



## **UNIVERSAL PERIODIC REVIEW – FOURTH CYCLE**

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KUWAIT

The Center for Family and Human Rights (C-Fam) is a nongovernmental organization that was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C., and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person.

## INTRODUCTION

1. In 2020, the ministers and high representatives of 34 countries met to launch the Geneva Consensus Declaration (GCD), in which they committed to promoting four objectives: improve women's health, protect human life, strengthen the family as the basic unit of society, and defend the sovereignty of nations concerning their laws and policies to protect life.<sup>1</sup> Kuwait was one of the original signatories of the GCD. This report focuses on Kuwait's fulfillment of its commitments to human rights in the context of the four pillars of the GCD.

## THE GENEVA CONSENSUS DECLARATION

2. The language of the GCD is drawn exclusively from documents agreed by consensus, including core UN human rights treaties, the founding documents of the UN such as the Universal Declaration of Human Rights (UDHR), and major meeting outcomes such as the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population Development.

## PROTECTING WOMEN'S HEALTH

3. At the 1994 International Conference on Population and Development (ICPD), nations pledged "to enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant."<sup>2</sup> This commitment is echoed in the GCD, alongside reaffirmations of the importance of women's equal rights and their contributions to society, both in terms of education, employment, and civic engagement and through the family. The unique and essential role of women as mothers was recognized in the Beijing Declaration and Platform for Action adopted at the 1995 UN Fourth World Conference on Women.<sup>3</sup> Both of these landmark conferences, as well as the subsequent Millennium Development Goals and Sustainable Development Goals, include commitments to reduce maternal and child mortality, and while significant progress has been made around the world, critical gaps remain, especially for those in the poorest, most remote, and resource-deprived areas.
4. According to estimates by WHO, UNICEF, UNFPA, World Bank Group, and UNDESA/Population Division, Kuwait has seen a reduction in its maternal mortality ratio from 10 to 7 deaths per 100,000 live births between 2000 and 2020.<sup>4</sup> The rate is the lowest among its neighboring countries. Two major factors influencing maternal mortality and morbidity are nutrition and access to quality maternal health care. According to the Global Nutrition Report, Kuwait has seen some backsliding in reducing anemia in women of reproductive age. 23.7 percent of women aged 15-49 are still affected by the condition,<sup>5</sup> which is a major risk factor for maternal hemorrhage. Improvements in quality healthcare services, including skilled attendance at childbirth and accessible essential obstetric care, are also essential for a mother's safe delivery. Kuwait has invested 5.2% of its GDP on health.<sup>6</sup> This has allowed them to increase the physician density to 2.3 per 1,000 people.<sup>7</sup> Additionally, Kuwait has a hospital bed density of 20.4, the second highest among the Gulf Cooperation Council countries in 2017.<sup>8</sup>

5. While Article 174 of the Kuwaiti Penal Code criminalizes abortion,<sup>9</sup> Article 175 allows for an exception when the life of the mother is in danger if she receives authorization from a medical professional.<sup>10</sup>
6. Kuwait has seen improvements in maternal health in recent decades but remains off track for meeting its target under the Sustainable Development Goals.<sup>11</sup> Nevertheless, these gains have been made without liberalizing the country's abortion law. In keeping with Kuwait's affirmation of the Geneva Consensus Declaration, continuing to strengthen health systems, ensure adequate nutrition for pregnant women and mothers, improving hygiene including menstrual hygiene for women and girls, and increasing girls' access to secure and high-quality education and literacy will continue to reduce preventable maternal mortality, while also continuing to use its laws to protect the lives of the unborn.

