

HUMAN RIGHTS WATCH

Kuwait: Court Strikes Down Draconian DNA Law

Any Revision Should Fully Respect Right to Privacy



A general view of the Kuwait Palace of Justice (court house) in Kuwait City, Kuwait. © 2013 Reuters

(Beirut) – The [Constitutional Court’s decision on October 5, 2017](#) to strike down [Kuwait’s](#) overly broad DNA law is a positive step for the right to privacy in the country, Human Rights Watch and GeneWatch said today. The 2015 law had required all Kuwaiti citizens, residents, and visitors to provide DNA samples to authorities, in violation of their right to personal privacy. Kuwait was the only country to require nationwide compulsory DNA testing.

The court found that the DNA law violated articles 30 and 31 of Kuwait’s constitution, which protect the right to personal liberty and privacy. The ruling is final, without the possibility of appeal. In 2016 the United Nations Human Rights Committee, which monitors implementation of the International Covenant on Civil and Political Rights, [found](#) that the law imposed “unnecessary and disproportionate restrictions on the right to privacy.” That same year, Kuwait’s emir directed the authorities to amend the law in line with constitutional standards, and Kuwait lawyers brought a [legal challenge](#) against the law. Human Rights Watch has [previously called on Kuwait to amend the law](#) to comply with its obligations under international human rights law.

“The court’s decision to overturn the DNA law is a very positive step that ends this misguided and hastily passed invasion of privacy in Kuwait,” said [Sarah Leah Whitson](#), Middle East director at Human Rights Watch. “The law was an overly broad cudgel that lacked basic safeguards or restrictions, and opened the door to government abuses.”

Kuwait introduced Law No. 78 of 2015, known as the DNA Law, after the June 2015 suicide bombing of the Imam Sadiq Mosque, which killed 27 people and wounded 227. As part of the law, authorities mandated all Kuwaiti citizens, foreign residents, and temporary visitors to submit DNA samples to a database to be

maintained and operated by the Interior Ministry. The law imposed a penalty of up to one year in prison and 10,000 Kuwaiti Dinars (US\$33,000) in fines for refusing to provide DNA samples.

[Authorities reported to local media](#) that anyone failing to comply with the law would be subject to sanctions, including canceling their passports and a possible travel ban.

DNA collection databases are not inherently illegal and have been justified at times as permissible investigative tools. But to meet international privacy standards enshrined in the International Covenant on Civil and Political Rights, which Kuwait has ratified, a DNA collection and retention mechanism must be extensively regulated, narrow in scope, and proportionate to meeting a legitimate security goal.

Any attempt by parliament to revise the law should fully respect the right to privacy under both Kuwaiti and [international law](#), Human Rights Watch and GeneWatch said. This would include limiting DNA collection to people suspected of committing serious crimes and with a court order, the ability to challenge the decision in court, and a time limit after which DNA profiles are removed from the database. It should also establish an oversight system to monitor the collection, use, and destruction of DNA samples, prevent abuses, and ensure that people included in the database have access to effective remedies. [A new report by the Forensic Genetics Policy Initiative](#), which works to address imbalances between the legitimate needs of law enforcement and individual rights regarding DNA collection and use, outlines human rights best practice for DNA databases.

“We welcome the court’s judgment that a blanket approach to collecting DNA poses unacceptable risks to the population of Kuwait,” said Dr. Helen Wallace, Director of [GeneWatch UK](#),

which monitors developments in genetic technologies. “Kuwait now has an opportunity to implement best practice and protect privacy, prevent abuses, and avoid miscarriages of justice.”

<https://www.hrw.org/news/2017/10/17/kuwait-court-strikes-down-draconian-dna-law>