

KUWAIT¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 1 July 2022)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens</i></p>	<p>Article 7 of the Constitution states that justice, freedom and equality are the pillars of society.²</p> <p>Article 8 of the Constitution provides that the State shall preserve the pillars of society and shall guarantee security, tranquillity and equal opportunity to all citizens.³</p> <p>Article 9 of the Constitution declares the family as the foundation of society and its mainstays are religion, morals and the love of country. The provision obligates the law to preserve its entity, strengthen its</p>	<p>Most Important issue to know about Kuwait Courts that :-</p> <p>1-It does not go by Case Law, or precedents.</p> <p>2-After the Law no 12/2015 on Family courts was Established and implemented, only two degrees of courts – Court of first instance and court of appeal.¹³</p>	<p>Kuwait has reservations to Articles 9(2), 16(1)(f) and 29 of CEDAW. With regard to Article 16(1)(f), Kuwait states that it “does not consider itself bound by the provision contained in 16 (1)(f) in as much as it conflicts with the provisions of Islamic <i>Shari’ah</i>, Islam being the official religion of the State.”¹⁵</p>		<p>According to the 2020 UNDP Human Development Report, Kuwait ranked 64 on the UNDP Human Development Index and 53 on the UNDP Gender Inequality Index.¹⁷</p>

¹ This table was originally formulated as part of a 2016-2017 Musawah project to map Muslim Family Laws globally led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Kuwait country table, we would also like to thank Kierra Jones from Harvard Law School, and Athraa Alrefaie for their inputs in its preparation. This table was last updated in 1 July 2022 as part of the Campaign for Justice in Muslim Family Laws, we would like to thank Jumanah A. Behbehani for the recent update.

² Article 7 of Kuwait’s Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

³ Article 8 of Kuwait’s Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹³ [وزارة العدل \(moj.gov.kw\)](http://www.moj.gov.kw) ; In Kuwait there are written laws and codes for each law, it is stated also in the constitution

¹⁵ United Nations Treaty Collection Website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹⁷ [Human Development Data Center | Human Development Reports \(undp.org\)](https://data.unhcr.org/) , [Human Development Reports \(undp.org\)](https://data.unhcr.org/), UNDP, “Human Development Report 2020”,

<p><i>irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncoded, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>bonds and under its aegis, protect mothers and infants.⁴</p> <p>Article 29 of the Constitution provides for dignity and equality in public rights and obligations in the eyes of the law, and prohibits discrimination on the basis of race, origin, language or religion.⁵ Gender equality is not specifically mentioned.</p> <p>The Kuwaiti Personal Status Law No. 51/1984 (KPSL)⁶ is the main codified law that governs matters relating to marriage and family relations of the majority Muslim population in Kuwait regardless of sect.⁷ In the absence of provisions in the KPSL that sufficiently address a particular matter of personal status, a judge is to adjudicate a case in accordance with the rules of Muslim jurisprudence (<i>fiqh</i>) to which the husband or father</p>	<p>The Kuwaiti Court of Appeals ruled on 2 December 2007 that the KPSL is applicable to all Kuwaitis regardless of their sect. However, it is customary in Kuwait for courts to rule in certain matters (e.g. custody and inheritance) in accordance to Jafari <i>fiqh</i> if the parties are Shias.¹⁴</p>	<p>The Government of Kuwait in its 2003 report to the CEDAW Committee states the Kuwaiti laws with regard to marriage and family relations endeavour to guarantee the security and stability of women.¹⁶</p>		
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[2020 statistical annex table 5.xlsx \(live.com\)](#)

⁴ Article 9 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

⁵ Article 29 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

⁶ Personal Status Law (1984), <https://www.e.gov.kw/sites/kgoarabic/Forms/QanoonAlAhwalAIMadaniyah.pdf>

⁷ Information obtained from Kuwaiti advocate, May 2017

¹⁴ Ali El-Erian, "Jafari Personal Status Department and personal status law in accordance with the doctrine of al-Jafari", 25 December 2012, <http://alaryan110.blogspot.com/2012/12/blog-post.html>

¹⁶ Kuwait State party report, U.N. Doc. CEDAW/C/KWT/1-2 (2003), p.79, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>adhere to.⁸ Generally:⁹</p> <ul style="list-style-type: none"> • For the Sunni: The Family Courts apply the rules of Maliki and Hanafi <i>fiqh</i>; • For the Shia: The Family Courts apply Law No 124 for the Ja'afari sect which was codified in 2019. Articles 98 to 118 states that the Husband is responsible and obliged to pay the wife all the expenses (Appropriate housing – Food – Clothing) the wife doesn't pay anything. The financial disclosure of the couple is separate; it is never merged.¹⁰ <p>Despite the equality guarantees in the Constitution, KPSL provides for a marital framework based on 'reciprocal' or 'complementary' rights (as opposed to 'equal' rights) between the two spouses, whereby in return for maintenance and protection from</p>				
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⁸ Article 345A of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf); Faisal Al-Termini, "Organisation and functioning of Kuwait legal system", (Journal of Humanities, Culture and Social Sciences, 1:2, 2015), p. 72, <http://oaji.net/articles/2016/2902-1455619184.pdf>

⁹ Article 343, 345A of the Personal Status Law (1984), <https://www.e.gov.kw/sites/kgoarabic/Forms/QanoonAlAhwalAlMadaniyah.pdf>; Information obtained from Kuwaiti advocate, May 2017; Faisal Al-Termini, "Organisation and functioning of Kuwait legal system", (Journal of Humanities, Culture and Social Sciences, 1:2, 2015), p. 72, <http://oaji.net/articles/2016/2902-1455619184.pdf>

¹⁰ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.اركان تنشر قانون الأحوال الجعفرية.pdf

	<p>her husband, a wife is expected to obey him. Thus:¹¹</p> <ul style="list-style-type: none"> • Article 1 of the KPSL defines marriage as a contract between a man and a woman who is legally available to him, for the purpose of cohabitation, matrimony and strengthening the power of the nation; • Article 74 provides that financial support is due to the wife from her husband even if she is wealthy; Article 84 provides that the husband shall house his wife in a residence of his social level; • Article 87 provides that: (i) a wife loses her right to financial maintenance for the period that she refuses to move into the marital home without justification or prevents her husband from cohabitating with her in her home provided that he has not prevented her 				
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¹¹ Articles 1, 74, 87 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

	<p>from moving into the marital home; (ii) the wife's disobedience is not proved unless she refuses to implement the final court decision to be obedient; (iii) the wife has to prove that her husband is not protective of her, or did not pay her advance dowry, or did not prepare the legal marital home or refuses to support her financially.</p> <p>Marriage and family relations of Kuwaiti's non-Muslim minority communities (e.g. Christians) are governed by their own laws.¹²</p>				
<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is</i></p>	<p>The KPSL does not explicitly state the minimum age for marriage but implies that it is 15 for females and 17 for males.</p> <p>Article 24 of the KPSL merely requires that both parties have reached puberty for a marriage to be valid.¹⁸ However:</p> <ul style="list-style-type: none"> Article 26 stipulates the ages 		<p>The Government of Kuwait in its 2003 report to the CEDAW Committee states that the official registration and certification of a marriage is prohibited if the girl is under 15 and the boy is under 17 at</p>	<p>In instances where the prospective bride or groom marries below 15 or 17, they still need to register the marriage. An official marriage certificate will however not be issued until they reach 15 or 17</p>	<p>According to UN World Marriage Data 2015, the average age of first marriage among Kuwait females rose from 25.2 in 1996 to 27.5 in 2005 and among males, from 27.6 to 28.9 during the same period.²⁴</p>

