



**Kuwait's Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women:
The Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

**for the 88th Session of the Committee on the Elimination of Discrimination Against
Women
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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities, and unions, was created in Rome on 13 May 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. This report supplements the report that the authors submitted at the list of issues stage in January 2023.¹

Kuwait fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women

I. Access to justice (List of issues para. 4).

2. The Committee asked for information about measures taken to remove various barriers to women's access to justice.² In reply, Kuwait contends that "free access to justice is available to all, citizens and residents alike."³ The reply goes on to discuss the "right to recourse to litigation" but does not provide any further information about access to justice or legal aid for women in conflict with the law.⁴
3. As the authors described in greater detail in their report at the list of issues stage, women in conflict with the law often face gender bias throughout the criminal legal process and courts often fail to consider gender-specific mitigation,⁵ violating their right to a fair trial.⁶ Moreover, women sentenced to death often face intersectional discrimination, exacerbating the risk of an unfair trial.⁷

II. Death penalty (List of issues para. 10(e)).

4. The Committee requested information on the steps Kuwait has taken "to re-establish a moratorium on the use of the death penalty, or to abolish the death penalty."⁸ The Committee also asked for "data on the number of women sentenced to death and executed during the reporting period, along with information on the crimes for which they were sentenced."⁹
5. In response to these requests, the Kuwaiti Government does not discuss any steps taken to re-establish a moratorium or abolish the death penalty, but instead asserts that "the death penalty is subject to a number of procedural safeguards," including that it applies only to "the most

¹ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

² Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 4.

³ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 12.

⁴ *Ibid.*; see *id.* ¶¶ 12-16.

⁵ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait's Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 6, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

⁶ *Id.* ¶¶ 9-11.

⁷ *Id.* ¶ 12.

⁸ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 10(e).

⁹ *Ibid.*

serious crimes against the security, interest and stability of society.”¹⁰ Elsewhere in the replies, however, Kuwait concedes that the death penalty is an available punishment for rape,¹¹ a crime that does not entail an intentional killing and therefore is not “most serious” under international human rights standards. As mentioned in the authors’ report at the list of issues stage, Kuwait also authorizes the death penalty for drug-related offenses.¹²

6. The Kuwaiti Government further states that on 16 November 2022, authorities executed six persons, including one Kuwaiti woman and one Ethiopian woman, both of whom had been found guilty of premeditated murder.¹³ The Committee should request further information about the crimes these women are alleged to have committed, such as their relationship to the victims and any codefendants and any mitigating circumstances. The replies provide no information these cases or about any other women sentenced to death during the reporting period or currently under sentence of death in Kuwait. As the authors stated in their report at the list of issues stage, women who are sentenced to death for murder “have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member. In many cases, the abuse has occurred repeatedly. Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.”¹⁴ Yet at a global level, and most likely in Kuwait as well, “courts typically fail to take into account a defendant’s experience as a survivor of gender-based violence or a victim of a manipulative or coercive relationship . . . as mitigating factors during sentencing. Research also indicates that courts also fail to account for power dynamics and tactics of coercive control that may affect a woman’s involvement in and culpability for a crime.”¹⁵ The authors’ report at the list of issues stage also outlines flaws with Kuwait’s response to gender-based violence that further endanger women and place them at risk of being sentenced to death for killing their abusers.¹⁶

¹⁰ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 45.

¹¹ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 48.

¹² The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 3, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

¹³ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 47.

¹⁴ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 8, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

¹⁵ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 8, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

¹⁶ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶¶ 27-31, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

7. As the authors stated in their report at the list of issues stage, “[t]he Kuwaiti Government lacks transparency regarding the number of women sentenced to death.”¹⁷ The World Coalition Against the Death Penalty had identified at least five women under sentence of death in Kuwait as of 2020, so it is unclear whether three or more women are still currently under sentence of death.¹⁸ In 2022, for example, Kuwaiti courts sentenced at least 16 people to death¹⁹ and as of the end of 2022 at least 24 people were under sentence of death²⁰; it is unclear whether any of those people are women. Moreover, the Kuwaiti Government’s replies fail to provide any information about the reported 2017 executions of Filipina and Ethiopian migrant domestic workers, who had been sentenced to death for murdering members of their employers’ families.²¹

III. Migrant domestic workers (List of issues paras. 13, 19, 22).

8. The Committee requested “information on measures in place to prevent labour exploitation in domestic work and measures to protect migrant workers from trafficking situations.”²² The Committee also requested “information on steps taken to extend the protection of the Labour Code (No. 6 of 2010) to domestic workers, and to include domestic workers in the wage protection system,” as well as “to ensure that women migrant domestic workers are able to freely change employers and to access free legal aid, affordable health-care services and social protection.”²³ The Committee also asked “whether women migrant workers in the informal economy have . . . access to basic services and consular assistance in case of . . . detention.”²⁴ Finally, the Committee asked for “information on the measures taken to address intersecting forms of discrimination faced by disadvantaged groups of women and girls, including . . . migrant and domestic workers, . . . and to ensure that they have equal access to justice, education, employment, health services, social protection and other basic services, in law and in practice.”²⁵
9. In response to these requests the Kuwaiti Government states that the Domestic Workers Act, No. 68 (2015), has “the goal of guaranteeing workers their rights and improving their

¹⁷ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 4, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

¹⁸ *Cartographie des femmes dans le couloir de la mort*, World Coalition Against the Death Penalty, June 2023, at 16, https://worldcoalition.org/wp-content/uploads/2023/08/FR_Cartographie-des-femmes-dans-le-couloir-de-la-mort.pdf.

¹⁹ *Death Sentences and Executions 2022* (2023), Amnesty International, at 12.

²⁰ *Id.* at 28.

²¹ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶¶ 3, 5, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

²² Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 13.