## PROTECTING HUMAN LIFE

7. Abortion is a highly controversial issue in Kuwait. When the Committee on the Elimination of Discrimination against Women asked Kuwait what steps the government took to decriminalize abortion, the Kuwaiti government responded that "studies were being carried out to ascertain if a woman who became pregnant after being raped could receive an abortion."<sup>12</sup> Such social and cultural opposition to abortion is in line with the 1994 International Conference on Population and Development (ICPD) flagging the importance of mitigating the harmful effects of abortion on women while asserting that "any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process."<sup>13</sup>
8. Kuwait has not received recommendations to decriminalize abortion in its previous Universal Periodic Reviews. As a signatory to the Geneva Consensus Declaration, Kuwait has expressed its position that abortion is not an international human right. It is therefore consistent with this position that Kuwait and other members of the Geneva Consensus Declaration maintain legislation that protects unborn life and reject any pressure to legalize abortion as such recommendations are not only inconsistent with national laws and priorities but also outside the scope of internationally agreed human rights standards and obligations.

## SUPPORT FOR THE FAMILY

9. The GCD reaffirms the obligations of States regarding the family enshrined in international law, including the definition of the family as "the natural and fundamental group unit of society" and the recognition that it is "entitled to protection by society and the State." Signatories to the GCD further committed to "support the role of the family as foundational to society and as a source of health, support, and care."<sup>14</sup>
10. In Kuwait, there is no recognition of same-sex relationships, and homosexual behavior between both men and women is criminalized. In a previous Universal Periodic Review, Kuwait received recommendations to allow "a medical gender change to be reflected in a person's identity documents," and to prohibit "discrimination on the basis of sexual orientation and gender identity."<sup>15</sup> All of these have been marked as "noted" rather than

“supported.”<sup>16</sup> This position of Kuwait reflects the fact that same-sex marriage is not a subject on which global consensus exists; nor is it included as a right in any binding international legal instrument to which Kuwait is a party. As summarized in the Family Articles, a project of the coalition Civil Society for the Family, the right to create a family is based on the union of a man and a woman, and “Relations between individuals of the same sex and other social and legal arrangements that are neither equivalent nor analogous to the family are not entitled to the protections singularly reserved for the family in international law and policy.”<sup>17</sup>

11. All human beings possess the same fundamental human rights by their inherent dignity and worth, including the right to equal protection of the law without any discrimination.<sup>18</sup> Individuals who identify as lesbian, gay, bisexual, transgender, queer, etc., are protected from violence and discrimination to the same extent as any individual under the equal protection principle in human rights law. However, they are not entitled to special protections based on their sexual preferences and subjective gender identity as such.

## NATIONAL SOVEREIGNTY

12. As stated in the GCD, concerning the legal status of abortion and the protection of the unborn, it is a matter of longstanding consensus that “each nation has the sovereign right to implement programs and activities consistent with their laws and policies.” However, opposition to this sovereign right of countries has become increasingly commonplace in those parts of the United Nations system governed more by expert opinion or bureaucratic oversight than by the standard of negotiated consensus. There is no global mandate to pressure countries to liberalize their abortion laws or expand the categories for non-discrimination as a matter of international human rights law concerning, for example, sexual orientation or gender identity, and to the extent that mandate-holders engage in such behavior, they do so *ultra vires*.
13. Nevertheless, the frequency of such pressure has only increased toward countries whose laws restrict abortion to protect the unborn, or which maintain a traditional view of marriage and the family, in line with the human rights obligations expressed in the binding treaties they have ratified. Such nonbinding opinions have been elevated in many parts of the UN, although they have never been accepted nor adopted by consensus in the General Assembly.
14. The GCD, by anchoring its every assertion in a document adopted by consensus, reaffirms the centrality of the family, the rights of women and children and the fact that these rights are not upheld by abortion, and the importance of national sovereignty, especially in those places where global consensus does not exist.
15. Unlike other UN human rights mechanisms, the UPR provides a space for sovereign nations to speak to each other and provide encouragement to fulfill their human rights obligations. To the extent that this venue has been used to exert further pressure on countries to liberalize their abortion laws or redefine the family as a matter of national law and policy, global consensus on these matters must be upheld and promoted in the UPR as well, particularly by those countries that have already taken a stand in this regard by signing the GCD.