¹² Article 346A of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

¹⁸ Article 24 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

²⁴ United Nations Population Division, "World Marriage Data 2015", <https://esa.un.org/ffps/Index.html#/maritalStatusData>

<p><i>there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>at which a marriage contract can be officially registered/notarised (15 for girls and 17 for boys);¹⁹ and</p> <ul style="list-style-type: none"> Article 92 forbids the courts from hearing any case relating to marriage unless the marriage is registered in a notarised certificate; a court may not hear a marriage case if the wife was below 15 or husband was below 17 at the time of bringing the case.²⁰ 		<p>the time of registration.²¹</p> <p>In its 2016 report to the CEDAW Committee, the Kuwaiti government again confirmed that the legal age for marriage is 15 for girls and 17 for boys under the KPSL as the law forbids notarisation or attestation of the marriage contract in the official register if the spouses are younger than that at the time of notarisation. The Kuwaiti government also stressed that a woman's choice of husband is established in law and a father may not compel his daughter to marry.²²</p>	<p>respectively.²³</p>	
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¹⁹ Article 26 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

²⁰ Personal Status Law, No. 51 of 1984 (as amended), Article 92, <https://www.e.gov.kw/sites/kgoarabic/Forms/QtanoonAlAhwalAlMadaniyah.pdf>

²¹ Kuwait State party report, U.N. Doc. CEDAW/C/KWT/1-2 (2003), p. 80, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²² Kuwait State party report, U.N. Doc. CEDAW/C/KWT/5 (2016), p. 30, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²³ Information obtained from Kuwaiti advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 121-122

<p>Women's consent to marriage</p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21</p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage. Consequently <i>ijbar</i> marriages are prohibited.²⁵</p> <p>Article 8 of the KPSL states that a marriage is concluded upon an offer to the guardian of the prospective bride and the acceptance of the prospective bride or whoever represents her.²⁶</p> <p>The mandatory registration of marriages is provided for in Article 92 of the KPSL which requires a marriage to be documented by an official marriage certificate. However, non-registration of a marriage does not necessarily invalidate the marriage. Article 92 also provides that a marriage may</p>	<p>In Case 10/8721 the wife brought a case against her father and her husband accusing her father of marrying her when she did not agree or even know about the marriage. At the same time, her husband raised a case asking the wife to go back to the marital home. The courts ordered the revocation of the marriage.³⁰</p>	<p>The Government of Kuwait in its 2016 report to the CEDAW Committee asserted that the KPSL explicitly states that the right of choice and consent are limited to the two contracting parties only (the husband and wife).³¹</p>	<p>Prospective brides who have been forced into a marriage may file a petition in court to annul the marriage.³²</p> <p>Registration of the marriage contract is required to prove a marriage and to hear any court case relating to a marriage or divorce, including maintenance, custody, and inheritance. The Ministry of Justice provides information on the relevant procedures at its</p>	<p>According to information on the ground, women who are kidnapped or raped can be forced into marriage to ward off shame and to save the family honour. Based on Article 182 of the Penal Code, which exempts rapists from criminal liability if he marries the victim, such marriages are valid and the consent of the woman is not necessary.³⁶</p> <p>According to academic research, as the usual Sunni marriage procedure does not require the women's appearance or opinion, a father could potentially marry off his daughter to someone</p>
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²⁵ Information obtained from Kuwaiti advocate, May 2017

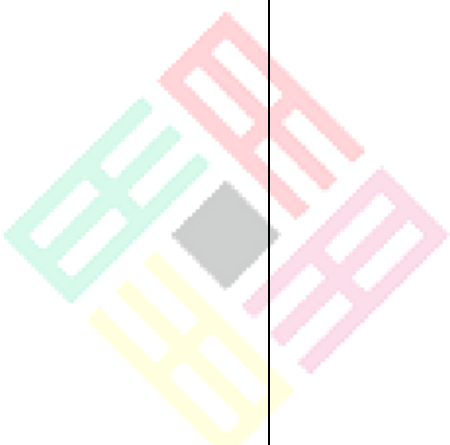
²⁶ Article 8 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

³⁰ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 127

³¹ Kuwait State party report, U.N. Doc. CEDAW/C/KWT/5 (2016), p. 30, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

³² Information obtained from Kuwaiti advocate, May 2017

³⁶ Article 182 of the Penal Code (1960), http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf; Information obtained from Kuwaiti advocate, May 2017; Selfscholar, "The Middle East's "Rape Marriage" Laws", *Law, Human Rights and Education in the Middle East*, 18 July 2012, <https://selfscholar.wordpress.com/tag/kuwaiti-penal-code/>

<p>Paras. 25-26, 33-34 GR29</p>	<p>be proven by legal evidence.²⁷</p> <p>According to Law No 124/2019 KPSL Ja'afari sect :²⁸</p> <p>Article 8 states that "Marriage is a contract based on verbal offer and acceptance that reveal the will and intent. It is not sufficient to mutually consent by itself between the contracting parties without evidence of this mutual consent of verbal offer and acceptance, except for the mute".</p> <p>Article 55 states that "... a virgin daughter shares the marriage wilaya with her father or grandfather " which means that the marriage is not concluded without the bride's consent. If the bride is a divorcee and non-virgin, she does not need a Wali to represent her; the marriage is concluded by her own and only consent.²⁹</p>		<p>website.³³</p> <p>There is a standardised marriage contract and procedure to register a contract. They are available on the Ministry of Justice website.³⁴ For Sunnis, the signature of the bride is not required in the marriage contract. For Shias, the signature of the bride is required to ensure that she has in fact consented to the marriage.³⁵</p>	<p>without her knowledge. The risk of this happening depends on the father's conscience and his relationship with his daughter.³⁷</p>
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²⁷ Article 92 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

²⁸ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.إركان تنشر قانون الأحوال الجعفرية.pdf

²⁹ Law No 124 of the 2019 Jaafari Status Law, Mesfer Law [www.mesferlaw.com](http://mesferlaw.com) قانون رقم 124 لسنة 2019م بإصدار قانون الأحوال الشخصية الجعفرية - | المحامي مسفر عايض

³³ Website of the Ministry of Justice, <https://www.moj.gov.kw>

³⁴ Website of the Ministry of Justice, <https://www.moj.gov.kw/sites/ar/authentication/Pages/applicationforms.aspx>

³⁵ Information obtained from Kuwait advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 127; Sistani's fatwas on marriage: <http://www.sistani.org/arabic/book/17/964/>; Shia Book on Marriage: <http://www.aqaedalshia.com/ahkam/nekah/masael/index.htm#03>

