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**CITIZENSHIP AND POLITICAL PARTICIPATION IN
THE STATE OF KUWAIT
THE CASE OF THE NATIONAL ASSEMBLY
(1963-1996)**

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SUPERVISED BY

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**A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY
UNIVERSITY OF DURHAM
INSTITUTE FOR MIDDLE EASTERN AND ISLAMIC STUDIES
THE FACULTY OF SOCIAL SCIENCE**

2004



25 AUG 2004

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DECLARATION

I, the author of this thesis, declare that none of the materials in this thesis has been submitted in support of an application for another degree qualification in this or any other university.

Abstract

This study delves into the crucial question of why and how, despite a constitutionally guaranteed representative system of government in Kuwait, the past four decades of experimenting with democracy produced a model of democracy that is characterised by only a very small number of citizens being eligible to participate in the political system and a National Assembly whose effectiveness is undermined by its frequent suspensions and its inability to check and balance the power of the executive. In order to answer this question the study focuses on analysing the functioning of the National Assembly covering the period between 1963-1996 and its relations to al Sabah and the executive. The objective of this will be to present the manner and the mechanisms which al Sabah have used in order to maintain their dominance over society in Kuwait and, subsequently, over the National Assembly.

Another point assessed will be whether al Sabah have created an elite institution that is accessible to only the very few, through citizenship law, and also where the representative system is fragmented along traditional lines of affiliations which are promoted through the election law. It will be seen whether it is through these two legal frames that al Sabah have been able to control and undermine the democratic experience in Kuwait. Kuwaiti citizenship is considered to be among the most restrictive system in the world, making Kuwaiti nationality a very "special status" and limiting who are those eligible to participate in the political system down to an extremely small percentage of the entire population.

The study acknowledges the centrality of oil in facilitating the dominance of al Sabah and the executive branch of state power over the legislative branch. However, the study aims to go beyond the rentier approach emphasis on oil, by highlighting the specifics of the given situation in Kuwait, by focusing on the mechanisms of control; whether legal or political. The study concludes that several major changes are required - in particular in the citizenship law and election law - if the path true of democracy is to be followed as it is stipulated in the Constitution of Kuwait in 1962.

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Dedication

To My Parents, for all Their Love and Support

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Chronology

<u>Year</u>	<u>Occasion</u>
1896	Sheikh Mubarak comes to power after assassinating his two brothers
1899	Sheikh Mubarak signs first treaty with Britain
1920	The Battle of Jahra
1921	Establishment of Consultative Council
1938	The <i>Majlis</i> Movement
1950	Sheikh Abdullah al Salam comes to power
1961	Kuwait becomes an independent state; Iraq announces a claim to Kuwait.
1962	Promulgating the Kuwaiti Constitution
1963	The First National Assembly elections held
1967	The Second National Assembly elections (government interference change)
1971	The Third National Assembly elections
1975	The Fourth National Assembly elections
1976	The National Assembly suspended
1977	Sheikh Jaber al Ahmed comes to power
1981	National Assembly suspension lifted, election held for the Fifth National Assembly
1982	Souq al-Manakh Stock Market Crash
1985	The Sixth National Assembly elections; assassination attempt on Amir
1986	The National Assembly suspended
1989	The pro-democracy movement emerges
1990	Establishment of <i>al Majlis al Watani</i>
1990	Iraq invaded Kuwait
1991	Liberation of Kuwait
1992	Democratic life resumes, election of the Seventh National Assembly
1996	The Eighth National Assembly elections
1999	The National Assembly suspended; election of the Ninth National Assembly
2003	The election of the Tenth National Assembly

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Chapter One

Introduction

1.1 Research Problem

The development of Kuwait, from a small-unsettled nomadic pastoral area located between Saudi Arabia and Iraq, to one of the richest states in the Gulf region is considered, by all measures, a success story. This small Shaikhdom has been able to meet the challenges of building a state, developing, and establishing legitimacy. It has strengthened and survived against the odds and has beaten back all the predictions about its potential demise due to its fragile nature. It has also survived the external aggression and invasion by the Iraqi regime in 1990 and regained its international legitimacy and status within a very short period of time, with the assistance of the American led coalition of countries and their armed forces.

However, despite Kuwait's massive socio-economic transformations, they were not accompanied by a similar level of development for its democratic institutions and its democratic life. Although Kuwait has adopted a democratic Constitution and is among the most open and liberal governments in the Gulf state, the workings and the parameters of public political space is, to a great extent, determined by the ruling family. On two occasions, in 1976 and 1986, al Sabah dismissed the National Assembly and suspended constitutionally guaranteed rights. The press is censored, subsidised and controlled by the state; public gatherings are restricted by government approval; and voluntary associations



are not fully autonomous; clubs, guilds and professional associations are regulated by the state and depend on it for a substantial part of their budget.¹

Thus, four decades of parliamentary experience produced a model of democracy that is characterised by an extremely small number of citizens who are eligible to participate in the political system; prolonged periods of suspension of the National Assembly; immense restrictions on individual and public freedoms and where ultimate power resides in the executive, namely, with al Sabah family. The major task of this study is to analyse why and how this situation developed, despite a constitutionally guaranteed representative system of government, and the constitutionally guaranteed freedom of expression and association. Subsequently, is there a possibility for Kuwait to widen the political rights available and to develop a better functioning representative system of government?

The context in which this problem has developed is very important for the investigation of this study and this is related to the historical process of state formation and the development of an oil based economy. The establishment of central rule on territorially defined boundaries was directly linked to the rise of power for al Sabah as the ruling family and the most influential political force in the area. Thus, the political system that developed has been underpinned by very personal rule and, as an attachment to this, the population's loyalty and allegiance to the ruling family rather than to the state per se. In fact, the development of the state and its organs followed the establishment of the rule of al Sabah. This signified the patriarchal nature of the state. Patriarchal authority and domination, as indicated by Weber, is based on personal loyalty and on the sanctity of tradition and allegiance towards the ruler.² Although it is a voluntary submission to the ruler, the relationship is still heavily laden with tension. The ruler and the ruled are engaged in an implicit struggle for power, in order for each to maintain or augment its influences while adhering to the imperatives of

¹ Mary Ann Tetreault. "Civil Society in Kuwait: Protected Spaces and Women's Rights," The Middle East Journal. 47(2) Spring 1993: p. 276.

² Guenther Roth and Claus Wittich. (ed). Max Weber, Economy and Society: an Outline of Interpretive Sociology. (Berkeley: University of California Press, 1978). p.1007-1015.

tradition.³ This type of dynamics is clearly seen in Kuwaiti politics. Various political groups exert pressure and place demands on the government and can be extremely vocal and critical, yet all of this goes on within a context of loyalty, allegiance and acceptance of al Sabah's authority.

The government's adoption of the concept of *al usra al wahida* (the united family) as a symbol of Kuwaiti nationalism, augmented the patriarchal nature of the state.⁴ The media, in popularising the concept has: *depicted the nation as a collective family characterised by reciprocal relations of rights and obligations, al usra al wahida, with the Amir at its head.*⁵ The Amir is the father figure and the patron of the Kuwaiti family. Loyalty to the patriarchal family and loyalty to the ruling family became associated. The Constitution also emphasises the family as the basic unit of society rather than the individual. Thus, a hierarchical structure of heavily personalised relations and channels permeate the society making kinship and traditional affiliations the more acceptable forms of identity and are deemed as essential for any one to be able to access to the political system. The expression of divisions and forms of identity and loyalty based on the sect, tribe, and family etc...facilitate al Sabah's control and dominance over the political process, since it can play these diverse groups against each other, in order to maintain its relevance.

What strengthened and maintained this personal autocratic rule was the development of the oil economy in Kuwait. The incredible wealth generated by the oil gave al Sabah the power to allocate and distribute the huge revenues that were accruing for the state, to receivers chosen for their own advantage, whether by increasing the wealth and influence of members of the ruling family or by rewarding loyal groups, individuals, families and by expanding benefits to the ordinary Kuwaiti citizen. That behaviour has tied all the different social groups within the society very close to al Sabah and their rule, and has emphasised the importance of traditional lines of affiliations and identify.

³ Frank Parkin. Max Weber. (Chichesters: Ellis Horwood Limited, 1982).p.81.

⁴ Mary Ann Tetreault and Haya al-Mughni. "Modernization and its Discontents: Gender and Politics in Kuwait" The Middle East Journal. (Vol.49. No.3 Summer 1995) p. 407.

⁵ Ibid., p.407

1.2 Main Argument of the Study

The main contention of the study is that the constitutionally guaranteed representative system of government, and subsequently the realisation of a genuine process of democratisation, has been thwarted by the determination of the ruling family to preserve its power. The concentration of economic power in al Sabah hands, due to their control of the oil revenues, plus their ability to distribute and allocate that wealth through state structures and the private sector facilitated the ruling family's pursuit of this aim. Other structural factors in the political economy of Kuwait also helped such as the presence of a large migrant community and the persistence of a number of traditional features of the society.

On one level this argument fits within the rentier approach that has been used as a method of study of the Gulf states.⁶ However, the focus of this study is to go beyond the descriptive parameters of the approach by analysing the manner and the mechanisms that allowed al Sabah to maintain its dominance and undermine the democratic experience of Kuwait. The centrality of oil to Kuwait is indisputable but there is a need to look into the specifics of the situation and bring out the dynamics of the relationship between the state and society. In this context the ruling family has adopted specific strategies in limiting any challenges to its authority which the study shall focus on analysing. These include:

1. The control of the legal frame of political participation through citizenship and election laws. The citizenship law separates some segments of the population of Kuwait and grants them full political rights while the election law fragments the population along traditional lines of differing affiliations and identities. The combined effect of these two laws is the particular model of parliamentary democracy that developed in Kuwait; highly fractured and ineffective in curtailing executive power.

⁶ See Hazem Beblawi "The Rentier State in the Arab World" and Giacomo Luciani " Allocation vs. Production States: A Theoretical Framework" in Hazem Beblawi and Giacomo Luciani (ed.). The Rentier State (London: Croom Helm, 1987).

2. The use and emphasis of traditional forms of affiliations and loyalties as being the primary source of identity, drastically reduces the importance of having a general atmosphere and a 'universal' feeling of citizenship, as well as the different class status.
3. The ban on the formation of political parties which acts as an obstacle on the elaboration of political agendas and programmes which would be based on policies that transcend the segmental interests of the different groups.
4. The skilful use of the National Assembly to contain, curb and exploit differences among the various groups in society, in order to enhance the relevance of the ruling family as the only possible unifying force for the society.
5. Combining the two roles of ruling and governing provides al Sabah with a huge leverage over the society by the mere virtue of controlling the state revenues and the key ministries of Information, Foreign Affairs, Defence and Interior. In addition to this, al Sabah combines the two posts of Prime Minister and Crown Prince.

The study will also show that within these constraints there are, nevertheless, areas where civil society has been able to carve out some room for manoeuvre which under certain circumstances has allowed it to force concessions from al Sabah. This proves that the dynamics of the power relation between a rentier state and the society is much more complicated than a simple client-patron one.

1.3 Objectives of the Research

The objectives of this study can be summarised as follows:

1. To show the complexity and difficult nature of developing a representative system of government in a state that is underpinned by very personal rule, with the personal/traditional attachments and loyalties linked together.

2. To show that, although oil has been a major factor in facilitating the dominance of the executive branch of state power over the legislative branch of state power, it has not made the society passive or separated from the state, as the rentier approach would emphasise.
3. To show the conflict and tension between society and the state as expressed in the debates of the assembly and the tenuous relation between the executive and legislative and the Kuwaiti *diwaniyyas*.
4. To contribute to the debate about democracy and citizenship in the Gulf state region.
5. To investigate the impact of the citizenship law and the election law on the development of parliamentary life in Kuwait in terms of the inclusion/exclusion of certain groups in society and also in terms of dividing Kuwaitis along traditional forms of their affiliation.
6. To show how traditional divisions and traditional forms of identity and loyalty have been manipulated by al Sabah for the advantage of maintaining their autocratic power and their dominance as the only relevant political force in the country.
7. To discuss the role of the *diwaniyyah* (a private meeting place for men only, which is particular to Kuwait) in providing an alternative channel of communication between citizens and the government especially in times of protracted political public space.

1.4 The Conceptual Frame of the Research

The conceptual frame for investigating the particular model of a representative system of government that has developed in Kuwait rests on the citizenship concept and the liberal model of democracy. The citizenship concept is pivotal for this research because it can be argued that Kuwait defines itself and its parliamentary experiment by its exclusive citizenship law. Another reason is

that in order for Kuwait to have a better functioning parliamentary system, then to introduce a less restrictive citizenship law to achieve this is essential; one that will fall more in line with the Kuwaiti Constitution. Thus, in using this concept, it can serve this research in two main ways: firstly, by understanding the limitation of the parliamentary experience in Kuwait and secondly, to improve on that experience. As to the model of democracy, the Kuwaiti Constitution adopted the liberal model of democracy by stipulating for a representative system of government with checks and balances between the executive and the legislature, and upholding the principle of separation of state powers. Thus, it is clear which path Kuwait needs to take in order to establish democratic practices in the country. However, the difficulty lies in the lack of commitment of al Sabah to support that path and also the inability of Kuwait's political groupings to force a change in the balance between the executive and legislative in order to achieve such a better functioning representative system of government.

1.4.1 Citizenship

T. S Marshall in the 1950s re-examined the concept of citizenship in his work *Citizenship and Social Class*, by tracing its development in Britain from the end of the seventeenth century until the twentieth century.⁷ He showed how the principle of equality, embedded in the concept of citizenship, is set against the principle of inequality of classes inherent in the capitalist system. Accordingly, citizenship helps to guide progress into the path of reducing social inequalities. In addition, it has an integrating effect; a bondage and membership of free men endowed with rights and protected by a common law.⁸ The development of citizenship, especially in the twentieth century, did influence social inequality and led to the birth of the welfare state, which guaranteed minimum standards of living to the people, plus free education and free health services, and housing for low income people, etc. These benefits ameliorated some of the inequalities

⁷ T. H. Marshall. Citizenship and Social Class, and Other Essays. (Cambridge: Cambridge University Press, 1950)

⁸ T. H. Marshall and Tom Bottomore. Citizenship and Social Class. (London: Pluto Press, 1992).p.24.

innate in the capitalist system. Although, nowadays, it is possible to see an attack on the welfare state across the capitalist world, many of the rights that are guaranteed by citizenship are still preserved. Marshall defines citizenship in the following manner:

*Citizenship is a status bestowed on those who are full members of a community. All who possess the status are equal with respect to the rights and duties with which the status is endowed. There is no universal principle that determines what those rights and duties shall be, but societies in which citizenship is a developing institution create an image of an ideal citizenship against which achievement can be measured and towards which aspirations can be directed. The urge forward along the path thus plotted is an urge towards a fuller measure of equality, an enrichment of the stuff of which the status is made and an increase in the number of those on whom the status is bestowed.*⁹

Marshall divided citizenship rights into three elements: civil, political and social. The civil element includes: *the rights necessary for individual freedom-liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts and the right to justice.*¹⁰ The institutions most associated with civil rights are the courts of justice. Marshall defines the political element as: *the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body.*¹¹ The institutions corresponding to this issue are the parliament and the local councils. As for the social element, Marshall includes a whole range of rights provided by the social services and the educational services that guarantee the citizen a civilised life according to the standards prevailing in the society. These rights include the right to economic welfare and

⁹ Ibid., p.18.

¹⁰ Ibid., p.8.

¹¹ Ibid., p.8.

security, to share in the social cultural heritage and the ability to lead a decent life.¹²

He maintained that: *political reform in each of these domains can modify the worst aspects of economic inequality and can, therefore, make the modern capitalist system and the liberal polity more equal and just, without revolutionary activity.*¹³ The development of social rights through the expansion of the welfare state in the post-war period were vital for reducing inequalities in the capitalist system and an essential tool for mitigating class tensions.

The significance of Marshall's analysis is acknowledged by many scholars. However, criticism and reservations have been levied against his concept. Essentially, this criticism focuses on the evolutionary element of his analysis, especially when related to the historical development of citizenship through the three stages of civil, political and social rights. His analysis is also seen as being an over-simplification of the role of states and politics.¹⁴ Moreover, despite Marshall's acknowledgement that capitalism and citizenship are at odds he maintained that social rights and reforms in civil and political rights can mitigate and reduce these inequalities.¹⁵

The debate within the Marxist theory assesses this concept and criticises the idea of bourgeois social rights while challenging the liberal theory of the free and independent citizen enjoying universal privileges. Marxism developed an alternative theory, that of the civil society. Therefore, in Marxist discourse civil society is specifically: *the state guaranteed realm of commodity production and exchange - of private property, market forces and private rights.*¹⁶ The development of capitalism meant that the civil society - the realm of private interest, waged labour and private rights - is emancipated from political control

¹² Ibid., p.8.

¹³ David Held. Political Theory and the Modern State. (Cambridge: Polity Press, 1990).p.190.

¹⁴ Ibid., p.193.

¹⁵ Mary Ann Tetreault. Stories of Democracy: Politics and Society in Contemporary Kuwait. (New York: Columbia University Press, 2000).p.23.

¹⁶ John Keane. Democracy and Civil Society. (London: Verso, 1988). p.32.

and becomes the basis and presupposition of the state. Thus, the state is a coercive institution that reflects and reinforces the particular, historically specific interests of civil society. This separation of state and society is considered to be transitory and human emancipation occurs only with the withering of the state and establishment of a communist society.¹⁷

However, while citizenship for Marshall is a buffer zone between the state and civil society, Marxists see the state as being subservient to the conflicting forces of the civil society. The extension of citizenship does not lead to justice and equality, because economic life is not sufficiently under the control of citizens to affect the unequal status and the treatment of people.¹⁸ It is the absence of discussion over economic rights and workers control over the capitalist enterprise - which would have made inroads into the autonomy of capitalist property - that the Marxists found as a fundamental problem with the liberal notion of citizenship precisely because market economy cannot guarantee equality among individuals.¹⁹ True freedom of the individual, therefore, can be attained only in ending this negation between state and civil society through the unification of civil and political society.²⁰ Marx stated:

*Only when man has recognised and organised his 'forces propres' as social forces, and consequently no longer separates social power from himself in the shape of political power, only then will human emancipation have been accomplished.*²¹

However, the experience of Eastern Europe and the Soviet Union have proved the immense difficulty it is to achieve the unity that Marx perceived as being the ultimate solution for resolving the inherent contradictions of the capitalist system.

¹⁷ Ibid., p. 57-64

¹⁸ Iris Marion Young. "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship." Ethics Journal of Moral, Political and Legal Philosophy. (Vol.99. No. 2 January 1989). p.176.

¹⁹ Adam B. Seligman. "The Fragile Ethical Vision of Civil Society" in Bryan S. Turner (ed.). Citizenship and Social Theory. (London: Sage, 1993). p.156.

²⁰ Ibid.,154-155.

²¹ Ibid., p.156.

Regardless of its shortcomings, the citizenship concept, as indicated by Turner, is valid *mainly because citizenship has become an indispensable component of modern social theory as a perspective on social rights, welfare issues, political membership and social identity.*²² In addition to that, it provides an ideal type that can be utilised to analyse a variety of actual cases.²³ The usefulness of the concept to analyse a wide range of cases is evident by the recent focus on citizenship in a number of studies on Middle Eastern states. Such as the collective volume edited by Butenshon, Davis and Hassassian "*Citizenship and the State in the Middle East,*"²⁴ the work of Mary Ann Tétreault "*Stories of Democracy: Politics and Society in Contemporary Kuwait*"²⁵ and the work of Anh Nga Longva, especially her book "*Walls built on Sand: Migration, Exclusion and Society in Kuwait*".²⁶

As pointed by Longva citizenship can be viewed not merely as a legal status entailing a set of formal rights and responsibilities, but as a vehicle for nationalism and a focus for defining national identity.²⁷ Citizenship law in Kuwait is not used or practised in order to guarantee equality of the members of the community and guarantee their political, civil and social rights. Its primary function is determining who is included and/or excluded from being active in political life. In this sense, it emphasises, in contrast to the conventional meaning of the concept, not universality but particularistic criteria of social membership.

²² Bryan S. Turner. "Contemporary Problems in the Theory of Citizenship" in Bryan. S. Turner (ed.). Citizenship and Social Theory. (London: Sage, 1993). p.6-16.

²³ Tetreault, 2000, op.cit. p.23.

²⁴ Nils A. Butenshon. (ed.) Citizenship and the State in the Middle East; approaches and Applications. (New York: Syracuse University Press, 2000).

²⁵ Mary Ann Tetreault. Stories of Democracy: Politics and Society in Contemporary Kuwait. op.cit.

²⁶ Anh Nga Longva. Walls Built on Sand: Migration, Exclusion, and Society in Kuwait. (Boulder, Colorado: Westview Press, 1997).

²⁷ Longva, Anh Nga "Citizenship in the Gulf States: Conceptualization and Practice." In Nils A. Butenshon. (ed.) Citizenship and the State in the Middle East; approaches and Applications. (New York: Syracuse University Press, 2000).p.179.

Citizenship concept in Kuwait takes on a very important function as a unifying force among those considered by law Kuwaitis and those who are excluded. Also citizenship law from the start emphasised social rights of Kuwaitis over their political rights. The political rights that the Kuwaitis enjoy are severely restricted by the state, while their entitlement to social benefits is extensive. However, these are provided by the state as part of the unwritten contract, whereby the state provides huge benefits in return for loyalty to al Sabah. This is also underpinned by the fact that Kuwaitis do not pay taxes. They enjoy huge benefits without any formal obligations except allegiance to the ruling family. These benefits include free education, free health care, free housing, generous subsidies to essential services such as water, and electricity as well as to basic foodstuff. In addition, there is also employment of its citizens in the public sector. To some scholars, this unwritten contract provides the basis for the adoption of the concept of a “rentier” state to describe the Gulf States and to connect the lack of democracy to oil wealth.²⁸ These Gulf States were seen as being separated from society and their autonomy was greatly enhanced by their access and control of huge oil surpluses.²⁹ Despite the popularity of the concept it fails to account for pressures from below and demands for political liberalisation, as well as it fails to explain the high levels of regulation, repression and control by the state in these societies. Thus, this contract is not a simple, straightforward, exchange of loyalty for benefits. However, as this study will show, it did help to maintain the dominance of al Sabah over the legislative and limited the scope of action of the opposition to a great extent.

In this context Butenschon’s emphasis on the significance of citizenship with regard to the distribution of power and the nature of political institutions in a country, and how the founding principles of states are expressed more widely in certain patterns of citizenship policies is very useful to understanding Kuwaiti political process than the rentier approach.³⁰ Butenschon explains that citizenship approach

²⁸ Rex Brynen and Bahgat Korany and Paul Noble. (ed). Political Liberalization and Democratization in the Arab World. (Boulder: Lynne Rienner Publishers, 1995).

²⁹ Ibid.

³⁰ Nils A. Butenschon. “State, Power, and Citizenship in the Middle East, a Theoretical Introduction.” In Nils A. Butenschon. (ed.) Citizenship and the State in the Middle East; approaches and Applications. (New York: Syracuse University Press, 2000).p.5.

*allows us to unveil important aspects of the architecture of power-relations between rulers and ruled and to analyse the logic of these relations... Citizenship is a major institutional control mechanism that regulates the distribution of rights and obligations in a society, including access to decision making arenas and state-controlled economic resources.*³¹

The strategy adopted by Kuwait towards building state identity depended on limiting the acquisition of citizenship by migrants and differentiating between “original” and naturalised citizens. The naturalisation process is rigorously controlled, in addition to restricting the rights of naturalised citizens. Naturalisation grants the individual rights, including civil service employment, property ownership and access to welfare benefits, but simultaneously they are not allowed the right to vote for any representative body until twenty years after the acquisition of their citizenship. They are also ineligible for any nomination or appointment to a representative body or a ministerial position.³² Democracy in Kuwait is dubbed as the “democracy of the few”, where nationals represent only 30 percent of the population and only a mere ten percent have the right to full political participation.³³

The result of this particular legal frame of political participation, after four decades of experimenting with parliamentary democracy, emphasises not on citizens’ allegiance to the state and a sense of common citizenship among all Kuwaitis, but on sub-statal affiliations, loyalties, and attachments with serious consequences on the development of democracy and establishing the genuine unity of society. These divisions exist along-side the major sharp division between the migrant community, who represent the majority of the labour force in Kuwait, and the whole Kuwaiti community. The Kuwaitis for fear of losing their prominence and dominance have resisted the integration and

³¹ Ibid.

³² Heather Deegan. The Middle East and Problems of Democracy. (Buckingham: Open University Press, 1993).p.11.

³³ Khaldun Al-Naqib. (al-Naqeeb, Khaldhun). Sira' al-qabila wa al-dimuqratiya: halat al-kuwayt. (The Conflict between Tribalism and Democracy: the case of Kuwait). London: Dar al-saqi, 1996).167.

naturalisation of the migrants who are treated socially, economically and politically as a totally separate community.

The presence of this very large migrant community has made the question of identity and citizenship become very central to the politics of Kuwait and has been used to provide the Kuwaitis with a special sense of being "Kuwaitis". However, that special Kuwaiti identity is mostly manifested in relation to the migrant community, while the Kuwaitis firstly identify with their traditional affiliations, so this actually fractures the cohesion of their community along several lines. The *badu/hadhar*, the *Sunni/Shi'ite*, Arab/Persian and lastly, but not least, is the division between the rulers and the ruled; al Sabah versus the rest of the Kuwaitis. Divisions in the Kuwaiti community also run along gender lines. Women are still excluded from formal political participation through the denial of their right to vote. Economic divisions along class lines are naturally present and a huge gap exists among the various social groups and between these and the al Sabah family. Nonetheless, some of these economic inequalities have been mitigated by the welfare state with its very generous benefits for Kuwaiti citizens.

The Iraqi invasion in 1990 accentuated the major division between the two sharply contrasted communities; the migrant community and the natural Kuwaiti community, which led to the expulsion of a large community of Arab workers. They were accused, especially the Palestinians were targeted for siding with Saddam Hussein. In addition, the differentiation among the Kuwaiti community of the *hadhar* and the *badu* has become deeper. The Kuwaiti *hadhar* has accused tribal Kuwaitis of abandoning the country and seeking exile elsewhere, thus reinforcing the *hadhar's* claim that the *badu* have no loyalty to Kuwait itself, but only want to use the welfare state to their advantage. In light of the flight of the ruling family itself from Kuwait, during the occupation such a claim appeared to be totally unjustified.

Historically, the *hadhar/badu* division stems from the very different life-styles and economic activities of city dwellers and nomads. The political relevance of this difference has been on the decline in light of the active involvement of the Kuwaiti state in the settlement and integration of the *badu* as a significant

economic, social and political actor, by granting them citizenship and citizens rights. However, the political relevance of tribal affiliations and loyalties is still considerable, especially with their impact on the state structures and functions. Today's division of *badu/ hadhar* does not refer to the two different life styles but to the two specifically separate types of electorate. The term *badu* directly points to the elected representatives of constituencies with an exclusive tribal population, while the term *hadhar* refers to the old urbanite constituencies.³⁴

The integration and incorporation of Kuwaiti *badu* into state structures and functions, with the objective of boosting the legitimacy of al Sabah, led to the politicisation of this division which was manifested by the persistence of Kuwaiti *hadhar* in denying the Kuwaiti identity of the *badu*. The mass naturalisation of the *badu* has been perceived as having been motivated primarily by the purpose of undermining and keeping in check the urban commercial opposition.³⁵ This very perception from the onset, created conflictual relations between the newly naturalised *badu* and the old urban power structure.

The reluctance of Kuwaiti *hadhar* to accept the application of Kuwaiti identity and nationality for the *badu*, also relates to the fact that the actual term *Kuwaitis* was used to refer exclusively to the inhabitants of the town of Kuwait, while the Bedouin tribes were known by the names of their individual tribes or their tribal subdivisions.³⁶ The *hadhar* consider themselves above the *badu* and the leading social force in the development of Kuwait. This sense of importance and superiority is accompanied by a very specific attachment to the city of Kuwait, which stems from events that occurred in 1920. In that year, Ibn-Saud attacked Kuwait and for a period of two months, the Kuwaitis worked to build a wall around their city. For those Kuwaitis and their descendants who were involved in the protection of the city, an explicit "Kuwaiti awareness" emerged and they are the ones that today are considered as being fully fledged first-category citizens. Their loyalty to Kuwait has never been disputed, while the

³⁴ Longva, op.cit.p.187.

³⁵ Shafeeq Ghabra. "Kuwait and the Dynamics of Socio-economic Change." Middle East Journal. (Vol.15. No.3. 1997). p.366.

³⁶ Longva, op.cit. p.187.

loyalty of the Kuwaiti *badu* is constantly questioned and they are not seen as being equal.³⁷ This factor, combined with the perception that al Sabah has used and manipulated the *badu* in order to control urban Kuwaitis, explains the partial and distorted view that is prevalent in the literature on Kuwaiti about the tribes' participation in Kuwaiti political life, which is indicated by much generalised statements which include:

- "The *badu* are not real Kuwaitis."³⁸
- "Giving citizenship to the *badu* in 1967 was a mistake."³⁹
- "Because of the *badu*, the progress of Kuwaiti democracy was held up."⁴⁰
- "The *badu* are very loyal to the royal family, because of their cultural background which - as they claim - entails loyalty to the Shaikh of the tribe."⁴¹
- "Al Sabah used the *badu* to attack the Kuwaiti national opposition."⁴²
- "The Islamists used the *badu* to attack the liberal opposition."⁴³

³⁷ Ibid., p.187.

³⁸ Ahmad Daher and Faisal al-Salem. "Kuwait's Parliamentary Elections." Journal of Arab Affairs. (Vol.3.1984) p. 87.

³⁹See 'Abdullah Al-Nifisi. Al-kuwayt: al-ra'y al-'akhar. (Kuwait: the Other View). (London: Taha Advertising, 1978). p.28; and Shafiq Al-Ghabra. (Ghabra, Shafeeq). Al-kuwayt: dirasat fi a'liyat al-dawla al-qutriya wa al-sulta wa al-mujtama'. (Kuwait: a Study of Mechanism of the State, Government and Society). (Cairo: Markaz ibn khaldun, 1995). p.58.

⁴⁰Jasim Muhammad Karam. "Intikhabat al-majlis al-watani li'am 1990: dirasa fi al-jughrafiyha al-siyasiya." (The Kuwait National Assembly 1990: a Study in Political Geography). Annals of the Faculty of Arts. V. 7 N. 150. (Kuwait: Kuwait University, 1996). p. 32. and see Al-Nifisi, op.cit. p. 74

⁴¹ See Karam, op.cit. p.66. and Daher, op.cit. p.93.

⁴² See Al-Ghabra op.cit.p.84. and Abdullah Kalifah Al-Shayeji. "Democratization in Kuwait: The National Assembly as a Strategy for Political survival." Ph. D, thesis, University of Texas at Austin, 1988. p.208.

⁴³'Abdulmalik Al-Timimi. 'Abhath fi tarikh al-kuwayt. (Researches in Kuwait History). (Dar al-qurtas, 1998). p.124.

Such statements and claims are a simplification of a very complex political environment where modern and traditional sets of values and systems of social relations interact and political divisions cut across the vertical (traditional attachments and ties) and horizontal stratification (ideology and class) of society, producing a political system governed by what al Naqeeb terms "political tribalism."⁴⁴ This system ensures the domination of al Sabah by implicit control of society's major groups, especially by linking traditional groups to the state which deepens on the one hand the patron-client relation and on the other weakens loyalty to the state as a whole, and the nation/people at large.⁴⁵

The significance of such differentiations in Kuwaiti society can be witnessed in its effects on the development of political participation and democratic institutions in the country. In other words, it is the political implication and how the state overplays or underplays differentiations and/or manipulates them when is it important to do so, rather than just absorbing the mere presence of them. Societies of today are very complex and rarely homogenous thus, the question of how the various groups in a society, whether they are divided along tribal, racial, religious, ethnic or linguistic lines, participate in the politics and the running of the state becomes exceedingly important when dealing with Kuwait.

Differentiations and divisions, in highly complex plural societies, can become so intense and so deepened that this can lead to violence and long term damage to that society. Examples of this include Lebanon, former Yugoslavia, and some African countries, where ethnic and tribal affiliations have led to civil wars and the killing of thousands of people. The situation in Kuwait is incomparable to these countries, but the tensions that might lead to violence are still present, just as they are in other Gulf States. Sometimes external factors play a major role in forcing dormant tensions into the open in a violent manner. The Iranian revolution in 1979 had such an impact that Kuwait suffered from a spout of political protests and violent attacks. The *Shi'ite* of Kuwait were galvanised by

⁴⁴ Al-Naqeeb, op.cit. p.18-20.

⁴⁵ Nazih N Ayubi. Over-Stating the Arab World: Politics and Society in the Middle East. (London: I.B. Tauris Publishers, 1995).p.240-241.

the Iranian revolution into action against the prejudices and political marginalisation which they had suffered over many years.

The same effect took place in Bahrain where it had suffered from the eruption of many riots and much violence due to the long-standing frustration and isolation of the *Shi'ite* population. To resolve that, Bahrain embarked on an ambitious movement of reforms, led by the Amir of Bahrain. He released all of Bahrain's political prisoners in preparation for a national referendum on a series of significant political reforms. In addition, scores of opposition figures that lived in exile returned to Bahrain, foremost among them was Majeed al Alawi, who founded the Bahrain Freedom Movement in 1985.⁴⁶ He is now part of a 12-member committee dedicated to implementing the reforms. These reforms were approved by 99 percent of the population. They included the introduction of a two-chamber parliament by 2004 and an independent judiciary. In addition to this, women in Bahrain have been given the right to vote. Nevertheless, political parties remain banned and cabinet appointment is still authorised by the Amir.⁴⁷ Al Khalifa's Sunni rule over a population of which 70 percent is Shi'ite is slowly taking a more participatory path, aiming at reducing inequalities among the various social groups of the society. These reforms are very significant to occur in Bahrain, after many years of civil strife, which has definite implications to other Gulf States in the area.

The useful manipulation of traditional affiliation and society's diversity to enhance the relevance of the ruling families to state power has not been exclusive to al Sabah in the Arab region. Other Gulf monarchies, such as the Saudi monarchy, manipulate a number of internal cleavages. There are regional divisions between the *Najdis* and the *Hijazis*, the fraternal divisions within the extended Saudi royal family and the presence of a large migrant community.⁴⁸ As in Kuwait, immigration is the greatest political challenge facing Saudi Arabia. This is not only because of severe economic dependency on

⁴⁶ Robin Gedy. The Sunday Telegraph. July, 22, 2001.

⁴⁷ Ibid.

⁴⁸ Alan Richards and John Waterbury. A Political Economy of the Middle East: State, Class, and Economic Development. (Boulder: Westview Press. 1990). p.320-322.

foreign workers, but because of the legitimacy problem of denying citizenship rights and benefits for these migrants, especially the Arabs and Muslims among them.

Outside the Gulf, the late King Hussein of Jordan was extremely successful in using the cleavage between the majority of the Palestinian population and a largely Bedouin minority in order to perpetuate his rule.⁴⁹ This cleavage has dominated the politics of the state of Jordan and played a huge role in undermining the development of democracy in the country. The monarchy in Morocco has, over the years, succeeded in representing itself as the final protector of the variety of interests in the country; political parties against military intervention, the military against civilian ineptness, the Berbers against the Arabs and the Jews against the Muslims.⁵⁰

In Arab states, although the rhetoric over the years has focused on creating unity and solidarity, the result has been the persistence and promotion of socially familiar and divisive forms of association such as the family, the clan, tribe and sect. What these authoritarian states have been successful in is breeding social particularities and segmenting the cleavages to the detriment of the potential development of democratic institutions and by avoiding any meaningful political participation.⁵¹ This makes the restructuring of the modalities of governance very difficult, since the chances of arriving at a consensus and/or cooperation and accommodation in such a fragmented political environment is very limited in the short term. A case in point is the inability of Kuwait to do this, after the liberation of Kuwait and the rallying of Kuwaitis behind the ruling family that was unable to protect its citizens and the country.

⁴⁹ Ibid., p.320.

⁵⁰ Ibid., p.320.

⁵¹ Augustus Richard Norton. (ed.) Civil Society in the Middle East. (New York: E. J. Brill. 1995).p.6.

1.4.2 Model of Democracy

There are varied conceptions and models of democracy with their underlying ideologies and implications on the state, society, and citizen. These different models can be summarised as being direct democracy, radical democracy, guided democracy, liberal democracy, socialist democracy, and Constitutional democracy.⁵²

Constitutional democracy has been adopted in countries where intense and deep divisions exist and where an overarching loyalty to maintain the cohesion of the society is absent. Lebanon is an example from the Arab region where Constitutional democracy was practised with relative success since its independence in 1943 until the outbreak of civil war in 1975. The Lebanese society is divided between Christians and Muslims who, in turn, are divided into Maronite and Greek Orthodox Christians and Sunni and Shiite Muslims, in addition to smaller sects most of which are either Christian or Islamic. The principles of Constitutional democracy were in operation during that period (1943-1975) through a grand coalition of all segments of society, proportional representation, segmental autonomy and mutual veto. The major weakness was the inflexibility of the system, by its preset segmental allocation of high offices and electoral proportionality which did not allow for an adjustment in the workings of the system to take into account the loss of the majority status of the Christians in favour of the Muslims.⁵³

The social, confessional and economic divisions of the Lebanese society were further aggravated by the presence of Palestinian refugees and the Palestine Liberation Organisation. Thus a highly complex domestic, regional and international environment intensified forces of divisiveness and led to a total break down of the regime in 1975. The system today, in recovery of nearly two decades of civil war, still operates on a confessional basis, representing all major segments: The 128 parliamentary seats are allocated to all of the

⁵² Robert Pinkney. Democracy in the Third World. (Buckingham: Open University Press, 1993).p.5.

⁵³ Arend Lijphart. Democracy in Plural Societies: a Comparative Exploration. (New Heaven: Yale University Press, 1977).p.147-150.

confessional groups. The only difference is that, based on the *al Ta'if* agreement of 1989, there is parity in the confessional formula between Muslims and Christians.⁵⁴

It is, thus, crucial to deal with ethnic divisions through developing appropriate democratic practices and democratic institutions in order to accommodate and to mitigate them, before they erupt into violence and war. The factors that affect the eruption of cleavages into violence and war, include cleavage structure, a large number of cleavages, the degree of fragmentation that they cause, the types and intensities of cleavages, the counter effects of overarching loyalties and more so, the manner in which segmental cleavages and the political system relate.⁵⁵ In many cases it is this last factor that can be divisive.

Although the situation in Kuwait may not be comparable to Lebanon, Rwanda, former Yugoslavia etc., the divisions and differentiation among the Kuwaitis has been manipulated and overplayed by the rulers in order to maintain their dominance. The political system reproduces differences and inequalities and emphasises them, hence the persistence of the tension between the Kuwaiti *badu* and the Kuwaiti *hadhar*, the Sunni and the Shi'ite, the merchants and labourers, and last but not least, between the ruling family and the ruled. The politics of citizenship has been the mechanism through which traditional loyalties and inequalities among the members of the community have been maintained.

The definition that this study adopts for democracy stems from the liberal democracy model that Kuwait has adopted since its independence in 1962. In attempting to define this type of democracy one can say it provides: *a functioning participatory political system in which people vote regularly and meaningfully, where the freedom to speak is protected and where the rights of the individual enjoy significant respect.*⁵⁶

⁵⁴ Saad Eddin Ibrahim. "Crises, Elites, and Democratization in the Arab World." Middle East journal. Vol17. Spring 1993. p. 298.

⁵⁵ Lijphart, op.cit. p.71.

⁵⁶ Norton, op.cit. p.4.

Despite the limited success of Kuwait's adoption of a liberal democracy it remains the model that Kuwaitis can build on to limit the autocratic nature of the rule of al Sabah, partly because some of the necessary elements for the functioning of this model already exist, albeit in a limited and controlled form. A parliamentary tradition guaranteed by a Constitution and an experience in elections, as well as a variety of civil associations actively involved in promoting a democratic life. If anything, liberal democracy offers a contrast to authoritarian autocratic rule and provides a check on the excess of corruption, and involves the absence of political repression.⁵⁷ Kuwaitis have shown that they are committed to liberal democracy and have understood its benefits. However, the fear of al Sabah of losing dominance and control has been a major obstacle that needs to be overcome if the representative system of Kuwait as it is envisioned in the Constitution is to become established in the political life of the country.

The desire of Kuwaitis for representation and accountability has been a major feature of political life in Kuwait and this desire is one that is shared with Arabs across the region. The nineties had brought certain changes in the region and as indicated by Nonneman there is a consensus emerging among a number of academics writing on the Middle east that

1. the discourse of democracy and pluralism has become widespread, although a clear distinction have been made between *dimuqratiyya* (democracy) and *ta'addudiya* (pluralism) with the latter becoming more prevalent.⁵⁸
2. that there is no such thing as an overarching Arab-Islamic political culture that prevents the emergence of democracy.⁵⁹ He stresses that there is no inherent reason why Islam and social system should be

⁵⁷ Pinkney, op.cit. p.3.

⁵⁸ Gerd Nonneman "State of the Art. Rentiers and Autocrats, Monarchs and Democrats, State and Society: the Middle East between Globalization, Human 'Agency', and Europe." International Affairs. (77.1, 2001) p.144.

⁵⁹ Gerd Nonneman (ed.) Political and Economic Liberalization, Dynamics and Linkages in Comparative Perspective. (London: Lynne Rienner Publishers, 1996).p.58.

incompatible with a political system that incorporates the essence of a democratic system: representation and accountability.⁶⁰

3. Significant changes took place in the Middle east either driven by pressure from below due to state failure, financial crisis and effects of globalisation-induced economic reform or external pressures and in some cases due to voluntary reform from above to maintain or establish legitimacy.⁶¹

These observations illustrate a gradual move away from the authoritarian regimes that have dominated the Arab region, although the path is still long and unpredictable. Nonetheless, as noted by Nonneman *there is certain optimism associated with the contrast between increasing economic burdens and political aspirations on the one hand and regimes' relative declining resources and international pressures on the other to permit more space for liberalisation in the region.*⁶²

1.5 Methodology of the Study

The study shall focus on analysing the functioning of the National Assembly and its relations with al Sabah during the period between 1963-1996 in order to illustrate the mechanisms used by al Sabah to maintain their power *vis a vis* the Kuwaiti society and the tensions and dynamics between the various political groups in society and al Sabah. The analysis shall be divided into the historical periods of the life of the National Assembly starting with the first stage of parliamentary life covering the period of 1963-1976. That period was interrupted in 1976 by the first suspension of the National Assembly which lasted until 1981. The second stage is concerned with the period between 1981-86, which started with the restoration of the National Assembly and ended with its second suspension. The third period focuses on the post-liberation period and the restoration of the National Assembly in 1992. In addition, further

⁶⁰ Nonneman, *State of Art*, op.cit, p.144.