## CONCLUDING RECOMMENDATIONS

16. We encourage Kuwait to continue protecting the natural family and marriage, formed by a husband and a wife, as the fundamental unit of society.
17. Kuwait should continue to improve maternal and child health outcomes, including by ensuring adequate nutrition for pregnant women and affordable maternal health care, as well as improving access to hygiene, sanitation, and adequate nutrition, particularly for pregnant women and mothers, with special attention to those in rural and remote areas and for those in low-resource settings. Following Kuwait's commitments in the Geneva Consensus Declaration, this does not require the inclusion of abortion.
18. Kuwait should continue to ensure that women and girls have access to secure and high-quality education, including secondary education, and to improve women's literacy.
19. Kuwait should continue to assert the fact that abortion is not a human right in the context of multilateral negotiations, as well as in the Universal Periodic Review, following the Geneva Consensus Declaration, and call on its fellow signatories to do likewise.

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<sup>1</sup> Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, 2020. Available at <https://undocs.org/en/A/75/626>

<sup>2</sup> United Nations International Conference on Population and Development. (1994). "Programme of Action of the International Conference on Population Development," Cairo.

<sup>3</sup> United Nations Fourth World Conference on Women. (1995). "Beijing Declaration and Platform for Action" (Annex II, Paragraph 29). Beijing.

<sup>4</sup> WHO, UNICEF, UNFPA, & World Bank. (2023). Trends in maternal mortality: 2000 to 2020. World Bank. Available at <https://iris.who.int/bitstream/handle/10665/366225/9789240068759-eng.pdf>

<sup>5</sup> Global Nutrition Report. Country Nutrition Profiles: Kuwait. Available at <https://globalnutritionreport.org/resources/nutrition-profiles/asia/western-asia/kuwait/>

<sup>6</sup> World Health Organization Global Health Expenditure (2021), Domestic general government health expenditure (% of GDP) – Kuwait. World Bank. Available at <https://data.worldbank.org/indicator/SH.XPD.GHED.GD.ZS?end=2021&locations=KW&start=2000&type=shaded&view=chart>

<sup>7</sup> World Health Organization's Global Health Workforce Statistics (2020), Physicians (per 1000 people) – Kuwait. World Bank. Available at <https://data.worldbank.org/indicator/SH.MED.PHYS.ZS?locations=KW>

<sup>8</sup> World Health Organization Global Health Observatory Data Repository (2017). Hospital bed density (per 10,000) – Kuwait. World Health Organization. Available at <https://apps.who.int/gho/data/node.main-emro.HS07?lang=en>

<sup>9</sup> Penal Code of Kuwait (document, English) | Women's Learning Partnership. (n.d.). Learningpartnership.org. Available at <https://learningpartnership.org/resource/penal-code-Kuwait-document-english>

<sup>10</sup> World Health Organization. Global Abortion Policies Database. Country Profile: Kuwait. July 13, 2022. Available at <https://abortion-policies.srhr.org/country/kuwait/>

<sup>11</sup> Sustainable Development Report 2021. Dashboards.sdgindex.org. Available at <https://dashboards.sdgindex.org/profiles/Kuwait>

<sup>12</sup> Committee on the Elimination of Discrimination against Women (May 2024), Available at <https://www.ohchr.org/en/news/2024/05/experts-committee-elimination-discrimination-against-womencommend-kuwait-efforts>

<sup>13</sup> United Nations International Conference on Population and Development, *ibid.*

<sup>14</sup> Geneva Consensus Declaration, *ibid.*

<sup>15</sup> Human Rights Council. Report of the Working Group on the Universal Periodic Review – Kuwait. March 2020. Available at <https://undocs.org/A/HRC/44/17>

<sup>16</sup> United Nations: Office of the High Commissioner for Human Rights. Universal Periodic Review documentation: Kuwait. <https://www.ohchr.org/en/hr-bodies/upr/kw-index>

<sup>17</sup> Civil Society for the Family. The Family Articles. Available at <https://civilsocietyforthefamily.org/>

<sup>18</sup> United Nations. Universal Declaration of Human Rights. 1948. Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>