³⁷ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 127

<p>Women's capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u></p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>):³⁸ The guardian must be male (father, followed by the son, the grandfather, the paternal step-brother, the uncle and the paternal step-uncle).³⁹</p> <p>According to Law No 124/2019 KPSL Ja'afari sect :⁴⁰ Regardless of their age, both prospective brides and grooms must consent to the marriage. Consequently <i>ijbar</i> marriages are prohibited.⁴¹</p> <p>Article 8 of the KPSL states that a marriage is concluded upon an offer to the guardian of the prospective bride and the acceptance of the prospective bride or whoever represents</p>	<p>In Case 48/95, a daughter got married against her father's will and the father was able to revoke her marriage. The daughter brought an <i>adel</i> case against the father when he refused her remarriage to her ex-husband even though she was pregnant. The court granted her permission to remarry mainly because she was pregnant.⁵⁰</p> <p>In Case 89/2001, both a mother and daughter brought an</p>	<p>The Government of Kuwait in its 2003 report to the CEDAW Committee asserted that Kuwaiti women have full freedom to choose their spouse and marriage.⁵⁴</p>	<p>According to academic research:⁵⁵</p> <ul style="list-style-type: none"> • Practically and socially, it is difficult for a woman bring an <i>adel</i> case. Essentially, the woman is standing against her family in order to ask for approval to marry. If such a request was denied, the woman would have to return to her family against whom she had brought a law suit; • Most <i>adel</i> cases are raised by daughters who do not live with their fathers e.g.
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³⁸ Articles 8, 29-30 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf); Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 126-128

³⁹ Article 37 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴⁰ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.اركان_تنشر_قانون_الأحوال_الجعفرية.pdf

⁴¹ Information obtained from Kuwaiti advocate, May 2017

⁵⁰ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 133

⁵⁴ Kuwait State party report, U.N. Doc. CEDAW/C/KWT/1-2 (2003), p. 80, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵⁵ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 133-135

<p>Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>her.⁴²</p> <p>The mandatory registration of marriages is provided for in Article 92 of the KPSL which requires a marriage to be documented by an official marriage certificate. However, non-registration of a marriage does not necessarily invalidate the marriage. Article 92 also provides that a marriage may be proven by legal evidence.⁴³</p> <p>According to Law No 124/2019 KPSL Ja'afari sect :⁴⁴</p> <p>Articles 49 to 63 indicates who has the authority or Wilaya to cinclue the marriage, the main article is 55 which states that "... a virgin daughter shares the marriage wilaya with her father or grandfather " which means that the marriage is not concluded without the bride's consent. If the bride is a divorced and non-virgin, she does not need a Wali to represent her; the marriage is concluded by her own and only</p>	<p><i>adel</i> case against the father because he refused to allow the daughter to marry, claiming that the prospective groom had not first approached him with his proposal. The prospective groom, was said to meet the compatibility standard. On the basis that the prospective groom had not asked the father for the daughter's hand in marriage, the court denied the <i>addal</i> petition.⁵¹</p> <p>In Case 3131/1991, a sister brought an <i>adell</i> case against her brother because he refused to allow her to marry,</p>			<p>because her parents are divorced and her mother is the custodian.</p> <ul style="list-style-type: none"> As the law does not specify on what basis a judge can accept or request a woman's request to get married. As such, the matter is very much left to the discretion of the judge; The adverse impact on a woman's ability to marry because of a <i>wali's</i> right to revoke a marriage on the basis of compatibility should not be underestimated.
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⁴² Article 8 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴³ Article 92 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴⁴ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.اركان تنشر قانون الأحوال الجعفرية.pdf

⁵¹ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 133-134

	<p>consent.</p> <p>Articles 1 to 6 regulates the Engagement procedure and rights of the groom and bride – in such time of the engagement by law and in the Kuwaiti traditions and culture the bride and groom get to know each other and talk about any specific issues they want.</p> <p>64 to 70 the conditions that can be stated in the marriage contract, for example the wife wants to continue working or studying, or wants a separate housing.</p> <p>A judge can act as guardian in the absence of male relatives.⁴⁵ In addition, if the guardian opposes the marriage, the prospective bride may seek the authorisation of a judge to get married (<i>adel</i>).⁴⁶</p> <p>A <i>wali</i> may conclude a marriage between himself and the woman under his guardianship provided they are not closely related and if</p>	<p>claiming that the prospective groom belonged to a different Muslim sect. The prospective groom, who had a stable job, could offer the sister a good standard of living. The court decided that the brother, as guardian, has the authority to decide on the compatibility of the sister's future husband. The court was of the opinion that the prospective husband's religious sect is a matter that affects the compatibility standard. Consequently, on the basis that the brother has the right to refuse the marriage because his sister and the prospective groom</p>			
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⁴⁵ Article 29 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴⁶ Article 31 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

	<p>she consents.⁴⁷</p> <p>Both the woman and the <i>wali</i> have the right to revoke a marriage on the ground of incompatibility (<i>al-kafa'a</i>). The basis of compatibility is religious piety.⁴⁸</p> <p>Pursuant to Article 40 of the KPSL, both spouses may stipulate any condition in their marriage contract so long as they are not contrary to the basis of marriage and against <i>Shari'ah</i> or the law. The KPSL specifically requires for any conditions to the marriage to be explicitly stated in the marriage contract.⁴⁹</p>	<p>are of different sects, the court denied the sister's <i>adel</i> petition.⁵²</p> <p>In Case 855/1995, a daughter, who was 36, brought an <i>adel</i> case against her father because he refused to allow her to marry, claiming that the prospective groom is an Iraqi. The court noted that the law specifies religion as a basis of compatibility and was of the opinion that nationality should be included as part of the compatibility standard. On the ground that the prospective groom's nationality could</p>			
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⁴⁷ Article 32 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴⁸ Articles 34-35 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁴⁹ Articles 40-41 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁵² Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 134

		humiliate her family, the court denied the daughter's <i>adel</i> petition. ⁵³			
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it</i></p>	<p>A Muslim man may marry up to four wives at one time without any legal checks, including those stipulated by <i>Shari'ah</i>.⁵⁶</p> <p>Article 21 of the KPSL provides that a man may not marry a fifth woman before his marriage to one of the other four wives is dissolved and her waiting period after the divorce (<i>iddah</i>) is over.⁵⁷</p> <p>As in article 93 of Law No 124/2019 KPSL Ja'afari sect⁵⁸, which also states that a man may not marry a fifth woman if he has four .</p> <p>Article 85 of the KPSL provides</p>				<p>Available data suggest a wide estimate for polygamous marriages, placing it at 2% to 13% of marriages.⁶²</p> <p>According to information on the ground, there is a real need to reform the law to make it a legal requirement for existing wives to be informed their husbands' polygamous marriages.⁶³</p> <p>According to academic research and information on the ground, the practice of temporary marriages is</p>

⁵³ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 134

⁵⁶ Badria Al Wadi, Sheikh Hameed Al Mubarak, Ahmed Al Attawi, "Women's Rights in the Kuwait Personal Status Law and Bahraini Shari'a Judicial Rulings (Theory Part), (Bahrain: Freedom House, 2009), p. 36,
[http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁵⁷ Article 21 of the Personal Status Law (1984),
[http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁵⁸ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.اركان_تنشر_قانون_الأحوال_الجعفرية.pdf

⁶² Chelby K, Women of Polygamous Marriages in an Inpatient Psychiatric Service in Kuwait (Journal of J Nervous and Mental Disease, 173:1, 1985),
<https://www.ncbi.nlm.nih.gov/pubmed/3965613>; Kuwait Culture, "Between Two Wives", *Culture*, 16 December 2016, <http://www.kuwaitculture.org/two-wives-experiences-polygamy/>;
Sylvia Westall, "Marriage loses its sparkle", *Reuters*, 10 October 2012, <http://www.reuters.com/article/us-kuwait-marriage-idUSBRE8990XP20121010>

⁶³ Information obtained from Kuwait advocate, May 2017

<p><i>necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>that a husband may not house more than one wife in one home without their consent.⁵⁹</p> <p>A woman cannot prohibit her husband from taking on another wife but may stipulate in the marriage contract that if her husband enters into a polygamous marriage, she has a right to a divorce.⁶⁰</p> <p>Temporary marriages (<i>misyar</i>) are prohibited.⁶¹</p>				<p>a relatively new phenomenon in Kuwait. While they do occur in secret, they are not very common.⁶⁴</p>
<p>Divorce rights</p> <p><i>Is there an equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce?</i></p>	<p>The KPSL provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talaq</i>); (ii) judicial divorce; and (iii) redemptive divorce (<i>khul'</i>).</p> <p>A husband may unilaterally repudiate a marriage without much restrictions.⁶⁵ There is a</p>			<p>While it is not mandatory to register a divorce under the KPSL but there are administrative guidelines on the registration of</p>	<p>According to academic research and information on the ground, in practice, it is not uncommon for men:⁷⁴</p> <ul style="list-style-type: none"> • To divorce their wives without telling them.