⁶¹ *Ibid.* p.144-145.

⁶² Nonneman, *Political and Economic Liberalization*, op.cit. p.59.

analysis will cover the periods when parliamentary life was suspended and how politics was pushed into the protected spaces, such as the *diywaniyya*, which has a particular value in the political life of Kuwaiti as a substitute to public political space.

This research is a historical/political investigation that was aided by consulting three types of primary sources of information and data, the proceedings of the National Assembly, Kuwaiti Newspapers such as *al Watan*, *al Qabas*, and *al Seyassah* and conducting interviews with several key people. The interview is a practical method of collecting information that allows access to many different groups and different types of information. Its major benefits are summarised as follows:

*Using as data what the respondent says about himself or herself potentially offers the social researcher access to a vast storehouse of information. The social researcher is not limited to what he or she can immediately perceive or experience, but is able to cover as many dimensions and as many people as resources permit.*⁶³

There are some disadvantages in using the interview method, such as information may be neither valid nor reliable and respondents may give inaccurate information or may lack the information that is required. The researcher himself may influence the situation and the direction of the interview. However, despite such limitations, the method still remains to be a very important source of data that provides access to what people know and how they account for their problems, experiences, etc.

There are two types of interviews: the structured interview, and the unstructured interview. The structured interview is more like a questionnaire. The interviewer reads a list of questions, which the interviewee answers. The unstructured interview is more like a conversation, with no pre-set questions. In social research most interviews fall in between these two extremes and are classified as semi-structured interviews.⁶⁴ The semi-structured interview style was used in this research, since it allows flexibility and has the ability to gather

⁶³ Michael Haralambos and Marin Holborn. Sociology: Themes and Perspectives. (London: Collins Educational, 1991).p.737.

information that is more detailed while, at the same time, it provides an overall frame for the questions that need to be asked.

The list of interviewees included Dr. Abdul-Muhsan al Mad'aj, a member of the National Assembly and previous Minister of Oil, Dr. Rashid al Sana' and Dr. Ghanim al Najjar, lecturers at Kuwait University, 'Aaydh al Barazi, editor in al *Dosstor* newspaper, Abdulhadi al Ajmi, a Kuwaiti historian, and Mohammad al Hajeri, Abdulaziz al Mansor, Mutib Falah, Sultan al Nasser and Faheed Nasser and others.

Other sources of information, were also consulted, which included secondary sources, such as Arabic and English books that relate to the topic as well as unpublished material including doctoral theses.

1.6 Structure of the Study

This study consists of eight chapters. Chapter One introduces the research problem, the main contention of the research and the research objectives. Research methodology and the conceptual frame that underpins the work are also discussed, in addition to the structure of the research. Chapter Two provides a historical background to the development of the Kuwaiti state with the objective of highlighting the issues that are of relevance to the investigation of the research. These issues include the three main factors that contributed to the emergence of Kuwait becoming as a significant state in the Gulf area: the rise of al Sabah, the early merchants of Kuwait and the extension of the British protectorate over Kuwait.

Chapter Three analyses firstly the main features of the representative system in Kuwait, as it is stipulated in the Constitution. The work then moves on to discuss, in detail, the citizenship law and its implications in terms of inclusion/exclusion and also how the very restrictive nature of the law serves to bolster the legitimacy of al Sabah by giving Kuwaiti nationality a very special status granted only to the very few. Within this context, the mass naturalisation of the *badu* aimed at widening the base of al Sabah's legitimacy, became a

⁶⁴ Ibid., p.734-735.

controversial subject and led to the politicisation of the Kuwait division of the *hadhar/badu* sections of society. This process and its implications on the political process in Kuwait shall be analysed. It will be followed by a discussion that contrasts the inclusion of the *badu* in the political process with the exclusion of a large segment of the population of Kuwait, which is categorised as *Bidoon* (without nationality), from acquiring full citizenship - although they are employed in state structures: mainly in the army, security forces and the police. The Chapter will also deal with the election law and how it distributed election districts in accordance to religious, ethnic and tribal lines, which produced a fragmented assembly with deputies who are tied to very restricted interests. This situation gives the ruling family an ability to play one group against off the other, in order to prevent the emergence of any viable and effective opposition.

Chapter Four deals with the first stage of the parliamentary experience of Kuwait, covering the period of 1963-1976, during which time four National Assemblies were elected. The functioning of these assemblies will be assessed with their relationship with al Sabah. The various political groups that emerged during that period and their impact on political life in Kuwait will also be assessed.

The year 1976 saw the first suspension of the National Assembly, which lasted for five years. This event shall be discussed in Chapter Five with the objective of investigating the failure of the Constitutional mechanisms of checks and balances between the executive and the legislature which should be at the heart of the proper functioning for any parliamentary system. The discussion shall include analysing the regional and domestic political context of the suspension and its aftermath. The Chapter will also analyse the role of *Diwanniyya* during the absence of the assembly, and its significance to general political life in Kuwait.

Chapter Six deals with the second phase of the parliamentary experience, between 1981-1986. The Chapter analyses the decision of al Sabah to restore the assembly and call for election against the background of its failed attempt to amend the Constitution in a manner that would have further undermined the legislative body. However, al Sabah managed to revise the election law and the

new amendments seemed to bolster the support of al Sabah in the assembly and weakened the representation of any opposition group. This, and the election for the fifth assembly shall be analysed. In addition to the relationship between the assembly and the executive the research will focus on the issues that dominated the debates of the assembly. Despite the rising tension between the assembly and executive, the election for the sixth assembly was held as scheduled. However within a short period of time, this relationship deteriorated to the extent that al Sabah opted for a second indefinite suspension of the entire assembly.

Chapter Seven deals with the period following the second suspension of the assembly until the Iraqi invasion of Kuwait in 1990. After the end of the Iran-Iraq war in 1988 a struggle ensued between al Sabah and what developed into a pro -democracy movement, in order to restore the National Assembly. Despite the strength of this movement as the discussion shall reveal, al Sabah opted to create a consultative council to replace the constitutionally guaranteed assembly, and they were successful in holding the elections for that council. The Iraqi invasion on August 2, 1990 put a halt to this attempt by al Sabah to by - pass the National Assembly.

Chapter Eight focuses on the period of post-liberation and includes a discussion of the assembly that was elected in 1992. This period is of particular interest to the study since it confirms that al Sabah, despite their inability to protect the country and the Kuwaiti citizens, were still considered a legitimate political force that Kuwaitis could rally behind. Although al Sabah returned to Kuwait to face a new reality and answer many questions, and were forced by the demands of Kuwaiti citizens to restore the Constitution and the assembly, their desire to retain power remained unchanged. The discussion will show how the power of the National Assembly *vis a vis* al Sabah, is still limited and no coherent and responsible opposition has materialised. Opposition politics is still fragmented on both vertical (segmented loyalties and attachments) and horizontal (ideology and class) lines. It can be argued that this only serves the autocratic durability of the al Sabah family's rule. The prospects of the development of true democratic practices and institutions in Kuwait will be assessed in the conclusion of the study.

Chapter Two

Historical Background of the Development of the Modern State of Kuwait

2.1 Introduction

The development of Kuwait from the second half of the eighteenth century until its independence from Britain in June 1961, has been determined by three main factors. These are the settlement of the area by al 'Utub, a group of families that are known to be derived from the 'Aniza tribe; the emergence of the merchant community as the most significant economic social group, and the extension of British protectorate over the area. The aim of this chapter is to analyse these determining historical factors and assess the roots of the present day debate concerning problems of identity, citizenship and the relation between the state and the different social groups of the Kuwaiti society.

The prevalence of traditional forms of identity: tribe, family, religion and kinship are deeply rooted in the political system due to the underdevelopment of state democratic institutions since Kuwait's early formative years. This differentiation and segmentation of the society along traditional lines serves mostly the al Sabah family, since that increases their relevance to the system and makes them the unifying force of the society and the source of stability. Moreover, the protection of the interests of al Sabah and Britain meant setting limits on the political demands

of the other social groups in the society while maintaining a political system whose essential features stem from traditional-tribal forms of political organisation. That entailed using namely the open *majlis* (council) as the point of contact between ruler and ruled, and the recognition of the Ruler as the father figure who mediates between the various groups but remains above them all. When the merchant community attempted to challenge and change this organisation, it was dealt with swiftly and autocratically by al Sabah. The situation remained unchanged until the independence of Kuwait and the promulgation of a Constitution that guaranteed a representative system of government.

The first section of this chapter concentrates on discussing the rise of al Sabah as the dynastic family that have ruled Kuwait since al 'Utub settled in Kuwait around the beginning of the eighteenth century. In essence the development of the polity of Kuwait is synonymous with the growth in power and wealth of al Sabah family supported by the 'Utub merchant families, and Britain. The second section discusses the power of the merchants and their two attempts in 1921 and 1938 to curtail the power of al Sabah and establish a formal political process where power is shared between them. The traditional method of consultation became unsatisfactory to these merchants and they aspired towards a more direct participation in running state affairs. The discussion will show the resistance of al Sabah to such a change and a willingness to fight to prevent such an eventuality.

Section three deals with the *badu*, their settlement and relation to al Sabah. The tribes of the area were a major source of support for al Sabah since the recruitment of the personal guards of the ruling family and the core of the security force and men in arms came from among these tribes. Thus from the onset, the *badu* were heavily dependent on al Sabah and their loyalty was a useful protection against any possible activism on the part of the influential merchant community. However, they were excluded from the political system and had no rights to run or elect for government councils. That situation only changed in the 1960's.

The role Britain played in the consolidation of al Sabah rule and the maintenance of a territorially independent Kuwait especially from Iraq and Saudi Arabia is very relevant to this historical background. Thus section four focuses on this issue in particular, while section five deals with the initial impact of oil on the rule of al Sabah and the development of Kuwait. Oil revenues not only changed the dynamics of the relation between al Sabah and the merchant community, but changed the whole dynamics of Kuwaiti society by creating a minority status of Kuwaitis within their own county with the huge influx of Arab and foreign migrants, thus making the issue of identity and citizenship central and detrimental in the maintenance of al Sabah rule.

2.2 The Rise of Al Sabah

The exact date of the founding of Kuwait is not an established historical fact due to the lack of any reliable historical sources on the matter. The only available source is some local narratives, which indicate its being founded in the late 17th century and early 18th century. Furthermore, the dates mentioned are some times contradictory and controversial. The Kuwaiti historian, al Rashid, believes that Kuwait was founded toward the end of the seventeenth century without specifying a date.¹ On the other hand Sheikh Yusuf al Qana'i states that Kuwait was settled in 1688.² Others, such as the Bahraini historian al Nabhani and the Iraqi historian Ibn Sanad, specify other dates. The Bahraini claims it was settled in 1611 while the Iraqi reports that it was in 1800.³ Therefore, no final date has yet been agreed upon by all historians.⁴

¹ Abdul'aziz Al-Rashid. Tarikh al-kuwayt. (The History of Kuwait). (Kuwait: Maktabat al-salasil, 1995). p.10.

² Yusuf Al-Qana'i. Safahat min tarikh al-kuwayt. (Pages from the Kuwait History). (Kuwait: Maktabat al-salasil, 1987).p.11.

³ Ahmad Mustafa Abu-Hakima. Tarikh al-kuwayt. (The History of Kuwait). (Kuwait: Maktabat hukumat al-kuwayt, 1967). p.100.

⁴ Ibid., p.100.

Although the exact date of Kuwait's foundation is not known, historians agree that it was founded by the Bani Khaled tribe, who had dominated eastern Arabia from the sixteenth century to the eighteenth century. Kuwait was built as a summer resort for the Bani Khaled Sheikhs. Thus, when al Sabah arrived in Kuwait the Sheikh of Bani Khaled was able to provide them with protection and gave them the fort and surrounding areas.

Al Sabah belonged to the al 'Utub clan who emigrated from Najd in central Saudi Arabia during the first half of the eighteenth century and settled in Kuwait. The emigration of al 'Utub was part of the great emigration of al 'Aniza tribe due to the continuous drought and lack of food that brought them first to Qatar. Then they scattered in different parts of the Gulf before they eventually settled in Kuwait. Al Qana'i indicates that *their migration to Kuwait was gradual because after leaving Qatar, they were dispersed in different lands....they then began arriving in Kuwait and were followed by a lot of other people, Arabs and Persians.*⁵ It is during this period of migration that al 'Utub families shifted their economic activities from nomadic to sedentary ones and learned fishing, pearling and other trades.

The historian Abu Hakima attributes the rise of al 'Utub and their successful building of a new settlement in Kuwait to three main reasons. Firstly, Kuwait was located on the trading caravan road between central Arabia, Iraq, and the Mediterranean. The commercial activities of the European trading companies in the Persian Gulf encouraged Kuwait to engage in maritime trade. Secondly, all the big powers were absent while Kuwait's neighbours, Persia and Ottoman Iraq were too weak to disrupt its growth. Persia was pre-occupied with internal strife and external intervention, while the Ottomans in Iraq had constant warfare with Persia and other Arab tribes in the area. Thirdly, the power and protection of the Bani

⁵ Al-Qana'i, op.cit. p.15.

Khaled provided al Sabah and their relatives with the opportunity to rise and grow without interruption from other tribal powers in the area.⁶

Kuwait also benefited from the Persian occupation of Basra between 1775-1779 by the opening of close relations between Britain and Kuwait. The mail of the British East India Company from the Gulf to Aleppo began to be sent from Kuwait. In addition the company transferred its regional offices to Kuwait and its trading activities passed through Kuwait. Another major benefit was the migration of a number of Basra merchants whose trading activities were undermined by the occupation.⁷

The weakening of the authority of Bani Khaled over Kuwait gave al 'Utub the opportunity to cement their power in Kuwait. Inter-tribal disputes about succession as well as its continued disputes with al Saud slowly undermined the authority of Bani Khaled. In addition their main office which was at al Hasa (east of Riyadh) was subjected to a series of tribal and Ottoman incursions. In 1795 Bani Khaled's power ended after a decisive battle between them and al Saud at al Hasa.⁸

The manner in which the al 'Utub organised themselves to establish their new settlement has helped immensely in the rise of al Sabah as the undisputed Ruler of the area. The three main divisions of the al 'Utub: the al Sabah, the al Jalahima and al Khalifa agreed to divide between them the responsibilities of administering the new settlement. Al Sabah were given the functions for government, al Khalifa the responsibility for commercial affairs and al Jalahimia the control of maritime affairs. This division reflected the strength of each one and facilitated the growth of the area. Al Sabah are believed to have had good relations with the tribes of the area and were known for their skills in negotiation and mediation, essential

⁶ Ahmad Mustafa Abu-Hakima. History of Eastern Arabia: The Rise and Development of Bahrain and Kuwait. (Beirut: Khayats, 1965). p. 26. & Ahmad Abdullah Saad Baz. "Political Elite and Political Development in Kuwait." Ph. D thesis, George Washington University, 1981. p. 39-40.

⁷ Abdulrasoul Al-Moosa. "Bedouin Shanty Settlement in Kuwait" Ph.D thesis, University of London, 1976. p. 8.

⁸ Baz, op.cit. p. 37.

ingredients for the building of their new settlement. Thus, it appeared expedient that the 'Utub families chose Sabah bin Jabir, leader of al Sabah family, as the Sheikh of the new settlement. As aptly put by Ismael:

Irrespective of the personal qualities attributed to him, however, the importance of relations with the tribes in the area must be considered as primary in the light of the eclipsing role of the Bani Khalid. The very survival of Kuwait depended upon relations with the tribes. First, the community depended upon the tribesmen for the production of basic necessities, second, Kuwait required protection against perennial tribal raiding. No longer protected by Bani Khalid power, Kuwait required a sheikh both respected and feared for the number of tribesmen he could call into arms in an emergency. Third, the labour for pearling, fishing, and commerce was supplied by the tribes. Apparently, unlike many of the 'Utubi families whose interests turned toward the sea (and whose ties with the Bedouins consequently diminished), the al Sabah family remained oriented toward the desert, apparently based on their interest in the active caravan trade between Aleppo and the Gulf. They continued an active relationship with the Bedouin tribes, camping out with them regularly and marrying from among them.⁹

By the middle of the eighteenth century the authority of Sheikh Sabah was well established. It was he who in the early 1760's ordered the building of a mud wall around the town of Kuwait to protect it against outside attacks.¹⁰ This event became a watershed in the definition and the debate over citizenship and the *hadhar/ badu* subdivisions. Those outside the wall were primarily the *badu* of the area, who have been seen by those who lived within the boundary of the wall that they are outsiders not and entitled to gaining a Kuwaiti nationality. Adding to this

⁹ Jacqueline S Ismael. Kuwait, Social Change in Historical Perspective. (Syracuse, NY: Syracuse University Press, 1982). p. 27.

¹⁰ Suhail K Shuhaiber. "Political Development in Kuwait, Continuity and Change in an Arab Independent Gulf State." Ph. D thesis, University of Oxford. 1981. p.8.

problem is the attribution of the name of the original town of Kuwait to the state of Kuwait. This increased the feeling of the alienation of the *badu* from their being unable to identify with the name; while aggravating the possessiveness of urban Kuwaitis towards what they considered their own city with their active exclusion of the *badu*.¹¹ The fact that al Sabah saw the *badu* as a counter-force to the merchant community fuelled further the antagonism of urban Kuwaitis towards the *badu* being incorporated into the political system of Kuwait and treated as full fledged Kuwaitis in the later years.¹²

After the death of Sabah, his youngest son Abdullah was elected by the other 'Utubi families as their leader mainly for his sense of justice, intelligence and readiness to consult the community on important matters. From then on al Sabah became the established rulers of Kuwait and began a tradition of electing the most suitable member of the family to rule, rather than choosing the eldest.¹³ After a few years into the rulership of Abdullah the division of labour among the 'Utub community ended. In 1766 the Al-Khalifa family decided to leave Kuwait and settle in Zubara. Their departure has been attributed to two main reasons. The first was their desire to pursue wealth and become rich on a settlement of their own. The second was due to their dispute with Bani Ka'ab and their refusal to come to terms with the tribe as al Sabah's policy required.¹⁴

The departure of al Khalifa reduced the revenues of al Sabah who refused to share it with al Jalahima and eventually expelled them from the port and town of Kuwait. Al Sabah remained affiliated with other 'Utub merchant families, namely al Ghanim, al Saqar, al Khaled, al Badir, al Rumi, and al Saif. The cooperation of the Ruler and these merchants was vital to the growth and development of the area as well as the continuation of the al Sabah rule. Evidence to support this view is

¹¹ Interview with Abdulhadi Al-Ajmi, Kuwait, November, 2002

¹² Interview with Saltan Al Nassar. Kuwait, November, 2002

¹³ Shuhaiber, op.cit. p. 8.

¹⁴ Ibid., p.9.

illustrated by the fact that al Sabah following the departure of the al Khalifa family, al Sabah stopped sharing revenues with the merchants and instead collected a small duty of about one per cent on all imports. This shows the high value they placed on their authority and their *willingness to forfeit economic for political power*.¹⁵ Keeping on good terms with the merchants was essential since the acceptance of the 'Utubi families of the Ruler was the basis of his legitimacy. In addition, the ruling family and the wealthy influential merchants were Sunni of 'Utubi lineage and were dependent on each other. The merchants provided the funds and al Sabah and also the stability and security for the area. Therefore, the acceptance of the merchants and the Ruler's *'Ahd* (promise) to rule justly and in accordance with the Islamic principle of *Shura* (consultation) became the two "essential elements" of rule in Kuwait. Al Rashid describes the way of governance in Kuwait at that time:

*From the day of Sabah the First until the time of Mubarak al Sabah, al-hukm (the rule) continued to be one of shura. The ruler consults the notables on the important issues at hand particularly on how to safeguard the country against unexpected outside attacks, and has no choice but to accept their decisions since real authority rested with them and not with the ruler whom they only allowed to be their chief out of courtesy.*¹⁶

The Sheikh based his decisions on both *'urf* (Customary rules) and on *shari'a* (Islamic law) as well as seeking advice from a *qadi* (judge).¹⁷ Accessibility and public open discussion were carried out through the daily holding of the *majilis*. This political organisation is a reflection of the tribal organisation that was prevalent, whereby the tribal Sheikh is the head of the tribe and who is chosen due to certain necessary characteristics and qualities such as bravery, leadership,

¹⁵ Ibid., p.11.

¹⁶ Al-Rashid, op.cit. p.90.

¹⁷ Al-Qana'i, op.cit. p. 31. & Al-Rashid, op.cit. p.90.

good mediation skills, and for being the fatherly figure to the whole tribe. The tribal Sheikh can not rule without consultation with the elder and more experienced tribesmen. The same applied to al Sabah ruler, the difference is that Ruler, in this instance, needs to consult primarily the merchant community, which provides him with essential funds, while he in turn provides them with the stability and security to conduct their economic affairs.

This way of governance characterised the early years of al Sabah rule until Mubarak al Sabah succeeded to take the rulership in 1896 by force after he assassinated his two brothers. Incidentally, two main tribes provided him with personal protection during this critical time, namely the Ajman and Rashidah. This shocking incident of shedding family blood by a family member was never repeated in Kuwaiti history. The interesting thing is that the Kuwaiti prominent merchant families accepted Mubarak rulership in return for his promise that he will uphold justice and never take a decision without any consultation.¹⁸ That indicates how essential the issue of power sharing and the stability of the Rulership were.

Under Mubarak strong rule, Kuwait flourished and the population of the City doubled, and the wealth of its merchants increased substantially. The men-in-arms grew to 25,000 tribesmen at the disposal of the Ruler protecting caravan routes and kept social order.¹⁹ However, Mubarak proved to be an autocratic ruler who departed from the al Sabah traditional manner of consultation with the merchant families and also departed from the mild level of taxation. He raised taxes substantially by raising customs duties on all imports and duties on exports as well as imposing a new tax on property.²⁰ Mubarak's autocratic rule and extensive taxes made the merchants aware of their lack of political power and in 1921 and 1938 they acted in order to change that position. Before discussing

¹⁸ Al-Rashid, op.cit. p.149.

¹⁹ Shuhaiber, op.cit. p.25.

²⁰ Ibid., p.25-26.

these two major events a brief analysis of the merchant community will be warranted.

2.3 The Early Merchants of Kuwait

The merchant community of Kuwait until the 1950's was dominated by about thirty or so of the al 'Utub families and their descendants. These merchants are a homogenous group; urban, Sunni and consider themselves the *asil*, the original settlers of Kuwait.²¹ They intermarry and sometimes marry from the al Sabah family. Most importantly they see themselves on equal footing with al Sabah. The growth of the merchant community is attributed to several factors. Most important among them is Kuwait's strategic geographic position on a commercial caravan route between the Gulf, the Arabian Peninsula and Aleppo on the Mediterranean. Also the flourishing of maritime industries contributed significantly to the enrichment of the merchant community.²² In the pre-oil era these merchants were essential to the al Sabah family since they provided them with an income in the form of taxes and custom duties, and provided employment for the other social groups.²³

The economic power of the merchant families was also expressed in political terms since their acceptance of the Ruler was essential and the Ruler was bound to confer and consult with them on all major issues. The Councils of 1921 and 1938, in addition to the various governmental committees, were dominated by these influential families. Their pressing for political formal participation in the decision-making process reveals an early political consciousness as an economic group as well as a socially and religiously cohesive community. From the early days they

²¹ Jill Crystal. Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar. (Cambridge: Cambridge University Press, 1995). p. 37.

²² Baz., op.cit. p.97.

²³ Ibid., p. 98.

were differentiated from the rest of the social groupings of Kuwait, especially the *Shi'ite* and the *badu*. Both the *Shi'ite* and the *badu* were excluded from the electorate. However the relation between al Sabah and the *badu* was very close and they were the recruitment force for the leading families as labourers and for al Sabah as men in arms and the core of the security force. The *Shi'ite* on the other hand, had no direct access to the Ruler, only through his Secretary and were engaged mostly in local water-carrying trade.²⁴ The historical roots and the shaping of present day societal divisions and tensions can be clearly seen as early as the 1920's.

Despite the privileged position of the merchants in the society, they became dissatisfied with informal consultation with the Ruler especially that Mubarak rule brought with it more taxation and less consultation. They began to press for a more formal institutionalised political participation to voice their concerns, limit the powers of al Sabah and protect their interests, as the following discussion shall show. It will also show the early appearance of the dilemma of al Sabah rule between maintaining an autocratic rule and opening up formal channels of political participation to its citizens. Similarities can be drawn between the early experience of the merchants in their two attempts to create Councils for sharing power with al Sabah and the post-independence experience of Kuwait for establishing a functioning representative system of government. These similarities can be summarised as the resistance of al Sabah to establishing and developing a formal and proper channel for effective sharing of power and the resort when under pressure to dissolution of such power sharing channels.

2.3.1 The Consultative Council of 1921

The sudden death in 1921, of Sheikh Salam, the successor of Mubarak, caused a succession problem. A group of prominent merchants seized the opportunity and submitted a handwritten petition to the ruling family that addressed the succession

²⁴ Crystal, op.cit. p.40-41.

issue and pressed for political reforms. The petition included five main suggestions which were:

1. The reform of the house of al Sabah so that no differences may occur in appointing the Ruler.
2. The naming of three nominees for the office of Ruler: Sheikh Ahmad al Sabah, Sheikh Hamad al Mubarak and Sheikh 'Abdullah al Salim.
3. Once the ruling family agrees on one of these three nominees, the decision then should be presented to the government (the British) for its endorsement.
4. The appointed Ruler becomes the president of a Consultative Council, *majlis shura*.
5. Members of the Council shall be elected from among al Sabah family and the people to administer the affairs of the country, with justice and fairness.²⁵

The merchants with the last two suggestions evidently aimed at creating a formula for sharing power with al Sabah in a formalised form. Al Sabah became aware of the implications of these suggestions and rejected them. Nonetheless, a Council was formed of twelve members, headed by a leading merchant instead of the Ruler. In addition, Council members were restricted to wealthy elders who were chosen rather than elected and there was no representation from the ruling family. In other words al Sabah were willing to revert to the traditional way of allowing the merchants to advise but not to be directly involved in the government. The new Ruler, Sheikh Ahmad (the one chosen from among the three nominees by al

²⁵ Shuhaiber, op.cit. p.52.

Sabah) during the offer of allegiance gave the people his word *that he would not decide on any important issue without the Council's approval.*²⁶

According to al Qana'i, Sheikh Ahmad continued to hold consultation with the Council on important issues but these consultations were fruitless. That is because *every member was convinced he was right, and no majority rule was enforced.*²⁷ The Council consequently rarely met and the Ruler reverted to the traditional practice of unorganised consultation just as his forefathers had done. Al Baz argues that:

*The demise of the 1921 council had not dissuaded Kuwaiti political activists from exerting more pressure upon Amir Ahmed. Over the years leading merchants became more and more dissatisfied with mere informal consultations with the Amir and at his own discretion, they once again directed their criticism against his autocratic rule and demanded some type of formal participation. Consequently, the 1930s witnessed more political activities and challenges to the regime than before.*²⁸

J. Ismael confirms this point of view by noting that the previous pledge of Sheikh Ahmad to consult with the people gave opposition the basis on which to press on with their demands for formal political participation in running the affairs of the City. Ismael states that:

The Amir's pledge became the basis of the demand for parliamentary government as the society edged toward bankruptcy in the thirties as a result of process of underdevelopment. Bankruptcy, widespread poverty, government maladministration and corruption and the monopoly of the al

²⁶ Yusuf Al-Qana'i. Multaqatat al-hukm wa-al-fiqh wa-al-adab wa-al-tarikh. (The Collection: Rule, Doctrine, Literature, and History). (Kuwait: Maktabat al-salasil, 1970).p.20.

²⁷ Ibid., p.20.

²⁸ Baz. op.cit. p.116.

*Sabah family on capital accumulation in a declining economy resulted in anti-government agitation and growing demands for social reform.*²⁹

Thus the unsuccessful attempt of leading merchants to become formally involved in the running of the affairs of the City caused further tension and conflict between them and al Sabah and this led to the events of 1938.

2.3.2 The Consultative Council of 1938

The opportunity for Kuwaiti merchants and influential figures to press again for a formal channel of participation in the administration of the affairs of the formative state came about in 1934 when the first election for a municipal council took place. Elections for other councils such as the councils for education, health and *awqaf* also took place. However, disagreement and tension over the functions of this council surfaced between the ruling Sheikh and some council members.³⁰ These disaffected members formed in 1938 a secret society called The National Bloc, *al Qutlah al Wataniyah*. Another reason that contributed to the wide spread disaffection among the merchant families was the prevalence of corruption, which was becoming evident in all areas of economic activities, at a time of severe economic decline.³¹ This was caused by the Saudi blockade, imposed since 1922, following the failure to reach an agreement on transit and import duties in addition to the decline of the pearl industry due to competition from Japanese cultured pearls and world economic depression.³² The reforms in other parts of the Gulf especially in Bahrain and Dubai and the level of social and political development being achieved in Iraq motivated the Bloc to want to pursue a similar path in Kuwait.

²⁹ Ismael, op.cit. p.73.

³⁰ Baz, op.cit. p.117.

³¹ Ibid., p.117.

³² Shuhaiber, op.cit. p.68-69.

The programme of reforms of the National Bloc, which incidentally was printed in the Iraqi newspaper *al Zaman*, included demands for improvement in the provision of education and health, a stop to immigration of non-Arabs particularly Persians and the encouragement of the immigration of Arabs, and greater cooperation with Iraq.³³ The National Bloc was approached by the British to ascertain their view and position on the rule of al Sabah. The Bloc assured the British that their intention is not to challenge the rule of al Sabah but they were seeking a representative government. After that the Bloc decided to act publicly and approached the Sheikh and requested the formation of a *legislative council, to be made of the people of this country in order to supervise its affairs.*³⁴ The British played a role in convincing the Sheikh to be flexible and accept the formation of the Council since they were initially in favour of some political reforms and the creation of a more representative government as long as it does not undermine their power. Also the regional context of emerging Iraqi and pan-Arab nationalism and Iraqi claims over Kuwait played a role in convincing the ruling family to allow for this partial opening up of political participation.

An electorate was drawn from the heads of the top 150 most influential families.³⁵ However, it excluded the Shi'ite sect of the population, the Persians and the *badu*. Consequently, the election for the Council resulted in the selection of twelve well-established merchants and two well learned men. It is interesting to see that from the onset of formal political participation, there was a definite segmentation of the Kuwaiti society, dividing between those eligible to share in the state power and those were excluded from it.

The Council's first task was the drafting of a Constitution. This draft was borrowed from the 1923 Egyptian Constitution. It included five articles, which gave the

³³ Ibid., p.56.

³⁴ Ibid., p.58.

³⁵ Crystal, op.cit. p.47.

Council considerable rights in the administration of domestic and foreign policies.

These articles state that;

Article One: the people are the source of power represented by the Council of their elected representatives.

Article Two: This enumerates the areas that the Council has to establish their laws: Law of the Budget, Law of Justice, Law of Public Security, Law of Education, Law of Public health, Law Improvements which basically deals with the infrastructure of the country, Law of Emergency which ensures public security in the event of an emergency.

Article Three: The Council is the place of reference for all treaties, concessions, monopolies, and agreements, both internal and foreign. If any of these (i.e. existing ones) have to be renewed, it shall not be considered to have become legal unless seen and approved by the Council.

Article Four: As the state has no court of appeal, the powers of such a court will rest temporarily with the Council until such time as a special court is established for that purpose.

Article Five: The president of the Council represents the executive authority in the State.³⁶

As can be seen from the above mentioned articles this draft Constitution undermines the power of al Sabah by basing the source of political power in the hands of the people through their elected Council and by giving the Council wide ranging powers. Sheikh Ahmad refused to sign the document and did so only under due pressure from the British and his cousin Sheikh Abdullah al Salim who supported the idea of the Council from the very beginning. Abdullah's support of the National Bloc is attributed to his lack of support among the al Sabah family because of his control over al Sabah salaries. His brother Fahad, who

³⁶ Shuhaiber, op.cit. p.60.

monopolised the market during his father's rulership was also unpopular. Sheikh Abdullah was hoped that the support of the National Bloc would help him achieve his ambition of becoming the next Amir.

The Constitution also undermined the power of Britain by placing all foreign affairs into the hands of the Council, an area that had been primarily a British concern. The British political agent in Kuwait met with the Council to remind them of that prerogative by indicating:

*The Council will of course understand that no such change can effect the existing arrangement based on treaty and long practice, under which his Majesty's Government are responsible for the conduct of foreign relations of Kuwait with other powers and states, and control through the Sheikh matters affecting these relations or foreigners in Kuwait.*³⁷

The dissatisfaction of Britain at the involvement of the Council in foreign affairs was due to the fact that Britain considered foreign affairs its prerogative. In later years Al Sabah were to develop a similar attitude to the National Assembly involvement in foreign affairs, which led frequently to antagonism and confrontation between the government and the Assembly and was considered part of the reasons for the second suspension of the National Assembly in 1986.

The Council during its short lived existence achieved some significant reforms in the economic and administrative fields. It cancelled many of the taxes imposed on the people such as export duties and some import duties; the 10 percent of duty paid by Kuwaiti villagers on purchases from town; taxes on meat and fish markets; taxes charged on bakers and the pearl fishing tax, thus making trade free to all. In addition to this the Council lowered the heavy rents of shops and allowed the public to build shops, an activity that had been exclusive to the ruling family. At

³⁷ A. H Al-Rumaihi. "Political Reform Movement in the History of Kuwait". Paper Presented at the BRISMES Annual Conference (12-15 July 1987). p.7.

the same time the Council improved the salaries to all the members of the ruling family. Other areas that they tackled included the formation of a disciplined police force; dismissing many corrupt officials; opening new schools; improving roads; new government buildings were built and the council began to reorganise immigration procedures by improving the neglected passport department and reinforcing Kuwait's coastal villages and border posts against illegal entries.³⁸

However, opposition to the Council gathered from three main sides leading to its dissolution by Sheikh Ahmad on the 21 December 1938, only five months after its formation. First there was the group of people whose influence had been undermined by the economic and administrative reforms of the Council including members of the ruling family. Second, Britain, which at the beginning was in favour of the Council, realised that the extension of the Council's authority to foreign affairs jeopardises its interests in Kuwait. One of the major issues that particularly annoyed the British was the interference of the Council in the Kuwait Oil Company. The British wanted the company to deal exclusively with Sheikh Ahmad and wanted the cheques from the Company to continue to go to the Ruler. However, the Ruler according to the new Constitution was required to submit that to the money Council as state income, which in effect he did. The continuation of this was seen by the British as a way of undermining the authority of the Ruler and giving more power and influence to the Council, a development Britain did not want to see happening. Moreover the Council wanted to bring the customs income within the general budget of the Council. Baz states that:

At the beginning the British had favoured the creation of a council in order to deflect the growing opposition in the merchant community against the Amir, but they wanted it to be advisory only. After its formation the British became gradually unhappy about its performance- especially its interference in Kuwait's foreign affairs because they were reserved to them according to the provisions of the 1899 Anglo-Kuwaiti agreement. The British had preferred to maintain the status quo by

³⁸ Shuhaiber, op.cit. p.62.

*conducting their business with the Amir directly, but the council insisted on playing an active role in all decisions. What worried the British most was the council's attempt to conduct negotiations with the oil companies operating in Kuwait and then to re-examine the oil concessions signed previously with the Amir*³⁹

Lastly, opposition to the Council came from the *Shi'ite* sect who formed more than a quarter of the population⁴⁰. As mentioned before they were excluded from both electing and running for the Council and subsequently reacted by applying for British citizenship. This move angered the Council and those seeking British nationality were threatened with deportation and were deprived of any rights in Kuwait. Sheikh Ahmad, encouraged by this opposition, announced the dissolution of the Council.

Initially the members of the Council did not accept the dissolution and showed readiness to use force to maintain it. They gathered with their supporters and guards at a fortified building. On the other hand, Sheikh Ahmed's supporters gathered in the Palace ready to fight. Among them was a significant number of Bedouins, the traditional supporters of al Sabah. This show of force and readiness to fight combined with the negotiation headed by Sheikh Abdullah resulted in a peaceful surrender of the supporters of the Council.⁴¹

In an attempt to amend the relation between the Ruler and the people, new elections were held and a new expanded Council was formed. Twelve members of the old Council were re-elected. Sheikh Ahmed al Jaber submitted a new Constitution to the Council, which gave the Ruler the power to veto the Councils' decisions. That in effect transforms the Council into an advisory one with the Ruler having ultimate power. The Council rejected the draft and the Amir reverted once

³⁹ Baz, op.cit. p.122-123.

⁴⁰ Fahd 'Abdullah Al-Mudyris. (al-Mdairis). Al-haraka al-shi'iya fi al-kuwayt. (The Shi'a Movement in Kuwait). (Kuwait: Dar al-qurtas, 1999,b). p.6.

⁴¹ Shuhaiber, op.cit. p.65.

more to dissolving the Council. The Council responded by refusing to accept the dissolution. The Kuwaiti merchant Muhammad al Manays, called on the Kuwaitis to resist the ruling family. He was arrested and when two of his supporters attempted to free him, one was shot dead and the other was wounded. Al Manays was tried, convicted and executed immediately.⁴² Some of the members of the Council were jailed, while others ran to Iraq. The jailed members were not freed until 1944 when the Sheikh declared a general amnesty, which also allowed those who were living abroad to return.⁴³ Perhaps this incident can explain the reluctance, in later years, of Kuwaiti opposition groups to bring matters that came to a head between them and al Sabah on to any collision course, and their frequent readiness to give in, as shall be seen in the forthcoming chapters.

In the aftermath of the dissolution, the Amir formed an appointed Council (*majlis al shura*) made up of four members of the al Sabah family and ten notables. The members of this Council gradually abandoned it and soon it ceased to function. The agreement between Saudi Arabia and Sheikh Ahmad to end the Saudi embargo helped to turn the merchants towards their economic activity and concentrate more on trade.

Subsequently, reform movements and political activities took on a different form. They were pursued through voluntary organisations with many of them assigning honorary chairmanships to members of the ruling family. Also, they were more broadly based than the 1938 Council, including young men who have been educated abroad, and Arabs working in Kuwait, including Egyptians, Lebanese, Iraqis and Palestinians, thus reflecting the changes that have been taking place in Kuwaiti society.⁴⁴

⁴² Crystal, op.cit. p.50.

⁴³ Ibid., p.39.

⁴⁴ Simon C. Smith. Kuwait 1950-1965, Britain, the al-Sabah, and the Oil. Oxford: Oxford University Press, 1999). p.70.

By 1956 there were some seventeen such associations, the most important among them being the Teachers Club, the Graduate Club, and the National Culture Club (NCC) under the leadership of Ahmad al Khatib, who became a leading opposition figure in Kuwait.⁴⁵ The NCC membership was open to both Kuwaitis and other Arabs and its publications reflected the ideology of Arab Nationalism.⁴⁶ The cooperation of these clubs was facilitated under the umbrella of the Committee of Clubs. All these organisations called for Arab unity, national independence, and a Constitutional government.⁴⁷ In the early 1950's the Kuwaiti nationalists asked the people of Kuwait to demand the following:

*...Ask for the formation of a Constituent Assembly which will prepare a Constitution and which will guarantee your natural freedom, put an end to despotic rule and bring forth a national independent government which will be formed by the people themselves.*⁴⁸

The first confrontation between these associations and al Sabah came in the height of the Suez crisis when they held their first demonstration to protest Britain's involvement. The police intervened and arrested many of the demonstrators while many Arab expatriates were deported.⁴⁹ The more serious challenge to al Sabah came in 1959 when a rally was held at the Shuwaikh Secondary School to commemorate the first anniversary of the creation of the United Arab Republic.⁵⁰ The strong manner in which the reformists expressed their views on Arab unity and attacked the autocratic rule of al Sabah combined with their forceful demands for immediate reforms, especially on the issue of popular participation in the government, alarmed al Sabah. Jasim al Qatami, a leading Kuwaiti Arab

⁴⁵ Ibid., p.70.

⁴⁶ Haya Al-Mughni. Women in Kuwait: The Political of Gender. (London: Dar Al-Saqi Books 1993).p.151.

⁴⁷ Ibid., p.34.

⁴⁸ Ibid., p.34.

⁴⁹ Ibid., p.35.

⁵⁰ Ibid., p.35-36.

nationalist who resigned his post in the police department in protest at what happened during the Suez demonstration, announced that:

*The al Sabah became the Rulers of Kuwait 300 years ago. They ruled autocratically and arbitrarily then. They cannot expect to do the same in the latter part of the twentieth century. Either they grant the people the necessary reforms at once, or the people will take power for themselves.*⁵¹

Al Sabah realising the significance of this event resorted on the one hand to imposing very strict and repressive controls on political activities and all these voluntary organisations, not to be lifted until 1961, and cancelled the election of the administrative councils.⁵² On the other hand they also needed to deflect public criticism thus, to do this, the Supreme Council, consisting of ten members of al Sabah decided to enact some internal reforms against incompetence, extravagance and corruption especially in departments controlled by members of the family.⁵³

2.4 The Sedentary Badu

The major Kuwaiti Bedouin tribes are composed of 'Ajman, 'Aniza, 'Awazem, Mutair, Rashidah, Shamar and Bani Hajer, who tend to use their tribal name as their family names.⁵⁴ The onset of central rule and a territorially defined state set limits on their nomadic life but provided expanded economic opportunities that encouraged their settlement of the area and slowly eroded their nomadic life. In pre oil Kuwait most of the *badu* adopted a maritime life. Nearly 90 percent of pearl

⁵¹ Smith, op.cit. p. 98

⁵² Al-Mughni, op.cit. p.36. & Smith, op.cit. p. 70.

⁵³ Smith op.cit. p 98.