²³ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 19.

²⁴ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 19.

²⁵ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 22.

conditions.”²⁶ The Act provides that “[a]n employer may not violate a worker physically or psychologically” but the replies do not state how authorities enforce this provision.²⁷ The Kuwaiti Government contends that the Public Workforce Authority “makes sure to defend” domestic workers “and protect their rights against the employer in the event that it is proven that the employer violated obligations provided for by” the Act.²⁸ The replies concede, however, that the Public Workforce Authority may issue an order to transfer a domestic worker from one employer to another only under specific circumstances, and “when called for by the public interest.”²⁹ According to the replies, if the employer or the employer’s family subjects the domestic worker to abuse, the domestic worker may seek authorization for a transfer only if “[i]t is proven that an action, statement or gesture with a sexual connotation was made by the employer or someone living with them towards the domestic worker that violated their body, honour or modesty in any way, including by means of modern technology.”³⁰ In other words, a domestic worker who experiences abuse that lacks a proven “sexual connotation,” or that has a sexual connotation but is perpetrated in the home by a person who does not reside with the employer, is not entitled to transfer. If the employer is engaging in non-sexual physical abuse or violence, the Act at most seems to prohibit the employer from being issued additional entry visas for a particular period and suggests that the Ministry of Interior may pursue additional accountability measures.³¹ But nothing in the replies suggests that in such a case the domestic worker is entitled to authorization to transfer to a different employer or any support or rehabilitation services.

10. As the authors stated in their report at the list of issues stage, migrant domestic workers are at particular risk of being sentenced to death.³² There is no information to suggest that the Kuwaiti criminal legal system takes into account the multifaceted forms of oppression faced by migrant domestic workers in capital cases against them.

IV. Representation of women in the criminal legal system (List of issues para. 14).

11. The Committee requested “data on the number of women currently serving as judges” and about any steps that have been taken “to amend Act No. 23 (1990) regulating the judiciary to ensure that women are able to serve as judges without restrictions based on their religious

²⁶ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶¶ 60-61, 78.

²⁷ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 61.

²⁸ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 78.

²⁹ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 83.

³⁰ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 83.

³¹ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶¶ 86-87.

³² The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶¶ 15-19, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

affiliation.”³³ Kuwait’s replies state that there are “15 women members of the judicial corps” but provides no further information responding to the Committee’s requests.³⁴ As discussed in greater detail in the authors’ report at the list of issues stage, the exclusion of women from leadership positions in the judiciary creates the risk of exacerbating gender bias in capital proceedings.³⁵ Moreover, as of 2020, only 15 Kuwaiti judges were women³⁶; the replies suggest that over the last four years, there have been no additions to their ranks. And it is not clear whether any of those judges adjudicate capital cases or cases in which women are in conflict with the law.

V. Suggested recommendations for the Government of Kuwait

12. The Committee should make the following recommendations to the Government of Kuwait:

- Abolish the death penalty and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.
- In the meantime:
 - Institute a de jure moratorium on executions.
 - Commute the sentences of every woman sentenced to death for an offense that does not entail an intentional killing committed by the woman.
 - Ensure that no person is sentenced to death for a crime that does not entail an intentional killing committed by that person.
 - Take steps to provide fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation and safeguards prohibiting admissibility of evidence obtained through torture or other ill-treatment.
 - On at least an annual basis, publish transparent information on the number of women sentenced to death, executed, and on death row, disaggregated by age, age of any dependent children, nationality, ethnic group, crime(s) of conviction, date of conviction, relationship to any victim or codefendant, and date of execution (if applicable), to facilitate analysis of the demographics of women under sentence of death.

³³ Committee on the Elimination of Discrimination Against Women, *List of issues and questions in relation to the sixth periodic report of Kuwait*, (Mar. 6, 2023), U.N. Doc. CEDAW/C/KWT/Q/6, ¶ 14.

³⁴ Committee on the Elimination of Discrimination Against Women, *Replies of Kuwait to the list of issues and questions in relation to its sixth periodic report*, (Feb. 15, 2024), U.N. Doc. CEDAW/C/KWT/RQ/6, ¶ 62.

³⁵ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶¶ 25-26, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

³⁶ The Advocates for Human Rights, World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide, *Kuwait’s Compliance with the Convention on the Elimination of All Forms of Discrimination Against Women: Suggested List of Issues Relating to the Death Penalty*, Jan. 30, 2023, ¶ 26, <https://www.theadvocatesforhumanrights.org/Res/Kuwait%20CEDAW%20DP%20FINAL.pdf>.

- Codify gender-specific defenses and mitigation in capital trials, encompassing trauma, gender-based violence, economic pressures, human trafficking, and family caretaking responsibilities.
 - Require that court-appointed attorneys in capital cases against women defendants have prior experience in capital cases and have training regarding gender-based violence, gender-specific defenses, and gender-specific mitigation.
 - Establish mandatory trainings for judges on gender-based discrimination, domestic violence, gender-based violence, and tactics of coercive control that can lead to women committing death-eligible offenses.
 - Implement legislative reforms to prevent application of the death penalty when women who experience gender-based violence act against their abusers.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety and security pre-trial, during admission to any detention facility, and while incarcerated.
 - Ensure that sentencing judges accord mitigating weight to defendants' experiences of trauma, gender-based violence, economic pressures, duress, human trafficking, and family caretaking responsibilities.
 - Ensure that any migrant domestic worker may promptly transfer to a different employer if she experiences any form of coercion, harassment, violence, or abuse in her employment, regardless of whether the perpetrator is her employer, a person living in the home, or some other person with a familial, personal, or business relationship with her employer.
 - Take immediate action to expand the number of women serving as judges, prosecutors, and other officers in the criminal legal system, including with respect to capital crimes.