⁵⁹ Article 85 of Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁶⁰ Articles 40-41 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁶¹ Information obtained from Kuwait advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 141

⁶⁴ Information obtained from Kuwait advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 142-142

⁶⁵ Articles 102-110 Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷⁴ Articles 87-88 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

<p><i>Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21</p>	<p>divergence between the Sunnis and Shias. While there is no requirement of witnesses with regard to the exercise of a Sunni husband's right to divorce, a Shia husband requires two witnesses.⁶⁶</p> <p>Valid grounds for seeking judicial divorce by a wife include a husband's: (i) failure to provide financial maintenance; (ii) (iii) prolonged absence or imprisonment; (iv) serious chronic illness; (v) apostasy. In addition, a wife may seek divorce on the basis of damage inflicted verbally or physically by the husband in such a way that marital life cannot continue between them.⁶⁷</p> <p>In the case of a divorce petition based on harm, the court will try its best to reconcile the couple. If the court is unable to reconcile the couple, the court will appoint two arbitrators (preferably one each from the husband's and wife's family) to reconcile or</p>			<p>divorce⁷² The procedures on the registration of a divorce are available on the website of the Ministry of Justice.⁷³</p>	<p>She would only discover that she is divorced when the court officer delivers the official divorce papers to her;</p> <ul style="list-style-type: none"> • To file a case called <i>ta'a</i> whereby he claims that the wife is disobedient (<i>nushuz</i>). If a <i>ta'a</i> ruling is granted then the wife is expected to return to the home. If she doesn't, she occupies a position as neither married nor divorced (<i>nazhiz</i>). Once a woman is designated as <i>nushuz</i>, she has no right to financial maintenance. Nonetheless, the law does not permit a <i>ta'a</i> ruling that is affected by
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[Theory\).pdf](#); Information obtained from Kuwait advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), Footnote 98, pp. 161-164

⁶⁶ Information obtained from Kuwait advocate, May 2017; Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), p. 162

⁶⁷ Articles 120-148 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷² Information obtained from Kuwait advocate, May 2017

⁷³ Website of the Ministry of Justice, Directorate of Shari'i Notarisation, <https://www.moj.gov.kw/sites/ar/authentication/Pages/applicationforms.aspx>

<p>Paras. 34, 39-40 GR29</p>	<p>separate the couple. After all avenues have been exhausted to reconcile the couple and it is still impossible to reconcile the couple, the judge will proceed to make the appropriate ruling based on the report submitted by the arbitrators. Generally, if the main source of the dispute is:⁶⁸</p> <ul style="list-style-type: none"> • The husband, a divorce will be ordered and the wife will fully be entitled to all her marital and divorce rights; • The wife, a divorce will be ordered together with the amount of the dower (<i>mahr</i>) or other financial compensation to be paid by the wife to the husband; • The husband and the wife jointly, a divorce will be ordered without compensation 				<p>force.⁷⁵</p> <p>According to a media report, the lack of requirement to register a divorce continues to be a gap in the law and is often criticised as problematic. There are reported incidents where husbands divorce their wives without informing them to avoid financial obligations following a divorce.⁷⁶</p>
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⁶⁸ Article 130 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷⁵ Articles 87-88 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷⁶ Yacoub Al-Sane', "Proving a Divorce: Family Court Law", *Al Qabas*, 27 March 2016, <http://alqabas.com/8173/>

	<p>or with compensation commensurate to fault attributed to each of the party.</p> <p>In divorce cases based on harm, a wife's testimony is not sufficient to prove harm; she must have two male witnesses or a male and two female witnesses.⁶⁹</p> <p>A wife may seek redemptive divorce (<i>khul'</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband. <i>Khul'</i> requires the consent of the husband.⁷⁰</p> <p>A husband cannot coerce a mother to renounce custody of her children as part of a <i>khul'</i> compensation.⁷¹</p>				
<p>Women's financial rights after divorce</p> <p><i>Is there a legal concept of</i></p>	<p>Generally, upon divorce, a woman may be entitled to financial maintenance during the waiting period after the divorce</p>				

⁶⁹ Article 133 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷⁰ Articles 111-119 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷¹ Article 118 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

<p><i>matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what</i></p>	<p>(iddah), especially in the event that the divorce was effectuated through unilateral repudiation by the husband. The <i>iddah</i> period depends on the woman's situation e.g. whether she is menstruating or pregnant and ranges from three months to one year.⁷⁷</p> <p>In addition, a Sunni woman may be entitled to a consolatory compensation (<i>mut'ah</i>) not to exceed one year's maintenance. The amount of maintenance and compensation is determined based on the husband's financial means, unless otherwise mutually agreed. There is no <i>mu'tah</i> compensation in the case of death of the husband or if the divorce: (i) was initiated by the wife; (ii) occurred with her consent; or (iii) due to a fault of hers.⁷⁸</p> <p>There is no legal concept of matrimonial assets.</p>				
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⁷⁷ Articles 157, 160, 162 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf); Information obtained from Kuwait advocate, May 2017; Badria Al Wadi, Sheikh Hameed Al Mubarak, Ahmed Al Attawi, "Women's Rights in the Kuwait Personal Status Law and Bahraini Shari'a Judicial Rulings (Theory Part)", (Bahrain: Freedom House, 2009), p. 58, [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁷⁸ Article 165 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf); Information obtained from Kuwait advocate, May 2017

<p><i>basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>Following a divorce, a father is responsible for the financial maintenance of his children. If the mother is the custodian, he is obligated to pay her maintenance to cover the expenses of his children, including payment for rent of the residence. Both daughters and sons are entitled to maintenance until they are able to maintain themselves.⁷⁹</p>				
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a</i></p>	<p>Both Sunni and Shias mothers have priority right to custody of her children :⁸⁰</p> <ul style="list-style-type: none"> ● For Sunnis: A mother has priority until her daughter gets married and consummate her marriages and her son until he reaches puberty,⁸¹ ● For Shias: A mother has priority right to her children 	<p>The courts take into account a myriad of factors when adjudicating custody cases:⁸⁵</p> <ul style="list-style-type: none"> ● In Case 139/98, the mother is Sunni and the father is Shia. Because Shias terminate a mother's priority 	<p>The Kuwaiti government is obligated by Article 16 of the Family Court Law to establish centres in each governorate to serve as the point of transfer of custody of children and as a space for visitation.⁸⁶ The Ministry of Justice has affirmed its</p>		<p>According to information on the ground and the media, men sometimes receive favourable treatment in custody proceedings. In 2014, a news story was published in which a mother lost custody of her child because the ex-husband showed the court a picture of her in a bikini with another man (among other grounds).⁸⁹</p>

⁷⁹ Articles 118, 186-187, 197-198, 202-203 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf); Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 180, 183

⁸⁰ Custody issues are not connected with the continuing the marriage of their parents, i.e. even if the parents of the child are not divorced or separated a custody case can be filed.