⁵⁴ Baz, op.cit. p.100.

divers were Bedouins.⁵⁵ The relations between al Sabah and the tribes of the area were extremely good. In fact it was this good relationship and their ability to associate with them that made the 'Utub clan decide to give al Sabah the political leadership. In turn al Sabah cemented this relationship by recruiting the *badu* to do the sensitive jobs of personal guards, men in arms and policemen. Loyalty to al Sabah came natural to the Bedouins since *they considered al Sabah Amir as a patriarchal figure who like their own tribal leaders must be respected.*⁵⁶

The unquestionable loyalty of the *badu* to al Sabah combined with being the instrument of force and order augmented the division between townspeople and the *badu*. The townspeople also saw the *badu* as being uncivilised people belonging to the desert, while they in turn had very little respect urban people, and maintained being separate from the rest of the society.⁵⁷ However, the division between the *badu* and the townspeople has not been as sharp as the one between the merchants and the *Shi'ite*. This division was sectarian, economic, social, and political in its nature.⁵⁸ Shi'ite were mostly labourers and they organised social services such as schooling separately and they did not intermarry. Their only link to the Ruler was through his Secretary and even that, in the 1930's, came under attack by leading merchant families.⁵⁹

Exacerbating these social divisions is the fact that the pattern of urban settlement in Kuwait followed a distinct segregation of the society according to social and economic background and a pattern of relatively autonomous social communities, which reinforced the elite status of the Sunni merchant community. In Kuwait town in the Jebelah side (north east of the town) most of its people were traders and owned and financed trading and pearl-diving ships. The Sharq side (south east of

⁵⁵ Ibid., p.102.

⁵⁶ Ibid., p.101.

⁵⁷ Shuhaiber, op.cit. p. 20-21.

⁵⁸ Crystal, op.cit. p.40.

⁵⁹ Ibid., p.40.

the town) most of the settlers came from al Hasa in Saudi Arabia and Persia and were boat-builders, pearl divers and fishermen. In the Murqab side, in between the two sides, most of the people there worked for traders as labourers.⁶⁰ Settlements outside Kuwait town had a concentration of Bedouins. For instance, al Jahra was a settlement for the Mutair tribe while the coastal settlement of Salmiyha had a concentration of settlers from the 'Awazem. The population of other settlements such as Fantas, Fahaihil, Abu Halaifah and Shiaibah was also mostly Bedouins who practised pasturage and cultivation.⁶¹

With the discovery of oil other Bedouins began to settle near oil fields and were employed by oil companies as labourers. That was the start of what is commonly known in Kuwait as "shanty" areas. These shanty areas became more widespread in the 1960s and the government was forced to address the issue. Further discussion of this will be included in the following chapter. The numbers of these Bedouins swelled and their ambition for Kuwaiti citizenship was motivated by the ownership of a house, guaranteed employment, free health and education services as well as other social privileges. The government on the other hand encouraged this swelling of the numbers of Bedouins for political reasons. Its major aim was to offset the number of non-Kuwaitis, in addition to offsetting the challenges from opposition groups in the assembly by increasing Bedouin participation in political life.⁶²

The manoeuvres by the government in order to increase the involvement of the *badu* in Kuwaiti politics resulted in a distinction being made between the Bedouins who settled in Kuwait before 1930 and those that came later attracted by the oil economy and the opportunities associated with it. The identity and nationality of these Bedouins became a critical subject to both al Sabah and those who consider

⁶⁰ Al-Musa, op.cit. p.56-57.

⁶¹ Ibid., p.53.

⁶² Baz, op.cit. p.104.

themselves, in particular the old merchant community, and the original settlers hence they believe that the entitlement to citizenship must be exclusive to them.

2.5 Britain and the Consolidation of the Rule of al Sabah

The discussion of the rise of al Sabah to power and prominence in Kuwait is not complete without analysing the role played by Britain during the crucial formative years of Kuwait. Britain's interest in Kuwait was part of its overall imperial interests in the Gulf area and the result of inter-imperial rivalry. This rivalry was motivated by the strategic location of Kuwait. The Germans had a plan for the Berlin-Baghdad railway system that links Anathol in Turkey to Baghdad-Basra-Kuwait and have increased their trade in the Middle East as well as their influence in Istanbul.⁶³ The Russians on their part also had several plans to provide themselves with access to the Far East. Among these plan's was one to connect Tripoli on the eastern coast of the Mediterranean with Kuwait.⁶⁴ It was these plans that in effect increased the importance of Kuwait to Britain and galvanised it to decide its position on Kuwait. This coincided with the rulershipship of Mubarak who was very keen on developing a cooperative relation with Britain in order to thwart any challenges to his rule and also to lessen the Ottoman influence. He approached the British and suggested making Kuwait a protectorate. The British were very cautious about an agreement with Mubarak lest they disturb their relation with Istanbul, as was indicated by the British ambassador to Istanbul in 1898:

Though strongly in favour of the maintenance of British supremacy in the Persian Gulf, I am of opinion that it will be advisable to proceed cautiously and as quietly as possible with regard to the establishment of a British Protectorate over Koweit. Any formal declaration to this effect

⁶³ Ismael, op.cit. p.52.

⁶⁴ Suad M. Al-Sabah. Development Planning in an Oil Economy and the Role of the Woman: The Case of Kuwait. (London: Eastlords, 1983). p.2.

*at the present moment would be considered little short of a hostile act by Turkey, and in any case it would be sure to produce very serious diplomatic complications, not only with this Government, but probably also with Russia.*⁶⁵

Therefore a secret agreement was arrived at between Mubarak and Britain in 1899. In it Mubarak pledged and bound his heirs and successors

*not to receive the Agent or Representative of any Power or Government at Koweit, or at any other place within the limits of his territory without the previous sanction of the British Government ; and further binds himself, his heirs and successors not to cede, sell, lease, mortgage, or give for occupation or for any other purpose any portion of his territory to the Government or subjects of any other Power without the previous consent of Her Majesty's Government for these purposes.*⁶⁶

Accompanying this agreement was a letter that stipulates that the condition of its execution *is that it is to be kept absolutely secret, and not divulged or made public in any way without the previous consent of the British Government.*⁶⁷ However in 1900 the British informed the Ottomans about the Agreement who protested against it and made many attempts to assert their sovereignty over Kuwait. All these efforts were thwarted by Britain's naval protection of Kuwait. Eventually and in accordance with the Gulf Agreement (Anglo-Turkish Convention) signed on 29 July 1913, Britain agreed that Kuwait would be an autonomous *qadha* (district) of the Ottoman Empire, while the Ottomans recognised the validity of the 1899 agreement. In addition, the borderlines of Kuwait were delineated and the islands of Warbah and Bubiyan - later to become the subject of contention between Kuwait and Iraq - fell within the *inner zone* where *complete autonomy* of the Kuwait

⁶⁵ Ismael, op.cit. p.49.

⁶⁶ Ibid., p.49.

⁶⁷ Ibid., p.50.

Sheikh was recognised.⁶⁸ This Agreement reflected the success of the British policy in limiting the extension of the influence of the Ottoman Empire to the Gulf. The San Remo Conference in 1920, following the end of the world war one, continued to recognise Kuwait as a principality under British protection, as set out in the declaration of 1914 between the British government and Sheikh Mubarak.

During the period between the two world wars the involvement of the British in the politics of the area was extensive and its agreement with Kuwait of utmost importance in securing Kuwait's independent status. The borders between Kuwait and Najd as well as Iraq and Najd were settled by the Uqair Conference on 2 December 1922. Accordingly, the frontiers between Iraq and Kuwait remained in 1923 as they had been initially derived in the 1913 Anglo-Ottoman Convention. The boundary issue between Kuwait and Iraq kept the British busy throughout their period of protectorate over Kuwait. Iraq recognised the independence and complete sovereignty of Kuwait only in October 1963 in the Agreement entitled "The Agreed Minutes Regarding the Restoration of Friendly Relations, Recognition and Related Matters". Despite that agreement the conflict over the demarcation of the borders persisted leading to the Iraqi invasion of Kuwait in 1990.

Britain's support for al Sabah was crucial for the continuation of the autocratic rule of al Sabah. Britain, for fear of losing its dominant status in Kuwait, preferred keeping the autocratic form of government and threw away the opportunity of establishing a system of formal political participation as early as 1938. The discovery of oil in Kuwait and the start of the production in late 1940's increased Britain's involvement and expanded its role into direct participation in the economic field through the employment of British experts in the administration of Kuwait. More importantly, oil production changed the situation of al Sabah by substantially giving them a strong economic basis for their political power and its concentration to be kept in the hands of the al Sabah family members.

⁶⁸ E. Lauterpacht. (ed.). The Kuwaiti Crisis: Basic Documents. (UK: Grotius Publications, 1991). p.49.

2.6 Oil and al Sabah

The discovery of oil was to play a significant role in the development of Kuwait. Oil exploration began in 1930 but it was not until 1947 that the first shipment of oil took place. The re-negotiations of the Oil Concession with the Kuwait Oil Company, in line with the 50/50 profit sharing agreement secured by Saudi Arabia, meant that Kuwait's oil revenues increased at a phenomenal rate. They increased from 16.8 million dollars in 1951 to 168 million dollars in the following year and by 1961 it reached 467.4 million dollars.⁶⁹ The sheer size of the increase within a very short period of time reveals the vast extent of the changes that such an increase in the funds available to the state can induce in a society. The 1950s and early 1960s saw rapid and unprecedented transformation of Kuwait and its people.

For al Sabah, that meant the augmentation of their political power and extracting themselves from their dependency on the merchant community. This augmentation of political and economic power made their rule very powerful. The differentiation between al Sabah and the rest of the society, which Mubarak desired during his rulership, was to be established and a new division emerged between the ruling family and the rest of the society exemplified by the sheer size of the wealth and power oil revenues gave al Sabah.

The government embarked on a massive developmental programme to distribute this wealth focusing on infrastructure projects and the provision of social services. The expansion in schools, hospitals, roads, power and water distillation plants, public buildings, telecommunication and housing was huge. This was accompanied by a large growth in the public sector and government agencies due to the great expansion and diversification in government functions and responsibilities. It was this massive development effort that opened the way for a new breed of merchants to emerge and to become as rich as the old merchant

⁶⁹ Shuhaiber, op.cit. p.70.

community. They were helped by the law that made it mandatory for foreign firms to take a Kuwaiti partner before they can do business in Kuwait.⁷⁰

The massive increase in real estate prices also played a role in creating lucrative opportunities for landowners and entrepreneurs. The exaggerated land prices was seen by the government as an appropriate way to transfer some of the wealth of the country to the private sector, despite the recommendation of the World Bank to use other ways that benefit the whole economy, rather than just a few.⁷¹ Thus, old and new merchants became the major beneficiaries of the accumulation of huge funds in the hands of al Sabah. Since the merchants were the only educated Kuwaiti social group at that time they benefited also by filling the entire state's top level positions. A non-Kuwaiti could only fill such a position when a suitable Kuwaiti was not able to be found.⁷² The presence of al Sabah family became also pervasive in the private sector pursuing very lucrative businesses and in the public sector by filling ministerial jobs and other important state positions.

Other social groups benefited too but not to the same degree. Unskilled Kuwaiti labour found jobs in the oil field and in the lower levels of government administration. In fact this was a government policy which *regarded employment in the lower echelon as a means of channelling a certain amount of the wealth to the average citizen.*⁷³ In addition they were provided with a variety of benefits including free housing and social security benefits. The other government policy that benefited all Kuwaitis employed in the civil service was the lack of a clear cut distinction between public duty and private interests, thus allowing those in the civil service to pursue commercial and private activities. This situation prevailed until the 1978 when stricter applications of rules were adopted.⁷⁴ The *badu*, as part of

⁷⁰ Baz, op.cit. p.96.

⁷¹ Ibid., p.96.

⁷² Shuhaiber, op.cit. p.80.

⁷³ Ibid., p.89.

⁷⁴ Ibid., p.81.

the unskilled labour of Kuwait benefited from these policies as well as from the government's settlement policy. They continued to be employed, in increasing numbers, in the oil sector and also in the army and police.

Another significant development that accompanied the expansion in state revenues and state's development role is the influx of foreign labour. This was to further complicate the demographic politics of the country and the issue of identity and citizenship. Kuwaiti society began to take shape along the lines of a minority of Kuwaitis and a majority of non-Kuwaitis engaging in all aspects of the economy. Foreign labour, primarily Arab, supplied Kuwait with its teachers, doctors, engineers, and architects, administrative and managerial personnel. However, despite their huge contribution to the development of Kuwait these migrants were not allowed to integrate into the social and political fabric of Kuwaiti society and were treated as a distinct and separate group. The nationality law of 1959 and its amendment in 1960 were motivated by the protection of the minority status of the Kuwaiti community from this influx which in addition, opened up the channels of political participation for the *badu*. The development of Kuwait depended on this migrant labour which was attracted by the salaries offered by both the private and public sector, yet Kuwaitis feared about their total integration and assimilation because it potentially could dilute the special status that the exclusive system of citizenship and their right to vote gave them, in addition to a reluctance to share the massive benefits and privileges provided by the state to its own citizens. For al Sabah, the fear stemmed more from the possibility of undermining their autocratic rule and the possible loss of their control over the economic and political system in Kuwait.

During this period Britain's role remained extensive. Although the loss of India in 1947 undermined Kuwait's traditional strategic importance to the imperial system this was compensated by Kuwait's growing economic significance. Britain was concerned by the huge surplus revenue accruing to the state and the appropriate channels for investment without damaging the sterling; a major concern for Britain at the time considering the scarcity of the dollar. Hence, its interference with the

economic policy of Kuwait and the manner in which Kuwait dispensed with surplus revenues. This was evident firstly by the employment of British experts and personnel to the Kuwaiti administration. It began with the engagement of an expert for the finance department and another for the customs department in 1950. The engagement of British personnel was resisted over the years by the al Sabah family, partly due to fear of criticism from Arab neighbouring countries of allowing Britain to interfere in internal administration of Kuwait and because of disagreements among the ruling family over that matter.⁷⁵ However after the accession of Sheikh Abdullah Mubarak as the new Ruler on 31 January 1950 Britain approached the ruler again on the subject. Sheikh Abdullah asked the British to give him time to reconcile his family to the idea and carry the people with him on the issue. Subsequently in mid October 1950 Abdullah agreed to the appointment of two experts, one for the finance department and another for the customs department.⁷⁶

Beyond that, in 1953 Britain was able to convince Sheikh Abdullah to establish Kuwait Investment Board which was initially provided £27 million and consisted of four British members. The guiding principle of the manner of the investment was the safeguarding of British interests as expressed clearly by the Foreign Office:

*The expenditure of its (Kuwait's) large sterling revenue unless properly directed is capable of inflicting the most serious damage on the sterling area. Her Majesty's government can no longer afford to confine themselves to the role authorised by the treaties and agreements in force and sanctioned by usage but must interest themselves in all matters which affect the political and economic stability of Kuwait or which may affect the interests of the United Kingdom in the widest sense.*⁷⁷

⁷⁵ Smith, op.cit. p.21-24.

⁷⁶ Ibid., p.24.

⁷⁷ Ibid., p.43-45.

It also became important to appoint a Senior British Advisor to the Ruler in order to coordinate the activities of British advisors and to supervise the introduction of necessary administrative reforms.⁷⁸ The British wanted the executive authority to rest with the Ruler but needed to influence him indirectly by surrounding him and Kuwaiti Administration with their own staff. Thus throughout the 1950's Britain was engaged in directing the economic policy of al Sabah to a great extent.

However, by the mid 1950's the presence of the British in Kuwait was coming under increasing pressure. The Palestine question, the rise of Gamal Abdul Nasser and Arab Nationalism, and the overthrow of the Hashmite Iraqi regime caused strong anti-British feeling in the Arab region and Kuwait was no exception to that. Kuwait's increasing wealth made al Sabah more confident in conducting their own affairs starting with conducting direct relations with Arab countries and joining some international bodies. Consequently Sheikh Abdullah began discreet negotiations with Britain in the early sixties concerning the possibility of replacing the 1899 agreement with a new one that was more in tune with the emerging status of Kuwait. At the end of these negotiations the state of Kuwait gained its independence on 19 June 1961 by an exchange of notes between Britain and Kuwait. The following conclusions were reached in the course of these negotiations:

1. The 1899 Agreement shall be terminated as it was considered to be inconsistent with the independence of Kuwait.
2. The relations between Britain and Kuwait shall continue to be governed by a spirit of close friendship.
3. When it is appropriate the two governments shall consult together on matters, which concern them both.

⁷⁸ Ibid., p.46.

4. Nothing in these conclusions shall affect the readiness of Her Majesty's Government to assist the government of Kuwait if the latter requests such assistance.⁷⁹

Resorting to this last clause of the new agreement came far sooner than expected. The Qassem regime following the abrogation of the 1899 treaty and the announcement of Kuwait's independence renewed Iraq's claims to Kuwait and threatened to annex it. Although there were no definite signs that Qassem was about to execute his threats, Sheikh Abdullah did not want to take any chances and subsequently requested formal British assistance. Their support came in the form of 600 British troops arriving in Kuwait on 1 July 1961, less than two weeks after declaring independence. The number of troops swelled to 7000 in five days.⁸⁰ The deployment of British troops brought criticism from the Arab region and to avoid further deterioration of the situation Kuwait was admitted into the Arab League on 20 July 1961. That paved the way for reaching an agreement on 12 August for the provision of an Arab League Security Force to replace British troops.⁸¹ Kuwait was successful in its second attempt to join the UN, because its first attempt to do so had been vetoed by the Soviet Union. On the 7 of May 1963 it became the 111th full member of the UN, guaranteeing its place in the international system and inaugurating the beginning of a new phase in the development of the modern state of Kuwait. With Kuwait joining the Arab League and the United Nations as a sovereign state these were significant developments signalling the start of a new phase of its political development.

⁷⁹ Shwadran, Benjamin. "The Kuwait Incident". Middle East Affairs. (No.13. 1962). p. 10.

⁸⁰ Smith, op.cit. p.120.

2.7 Conclusion

On the eve of its independence from Britain, Kuwait was already well into being a very rich state presided over by a ruling family that have been able through their leadership skills to build a state out of the small desert area of Kuwait. In that achievement the support and loyalty of the 'Utub merchant families and Britain were essential. Britain's most significant contribution has been the guaranteeing of Kuwait's territorial integrity, separate from either Iraq or Saudi Arabia. The merchant families were essential for the legitimisation of al Sabah's rule and also for the provision of much needed funds. However, their influence and power was disproportionate to their numbers, and in relation also to the other social groups emerging in Kuwait, especially the *badu* and the *Shi'ite*. Thus, when al Sabah moved from the accepted norm of consultation to autocratic rule, especially during the rulership of Sheikh Mubarak at the start of the twentieth century, they led two attempts to formalise political participation. Their efforts were thwarted by the resistance of al Sabah to gain such a change, which was supported also by Britain.

With the lack of prospect of achieving formal channels of political participation, social clubs emerged in Kuwait as an alternative method to campaign and become active on social and political issues. However, even these clubs came under attack from al Sabah and strict controls were imposed on their activities. External factors, namely Pan Arabism and Iraq's claim to Kuwait, stopped al Sabah from allowing public political space to develop for fear of losing their dominance. That dominance has been assured through the acquiescence of the merchant community especially after the events of 1938, and the widening of their base of legitimacy through the incorporation of the *badu* as a strong ally. The dichotomy between the urbanised and wealthy merchants of Kuwait and the *badu* was

⁸¹ Ibid., p.123-124.

evident from early years. It was mitigated by the closeness of the *badu* to al Sabah and their dependency on them for the maintenance of security and order.

The sudden wealth that started to accrue to al Sabah due to export of oil in commercial quantities meant that they have the power to distribute the benefits of this new wealth among the society in general. That increased and further concentrated power in their hands on the expense of the rest of the society. However it allowed the widening in the commercial community to include members other than the traditional wealthy families. Also the unskilled labour primarily drawn from among the *badu* and Shi'ite began to reap some of the benefit of this new wealth. The Shi'ite had very little influence on the political system and were engaged in unskilled jobs.

The growth of Kuwait induced an influx of foreign labour which was mainly Arab to fill the jobs that the expanded opportunities in the economy had provided. That set in motion a new dynamic of the relationship between the state and the Kuwaiti population bringing to the surface the question of "who is a Kuwaiti?" as well as between the state and the migrants. The amendment of the Nationality Law in 1960 must be seen within this wider picture and in particular about the Kuwaiti division of *hadar* and *badu* and how al Sabah manipulated that to their own benefit. That issue will be the focus of assessment in the next chapter.

Chapter Three

Citizenship and the Representative System of Government in Kuwait

3.1 Introduction

Sovereignty and oil wealth gave al Sabah the opportunity to respond to the social and political changes that have been sweeping Kuwait at an accelerated rate during the fifties and early sixties. The expansion in education and social mobility, created new social groups and different demands on the autocratic rule of al Sabah. In addition to this the ideology of Arab nationalism exerted immense influence on the educated Kuwaiti elite, who were at the forefront of a reformist movement articulated through voluntary associations. Al Sabah needed to respond to all these changes and challenges to their rule, in addition to the threat Iraq exerted on the territorial integrity of Kuwait, despite the regional and international recognition of its independence.

It is in this context that the promulgation of a Constitution and the reorganisation of state power through moving away from autocratic rule to the adoption of a representative system of government came about. In other words moving away from the traditional-informal origination to a formal–legal organisation of state powers. Thus, what has been resisted over many years eventually became a right guaranteed in the Constitution. Al Sabah, motivated by a desire to create a national Kuwaiti identity to thwart the aspirations of Iraq and undermine the

Pan Arab feelings that were sweeping the Arab region and influencing Kuwait opposition groups, hoped that such an organisation of state powers will both confirm the separate identity of Kuwait and Kuwaitis, and ensure their domination.

Within this context of reorganising state powers, citizenship became a central issue in the development of the Kuwaiti state and the legitimisation of al Sabah's rule. The small size of the Kuwaiti population to the much larger non-Kuwaiti population has posed some serious economic as well as political problems to the ruling family. The growing expatriate community has been contributing significantly to the growth and development of Kuwait, and Kuwait has become heavily dependent on them. However this economic dependency figures less significantly in Kuwait's ruling family concerns when compared to the political implications of the minority status of its own citizens. Thus, in order to protect their minority citizens and to maintain their dominance they opted to adopt a very restrictive definition of citizenship and limit political participation to a small segment of the population through citizenship and election legislation.

This chapter will focus on analysing these two laws and their effect on the representative system in Kuwait. The combination of these two laws has produced a system of representation that limits the size of the electorate body to a great degree and deliberately gerrymanders the electoral districts in order to create favourable conditions for maintaining the dominance and power of the ruling family. One of the major groups in Kuwait that benefited from the manipulation of citizenship and electoral laws is the *badu*. The discussion will show how their political relevance has increased significantly since the governments' mass naturalisation of thousands of *badu* in the early sixties and seventies. Al Sabah in their search for new allies to offset the power of the old merchant class and widen the base of their legitimacy has strengthened tribal authority and tribal solidarity. This, in turn, emphasised divisions in the Kuwaiti community, in addition to further alienating the expatriate community by the ever increase in legal restrictions towards those who are legally eligible for naturalisation.

Before examining these two laws and their influence on the process of democracy in Kuwait, I shall first discuss the main features of the representative system of government in Kuwait, as it is stipulated by the Constitution.

3.2 The Constitutional System of Government

Following independence, the ruler of Kuwait, Sheikh Abdullah al Salim, issued an Amiri decree establishing a council of seniors consisting of several al Sabah family members and prominent members of the merchant community to draft the constituent assembly electoral law and to make preparations for an elected constituent assembly.¹ Subsequently elections were held which produced twenty successful candidates out of seventy four representing the ten electoral districts of the country based on two representatives from each district. In addition, the assembly included eleven sheikhs from the al Sabah family appointed as members, which raised the total number of the assembly to thirty-one.² The elected members represented the different elements of the Kuwaiti society as well as reflecting the changes that have taken place in Kuwaiti society; especially the decline in the dominance of the merchant community to the benefit of new social groups. As seen from table 3.1, the *badu* accounted for 35 per cent of the elected members, the Shi'ite accounted for 10 percent, and the merchant community accounted for 40 percent while other urban members accounted for 15 percent.

The task of the constituent assembly was restricted to drafting the country's permanent Constitution.³ The assembly submitted the draft Constitution to the Amir who signed it on 11 November 1962. The Constitution came into being on

¹ Kadhim Mahdi Al-Bahrani. "Factors Influencing Ruling Elites' Political Participation in the State of Kuwait. Ph.D. thesis, University of Denver, 1988. p.250.

² Abdullah Kalifah Al-Shayaji. "Democratization in Kuwait: The National Assembly as a Strategy for Political Survival." Ph. D, thesis, University of Texas, Austin, 1988. p.75.

³ Al-Bahrani, op.cit. p.66.

Table 3.1 Elected Members of the Constituent Council

	<i>Name</i>	<i>Social Group</i>
1	Abbas Munawir	Badu
2	Ali al 'adhina	Badu
3	Yusuf al Mutari	Badu
4	Abdullah Fahd al Shamari	Badu
5	Muhammad al Sudairan	Badu
6	Nayif al Dabbus	Badu
7	Khalifa al Jari	Badu
8	Abd al Aziz al Saqar	Merchant
9	Humud al zaid al khalid	Merchant
10	Ya'qub al Humaidi	Merchant
11	Abd al latif al Ghanim	Merchant
12	Ahmad al Fawzan	Merchant
13	Sa'ud al Abd al Razzaq	Merchant
14	Muhammad al Nisf	Merchant
15	Mubarak al Hasawi	Merchant
16	Mansur al Mazidi	Shi'ite
17	Muhammad Ma'raff	Shi'ite
18	Ahmad al Khatib	Hadhar
19	Abd al Razzaq Aman	Hadhar
20	Sulaiman al Hadda	Hadhar

Source: Calculated from data on election results available from the Kuwaiti National Assembly.

15 January 1963. The articles of the Constitution which are concerned with the system of government and legislative power indicate a desire to create a democratic system and an accountable government while maintaining the power of the Ruler. The Constitution indicates in Article (6) that the system of government shall be democratic, under which sovereignty resides in the people. The source of all power and will be based according to Article (50) on the principle of separation of powers.⁴

⁴ See Appendix A. Kuwait Constitution.

Legislative power, in accordance with Article (51), shall be vested in the Amir and the national assembly. The assembly shall be composed of 50 members elected in a secret ballot, as well as the non-elected cabinet members as being ex-officio members. The number of non-elected members shall not exceed one third of the assembly's members and individual ministers can be subject to a vote of no confidence. However, only the Amir has the right to demand the resignation of the prime minister or the cabinet as a whole.

The promulgation of a Constitution and the stipulation for the election of a National Assembly on the eve of independence was an act in line with what other Arab states were undertaking. As suggested by Owen *it was usual for Arab states to embark on their independence with a Constitution that called for the holding of regular elections*⁵ Other reasons pertaining to the Kuwaiti case include the desire of al Sabah to counterbalance the Pan-Arab political current and its influence on Kuwaitis, thus encouraging Kuwaiti identification and discouraging Arab nationalism.⁶ Also this was seen as a means of offsetting Iraqi claims to Kuwait by strengthening Kuwaiti national feelings and their identity through the creation of a national institution concerned with Kuwaiti affairs.

The Amir has been given, through Article (107), the power to dissolve the assembly by a decree, in which the reasons for the dissolution are indicated. However, he is obliged to call for new elections within two months. In the event that the elections are not held, then the dissolved assembly shall be restored to its full Constitutional authority and shall meet immediately as if the dissolution has not taken place. It will continue to function until a new assembly has been elected. Despite the clarity of this article al Sabah have been able to suspend parliamentary life twice and for long periods of times.

⁵ Roger Owen. "The practice of Election Democracy in The Arab East and North Africa: Some Lessons from Nearly a Century's Experience." In Rules and Rights in The Middle East: Democracy, Law, and Society. (Seattle: University of Washington Press, 1993). p.18.

⁶ J. E. Peterson. The Arab Gulf State: Steps toward Political Participation. (New York: Praeger, 1988). p.35.

Laws may be promulgated only after being passed by the assembly and sanctioned by the Amir. The assembly can override the Amir's veto by a two third majority. Nonetheless, Article (71) gives the Amir the power to issue decrees that have the force of law while the assembly is not in session or is dissolved, should a necessity arise for such urgent measures. This right can be argued to have been abused and also that many Amiri decrees have been issued that did not have any urgency.⁷ Considering the long periods of suspension of the assembly in the seventies and eighties, al Sabah have been able to liberally misuse this right.

The accountability of the executive to the legislative is dealt with in Articles 98-102. The cabinet presents its programme to the assembly who can make comments and question the prime minister and ministers within their competence. A successful vote of no confidence against a minister means that he must submit his formal resignation immediately. In the case of the prime minister, as mentioned before, only the Amir can dismiss him from office. The presence of non-elected members in the assembly has undermined the function of the assembly and its ability to question the executive power. According to Owen the relation between the assembly and the cabinet, whose most important members belong to the ruling family, is a central problem for the Kuwaiti system of government.⁸ Any criticism of the government can be interpreted as a criticism of the ruling family, which at times made the relationship between the assembly and the cabinet very disagreeable. Al Sabah tried to deal with that by making sure through the election legislative that the assembly is dominated by their loyal supporters.

The difficulty of the relationship between the cabinet and the assembly has been exentuated with the expansion and formalisation of the political role of the al Sabah family in running the affairs of the state. The selection of brothers, cousins and other family members as advisors and heads of departments was limited in comparison to the period of post-independence and especially after the oil boom. The top posts in the ministries of foreign affairs, information,

⁷ Interview with Faheed Nasser, Kuwait, November 2002.

⁸ Owen, op.cit. p.33.

defence and interior have been exclusive to family members.⁹ The ability of the Ruler to appoint and distribute important ministerial and other civil servant posts to family members have contributed to the cohesion of al Sabah. As long as the benefits are shared among family members, dissent can then be controlled to a great extent.

As pointed out by Crystal, the ruling family functions politically as a unified institution, however divisions are still present.¹⁰ Therefore these need to be controlled and managed to the benefit of al Sabah as a whole. Division within the al Sabah family can be divided into four levels. The first level is the ruling line. The Constitution in accordance with Article (4) specifically states that *the succession shall be in the descendants of the late Mubarak al Sabah*. The descendants of Mubarak' sons, Salem and Jabir, have maintained their claim to the rulership of the country through the Constitution and this has been easier due to the absence of any credible claim or challenge to their rule from other branches of the family. The potential division and struggle over rulership between the descendants of the two sons has been solved by the informal alternation of rule between al Salim and al Jabir. This, in combination with the regulation stipulated in the Constitution that an heir apparent is designated within a year of the Amir's accession, has meant that there has been an assured smooth transition in accession.¹¹

The third level of membership is through Sheikh Abdullah al Mubarak's line. His descendants have not posed any serious challenge partly because the ruling family keeps them in check. However, the tension and possible threat does exist. The fourth branches of the family are the descendants from Jarrah and Muhammad, the murdered brothers of Sheikh Mubarak. This part of the family was exiled after Mubarak's succession but returned in the 1950's at a time when al Sabah were interested in strengthening the ruling family and expanding family allies.¹² Therefore, the Constitution, tradition and lack of ability

⁹Al-Shayaji, op.cit. p.33.

¹⁰ Jill Crystal. Kuwait: The Transformation of an Oil State. (Boulder: Westview, 1992).p.93.

¹¹ Ibid., p.94.

¹² Ibid.

of other branches of the family to challenge the descendants of Mubarak gives al Sabah the ability to maintain their grip on power and establishes the cohesion of the family. Also, oil wealth increased their control over the distribution of economic benefits as well as ministerial and civil servant posts to the benefit of all family members.

Despite the Constitutional guarantees for a partnership between the assembly and the Ruler, al Sabah have been able to hold the balance of power between the legislative and the executive. This is partly due to the expansion of their political role and also because of their willingness to suspend the assembly and for long periods of time when deemed necessary. Another important factor that allowed al Sabah to hold the sway over the assembly is Kuwait's citizenship law. According to Article (82) of the Constitution the member of the National Assembly shall *be a Kuwaiti by origin in accordance with the law*. That brings forth the crucial question of "who is a Kuwaiti?" and the need to define which Kuwaiti is allowed to nominate and vote or, in other words, participate in the representative system envisioned and guaranteed by the Constitution.

3.3 Citizenship legislation: the 1959 law

Nationality laws are very important in any given country since it regulates the relation between the state and the individual.¹³ For Kuwait, nationality law carries further significance considering its huge migrant community and the limited number of Kuwaitis in their country.

The first Kuwaiti nationality law was promulgated in 1948, Law no (2) 1948, attempting to establish a law whereby Kuwaiti nationals can be identified. However, that law was never put into practice and was unknown to the public. One reason can be attributed to the fact that at the time the British government did not approve of the law.¹⁴ Thus, the first nationality law to be put into

¹³ R. H. Al-'Anazi. (al-Anezi, R.) *al-Budun fi al-kuwayt*. (The Bidoon in Kuwait). (Kuwait: Dar al-qurtas, 1994). p.164.

¹⁴ Abdulaziz Al-Fayez. "The National Security of Kuwait: External and Internal Dimension". Ph.D thesis, University of Massachusetts, 1984.p.164.

application has been Law no (15) 1959. It was in the Explanatory Note of this law that public reference was made to the 1948 law by stating that the Law *was never applied and remained unknown*.¹⁵ The 1959 law was issued by Sheikh Abdullah al Salim, marking the start of a legal distinction between Kuwaiti nationals and others. Prior to that loyalty to the Amir was the primary requisite for de facto citizenship and those who wished to travel were issued papers identifying their bearers as associates of the Amir, thus facilitating their travel to neighbouring countries. The British issued travel documents identifying their bearers as “British protected persons”, and they were allowed to travel to all commonwealth countries, including Britain.¹⁶

Interestingly Kuwaiti nationality laws were issued before the promulgation of a Constitution and before independence, which signifies the centrality of citizenship to Kuwait and reflect an early concern with the flow of foreign labour that accompanied the discovery of oil.¹⁷ Another peculiarity about Kuwaiti nationality law is the fact that it is *among the most restrictive in the world*.¹⁸ This also reflects the concern over the migrant community as well as the need to maintain the dominance of al Sabah by controlling and limiting the electorate.

The law in accordance to Article (1) defined those who came to be known as the founders of Kuwait or original Kuwaiti nationals as *those persons who were settled in Kuwait prior to 1920*. As mentioned before, the year 1920 has its own special historical significance and is chosen as the date where a sense of a Kuwaiti community and identity bonded those who have settled in Kuwait and who worked together to build a wall to protect their City from a Saudi attack.

The original nationality is defined in international law as the *nationality that the law grants the individual from the moment of birth*.¹⁹ The birthright depends on

¹⁵ Ibid., p166.

¹⁶ Human Rights Watch. The Bedoons of Kuwait: Citizen without Citizenship. New York: Human Rights Watch, 1995). p.67.

¹⁷ Abdo I Baaklini. “State and Citizenship in Kuwait.” Al Bahath. 1982. p. 189.

¹⁸ Al-Fayez, op.cit. p.139.

¹⁹ Ahmad Al-Samdan. “Al-jinsiya al-kuwaytiya al-'asliya”. (The Kuwaiti Original Citizenship). Majalla al-huquq, Issue: 23. (Kuwait: Kuwait University, 1996).p.19.

two principles the jus sanguinis and jus soli. The first depends on blood ties and the second on the place of birth. Countries differ in their choice among these two principles. Some apply primarily the jus sanguinis principle while others apply jus soli. Britain and the US depend on the jus soli principle while Arab, African, European, and Asian countries depend on the principle of jus sanguinis. There is no absolute application of either principle; for those countries that use primarily the jus sanguinis, they also have room for the jus soil, whereas countries that use the jus soli also apply the other principle.²⁰

The Kuwaiti nationality law moves in line with the international legal principle of jus sanguinis to specify who is a Kuwaiti. Article (2) stipulates that *any person born in, or outside Kuwait whose father is a Kuwaiti national shall be a Kuwaiti national himself*. Thus original nationality is primarily recognised by virtue of settlement in Kuwait prior to 1920 and by virtue of descent from Kuwaiti fathers. However, according to a Kuwaiti legal expert, the government followed a flawed interpretation of Article (1), up until as recent as 1994, by considering the children of the original founders as founders and the children of naturalised people as being naturalised, which applies the stipulation in Article (7) on them.²¹ In current political language of Kuwaitis it has been common to refer to two types of Kuwaitis; first class citizens, meaning the founding fathers and their offspring, while other Kuwaitis are considered second class citizens.²²

It can be argued that the proper legal interpretation should be that Article (2) applies to both children of the founders and naturalised Kuwaitis and treat them equally. After liberation this differentiation came under attack forcing the government of 1994 to amend Article (7) in order to treat the children of naturalised fathers as original citizens in law No. 44 (1994). However, reference is still made in their passports indicating that they aren't *asil*, original Kuwaiti.

²⁰ Ibid., p.19-22.

²¹ Ibid., p.14.

²² Ibid., p.14-16.

Al Sabah created and maintained the notion that *being Kuwaiti is a special status which made the Kuwaiti citizens feel distinct from other less privileged non-Kuwaitis.*²³ This unfair policy has been followed by the Kuwaiti government as to who is granted nationality, also when identity is confirmed on according to which article of the law is used has also further emphasised this special status.

Another, what can be seen as an obvious inequity of the law, is the denial of women the right to pass on their Kuwaiti citizenship to their children. Concerning this issue Kuwait is not alone, as many other Arab countries deny that right to women and nationality is only passed through men. This is in violation of the 1979 UN Convention on the Elimination of All Forms of Inequity against Women (CEDAW), to which Kuwait is party of article 9 specifically, provides that *states shall grant women equal rights with men with respect to the nationality of their children.*²⁴

The restrictive nature of the nationality law has been further exacerbated by the successive amendments to deny qualified applicants in their right to citizenship. Most interestingly is that these amendments were promulgated by the executive power through the Decree-laws. This means that those laws have been enacted during the time when the assembly was not in session or was suspended. The power given to the Amir by the Constitution to enact such laws is for emergency situations only. Obviously, the amendments as shall be seen in the following section were not in answer to any emergency situation. Also, the question of nationality has been taken away from the hands of the judicial power. The courts have been forbidden to deal with matters relating to nationality according to Amiri Decree No. 19/1959 and Decree-Law No.20/1981. Article 2 of the former decree provides that:

courts may not adjudicate in matters of supremacy. Nor may they nullify an administrative order, suspend its enforcement or interpret it. They may however adjudicate in civil and commercial disputes

²³ Interview with Dr. 'Abdulaziz Al-Mansor, London, July 2002.

²⁴ Human Rights Watch, 1995, op.cit. p.99.

*between individuals and the government except where the contrary may be provided by law.*²⁵

The Kuwaiti government has maintained that sovereign actions include citizenship questions. This position is confirmed by the opinion expressed by the office of legislation at the Council of Ministers that states;

*citizenship is a political and legal link between individuals and the state by which they are obliged to be loyal to the state and the latter is obliged to provide them protection. Therefore, any questions related to citizenship emanate from the very sovereignty of the state. By virtue of this sovereignty, the state alone determines who may be in its population. The state alone creates citizenship and determines the conditions for conferring citizenship or obtaining it...It follows from this that questions related to citizenship are at the heart of the internal matters of the state. In addition, control of citizenship is a sovereign realm because it is closely related to public order. Therefore, under accepted general principles of law, domestic law has absolute freedom in regulating citizenship in the manner deemed appropriate to the welfare of the community.*²⁶

This view means that citizenship issues are in fact determined by the executive branch of the government, while the judicial branch has no direct control and the legislative, by virtue of the use of decree-laws, have also had limited influence over the matter. Paradoxically the Kuwaiti government's view on citizenship as a sovereign domestic issue contravenes with the position of the International Court of Justice. The Court acknowledges that citizenship is a matter of domestic jurisdiction, but is not an exclusive jurisdiction: state actions are conditioned by binding international law.

²⁵ Amiri Decree Number 19/1959.

²⁶ Human Rights Watch, 1995, op.cit. p.69.

Also according to law No 20/1981, dealing with administrative orders and decisions, the Administrative Court was given jurisdiction to nullify, suspend or interpret administrative orders and decisions, but matters relating to nationality has been specifically excluded.²⁷ The government maintained its position that any matters relating to nationality belong to the realm of the “sovereign actions” of the state. This shows the concern of al Sabah about citizenship law and the need to control changes, interpretations and applications of the law.

3.4 Naturalisation and the Limits on Eligibility and Political Rights

This section will explore some of the important amendments to nationality law that further limited the eligibility of Kuwaiti citizenship and the consequences of that on the continued control of al Sabah of who participate and who is excluded from political life. It will also deal with the limitation of political rights set on those who acquire citizenship through naturalisation.

In Articles (4), (5), (6) and (7) Kuwaiti citizenship law deals with acquired citizenship by virtue of continuous residency in the country. Article (4) specifies that a foreigner can be granted Kuwaiti nationality *if he has normally and lawfully resided in Kuwait for at least 15 consecutive years, or at least 8 consecutive years if he is an Arab belonging to an Arab country*. The years of the residency period are calculated preceding the submission of the application for naturalisation. Article (5) stipulates that persons who have rendered valuable services of great benefit to Kuwait can become naturalised Kuwaiti citizens.

Reference to the children of a foreigner, who acquired the Kuwaiti nationality, is made in Article (7). Accordingly they shall ipso facto be considered Kuwaiti nationals. Thus the offspring of naturalised Kuwaitis has been treated not according to Article (2) as the proper legal interpretation of the law implies but as naturalised person in accordance with Article (7). This practice as mentioned before only ended in 1994.

²⁷ Al-Samdaan, op.cit p.14-71.

Amendments to the law extended the residency period and added more restrictions in order to limit the number of eligible persons. Amiri Decree No. 2/1960 stipulated that citizenship may be granted to persons who resided in Kuwait for 15 years from the date of the publication of the Decree, or for at least ten years if they are an Arab. The second amendment is the restriction of the number of those who shall be granted naturalised citizenship to a mere 50 persons in any one year.

Another important change was passed in Decree-Law No. 100/1980 stipulating that the number of people naturalised in any one year *shall be decided by resolution of the Council of Ministers*. This was again amended in 1982 in Statue No. 7/1982 which stated that the citizenship is to *be decided by an Act and that the naturalised citizen must be of the Muslim faith either by birth or conversion*. A period of 5 years must have passed since the religious conversion. Another amendment in 1982 raised the period required for residency to 15 years for Arabs and 20 years for non-Arabs.

