanisms to monitor compliance with labour laws protecting migrant domestic workers;

(d) Ensure that the regulation, licensing and monitoring of recruitment and employment agencies is effective in preventing exploitation of migrant domestic workers;

(e) Bring the Domestic Workers Act into line with the Kuwait Labour Law, notably in regard to working hours and to entitlements to rest and sick leave;

(f) Ratify the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.

#### **Right to form and join trade unions and to strike**

24. Noting that the workforce in some industries is composed primarily of migrant workers, the Committee remains concerned that under the 2010 Labour Law, the right to form trade unions is recognized only with regard to nationals. While also noting that strikes are not explicitly prohibited and have taken place in the State party, the Committee is concerned that the lack of a comprehensive legal regulation on the right to strike allows restrictions of that right that are not prescribed by law (art. 8).

25. **The Committee recommends that the State party extend trade union rights to non-nationals, in line with article 8 of the Covenant, including by granting them the right to form trade unions and to join and engage in trade unions on an equal footing with Kuwaiti workers. The Committee also recommends that the State party ensure that new labour policies and regulations are based on tripartite agreements. The Committee also recommends that the State party adopt a comprehensive legal regulation that guarantees the right to strike and its limitations in accordance with the Covenant.**

#### **Protection of children and the family**

26. The Committee is concerned by reports that Kuwaiti nationals require prior authorization from the Kuwaiti Foreign Marriage Committee to marry a foreigner (art. 10).

27. **The Committee recommends that the State party ensure that marriage can be entered into with the free consent of the intending spouses alone, including when it involves non-Kuwaiti nationals, without authorization required.**

#### **Poverty**

28. While noting the information provided by the State party indicating that no one in its territory lives under the national or international poverty line, the Committee is concerned about the wealth gap that exists between the poorest and wealthiest segments of the State party's population. While recognizing the various measures taken by the State party to support its population during the COVID-19 pandemic, the Committee is concerned that the socioeconomic impact of the pandemic may disproportionately affect the enjoyment of the most disadvantaged and marginalized individuals and groups to an adequate standard of living (art. 11).

29. **The Committee recommends that the State party provide targeted support to the most disadvantaged and marginalized individuals and groups in its population from falling further behind the more wealthy segments of the population, in particular in the light of the disproportionate impact of the COVID-19 pandemic on these groups. The Committee further requests the State party to include in its next periodic report information on the minimum subsistence level by household size, and statistical data on the absolute number and the percentage of persons earning the minimum wage, disaggregated by year, age, sex, nationality and other relevant status.**

#### **Right to housing**

30. While noting that the State party has introduced amendments to its housing regulations that reduce some barriers that women face in accessing housing, such as Ministerial Decree No. 29 of 2021, whereby the Public Authority could, under certain circumstances, provide housing to single women, the Committee is concerned that discrimination in housing of certain women without a family and of women divorced from a non-Kuwaiti husband persists (art. 11).

31. **The Committee recommends that the State party take measures to eliminate provisions that prevent Kuwaiti women who are divorced, widowed or married to non-Kuwaiti men from having access to public housing. The Committee also recommends that the State party ensure that all women, including those currently excluded, such as single women under 40 and married women, are not discriminated against in terms of receiving housing loans.**

#### **Right to the highest attainable standard of health**

32. The Committee welcomes the efforts made by the State party to alleviate the impact of the COVID-19 pandemic, including by providing support to the most disadvantaged and marginalized individuals and groups, equipping hospitals to enable them to better manage the pandemic, and providing COVID-19 vaccinations to all persons living in its territory regardless of their residence status. While noting the information provided by the State party indicating that health care is provided to all residents on an equal basis, the Committee is concerned about reports of discrimination against Bidoon, who have been categorized as stateless persons or illegal residents, with regard to access to health services, and of higher fees being charged for health services for such non-citizens. The Committee is also concerned about reports of lack of sufficient assistance for persons with psychosocial or intellectual disabilities who have developed an addiction to medication (art. 12).

33. **The Committee recommends that the State party ensure access to health care for all without discrimination, including by putting in place administrative procedures to enable all Bidoon to obtain the identity documents required for such access. The Committee also recommends that the State party ensure that targeted assistance is provided to persons with psychosocial or intellectual disabilities and that measures are put in place to monitor the provision of painkillers to persons with disabilities with a view to preventing addiction.**

#### **Right to education**

34. The Committee is concerned that pre-primary and primary education are not accessible for free for all children, including non-Kuwaiti children, living in the State party. The Committee is also concerned about the lack of measures taken to improve the quality of education in the State party and to ensure that quality education is provided to all social groups. The Committee is further concerned about possible disparities in access to education resulting from school closures related to the COVID-19 pandemic (art. 13).

35. **The Committee calls upon the State party to:**

(a) **Ensure that primary education is made available for free for all children in the State party, including non-Kuwaiti children, on an equal footing with Kuwaiti children, without discrimination, including for Bidoon children;**

(b) **Consider providing pre-primary education free of charge for all children in the State party, including non-Kuwaitis;**

(c) **Take measures to improve the quality of education, including by improving the quality of teacher training and ensuring respect of minimum standards of education, as well as by improving the educational infrastructure;**

(d) **Provide additional support to student groups who have not been able to participate effectively in distance learning during the COVID-19 pandemic, including owing to a lack of access to relevant technology or connectivity or lack of support from guardians.**

#### **Human rights education**

36. While noting that human rights are taught in school as part of the education on Islam and the Constitution of Kuwait, the Committee regrets that universal human rights are not included in the school curricula as an independent subject (art. 13).

**37. The Committee recommends that education on universal human rights, including economic, social and cultural rights, are included as an independent subject in the curricula at all levels in the State party's education system.**

#### **Cultural rights and science**

38. While noting that the Communication and Information Technology Regulatory Authority of the State party has reduced Internet access fees by 40 per cent during the COVID-19 pandemic, the Committee is concerned about reports that measures taken by the State party to prevent the spread of misinformation related to COVID-19 online could potentially prevent the dissemination of and access to accurate and legitimate information (art. 15).

**39. The Committee recommends that the State party ensure that any measures it takes to restrict the spread of COVID-19 misinformation online are limited only to such information and are taken in a way so as not to restrict access to any forms of accurate and legitimate information online.**

#### **Right to enjoy the benefits of scientific progress**

40. Recognizing the activities of the State party with regard to national projects and international cooperation in the area of science and technology, and especially its support to COVAX, the vaccines pillar of the Access to COVID-19 Tools Accelerator, the Committee regrets the lack of information on specific measures taken by the State party to ensure that the projects that it engages in take into account the principle of universal access to science and technology (art. 15).

**41. The Committee recommends that the State party integrate the right of everyone to enjoy the benefits of scientific progress and its applications into its plans to develop a knowledge economy in the framework of its "New Kuwait" vision, as well as to any other projects it implements on the national or international levels. The Committee refers the State party to its general comment No. 25 (2020) on science and economic, social and cultural rights.**

### **D. Other recommendations**

42. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

**43. The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.**

44. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, including in the recovery from the COVID-19 pandemic. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and by treating beneficiaries of public programmes as rights holders who can claim entitlements. Moreover, the Committee recommends that the State party support the global commitment of the decade of action to achieve the Sustainable Development Goals. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind.<sup>7</sup>

45. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national and municipal levels, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

46. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 17 (discrimination against Bidoon), 23 (c) (migrant domestic workers) and 35 (a) (right to education) above.

47. The Committee requests the State party to submit its next periodic report in accordance with article 16 of the Covenant by 31 October 2026, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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<sup>7</sup> [E/C.12/2019/1](#).