⁸¹ Article 194 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁸⁵ Amani Saleh Alessa, "Sex Discrimination within Kuwaiti Family Law, Part 1", (Arab Law Quarterly, 24:2, 2010), pp. 175-177

⁸⁶ Article 16 of the Family Court Law (2015), <http://www.gcc-legal.org/BrowseLawOption.aspx?country=1&LawID=4152>

⁸⁹ Information obtained from Kuwait advocate, May 2017; Habib Toumi, "Mother loses custody over bikini picture", *Gulf News*, 22 May 2014, <http://gulfnews.com/news/gulf/kuwait/mother-loses-custody-over-bikini-picture-1.1336998>

<p><i>designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>until they reach seven.⁸²</p> <p>A mother loses custody if: (i) she is not an adult; (ii) she is deemed to be insane, untrustworthy, or incapable of raising her children; or (iii) if she gets married to another man (not the father of the children).⁸³⁸⁴</p>	<p>right to custody at an earlier age than Sunnis, the father requests custody of his three children. The First Degree Court ruled that he would be custodian for the youngest child while the other two children remained with their mother, since that was their choice. However, when the mother appealed she regained custody of her three children since she was Sunni and family law was the basis for this case, which</p>	<p>commitment to implementing these provisions.⁸⁷ As of May 2017, there is only one centre in Kuwait.⁸⁸</p>		
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⁸² Articles 243 – 253 Law No 124/2019 For the KPSL Ja’afari sect.

⁸³ Articles 190-191 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁸⁴ Articles 243 – 253 Law No 124/2019 For the KPSL Ja’afari sect.

⁸⁷ Kuwait News Agency, “Ministry of Justice Affirms Kuwait’s Commitment to Care for Family Unity and Integrity”, *Kuwait News Agency*, 30 March 2016, <http://www.kuna.net.kw/ArticlePrintPage.aspx?id=2495288&language=ar>

⁸⁸ Information obtained from Kuwait advocate, May 2017

		<p>supports custody for mothers in such cases.</p> <ul style="list-style-type: none"> • In Case 15/98, both the mother and father were Shias. The father demanded custody of his three children (eldest son and two younger daughters). He requested custody over his son on the basis that the son has reached an age where custody reverts to the father and with regard to the two girls who had not yet reached that age, he requested custody over them claiming that their mother was not eligible. The First Degree Court only granted him custody of the son. On appeal, the Court of Appeal 			
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		<p>decided that custody of the three children should remain with their mother.</p> <ul style="list-style-type: none"> • In Case 167/98, a mother lost custody of her children in the First Degree Court because she married someone else. However, when she appealed, the Court of Appeal returned her custody because she was since divorced, allowing her to regain her right of custody; • In Case 48/98, the mother requested for custody over her children having already earlier lost it to the father upon her remarriage even though the mother would have been more eligible for custody. The First 			
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		<p>Degree Court gave her custody, but both the Court of Appeal and the Supreme Court denied it.</p> <ul style="list-style-type: none"> • In Case 28/94, the custodian mother who had four children, re-married but later divorced her second husband when her former husband filed a suit to end her custody. The former husband won the case because the mother had married a “stranger”, which ended her right of custody. Even though she divorced her second husband, the First Degree Court gave custody to the father because her divorce was 			
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		not yet final (she did not finish the 'iddah). She appealed thereafter and the Court of Appeal returned custody to her because her divorce had since been finalised.			
<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children followed by the grandfather and then other male relatives in the order specific by law until the child reaches puberty or 15.⁹⁰</p> <p>A custodian mother may not travel with the child in her custody, except with the permission of the guardian. The guardian, whether he is the father or another, may not travel with the child in custody to another country to reside there, except with the permission of the custodian.⁹¹</p>				

⁹⁰ Articles 208-209 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

⁹¹ Article 195 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

	<p>Custody as in article 243 of Law No 124/2019 KPSL Ja'afari sect states that the mother has the custody of the child till the age of 7, after age 7 till puberty the custody is to the father. After puberty the child gets to choose whom he/she wants to live with.⁹²</p> <p>Following the enactment of the Child Rights Law No. 21/2015, apart from health and financial matters, the custodian mother is better able to manage the affairs of the child under her custody when compared to the situation previously.⁹³</p>				
<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW</u></p>	<p>Abortion is strictly prohibited unless it is to save a pregnant woman's life or to preserve her health.⁹⁴</p> <p>Ministerial Decree No 30 for the year 1965 states that the government pays social allowance to the father for the first 6 kids.⁹⁵</p>			<p>It is mandatory for couples who wish to get married to undergo a medical examination prior to conclusion of the marriage to establish that they are free of the infectious and</p>	<p>According to World Bank data, the total fertility rate decreased from 7.2 children per woman in 1960 to 2.1 in 2015.⁹⁷</p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:⁹⁸</p>

⁹² Articles 243 to 253 of Law No 124/2019 KPSL Ja'afari sect.

⁹³ Child Rights Law (2015), <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101761/122759/F341630514/K1.pdf>; Information obtained from Kuwait advocate, May 2017

⁹⁴ Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

⁹⁵ Ministerial Decree NO 30 (1965)

⁹⁷ World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

⁹⁸ United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

<p><u>Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>				<p>genetic diseases and to obtain a medical certificate declaring that it is safe to marry. The certificate is valid for a period of six months from date of issue. The marriage official cannot conclude the marriage and the marriage contract cannot be notarised until the certificate has been presented. If the result indicates that it is not safe to marry, an acknowledgement from both parties is attached stating that they are aware of the result yet agree to the conclusion of the marriage contract.⁹⁶</p>	<ul style="list-style-type: none"> ● 56% of married women aged 15-49 are using a method of contraception, with 44% of women using a modern method; ● 16% of married women aged 15-49 have an unmet need for family planning services; and ● 62% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose</i></p>	<p>In Kuwait (Muslim women generally) don't change their names when they get married, the names are kept as they are.</p> <p>Article 30 of the Constitution</p>	<p>Until 2009, the Kuwait Passports Law of 1962 (amended in 1994) required consent of a husband before</p>		<p>Women can include stipulations in the marriage contract, including reserving the right to work,</p>	<p>According to World Bank data, female labour force participation increased from 35% in 1990 to 48% in 2016.¹¹⁰ During the same period, male labour</p>

⁹⁶ Kuwait State party report, U.N. Doc. CEDAW/C/KWT/5 (2016), pp. 30-31, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹¹⁰ The World Bank, "Labour force participation rate, female (% of female population ages 15+) (modeled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