Residency requirements in Kuwait far exceed the requirements of many other countries. For instance if Kuwait has applied the five year or more permanent residency requirement, as applied in the US, and naturalised all those who are eligible from the year 1975, it would have doubled the Kuwaiti population to a total of around 472,000 by adding 303,000 residents, of which 254, 000 would be Arabs.²⁸ That gives a fair idea of the magnitude of the problem and the dilemma that faces the Kuwaiti government. There is a need for a gradual liberalisation of the naturalisation law if the major schism in the society between a small minority of citizens with full social, economic and political rights and a majority of expatriate community with no political rights and restricted economic and social rights is to be resolved.

Despite the significance of all the above mentioned restrictions, the most important one remains the denial of political rights. According to Article (6) a

²⁸ Baaklini, op.cit. p.187.

foreigner who has acquired Kuwaiti nationality by virtue of the provisions of Article (4) and (5).

*Shall not have the right to vote in any parliamentary election or to stand as a candidate for or to be appointed to membership of any parliamentary body within ten years following the date of his naturalisation.*²⁹

Moreover the law states that the provisions of this article shall apply to any *who have already acquired Kuwaiti nationality by virtue of naturalisation prior to the enactment of this law*. And the ten-year period shall be deemed to start to run in the case of such persons from the *date of the publication of this law*. This denial is seen as temporary and no indefinite restriction was put on the provision of political rights. However, this article was amended and an indefinite restriction was put upon the capacity of a naturalised citizen to stand for election or to become a member of parliament by stating that a naturalised citizen:

*shall not have the right to stand as a candidate for or to be appointed to membership of any parliamentary body.*³⁰

The only political right naturalised citizens may have is voting, and even that has been restricted. Statue 70/1966 extended the period before they are eligible to vote until twenty years following and shall apply to those who have already acquired Kuwaiti nationality prior to the enactment of this law. The twenty years period shall be deemed to start to run in the case of such persons from the date of the publication of the amendment. This was amended in 1986 by Decree law NO. 130/1986 and was raised to a 30 years period. That extension in reality meant (since the period is calculated from 1966) that

²⁹ See Appendix C, Kuwait Nationality Law.

³⁰ R. H. Al-Anezi. "A Study of the Role of Nationality in International Law with Special Reference to the Law and Practice of Kuwait." Ph .D thesis, University of Cambridge, 1990. p.243.

naturalised citizens were allowed to vote for the first time in the 1996 elections.³¹ Such restrictions exaggerate divisions in the Kuwaiti society and gives prominence to the notion that being a Kuwaiti is a very special status. It also exposes the fear of al Sabah which is based on from the prospect of incorporating other Arabs as Kuwaiti citizens and the association of that with losing their total dominance and control.

In this context of a very exclusive and restrictive naturalisation law, the mass naturalisation of the *badu* takes on a very specific importance and reveals the selective and unfair way that the Kuwaiti government pursued, in addition to the politicisation of the issue of naturalisation.

3.5 Naturalisation of the *Badu*

The discovery of oil and the accelerated socio-economic development of Kuwait was accompanied by a successive and continuous flow of Bedouin migrants who came primarily from the Arabian desert, mostly from Saudi Arabia, followed by Iraq and Syria, as seen from table 3.2. They were attracted to settlement in Kuwait due to the new and expanded economic opportunities as well as the benefits offered by the welfare state. The Kuwaiti government pursued two different policies towards these Bedouin migrants. For some, it chose to naturalise them as full Kuwaiti citizens, while others were left without citizenship. This section will discuss the consequences of the naturalisation of those *badu* on the system of representation in the country, while the stateless *badu* will be dealt with in the following section.

Despite the very restrictive and discriminatory nature of the Kuwaiti citizenship law, the Kuwait government began in 1961 to grant a large number of Bedouins the Kuwaiti citizenship, offering them the full advantages of citizenship; social, economic and political.

³¹ Ibid., p.245.

Table 3.2 The Main Bedouin Tribes of Kuwait

<i>Tribe</i>	<i>Tribal Unit</i>	<i>Tribal Territory</i>	<i>Main Concentration in Kuwait</i>
'Azmi	Awazem	Kuwait and eastern area of Saudi Arabian Gulf coast	Salmiya, Riqqa, Mangaf, Dhahar, Jaber-al-Ali, Qarin, Sahrq, Um-al-haiman, Sabah-al-salim, Fahaleel, Rumaithiya, Salwa, Bayyan, Sabahiya.
'Ajmi	Ajman	Southern and western Kuwait and eastern Saudi Arabia	Jahra, Riqqa, Sabahiya, Hadiyya, Ahmadi, Fahaaheel, Sabah-al Salim, Abu-halifa, Dhahar, Qarain, Fintas, Um al Hayam
Mutairi	Mutair	North eastern Saudi Arabia and Kuwait	Jaleeb al Shuyoukh, Khetain, Omariya, Sabahiya, Farwaniya, Firdoas, 'Aardhya, Andloss, Sabah al Nasser
Rashidi	Rashaydah	Kuwait and North eastern Saudi Arabia	Farwaniya, Sulaibikhat, Jahra, Rabiya, Andloss, Omariyah
'Anzi	'Anza	Spread across northern Arabian peninsula from Syria/Jordan to Kuwait	Jahra, Fahaaheel and dispersed throughout the country
Shmmari	Shammar	North central Saudi Arabia and western Iraq	Jahra, Omariya, Sulaibiya, Sabahiya
Dhafiri	Dhafir	From Zubair in Iraq westwards and south into Kuwait	Jahra, Omariya, Firdous, Sulaibikhat
Khalidi	Bani Khalid	Kuwait and eastern Saudi Arabia	Dispersed throughout the country
Fadhli	Fadhul	Southwestern Iraq and northern Kuwait	Fahaheel, Sulaibikhat, Sabahiya, Jahra
Dosari	Dawasir	West central Saudi Arabia	Sabaiya, Fahaaheel, Riqqa
Murri	Murra	From the Empty Quarter north through eastern Saudi Arabia and Qatar	Fahaheel, Mina -al-Zour, Ahmadi, Sabahiya, Riqqa
Hajeri	Bani Hajer	Qatar and eastern central Saudi Arabia	Fahaheel, Ahmadi, Riqqa, Sabahiya, Qareen, Sabah al-Salim
Qahtani	Qahtan	Central Saudi Arabia	Fahaleel, Sabahiya, Sabah al-Salim
'Utaibai	'Utban	Northern central Saudi Arabia	Kheitan, Jahra, Sabah -al-salim Fahaheel

Source: Abdullah Khalifah al Shaayji, *Democratization in Kuwait: The National Assembly as a Strategy for Political Survival*, Ph.D 1988. And updated by the Researcher of this thesis.

The naturalisation programme over the period 1965-1981 included 220,000, the majority of which were *badu*.³² The incorporation of the *badu* into the Kuwaiti state aimed to strengthen the ruling family's base of support and to provide a counterweight to any opposition that might develop in urban centres; and to prevent a large shift in the demographic balance between the Kuwaitis and the expatriate population from going too far in favour of the latter as well as to lessen the influence of old trading elite.³³ What al Sabah asked in return for all the advantages that citizenship brings with, as indicated by Crystal, is *electoral loyalty*.³⁴

Before 1962 the *badu* were a marginal group in the political system of Kuwait especially in comparison with the merchant community. Only one *badu*, Hilal al Mutairi, participated in 1921 Consultative Council, while the 1938 elected legislative council had no representative from the *badu* community.³⁵ Their migratory nature and lack of any economic power and being far from urban centres, made them less influential and *their political role was essentially passive*.³⁶ Still al Sabah depended on their loyalty and support. Their rise to eminence began with the elections for the constituent assembly, where they were able to account for 34 percent of the total elected members, nearing the share held by the merchant community.

Thus with the introduction of a representative system in Kuwait in 1963, their political role and their significance to al Sabah began to unfold. On the one hand the National Assembly provided them with a channel to gain access to economic, political and social benefits while on the other they gave al Sabah the

³² Shafiq Al-Ghabra. (Ghabra, Shafeeq). Al-kuwayt: dirasat fi a'liyat al-dawla al-qutriya wa al-sulta wa al-mujtama'. (Kuwait: a Study of Mechanism of the State, Government and Society). (Cairo: Markaz ibn khaldun, 1995). .p.55.

³³ Al-Fayez, op.cit. p.145-146.

³⁴ Crystal, op.cit. p.89.

³⁵ Jasem Mohammad Jerkhi. "The Electoral Process in Kuwait: A Geographical Study". Ph. D, thesis, University of Exeter, 1984. p.157.

³⁶ Al-Fayez, op.cit. p.108.

new allies they have been searching for outside the old merchant community. Crystal notes that:

*One forum for this search was the National Assembly. There the Amirs balanced the merchants with the Bedouins, Shias, and progressives, in turn politicising each community. Once politicised, however, these communities became harder to control.*³⁷

However, al Sabah have still been able during times of crisis to keep the upper hand by resorting to the ultimate method of control, namely the suspension of the assembly. The enhancement of the political status of the *badu* is reflected in the number of seats they captured in the National Assembly between 1963 and 1975. In 1963 they captured 19 seats (38 percent). In the following three legislative terms they controlled 17 seats (34 percent) in 1967, 21 seats (42 percent) in 1971, and 23 seats (46 percent) in 1975.³⁸

One of the major reasons that made the *badu* a reliable ally to al Sabah in the assembly is the ability of tribal leaders to use tribal solidarity to maintain a hold on their constituencies through the mechanism of "internal election".³⁹ Before election, tribes call for a meeting in which all eligible candidates stand for election and the winners are declared as the tribal nominees and their followers are urged to vote for those chosen at the meeting. This ensures that candidates who do not conform to the political and social idea of the conservative tribal leaders will be excluded and the district remains under the tribe's control.⁴⁰ With the increase in the number of young educated *badu*, dissatisfaction with the traditional way of conducting election is emerging, albeit slowly and among a minority. This is manifested by the small number of

³⁷ Crystal, op.cit. p.83.

³⁸ Ahmad Abdullah Saad Baz. "Political Elite and Political Development in Kuwait." Ph. D thesis, George Washington University, 1981. p.210.

³⁹ 'Abdullah Al-Nifisi. Al-kuwayt: al-ra'y al-'akhar. (Kuwait: the Other View). (London: Taha Advertising, 1978). p. 74-76.

⁴⁰ Baz, op.cit. p.212.

candidates who run for election without winning in the internal election competition. Such defiance to the tribe helps to undermine the present system.

The practice of internal election is not only resented by some *badu*, it has also been challenged by many Kuwaitis as unconstitutional. However the government does not question its legality.⁴¹ Al Nifisi sees the effect of the *badu* on democracy as negative because the increased influence of the *badu* as a group has fragmented popular participation, undermined opposition and allowed al Sabah to control the composition of the assembly. In his opinion all these factors limit the usefulness of the democratic experience and the role of the assembly.⁴² However, one must add that it is not only the *badu* who emphasise traditional loyalties and influence the selection of candidates, but also *hadhar* Kuwaitis use the *diwaniyya* to influence who will be nominated and then supported by the sect, family, etc..

One of the major criticisms levied at the government's policy of naturalisation is its failure to reverse the declining percentage of the Kuwaiti population in the expatriate community. The ruling family aim of influencing the demographic structure of Kuwait by increasing the number of Kuwaiti citizens and their ratio in the total population did not materialise. As seen in table 3.3 ratio of the Kuwaitis, in the total population was 36 percent in 1965 and remains approximately the same in 2001 at around 38 percent. The need for foreign labour remains very high and naturalisation had little impact on improving the unique demographic situation of Kuwait.⁴³ However, the policy succeeded in widening the support basis of the al Sabah rule and gave the *badu* a stake in the system.

⁴¹ Al-Shayjeji, op.cit. p.209.

⁴² Al-Nifisi, op.cit. p.74.

Table 3.3 The Population of Kuwait According to Nationality

<i>Year</i>	<i>Kuwaiti</i>	<i>Non-Kuwaiti</i>	<i>Total Population</i>	<i>% Kuwaiti</i>
1965	168,793	298,546	467,339	36.10%
1975	307,755	687,082	994,837	30.90%
1985	470,473	1,226,828	1,697,301	27.70%
1995	653,616	921,954	1,575,570	41.50%
2001	859,958	1,415,022	2,274,980	37.80%

Source: Ministry of Planning in Kuwait

The ability of al Sabah to embark on such mass naturalisation was made possible by the increased wealth of the country due to the unprecedented rise in oil revenues. As seen in table 3.4 oil revenues in 1968 stood at around \$737 million, jumping to nearly \$2 billion in 1974. This massive accumulation of wealth allowed al Sabah to build a welfare state and to create a dependent state-citizen relationship.

⁴³ Ibid., p.29-29.

Table 3.4 The Oil Revenues of Kuwait During the Period 1968-2001

Millions

<i>Year</i>	<i>Revenues KD</i>	<i>Revenues in US\$</i>
1968	263.10	736.68
1969	243.00	680.40
1970	280.40	785.12
1971	297.70	833.56
1972	254.10	770.95
1973	505.90	1,565.24
1974	543.90	1,856.64
1975	2,056.50	7,063.11
1976	3,458.00	11,852.30
1977	2,598.30	8,973.69
1978	2,575.40	9,149.04
1979	3,036.00	11,068.63
1980	5,940.50	21,662.16
1981	4,434.20	16,301.03
1982	2,764.10	9,737.54
1983	2,334.60	8,027.65
1984	2,923.50	9,997.93
1985	2,493.80	8,268.04
1986	2,094.70	7,146.44
1987	1,483.90	5,208.45
1988	1,991.40	7,175.64
1989	2,035.10	7,102.05
1990	2,935.70	9,958.86
1991	246.10	848.73
1992	495.90	1,708.16
1993	2,085.30	6,977.97
1994	2,324.30	7,784.94
1995	2,784.80	9,370.01
1996	3,113.50	10,384.23
1997	3,935.90	13,072.58
1998	3,208.40	10,527.02
1999	2,254.40	7,410.58
2000	4,794.50	15,705.41
2001	4,528.00	14,746.00

Source: Central Bank of Kuwait

There is a sharp distinction in terms of the entitlement to rights and privileges between citizens on the one hand and non-citizens on the other. This policy is

aimed at strengthening the attachment of citizens to the country and the regime while at the same time increasing their sense of separation from the expatriate community. As indicated by al Fayeze:

The services and benefits enjoyed by the Kuwaitis have transformed them into privileged minority within the country's larger population, tending to maintain and reinforce their loyalty to the government and the ruling family.⁴⁴

The Kuwaiti government provides a comprehensive welfare system that includes; free education, health and social services. It guarantees every Kuwaiti a job and provides housing for needy Kuwaiti families while it does not impose any sort of taxes on its citizens. In addition the government subsidises basic services, such as water, electricity and gasoline which are sold to the public at below cost prices. It also has a programme to keep basic food prices down. So, al Sabah has used their wealth to political advantage expecting loyalty and support from its citizens.

Al Sabah certainly appreciates this connection and hence even at times of dwindling oil revenues they have been reluctant to cut expenditure on social services, subsidies and even salaries. In the mid eighties the magnitude of the drop of oil revenues was significant. The combined oil revenues of the three principle Gulf exporters, Saudi Arabia, Kuwait and United Arab Emirates fell from \$186 billion in 1982 to \$57.6 billion in 1985.⁴⁵ These falling revenues are of huge significance since Kuwait's economy is heavily dependent on oil. During 1981-1984 oil revenues dropped by 30 percent, 14 percent and 3 percent respectively.⁴⁶ However the government's sensitivity to the political implication of drastic cuts in social spending limited the governments' ability to effect the necessary changes in the economy in response to these falling revenues.

⁴⁴ Al-Fayeze, op.cit. p.139

⁴⁵ Shireen Hunter. "The Gulf Economic Crisis and its Social and Political Consequence. The Middle East Journal. V 40. N. 4. 1986. p. 593.

⁴⁶ Ibid., p.597.

3.6 The *Bidoons*

The government policy towards the segment of the population that has been designated as the “*bidoon jinsiyya*”, literally meaning “without nationality” or “citizenship” because their qualification for Kuwaiti nationality is in doubt, actually stands in quite sharp contrast to the liberal and generous policy of mass naturalisation of other Bedouin migrants.

Although the government did not grant the *Bidoon* full citizenship, they allowed them to claim the status of “stateless persons”; persons not belonging to any state, and the term has been commonly used in formal government statements and pronouncements.⁴⁷ However, in the 1980s as part of a new policy of the government towards the *Bidoon*, the Council of Ministers passed a resolution by which the term “*bidoon*” was to be abandoned and a new term of “Non-Kuwaiti National” was introduced to be used in reference to that group of people.⁴⁸

The change is meant to reduce pressure on the Kuwaiti government to respect human rights and international law by treating this group as stateless persons and hence the need for a solution. A “Non-Kuwaiti” or “Undetermined” can mean that a person has another nationality and is withholding it.⁴⁹ Also and more importantly this change reverses the previous assumption that they may have belonged to Bedouin tribes of Kuwait and that many of them were not to be treated as non-nationals.⁵⁰ Despite the official change of language the phrase *Bidoon* is still very widely used.

The *Bidoon* are long term residents in Kuwait who under Nationality Law 15/1959 should be eligible to naturalisation but have not yet been granted it. They include the following categories:

⁴⁷ Al-Anezi, 1990, op.cit. p.263.

⁴⁸ Ibid., p.263

⁴⁹ Al-Anezi, 1994, op.cit. p.6.

⁵⁰ Al-Anezi, 1990, op.cit. p.263.

- Those who were unable to prove continuous settlement in Kuwait prior to 1920, as the law requires.
- Those who could have registered but neglected to do so.
- Those who applied for nationality and were accepted for consideration but whose case has never been acted upon by the Kuwaiti authorities.
- Children of *bidoon* parents including children of Kuwaiti mothers and *bidoon* fathers.
- Those who migrated from neighbouring countries for work and lost links to their country of origin.⁵¹

Several factors contributed directly to the emergence of the *bidoon* issue. One relates to the fact that thousands of Bedouins applied for Kuwaiti nationality following the promulgation of the law on the grounds that they lived within the territorial limits of Kuwait and not within a city or town. Other concerns the similarities between the *badu* of the Kuwait desert and the *badu* from the rest of the Arabian Desert, which made it difficult to distinguish between the two groups. Also ignorance of the law and its requirements as well as the scarcity of documentary records, made assessment of applications very hard. Thus, the nationality committee made subjective and discretionary decisions which led to an outcome that left many who considered themselves Kuwaitis without a nationality being granted.⁵²

These Bedouin immigrants unlike other immigrants to Kuwait believe Kuwait territory was part of their own widespread homeland but they are also eager to gain for Kuwaiti citizenship because of all the benefits it can bring them.⁵³ That

⁵¹ Human Rights Watch. "Kuwait: Promises Betrayed, Denial Rights of Bidun, Women, and Freedom of Expression". Report 2000. [Http://www.hrw.org](http://www.hrw.org).

⁵² Al-Anezi, 1990, op.cit. p.263.

⁵³ Abdulrasoul Al-Moosa. "Bedouin Shanty Settlement in Kuwait" Ph.D thesis, University of London, 1976. p. 68.

explains why the majority of them claim that they are genuinely Kuwaiti, whether they have such a citizenship or not. Also a large number of them are employed by the state and because of this have been extremely loyal to al Sabah.

With the continuous flow of *badu* migrants, attracted by the expanded opportunities in Kuwait, their numbers have risen over time and they have managed to create a new difficulty for the government, through the appearance of shantytowns where most of the *bidoon* reside. During the 1960s shanty areas mushroomed and they were built on either government land or private land at the edge of urban areas as seen in figure 3.1. These areas lacked all kinds of service facilities: sanitation, roads, health centres, police and municipal quarters. As described by al Moosa:

Shanty areas represent a Bedouin community, which has temporary characteristics from the physical point of view. The accommodation is built of poor material and the fact the occupiers do not own the land, means that they are liable to movement at any time by the government (or on the suggestion of a relative) from one area to another.⁵⁴

Although the majority of those who live in shanty areas came from the desert some had lived within Kuwait villages before they settled in the shanty areas while a very small minority came from either Kuwait city or Kuwait suburbs. Non-Bedouins, who migrated to Kuwait for economic opportunities but either earn very low incomes or are unemployed, also live in these areas.⁵⁵ Over the years, many of these shanty areas have disappeared due to government's action.

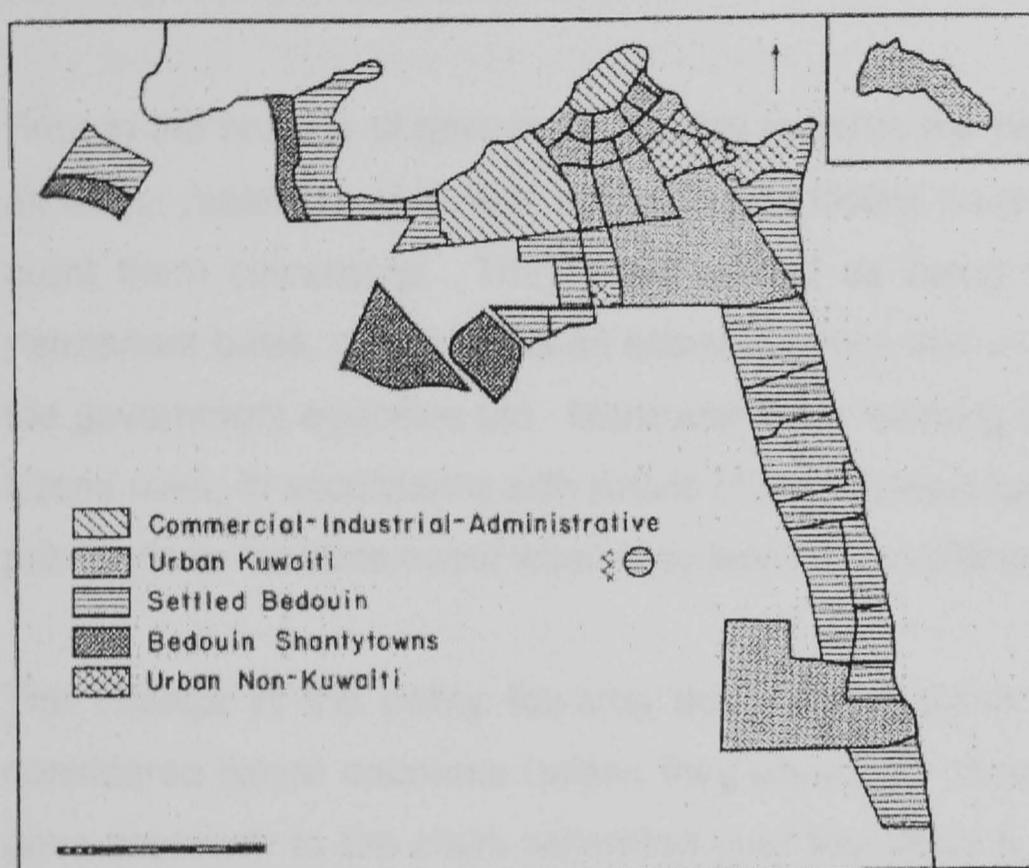
Unlike some Arab countries, Kuwait's concern with *badu* migrants did not revolve around settlement schemes since they were already settled or semi-settled. Their concern was *to organise the settlement and to plan the conditions under which the Bedouins will live and the manner in which their relationship to*

⁵⁴ Ibid., p.57.

⁵⁵ Ibid., p.61.

society and the state can be improved for mutual benefit.⁵⁶ Consequently, extensive work was carried out by the state to expand state-built dwellings, and offer state loans and plots for house building. The state allocated huge sums of money for that purpose and subsequently shantytowns have disappeared and the living standards of middle to low income families have improved significantly.

Figure 3.1 Residential Patterns in Kuwait



Source: Nicos Gavrieldies in Elections in the Middle East, ed. Linda Layne

This was also part of the process of increasing the political legitimacy of al Sabah.⁵⁷ Such undertaking by the government also indicates that the state has formally recognised these *bidoon* as a legitimate part of the Kuwaiti community and has helped facilitating their integration.

The specific number of *Bidoon* has not been accurately determined. Until the mid-eighties general estimations of their total number was included in the count of Kuwaiti citizens in the Ministry of Planning Annual Statistical Abstract. They were also issued with documents officially identifying them as *bidoon*. However, by 1988 this was changed and statistical data on *bidoon* was

⁵⁶ Ibid., p.269.

⁵⁷ Abdulkaraim Al-Dekhayal. "The State and Political Legitimizing in an Oil Rentier Economy: Kuwait as a Case Study." Ph. D thesis, University of Exeter, 1990. p.318.

transferred from the Kuwaiti category over to the alien population category.⁵⁸ Estimates of the number of *Bidoon* vary between 200,000 and 350,000.⁵⁹ The government estimated their number to be 200,000, but this number has been reduced to 117,000 after liberation, since the government refused entry to large numbers of returnee *Bidoon*.⁶⁰ The Ministry of Home Affairs established a special unit, the Central Committee (CC) to register, regularise and oversee *Bidoon* affairs. The CC has total control over the *bidoon* and can have the authority to issue deportation orders.⁶¹

Prior to the change of government policy towards the *bidoon*, they were treated as lawful residents of Kuwait and Kuwaiti officials have frequently promised to grant them citizenship. They were treated as being full citizens hired on a permanent basis, and granted all social services and access to employment by the government agencies etc. Moreover those working in the army and security forces were, in accordance with Article (17) of Kuwaiti Law on Passports, issued passports to facilitate travel when they were on an official business trip.⁶²

The change in the policy towards them was sudden. Overnight they were considered illegal residents unless they produced citizenship documents. This gave credence to the claim reiterated over the years by some Kuwaiti officials that the *bidoon* have a nationality that they have deliberately withheld on purpose of enjoying the benefits granted by the Kuwaiti state to its nationals. Sheikh Saud Nasser al Sabah, Minister of Information indicated:

*This bidoon phenomena started in Kuwait many years ago when people were smuggled here from outside. They would throw away their documents passports and foreign identity cards and live in Kuwait, claiming that they were without any document...*⁶³

⁵⁸ Human Rights Watch, 2000.

⁵⁹ Al-Shayehji, op.cit. p.174.

⁶⁰ Al-'Anezi, 1994, op.cit. p.6.

⁶¹ A. Shiblak. "Kuwait Bedoon Holder Passport Article 17". [Http://www.shaml.org](http://www.shaml.org). p.2.

⁶² Ibid., p.2.

⁶³ Al-sharq al-awsat Newspaper. Jan 9, 1993.

This Kuwaiti position was reiterated in a speech in 1994 before the foreign Press Association in London insisting that the *bidoon*

*...are benefiting from the social services. Many people come across the border and destroy their existing nationality papers and claim they are stateless. If they had to pay income tax and if there was no free medical care or education in Kuwait there would be no more bidoon. Some people from the Arabian Peninsula may have been denied citizenship unjustly; we will look into these cases and they will be granted citizenship.*⁶⁴

There are some who call themselves *bidoon*, but are not real *bidoons*, they infiltrated into Kuwait especially during the Iran-Iraq war between 1980 and 1988 and claimed to be *Bidoon* to benefit from that status. But this small minority can be easily distinguished from the real *Bidoon* by referring to the census, in which they were registered, including the census of 1965. There are well-maintained records documenting who was in Kuwait and when.⁶⁵

Some believe the underlying reason for the shift of the government's policy is due to consideration of domestic security especially in light of the Iran-Iraq war.⁶⁶ Al Najjar suggests that the timing coincided with the discovery of a pro Iranian cell working within the Kuwaiti army consisting of around 78 members. Although he indicates that there has been no official confirmation of this discovery nor whether it was working for Iran or Iraq, the cabinet's discussion of the issue of the *bidoon* and its decision to shift its policy came in the wake of these rumours.⁶⁷

Another possible explanation may be attributed to financial consideration especially that the change of policy happened with the recession in the oil

⁶⁴ Human Rights Watch, 1995, op.cit. p.56.

⁶⁵ Al-Anezi, 1990, op.cit. p.269.

⁶⁶ Interview with Dr. Ghanim Al-Najjar, Kuwait, November, 2002

⁶⁷ Ibid

market and dwindling of state revenues. The cost of naturalising large numbers of people is believed to be prohibitive in the government, due to the increase in demand for services, amenities and economic benefits from housing, employment, health care education, etc.⁶⁸ An additional explanation may be the general apprehension that *hadhar* Kuwaitis hold against the *bidoon*. They see them as foreigners who conceal their original nationality in the hope of acquiring the very special Kuwaiti nationality.⁶⁹ The most probable explanation is that the combination of all these factors together has pushed al Sabah to drastically change their policy towards the *Bidoon*.

The anti-*Bidoon* policy intensified with devastating effects in post liberation Kuwait. Firstly, the military defeat in the face of the Iraqi invasion was blamed on the *Bidoon* since they represent a large proportion of the rank and file of the military. However as indicated by a former *bidoon* government employee, Kuwaitis ignored the sacrifices of the *Bidoon*, doubted their loyalty and used them as scapegoats. He emphasised that

*some Kuwaiti officials may say, and even believe, that most bidoons have Iraqi origins; but when Iraq invaded on August 2, the bidoons opposed Iraq. If they had felt loyal to Iraq, they could have fought with Iraq. But in fact, all Bidoons reported to their military bases on 2 August and many of those killed or taken prisoners by the Iraqi were bidoons. The problem was that officers did not have orders to fight and that top officers, including Chief of Staff and his deputy, fled.*⁷⁰

Secondly, the *Bidoon* were accused of collaborating with the Iraqi regime. In September 1990 the Iraqi occupation authorities ordered all non-Kuwaiti citizens to join the popular army, a militia founded to support the Iraqi army. The *bidoons* who joined were forced by either fear or lack of jobs, while others were motivated by the way they have been treated by the Kuwaiti authorities prior to the invasion. However, this has been used by Kuwait to brand all *bidoons*, as

⁶⁸ Al-Anezi, 1990, op.cit. p.272.

⁶⁹Human Rights Watch, 1995, op.cit. p.24.

⁷⁰ Ibid., p.28.

being collaborators, even despite some of the obvious sacrifices many of them made. This accusation was also used returning to the country after liberation. There are suggestions that the number of *bidoon* stranded outside Kuwait was around 130,000-160,000, and mostly in Iraq, since it was the only country where they could flee to because of lack of citizenship documents, around 130,000-160,000.⁷¹

Since the independence of Kuwait, the *Bidoon* have formed the backbone of the military and police forces. The government actively sought the recruitment of Bedouins to serve in the police force, armed forces and the National Guard and in the 1950s and 1960s it recruited large numbers. Committees were set up by the Ministry of Defence to choose suitable and eligible Bedouins depending on the person's tribe.⁷² Thus, the majority of those who serve in the security forces come from the tribes of the northern regions of the Arabian Peninsula, such as the Shamar, Mutayr, Utaybah, Awazim and the Rashaydah. Their loyalty to al Sabah stems from their tribal loyalty: the mens' loyalty to the tribe and the tribe's loyalty to the Kuwaiti ruling family.⁷³

They were encouraged to join by the promise that such a route could lead to citizenship and was also one of the best available methods for upward social mobility. The *Bidoon* in the military and police were exempt from the strict measures the government adopted in the mid-eighties and they continued to be treated as citizens in terms of job security and benefits. In accordance with an earlier government's inclination to grant citizenship to the *Bidoon*, the Defence Minister announced in October 1976 that non-Kuwaiti defence, police and National Guard personnel would be considered for naturalisation. In July 1981, the Interior Minister, announced that every one who had served fifteen years in the security forces (army, police and national guard) would receive Kuwaiti citizenship, and that this citizenship would be confirmed upon the completion of twenty years of military service. Subsequently the government invited

⁷¹ Ibid., p.28.

⁷² Ibid., p.28.

⁷³ Al-Fayez, op.cit. p. 248-249.

applications to citizenship and over 100,000 persons applied.⁷⁴ Nonetheless little progress was made.

As a result of the Iraqi invasion, this favourable position by the government for the *Bidoon* to serve in the security forces dramatically changed. They were dismissed en masse and only small fractions were allowed to rejoin their posts after liberation. According to estimations in for 1995, the *bidoon* constituted only 25 per cent of the rank and file as compared to the 85 percent at the pre-invasion stage.⁷⁵ The Kuwaiti government's which is to "Kuwaitize" the army, not by granting citizenship to the *bidoon* but by replacing them with Kuwaiti citizens.⁷⁶

One can imagine the effects of this policy on thousands of *bidoon* who saw themselves deprived a livelihood and a place of residence and/or between illegally resident in the country they considered their "home". Ya'qoub al Mehaini - head of the Investigation Department at the ministry of interior, the main agency in charge with implementing policies towards the *Bidoon*, justifies the Kuwaiti policy on security grounds. He emphasises that

*Kuwait is passing through a very sensitive period. The presence of these people in Kuwait might produce dangerous influences on security and stability, especially since most of them are unemployed.*⁷⁷

The unemployment of the *bidoon* is ironically the result of the Kuwaiti government denying them the right to work since they have been considered illegal residents in the country. Al-Anezi an expert on the question of the *bidoons* puts the blame squarely on the government's inconsistent and changing policy towards the *bidoon*. He states;

⁷⁴ Ibid., p.196.

⁷⁵ Nora Boustany. "Peace Has Sort Taste for Many Kuwaitis". Washington Post: May 25, 1995.

⁷⁶ Ibid.

⁷⁷ Human Rights Watch, 1995,op.cit. p.57.

The blame lies with the government, which gave bidoons the hope of becoming citizens. Kuwait officials at the highest levels repeatedly promised that the bidoons would be naturalised. In 1970, the National Assembly authorised the government to grant citizenship to all Bidoons born in Kuwait and who remained in the country until they completed high school. But that was enforced for one year only. In 1985, the government adopted a totally different strategy: to get rid of the bidoons. This was implemented in the case of those who were not employed in the armed forces or the police. They were dismissed from their jobs, denied national ID cards, denied the right to work or to send their children to school, denied the right to buy property - a drastic squeeze to force them to show their assumed real "citizenship". Only those who produced foreign passports were permitted to stay legally in Kuwait. Because some did in fact produce foreign passports, the government was encouraged to continue the squeeze. But in fact only a small number of them have foreign passports and identify cards. Now only those in the military or police get access to government schools or medical services.⁷⁸

Some government officials and National Assembly deputies have questioned the government policy towards the *Bidoon*. However, few support granting citizenship in large numbers. On humanitarian grounds, most disagree with the way the government is dealing with the issue and support an end to the repressive policies and advocate the granting of temporary residence until a permanent solution is agreed upon. That will enable the *bidoon* to work, marry and lead a normal lifestyle contrary to the inhumane and restrictive situation they are now living.⁷⁹ The *Bidoon* who currently live in Kuwait are denied the right to employment, travel, free medical care, register of marriages or to have a driving license.⁸⁰

⁷⁸ Ibid., p.61

⁷⁹ Ibid., p.62-63.

⁸⁰ Hassan Ali. "The Plight of Kuwaiti bidoons People". [Http://www.shaml.org](http://www.shaml.org). p.2.

The denial of citizenship to the *bidoon* contravenes the main principles of international law. The Convention on the Status of Stateless persons (1954) and the Convention on the Reduction of Statelessness (1961) were intended to recognise the status of stateless individuals and provide measures to protect as well as to reduce and/or eliminate statelessness.⁸¹ Article 31 of the Convention of Stateless Persons specifically banned expulsion save on grounds of national security or public order, provided it is made with the due process of law. The Convention on the Reduction of Statelessness in Article (1) made it an obligation to grant nationality to those born within state boundaries or for those who have lived for long period in a state. It also limited the period of residence proceeding the lodging of an application to citizenship *not to exceed* five years immediately preceding the lodging of the application *nor ten years in all*.⁸²

Although Kuwait is not a signatory to either of the two conventions, many of their principles make up the customary law binding to all nations especially in accordance of article 15 U.N. of the Universal Declaration of Human Rights,(1948).⁸³ Because of the inequity against Kuwaiti women in nationality law the question of the *bidoon* is aggravated since children of *bidoon* fathers and of Kuwaiti mothers are classified as *Bidoon* in Kuwait law. This also violates international law creating stateless persons.

Of late the only progress made on the issue, is the approval of Kuwait's parliament and the issuing by the government of Law No 22 on 3 June 2000. The law allows the *Bidoon* registered in the 1965 population census to apply for citizenship, applicants number some 36,000. However the law limits the number of naturalised bidoons to not exceed 2,000 annually. Despite that, only 1, 000 have benefited from the law in its first year and for the second year very few did or none-at all.⁸⁴

⁸¹ Human Rights Watch, 1995, op.cit. p.93-94.

⁸² Ibid., p.94.

⁸³ Ibid., p.95.

⁸⁴ Hussan, op.cit. p.3.

As for the *bidoon* whom the law excluded, they were given till June 27 to regularise their status with the authorities or face prosecution and deportation. The decision was meant to pressure those ineligible to come forward with their true nationality as Kuwait has always maintained that *Bidoon* are citizens of neighbouring countries like Iraq, Iran and Syria who have hidden their original papers. Only 8,000 *Bidoon* admitted a foreign nationality and renounced claims to Kuwait citizenship. They were, thus, eligible to a five-year residency permit and other related benefits.⁸⁵

It is obvious that the government first of all needs to acknowledge the presence of this very serious problem and be prepared to fully implement the provision of the nationality law and allow the courts a far more general jurisdiction in the matter.⁸⁶ A more just system based on international principles of law seems to be the most appropriate way in order to resolve this persisting problem. The politically motivated process of granting and/or withholding nationality meant that some critics of the government have been very concerned about exactly how “just” the process has been. As National Assembly member Hussayn al Qalaf notes *nationality is granted by connections (wastat) and payments.*⁸⁷ Such perceptions increase the resentment of those excluded toward the unfairness of the Kuwaiti citizenship law.

3.7 Election legislation: the law of 1962

This section discusses the implication of the election law on limiting the electoral body as well as the government’s manipulation of the boundaries of constituencies, through their redrawing, in order to ensure that each election returns a pliable and loyal parliament.

Law No. 35 of 1962 and its following amendments regulate election in Kuwait. The most important articles of the law relate to the limitation of the electorate.

⁸⁵ Worldwide Refugee Information. “Country Report: Kuwait”. [Http://refugees.org](http://refugees.org). p.3.

⁸⁶ Al-Anezi, 1990, op.cit. p.274.

⁸⁷ Human Rights Watch, 2000, op.cit.

According to Article (1) the right to vote is only given to male Kuwaitis over twenty one years old, thus suspending suffrage among women and naturalised citizens. Also suffrage is suspended for military and police personnel, based on Article (3) considering that a large number of them are *bidoon* they are denied the right to vote, for that reason alone.

The result of the restriction of the right to vote is that the percentage that are eligible to vote is extremely small, in comparison to the total population of Kuwait. That puts a definite question mark on the very nature of “democracy” and the representative system of government in Kuwait when such large numbers of people have no direct influence on the government and the political process.⁸⁸ For instance, in the 1985 elections, the electorate was confined to 57,747 male Kuwaitis over 21, which represents just 3.5 percent of a population of 1.7 million.⁸⁹

Government control is also exercised over the drawing and redrawing of electoral constituencies. The boundaries have been an issue of contention between the government and its opposition since the first drawing of these boundaries. The government and the nationalists reached a compromise agreement where Kuwait was divided into ten districts as opposed to the twenty that were desired by the government and the one district which was desired by the nationalists. Still these districts were drawn in such a way as to give strength to particular social groups and to match the geographic distribution of the socio-political groups. These ten districts, as shown in table 3.5, indicate that each district corresponds to a particular concentration of the population.

For instance, the first district matches the Shi'ite distribution of the population. The second matches the distribution of the Sunni merchant community. The third, fourth, ninth and tenth districts are dominated by a variety of tribes.

⁸⁸ Jeremy Landor. “Kuwait: Democracy by Minority.” Index on Censorship (Vol.22. No. 2 ,February 1993): p. 24.

⁸⁹ K. Celine. “Kuwait Living on its Nerves.” Merip Report. Feb,1985.

Table: 3.5 Kuwait's Old Voting Districts and Social Groups

<i>District</i>	<i>Name</i>	<i>Social Group</i>
1	Sharq	Shia
2	Qiblah	Sunni merchants
3	al Shuwaykh	Tribes of Shamar, Daffier, 'Ajman and Aniza
4	al Shamiyah	Tribes of Mutair and Rashaidah
5	Kayfan	Mixed merchants and Utaybah tribe
6	al Qadisiyah	Sunnis and a minority of Shia
7	al Dasma	Shia and Sunni evenly divided
8	Hawalli	Sunni majority
9	al Salmiyah	Awazem tribe and a shia minority
10	al Ahmadi	Tribes of Ajman, Awazem and Fudul

Source: Nicos Gavrielides in *Elections in the Middle East*, ed. Linda Layne, p185

In district five the constituency is divided between a majority of Sunni with the Utaybah tribe. In the sixth district a majority of Sunni is combined with a minority of Shi'ite while the seventh district includes an equal number of Sunni and Shi'ite.⁹⁰

In 1980 and during the period of the suspension of the parliament the government amended the boundaries of the election districts by issuing Law No. 99 (1980). The government justified the new distribution by indicating that

*the distribution of the population had changed, new areas have appeared while old ones disappeared. In addition it was very difficult for the voters, in particular the illiterates, to choose five candidates (the number of candidates under the previous law) which caused too many mistakes. In the new system the voter has only two candidates to elect which decreases the possibility of error.*⁹¹

⁹⁰ Jerki, op.cit. p.349-350.

⁹¹ National Assembly Proceeding No. 419. 21/11/1981.

These appear to be rather lame excuses especially when one considers the impact of the amended law on reducing the representation of the *Shi'ite*, the nationalists and liberals while increasing the power of the tribes. This was clearly evidenced in the results of the 1981 elections. This will be further discussed in the following chapters. Suffice it is to say that the increase in the number of districts up to 25 led to fragmentation of votes to the detriment of the nationalist and liberal votes while the redrawing of the election districts enhanced the power of the *badu* vote. It also enhanced the reliance to win a seat on family, sect and tribal support at the expense of political platforms and the merits of candidates.⁹² Thus, people put loyalty to traditional identities and personal affiliations before their national loyalty. This tendency is aggravated by the absence of political parties, which helps to concentrate campaigning on issues rather than on the nature of candidates' affiliations. The government has justified the banning of political parties on the grounds that they cause fractiousness and division. However, the democracy that Kuwaiti Government promoted has itself divided the Kuwaitis and fragmented their loyalties.

