



SHAMSAHA

Kuwait

Information included in the following section is based on Kuwait's Laws and Legislations.

Domestic violence & Gender-based Violence

Are there laws recognising domestic violence in Kuwait?

Kuwait has recently adopted Law No. 16 of 2020 concerning the protection from domestic violence, which recognizes and criminalizes 'domestic violence' defined as: every form of physical, psychological, sexual or financial treatment, whether it is an act, omission or a threat thereof, committed by a family member against one or more of them bypassing his legal responsibility, according to the acts or crimes stipulated.

The Penal Code recognizes general prohibitions that are applicable to domestic violence. For instance:

- Article 31 of the Penal Code (1960) maintains no person shall be subjected to torture or to ignominious treatment.
- Article 182 of the Penal Code (1960) exempts rapists from punishment where they marry their victim.
- Article 88 of the Personal Status Act (1984) it is prohibited to force a women to obey her husband.

Sexual Assault

Is Rape and Sexual Assault criminalized in Kuwait?

- Article (186) of the Criminal Code (1960) criminalises rape and indecent assault.
- Articles 191 and 192 of the Penal Code (1960) specifies a prison sentence of up to 10 years, or up to 15 years for sexual harassment, where the offence was committed with hate, threat or deception.
- Article 153 of the Penal Code allows a reduced sentence for honor crimes.
- The article states men who commit a violent act, including murder, upon finding their immediate female kin in the event of adultery shall be punished with imprisonment for

a period not exceeding three years and a fine not exceeding three thousand dinars or one of these two.

- Article 182 of the Penal Code (1960) exempts rapists and or kidnappers from punishment if they marry their victim with the permission of her guardian.

What is the age of consent to sexual activity in Kuwait?

The law does not specify the age of consent, and considers all sexual activity outside of marriage illegal.

Violence in the workplace

What are the laws protecting from workplace harassment in Kuwait?

- Article 134 of the Penal Code states, whoever insults an employee by word or gesture while performing his job, or because of his performance of it, shall be punished with imprisonment and or a fine.
- Article 135 of the Penal Code provides, whoever assaults a public employee, or resists him by force or violence, during the performance of his office or because of its performance, he shall be punished with imprisonment for a period not exceeding one year and a fine.

Marriage

What is the minimum age of marriage?

The law does not specify a minimum age for marriage.

However, in accordance with Article 24 and 26 of Personal Status Law (1984), it may be interpreted that, it is 15 years old for females and 17 years old for males.

- Article 24 of the Personal Status Law (1984) requires that both parties have reached puberty for a marriage to be valid.
- Article 26 of the Personal Status Law (1984) stipulates the ages at which a marriage contract can be officially registered, which is 15 for girls and 17 for boys.
- 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.

Can a women be forced into marriage?

- Article 8 of the Personal Status Law (1984) provides that a marriage is concluded following the proposal to the guardian of the woman and the acceptance of the woman.

Is consent of a marital guardian (wali) required?

Articles 8, 29-30 of the Personal Status Law (1984) declares that, women require the consent of a marital guardian (wali) regardless of her age.

- Article 37 of the Personal Status Law (1984) specifies that the guardian must be male.
- Article 29 of the Personal Status Law (1984) allows a judge to act as a guardian in the absence of male relatives.
- Further, Article 31 of the Personal Status Law (1984) provides that, if the guardian opposes the marriage, a women may seek the authorisation of a judge to get married.

Divorce

What are the laws on Divorce under the Kuwaiti Personal Status Law?

For men, the right to divorce his wife is absolute and effective immediately. However, women's right to divorce is limited.

For Sunni men, there is no requirement of witnesses to divorce. For Shi'i men, there is a requirement of two witnesses to exercise the right to divorce.

In the circumstances where the women's husband refuses to divorce her, **two options are available**. She can get a judicial divorce or Khul.

Article 120-148 of the Personal Status Law (1984) justifies seeking judicial divorce based on the following circumstances and conditions:

- Husband's failure to provide to provide financial maintenance;
- Husband's prolonged absence or imprisonment
- Husband's serious chronic illness
- Husband's apostasy

A wife may also seek divorce due to damage inflicted verbally or physically by the husband, subject to proving that the relationship is irreconcilable.

- Article 133 requires two male witnesses, or a male witness and two female witnesses to prove harm was inflicted. A wife's testimony is insufficient on its own.

- The court will first attempt to reconcile the couple where the harm inflicted. A judge will assign family members or capable individuals to reconcile the couple.
- Where the dispute is determined as irreconcilable, the ruling depends on who is at fault. If the husband, a divorce will be ordered and the wife will fully be entitled to all her marital and divorce rights.
- If the wife is, a divorce will be ordered and the amount of the 'mahr' or other financial compensation must be paid by the wife to the husband
- If both, a divorce will be ordered without compensation or with compensation calculated based on the fault attributed to each of the party.

What is Khul and what are the processes?

'Khul' is the process whereby the woman is required to pay her husband a sum of money to annul the marriage.

- Article 111-119 governs the khul process.
- Further, Article 118 maintains that, a husband cannot force a mother to give up custody of her children as part of a khul' compensation.

Family planning

What are the laws on abortions?

- Article 174 and 176 of the Penal Code strictly prohibits abortion.
- However, Article 175 of the Penal Code allows abortion to save the life of the woman, preserve her physical health, preserve her mental health, and if there is fetal impairment.

Child Custody

According to Article 189 of the Personal Status Law (1984), both Sunni and Shias mothers have priority right over the guardianship of their children.

- Article 194 refers to Sunni A mother has priority until the daughter gets married and consummate her marriages and her son until he reaches puberty.
- For Shi'is, a mother has priority right to the children until they are seven years old.

Article 190-191 considers factors that may cause a mother to lose custody of her child, such as if:

- She is not an adult

- She is deemed to be insane, untrustworthy, or incapable of raising her children;
- If she marries a man who is not a close blood relative, or "mahram" of a child.

Alimony under the Sharia

What are the women's financial entitlements after divorce?

Articles 157, 160, 162 of the Personal Status Law (1984) governs the area of financial entitlements after divorce.

- A woman may be entitled to financial maintenance during the waiting period, known as 'iddah', after the divorce.
- Article 165 of the Personal Status Law (1984) provides that a woman may be entitled to a consolatory compensation, known as mut'ah, for a period of time that does not exceed one year.
 - The amount of maintenance is based on the husband's financial means, unless mutually agreed otherwise. It is to be paid to it in monthly installments.
- Article 165 of the Personal Status Law (1984) also states that no compensation will be owed in the follow circumstances:
 - Death of the husband
 - If the divorce was initiated by the wife
 - If the divorce occurred with her consent
 - If the divorce was her fault
- Articles 118, 186-187, 197-198, 202-203 of the Personal Status Law (1984) maintains, that the father is responsible for the financial maintenance of his children.
- Where the mother is the custodian, the financial obligation remains. The father is obligated to pay 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 financially capable to maintain themselves.