<p><i>a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>guarantees personal liberty.⁹⁹</p> <p>Article 31 of the Constitution prohibits guarantees personal liberty.¹⁰⁰</p> <p>Article 41 of the Constitution guarantees the right of every Kuwaiti to work.¹⁰¹</p> <p>Despite the constitutional provisions stating otherwise, the KPSL potentially restricts the personal rights of a wife as a result of the maintenance-for-obedience legal framework provided for under the law. For instance, a wife risks losing her financial maintenance should she be considered disobedient if she refuses.¹⁰²</p> <ul style="list-style-type: none"> • To live in the marital home prepared by her husband 	<p>issuing a passport to a married woman. The Constitutional Court invalidated this provision on 20 October 2009 on grounds that it violated Articles 29, 30, and 31 of the Constitution, which guarantee equality before the law, personal liberty, and freedom of movement. However, the Constitutional Court maintained that this invalidation does not otherwise infringe on a husband's right to prevent his wife from traveling, if there is reason to believe that her</p>		<p>travel, or study.¹⁰⁷</p> <p>Women keep their birth names upon marriage.¹⁰⁸</p> <p>Women can freely apply for or renew their passports without the consent of the husband.¹⁰⁹</p>	<p>force participation increased from 78% to 84%.¹¹¹</p> <p>According to the 2016 UNDP Human Development Report:¹¹²</p> <ul style="list-style-type: none"> • 57% of women over 25 have at least some secondary education as compared to 58% of men of the same age group; • The ability of females and males aged 15-24 to read and write a short simple sentence is almost universal; • 82% of women are
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⁹⁹ Article 30 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹⁰⁰ Article 30 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹⁰¹ Article 41 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹⁰² Articles 87, 89-91 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

¹⁰⁷ Personal Status Law, No. 51 of 1984 (as amended), Articles 40-41, <https://www.e.gov.kw/sites/kgoarabic/Forms/QanoonAlAhwalAlMadaniyah.pdf>

¹⁰⁸ Information obtained from Kuwait advocate, May 2017

¹⁰⁹ Information obtained from Kuwait advocate, May 2017

¹¹¹ The World Bank, "Labor force participation rate, male (% of male population ages 15+) (modeled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

¹¹² UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

	<p>without justification;</p> <ul style="list-style-type: none"> Leaves the marital home without a legitimate reason; Works outside the marital home without the permission her husband and if it violates the interests of the family; Travels without the permission of the husband unless she is travelling with a relative in order to perform Haj. <p>Articles 64 to 74 of Law No 124/2019 KPSL Ja'afari sect regulate the conditions in which the husband/wife can state in the marital contract i.e. separate housing, work, study etc. ¹⁰³</p> <p>Article 22 of the Private Sector Labour Law provides that women may not be employed between the hours of 10 pm and 7 am, except in healthcare facilities and</p>	<p>travel would harm him or the family. ¹⁰⁵</p> <p>A husband cannot prevent his wife from travelling without a judge's permission, and the judge would usually reject his request unless he fears that she would run away with the children. The husband is required to provide evidence of such fears. ¹⁰⁶</p>			<p>satisfied with their freedom of choice as compared to 78% of men.</p>
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¹⁰³ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.إركان تنشر قانون الأحوال الجعفرية.pdf

¹⁰⁵ Fahad M Al-Enzi, "The Extend of a Wife's Right to Obtain a Separate Passport in Light of Constitutional Court Ruling No. 256/2008", *Kuwait National Assembly*, September 2010, <http://www.kna.kw/clt-html5/run.asp?id=1620>

¹⁰⁶ Information obtained from Kuwait advocate, May 2017

	<p>establishments specified by the Minister of Labour and during Ramadan hours. Article 23 also prohibits employing women in “dangerous or burdensome jobs, or jobs hazardous to their health.” It also prohibits employing women in jobs that abuse their femininity or in establishments that only serve men.¹⁰⁴</p>				
<p>Inheritance rights <i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p>	<p>Generally, inheritance rights between women and men are unequal.</p> <p>Article 18 of the Constitution provides that inheritance is a right governed by Islamic Law.¹¹³</p> <p>The KPSL specifies the inheritance shares according to the degree of relationship. A woman in many cases is entitled to half the share of a man.¹¹⁴</p> <p>An exception includes Article 298 of the KPSL which provides that brothers and sisters from the same mother inherit equally from</p>	<p>For inheritance cases involving Shias, courts typically apply Shia inheritance rules which generally afford more inheritance rights to women.¹¹⁹ For example daughters in Shia families can inherit an entire portion of property or assets. In contrast, a daughter in a Sunni family may only inherit a portion of the</p>			

¹⁰⁴ Private Sector Labour Law (2010), <http://www.alanba.com.kw/ar/kuwait-news/96194/22-02-2010-اجازة-سنوية-مدفوعة-الاجر-مدتها-يوم-بعد-قضاائه-اشهر-قانون-العمل-القطاع-الاھلي-نشر-الجریدة-الرسمية-للعمال-الحق-اجازة-سنوية-مدفوعة-الاجر-مدتها-يوم-بعد-قضاائه-اشهر>

¹¹³ Article 18 of Kuwait’s Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹¹⁴ Articles 295-328 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwaiti%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

¹¹⁹ <http://alaryan110.blogspot.com/2012/12/blog-post.html> ; For a summary of Ja’afari inheritance rules, see <http://www.aqaedalshia.com/ahkam/erth/index.htm>

<p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>their mother's estate.¹¹⁵</p> <p>According to Law No 124/2019 KPSL Ja'afari sect¹¹⁶ articles 372 to 504 regulate the inheritance procedure, an only daughter can inherit everything from her parents , unless a grandparent (father or mother or both) of the deceased parent is alive .¹¹⁷</p> <p>Article 497 and 498 of Law No 124/2019 KPSL Ja'afari sect The wife gets half of the inheritance, and an eighth if the deceased has a child. ¹¹⁸</p>	<p>property.¹²⁰</p>			
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault</i></p>	<p>Article 31 of the Constitution states that no person shall be subjected to torture or to ignominious treatment.¹²¹</p> <p>Domestic Violence Law No 16-2020 was codified in 20-9-2020, along with the Penal Code.¹²²</p>		<p>The Kuwaiti government is obligated by Article 8 of the Family Court Law to establish centres in each governorate to mediate family disputes and protect</p>		<p>The law of protection from domestic violence. It came as an important step of protection from all kinds of violent and hurtful treatment whether physical, psychological, sexual, or financial, either by committing the act of</p>

¹¹⁵ Article 298 of the Personal Status Law (1984), [http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwait%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20\(Theory\).pdf](http://maktabatmepi.org/sites/default/files/resources/english/Women%27s%20Rights%20in%20Kuwait%20Personal%20Status%20Law%20and%20Bahraini%20Judicial%20Rulings%20(Theory).pdf)

¹¹⁶ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.إركان تنشر قانون الأحوال الجعفرية.pdf

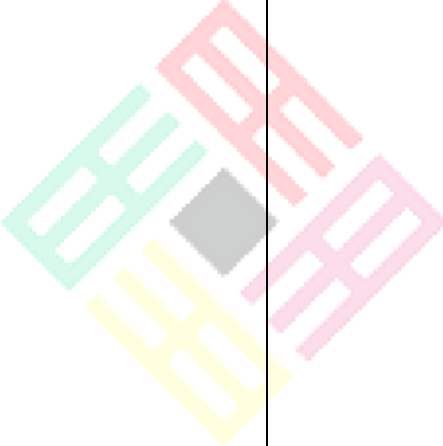
¹¹⁷ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.إركان تنشر قانون الأحوال الجعفرية.pdf

¹¹⁸ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.إركان تنشر قانون الأحوال الجعفرية.pdf

¹²⁰ Information obtained from Kuwaiti advocate, May 2017

¹²¹ Article 31 of Kuwait's Constitution (1962), https://www.constituteproject.org/constitution/Kuwait_1992.pdf