As mentioned above the support of the *badu* came from district numbers 3, 4, 5, 9 and 10. The new law expanded their support base and allowed them to gain more seats, as seen in table 3.6. The tenth district was divided into five constituencies allowing the *badu* to double their share of seats in the area. Moreover district number three was divided into three constituencies hence increasing their seats by one while the fourth district was divided into three constituencies which also added another seat to the *badu*. The division of the fifth and ninth districts into two constituencies meant that the strength of the *badu* in the area remained as it did under the previous law.⁹³ Thus the government managed to achieve its aim of increasing the presence of loyal members on the expense of the opposition in order to maintain its hold on the national assembly.

⁹² Al-Shayegi, op.cit. p.283.

⁹³ Nicolas Gavrielides. "Tribal Democracy: The Anatomy of Parliamentary Elections in Kuwait." In Linda Layne (ed.). Elections in the Middle East: Implications of Recent Trends, (Boulder: Westview Press, 1987). p.166.

Malapportionment and gerrymandering of electoral districts is not exclusive to Kuwait. Such practices take place even in election legislation of developed countries. However, in a country where democracy is fragile and limited and also traditional loyalties permeate through of the society, then purposely reverting to such practices has put further limitation on the development of democracy and maintains the division of the society to the detriment of its national integration. As Gavrielides aptly states:

Such bold procedures tampered with democracy and undermined Kuwait's electoral procedures and laws.⁹⁴

Gavrielides maintains that the new election system was designed to - and indeed, succeeded in - enhancing the strength of the al Sabah's tribal supporters at the expense of the merchants and the Shia.⁹⁵ However, the coalition of 27 tribal members of the National Assembly proved a powerful and outspoken group which may have been one of the reasons which lead to the suspension of the National Assembly.⁹⁶ As pointed out by Owen the government - despite its efforts towards engineering a tame assembly through the redrawing of boundaries - ended up with a very vocal and critical assembly that led to its dissolution.⁹⁷ This proves that the dynamics of the ruler/ruled is complex and absolute pliability and loyalty cannot always be guaranteed.

⁹⁴ Ibid., p.283.

⁹⁵ Ibid., p.169

⁹⁶ Ibid., p.180.

⁹⁷ Owen, op.cit. p34.



Table 3.6 Kuwait's New Election Districts

<i>District</i>	<i>Name</i>	<i>Social Group</i>
1	Sharq	Shii'te & a minority Sunni
2	al-Marqab	Sunni merchants
3	al-Qiblah	Sunni merchants
4	al D'ayyah	Sunni and Shia
5	al Qadisiyah	Sunni and minority Shia
6	al Fayha	Sunni hadhar
7	Kayfan	Sunni hadhar
8	Hawalli	Badu/Awazem & mixed
9	al Rawda	Sunni hadhar
10	al 'Addayliyah	Sunni hadhar
11	al Khaldiyyah	Sunni hadhar
12	AlSalmiyah	Badu/Awazem & a minority Shi'ite
13	al-rumaythiyah	Shia and Badu Awazem
14	Khaytan	Badu/Utaybah
15	al-Furwaniyah	Badu/Rashaydah
16	al Umariyah	Badu/Rashaydah
17	Jaliib al Shuyukh	Badu/Mutair
18	al Sulaybikhat	Badu/Anza/Awazem and hadhar
19	al Jahra al -Jadidah	Badu mixed
20	al Jahra al Qadimah	Badu mixed
21	al Ahmadi	Badu Ajman
22	al Riqa	Badu Ajman and Awazem
23	al Sabahiyah	Badu Awazem
24	al Fahaheel	Badu Awazem/ Bani Hajer/Fadhul
25	um al Hayman	Badu Awazem

Source: Nicos Gavrielides in Elections in the Middle East, ed. Linda Layne, p186. And updated by the Researcher of this thesis.

3.8 Conclusion

The Kuwaiti Constitution stipulated a framework for an effective functioning of a representative system, putting checks and balances on the authority of the legislative and the executive. However, al Sabah's motivation for accepting such a system of government was to secure their dominance in Kuwait rather than to develop a well functioning representative system. This has been suggested by the adoption of a very exclusive and restrictive citizenship and election law. These two laws can be argued to have undermined the stipulations of the Constitution without actually breaching it, and also having allowed al Sabah to control the dynamics of the elected assembly and control all political participation.

Citizenship law has given the right of political participation to an extremely small proportion of the population, making it a highly privileged right rather than an integral part of the very concept of "citizenship". Moreover, the demographic situation of Kuwait which makes Kuwaitis a minority in their own country, led the government to the adoption of an uneven and selective policy on naturalisation. This factor contributed directly to the segmentation of society into two essential parts the expatriate community and the Kuwaiti community, and also led to the emergence of the issue. Despite the persistence of the problem of the *Bidoon*, the government is still lingering in its efforts to find the appropriate solution to deal with thousands of residents that have been in Kuwait for many years. What is interesting about the *Bidoon* is the ability of the government to manipulate them for its own benefit. At first they were given all the rights that a Kuwaiti enjoys but without holding the citizenship, and were counted in government statistics as being Kuwaitis. However, when pressure mounted on the government to find an effective solution to the matter it did not hesitate to alter its policy and started to consider the *Bidoon* as technically being illegal residents.

The election law was designed to achieve two things. Firstly, gerrymandering the electoral boundaries in accordance to the concentration of the different social groups helped to increase social division and maintain the *badu/hadhar*

rivalry and antagonism, while creating new allies to fend off any opposition groups and undermine the influence of the merchant community. Secondly, it rooted and augmented traditional forms of affiliations and identification, which helped to fragment and weaken opposition and also undermined popular political associations. It also limited suffrage to males over the age of twenty one, thus, totally excluding the other half of the Kuwaiti population. In the forthcoming chapters, many of these suggestions will be clarified in more detail.

Chapter Four

The First Stage of Kuwait's Representative System of Government 1963-1976

4.1 Introduction

The practical implications of the parameters set by the Kuwaiti government, through citizenship and election laws, for the implementation of the constitutionally stipulated representative system of government, can be discerned from the early days of the creation of the national assembly. That assembly exemplified an elite institution, which was foremost accessible only to a very limited faction of the entire population; an elite which was represented along traditional lines of identity and affiliations. In addition, it presented different opportunities and served different purposes to the various interested social groups. As Sisson contends, legislatures can serve as agents of either national integration, or mobilisation of support for or against a ruling authority or as a symbol of national sovereignty.¹ The experience of Kuwait shows that the assembly was utilised depending on the interested parties, to serve all of these together. The opposition uses the assembly to expose the failures of the ruling authority, while the government uses its loyal supporters to mobilise support for al Sabah. Although the legislature has been successful in unifying Kuwaitis *vis a vis* the large migrant community, it has not acted as an integrating agent among Kuwaitis as whole. Sectarian, ethnic and tribal loyalties and identification are

¹ Sisson, Richard. "Comparative Legislative Institutionalisation: a Theoretical Exploration". In Comparative Perspective (ed.). Allan Kornberg. (New York: David McKay Company, 1973).

the most prevalent forms of social division. However, as a mark of sovereignty and legitimacy of the ruling family the assembly has been mostly successful, in achieving these factors.

The Kuwaiti representative system reveals a noticeable similarity between the notion of democracy and fair elections. This equivalence is widespread in developing countries where the mere fact of holding an election is seen as enough evidence of the existence of a democratic system of government. The discussion in this chapter will reveal that forming a democratic system of government needs for more than just an election to happen. The election process itself must be seen as fair; a balance must exist in the relation between the executive and the legislative. In addition to this, a culture of open debates, individual freedoms and associations is essential. The first stage of parliamentary life in Kuwait reveals that all these factors appear to be lacking to a great degree.

It will now be useful to assess the elections of four assemblies: 1963, 1967, 1971 and 1975. The fourth assembly was suspended in August 1976 by an Amiri decree and was only restored in 1981. The chapter shall focus firstly on analysing these four assemblies in terms of the election results, the political groupings and the main issues debated at that time. The aim of this analysis to reveal the tensions that arise due to the lack of the above mentioned factors and from the different vision the rulers and ruled have had concerning what the essential function of the assembly should be. The ruling family can be accused of viewing the assembly as being a symbol of sovereignty and its legitimacy and a tool to placate, rather than an instrument for the advancement of democracy and political participation. They also use it as, an instrument to play the different social groups against each other in order to counterbalance the strength of each one. As opposed to that view, the ruled see the assembly as the guarantor of their participation in the decision making process and for limiting the power of al Sabah. Hence, it has been rather noticeable from the first assembly that the government is reluctant to accept any vocal opposition that has emerged and it has attempted to silence opposition by rigging the elections for the second

assembly. The ineffectiveness of the second assembly and the discontent of the people made al Sabah retract and attempt to compromise with the opposition. The third and fourth assemblies were examples of this attempt. However, despite the compromises they offered, al Sabah themselves, still suspended the fourth assembly. Detail of what led to this will be useful to now explain.

4.2 The National Assemblies of the Period Between 1963-1975

The four elections of the National Assembly held during the period of 1963-1975 covered ten constituencies. This number of constituencies is disproportionately large in comparison to the small size of the population, especially when considering the more reduced size of the electorate body. This enabled the ruling family to play a more dominating and controlling role of the election process, while giving the *badu* a stronger influence and presence in the assembly.² Six main features can be discerned from these elections, which are in many ways a reflection of the implication of the election and citizenship laws. These features are as follows;

1. Sectarian and tribal affiliations were essential criteria for the elections especially in Shi'ite and *badu* areas, while in urban Sunni areas the candidate's qualifications and attitudes and knowledge of political affairs played a larger role in choosing a candidate.
2. Campaigning issues reflected the composition of each constituency. In tribal constituencies, campaigning focussed on the provision of services, whereas in Shi'ite areas campaigning focused on the minority status of the Shi'ite while in urban Sunni areas the focus was on national issues.
3. There was a steady increase in the number of voters, which more than tripled the number of registered voters.

² Ghanim Al-Najjar. "Decision-Making Process in Kuwait: the Land Acquisition Policy as a Case Study." Ph. D thesis, University of Exeter, 1987. p.47.

4. The turn out of voters varied from one election to another but was consistently low.
5. The government interfered in most elections either directly by attempting to rig the results of the election or indirectly, such as its selective policy of naturalisation.
6. The tension between the assembly and the government was clear from the first assembly due to the conflicting visions of the function of the assembly. The government wanted a debating chamber while the deputies wanted to debate and influence government policy and be an essential part of the decision making process.

In the following discussion more details are presented for each assembly, in order to give a comprehensive picture of these assemblies.

The First Assembly: Elections for the first National Assembly saw 205 candidates compete for the 50-seat parliament with a total number of eligible voters of only 16,889.³ Those were male Kuwaitis over the age of 21. The seats were distributed as seen from Table 4.1. As such there were: nineteen seats for *badu* deputies, eight for merchants, six for Arab nationalists, five for Shi'ite and eleven for liberal Sunni and one for a Sunni Islamist. The *badu* as a group accounted for the largest share around 38 percent.

Election issues reflected the sectarian distribution of electoral areas. Thus in the Shi'ite dominated areas the defence of the rights of the Shi'ite minority in Kuwait was the most important issue raised. Merchants won seats in areas populated by those that dominate the economy and where economic issues are of great importance. Nationalists and liberal Sunnis were returned to seats in areas where concern over public issues, democracy and participation in the decision making process were central. Tribal deputies were returned in the

³Suhail K Shuhaiber. "Political Development in Kuwait, Continuity and Change in an Arab Independent Gulf State." Ph. D thesis, University of Oxford. 1981. p.128.

areas dominated by tribal loyalty and where the most important issue was the provision of personal services.⁴

The presence of representatives of the nationalist movement with some liberal minded and vocal merchant deputies created a very active assembly debating sensitive issues such as the oil policy, and challenged many of the laws presented to the assembly that aimed to curtail individual and public freedoms. The anger of the nationalist deputies over these laws led them to resign from the assembly, accusing the government of *turning the legislative authority from an instrument belonging to the people in order to enhance freedom...to an instrument in the hands of the government to limit and suffocate individual and public freedom.*⁵ That increased the tension between the government and the assembly, and subsequently the government in the hope of having a more pliable assembly - interfered in the election of the second assembly.

The Second Assembly: In comparison with the uneventful election of the first assembly, the election for the second National Assembly proved to be highly controversial. The election was held on the 25 January 1967 with 222 candidates competing for the 50 seats. Eligible registered voters increased to 26,796, however, only 17, 590 actually voted.⁶ That means that around 66 percent of eligible voters attended the ballot boxes.

Initially the nationalists in Kuwait did not want to take part in the election of the second assembly. That was due to the issues surrounding the previous assembly and their desire to avoid appearing as if they are giving legitimacy to a government that attacks individual and public freedoms. However, they reassessed their position and decided that

⁴ Jaseem Mohammad Jerkhi. "The Electoral Process in Kuwait: A Geographical Study". Ph. D, thesis, University of Exeter, 1984. p.181-188.

⁵ Fahad Abdullah Al-Mudiris. Al-harakath al-shu'yh fy al-kuwayt. (The Shi'a Movement in Kuwait). (Kuwait: Dar al-qurtaas, 1999,b).p. 34.

⁶ Abdullah Kalifah Al-Shayeji. "Democratization in Kuwait: The National Assembly as a Strategy for Political survival." Ph. D, thesis, University of Texas, Austin, 1988. p. 243.

*our presence in the Assembly was a protection for the existing institutions like the unions, clubs, and press, and in our absence these institutions would be attacked so we decided to go ahead in the participation of the 1967 elections for the National Assembly.*⁷

Following that decision the nationalists prepared for the general election by unifying the efforts of the opposition in a programme called *al Jabha al Sha'biya* (the Popular Front) focusing attention on particular issues, such as oil and the water sector, Arab policy and commitment to Arab causes and social justice. In addition they made a strong alliance with the liberal minded merchants and ran through joint lists under the banner of the "Parliamentarians of the Nation" with thirty-seven candidates. They also allied with the representatives of the trade unions. The expectation was that they should have a landslide win.⁸

Thus when the election results showed that the opposition had lost to pro-government candidates, the government was accused of falsifying the results, and demands were made for a new election.⁹ There have been many allegations of procedural violations in the election of the National Assembly over the years but the one raised in the aftermath of the 1967 election has been the most serious.¹⁰

The government, nonetheless, denied any wrong doing, despite the clear irregularity that the government undertook during election day. As described by Jerkhi:

According to Article No. 36 of the Election Law after polling finishes the ballot boxes must be locked and taken to the headquarters of

⁷ Fahad Abdullah Al-Mudyris. "The Arab Nationalist Movement in Kuwait From its Origins to 1970. Ph.D. thesis, University of Oxford, 1987. p.278.

⁸ Fahd 'Abdullah Al-Mudyris.(Al-Mudyris). Al-mujtama' al-madani wa al-haraka al-wataniya fi al-kuwayt. (Civil Society and National Movement in Kuwait). (Kuwait: Dar al-qurtas, 2000).p.147.

⁹ Kadhim Mahdi Al-Bahrani. "Factors Influencing Ruling Elites Political Participation in the State of Kuwait". Ph.D. thesis, University of Denver, 1988. p.72.

¹⁰ Jassim Muhammad Al-Khalaf. "The Kuwait National Assembly: A Study of its Structure and Functions." Ph .D, thesis, State University of New York, Albany 1984. p. 203-204.

the Principal Committee where they should be opened and the votes counted in the presence of all the chairmen and members of the Principal Committee and the sub-committees. However this did not happen. Armed policemen entered the polling stations and took the ballot boxes before they had been closed. Moreover, the policemen refused to allow any member of the sub-committees to accompany them to the headquarters, a direct violation of the law¹¹.

Despite the loss of the nationalist candidates, seven other candidates of the Popular Front coalition were elected: one Sunni liberal and six merchants. These merchants were 'Abd al Aziz al Saqar, Rashid al Farhan, 'Abd al Razzaq al Khalid, Muhammad 'Abd al Muhsin al Khourafi, 'Ali 'Abd al Rahman al 'Omar, and Muhammad al 'Adsani. However, in protest of the rigging of the election, they submitted their resignation and issued together with some other unsuccessful candidates, the following statement:

Dear citizens, the parliamentary elections aim to send to parliament your representatives in order to protect you in the decision making process. However, the Government feared those who would work sincerely for the national interest of the country. Thus to prevent them from being elected, the Government rigged these elections. It is so ironic that those who protect the law are also those who violate it. ...We now inform you that the results of the elections are false and this parliament has been installed against your will. ¹²

There was widespread anger especially within labour unions and professional associations and supporters of the nationalist movement against the apparent interference of the government. Statements of condemnation of the government's action were issued by the Lawyers Association, Journalists Association, Graduates Association, the Engineers Society, the Contractors

¹¹ Jerkhi, op.cit. p. 188-190.

¹² Ibid., p.190.

¹³ Al-Mudyris, 1987, op.cit. p. 282-283.

Union, and the Union of Kuwaiti Workers. Despite the strong anti government feelings the nationalists, in consultation with the merchants, decided to call for calm and abandoned mass protests against the rigging of the election for the sake of public interest and to maintain the unity of Kuwait.¹³ Using the pretext of “national unity” became a pattern in Kuwaiti parliamentary experience employed by both opposition and al Sabah whenever matters reached a difficult point. Under that very general notion al Sabah can claim to suspend the assembly and Constitution for the sake of “national unity” while the opposition can retreat without losing face under the same excuse.

The assembly according to the official results of the election, show that thirty new members were elected to the assembly while none of the members of nationalist group were able to win a seat. The seats were distributed as can be seen in Table 4.2: ten seats for the Shi'ite, fourteen for Liberal Sunni, six for merchants, twenty for the *badu* and three for Sunni Islamists.

Table 4.1 The Distribution of Seats in the National Assembly for the 1963 Elections

<i>District</i>	<i>Badu</i>	<i>Merchants</i>	<i>Arab Nationalists</i>	<i>Shi'ite</i>	<i>Sunni religious Groups</i>	<i>Others</i>	<i>Total</i>
1st.	-	-	-	4	1	-	5
2nd.	-	2	1	-	-	2	5
3rd.	4	1	-	-	-	-	5
4th.	5	-	-	-	-	-	5
5th.	-	1	3	-	-	1	5
6th.	-	1	-	-	-	4	5
7th.	-	3	-	1	-	1	5
8th.	-	-	2	-	-	3	5
9th.	5	-	-	-	-	-	5
10th.	5	-	-	-	-	-	5
Total	19	8	6	5	1	11	50

Source: Calculated from data on election results available from the Kuwaiti National Assembly.

Table 4.2 The Distribution of Seats in the National Assembly for the 1967 Elections

<i>District</i>	<i>Badu</i>	<i>Merchants</i>	<i>Arab Nationalists</i>	<i>Shi'ite</i>	<i>Sunni religious Groups</i>	<i>Others</i>	<i>Total</i>
1st.	-	-	-	4	1	-	5
2nd.	-	2	-	-	-	3	5
3rd.	4	-	-	-	-	1	5
4th.	5	-	-	-	-	-	5
5th.	1	1	-	-	2	1	5
6th.	-	3	-	1	-	1	5
7th.	-	-	-	5	-	-	5
8th.	-	-	-	-	-	5	5
9th.	5	-	-	-	-	-	5
10th.	5	-	-	-	-	-	5
Total	20	6	-	10	3	11	50

Source: Calculated from data available from the Kuwait National Assembly

The second assembly became famous for the controversy over government interference in the election and the absence of an opposition group, which resulted in an ineffective assembly dominated by *badu* representatives and new deputies that lacked the experience of parliamentary life. Consequently, there were many extended discussions, but little progress on the impending bills and issues.¹⁴ Shuhaiber describes the assembly as follows:

*The work of the Second National Assembly proceeded in a slow and disorderly fashion. Overwhelmingly dominated by Bedouin representatives and ordinary middle class deputies with little professional training, most of the Assembly's time was taken up by prolonged discussions of very few bills introduced by the government.*¹⁵

The only issue of significance that the assembly was able to decide upon was the ratification of the government's agreement with foreign oil companies on dispensing royalties, which the previous assembly had debated but did not give any approval. As a result of this apparent inefficiency and ineffectiveness, the

¹⁴ Shuhaiber, op.cit. p. 166.

¹⁵ Ibid., p.166.

assembly proved to be unpopular and people saw it as exemplifying the government's ineptness. The view expressed by a leading Kuwaiti official best summarizes the situation the government found itself in;

The government inside the National Assembly is lost without leadership to guide it; leaving the defence of its policies to individual ministers...it is a cabinet without initiative which waits the ripening of problems instead of settling them at an early stage...it is a cabinet of several sides. Some of its members are moved by their own political ambitions, while others feel that the circumstances which had brought them to power may not recur. Others still will remain by force of the social conditions.¹⁶

Another reason that made the assembly unpopular relates to the widespread phenomenon of deputies soliciting personal favours for their constituencies and the exploitation of their parliamentary position to further the interests of their social group and their own political interest.¹⁷ The government is seen as being a partner in this, since these favours are carried out through government apparatus as indicated by Shuhaiber:

The rendering of favours to their constituents by the deputies is always done through the government. The promises of employment, of low income housing, of land purchases, and of all other favours rendered through the good offices of the government which is suffering from such methods practised by those deputies, without doing anything to stop them.¹⁸

The circumstances of the assembly and the discontent among the people forced the government to rethink its position and to attempt to find a compromise with the national opposition and to reconcile differences. Firstly, the minister of foreign affairs, Sheikh Sabah al Ahmad, met the editors of the

¹⁶ Ibid., p.171.

¹⁷ Ibid., p. 172.

¹⁸ Ibid., p.172.

Kuwaiti press and spoke of the necessity of maintaining national unity and disregarding the past. Secondly, the crown prince and Prime Minister, Sheikh Jaber al Ahmad, took the unusual step of speaking directly to the people in order to announce the government programme. This was unusual because the government programme is normally just addressed to the assembly. Sheikh Jaber acknowledged the presence of a problem and blamed it on some individuals and came to the defence of the parliamentary system by saying:

*I [am] convinced there is a general feeling that it is high time we reconsider the path we are taking, and draw up specific domestic policy stemming from our experience and circumstances under which the government will exercise all its powers without hesitation...Unfortunately, the Constitution and the freedoms it provides for, have been exploited by unscrupulous people who do not believe in the national interest and who have tried to turn freedom into chaos, aimed at subverting our values and beliefs, and at sowing the seeds of discord among us...this does not mean the parliamentary system is unsound or that it is unsuitable for our age. It only means that some have misunderstood it.*¹⁹

The experience of the second assembly made it apparent that the ruling family needed the active participation and endorsement of the nationalists and the merchants in order to give the system genuine legitimacy. It is this function as a symbol of the sovereignty of the state of Kuwait and legitimacy that most concerned and motivated al Sabah to maintain the assembly. The prime minister called on the merchants specifically to resume their participation in the running of the affairs of the government, hence acknowledging the need for their experience for the benefit of an effective assembly:

There are many citizens who have participated in the building of Kuwait with their own hands and funds, but have chosen to stay away from legislative assemblies for certain reasons...while the public good requires their presence in those assemblies in order to

¹⁹ Middle East News Agency, No.4815, 25 June, 1970.

*benefit from their experience, competence, and sincere devotion to their homeland.*²⁰

The election of the third assembly subsequently took on a particular importance and was a test to the government's intention of achieving reconciliation with the opposition.

The Third Assembly: Elections for the third assembly were held in January 1971 with 183 candidates competing for the 50 seats. Registered voters jumped to 40,649 as compared to 17,590 in the previous election.²¹ This massive increase was due to the naturalisation of the *badu* that the government embarked upon since the early sixties, whereby the number of enfranchised jumped from 20,000 to 43,000.²² However the number of people who voted did not exceed 20,785; just over half of the registered voters. This indicates that there was a decrease of 15 percent in the turn out of voters, when compared to the previous election. The low turn out could be attributed to the debacle of the previous election and the citizens suspicion of the in effectiveness of the whole process. Subsequently the general main issue that dominated this election was democracy and the advocacy of the Constitution.²³

The results showed a strong presence of the nationalists and liberals in the assembly. As seen in table 4.3, the election returned six Shi'ite, thirteen liberal Sunni, five Arab nationalists, five merchants, nineteen *badu* and two Sunni Islamists. In the tenth district, the al Ajman tribe was able to win all five seats. This was due to the fact that one of the members of the ruling family, whose mother was from the tribe, became deputy minister of the Interior Minister. The Interior Ministry is responsible for granting citizenship. The deputy was able

²⁰ Ibid.

²¹ Al-Shayaji, op.cit. p. 246.

²² Al-Mudryis, 1987, op.cit. p. 419.

²³ Jerkhi, op.cit. p. 195.

during his time in office, to naturalise a large number of the tribe and hence directly influence the results of the tenth district.²⁴

Although the Amir had called on all the major groups of the Kuwaiti society to participate in the election, the nationalist opposition was divided over the issue. Ahmed al Khatib's group participated in the election, while Jassim al Qatami's group boycotted it and criticised the participation of the al Khatib group. The Al Qatami group objected to the government's interference in the electoral results and changing the "residents" in the constituencies through their mass naturalisation of the *badu* and wanted to expose the authorities and its lack of serious commitment to democracy. They claimed that the participation of the al Khatib group gave legitimacy of the authorities and gave the impression that democracy in Kuwait was moving along the correct path.²⁵ They were also suspicious of the government and wanted certain guarantees and safeguards to be introduced into the election law.²⁶ The presence of one group of the nationalist opposition in the assembly and the other nationalist group outside it further deepened the existing division within the nationalist movement.²⁷ As expected, and considering its composition, this assembly proved to be much more animated than the previous one with heated debates which posed many challenges to the government.

²⁴ 'Abdullah Al-Nifisi. Al-kuwayt: al-ra'y al-'akhar. (Kuwait: the Other View). (London: Taha Advertising, 1978). p.9.

²⁵ Al-Mudryis, 1987, op.cit. p. 410-420.

²⁶ Ghanim Al-Najar.(al-Najjar, G.). Madkhal li'l-tawr al-siyasi. (Introduction to Kuwait Political Development). (Kuwait: Maktabat al-salasil, 1996).p. 95.

²⁷ Ibid., p.95.

Table 4.3 The Distribution of Seats in the National Assembly for the 1971 Elections

<i>District</i>	<i>Badu</i>	<i>Merchants</i>	<i>Arab Nationalists</i>	<i>Shi'ite</i>	<i>Sunni religious Groups</i>	<i>Others</i>	<i>Total</i>
1st.	-	-	-	4	1	-	5
2nd.	-	3	-	-	-	2	5
3rd.	3	2	-	-	-	-	5
4th.	5	-	-	-	-	-	5
5th.	1	-	1	-	1	2	5
6th.	-	-	2	-	-	3	5
7th.	-	-	-	2	-	3	5
8th.	-	-	2	-	-	3	5
9th.	5	-	-	-	-	-	5
10th.	5	-	-	-	-	-	5
Total	19	5	5	6	2	13	50

Source; Calculated from data available on election results from the Kuwaiti National Assembly.

The Fourth Assembly: In January 1975 the election for the fourth assembly took place with 255 candidates competing for the 50 seats. 52,993 voters were registered of whom only 31, 862 voted.²⁸ Despite the low turn out, the number of voters constituted a 9 percent increase from the last election. In this election, all major groups participated; the merchants, the opposition with all its factions, the Shi'ite, the independents/liberal Sunnis, and the Sunni religious groups. The most important issue that dominated the election campaigns was political rights coming from the nationalist/liberal candidates, while the *badu* continued their focus on providing personal services.²⁹

The shape of the assembly, as seen in table 4.4, shows the nationalists maintaining their strength having won seven seats. The *badu* increased their share to twenty three seats, the Shi'ite also increased their share to ten, the liberal Sunnis decreased to six seats, Sunni Islamists were reduced to one and the merchants held onto three seats. The nationalists were able to maintain their position despite the fact that the two main groups, al Qatami and al Khatib,

²⁸ Al-Shayehji, op.cit. p. 256.

²⁹ Jerkhi, op.cit. p. 198.

campaigned separately and competed against each other in the same districts.³⁰ Another feature of this assembly was that nearly half of the members were new and the resultant assembly was younger, better educated and much less conservative than its predecessor.³¹

Table 4.4 The Distribution of Seats in the National Assembly for the 1975 Elections

<i>District</i>	<i>Badu</i>	<i>Merchants</i>	<i>Arab Nationalists</i>	<i>Shi'ite</i>	<i>Sunni religious Groups</i>	<i>Others</i>	<i>Total</i>
1st.	-	-	-	5	-	-	5
2nd.	-	2	2	-	-	1	5
3rd.	4	1	-	-	-	-	5
4th.	5	-	-	-	-	-	5
5th.	3	-	1	-	1	-	5
6th.	-	-	2	-	-	3	5
7th.	-	-	-	5	-	-	5
8th.	1	-	2	-	-	2	5
9th.	5	-	-	-	-	-	5
10th.	5	-	-	-	-	-	5
Total	23	3	7	10	1	6	50

Source: Calculated from data available from the Kuwaiti National Assembly.

However, the sectarian composition of the assembly was apparent as expressed in a commentary on the election results by a Bahraini weekly which stated:

*It is the first time that sectarianism has emerged in such a serious way within Kuwaiti society...and when matters take on such a sectarian form the question is bound to take a wider dimension the likes of which Kuwait has not experienced before, particularly in view of the existing contradictions within Kuwaiti society.*³²

³⁰ Al-Najaar, 1996, op.cit. p. 98-99.

³¹ Ahmad Abdullah Saad Baz. "Political Elite and Political Development in Kuwait." Ph. D thesis, George Washington University, 1981. p.194-196.

³² Shuhaiber, op.cit. p. 241.

For the first time the alliance in the first district between the Shi'ite and the Sunni minority broke down. During the previous elections, the Shi'ite supported the Sunni candidate, Yousef al Rifaa'y, who held a seat in the second and third assembly. The alliance broke as a result of al Rifaa'y having invited a scholar from Pakistan who criticised the Shi'ite religious faith. The Shi'ite held onto the five seats of the area.³³ That indicates the sensitivity of sectarian issues and how easily it can break alliances.

A strong opposition existed through the cooperation of seven elected nationalist members and seven liberal deputies, making the assembly a *forum for systematic criticisms and attacks on the government, particularly for policies favouring a growing gap between the haves and have not.*³⁴ The unprecedented rise in oil prices although, on the one hand, provided huge revenues to the government and a fast growing private sector opportunities, on the other hand the income gap among the various segments of the population was widening. The relation between the government and the assembly became extremely strained especially because an increasing number of laws proposed by the government were turned down and the opposition was in effect in control of all the events in the assembly.³⁵ Supporting this highly critical stance of the assembly was the Kuwaiti public and influential press. Subsequently, this very strong and promising assembly was suspended by al Sabah a year and half into its term. The reasons which led to the suspension of the assembly shall be discussed in detail in the following chapter.

³³ Jerkhi, op.cit. p. 199.

³⁴ Al-Shayjeji, op.cit. p. 257.

³⁵ Al-Bahrani, op.cit. p. 47.

4.3 The Major Political Groups in the National Assembly

The legal status of political parties in Kuwait is ambiguous. The Kuwaiti Constitution did not explicitly or implicitly give any recognition to political parties, nor the electoral law. However the explanatory note of the Constitution provided some insight into the status of political parties in Kuwait. It declares that:

*Article 43 of the Constitution does not insist on the necessity for the establishment of parties, neither does it prohibit them. The legal status of parties is left to the legislature to deal with.*³⁶

According to Moqatei, this means that any group has the right to establish a party unless other legal steps are taken towards a clear legal status of parties.³⁷ Despite the absence of a clear legal status on party formation, Kuwaiti parliamentary experience has been accompanied by the emergence of discernible political groups. To some, they are considered similar to political parties. As noted by al Kandari

*Different political powers inside Kuwait are like nonofficial parties practising their activities and spreading their ideologies...these political powers have a party-like character with regard to organisation and coordinating work to support its various intellectual theories.*³⁸

The views of Kuwaitis on the establishment of political parties vary. The government position can be noted from the views expressed by cabinet ministers who reject the establishment of a party system in Kuwait. The nationalists believe that the establishment of parties is necessary to improve the performance of the National Assembly and develop democracy. The *badu*

³⁶ Muhammad Al-Moqatei. "A Study of the Kuwaiti Constitutional Experience: 1962-1986). Ph.D Thesis, University of Warwick, 1987. p.192.

³⁷ Ibid., 192.

³⁸ Yagoob Al-Kandari. "The Social Function of al-Diwaniyah in Kuwait Society." MA. Thesis, Ohio State University, 1995. p.90.

reject the idea of parties while urban educated Kuwaitis are divided over the issue. Three field studies showed that an overwhelming majority of Kuwaitis reject the idea of parties because they believe it will destroy national interest, divide the country and lead to an unstable political regime. That belief is based on the experience of other Arab countries that adopted political parties such as Egypt, Syria, Lebanon, and Iraq.³⁹

During this first phase of parliamentary experience several major political groups emerged in the National Assembly with varying degrees of organisation, coordination, and influence. These loosely organised and identified political groupings, in comparison to political parties, are more acceptable to both the government and Kuwaitis in general. They include the merchants, the nationalists, the *badu*, the Islamists, and the Sunni liberals/independents. The discussion in this research shall also include the members of the ruling family since they sit in the assembly by virtue of being members of the cabinet. Although they do not constitute a political group as such, their influences are immense and far outweigh their small numbers in the assembly. They are also open to allying themselves to the different groups in the assembly, hence influencing outcomes of bills and debates in the assembly.

4.3.1 The Merchants

Historically a small number of merchant families have been the most influential social group in Kuwait, and the most significant part of the ruling coalition. Ismael lists the most important families: al-Khalid, al-Zayid, al Ghanim, al Qatami, al Saif, al Rumi, al Shemlan, al Badar, al Jalil, al Saleh, Janaat, al Issa, al Mutawa', al Sultan, al Saqar, al Mutayri, al Naqeeb, al Rushayd, al Humadhi, al Mudhaf, al Sulayman, al Marzuq, al Uthman, al Adsani, al Ebreheem, and Muhammad.⁴⁰

³⁹ Al-Moqatei, op.cit. p. 194.

⁴⁰ Jacqueline S Ismael. Kuwait: Dependency and Class in a Rentier State. Florida: University of Florida Press, 1993. p.83-84.

The status of this old merchant community is based on both economic and social criteria, as they have wealth and claim a social prestige equal to al Sabah. Historically and because of their wealth, they have been among the first to be educated abroad and they have been able to attain a high level of education for many members of their families. Thus, education among them was promoted well before the government was able to embark on programmes to educate the mass of the population and give opportunity for ordinary Kuwaitis to be educated abroad.⁴¹

The oil wealth brought about changes in the ruling coalition in Kuwait by causing a breakdown in the old coalition that linked these trading families with the Amir and replaced it by setting up a new arrangement of the elite.⁴² Access to huge sums of externally generated revenues from the oil industry has liberated the ruling family from their dependency on the merchant community and gave them the economic power to use these revenues in a way that widened their base of legitimacy and established new political allies. The prominent families had to share their political influence with the new emerging groups. However, in doing that did not impact their economic power.

State distributive policies benefited the old trading elites through the state by either excluding or offering encouragement to the old merchants in the fields of trade, construction and services. As Crystal points out:

*The mechanisms the state used were the preservation of an enclave (non-oil) private sector, legitimated by a free enterprise ideology, and direct aid and protection to merchants through grants of land, money, and monopoly concessions. In time this arrangement was institutionalised through protective nationality and commercial laws that restricted property and business ownership rights to nationals.*⁴³

⁴¹ Al-Khalaf, op.cit. p. 104.

⁴² Jill Crystal. "Coalitions in Oil Monarchies: Kuwait and Qatar." Comparative Politics. (Vol.21. No. 4 1989). p. 427-443.

⁴³ Ibid., p.431.

Trade and commercial laws, since the early sixties, focused on promoting the interest of Kuwaiti nationals on the expense of expatriates, banning expatriates totally from the banking and finance sectors. Business ownership and property rights are exclusive to Kuwaiti nationals. The Chamber of Commerce acts as a major protector of the interests of Kuwaiti merchants by regulating the influence of their foreign competitors. This business environment, with the addition of monopolies, preferential treatment and dealerships have helped maintain the power of the old commercial elites of Kuwait and maintained their dominance on company boards and shareholdings.⁴⁴

In exchange for these benefits and inducements, the ruling family expects political acquiescence from the merchant community. Although as a group the historical demand of the merchants to participate politically and in the decision-making process has declined, individual merchants have over the years maintained an interest in political participation, such as Yagoob al Humaidi, Jassim al Qatami, Abd al Razzaq al Khalid and Sulaiman al Mutawa. These young educated merchants adhered to Pan-Arab ideology, and allied themselves with the nationalist opposition. Together, they made up the core of the opposition in the first assembly and proved to be very effective.⁴⁵

The number of seats the merchants gained in the assemblies, between eight and then reduced to three, does not reflect their economic position and influence but reflects the desire of the business community to concentrate on their business interests and maintain a cooperative relation with the ruling family. It also reflects the increased importance of the *badu* and the middle class in Kuwait, which came into politics on their expense.⁴⁶ The importance of Kuwait's middle class (the professional strata of doctors, engineers, lawyers etc, and mid-level state employees and small businesses) have increased.

⁴⁴ Ibid., p.431-432.

⁴⁵ Al-Najjar, 1987, op.cit. p. 53.

⁴⁶ Kamal Osman Salih. "Kuwait: Political Consequences of Modernization, 1750-1986." Middle East Studies. Vol. 27. No. 1. January 1991. p. 53.

However, their influence is incomparable to that of the old merchant community.⁴⁷

The merchants maintained certain leverage in the assembly which is evident in the fact that all the presidents of the assembly during this period came from their ranks, including Abdul Aziz al Saqar, Sa'ud al Abdul Razzaq, Ahmad Zaid al Sarhan, and Khalid al Ghanim.⁴⁸ The dominance of that office by prominent families express the influence of two major factors one is family background and the other is political experience. Their substantial political experience and close ties to the ruling family and economic prominence make them ideal for such an important leading role. As indicated, these families have been the backbone of building modern Kuwait;

*It was these merchant families, which provided the echelon of social and political leadership of the country and gave it the special brand of mental adroitness and financial astuteness, which characterises it today.*⁴⁹

Although the oil era freed al Sabah from their historical economic dependency on the old merchant class of Kuwait, the influence and prominence of these families remained high and they remained the major beneficiaries of the diffusion of oil wealth.⁵⁰ They are still in control of a large portion of the private sector. They also remain an important source for the legitimacy of al Sabah, as their loyalty and support is extremely important. Through their own *diwaniyyas* they exert immense influence on the decision-making process of the government, without having to be directly involved in the National Assembly.

⁴⁷ Ali Z. Al-Zubi. "Urbanization, Tribalism, and Marriage in Contemporary Kuwait." Ph. D thesis, Wayne State University, 1999. p.42.

⁴⁸ A. M Gargash. "Political Participation in Kuwait and the United Arab Emirates: 1938-1979". Ph. D thesis, University of Cambridge, 1990. p.173.

⁴⁹ Khouja, M. W. and P.G. Sadler (ed). The Economic of Kuwait: Development and Role in International Finance. (London: Macmillen, 1979). p. 14.

⁵⁰ Salih, op.cit. p 53.

Another important channel for maintaining their influence is the cabinet. They contributed in the period between 1962-1976 twenty four ministers and most of these come from seven families, al Nusaf, al Ghanim, al Mudaf., al Hamad, al Khalid, al Rifaa'y and al 'Adsani.⁵¹ If the members of the ruling family are excluded from the cabinet (17 members), the merchant's share of the cabinet has been more than 70 percent. Although the cabinet in 1963 had only one minister from other groups of Kuwaiti society, this share rose to seven by 1976, representing around 30 percent of the entire cabinet. The incorporation of the wider segment of the population was due to increased education and a greater number of qualified Kuwaitis.⁵²

4.3.2 The Arab Nationalists

The Kuwaiti branch of the Arab nationalist movement was formed in 1952 by Ahmad al Khatib, a key figure in bringing Arab nationalist ideology into Kuwait and a symbol of this movement. During the fifties and sixties this movement grew and spread its influence among the merchants, students and labour movement. Their political platform focuses on socialist reforms on the domestic level while promoting Arab unity on the regional level.⁵³ It has been the leading opposition group in the assembly against the government attempts to restrict freedom and individual civil and political rights as guaranteed by the Constitution. Although the government could muster the support from a large proportion of the assembly, the nationalists were able to raise and publicise critical issues and lead constructive debates in the assembly. Their ability to publicise certain issues constituted a mechanism of pressure and influence since the Kuwaiti government is inclined to avoid gaining any bad publicity.⁵⁴

⁵¹ Kamal Al-Munufi. Al-hukumat al-kuwaytiya. (Kuwaiti Governments). (Kuwait: Dar al-ruby'aan, 1985). p.27.

⁵² Gargash, op.cit. p. 166.

⁵³ Dubi Al-Harbi. Man yantakhib man wa-li-madha? wasa'il wa-'awamil al-ta'thir 'ala al-nakhib al-kuwayti. (Who Elects Who and Why? The Tools that Influence the Kuwaiti Voter.) (Kuwait: n.p. 1996). p. 39.

⁵⁴ Al-Najjar, 1987, op.cit. p. 65.

The 1967 Arab defeat hit the nationalists hard and split the Kuwaiti movement into two groups, the leftist *al Tajmu' al Dimuqrati* (The Democratic Bloc) led by Ahmed al Khatib and the more conservative *al Tajmu' al Watani* (The Nationalist Bloc) headed by Jassem al Qatami. The two groups also differ also in their economic policy, as the Democratic Bloc advocates greater role of the government in economic activities while the National Bloc favours the free market system.⁵⁵ Despite these differences, the two groups share similar views centring on closer links with Arab states, support for the Palestinian cause while on the domestic front they advocate greater political liberalisation: formation of political parties, franchise of women, individual rights, Constitutional rights, better treatment for Arab workers in Kuwait and more efficient economic and bureaucratic policies.⁵⁶

Their loss in the 1967 election, although attributed to the government's irregular practices, forced them to improve their organisation and deepen their interaction with the masses, hence their success in the following two elections, 1971 and 1975. However, the 1971 election deepened the rift among the nationalists since only the al Khatib group accepted participation in the election and accepted the national compromise that the authorities were offering. The 1975 election witnessed the participation of the two groups signalling the complete transformation of the whole movement into *a reformative one which regards parliamentary work as its only objective and not as means to create a popular revolutionary movement or to increase its political and organisational presence.*⁵⁷

The insistence of this group on the assembly's Constitutional rights, and on promoting democratic debate and practices in the country most irritated the government. The al Khatib's role in the assembly has been disproportional to their numerical strength due to the firm position they took against the government when its policies contravened with the spirit of the Constitution and

⁵⁵ Gargash, op.cit. p. 175.

⁵⁶ Baz, op.cit. p.202. & Al-Khalaf, op.cit. p. 118.

⁵⁷ Al-Mudyris, 1987, op.cit. p. 57.

democracy and the national interests of both Kuwaitis and Arabs in general.⁵⁸ In addition to this, their political vigour and popular language and the support of the educated Kuwaitis gave them immense strength.⁵⁹ Until the ascendancy of Islamic groups they were the only force equipped with a clear ideology. They have a consistent voting pattern in comparison with the merchants and independent deputies who vote according to the merit of each issue without having an overarching ideological frame of reference.

Their firm belief in creating a democratic system in Kuwait was clearly expressed during the discussions of the draft Constitution in the constituent assembly. It is important to discuss in some detail the nationalist concern over two articles in particular, since it will reveal a very clear vision and a deep rooted desire to create a genuinely democratic system of government in Kuwait. It is also important to discuss because these two articles proved to have the problematic consequences anticipated by the nationalists. The problems lie with Articles 56 and 43.

The nationalists feared that the adoption of Article 56 would make a mere rubber-stamp of the National Assembly and any actual authority would be in the hands of the government.⁶⁰ The article was, however, adopted by a majority of 17 votes out of 32. The objections of the nationalists revolved around four main points:

1. The appointment of ministers

Article 56 stipulates that ministers shall be appointed from amongst the members of the National Assembly and from others. The objection was based on the grounds that the assembly is an elected body and *appointment would spoil the democracy, which we are seeking.*⁶¹ Also, some of the ministers would

⁵⁸ Al-Najjar, 1987, op.cit. p. 66.

⁵⁹ Gargash, op.cit. p.175.

⁶⁰ National Assembly Proceedings, No.20. 18/9/ 1962, p 18.

⁶¹ National Assembly Proceedings, No.20. 18/9/ 1962, p 56.

be members of the ruling family and, therefore, would be subjected to criticism, accountability and even the withdrawal of any confidence in them by the assembly. To keep the ruling family above differences and conflicts, they suggested that the Constitution should exclude members of the ruling family from the cabinet.⁶²

2. The number of ministers in the assembly

Differences emerged concerning the number of cabinet ministers in the assembly. In the end, it was decided that the number should not exceed one-third of the total number of members in the National Assembly in accordance to the suggestion made by the legal advisor, 'Othman Khalil 'Othman. All the members accepted this compromise, except Yagoob al Humaidi.

3. Traditional Consultation

Article 56 stipulates that the Amir shall, after traditional consultation, appoint the prime minister and relieve him from office. The Amir shall also appoint ministers and relieve them from office, upon receiving the recommendation to do this by the prime minister. The nationalists wanted the prime minister to also consult with the president and members of the National Assembly before the formation of the cabinet was finalised.⁶³

4. The voting rights of the unelected ministers

The nationalists thought that the unelected members could actively participate in debates but not have the right to vote on the grounds that as the elected members of the assembly do not intervene in the affairs of the cabinet then the unelected members should not be able to intervene in the affairs of the National

⁶² National Assembly Proceedings, No.20. 18/9/ 1962, p 6-9.

⁶³ National Assembly Proceedings, No.20. 18/9/ 1962, p. 6-9.

Assembly. They hoped that with this suggestion, it would protect the assembly from becoming a rubber-stamp legislature.⁶⁴

The nationalists concern about the Article has been justified. The presence of ministers, especially the ruling family members, in the assembly has undermined the effective functioning of the assembly and gave more weight to the Amir and the executive on the expense of the representatives of the people.

As for the other draft Article, number 43, it guaranteed *freedom to form associations, organisations and unions*.⁶⁵ However, the representative of the ruling family objected and demanded the deletion of the word “organisations” because it might be interpreted as permission to form political parties.⁶⁶ The nationalists attacked the deletion on the grounds that it deprives the Kuwaiti citizens of having full political rights. The merchant’s representative also saw the deletion as limiting individual freedom. In addition to this, the nationalists saw this as an important issue because the Constitution emphasised, in Articles 36 and 37, the freedom of press, freedom of speech, freedom of publication and the freedom of expression but failed to mention political freedom.⁶⁷ The word was in the end, deleted and the legal advisor, ‘Othman Khalil ‘Othman, explained that the Constitution was left silent on the issue of formation of political parties as this is left to the legislature to permit or to prohibit.⁶⁸

The fear of giving legal permission for the formation of political parties has, in fact, limited the development of the representative system in Kuwait and undermined the development of political platforms that reflect national interest rather than the narrow interests of constituencies divided along sectarian, tribal and ethnic lines.

⁶⁴ National Assembly Proceedings, No.20. 18/9/ 1962, p. 9-14.

⁶⁵ See Kuwait Constitution, Appendix A

⁶⁶ National Assembly Proceedings, No.24. 24/10/1962. p 32-35.

⁶⁷ National Assembly Proceedings, No.24. 24/10/1962. p 38-340.

⁶⁸ National Assembly Proceedings, No.24. 24/10/1962. p 40-41.

4.3.3 The Tribal Deputies

Prior to the introduction of the representative system in Kuwait, the *badu* had limited political influence and were marginal to the political system, although their loyalty and service has been extremely valuable to al Sabah. The reasons for that, as delineated by Baz, relate to their lack of a social base or economic power and their migratory mode of living, in addition to being far from urban centres.⁶⁹ As a group they are more dependent on the ruling family than urban Kuwaitis, since they were less educated and occupied low working positions and earn low salaries, have settled more recently and their naturalisation, on a large scale, only began in the sixties. However, the expanded educational and economic opportunities offered by the state have benefited them immensely and many among them are university-educated and occupy important positions.⁷⁰ The National Assembly, in particular, have provided them with a channel to enhance their status, improve their circumstances, and to be directly involved in the political process of Kuwait.

The tribal deputies are used as an intermediary between the state and *badu* constituencies emphasising a patron-client relationship between the Ruler and the people. The government obliges the demands of these deputies in order to provide tangible benefits to their constituencies because these deputies do not challenge the ruling family and its right to rule.⁷¹ The balance of power in the assembly has been defined by the inclusion of the *badu* on such a large scale. Tribal leaders who sit in the assembly have a strong loyalty to the ruling family which is maintained through blood relation, marriage and mutual interests.⁷² Another important reason for their loyalty in the assembly stems from the fact that their concerns centre primarily on issues related to their districts socio-

⁶⁹ Baz, op.cit. p.210.

⁷⁰ Al-Khalaf, op.cit. p. 110.

⁷¹ Mary Ann Tetreault. "Patterns of Culture and Democratization in Kuwait." Studies in Comparative International Development. (Vol.30. No. 2 Summer 1995) p. 34.

⁷² Al-Bahrani, op.cit. p. 304.

economic needs and infrastructural improvements issues, which of themselves, cannot be considered as threatening or challenging to the status quo.⁷³

Tribal deputies, in order to fulfil the basic function that voters elect them for must have close ties to ministers and other senior officials in order to solve the personal problems of their voters otherwise, without these connections they will not be elected in the following elections.⁷⁴ Voters actually vote not only for those who can help them gain personal benefits but also vote for money. Cash bribes exchanged for votes are common among the *badu*. This takes also place among the urban Sunni and Shi'ite constituencies but on a much smaller scale.⁷⁵

By mere virtue of their minimal numbers in the assembly, the tribal deputies have created a block in the face of the opposition. Al Nifisi argues that through the inclusion of the *badu* as a distinct group, the government has been able to control the shape of the assembly prior to election and limit the size and extent of opposition within the assembly.⁷⁶ With the *Shi'ite* these *badu* deputies were the only two groups which demonstrated consistent loyalty to the government during votes and debates.⁷⁷ The governments' generous socio-economic programmes and relaxing the naturalisation laws in favour of the *badu*, guaranteed the continued support of tribal deputies. Their conservative outlook and their respect to traditional authority - symbolised by the ruling family - made them a powerful ally to al Sabah in counter balancing the liberal wing of the assembly.⁷⁸

Another reason for the importance of having tribal deputies as a source of support for al Sabah is their ability to determine election results which is due to

⁷³ Mufid Al-Zaidi. Al-tayyarat al-fikriya fi al-khalij al-'arabi, 1938-1978. (Intellectual Trends in the Arab Gulf 1938-1971). (Damascus: Arab Unity Centre, 2000). p. 136.

⁷⁴ Jerkhi, op.cit. p. 247.

⁷⁵ Ibid., p.247.

⁷⁶ Al-Nifisi, op.cit. p.74.

⁷⁷ Al-Najjar, 1987, op.cit. p. 65.

⁷⁸ Baz, op.cit. p.213.

two factors. The first relates to the concentration of the large and prominent tribes in particular districts; making these areas closed electoral districts in the face of other social groups, and even closed to some members of the tribe itself. The second relates to the conduct of primary elections (*al entekhabat al fareya*) in tribal districts to determine which candidates shall run for national election. A committee is formed by the contesting candidates to take on the duties of a polling station officer. The committee determines the Election Day usually two or three months before a national election and calls upon the eligible voters who appear in the register of the constituency electorate. A representative of each candidate attend the process of selection for each election.⁷⁹ Once the candidates have been agreed upon, the competition ceases and tribal solidarity emerges to ensure the success of these chosen candidates.

The role of tribal sheikhs and senior members of the tribe is extremely important in the selection process of candidates.⁸⁰ The most significant result of this habit has been the denial of some educated and more efficient candidates from being allowed to running in the national elections.⁸¹ That explains why tribal deputies have been the least active members of the assembly during debates and their lack of contribution to the various committees of the assembly.⁸²

One explanation offered for the adoption of this method is that no tribe enjoys an absolute majority in the 15 electoral districts which are considered to be tribal districts, except in three. Therefore, the tribes act to protect their vested interests by supporting tribal candidates.⁸³ The defenders of this form of pre-

⁷⁹ Al-Moqatei, op.cit. p.199.

⁸⁰ Ali Z. Al-Zubi. "Tribal Solidarity as Reflected in the Election of Kuwait Parliament". MA. Thesis, Ball State University, 1995. p.46-48.

⁸¹ 'Adil Al-Tabataba'i. "Al-sulta al-tashri'iya fi duwal al-khalij al-'arabi". (The Legislative Authority in Arabian Gulf Countries). Mansurat majallat dirasat al-khalij wa al-jazira al-'arabiya. N.14. Kuwait: 1985. p.376-378.

⁸² Ibid.,p.381.

⁸³ Al-Zubi, 1995, op.cit. p.45.

election see it as a being effective and acceptable method of achieving a political purpose.⁸⁴

Opponents of this form of pre-election, the majority of whom are urban Kuwaitis, see it firstly as an effective way of increasing the role of sectarian and tribal systems, while impeding national unity and social and political development.⁸⁵ Secondly, it makes sectarian bias the basis of competition instead of ideological parties, thus leading to an unfair representation of the people's will. Thirdly, it prevents qualified people from political participation because of its restriction to certain candidates, which is inconsistent with the spirit of competition and democracy.⁸⁶ Some levy a more serious criticism at the practice by perceiving a conflict between the primary elections and the Constitution. Al Tabataba'i states that

*The preliminary election is in conflict with Article 80 of the Constitution which states that Assembly members shall be elected directly by universal suffrage and secret ballot. This means that election should be held in one stage. However, the "primary election" changes the election to two stages which is in conflict with the Constitution.*⁸⁷

Despite all these criticisms, the official attitude towards the practice is to accept it and participate in its operation.⁸⁸ The practice has become a de facto system, widely used. Even the urban Kuwaiti elite who strongly oppose the practice resorted to it in the election of the fifth assembly as shall be seen in the next chapter. Perhaps the necessity that arises for the *badu* and *hadhar* when this method is used, a consequence of the absence of a genuine party system. As indicated by al Rashidi:

⁸⁴ Al-Moqatei, op.cit. p. 201.

⁸⁵ Baz, op.cit. p.212-213.

⁸⁶ Al-Moqatei, op.cit. p. 202.

⁸⁷ Al-Tabtaba'y, op.cit. p.390-391.

⁸⁸ Al-Moqatei, op.cit. p.202.

*The unique environment in the Kuwait political system which prohibits parties and permits parliamentary elections, forced the people to create some organisations not prohibited by the Constitution and acceptable to society, to win an election by the backing of such a group. It is therefore, the primary election which is the best practical solution to this problem, whether it is based on tribal or religious grounds.*⁸⁹

One effective way of countering this system without infringing on neither the *badu* nor the *hadhar* various freedoms is by legalising political parties. Doing this will undermine the tribal and sectarian system and reform the electoral system without restricting public freedom.

4.3.4 The Islamists

This group comprises of Muslim fundamentalists who propagate their Islamic ideology and platform whether they are believers of Islam Sunni or Shia. The Sunni Islamists were very marginal in Kuwaiti political life and in the assembly during the period of the sixties due to the dominance of the Arab nationalist ideology in general, and the strength of the Kuwaiti nationalist movement in particular. Thus, it is possible to notice that they had seven candidates in the election for the first National Assembly and only one actually succeeded, Hashim al Riffa'y, from the first electoral district which is incidentally a strong hold for the Shi'ite. His success can be attributed to the alliance he made with the Shi'ite in the area.⁹⁰

The strengthening of their influence in the assembly and in the Kuwaiti society came after the 1967 war, as a result of the failure of the Nasserist project and bankruptcy of Pan-Arabism, as well as the split that took place in the nationalist movement in Kuwait. On its part, the government encouraged the revival of religious organisations in the hope of stemming the tide of nationalists and leftist

⁸⁹ Ibid., p.196.

⁹⁰ Fahd 'Abdullah Al-Mudyris. (Al-Mudyris). Jama'at al-'ikhwan al-muslimin fi al-kuwayt. (The Muslim Brotherhood in Kuwait). (Kuwait: Dar al-qurtas, 1999,a).p.28.

groups and their influence on the assembly and society as a whole. Another reason that attributed to the extension of the influence of the Islamist groups was the financial resources that became accessible to these groups without any limitation in the whole Gulf area, due to the oil wealth which created such funding. In addition, many forums were available to them without any restriction from the government, and these included the mosques.⁹¹ The mosque is the centre of religious life, but also functions as a powerful institution to transmit information and mobilise opinion, while the sanctified nature of the place confers legitimate authority on religious leaders and prevent any direct state intervention.⁹² The Society of Social Reform, which was established in 1963 as the public front for the Muslim Brothers, became the force behind the expansion of Islamic fundamentalism among a large segment of the Kuwaiti population during the seventies.⁹³

The strategy of the Islamists was to campaign against the nationalists and leftist groups and take over the place they earned over the years in popular associations and labour organisations and professional associations, etc. They succeeded in taking over the Teachers Association and the National Union of Kuwaiti Students, marginalising in these two organisations the secular trend. They attempted to take over the Association of University Graduates, which is a stronghold for the Nasserists and nationalists, but they were without any success. They also failed to take over the General Confederation of Kuwaiti Workers. However, in the unions that relate to the oil sector they found more success because the majority of workers are of *badu* origin. However, that success was short-lived, because the leftist groups regained control over that sector.⁹⁴

They managed success elsewhere here because their control over the cooperative sector has been complete permitting them to expand their grass

⁹¹ 'Abdulmalik Al-Timimi. 'Abhath fi tarikh al-kuwayt. (Researches in Kuwait History). (Dar al-qurtas, 1998). p.47.

⁹² Tetreault, 1995, op.cit, p.32.

⁹³ Al-Mudyris, 1999, op.cit. p.33.

⁹⁴ Ibid., p.33.

root support. The general manager of the Union of Cooperative Association has described the impact of that control on the sector as *creating sensitivities in the Kuwaiti society and causing people to abandon the sector due to the control and manipulation of the various political trends over the associations.*⁹⁵ The number of seats they gained in the assembly has risen from only one in 1963 to three in 1967, while in the 1971 election they gained two seats and in the 1975 one seat.

In 1976, the Islamists acted contrary to the position taken by most popular associations, the nationalists and merchants, as they did not denounce the dissolution of the assembly. Their silence was rewarded by giving the chairman of the Society for Social Reform a cabinet position in the government that was formed following the dissolution. Their publication *al Mujtam'* (The Society) published the Amiri decree of the dissolution without any comment.⁹⁶ They also did not object to the amendments that the government was proposing to the Constitution that had wide implications for parliamentary life. However, in 1977 the Islamists organised a campaign of collecting signatures for a petition calling for the amendment of Article (2) of the Constitution in order to make the *Shari'a* the only source of legislation in the country, as opposed to being just a major source for legislation.⁹⁷ In other words, they were more interested in furthering their ideological position concerning the application of *Shari'a* rather than in denouncing the proposed amendments of the Constitution which aimed at marginalizing the assembly and extending the power of the executive.⁹⁸

4.3.5 The Shi'ites

As to the *Shi'ites*, their political role prior to the inauguration of parliamentary life was marginal. The assembly gave them the opportunity for formal political participation in a similar fashion to the *badu*. In the election for the first National Assembly they won five seats in the predominantly Shi'ite districts. The Shi'ite

⁹⁵ Interview in Al-Qabas newspaper, Kuwait, September, 3 1993.

⁹⁶ Al-Mudyris, 1999, op.cit. p.33.

⁹⁷ Ibid., p.33.

⁹⁸ Interview with Dr. 'Abdul-muhsan Al-Mad'aj. Durham, July, 2003.

deputies were loyal to the government and they supported cabinet bills including those that restricted individual freedom, public gatherings and press freedom. They also acted as a front against the opposition in the assembly. Along the *badu* deputies they both represented the government block in the assembly.

The representation of the *Shi'ite* in the assembly increased to ten in the second assembly, while in the third they managed to gain six seats and in the fourth assembly they regained their previous strength of ten seats. In 1975, for the first time a *Shi'ite*, Abdul al Mutalib Al-Kathimi, was appointed to the cabinet. The *Shi'ite* deputies came from the most prominent and wealthiest families displaying conservative traditional views and were strongly pro-government.⁹⁹ However, this started to change by the mid-seventies when a group of young liberal *Shi'ite* ran for the first time for the election of the fourth assembly in competition with the old guard under the name the "Constitutional Nationalist Youth". Their programme was primarily geared towards protecting and maintaining the Constitution and democratic life, strengthening the separation of the authorities, and enhancing national unity through justice. The founder of the group was Khalid Khalaf who, during the fifties had played a leading role in the Arab nationalist movement, succeeded to win a seat in the assembly. Although his support for the Iranian revolution would later cost him his citizenship, after liberation his citizenship was fully reinstated.¹⁰⁰

Although the *Shi'ites* elect on sect (a *Shi'ite* candidate would have little chance of winning if he did not depend on his sect votes) the quality of the candidate is very important thus their deputies are well educated and well qualified.¹⁰¹ The reaction of *Shi'ites* deputies to the dissolution of the assembly was mixed. Four out of the ten deputies signed the petition that called for the reinstatement of the assembly, which reflected a change taking place within the *Shi'ite* community.¹⁰² The government continued to rely on the old loyal guard as can be seen from its

⁹⁹ Al-Khalaf, op.cit. p.113.

¹⁰⁰ Ibid., p.113.

¹⁰¹ Jerkhi, op.cit. p. 246.

¹⁰² Al-Mudryis, 1999,b. op.cit. p.34.

appointment of eight Shi'ite in the 35 members committee studying the amendment of the Constitution.¹⁰³

4.3.7 The Liberal Sunnis/ Independents

This group comprises mostly of Kuwaiti professionals and they are the most educated and liberal minded group, adhering to no particular ideology and taking an independent stand on political and social issues.¹⁰⁴ As a group they can be divided among pro-government, pro-nationalists or connected with particular ruling family members. However, they take the lead in the assembly mostly from the merchants and Arab nationalist groups.¹⁰⁵ Their presences in the assembly have been relatively strong, numbering as little as 6 and increasing to having of 14 deputies elected. Among them can be counted four of the most issue-oriented members of the assembly, Ahmad al Sa'doun, Mshari al 'Anjeri, Saleh al Fadhale, and Ahmad al Tukhaim.¹⁰⁶

4.3.6 The Ruling Family

A significant consequence of the oil wealth is the expansion of the political role of al Sabah the ruling family of Kuwait. As described by Crystal:

This political role for the ruling family was an important break with the past. Until oil, the ruling families were not cohesive political institutions; rather, family members were largely excluded from the emir's decisions. With oil, successive emirs strengthened family network's to provide more reliable elite recruitment pools for the increasingly large and bureaucratic government catalysed by oil. The most distant family claimants were eliminated, the less distant

¹⁰³ Kuwait News agency, February 1981.

¹⁰⁴ Salah, op.cit. p.54.

¹⁰⁵ Al-Najjar, 1987, op.cit. p.54.

¹⁰⁶ Al-Khalaf, op.cit. p. 121.

*received increased allowances, the nearer claimants sinecures, and the closest relatives high state posts.*¹⁰⁷

Members of the ruling family who are appointed as ministers become members of the National Assembly *de jure*. The cabinet, as seen from table 4.5, has changed its formation over time. However, one feature has always remained the same and that is that very few cabinet members came from the assembly.

Table 4.5 The Composition of the Kuwaiti Cabinet 1962-1975

	<i>Jan-62</i>	<i>Jan-63</i>	<i>Dec-64</i>	<i>Jan-65</i>	<i>Dec-65</i>	<i>Feb-67</i>	<i>Feb-71</i>	<i>Feb-75</i>
Assembly members	3	2	4	3	3	3	2	2
Outside the assembly (of which)	12	14	11	11	11	12	12	14
<i>Ruling family</i>	12	11	5	5	5	5	3	5
<i>Business men</i>	-	3	4	6	4	4	5	6
<i>Others</i>	-	-	2	-	2	3	4	2
Total	15	16	15	14	14	15	14	16

Source:: Ahmad Abdullah Saad Baz. "Political Elite and Political Development in Kuwait." Ph. D thesis, George Washington University, 1981. p.173.

At the start of the period al Sabah family members dominated the cabinet, however with time their numbers declined in favour of both the merchants and members drawn from the wider community. They still manage to maintain a hold on key cabinet positions; the most important among them being the prime minister, foreign affairs, interior and defence. By providing them with government posts the Ruler, in effect, controlled members of the family as rivals against each other, therefore making them trusted allies for the Amir.

Their influence in the assembly derives not from their numbers, since it is limited but from their posts and their belonging to the ruling family. Their alliance or cooperation with the other groups in the assembly such as the *badu*, merchants and independent deputies give them their legislative importance. However, the presence of al Sabah members in the assembly undermines

¹⁰⁷ Crystal, 1989, op.cit. p. 435.

parliamentary life by them combining both the ruling and governing roles. In addition, it makes the Constitutional right of the assembly to question the ministers much harder if a ruling family member is involved, which create tension and resentment between the two branches of government and this has often happened.

Another factor that contributes to their strengthen and influence is the cabinet itself. The cabinet in Kuwait is one of the most powerful institutions of the state; through it the Amir exercises his powers. The cabinet controls the departments of the state, formulates government policy and executes and supervises the work of all government departments, in addition to the traditional appointment of the Heir Apparent as the prime minister. The cabinet as a whole cannot be subjected to a vote of no confidence in the assembly and only individual ministers can be subjected to a withdrawal of confidence and if such instances occur it may tender for their resignation. The ministers have the right to participate in the debates and they have the right to vote on bills, but they are not allowed to vote if it involves a vote of no confidence against one of their colleagues, or a vote of no cooperation in the prime minister.

4.4 The Levels of Influence of the National Assembly

The levels of influence available to the National Assembly comprises of three levels: attention drawing, warning and sanction as seen in table 4.6. For the first level the means of influence is used in expressing their wishes and discussing public issues. For the second level the means available are to question cabinet members, investigate committees and to request an interpellation. For the third level the means extends to include initiating bills, giving approval or disapproval, giving a no-confidence vote against a minister and, no provide cooperation with a minister.

Table 4.6 The Means of Influence of the National Assembly

<i>Levels of Influence</i>	<i>Means of Influence</i>
Attention Drawing	1. Expressing wishes 2. Discussing public issues
Warning	1. Questioning Cabinet members 2. Investigating committees 3. Requesting an interpellation
Sanction	1. Initiating bills 2. Giving approval or disapproval 3. Giving a no-confidence vote against a minister 4. No cooperation with the prime minister

Source: Jasim Muhammad Khalaf, *The Kuwait National Assembly: A Study of its Structure and Function*, PhD, university of New York, 1984.

The assembly, as seen from table 4.7, has focused on using a low level of influence in its dealings with the government. Even in the fourth assembly, which regularly challenged the government, the deputies used only the method of questioning. However they used it frequently, hence 52 percent of the total number of questioning directed at cabinet ministers took place within one year of the life of that assembly. On the other hand, the fourth assembly saw the highest percent of bills approved, around 38 percent of total bills for the whole period 1962-1976.

Table 4.7 The Frequency of the Use of the Different Means of Influence of the Assembly

	<i>1st assembly</i>	<i>2nd assembly</i>	<i>3rd assembly</i>	<i>4th assembly</i>	<i>Total</i>
Wishes	17	25	12	23	77
Discussions	5	7	6	6	24
Questions	111	74	123	336	644
Bills initiated	28	26	30	32	116
Bills approved	38	35	27	60	160

Source: Jasim Khalaf, *The Kuwait National Assembly: A Study of its Structure and Function*, Ph.D, University of New York, 1984. p192,194,195,199, 201.

Thus, the accusation levied at the assembly by the ruling family of overstepping their limits does not correspond to the types of methods the assembly predominantly used to hold the government accountable. Assembly members have been restrained in their dealings with the government if one is to consider the range of mechanisms that they have had at their disposal to challenge the government. Deputies are aware that the Constitution has given the government more leverage over the assembly and strengthened its hand in its dealings with the assembly. The most important leverage is the right to dissolve the assembly, which the Ruler has used specifically in terms that violated the stipulations of the Constitution. Another level of influence is the appointment to the cabinet. Cabinet members are appointed by the Amir from among both the general public and the assembly. During the period under consideration most of the members of the cabinet came from outside the assembly. Those members are ipso facto members of the assembly in accordance to the Kuwaiti Constitution (see table 4.3). Their participation in the assembly deliberations is constitutionally guaranteed, in addition to participation in assembly committees.

The most extreme level of influence of the assembly is the vote of non-cooperation with the prime minister, which was used only once. That was, as mentioned before, in December 1964, when Sheikh Sabah al Salem al Sabah formed a cabinet that included several businessmen. The opposition of the assembly led to the resignation of the cabinet and the appointment of another one. One of the major reasons for the infrequency of the use of this device is the fact that Prime Minister is the Crown Prince, a very powerful and prestigious figurehead.¹⁰⁸

4.5 The Issues that Dominated the Discussions of the National Assembly

The four assemblies have witnessed some vigorous and competent debates causing discord with the government, which eventually led to the first suspension of the National Assembly in 1976. Many issues were discussed during the period between 1962-1976, but, two stands out as most significantly exemplifying the tension between the executive and the legislative over the

¹⁰⁸ Al-Khalaf, op.cit. p. 105.

function of the assembly. These issues were Kuwaiti's oil policy and the accountability of the government.

1. Kuwait's oil policy/ decreasing Kuwait's domination by foreign oil companies.

This issue dominated debates throughout the period of 1963-75, which is understandable, when considering its centrality to the country. Four particular matters were scrutinised by the assembly: the principle of royalty expensing agreement, the utilisation of natural gas, the participation agreement, and the nationalisation of oil.¹⁰⁹ These debates reveal that the assembly took a serious stand towards challenging the dominant position that oil companies had in Kuwait and demanded a national oil policy that reflects the national interests of Kuwait. The debates also show that a group of deputies had significant understanding of the implication of oil and the oil policy towards the growth and development of Kuwait. Suleiman Al Mutawa', a nationalist member of the assembly, indicated that:

*it is clear that the public interest lies in the amendment of the concession of the oil companies...if work is to be taken seriously, then the agreements signed in abnormal circumstances are not feasible now; if we are really concerned about protecting the public interest then we have to amend the agreements with the oil company which plundered the people's money without any control over it.*¹¹⁰

Principle of Royalty Agreement: The nationalist group introduced a proposal to the government to reconsider the agreements signed with the oil companies working in Kuwait and to give these concessions to the Kuwait National Petroleum Company (KNPC), which was established in 1960 with 60 percent of its capital owned by the government and the rest by public shareholders. The government claimed that the proposal contravened with its commitment to the

¹⁰⁹ Salih, op.cit. p. 55.

¹¹⁰ National Assembly Proceedings, No. 85. 23/1/1965. p.59.

Organisation of Petroleum Exporting Countries, (OPEC) whereby Kuwait cannot take unilateral action against the oil companies.

The first oil bill to be presented to the assembly was the agreement on royalty expensing that was reached between the foreign oil companies and the Kuwaiti government in December 1964. Foreign oil companies in Kuwait determined the price, quantity and where oil would be shipped in exchange for a royalty payment to the government. Since the early fifties, with the rise in the price of oil and an increase in its demand, oil-producing countries began to pressurise the companies for a larger share of the wealth by negotiating better terms for agreements of oil concessions. The debate in the assembly on the agreement revealed, contrary to its proclaimed aim of raising the share of the Kuwaiti government from the sale of its oil, that it worked against the government and in effect diminished government revenues. In the words of one deputy the new agreement is *very dangerous and constituting a new concession favourable to the oil companies.*¹¹¹

Subsequently, the assembly did not ratify the agreement when it was submitted for discussion, in January 1965, despite the request of the government to ratify it as soon as possible to meet the requirements stipulated by the oil companies. Al Khatib protested the way in which the assembly was requested to consider the agreement:

*within only a few days a complex agreement dealing with the vital question of oil, which is being put to the people's representatives for the first time in Kuwaiti's history and one which must have taken the oil companies months of preparation.*¹¹²

Another opposition deputy, Jassim al Qatami, argued that the limitation of time in debating the agreement was intended to put pressure on the assembly into ratifying the agreement without having enough time to study it. He also pointed to the fact that by ratifying it, the assembly is in effect lending Constitutional

¹¹¹ Al-Shayehji, op.cit. p. 139.

¹¹² Ibid., 139

legitimacy to all the previous concessions cleverly embodied in that agreement.¹¹³

There was widespread concern among the deputies over the agreement that a vote over a proposal introduced by al Khatib's group to give the assembly a period of two months to study the agreement passed by a majority of 27 in favour to 13 votes against. The government felt obliged to concede to the demands of the assembly. The minister of finance and industry acknowledged the importance of the assembly's discussion that aimed at safeguarding the interests of the country, and indicated that the government had no intention to push the assembly to ratify an agreement as it was not convinced of its merits. However, in the second national assembly - where opposition groups were absent and the assembly was a more pliable instrument in the hands of the government, the agreement was ratified with very little discussion.¹¹⁴

The absence of the nationalists from the second assembly transferred the conflict with the government and oil companies to the nationalist weekly journal *al Tali'a*. The journal, from 16 January 1966 until its suspension 4 May 1966, kept publishing articles concerning the oil industry in Kuwait and focused on sensitive issues such as the attitude of the Kuwait Oil Company towards Kuwait national company, the cost of the production of oil, the debt of oil companies to the government and the methods of payments of foreign oil companies etc...¹¹⁵ The detailed discussion of the oil industry and the workings of foreign companies led to an awakening in the public to oil affairs. The situation is described concisely in the following words:

During the four months of the press attack by al Tali'a on the oil companies and the government, the average man in Kuwait in particular and in the Gulf region in general was becoming interested

¹¹³ Ibid., p.140.

¹¹⁴ Ibid., p.167.

¹¹⁵ Al-Mudyris, 1987, op.cit. p.206.

*in the writings of the journal on oil and gas affairs. In fact, it served as public seminar on very important subjects.*¹¹⁶

Utilisation of Gas: The assembly, on several occasions had been pressing the government to put pressure on oil companies to utilise the massive production of gas that is associated with the production of oil. Initially the oil companies were reluctant to do so and argued that the costs are too high for such an operation. However, in March 1971, an agreement was reached with the government to utilise the gas through the construction of an extensive facility for the production of liquefied natural gas and other derivatives such as propane and butane. The assembly expressed serious reservations concerning the agreement because it gave more benefits to the oil companies than to the Kuwaiti government.¹¹⁷ Despite these reservations, the agreement was eventually ratified.

Participation Agreement: When the participation agreement over oil, which was reached in January 1973 between the British Petroleum Company and the Gulf Oil Company, was referred to the third assembly for ratification, but criticisms of its stipulations were rife. During that assembly, the opposition was determined to put pressure on the government into adopting a more assertive oil policy aimed at ensuring Kuwait's control over its oil industry. Four members of the nationalist group and three young members of merchant families led the debate in the assembly. These seven deputies (al Khatib, Sami al Manays, Abd Allah al Naibari, Ali Al Ghanim, Abd-al Mutalib al Kathimy and Salim al Marzuq and Badir al Ajeel) were educated and very knowledgeable and were able to argue their case effectively.¹¹⁸ In addition to that, extensive press coverage also helped to mobilise popular support for the hardening of the position of the assembly towards the agreement.

Deputy Ali al Ghanim reminded the government that participation does not merely mean increasing in the share of revenues but also entails the

¹¹⁶ Ibid., p.262.

¹¹⁷ Salih, op.cit. p.64.

¹¹⁸ Shuhaiber, op.cit. p. 192.

participation of the management and the control of oil production, industry, transportation and marketing.¹¹⁹ Abdullah al Naibari pointed to the fact that the agreement had no stipulation that assures any future nationalisation of the oil companies.¹²⁰ These remarks indicate that the deputies viewed the issue of participation as including the control of the Kuwaiti government over its natural assets and the overall oil policy.

Another major criticism levied at the agreement by the deputies was the agreement's legal vagueness and conceptual complexity. Deputy Badir al Ajeel took up specific articles in the agreement and exposed their difficulties which he argued, served to disguise the interests of the oil companies.¹²¹ Other deputies pointed out some of the economic drawbacks of the agreement, especially in terms of the revenues generated by the government and control over the management of the country's most vital asset. They emphasised that it reflects the interests of Western countries, especially the US, rather than the national interests of Kuwait. Deputy Ahmad al Nifisi argued that the agreement fits US needs, since it guarantees the flow of oil at prices that will remain low, and ensures that Kuwait cannot, in the near future size the control of its oil production.¹²² Deputy al Khatib argued clearly this political aspect of the agreement, by indicating that:

The only strategic importance of the region lies in oil and oil alone. The era of military bases of the parading of fleets or of hegemony is over. What America needs most today is oil, enough oil to satisfy its own needs and those of its Western allies and it wants it at reasonable prices in order to ensure Western industrial growth and development. In addition, the US wishes to see the oil producing countries keep the funds they receive for their oil in safe deposit

¹¹⁹ National Assembly Proceedings, No 103. 13/2/1973. p. 25-27.

¹²⁰ National Assembly Proceedings, No 103. 13/2/1973. p. 33.

¹²¹ Abdo I. Baaklini. And Abdulwahab Alia. " The Role of National Assembly in Kuwait's Economic Development: National Oil Policy. In Legislatures in Development. Joel Smith and Lloyd Musolf (eds) Durham. N. C. Duke University Press 1979. p. 10.

¹²² National Assembly Proceedings, No.293. 2/6/1973. p.117-118.

*there in America. This is the main aim of American policy in the region...The safeguarding of this vital interest to the West.*¹²³

The assembly's highly critical stand against the agreement forced the government to announce its intention to renegotiate the agreement and declared the agreement as suspended. The government to some extent welcomed the intense opposition coming from the assembly and used it as leverage in dealing with the oil companies.¹²⁴ The crown prince, and prime minister, Sheikh Jaber al Ahmad al Sabah, acknowledged the role of the assembly by declaring:

*We note the constructive discussions your honourable Assembly has held over the question of oil participation, which were aimed at realising the public good by safeguarding our natural resources and their proper investment. In light of these discussions, and as a result of basic changes, which have taken place in the world's oil situation, we have decided to take initiative in reconsidering the content of the agreement.*¹²⁵

The renegotiated agreement gave Kuwait a 60 percent share as opposed to the original 40 percent, with the right to acquire the remaining share by 1979 instead of 1982. The new and more concise agreement, with only eight articles, was presented again to the assembly in 1974. The agreement tackled some of the concerns expressed by the assembly, although it fell short of attaining full national control over oil. Thus, some deputies remained unconvinced and maintained that nationalisation should take place immediately and indicated that the renegotiated agreement has not tackled its basic drawback centring on the restrictions of government's rights for the full management of its oil.¹²⁶ Subsequently, 20 deputies abstained from voting while 31 voted for the agreement and two voted against it. The government continually resisted the

¹²³ National Assembly Proceedings, No. 110. 13/2/1973. p.25-26.

¹²⁴ Baaklini, 1979, op.cit. p. 40.

¹²⁵ National Assembly Proceedings, No. 143. 4/7/1973. p. 67.

¹²⁶ Baaklini, 1979, op.cit. p. 32.

idea of naturalisation on the grounds that Kuwait lacked the trained local staff in the fields of oil production, marketing and distribution.

Nationalisation of Oil: The issue of nationalisation was reactivated in 1975 by the opposition as they asserted that it was the only way to preserve Kuwait's national strategic commodity. Despite the improvement in the participation agreement, the oil companies remained in charge, since they controlled 76 per cent of the votes of the board of directors. The government, before the proposal of the opposition was submitted for discussion, introduced a bill calling for nationalisation. By doing that, it has been suggested that the government was motivated to prevent the opposition from taking credit for such a proposal.¹²⁷ The government also realised from the experience of Iraq and Libya that nationalisation does not produce any setbacks and subsequently embarked on nationalising its oil industry. Following an earlier proposal by the assembly and in recognition of the importance of oil to the national economy, the government took the decision in 1975 to separate the oil and finance sectors. The Ministry of Finance was subsequently divided into two ministries, one for finance and the other for oil.

2. Accountability of the Executive to the Assembly

Accountability of the government is one of the major functions of a legislative body and is most difficult to execute while maintaining a cooperative and effective relation with the government. The Kuwaiti case is further complicated by the fact that the ruling family wants a debating assembly with no real muscle or influence. Subsequently, there were clashes with the government over many issues and new laws characterised the first stage of parliamentary experience. Three examples shall be discussed, namely, cabinet formation, promulgation of anti democratic laws, and independence of the judiciary.

Cabinet formation; One of the most interesting incidents, especially because it was instigated by loyal supporters of the ruling family, concerns what became known as "the crisis of Article 131" or "the first Constitutional crisis in Kuwait".

¹²⁷ Salih, op.cit. p. 65.

On December 6, 1964, a majority of 31 deputies, (mainly tribal and Shi'ite) led by Khalid al Mas'ud objected to the newly formed cabinet because it included businessmen whose membership of the cabinet was seen as a direct violation of Article (131) of the Constitution. The Article states that:

While in office, a minister shall not hold any other public office or practice, even indirectly, any profession or undertake any industrial, commercial or financial business. Further, he shall not participate in any concession granted by the Government or by public bodies or cumulate the ministerial post with membership of the board of directors of any company. Further, during the said period, a Minister shall not buy or take on hire any property of the state even by public auction, nor shall be let, sell or barter any of his property to the Government.¹²⁸

These ministers were Humid al Nisf, the Minister of Public health, 'Abd al Latif Thunayyan, the Minister of Public works, 'Abd al 'Aziz al Shafi, the Minister of Electricity and Water, Muhammad Ahmad al Ghanim, the Minister of Justice, and Abd al Aziz Hussein, the Minister of State.

The debate over the Article became a very heated confrontation leading to the resignation of the crown prince, prime minister. According to al Najjar, the reasons for this collective action was a result of a diversity of intentions with virtually each member of the group having their own purpose for opposing the government, especially that only a handful of the group were in fact members of the opposition, while the majority were pro-government supporters. Some had a genuine grievance against the adequacy of the cabinet, while others were taking a stand for personal rivalries and finally others were connected with particular members of the ruling family – those opposed to the National Assembly.

The Amir, Sheikh Abdullah al Salem, had two choices either to accept the recommendation of the prime minister and dissolve the assembly or form a new

¹²⁸ See Kuwait Constitution, appendix A.

cabinet taking into consideration the assembly's views. He opted to save the assembly and a new cabinet acceptable to the assembly was subsequently formed on 3 January 1965. Tabataba'i suggests that there was no Constitutional violation in either the appointment of the prime minister or in the appointment of the cabinet. Article (131) prohibits combining a ministerial position with a private sector position rather than not choosing individuals that are from the business community or who come from the private sector.¹²⁹ Subsequent to this event a committee was formed to study the legality of private sector individuals participating in the cabinet. Their conclusion was that the Article does not prohibit such individuals from becoming cabinet members, but it is clear that a combined position in the executive and private sector may lead to conflict of interest; hence such an individual must suspend or resign his private sector activities while holding a government position.¹³⁰

The nationalist members of the assembly considered that the cabinet "crisis" was contrived and had nothing to do with the interest of the people or the protection of the Constitution. They believed that rather was is conflict over power, influence and the distribution of cabinet positions.¹³¹ They defended this view on fact that the new approved cabinet included leading merchants such as Khalid 'Isa al Salih, the minister of public works, 'Abdullah Mishari al Rodan, the minister of *awqaf*, Abdullah Ahmad al Sumait, the Minister of Electricity and Water, and 'Abd al 'Aziz Ibrahim al Fulaij, the Minister of Public Health. That led the nationalist member of the assembly, Jassim al Qatami pose, when the new cabinet members were taking their oath of office, the relevant question:

*Is the Article 131 of the Constitution preserved now? And does Article 131 not apply to the new cabinet? Or was the previous objection not because of applying Article 131? And are the new cabinet members not in business while in office?*¹³²

¹²⁹ Al-Tabataba'i, op.cit. p.324.

¹³⁰ Ibid., p. 327-330.

¹³¹ National Assembly Proceedings, No.67/D, 5/2/1965. p.11

¹³² National Assembly Proceedings, No.88/65, 5/1/1965. p.5.