¹²² Law no 16 - 2020 Protection From Domestic Violence | mesferlaw.com (قانون رقم 16 لسنة 2020م في شأن الحماية من العنف الأسري - | المحامي مسفر عايض)

<p><i>and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>The Penal Code contains some general prohibitions that are applicable to domestic violence e.g. physical or sexual crimes.¹²³</p> <p>The Penal Code does not specifically criminalise marital rape.</p> <p>The Penal Code:</p> <ul style="list-style-type: none"> • Permits an otherwise criminal act that is committed in good faith provided the perpetrator has complied with the limits of that right;¹²⁴ • Permits the use of physical discipline by a person entitled by law to so provided its limits and intention are strictly adhered to;¹²⁵ • Exempts a rapists from criminality liability if he marries 		<p>family members from domestic abuse.¹²⁸ The Ministry of Justice has affirmed its commitment to implementing these provisions.¹²⁹</p>	<p>withholding it and threatening, which can be practiced by one of the family members against one member or more than one. According to actions or mentioned crimes in all national legislations. Violence is defined violent or abusive behaviour directed by one family or household member against another,</p> <ul style="list-style-type: none"> • Physical Abuse • Sexual Abuse • Emotional Abuse • Verbal Abuse, Threats, • Financial Abuse <p>The law establishes a national committee with representatives from various ministries and civil society, with the task of developing policies to combat domestic violence and protect abused women. The committee will also recommend</p>
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¹²³ Article 160 of the Penal Code (1960), http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf

¹²⁴ Article 28 of the Penal Code (1960), http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf

¹²⁵ Article 29 of the Penal Code (1960), http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf

¹²⁸ Article 8 of the Family Court Law (2015), <http://www.gcc-legal.org/BrowseLawOption.aspx?country=1&LawID=4152>

¹²⁹ Kuwait News Agency, "Ministry of Justice Affirms Kuwait's Commitment to Care for Family Unity and Integrity", *Kuwait News Agency*, 30 March 2016, <http://www.kuna.net.kw/ArticlePrintPage.aspx?id=2495288&language=ar>

	<p>the victim;¹²⁶</p> <ul style="list-style-type: none"> Provides for lesser in penalty for “honour” crimes, including violent ones.¹²⁷ 			<p>amending or repealing laws that contradict the new Domestic Violence Law.</p> <p>The new legislation established shelters and a hotline to receive complaints of domestic violence, provide advice and legal aid to victims, and allow the issuance of emergency protection orders (restraining orders) to prevent abusers from contacting their victims.</p> <p>Moreover article 13¹³⁰ addresses the punishment of those who try and coerce survivors not to report abuse.</p> <p>A hotline was established to file complaints and the complaints are handled with total discretion and privacy, but our main concern is that the victims of domestic violence don't report is either because they are afraid of it or because they are not aware that they are victims</p>
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¹²⁶ Article 182 of the Penal Code (1960),
http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf

¹²⁷ Article 153 of the Penal Code (1960),
http://gulfmigration.eu/database/legal_module/Kuwait/National%20Legal%20Framework/Rights%20and%20Obligations/2.1%20Penal%20Law_AR.pdf

¹³⁰ Law no 16 - 2020 Protection From Domestic Violence mesferlaw.com قانون رقم 16 لسنة 2020م في شأن الحماية من العنف الأسري - | المحامي مسفر عايض

				<p>of violence.¹³¹</p> <p>According to civil society and media reports, there are no solid statistics on violence against women in Kuwait because women are reluctant to file complaints and when complaints are filed, perpetrators are rarely arrested and evidence is often ignored.¹³² Nevertheless, available data suggest that there is a relatively high prevalence of domestic violence in Kuwait (bearing in mind these statistics represent under-reported figures on the actual prevalence of domestic violence in Kuwait):</p> <ul style="list-style-type: none"> • According to statistics issued by the Ministry of Justice in 2010, between 2000 and 2010, there was an average of 368 reported
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¹³¹ Law no 16 - 2020 Protection From Domestic Violence mesferlaw.com (قانون رقم 16 لسنة 2020م في شأن الحماية من العنف الأسري - | المحامي مسفر عايض)

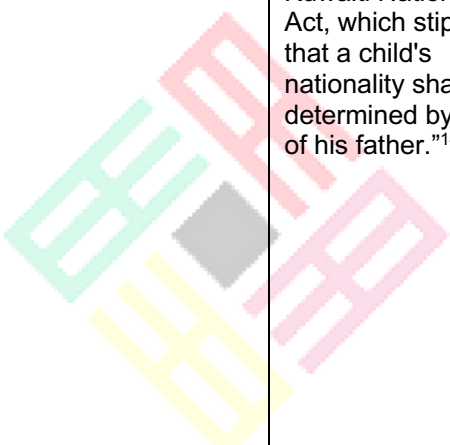
¹³² Kuwait Society for Human Rights, "A Report on women's Rights in Kuwait", *Submission to the CEDAW Committee for the 68th Session*, 2017, p. 6, http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KWT/INT_CEDAW_NGO_KWT_21620_E.pdf; Human Rights Watch, "Kuwait", *Events of 2009*, <https://www.hrw.org/world-report/2010/country-chapters/kuwait>; Kuna, "Hidden Pain: Physical abuse against women rising in Kuwait", *Kuwait Times*, 31 January 2017, <http://news.kuwaittimes.net/nearly-one-domestic-violence-case-reported-kuwait-every-day/>; Nawara Fattahova, "Nearly one domestic violence case reported in Kuwait everyday", *Kuwait Times*, 17 December 2014, <http://news.kuwaittimes.net/nearly-one-domestic-violence-case-reported-kuwait-every-day/>

					<p>cases per year;¹³³</p> <ul style="list-style-type: none"> • According to statistics issued by the Ministry of Justice in 2011, 35% of women in Kuwait reported being subjected to spousal abuse;¹³⁴ • According to a survey of 1,071 women conducted by an academic from Kuwait University, 40% of women reported having experienced physical violence by their spouses at least once (19% reported rarely being abused; 13% sometimes being abused and 8% regularly subjected to abuse).¹³⁵
<p>Nationality rights <i>Does a wife have the right to confer her citizenship on foreign husbands and</i></p>	<p>A Kuwaiti man may pass his nationality to his non-Kuwaiti wife, provided she meets various</p>		<p>Kuwait has a reservation on Article 9(2) of CEDAW, stating</p>		<p>Based on reports by the UK Home office civil society and the media, the issue of stateless persons</p>

¹³³ Nawara Fattahova, "Nearly one domestic violence case reported in Kuwait everyday", *Kuwait Times*, 17 December 2014, <http://news.kuwaittimes.net/nearly-one-domestic-violence-case-reported-kuwait-every-day/>

¹³⁴ Nawara Fattahova, "Spousal Abuse ... Kuwait's Secret Shame", *Kuwait Times*, 30 October 2014, <http://news.kuwaittimes.net/spousal-abuse-kuwait-secret-shame/>

¹³⁵ Kuna, "Hidden Pain: Physical abuse against women rising in Kuwait", *Kuwait Times*, 31 January 2017, <http://news.kuwaittimes.net/nearly-one-domestic-violence-case-reported-kuwait-every-day/>