The crisis reflected dispute among the ruling family about representation of al Salim and al Jaber's faction in the cabinet, since more weight was given to al Jaber's faction on the expense of al Salim.¹³³ The cabinet also included assembly members and other ordinary Kuwaitis which some members of the al Sabah family did not approve of.¹³⁴ As a result of this debacle the president of the National Assembly 'Abd al 'Aziz al Saqar resigned while accusing some cabinet members of being behind the crisis cooperating with the group of 31 deputies.¹³⁵ Al Saqar represented the merchant group who sympathised with the nationalists. His resignation was a great loss to the nationalists - especially because the new president, Sa'ud al 'Abd al Razzaq was one of the 31 deputies who caused the resignation of the cabinet in the first place.

Anti-democratic Laws: Another area of contention between the government and the assembly came after the death of Amir Abdullah al Salim, in 1965. A shift became clear in the ruling family attitude towards the issue of political participation and the assembly, increasing the influence of ruling family members who oppose the assembly. The appeal of the nationalist movement in Kuwait increased significantly, with its emphasis on creating democratic institutions and changes in the minds of the masses. Trade unions, student unions, social clubs and societies and the national press supported the nationalists in the assembly by issuing statements of support, holding seminars and leading demonstrations.¹³⁶

This situation led the government to re-assess its desire to establish democratic institutions and widen democratic practices. Thus, before the end of the first legislative term the government introduced legal amendments in order to limit political activities and restrict individual rights. The nationalists in the assembly objected to these amendments and walked out of the assembly in protest

¹³³ National Assembly Proceedings, No.88. 5/1/1965. p. 55.

¹³⁴ National Assembly Proceedings, No.67. 5/2/1965. p.57.

¹³⁵ National Assembly Proceedings, No.67. 5/2/1965. p.57.

¹³⁶ Al-Mudyris, 1987, op.cit. p. 272-273.

describing these laws as “laws against freedom and democracy”.¹³⁷ The government co-operated with the conservative group in the assembly and were able to pass these laws. All of which in some form or another undermined the Constitution by violating or restricting the freedoms guaranteed by its stipulations. The nationalists accused the government of turning *the legislative authority from an instrument belonging to the people in order to enhance freedom...to an instrument in the hands of the government to limit and suffocate individual and public freedom.*¹³⁸

Moreover, the Union of Kuwaiti Workers which was dominated by the nationalist movement was attacked by the Interior Ministry, and its pamphlet was confiscated and banned. The movement’s student organisation also came under attack and its pamphlet was again confiscated and banned, In addition, the editor of the *al Tal’ia*, a non-Kuwaiti was deported. The government deported many of non- Kuwaiti members of the Arab nationalist movement and the Palestine Liberation Organisation, and imposed more restrictions on foreign workers in general.

As a result of the government’s intensified attack on the movement, the nationalist assembly members, Ahmad al Khatib, Rashid al Tawhid, Ali al ‘Omar, Suleiman al Mutawa’, Jassim al Qatami, Sami al Manays, Yagoob al Humaidhi and ‘Abd al Razzaq al Khalid submitted their resignation from the assembly. In their letter of resignation they stated;

It is clear that the real objective behind the behaviour of the government and its supporters, and the preceding procedures is the attempt to abort the democratic experiment and to counterfeit the people’s will and to get rid of every national element, which refuses to follow the government’s orders...and by this the National Assembly has been converted to a non-democratic institution and a resource for aggressive laws which do not satisfy the people’s will. For this reason our continuity in the Assembly and our participation in

¹³⁷ National Assembly Proceedings, No.91/3 p.11.

¹³⁸ Al-Mudyris, 1999,b. op.cit. p. 34.

*its tasks is a participation in misleading the citizens and deluding them that democracy still exists while it is a forgery and that the Constitution is protected while its articles were attacked.*¹³⁹

These resignations were accepted by the National Assembly except by a number of deputies from the merchant group who backed the nationalists and accused the government of ignoring criticisms.¹⁴⁰ They include Abd al Aziz al Saqar, Rashid al Farhan, Yousef al Mukhlid, Humud al Nusaf, and Muhammad al Rashid. A statement made by the council of ministers about the resignations accused the nationalists of being guided by personal interests and their objective was to increase their public popularity.¹⁴¹

The independence of the judiciary: Another important issue that caused a rift between the government and assembly was over the role of the judiciary. The assembly tried to pass a law that grants the Supreme Council of the Courts the right to review the Constitutional status of any government administrative order. The Amir fearing a reduction on his authority vetoed the law. With the kind of support the government mustered in the assembly it would have been very difficult for the opposition to have the two-thirds vote which was needed to override the Amir's veto. However to overcome that, the assembly attempted to obtain a second vote during the new parliamentary session where only a simple majority would be needed.¹⁴² The dissolution of the assembly ruined the chance of a second vote.

The four assemblies have witnessed some energetic debates and at times strong confrontations with the government. However, the opposition remained weak and unable to prevent the government from implementing policies that restrict and undermine democratic practices in the country. Voting patterns showed that on economic and foreign issues, in general, the opposition was

¹³⁹ National Assembly Proceedings, No.130. 21/9/1965 p.2-6.

¹⁴⁰ National Assembly Proceedings, No.130. 21/9/1965. p.6-13.

¹⁴¹ Al-Mudryis, 1987, op.cit. p. 276.

¹⁴² Shafeeq Ghabra. "Voluntary Associations in Kuwait: The Foundations of a New System" Middle East Journal. (Vol.45. No. 2 Spring 1991) p. 205.

able to get the support of the majority of the assembly, including the *badu* deputies. However, on other issues such as freedom of press, freedom to hold public meetings and processions or to form associations, the traditional view prevailed in support of the government.

Another reason attributed to this failure is that deputies differed in their view of which authority the assembly needs to check. The opposition believed that they need to check the power of the government, while the deputies representing Kuwait's middle class and the *badu* believed that it was the power of the merchants to do that, and that the opposition's duty is towards upholding the rights of the low-income group in the society. The majority of the latter live in the *badu* areas in what is called the "out districts" of Kuwait.¹⁴³ The strong presence of merchant members in the opposition made it very difficult for the opposition to win the support of the *badu* and Kuwait's middle class. Another reason for the weakness of the opposition, as noted by Baaklini, is that:

*these groups were powerful in mobilising protests and adopting rejection positions, but to retain their adherents they tended to outbid each other with extreme positions. When the situation demanded a positive program or the undertaking of compromises, as all legislative politics demand, these groups were incapable of organised collective action. It led to the polarisation of politics, confrontation, and eventual dissolution of the legislative assemblies.*¹⁴⁴

However, one must not forget that polarisation of politics in Kuwait and inability for unified action is caused by the very nature of the assembly. Its deputies are returned on a tribal, sectarian and ethnic basis representing narrow interests and therefore, restricted aspirations. Also, it is important to note that the manner in which the government attacked individual freedoms and restricted popular associations, press, unions etc...does not allow for the society to develop democratic practices that will eventually be reflected in the assembly.

¹⁴³ Shuhaiber, op.cit. p.145.

¹⁴⁴ Abdo I. Baaklini. "The Legislature in the Kuwaiti Political System". Occasional Paper Series. (Albany: Comparative Development Studies Center, State University of New York, Albany, 1976). P.374.

4.7 Conclusion

The first phase of implementing the representative system of government in Kuwait as stipulated in the Constitution, exhibited several important features that show the limitations of this experience and the problems inherent in the process of establishing a democratic political process in the country. The most important issue includes firstly the dominant influence of tribe, sect and family affiliations due to legal structures; primarily the election law and also the banning of political parties. These two factors make politics become personal rather than institutional and when voting behaviour is based on sectarianism and tribalism undermines a democratic electoral process by focusing debates within a parochial frame of serving the segmented interests of each group involved. The government is the major beneficiary of the sectarian and tribal vote to counteract the nationalist/secular opposition. More importantly it stunts the development of an alternative power well base that might pose a serious threat to the rule of al Sabah.

Even when the opposition does not pose a threat, the ruling family felt the need to protect its autocratic power from the encroachment of the assembly. Thus, al Sabah during the first stage of Kuwait's parliamentary experience twice intervened in order to safeguard their own power. The first time they intervened was by rigging the 1967 elections of the assembly and the second time was by taking a more drastic measure of suspending the assembly on the grounds that it was supposedly undermining internal stability. However, it can be argued that in effect, the assembly was only exercising its Constitutional right and asserting its authority to the detriment of the authority of the executive.

The rising power of the *badu* has been an important element in the consolidation of the authority of the Kuwaiti ruling family especially in the assembly. This mobilisation of the *badu* has its historical roots and it is an alliance that provides mutual benefits; the *badu* gain access to jobs, housing,

medical and educational service as well as infrastructure services, while in return, al Sabah enjoy their loyalty and support in the parliament. This increased influence of the *badu* in the parliament enhanced tension between *hadhar* and *badu* Kuwaitis because the *hadhar* see the *badu* being as a mere instrument in the hands of al Sabah, while the *badu* see the *hadhar* as immediate rivals.

Chapter Five

The First Suspension of the Kuwaiti National Assembly and the Interlude of 1976-1981

5.1 Introduction

The Kuwaiti Constitution organises the relationship between state powers following the tradition that rejects the absolute form of the separation of powers. It advocates the control of the relation based on checks and balances. As Markesinis states: *A complete separation of functions comes into direct conflict with the elements of unity that characterises the theory of the modern state.*¹ Thus, each power must be provided with a mechanism that enables it to check and balance the authority of the other. For instance, the Kuwaiti Constitution has provided the government with many devices in order to counter the power of the assembly. These devices includes the organisation of general elections, appointments to the cabinet, participation in the assembly deliberations, access to information that helps it dominate the policy process and also the balance between ministerial responsibility with the right of dissolution of the assembly. As indicated *the theoretical justification for the dissolution - perhaps the only one the Constitution ever had - was obviously to maintain the equilibrium of functions and powers.*²

¹ B. S Markesinis. The Theory and Practice of Dissolution of Parliament: a Comparative Study with Special Reference to United Kingdom and Greek Experience. (Cambridge: University Press, 1972). p. 25.

² Ibid., p.27.

This specific device stands out as the most influential in the relations between the legislative and executive because if misused, it can be most damaging to the development of a democratic system of government. The appropriate use of this device is of even greater importance in the context of a country such as Kuwait, where the representative system is still undeveloped and democratic practices have not yet been established.

This chapter will discuss the first dissolution of the assembly against what has been set in the Kuwaiti Constitution, as well as assessing the political context of the dissolution. The purpose of this analysis is to reveal the existence of a structural problem in the relation between the assembly and the executive, which allows the executive to dominate and to even ignore the Constitution. This is primarily due to the immense power the ruling family have as a result of oil wealth that makes all social groups in the society highly dependent on the state, thus weakening any opposition and their activism against the executive. It is this factor that, in practice, gives the executive the huge leverage over the legislative and even over the Constitution and has been responsible for the limited success of establishing the representative system of government in Kuwait, as it was envisioned in the Constitution.

5.2 The First Suspension of the National Assembly

Dissolution means an act of the executive, which dismisses the legislative body, and refers a disputed case to the electorate, the supreme arbitrator of the state.³ Dissolution is devised to offer an escape route from a crisis by appealing to the political sovereign, to the popular will of the people.⁴ In other words, its purpose is to sound out public opinion by engaging them in a new election. The Kuwaiti Constitution is very clear on this. Paragraphs one and two of Article (107) of the Constitution stipulate that:

³ Muhammad Al-Moqatei. "A Study of the Kuwaiti Constitutional Experience: 1962-1986). Ph. D Thesis, University of Warwick, 1987. p. 303.

⁴ Ibid., p.304.

The Amir may dissolve the National Assembly by a decree in which the reasons for the dissolution shall be indicated. However, dissolution of the Assembly may not be repeated for the same reasons.

In the event of dissolution, elections for the new Assembly shall be held within a period not exceeding two months from the date of dissolution.⁵

Further protection is given to the assembly in case the Amir does not abide by this safeguard and hold elections within a short period of time. Thus if the executive fails to carry new elections the dissolution is considered null and the assembly shall be restored and continue to function until new elections are held. Paragraph three of Article (107) states:

If the elections are not held within the said period the dissolved Assembly shall be restored to its full Constitutional authority and shall meet immediately as if the dissolution had not taken place. The Assembly shall then continue functioning until the new Assembly is elected.⁶

Taking into account the above mentioned stipulations of Article (107), the first suspension of the National Assembly is noted by a clear breach of the Constitution. Amir Sheikh Sabah al Salim, in accordance with his Constitutional right, suspended the fourth National Assembly on 29 August 1976, following the resignation of the cabinet. However, he did not call for new elections but instead, announced the intention to revise the Constitution. In his message to the people of Kuwait explaining the reasons of the suspension, he accused the assembly of misusing its powers and causing divisions and instability in the country. To that effect he declared:

⁵ See Kuwaiti Constitution, appendix A.

⁶ Ibid.

*I address you today with a great ache in my heart and a sense of overwhelming sadness over the deterioration in the situation of our dear country...matters grew from bad to worse day after day until we almost reached a dead end. This state of affairs we reached in the name of the Constitution which was issued to protect the unity and stability of the homeland and to provide democracy for this loyal nation. True democracy is innocent of what has been happening, with the unity and stability of the homeland having been exposed to so many shocks. If we all fail to take a firm and stern attitude towards what has been happening, matters may take such a turn as only God would know the extent of.*⁷

The Amir justified his order to revise the Constitution based on an obligation as the father figure and guardian of all Kuwaitis and the one who acts in their best interests. In other words, the Amir appears to be bound more by a traditional tribal duty rather than bound by the Constitution. He stated:

*As I am the head of responsibility in this good and loyal country and have taken an irrevocable oath to protect it against all that might threaten its unity, stability and existence, and as I consider myself a father to all of you whose duty it is to look after you and provide you with security and prosperity, I find myself compelled in these difficulties to issue an order for the revision of the Constitution so that we may be spared the state of affairs which has developed in the shadow of the Constitution of 11 November 1962.*⁸

It is interesting to note that the main reason the Amir gave for the revision of the Constitution is the safeguarding of democracy, despite his action being a breach of the Constitution, which is the ultimate guarantee of democracy. He maintained that:

⁷ The Amir's National Address by the Sheikh Sabah al Salem al Sabah on 29/8/1976

⁸ Ibid.

*We all have faith in sound democracy and freedom upon which successive generations of our people have been nurtured and which stem from our very being. And so that we may not lose our democracy of which we shall always be proud and in order to allow freedom to continue in our country in a firmer and more stable basis and in order to enable all our people to enjoy this freedom and aspire to a better future, we have issued the aforementioned decision.*⁹

The Amir's message to the nation gave general reasons for which he felt obliged to dissolve the assembly. However, the letter of resignation of the prime minister, Jaber al Ahmad al Sabah, gave four specific reasons for the collapse of the relation between the cabinet and the assembly. These reasons include the assembly's procrastination on bills, false charges against ministers, regional circumstances, and the security of the country. The government subsequently, found itself in an impossible situation, described by the prime minister in the following terms:

*It has become impossible for me and my colleagues to continue progress towards the fulfilment of the goal which you laid down for us. The reasons for that are manifold, including the failure to process draft laws which accumulated in the Assembly over a long period of time and most of which failed to see the light of day despite their vital importance to the interests of the citizens. Most of the meetings held by the Assembly were unproductive and the casting of unjustified and the levelling of false charges against the ministers and those in responsible positions became the main concern of many of the assembly members...Furthermore, the delicate and critical circumstances through which our areas and the Arab world in general are now passing require quick decision-making on many critical issues and the promulgation of legislation which will safeguard the security and the economy of this country.*¹⁰

⁹ Ibid.

¹⁰ Ibid.

The inconsistency in the government's attitude is reflected in the dramatic change in the cabinet position over the assembly in a period of forty days, moving from extreme appreciation of the cooperative relation between the two organs of state power to discontent over the total lack of cooperation. At the closing session of the second session of the fourth National Assembly the deputy prime minister, Sheikh Jaber al Ahmad Sabah delivered a speech in which he emphasised such an appreciation by noting:

It is my pleasure at the last meeting of the second ordinary session of your venerable assembly, to thank all of you, for the continuous great effort given by you during this session. An effort that concluded with the marvellous achievement of the greatest number of bills, as mentioned and recognised by the Speaker of the Assembly. It is my pleasure, particularly to recognise the large degree of fruitful cooperation between the Assembly and the Government in establishing democratic methods in our country, the main objective of course for our insistence in respecting such principles was our belief that it is the best method of creating security, justice and welfare state for our dear people.¹¹

These points raised suggest that the grounds given by the cabinet for its resignation and consequently the Amir's reasons for the dissolution appear less convincing to say the least. Combined with the five stipulations included in the Amiri decree for the revision of the Constitution, a very different picture emerges. Indeed, it is one that emphasises the desire to avoid accountability and to maintain the dominance of the executive while undermining the legislative branch of government. These stipulations specify:

1. The suspension of articles 56(3), 107, 174, and 181 of the 1962 Constitution. The dissolution of the assembly and the assumption of the functions vested in the National Assembly, by virtue of the Constitution, to the Amir and the Council of Ministers.

¹¹ National Assembly Proceedings, No. 19. 18/7/1976.

2. The issuing of laws as Amiri decrees and which may, if necessary, be issued by Amiri orders.
3. The announcement that a decree shall be issued providing for the formation of a committee of experts to undertake the revision of the Constitution with the view of eliminating the shortcomings which appeared during the application of the Constitution, and ensuring sound democratic government and safeguarding national interest and stability.
4. The Constitution committee shall submit its recommendations to the Amir after their approval by the Council of Ministers. The revised Constitution shall be then put, within a maximum period of four years, to a national referendum or submitted to the next National Assembly for approval.¹²

The suspended articles are those that are designed specifically to keep the executive authority in check. Paragraph 3 of Article (56) limits the total number of ministers to one-third of the number of the National Assembly members. Article (107) stipulates that in the event of the suspension of the parliament, elections for the new assembly must be held within two months from the date of the dissolution. Article (174) gives the power of the right to propose the revision of the Constitution to both the ruler and one-third of the members of the assembly, and if the principle of the revision and its subject matter is agreed the assembly shall debate the amendments article by article. Article (181) stipulates that no provision of the Constitution can be suspended except when martial law was in force, and that under no circumstances may the sessions of the assembly be suspended.

By suspending these articles the Amir has in effect removed all the essential controls provided by the Constitution on the power of the government and removed the mechanisms that are designed to prevent the Amir from intentionally dissolving the assembly for more than two months and from revising the Constitution without the approval of the assembly. It is apparent that these articles were designed to achieve a balance among the leading

¹² Middle East Economic Survey. Vol. XIX No. 46. Sep. 6, 1976.

political institutions in Kuwait, the ruling family, government and legislative. A breach in any of these articles creates a huge imbalance in the relation between the executive and legislative, sets a precedent and - most importantly - completely undermines the assembly.

The suspension, therefore, is both a political violation of the right of Kuwaiti citizens to participate in the decision making process and, more importantly, a Constitutional one. Despite the promise to restore the assembly within four years the very act undermines the legitimacy of the system and reduces the assembly's protection from the Amir's mandate.¹³ The violation of the Constitution revolves around three major breaches. First, with regard to the form, the dissolution violated three articles of the Constitution: Article (54), Article (55) and Article (107). The Constitution specifies that the Amir must use the technique of an Amiri decree to dissolve the assembly (an Amiri decree needs to be countersigned by a competent minister) since the Amir is immune and inviolable and he exercises his authority through his ministers.¹⁴ It follows that an Amiri decree without being countersigned loses its legitimate form since, from a Constitutional point of view the action of the dissolution was taken by an unauthorised organ of the government, and therefore, lacks legitimacy.¹⁵ Respect of the Constitution means respecting the source of government's power and acting outside the limitations set by that source leads to challenging the legitimacy of the government.

Second, the suspension of some articles of the Constitution was also an illegitimate action, since the Constitution laid down the exceptional circumstance for that in article (181).¹⁶ That article stipulates that no provision of the Constitution may be suspended except when martial law is in force, and under no circumstances shall the meetings of the National Assembly be suspended, added that, the immunities of its members shall not be interfered

¹³ J. E. Peterson, The Arab Gulf State: Steps Toward Political Participation. (New York: Praeger, 1988).p.40-41.

¹⁴ Al-Moqatei, op.cit. p.345-346.

¹⁵ Ibid., p.346.

¹⁶ Ibid., p.346.

with during such period. Third, the dissolution decree also violated the Constitution in terms of the procedures for amending. These procedures are complicated in order to safeguard against any abuse of the system.¹⁷ Either the Amir or one-third of the National Assembly shall have the right to propose the revision of the Constitution. Then the principle of the revision and its subject matter must be approved by the Amir and the majority of the assembly. The assembly after that, can debate the bill article by article. Approval of a two-thirds majority vote is needed to pass the bill, which can then be sanctioned and promulgated by the Amir.¹⁸

It is clear from the above discussion that the Amiri decree was unconstitutional, and undermined the legitimacy of the whole system of government in Kuwait. Such a bold decision was brought about by factors that neither the Amir, nor his prime minister mentioned. The following section shall focus on analysing these factors.

5.3 Regional and Domestic Considerations for the Suspension

Considerations, other than those officially acknowledged by the Amir and the prime minister, that played a role in the decision to suspend the assembly relate to a combination of regional and domestic factors. This section will elaborate on these issues and show how Kuwait has been extremely vulnerable to the absence of democracy in other Arab Gulf states and how its experiment with a representative system of government presented a threat to those states. The discussion will also show that al Sabah's resistance to accountability, which is the basis of the representative system, was a prime reason for the suspension.

¹⁷ Mohammed Al-Moqatei. "The Amendment of the Constitution of Kuwait." MA thesis, University of San Diego, California, 1984. p. 97

¹⁸ See Article (174) of the Kuwaiti Constitution for details of the procedures of amendment, appendix A.

5.3.1 The Regional Environment

The threat that Kuwait posed as a model of democracy to other Arab Gulf states is not to be taken lightly. That is why some have suggested that the dissolution of the assembly actually happened because of external pressure on al Sabah especially from Saudi Arabia, which has been *the biggest adversary of the Kuwaiti National Assembly*.¹⁹ Al Sa'ud felt vulnerable by the Kuwaiti experiment because of the country's lack of individual and public freedoms and the undemocratic nature of their regime. The increased criticism of al Saud in the assembly and the inability of al Sabah to check the rhetoric of the opposition in the assembly and in the press forced al Saud to step up pressure on Kuwait to curb its democratic experience.²⁰ This is not the first time that al Sabah yielded to the pressure of al Sa'ud. The Kuwaiti Council of 1938 was partly dissolved due to pressure from Saudi Arabia because al Sa'ud were afraid that his own people would ask for a similar one. The reaction of al Saud to the dissolution of the fourth National Assembly was one of relief and full support to al Sabah's action.²¹

Other Arab Gulf states were also openly discussed and criticised in the Kuwaiti National Assembly, the press and at public meetings and these states did not want Kuwait to become a model which would coerce them to grant their own citizens similar rights. Citizens of some Gulf states such as Bahrain and UAE have been demanding that their governments should follow the example of Kuwait and elect a National Assembly.²² Bahrain is a case in point, to mention in detail.

The demands for political participation in Bahrain were strongly vocalised in the fifties. The Bahraini government ignored these demands and used repression in order to deal with them. However, in 1972, following independence, the

¹⁹ Jasem Mohammad Jerkhi. "The Electoral Process in Kuwait: A Geographical Study". Ph. D, thesis, University of Exeter, 1984. p. 365.

²⁰ Ibid., p. 389-390.

²¹ Al-Seyassah Newspaper, Aug. 31, 1976.

²² Jerkhi, op.cit. p. 373.

Ruler promulgated Law No/12/ 1972, regarding the establishment of a Constituent Assembly to draft a Constitution for the country. There were similarities in the experience of Bahrain and Kuwait in terms of the formation of the constituent assembly being partly popularly elected and partly appointed and in some of the restrictions applied in the Constitution to naturalised citizens and women.²³ The Kuwaiti legal advisor 'Othman Khalil 'Othman was sent to Bahrain to assist in the drafting of the Constitution. Bahrain had its first elected assembly on 7 December 1973 which consisted of 30 elected members with the cabinet, similar to the case in Kuwait in having ex officio membership, which brought the total number to forty four members.²⁴

Within two years, tension mounted between the government and the assembly over a new law issued in December 1974 giving the government the right to arrest and imprison for three years without trial any person suspected of disturbing national security. The assembly was furious and insisted that the law must be modified before its implementation. The law acted as a catalyst which opened up a wide debate in Bahrain about issues of security and the state of emergency. The government felt under pressure and weakened, so in May 1975 it withdraws from the assembly session, effectively adjourning the meetings. In August of the same year the Ruler dissolved the assembly and it has remained that way since.²⁵

In the assessment of M. Herb, the short experiment of parliamentary life in Bahrain failed because al Khalifa did not want to pay the moderate cost of sharing some of their power with the parliament, and because of the encouragement by al Saud for them to close it.²⁶ After the closure of the parliament, al Saud gave al Khalifa a grant of \$350 million.²⁷ The dependency

²³ Ibid., p.376.

²⁴ Emile A. Nahkleh. Bahrain: Political Development in a Modernizing Society. (Lexington: Lexington Books, 1976). p. 128.

²⁵ Jerkhi, op.cit. p. 379-380.

²⁶ Michael Herb. All in the Family: Absolutism, Revolution, and Democracy in the Middle Eastern Monarchies. (New York: State University of New York Press. 1999).p. 174.

²⁷ Abdeed I Dawisha. "Saudi Arabia's Search for Security," Adelphi Paper, (No. 158.) (London: International Institute for Strategic Studies, 1979). p. 20.

of al Khalifa on the Saudi subventions (Bahrain has less oil than other Gulf states and relies on Saudi Arabia to shore up its economy to the tune of hundred of millions of dollars annually) has maintained al Khalifa's aversion to liberalise and the reopening of the parliament.²⁸ Al Sa'ud has been an impediment to the development of democracy not only in Kuwait but also in Bahrain. The resistance of ruling families in the Gulf states to concede some of their powers remains the most significant obstacle to the development of more democratic systems of government within all of these states.

However, under the influence of the Kuwaiti experience, some Arab Gulf states were stimulated to introduce measures that open up channels for political participation of their citizens, such as the consultative councils that have been set up in Qatar, UAE and Oman. Although these councils were appointed with no real powers and only have an advisory function, they can at least provide a forum for public debate on key issues. Saudi Arabia remained immune to this pressure, although al Saud has recurrently promised to appoint a *majlis*. In 1962, the first promise for this came after the revolution in Yemen, on the accession of King Khalid in 1975 and following that another came on the accession of King Fahad in 1982 and another in the wake of the seizure of the Grand Mosque of Mecca in November 1979.²⁹ However, despite all of these promises, it was not until 1993 that al Sa'ud set up an appointed *Majlis al Shura* with a low public profile and a limited influence on policy.³⁰ Its usefulness lies in maintaining contact between al Sa'ud and the people and a defence against those that advocate greater democracy along the Kuwait lines and those who favour the rule of the Wahabi *ulema*.³¹

²⁸ Harb, op.cit. p.177.

²⁹Riad Najib El Rayyis. Riyah al-sumum: al-su'udiya wa duwal al-jazira ba'da harb al-khalij 1991-1994. (The Poison Wind: Saudi Arabia And Peninsula States After the Gulf War 1991-1994) (London: Raid El Rayys Book, 1994).p. 152.

³⁰ Herb., op.cit. p.169-170.

³¹ Ibid., p.170.

5.3.2 The Domestic Environment

Most of the friction between the executive and the legislative emanated from the assembly's attempt to carry its function of checking the authority of the executive and the accountability of the government. Al Sabah and cabinet members, whether from the ruling family or ordinary Kuwaitis, avoided and resisted being held accountable by the deputies. The fourth assembly witnessed an intense frequency of personal attacks against cabinet members; the accusation of ministers of using their posts purely for personal gains, and criticisms of the political and economic domination of Kuwait by the ruling family and a small influential circle of merchant families.³² These were some of the major domestic reasons that the Amir took into consideration when deciding on the dissolution. A second reason is related to the increased opposition of the assembly on a number of domestic and foreign issues. The liberal and democratic experience of Lebanon with its freedom of expression, press and association has been seen as a source that contributed to the Lebanese civil war. Considering the increased freedom of expression in the assembly and the press in Kuwait, there was fear among the ruling family that it might lead to more fragmentation and total disorder in Kuwait. To that effect the crown prince, and prime minister, Jaber al Ahmad al Sabah, claimed that;

The freedom of press has no value if has is not been performed with a sense of responsibility...The press deserves freedom if it proves capable of assuming responsibility...By responsibility we mean working for the national interest, promoting love and solidarity in the society, and preserving the pride and dignity of others and avoiding acts of blackmail...The political, economical and social conditions of a beloved sister country (Lebanon) did necessitate the adoption of a democratic system. But this political system has been abused as it has been utilised by the various political factions to facilitate foreign intervention. The end result was a civil war, which wrecked the entire political system. There were attempts by some forces to transfer this conflict to Kuwait - by making use of the democratic atmosphere here

³² Abdo I. Baaklini. Legislative Politics in the Arab World: The Resurgence of Democratic Institutions. (Boulder, Colorado: Lynne Rienner Publishers, 1999). p.181.

- and in turn to bedevil this peaceful country as they did that sister state.³³

The closer ties developing between Kuwaiti opposition groups and opposition groups in the rest of the Arab world worried the Kuwaiti government because of its effect on complicating its relation with key Arab countries. Of particular concern to Kuwait was the resolution passed by the assembly condemning Syria's military intervention in Lebanon and calling for a severing aid to Damascus.³⁴ Kuwait also feared that domestic opposition might be encouraged by foreign countries to disrupt the existing political order.³⁵ The unabated criticism of the Kuwaiti press of some Arab countries caused huge embarrassment to the Kuwaiti government. That might explain the action taken against the press in Kuwait on the same day that the assembly was dissolved, as the main local opposition newspapers: *al Watan*, *al Tali'a*, *al Risala*, and *al Hadaf* were also suspended.³⁶

For the first time sharp criticism was specifically levied at the ruling family itself, a development that al Sabah felt threatened by. One major reason for this is attributed to the increased involvement of al Sabah in business and their taking advantage of their position at the expense of other local merchants and businesses in general.³⁷ Another is the increased disenchantment with favouritism and the widespread corruption that was afflicting Kuwaiti society. The "assertion of parliamentary authority" had come to pose a serious threat to the al Sabah autocratic rule and they had the choice to either accept a reduced role in running the affairs of the country or dissolve the assembly.³⁸ The al Jaber branch of al Sabah has not been strongly committed to democracy in

³³ Kamal Osman Salih, "Kuwait: Political Consequences of Modernization, 1750-1986." Middle East Studies. (Vol. 27. No. 1. January 1991). p. 57-58.

³⁴ Ibid.

³⁵ Jill Crystal. Kuwait: The Transformation of an Oil State. (Boulder: Westview, 1992). p.97.

³⁶ Kadhim Mahdi Al-Bahrani. "Factors Influencing Ruling Elites Political Participation in the State of Kuwait". Ph.D. thesis, University of Denver, 1988. p. 160.

³⁷ Baaklini, op.cit. 1999. p. 181.

³⁸ Avi, Plascov. Security in the Persian Gulf, Modernization, Political Development and Stability. (England: Gower Publishing Company Limited, 1982). p. 152.

Kuwait and has tried to undermine the assembly before by rigging the 1967 election. Thus they looked at the situation as an opportunity to clip the wings of the assembly.

Al Najjar suggests that three factors helped the Amir to take the decision of dissolving the assembly, without apprehension of serious repercussions. Firstly, the expansion in the stock market following the 1973 quadrupling of the price of oil, involved a large segment of the Kuwaiti population in making a lot of money, which caused them to become far less interested in the fate of the National Assembly. Secondly, the government did not expect any significant resistance or confrontation from the Kuwaiti opposition group because it has become divided. Thirdly, the change in the ownership of the *al Anba* daily newspaper to an ultra-right merchant in January 1976 significantly helped the government. The paper launched a consistent and continued attack on the assembly demanding directly and indirectly that it should be dissolved.³⁹ Al Nifisi also points out that to the slandering of the National Assembly by the government and their blaming it for undermining the unity of Kuwaitis was one of the main reasons for the acquiescence of the Kuwaitis in any reaction to the suspension. He noted that:

the regime put into the minds of the people ...that the majlis did not serve the public good and that it rent asunder the "united family" (al-usra al-wahida)...Many people on the eve of the suspension of the National Assembly were thinking in this way because they were victims of the campaign to smear the image of the National Assembly undertaken by the regime through the various means available to it. It was the regime who gauged out the eye of the assembly from the beginning and then ran behind it hurling insults, clapping its hands, and shouting: cripple...cripple...⁴⁰

³⁹ Ghanim Al-Najjar. "Decision-Making Process in Kuwait: the Land Acquisition Policy as a Case Study." Ph. D thesis, University of Exeter. 1987. p.68-70.

⁴⁰ 'Abdullah Al-Nifisi. *Al-kuwayt: al-ra'y al-'akhar*. (Kuwait: the Other View). (London: Taha Advertising, 1978). p. 117.

Thus, a combination of regional and domestic pressures forced al Sabah to take the decision to suspend the assembly, which was increasingly seen as an obstacle to maintaining good relations with other Arab states and maintaining the authority and absolute power of al Sabah. The confidence of al Sabah that Kuwaitis were too involved in making their own money and were not too mindful to the fate of the assembly eased their way forward for taking such a decision. The following discussion shall reveal that the government was actually right in its assessment of a mild opposition to the suspension of the National Assembly.

5.4 The Aftermath of the Suspension

The fourth National Assembly had in its hand a simple but powerful mechanism to counter the measure taken by the government by putting the provision of Article (107) into action. This article, as mentioned before, gives the assembly the power to restore its full Constitutional authority and meet immediately as if the dissolution had not happened if the elections for the new assembly were not held within the stated period of two months from the date of dissolution. However, the assembly, despite its illegal dissolution did not take that action, nor did the assembly - whether as an institution or as individuals - challenge the dissolution before the Constitutional Court, which has the power to revoke any unconstitutional act or regulation.⁴¹ This is consistent with the attitude of the opposition in Kuwait of not escalating situations with the government into confrontation with possible serious consequences. The economic dependence on the state of all major social groups of the society is another significant factor contributing to this reluctance. The livelihood of the merchants, the *badu* and the middle class of Kuwait largely depends on the distributive function of the state with the oil revenues. That sort of leverage in the hands of the ruling authority gives it an immense scope of power without worrying too much about consequences.

Thus, and as the government had anticipated, criticism and protests against the suspension of the assembly were very limited. Two major statements were

⁴¹ Al-Moqatei, op.cit. 1987. p 352

issued denouncing the move. The first came from a group of professional associations including the Lawyers Association, Journalists Association, Literary Society, Independence Club, Teachers Association, the Kuwaiti National Student Union, and the General Confederation of Kuwaiti Workers. In their joint statement they expressed:

*The way forward to achieving real reform of the Constitution and provide security and stability and good living to Kuwaiti people should have been carried through democratic means and by getting rid of the practices that undermine democratic life primarily the movement of voters from one district to another, the incitement of sectarian tribal and ethnic feelings, turning a blind eye to the widely accepted practice of bribery that corrupts and restricts public freedoms.*⁴²

As been seen, they shifted the focus onto the government and highlighted the fact that it was the government to blame for the state of parliamentary life, since it allowed the movement of voters from one district to another, turned a blind eye to bribery and used naturalisation for voting purposes. They criticised the illegitimacy of the procedures taken by the government that undermined Constitutional rights and democratic life and demanded a return to legitimacy and Constitutional rule, and safeguarding the democratic benefits that Kuwaiti people have gained over the years.⁴³

The second statement came few months later, signed by eighteen deputies of the dissolved assembly, and was addressed to the prime minister, Jaber al Ahmad al Sabah, and the content concerned the same issues. Their letter contained nine main points. The first five points focus on emphasising the government's violation of the articles of the Constitution by its dissolution of the assembly; the suspension of some articles of the Constitution and the promulgation of laws that contravene the Constitution. In addition, they reminded the government that the basic tenet of the political system as stipulated in Article (6) of the Constitution is democratic, under which

⁴² The Statement of Kuwaiti Civil Associations Concerning the Suspension of the National Assembly in 1976.

⁴³ Ibid.

sovereignty resides in the people, the source of all powers, and that sovereignty is exercised in the manner specified in the Constitution. The rest of the points raised pleaded for restoring the assembly because of its centrality to democratic life in Kuwait.⁴⁴

The statement defended the performance of the assembly by arguing that despite the existence of some negative aspects to democratic practices, the assembly had been able to legislate 60 laws and to convene 66 sessions. Its various committees had also been able to convene 250 sessions studying more than 362 issues and preparing 202 reports, in addition to accepting quite a number of recommendations annexed to the reports of various committees and the different issues that were debated in the assembly.⁴⁵ Considering this, it is difficult to accuse the assembly of causing delays and having an ineffective relation with the government. The statement also reminded the government of the positive role the assembly played in attempting to maintain the unity and security of the Kuwaiti citizens through its continuous demands to fight corruption, crime, bribery, nepotism and provide equality and justice to all citizens. More importantly the statement argued that the assembly had a *leading role in maintaining national unity and in restraining tribalism and sectarianism and in proposing legislation if it was passed would have eliminated quickly both sectarianism and tribalism.*⁴⁶

Some blame the collapse of the relation between the government and the assembly on the opposition group, believing that it went out of its way to be combative.⁴⁷ Regardless of the level or intensity of combativeness, the Amir could have made the as being people the judge of the situation by calling for an election within two months, especially as that is what the Constitution requires. The aim was not just to overcome a difficult period between a combative assembly and the executive, as the suspension was more geared towards protecting the influence and privilege of the executive who see any sort of

⁴⁴ The Statement by National Assembly Members, Addressing to the Crown Prince, Prime Minister Sheikh Jaber al Ahmed al Sabah, Concerning the Suspension of the National Assembly in 1976.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Harb, op.cit. p. 164.

accountability as damaging to its authority, and subsequently it is unacceptable. Within this context it is interesting to note how Sheikh Jaber Al Ahmad, describes his vision of the type of democracy that Kuwait should aim for. He aimed toward achieving:

*A democracy which seeks to narrow social differences among citizens, and which guarantees equal opportunity to all...A democracy which does not discriminate among a city, a suburb, a village, or an island in public utilities projects or services... A democracy which would reform the state apparatus...A democracy which would result in a representative assembly which represents all groups of people...A democracy in which an assembly member is the deputy of all the people and represents the entire homeland, who is not restricted to a group or sect to which he belongs. One who works for the good of all the people regardless of the wishes of his constituents, basing his views on research and serious study, and rising above defamation and avoiding the exploitation of his position for his own personal interest.*⁴⁸

It would be very difficult to find a Kuwaiti who would disagree with Sheikh Jaber. However, it is the structures that the state creates and condones that are responsible for deepening divisions in the Kuwaiti society, and hindering the development of the representative system of governance. These structures are the result of a highly restrictive citizenship law and election law that emphasises divisions along traditional lines of affiliations, consequently creating an institution that represents influential families and tribes, and segmented interests of the different social groups in Kuwait.

Apparently there has been no serious political repercussion to the suspension in terms of an activism on the part of the deputies or Kuwaitis against the government. Any discontent was expressed in the mildest form of public statements. One must take note of the fact that the government had silenced the opposition press and dissolved all politically active clubs. That immensely

⁴⁸ Journal of Gulf and Arabian Peninsula Studies. Kuwait University. Vol. 11. No. 8. October 1976.

aided in muting any opposition voice. Despite the absence of political consequences of the suspension, there have been serious Constitutional implications. Al Moqatei summarizes the fundamental changes the government enforced by its unconstitutional dissolution of the assembly and the suspension of some articles of the Constitution:

*an inner-coup undertaken by the government against the people to force an extreme change in the Constitution from a democratic Monarchy into a Semi-absolute Monarchy where popular participation through the National Assembly ceased to exist and was replaced by the Amir and cabinet's own decision in state affairs.*⁴⁹

Subsequently, during the period between 1976-1980, executive power and legislative powers were in the hands of the Amir and his cabinet, thus violating the enshrined concept of separation of power of the Kuwaiti Constitution. More importantly, Moqatei argues that the period between the date of the suspension of the Constitution and the announcement of restoring the National Assembly, 1976-1980, represents a departure from the first period of parliamentary life, 1963-1976, and a new basis for the legal-political system. The first period was based on a contract enacted by the Constituent Assembly and sanctioned by the Amir. However the second period was formulated by the Amir and therefore could be called a grant (gift) Constitution.⁵⁰ This legal position explains why some Kuwaitis see the representative system of government as a gift from the Amir rather than a right stipulated, and guaranteed in the Kuwaiti Constitution.

The ability of al Sabah to disregard the Constitutional implications of the suspension is due to a great extent to the dependence of the Kuwaiti citizens on the state, making it much stronger *vis a vis* opposition and citizens. The benefits the state provides to its citizens are massive and government transfers to the private sector are equally important. These transfers occur through three mechanisms: current expenditures, land purchases and capital expenditures. As seen in Table 5.1 wages and salaries represent the largest single item of current expenditures. They have more than tripled over a period between 1974-

⁴⁹ Al-Moqatei, 1987. op.cit. p.356.

⁵⁰ Ibid., p.358.

1980, although their share of total domestic expenditure has declined. That is due to an increased importance of land purchases and development expenditure. As seen from Table 5.2, land purchases constituted on average a third of capital expenditure. That not only inflates the cost of development projects but is also not the most effective mechanism to distribute public funds. However, land purchases have been an effective way of amassing enormous private fortunes.⁵¹

The Kuwaiti civil service is overstaffed due to the government's policy of guaranteeing a job in the public sector to its citizens. The number employees in the civil service exploded during the seventies and reached more than 48,000, as seen in Table 5.3. Within a decade the number of Kuwaitis employed in the civil service more than doubled. That excludes those working in government institutions that have independent budgets. There are no augmented accounts for all those employed in the state sector. Thus, the actual numbers are much higher than what the above numbers suggest. More interesting, a look at table 5.4 indicates that the growth of the number of non-Kuwaitis employed in the civil service was actually higher than that of Kuwaitis nationals.

⁵¹ Fakhry Shehab. "Kuwait: a Super Affluent Society." Foreign Affairs. (Vol. 42. No. 3). April 1964. p. 469-470.