<p><i>children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>conditions.¹³⁶ However, the law does not specifically provide for a Kuwaiti woman to confer her nationality to her foreign husband.</p> <p>A Kuwaiti woman who is married to a non-Kuwaiti man does not lose her nationality upon marriage unless she takes his nationality.¹³⁷</p> <p>A Kuwaiti father passes his citizenship to his children wherever they are born.¹³⁸ A Kuwait mother may only confer her nationality to her children if the father is unknown or whose kinship to the father has not been legally established. In such instances, the Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals until they reach their majority.¹³⁹</p>		<p>that “the Government of Kuwait reserves its right not to implement the provision contained in Article 9(2) of the Convention, inasmuch as it runs counter to the Kuwaiti Nationality Act, which stipulates that a child's nationality shall be determined by that of his father.”¹⁴⁰</p>	<p>(Bedoon) in Kuwait has been a key human rights concern for decades. Bedoon include stateless persons born of Kuwaiti mothers and Bedoon fathers, and are often deprived of social services and basic rights.¹⁴¹</p>
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¹³⁶ Article 8 of the Nationality Law (1959), <http://www.refworld.org/docid/3ae6b4ef1c.html>

¹³⁷ Article 10 of the Nationality Law (1959), <http://www.refworld.org/docid/3ae6b4ef1c.html>

¹³⁸ Article 2 of the National Law (1959), <http://www.refworld.org/docid/3ae6b4ef1c.html>

¹³⁹ Article 3 of the National Law (1959), <http://www.refworld.org/docid/3ae6b4ef1c.html>

¹⁴⁰ United Nations Treaty Collection Website: United Nations Treaty Collection Website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹⁴¹ UK Home Office, “Country Information and Guidance: Kuwait: Bidoons”, 2016, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/566157/CIG_-_Kuwait_-_Bidoons.pdf; Sebastian Kohn, “Stateless in Kuwait: Who Are The Bidoon?”, *Open Society Foundations*, 24 March 2011, <https://www.opensocietyfoundations.org/voices/stateless-kuwait-who-are-bidoon>; Nasra M. Shah, “Second generation non-nationals in Kuwait: Achievements, aspirations and plans”, (LSE Kuwait Programme on Development, Governance and Globalisation in the Gulf States, 32, 2013), <http://www.lse.ac.uk/middleEastCentre/kuwait/documents/Second-generation-non-nationals-in-Kuwait.pdf>



ACCESS TO JUSTICE (please include sources to information as much as possible)

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p><i>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</i></p> <p>In Kuwait we have Family Courts Law No 12-2015¹⁴² on establishing Family Courts, before that we had chambers for Personal Status Cases.</p> <p>All courts and chambers are ruled by a Kadhi (Judge) which specialises in such cases. Law no 21-2014 of the Judiciary Profession.</p> <p><i>How many courthouses/court rooms around the country that administer Muslim family law cases?</i></p> <p>We have 5 provinces in Kuwait each province has a Family Court for the two sects (Sunni and Shia), both first- and second-degree courts.</p> <p>Reference</p> <ol style="list-style-type: none"> 1- Law no 21-2014 which regulates the Judiciary Profession. 2- Law 12-2015 of Family Courts <p>Three chambers for first degree courts- more if needed, and a chamber for second degree.</p> <p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p>	<p><i>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) are defined in the family law and/or are there guidelines/policies available for judges/Kadhis?</i></p> <p>Procedure of filing a case relating to family issues is stated in:</p> <ol style="list-style-type: none"> 1- Civil and Commercial Procedures Law No 38 - 1980.¹⁴⁴ 2-Law No 124-2019 For the KPSL Ja'afari sect.¹⁴⁵ <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p><i>How much judicial discretion do judges/Kadhis have over marriage and family matters?</i></p> <p>The Judge or Kadhi has total discretion in ruling according to the facts given in the case.</p>	<p><i>What are some key challenges that Muslim women face in accessing justice on family law matters? (E.g. lack of accessibility, costly, bad procedures, delayed processes, gender insensitive judges, etc?)</i></p> <ol style="list-style-type: none"> 1- Lack of support from the family 2- Lack of Knowledge of their legal rights. 3- Delay in the process of the litigation. 4- Costly if they hire a lawyer. 	<p><i>Are there any good practices, procedures, or policies that you would like to share pertaining to how courts in your country deal with family law cases? (E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</i></p> <p>There are certain cases as the Law No 15-2015 of the Family Courts¹⁴⁸ stated in article No 11 that there are prioritised and are seen and ruled faster by the Family Court, which are as follows:¹⁴⁹</p> <ol style="list-style-type: none"> 1- Worthiness of the unpaid dowry. 2- Temporary alimony, maintenance, and pleasure. 3- Disputes of seeing the child in custody. 4- Permission to travel outside the country and request to prevent the child from traveling. 5- Permission to issue, renew

¹⁴² Ministry of Justice, Law No 12-2015 of the Family Court [021.pdf \(moj.gov.kw\)](#)[021.pdf \(moj.gov.kw\)](#)

¹⁴⁴ Decree Law no 38 - 1980 Civil and Commercial Procedures Law, Mesferlaw mesferlaw.com مرسوم بالقانون رقم 38 لسنة 1980م بإصدار قانون المرافعات المدنية والتجارية - | المحامي مسفر عايض

¹⁴⁵ Jaafari Status Law (2019), Arkan Law firm https://arkanlaw.com/images/library_book/Dvelw.pdf اركان تنشر قانون الأحوال الجعفرية.

¹⁴⁸ Ministry of Justice, Law No 15-2015 of the Family Court [021.pdf \(moj.gov.kw\)](#)

¹⁴⁹ Ministry of Justice, Law No 15-2015 of the Family Court [021.pdf \(moj.gov.kw\)](#)

<p><i>How many Muslim family law-related judges?</i> <i>Are there women working within the court system as judges/marriage registrars e.t.c?</i> The number is not fixed, but at least 20, all are male, no female Judges in the Personal Status courts.¹⁴³ <i>Do lawyers represent clients?</i> Yes, Lawyers do represent clients if a client hires them, otherwise if a person did not or does not wish to hire a lawyer, he or she can represent themselves before court.</p>	<p>If any of the litigants was not pleased with the ruling, they can plead the case.¹⁴⁶ <i>Are there appeal processes?</i> Yes, if the rule was not accepted by any of the litigants, they can appeal it.¹⁴⁷</p>		<p>and hand over a passport for the child in custody.</p> <ol style="list-style-type: none"> 6- Permission to obtain the birth certificate, civil ID, and any identification or personal documents for the child in custody. 7- Registration of the child in government schools or private schools. 8- Appointing a judicial assistant in accordance with Article (107) of the Civil Code. 9- Permission for the guardian or custodian to dispose of the money of the minor, in case of necessity, subject to the restrictions in Articles 127 to (137) of the Civil Code. <p>Such cases are presented to the court as a request and the judge agrees or denies it no later than a week since it is presented, the rule also can be appealed.¹⁵⁰</p>
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¹⁴³ Information obtained from the researcher's anecdote experience of 18 years.

¹⁴⁶ The Kuwaiti Court of Cassation, KPSL Chamber, appeal No 477 for the year 2014 dated 23/10/2005.

¹⁴⁷ [Global Litigation Guide in Kuwait - DLA Piper Global Litigation Guide \(dlapiperintelligence.com\)](https://www.dlapiperintelligence.com)

¹⁵⁰ Article 164 of the Civil and Commercial Procedures Law No 38 -1980, [مرسوم بالقانون رقم 38 لسنة 1980م بإصدار قانون المرافعات المدنية والتجارية - | المحامي مسفر عايض \(mesferlaw.com\)](http://mesferlaw.com)