Table 5.1 Summary of domestic Expenditure

(KD millions)

	1973/74		1976/77		1979/80	
	KD	Percent	KD	Percent	KD	Percent
Current Domestic Expenditure						
Wages and Salaries	197.5	44.2%	368.2	26.0%	645.4	28.8%
General Expenses	66.4	14.9%	314.3	22.2%	453.1	20.3%
Domestic Transfers and Unclassified Payments	17.0	3.8%	63.5	4.5%	97.9	4.4%
Land Purchases	19.4	4.3%	108.4	7.6%	330	14.7%
Development	70.2	15.7%	353.1	24.9%	650.9	29.1%
Local Loans	13.7	3.1%	35.2	2.5%	-	-
Contributions to:						
Shares in Local Companies	45.8	10.3%	51.6	3.6%	-	-
Government Financial Institutions	16.6	3.7%	123.5	8.7%	60	2.7%
Total	446.6	100.0%	1417.8	100.0%	2237.3	100.0%

Source: Central Bank of Kuwait, Economic Report for 1980.

Table 5.2 State expenditure on Property Acquisition and Revenue from Sales of State Owned Property

Years	Expenditure on Property Acquisition	Percent of Development Expenditures	Property Sales Revenue
	(KD millions)	(%)	(KD millions)
1964/65	45.0	50.00%	2.5
1965/66	29.2	38.20%	1.5
1966/67	10.0	12.30%	2.0
1967/68	30.0	33.70%	1.5
1968/69	17.0	29.50%	1.5
1969/70	10.0	14.80%	1.8
1970/71	25.0	33.00%	1.7
1971/72	29.7	33.00%	1.6

Source: Statistical Abstract, 1968 & Statistical Abstract 1972.

Table 5.3 Development of Government Post Civil Servants

Years	Total	Non-Kuwaiti	Kuwaiti
1965/66	69,520	42,639	26,881
66/67	76,479	43,842	32,637
67/68	79,669	44,695	34,974
68/69	70,325	45,138	25,187
69/70	70,922	44,391	26,531
70/71	77,170	48,282	28,888
71/72	87,032	51,977	35,055
72/73	93,417	54,118	39,299
73/74	95,099	54,855	40,244
74/75	103,951	60,611	43,340
75/76	113,274	67,852	45,422
76/77	128,508	80,387	48,121
77/78	133,653	85,325	48,328
78/79	136,111	87,709	48,402

Source: Annual Statistical Abstract, Ministry of Planning, 1980.

Table 5.4 Development Index of Government Post Civil Servants

(Base Year 1965/66)

Years	Total	Non-Kuwaiti	Kuwaiti
1965/66	100.00	100.00	100.00
66/67	110.00	100.50	121.40
67/68	114.60	104.80	130.10
68/69	101.20	105.90	93.70
69/70	102.00	104.10	98.70
70/71	111.00	113.20	107.50
71/72	125.20	121.90	130.40
72/73	134.40	126.90	146.20
73/74	136.80	128.60	149.70
74/75	149.70	142.10	161.20
75/76	162.90	159.10	169.00
76/77	184.90	188.50	179.00
77/78	192.30	200.10	179.80
78/79	195.80	205.70	180.10

Source: Annual Statistical Abstract, Ministry of Planning, 1980.

5.5 The Continued Suspension of the National Assembly

An important factor that played a role in the continued suspension of the assembly has been the regional environment. The mid-seventies and the early eighties saw the eruption of three major conflicts: the Lebanese civil war, the Iranian revolution and the Iran-Iraq war. The Lebanese civil war had a strong impact on Kuwait by al Sabah's fear of the similarities they saw in the situation of the two countries. The similarities were summarised as follows:

Both countries are small states, surrounded by strong and competing neighbours (Israel and Syria in the case of the Lebanon and Iran and Iraq in the case of Kuwait). Each has a strong neighbour with historical territorial claims upon it (i.e., Syria in the case of the Lebanon and Iraq in the case of Kuwait).⁵²

Other reasons for seeing such a parallel includes the fact that both countries have a large presence of Palestinians, a vocal press and a parliament, that made al Sabah perceive there to be a linkage between the violence that erupted in Lebanon and its liberal democracy and sectarian politics.⁵³ These similarities prompted al Sabah to use the Lebanese war as a justification for the continued suspension of the assembly, as well as to actively seek a peaceful solution to the war and to contribute in Arab mediation. However, the Israeli invasion of Lebanon in the summer of 1982 and its aftermath have effectively ended all Arab and Kuwaiti efforts to solve the Lebanese crisis.⁵⁴

The Iranian revolution led to a dramatic change in Arab-Iranian relations, which has been characterised by increasing hostility and insecurity.⁵⁵ For Kuwait, the change of the regime in Iran was particularly worrying. During the 1960s and 1970s the Shah's rule served as a counter force to Iraq and was seen as a

⁵² Abdulaziz Al-Fayez. "The National Security of Kuwait: External and Internal Dimension". Ph.D thesis, University of Massachusetts, 1984.p.333.

⁵³ Abdullah Kalifah Al-Shayehi. "Democratization in Kuwait: The National Assembly as a Strategy for Political survival." Ph. D, thesis, University of Texas, Austin, 1988. p. 260.

⁵⁴ Al-Fayz, o.cit. p. 335.

⁵⁵ Ibid., p.222.

friendly power and a potential ally in case of an Iraqi attack.⁵⁶ Initially, as understood by other Arab states, the Iranian revolution was seen as *an Iranian internal affair deserving a close and cautious attitude*.⁵⁷ This cautious attitude was exemplified by the fact that in February 1979 the Iranian embassy in Kuwait was the first to recognise the new regime in Iran and in July of the same year, Kuwait's foreign minister paid his first visit to the Islamic Republic.⁵⁸ By doing this, the Kuwaiti government was hoping to keep the revolution as a foreign policy issue and not to influence Kuwaiti Shi'ite, and subsequently influence Kuwait's domestic politics. Al Sabah relied on the established leading Shi'ite families, such as the al Kathimy, Marifi, Bahbahani and Qabazad, to control the *Shi'ite* community. However, the mass appeal of the revolution and the domestic consequences of encouraging sectarianism were underestimated by the authorities in Kuwait.⁵⁹ Slowly the *Shi'ite* community became much more politicised and mosque sermons became more political than theological, and lead to the emergence of a new set of leaders. In response to this the Ministry of Religious Affairs ordered prayer leaders to restrict themselves to preach on only religious topics and avoid making comments on politics, inter-Arab disputes and criticism of people or factions.

At the start of the agitation of the *Shi'ite* community, the Kuwaiti government maintained the position that Kuwaiti *Shi'ite* are loyal, and the problems were caused by outside agitators who wanted to destabilise Kuwait. However, in September 1979 an incident took place, which changed all this. A religious leader, Ahmad al Mohri, openly supported the Iranian revolution, which the ruling authority in Kuwait took as being a direct threat to its internal unity and security. The government subsequently arrested al Mohri and charged him with making seditious speeches at a mosque and quickly deported him and his family to Iran.⁶⁰ This was followed by a crackdown on workers that lacked

⁵⁶ Ibid., p.221.

⁵⁷ Al-Bahrani, op.cit. p.201.

⁵⁸ Crystal, 1990, op.cit. p.137.

⁵⁹ Crystal, 1992, op.cit.100-101.

⁶⁰ Al-Bahrani, op.cit. p. 162-163.

proper documents and thousands of them were deported.⁶¹ The increasing hostile tone of the Iranian Islamic regime towards Arab Gulf states and its influence on inciting *Shi'ite's* activism in support of the Iranian regime coincided with another development that added a further complication to Kuwait's already vulnerable situation.

The eruption of the Iran–Iraq war on 22 September 1980 represented a direct threat to the stability and security of the Gulf region because it involved the two most powerful states in the region. It involved political ideological differences; religious differences in Sunni–*Shi'ite*, and nationalistic differences in Arab versus Persian.⁶² The Iraqi regime's misadventure ended up in causing the longest war in the region with costs that have involved millions of lives, several million people injured and billions of dollars in damage.⁶³

The war had serious security and economic repercussions to Kuwait in particular, considering its geopolitical position. These are summarised by Assiri as:

1. The war zone was only 150 miles from the centre of Kuwait city; bombardment and smoke could be heard and seen in Kuwait
2. Kuwait needed to walk a tightrope because any position it took would potentially alienate either a domestic constituency or regional forces.
3. Kuwait's economic well being was threatened by the war because of its dependence on re-exports of commerce to the two warring states and the safety of the shipment of its crude oil.
4. The fall of Iraq would open the door for Iran into other Gulf states, next in line would well be Kuwait.⁶⁴

⁶¹ Crystal, 1992, op.cit p.116.

⁶² Al-Bahrani, op.cit. p. 203.

⁶³ Ibid., p.203.

⁶⁴ Abdul-rada Assiri. Kuwait's foreign Policy: City-State in the World Politics. (Colorado: Westview Press, 1990). p. 70.

Taking these serious consequences into account, Kuwait, although it officially maintained a neutral stand, was supportive of Iraq in a variety of ways. It kept its commitment to the 1972 and 1978 transit agreements with Iraq, which allowed commercial and military equipment to be shipped through Kuwaiti ports to Baghdad.⁶⁵ As part of the Gulf States financial subsidy to Iraq to prop up its defences and its economy, Kuwait provided around \$13.2 billion of this between 1980-1988.⁶⁶ Kuwait and Saudi Arabia, when Syria shut the Iraqi oil pipelines through their territories in 1982, agreed to sell some 300,000-350,000 barrels of oil per day from their neutral zone on behalf of Iraq. Kuwait's share of this war relief subsidy was estimated to reach around \$7.2 billion in total between 1983-1988.⁶⁷ On another important front the Kuwaiti media provided one sided interpretation of the war in complete support of Iraq. Public support for the two warring factions was based on sectarian and ethnic grounds: the Sunnis and Arabs supported Iraq, while the Shi'ite and some Kuwaitis of Persian origin supported or sympathised with Iran.⁶⁸ The sectarian polarisation of the Kuwaiti society deepened. The Arab nationalist movement in Kuwait played a significant role in demanding and maintaining such a strong support to Iraq because of a fear and belief that Iran will dominate the region not on religious ground but on nationalistic grounds, Persian supremacy in the Gulf region was unacceptable to them.⁶⁹ Iraq was to be given unlimited support in order to avoid such an eventuality.

The tense regional and domestic situation was accompanied with an increased occurrence of political protests and violence in Kuwait. The relatively peaceful period of 1961-1978 was replaced by a tense and violent escalation of confrontation with the authorities. As seen from Table 5.5, political protests and acts of violence as a consequence of the Iranian revolution escalated. During

⁶⁵ Ibid., p.70.

⁶⁶ Ibid., p.70-71.

⁶⁷ Ralph King. "The Iran-Iraq War: The Political Implications". Adelphi Papers, (No. 219) (London: International Institute for Strategic Studies, 1987). p. 18.

⁶⁸ Assiri, op.cit. p.73.

⁶⁹ Al-Bahrani, op.cit. p. 207-208.

the period of 1968-1975, Kuwait had eight such incidents in comparison to 70 during the period of 1976-1981.

Due to this worrying political and security situation the importance of the paramilitary forces and the police force was increased. The police force were supplied with the latest anti-riot control equipment, and the National Guard, border guard, palace guard and reserve forces were provided with an estimated manpower of 15,000-17,000.⁷⁰ The Ministry of Interior budget increased from KD 8.7 million in 1963/64 to KD 49.6 million in 1975/76 and was raised to KD 70.3 million in 1980/81.⁷¹

On another front, Kuwait attempted to rely on regional cooperation to protect its security and sovereignty. During the 1960s and the 1970s, many bilateral and multilateral agreements between the Gulf states were concluded in the fields of economics politics, social and cultural affairs. In 1976, a meeting in Muscat of the foreign ministers of the eight Gulf states failed to reach an agreement on the issue of regional security because of differences in their views, especially concerning Iran and Iraq.⁷² In December 1978, Kuwait's crown prince and Prime Minister, Saad al Abdullah, visited the six Arab Gulf states to discuss issues related to Gulf security. This was followed by an important meeting of foreign ministers in Taif, Saudi Arabia, in October 1979. During that meeting, the issue of "mutual defence and political stability" was central to the discussion as a result of Iranian threats to their prosperity and stability.⁷³ This process of consultation culminated on May 25 1981 with the creation of the Gulf Cooperation Council, GCC, in a meeting of the heads of the six Arab Gulf states in Abu Dhabi the GCC was established to a:

recognition that special relationship, similar characters, and political identification bind these states together. Its goal is to generate

⁷⁰ Assiri, op.cit. p.86.

⁷¹ Ibid., p.86.

⁷² al-Mustagbal al-'arabi. Vol.4. No. 31. 1981. p.38.

⁷³ Journal of Gulf and Arabian Peninsula Studies. Kuwait University. Vol.5. No. 18. April 1979. p.11-12.

*coordination in all fields of economic and social spheres, and to achieve coordination, integration and linkages in all fields.*⁷⁴

Despite this emphasis on all fields of coepration, the GCC's main focus was on developing mutual defence structures including a rapid development force, air defence, transport and procurement as well as internal security pacts between all member states except Kuwait. This will be elaborated with further details in the next chapter. Suffice it is to say that public outrage in Kuwait prevented the Kuwaiti government from becoming part of this pact. However, the military alliance with the other Gulf States was highly desired by the Kuwaiti government to compensate for its limited military capabilities and its small population. Kuwait's concern over its military capabilities to meet any challenge from its two powerful neighbours focused its attention since the mid-seventies on developing its military capabilities. The first seven year Defence Development Program, enacted in 1976, had a budget of \$1.5 billion and called for the establishment of a naval base, a military college, and authorised arms purchases from a variety of sources, plus the expansion of the existing military infrastructure in general.⁷⁵ The Kuwaiti government in the period between 1961-1988 spent around \$25 billion on building its military capability.⁷⁶

Despite this expenditure Kuwait's military capability remained limited and was highly dependent on foreign personal. One expert assessment of its ability to fend off against an external threat was estimated to be around two to three days until help from outside would arrive.⁷⁷ The speed with which Kuwait fell to Iraqi military attests to this. Cooperation with the GCC was meant to compensate for this limited capability. However, it increased Kuwait's dependence on Saudi Arabia without being able to provide the needed military protection.

⁷⁴ Kuwait News agency, Gulf Cooperation Council. (Kuwait: KUNA, January,23 1983).p. 6.

⁷⁵ Assiri, op.cit. p. 72.

⁷⁶ Ibid., p. 78-79.

⁷⁷ Ibid., p. 88.

Table 5.5 Examples of Political Protests and Violence in Kuwait for the Period 1979-1981

1979	1980	1981	1982
September 26, Sayed Abbas Mohri, Khomeini's special envoy in Kuwait, and 18 members of his family have their citizenship rescinded and are deported to Iran.	April 29, Assassination attempt on Iranian foreign minister, Sadeq Qotbzadeh, in Kuwait.	March 28, Explosions in 5 different places in Kuwait; no casualties.	February 26, Kuwaiti airliner hijacked at Beirut airport; no casualties.
November 21, Bomb threat at al Hamra movie theatre.	May 2, Kuwaiti diplomat shot and wounded in Tehran.	March 28, Explosions at the office of the Iranian Shipping Co.; 1 person dies.	March 8, Bomb threat at the Hilton Hotel.
November 30, U.S. embassy is the target of several thousand anti-US Shi'ite demonstrations.	May 21, two bombs exploded in front of Iran Air Office in Kuwait no casualties.	April 30, Kuwaitis seismic research ship Western Sea is confiscated by Iranian authorities; released May 19, 1981	May 1, Bomb threat at a high school.
	June 1, Bomb explodes at the London Office of Kuwait Oil Co.; no injuries.	June 13, Three Iranian aircraft attack the Abdali border post.	May 9, Bomb threat at Mubarak al Kabir hospital
	June 4, Iranian embassy in Kuwait is damaged by explosives; no injuries.	June 25, Explosions in oil storage facilities in Shuaiba; damage estimated at \$ 50 million. Fire put out after 2	May 10, bomb threat at the Ministry of Foreign Affairs.
	June 11, Three Iranian aircraft violate Kuwaiti air space.	June 26, An attack against Kuwait embassy in Beirut; material damage.	May 17, Bomb threat at Kuwait T.V. station.
	June 26, attack at the Kuwaiti embassy in Beirut; material damage.	August 25, Bomb threat at Kuwait airport.	October 28, shi'ite demonstration after an Ashura celebration in Kuwait. One Iranian and others arrested. Exchange of protests between
	July 24, Two Jordanians hijack Kuwaiti airliner en route from Beirut; no injuries.	August 30, Bomb threat at Kuwait's Telecommunication centre.	October 30, Bomb explodes in a public park in a residential area; little damage.
	September 12, Explosion at Al Rai Al-Aam newspaper building; 1 person dies and 6 are injured. Damages estimated at K.D 4 million.	September 1, Bomb threat at Kifan Cooperative Society (a supermarket).	December 9, Explosions at Kuwait Airways office in Athens; little damage.
	September 20, Kuwaiti freighter, al-Farwaniah is attacked by Iranian machine guns en route from Basra to Kuwait.	October 19, Iranian aircraft attack a petroleum complex at Um al Eish.	
	September 21, Kuwaiti freighter Ibn Abdoun is attacked by Iranian guns en route from Basra to Kuwait.	December, Bomb threat at Kuwait's Central Bank.	

The above discussion suggests that the position which al Sabah took during a difficult regional and domestic situation proved that political participation and stability and security are incompatible. Therefore, the National Assembly can be sacrificed for the sake of maintaining stability of the country. This position is rather worrying because Kuwait's geopolitical situation is unlikely to change and subsequently the most important long term mechanism to guarantee its security and stability depends on enhancing the importance of the assembly as a national institution that represents the interest of Kuwaiti citizens - regardless of their sect, tribe or family, and it will safeguard the independence of Kuwait.

5.6 The Kuwaiti *Diwaniyya*

The suspension of the assembly has illustrated how public political space, although protected by the Constitution, can be violated by the state through the power of the Amir. More importantly such a violation creates a void in the political process that needs to be filled by other means available to the people to express political opinions, and debate important issues. In that context, alternative forms of protected space become highly significant. Although Kuwaitis acquiesced to the suspension of the assembly, their need to express their opinions on current domestic and regional issues remained of utmost importance to them.

In Kuwait, there are other forms of protected space which do exist and these, according to Tetreault, constitute two types of social places that are protected by tradition and law from having any intrusion by the state. The first is the home and by extension the family and kin-based institutions and associations such as the tribe, the family business and the *diwaniyya*.⁷⁸ The second is the mosque, which is a public space but has an extensive protection from state intervention, primarily because it is sacred. In the Arab region, the mosque has acquired a special place for mass political mobilisation. In this section, it is useful to concentrate specifically on the *diwaniyya* due to its unique place in Kuwaiti society, especially in comparison to other Gulf states. The mosque and Islamic

⁷⁸ Mary Ann Tetreault. Stories of Democracy: Politics and Society in Contemporary Kuwait. (New York: Columbia University Press, 2000).p. 62.

influence over the politics of Kuwait during this period was still marginal. It started to play a much larger and more important role in the late seventies as shall be seen in the next chapter.

One comprehensive definition of *diwaniyya* has been employed by al Kandari who describes it as being an:

*unofficial social group special for men and not woman. It is considered a cultural symposium in which all matters concerned with daily affairs are discussed. It is a place for expressing opinions and exchanging speeches. It deals with all social, literary, sport, political, and scientific matters of the country as well as the outside world. It has the status of a parliament, as opinions are frankly expressed and officials are evaluated.*⁷⁹

Although, as this definition reveals, the *diwaniyya* has an all encompassing importance for Kuwaitis, its true significance lies in its function as an outlet through which political debate and opinions can be expressed, especially at times during the absence of the assembly and also during national elections.

The concept of *diwan* comes from Islamic society. Caliph Omer Ibn al Khattab (the second of the four caliphs) was the first to establish the *al Diwan* as a way of providing a link between the Ruler - the Caliph and his citizens.⁸⁰ This concept was adapted to fit the tribal societies of the Arabian Peninsula, and *diwan* became a centre for political leadership and for tribal Sheikhs to meet and discuss a broad variety of issues. *Diwans* have been used in Kuwait since it was founded in 1756 by Sabah the first, and acted as the link between the Ruler and Kuwaitis.⁸¹ With urbanisation and settlement, merchants began to have their own *diwaniyyas* to discuss commerce and trade. Old Kuwaiti *diwaniyyas* were hosted by economically privileged families because of the

⁷⁹ Yagoob Al-Kandari. "The Social Function of al-Diwaniyah in Kuwait Society." MA. thesis, Ohio State University. 1995. p.22-23.

⁸⁰ Ibid., p.23.

⁸¹ Ibid., p.28.

expenses entailed in hosting open meetings. Some examples of these families include: al Naqeeb, al Othman, al Ghanim, al Bader, al Bahr, al Saqr, al Marzouk, al Adasani, al Roumi, al Asqousi, Ma'rahi and others. A general estimates would put the number of these *diwaniyyas* to be 200, although, by the end of the fifties, these old *diwaniyyas* had reduced so that only six survived; all on the coast.⁸²

The increased wealth of the Kuwaiti society allowed the spread of new *diwaniyyas* and made it possible for an increased number of people to establish their own. The spread of *diwaniyyas* took on a variety of forms. Ywsif Ghulum presents five major classifications of modern *diwaniyyas* as follows:

1. **Political *diwaniyyas*:** these are concerned primarily with discussing political issues of local, regional and of an international nature. They are underpinned by a variety of ideological and political views. They have been a catalyst for political upbringing and political awareness and encourage people involvement in politics. This type constitutes the primary centre of gathering for the members of the assembly and cabinet.
2. **Socio-economic *diwaniyyas*:** these are linked with the merchant community of Kuwait and are concerned with socio-economic issues. They have a great influence on the decisions and policies of the government.
3. **Government *diwaniyyas*:** this refers to *diwaniyyas* whose owners are government supporters and are primarily concerned with embracing all government decisions.

⁸² Ali Ywsif Ghulum. (Ghuloom, Yoosuf). "Ta'thir al-diwanīya 'ala 'amaliyat al-musharakah al-siyasiya". (The Role of Diwanīya in the Progress of Political Participation in Kuwait.) (Mjallat al-'ulum al-'jtima'iyah. Kuwait. V.24. N. 3. 1996). p. 12-13.

4. Cultural *diwaniyyas*: they are concerned with cultural and literary matters and organise seminars and lectures by people from inside and outside the country.
5. Entertainment *diwaniyyas*: they are purely aimed at providing entertainment, especially to the young, such as playing cards, watching

TV and discussing sports and other marginal matters. Attendants of these are more interested in passing time without having any real concern over political events and issues.⁸³

The expansion of *diwaniyyas* can be attributed also to its increased importance as a private political space to debate issues, and for candidates running for elections to the assembly to be able to air their platform. Also, deputies use them to meet their constituencies in order to exchange views and discuss various issues. There is a strong belief among Kuwaitis that success in the National Assembly elections depends - to a great extent - on the number of supporters a candidate can muster from among *diwaniyya* owners. Because of this, candidates frequent the *diwaniyyas* in their respective constituency before elections in order to explain the electoral program and also to enhance their personal relation with potential voters.⁸⁴ After the elections the *diwaniyya* is also used to influence the position of deputies in the discussions inside the assembly.⁸⁵ Sometimes members of the assembly visit *diwaniyyas* for the purpose of finding out opinions on a particular issue that the assembly is debating. Many of the meetings, discussions and lectures held in the *diwaniyyas* are a reflection of the subjects raised in the assembly. As soon as an issue is discussed in the assembly, the same issue then dominates the discussion in the *diwaniyyas* which can play a role in either support or rejection.⁸⁶

⁸³ Ibid., p. 77.

⁸⁴ Al-Kandari, op.cit. p.82.

⁸⁵ Ibid., p.112.

⁸⁶ Ibid., p.87.

Because the *diwaniyyas* represent the pulse of the Kuwaitis on most issues that relate to their lives, the government has the habit of taking into account some of the major *diwaniyyas* and, in particular, those belonging to wealthy influential personalities when it makes its major decisions.⁸⁷ *Diwaniyyas* can also be used to select state officials. The government encouraged the idea of *diwaniyyas* through the visits paid to them by statesmen. The Ministers' *diwaniyya* was established at the request of the Crown Prince, and Prime Minister, Jaber al Ahmed al Sabah, after the dissolution of the parliament in order to allow officials and citizens to meet. Among the most important of these was the *diwaniyya* hosted by the Deputy Prime Minister and Foreign Minister. In a way this is an acknowledgement on the part of the government of the centrality of the *diwaniyya* to Kuwaitis and the need of contact and consult between ruler and ruled even if informally and unofficially.

The centrality of the *diwaniyya* to Kuwaitis has been also acknowledged by the exemption of *diwaniyyas* from the law that restricts public gatherings. The restrictions imposed on civil associations, public gatherings and the press has made the *diwaniyya* even more significant as a place to express opinions on matters that concerns Kuwaitis, and as a place that influences public opinion.⁸⁸ Another very important factor that makes the *diwaniyya* so popular is the personal freedom felt by attendants in expressing their own point of view. The non-official structure that the *diwaniyya* has makes it very amiable to all individual freedom and relaxation even in the presence of high ranking officials during the discussions.⁸⁹

Diwaniyyas serve as a place that enhance and solidify personal relations among the members of the same *diwaniyya*. This is seen by, al Kandari as being a strong source of cohesion and homogeneity and unity in the Kuwaiti society. However, this has also reinforced parochial loyalties, and emphasised

⁸⁷ Khalid Muhammad Al-Maqamis. Al-diwanīya al-kuwaytīya wa-ta'thiruha fī al-hayah al-niyabiya. (The Kuwaiti Diwaniyya and its Influence on Parliamentary Life). (Kuwait: n.p., 1986).p. 71.

⁸⁸ Al-Kandari, op.cit. p.85.

⁸⁹ Ibid., p.122-127.

the function of the *diwaniyya* as a centre for *wasta* and doing favours.⁹⁰ An army officer offered an account of his own experience with nepotism:

*The question of nepotism exists, but it is evident that in big diwaniyya as well as small diwaniyyas, it depends on the people who attend them. I, for example, prefer my friend to others. When he asks me to do something, I can help him. I have heard requests for favours elsewhere, but I refused persons who were from outside the diwaniyya. I often help those who attend the diwaniyya in my field of specialisation.*⁹¹

Another very similar account indicates that:

*The Diwaniyya helps in the spread of nepotism. For example, an officer in the police may do a favour for me, I, in turn do a favour for him in some other matter. It is a mutual issue. I have experienced these situations.*⁹²

These accounts confirm the position taken by Farah that *diwaniyya* is where *wasta*, connections or influence become tangible or are felt...where appointments are decided, contracts settled, introductions made, jobs awarded- always in subtle understood way.⁹³

The role of *diwaniyya* has changed over time changing from its historical character as a meeting place between the ruler and the ruled to then becoming the means of highlighting the social status of its owner - be it the head of a clan or tribe or a businessman and a privileged person - to becoming the most important protected social space for debating and highlighting significant political, economic and social issues facing Kuwaitis.⁹⁴ It has been a safety

⁹⁰ Ibid., p. 134.

⁹¹ Ibid., p.134.

⁹² Ibid., p. 134-135.

⁹³ Farah E. Tawfic. Political Behavior in the Arab States. (Colorado: Westview Press, 1983).

⁹⁴ Al-Kandari, op.cit. p.136.

valve venting out pressure especially at times of the absence of any parliamentary life and the restricted freedoms of the press and public gatherings. Moreover, it influences the decision making of the government and the assembly, and influences those who stay in or out of the assembly and the government. In short, it has developed into becoming a political lobby and a place of ideological influence. During the four year absence of the Kuwaiti National Assembly between 1976-1980, the issue of democracy and return to parliamentary life was major concerns of Kuwaitis and were regularly expressed through discussions in the *diwaniyyas* with common feelings of discontent that emerged. This indirectly, put pressure on al Sabah to reconsider its continued suspension of the assembly.

5.7 Conclusion

The first most important thing that the suspension of the National Assembly indicates is the existence of a structural difficulty between accommodating the dynastic rule of al Sabah with their accountability and answerability to the representatives of the people. The ability of the National Assembly to expose, scrutinise, and publicise executive activities, and consequently al Sabah family, has put the assembly in direct conflict with the powerful well established ruling family. The Constitution has set power sharing arrangements and controls and checks to allow for an effective relation between the legislative and the executive. However, the problem lies in the lack of acceptance by al Sabah of these power sharing arrangements, which they see as, in effect, curtailing their authority and power.

To further Complicate this relation is the fact that the first stage of Kuwait's implementation of a representative system of government coincided with a huge increase in the economic resources of the state. Such a powerful economic base gave the ruling family immense leverage over the society as a whole and subsequently over the assembly. Another factor that undermines the assembly is the election law that helps in returning deputies based on tribe, sect and family affiliations. Segmented interests make it very hard to find any common ground in order to build up and develop some effective opposition. Al Sabah's

legitimacy has been strengthened with the accumulation of the oil revenues, and they are now far less receptive to accommodate any opposition. The lack of threat from its citizens indicates the ease with which the suspension was carried out with despite it being unconstitutional to even do it. The expanded economic opportunities and the prosperity that has positively transformed the lives and raised the living standards of Kuwaitis within a very short period of time has also made them less concerned about the assembly. The fact that the National Assembly was a relatively new institution without a long tradition behind it, also made it easier for the population to accept its suspension.

Chapter Six

The Second Stage of the Kuwaiti Representative System of Government 1981-1986

6.1 Introduction

The dissatisfaction and disgruntlement of Kuwaitis, expressed in their debates in Kuwaiti *diwaniyyas*, over the continued suspension of the National Assembly put al Sabah and the government under pressure and scrutiny by the opposition. Kuwaitis have become so accustomed to the idea of political participation, that it is very difficult to maintain the legitimacy of the political system during long periods of its absence.¹

In order to deal with this challenge, the government adopted a strategy based on two major orientations. The first was its continued attempt to restrict the freedom of the press, limit political activities and provide law and order institutions with wider powers to control and restrict undesired political ideas and any protest behaviour.² The second centred on enhancing its alliance with the tribal rural segment of the population as well as enhancing the importance of the civil and military bureaucracy as being the basis of legitimacy. The unprecedented accumulation of oil wealth in the hands of the state was a crucial

¹ Yoosuf Ghuloom Ali. "Political Participation in a Development Nation: The Case of Kuwait. Ph. D thesis, University of Ohio, 1989. p.47.

² Abdo Baaklini. "Legislatures in the Gulf Area: The Experience of Kuwait, 1961-1975." International Journal of Middle East Studies . (Vo.14. 1982). p.374.

factor in the ability of the ruling family to widen and maintain such a basis of their legitimacy.

However, the continuation of this strategy was punctured by the unexpected eruption of the Iranian revolution in 1979. The revolution, as mentioned in the previous chapter, undermined the stability and security of Arab Gulf regimes and directly contributed to increased tension between the sectarian divisions between the Shi'ite and Sunnis. It also focused and sharpened the Shi'ite long hidden frustrations, encouraging them to rally behind the Iranian revolution and demand equality, just rights and freedoms.³ This in conjunction with the 1979 seize of the Grand Mosque in Mecca and the fact that the leaflets circulated by the rebels were printed in Kuwait and few Kuwaiti's were among the culprits refocused the government attention on the issue of political participation.⁴

At that point of political turmoil within the gulf region the Amir, Sheikh Jaber al Ahmad al Sabah, saw the representative assembly as a counter force to the Islamic religious force unleashed in the area by the Iranian revolution, as it was a source of internal stability. Another reason is that by 1980 the government was running out of time, as the four-year period that the Amir had declared as necessary to make amendments to the Constitution was coming to end. The decision to restore the National Assembly was not, therefore, a wholehearted desire to return to a representative system of government. This explains why the government wanted first to revise the Constitution before announcing an election date.

This chapter shall analyse this failed attempt by the government to circumvent the assembly through Constitutional changes with it resorting instead to amending the election law in order to ensure the return of a pliable assembly. However, the discussion will show that despite the government's success in controlling the shape of the fifth assembly, issues of accountability and criticisms of ministers consistently dogged the assembly. The lack of progress on many of these issues and the worsening economic situation due to the

³ Abdullah Kalifah Al-Shayehji. "Democratization in Kuwait: The National Assembly as a Strategy for Political Survival." Ph. D, thesis, University of Texas, Austin, 1988. p.269.

⁴ Ibid., p.269.

decline in the oil market created a different and more challenging environment by the time the sixth assembly was elected. It is possible to see how that particular assembly returned the traditional nationalist opposition who, in alliance with the Islamists, created a combative assembly bent on taking the accountability of the government seriously. Subsequently, within a year and half of the life of the sixth assembly, the Amir ordered the second suspension of the assembly, less than five years after its restoration.

This indicates that the tension between the conflicting visions of the function of the assembly is a recurrent theme in the parliamentary experience of Kuwait. The executive desires an assembly that will act as a debating chamber rather than an institution underpinned by certain powers and functions. It is interesting to note that the changing economic conditions created more pressure for accountability and Kuwaitis became increasingly more interested in holding the government answerable for many of the ills and afflictions of the economy.

6.2 The Committee for the Revision of the Constitution

In February 1980 the government formed a special committee to evaluate the democratic experience of Kuwait and revise the Constitution. All the thirty-five members of the committee were appointed by the government, representing the main social groups within Kuwaiti society with the exclusion of the Arab nationalist group. The members included six *badu*, thirteen merchants, three Shi'ite and thirteen Sunnis/liberals. Abdullatif al Dueij, commenting on the composition of the committee noted that:

The choice of the 35 members of the Committee merely seems based on a fair distribution of Kuwaiti families, parties and tribes-a system we thought had been abandoned. One of the negative aspects of the former parliamentary life was the division of the constituencies according to group and parties, which meant that

*rather than representing the people, a Deputy symbolised the authority of a single family.*⁵

Although the government sees the representation of the Kuwaiti society along such sectarian lines as democratic, in effect what this does is maintain the expression of political interests in narrow frames of familial, sectarian and tribal identities to the detriment of developing an overarching national interest to rally all groups around. Another criticism of the committee focuses on the fact that its formation was unconstitutional.⁶ Article (174) of the Constitution stipulates that either the Amir or one-third of the assembly shall have the right to propose the revision of the Constitution and that if the Amir and the majority of the members of the assembly approved the principle of revision and its subject matter, the assembly should debate the bill article by article. Approval by two-thirds of the assembly is required to pass the bill.

The special committee, however, showed independent judgement and rejected outright the government's proposed Constitutional amendments. These amendments were extensive, comprehensive and significant. Their adoption would have led to changes in the political system and influenced the balance between the legislative and executive in favour of the latter.⁷ The rejection by the appointed committee shows that not only the opposition understood the government aims of the revision to mean limiting the power of the National Assembly and transforming it into a powerless organ of the state, but also those considered loyal and close to the ruling family saw the danger inherent in the proposed amendments. The extended discussions inside the *diwaniyyas* influenced public opinion and rallied the Kuwaitis against the revision, putting the government in a very difficult position. Consequently, it was forced to withdraw its proposal to amend the Constitution and disbanded the committee

⁵ Avi Plascov. Security in the Persian Gulf, Modernization, Political Development and Stability. (England: Gower Publishing Company Limited, 1982). p.153.

⁶ Sami Al-Manays. Al-tali'a fi ma'rakat al-dimuqratiya. (Al-tali'a in the Democracy Battle). (Kuwait: Al-tali'a, 1984).p.152.

⁷ Ibid.p. 152.

without making its findings as public knowledge, and proceeded to find another way to have a pliable and less critical assembly.⁸

To do this was achieved by changing the election law. In December 1980 the government announced a new amendment to the electoral law of 1962 which became Law no. 99 (1980). As discussed in chapter three, the law redistributed Kuwait into 25 districts, instead of the previous ten, with each district returning two members, thus maintaining the number of the seats in the assembly at fifty. This redistribution had two major consequences; the reduction of the size of electoral districts and the reduction of the number of votes that candidates needed to win. Both of these consequences meant an increase in the influence of family, tribe and sect interests. Through this law the government hoped to limit the presence of opposition groups in the assembly, such as the Arab nationalists and those with leftist leanings, as well as the Shi'ite who had become far less loyal and more radical as a result of the Iranian revolution, while strengthening the presence of loyal groups in the assembly, primarily the *badu*.⁹

Feeling confident about the shape that the National Assembly would take, an Amiri decree on December 16 set the date of the elections for the new National Assembly, as 23 February 1981. This gave little time for the opposition to prepare to face the challenges posed by the new election law.

6.3 Elections for the Fifth National Assembly

The election of the fifth National Assembly drew a large number of candidates, 447 in total, contesting 25 districts and competing for 42,008 votes.¹⁰ There is a suggestion that the reduction of the electoral body, by 11,000 voters in comparison to the 1975 election, points to the government's irregularities

⁸ Khalid Muhammad Al-Maqamis. Al-diwaniya al-kuwaytiya wa-ta'thiruha fi al-hayah al-niyabiya. (The Kuwaiti Diwaniyya and its Influence on Parliamentary Life). (Kuwait: n.p., 1986).p.71-72.

⁹ Kadhim Mahdi Al-Bahrani. "Factors Influencing Ruling Elites Political Participation in the State of Kuwait". Ph.D. thesis, University of Denver, 1988. p.78.

¹⁰ Al-Shayeji. op.cit. p. 289.

concerning the dropping of names from the voter register and purposely not registering some of the eligible voters who had turned 21.¹¹ Others have a more benevolent explanation, by conceding that there was a lack of interest of the young educated Kuwaitis who were completely disenchanted with the system.¹² Evidence to support this view is that, of those eligible to vote, numbering around 60,000 Kuwaitis (incidentally, that represents just 4 percent of the total population and only 10 percent of all Kuwaiti nationals) only 42,008 registered. However, having said that the turn out was the highest in the short history of all Kuwaiti elections, by being around 90 percent of those registered.

Another interesting feature of the election was that for the first time the *hadhar* adopted the *badu* procedure of carrying out election primaries. This procedure had previously been heavily criticised by the *hadhar* and they had frequently demanded the government to put an end to it. The justification that the *hadhar* provided for using the procedure was that the number of candidates was so large it was necessary to carry out primaries in order to avoid the scattering of votes and to guarantee the success of candidates with having a large number of votes behind them.¹³

A bill was submitted by five members of the fifth assembly to prohibit a primary election. The bill defines primary elections as follows:

*A primary election ...is an unofficial election held for any reason, before the official election provided by election law, attended by any number of people on a specified day which includes the organisation of a electoral roll, balloting, election committee, the counting of votes and the finalising by an announcement of elected people.*¹⁴

¹¹ Abdulratha Asyri. (Assiri, A.) and Kamal Al-Munufi. "Al-'intikhabat al-niyabiya al-sadisa fi al-kuwayt. 1985". (The Sixth Parliamentary Elections in Kuwait.). Social Science Journal. (V:14. n.1 Kuwait: Spring 1986. p.95-138). p.95-138.

¹² Al-Shayeji, op.cit. p. 289.

¹³ 'Adil Al-Tabataba'i. "Al-sulta al-tashri'iya fi duwal al-khalij al-'arabi". (The Legislative Authority in Arabian Gulf Countries). Manshurat majallat dirasat al-khalij wa al-jazira al-'arabiya. N.14. Kuwait: 1985. p.389.

¹⁴ Al-Moqatei, 1987. op.cit. p.203.

The justification that the deputies gave for wishing to legally ban this procedure was that *primary elections violate the electoral system by changing it into a secondary ballot system, contrary to the present law which provides that an election must be held in one step only.*¹⁵ However, the bill failed to gather the support that is required because the more commonly held view promoted primary elections. The latter view maintains that primary elections do not violate either the law nor the Constitution because the results are not binding and there are no legal obligations, while the prohibition by law of primary elections violates some articles of the Constitution. In particular Articles 36, 37, and 44 are breached as they protect freedom of public gatherings and collective associations.¹⁶ One way out of this dilemma was to allow the formation of political parties, which will stop or at least limit the usefulness of primary elections.

In terms of the results of the election, they came in total harmony with the government's wishes. As seen from Table 6.1, the nationalists failed to win any seats, the Shi'ite deputies dropped to only four from their highest point of ten in the previous assembly, while the *badu* increased their seats from 22 to 27. The assembly included 26 new comers, capturing more than half the seats available. The expansion of education and urbanisation played a major role in allowing new faces to enter the political arena for the first time.¹⁷

6.4 Political Groupings in the Fifth Assembly

The political shape of the assembly has been determined to a great extent by the changes in the election law, thus there was a noticeable increase in the influence of the *badu* and loyal supporters of al Sabah, as well as the Islamists. The increased influence of the Sunni Islamists came at the expense of the secular nationalist group who failed to win any seats. Al Sabah showed

¹⁵ Ibid., p.203-204.

¹⁶ Ibid., p.204-205.

¹⁷ Dubi Al-Harbi. Man yantakhib man wa-li-madha? wasa'il wa-'awamil al-ta'thir 'ala al-nakhib al-kuwayti. (Who Elects Who and Why? The Tools that Influence the Kuwaiti Voter.) (Kuwait: n.p. 1996). p.40.

considerable cooperation with the Islamists, in order to offset the liberal nationalist opposition, especially because these groups are more concerned with *Shari'a* than issues of accountability and the rooting of a representative system of government. That is exemplified by their silence on the first suspension of the National Assembly and lack of objection to the amendments proposed by the government to the Constitution. Although the Shi'ite presence in the assembly has been reduced in number, a more politicised group of candidates have won seats and those of the old guard, who were loyalists to al Sabah, failed to win a seat. This situation is a reflection of the changes that the Shi'ite of Kuwait have experienced as a result of the Iranian revolution which galvanised them to become more politically active and to act against their marginalisation in society.

The following is a detailed discussion of the actual changes that the election of the fifth assembly managed to produce.

Arab Nationalists: The most noticeable feature of the fifth assembly was the absence of the traditional Kuwaiti opposition, the Arab nationalists. The absence was attributed to several factors; the most important among them was the change in the election law. The nationalists had a very short period of time to adjust to the new challenges posed by the amendments. The decline of the importance of the Pan-Arab nationalist movement and the marginalisation of leftist groups and left-wing tendencies in the Arab world, as a whole, is another contributing factor. A third reason was the continued divisions and lack of coordination among the nationalists, combined with an unjustified over confidence during election campaigning when, in fact, had have grown apart from their grass root support over the years.¹⁸ The surfacing of the Shi'ite-Sunni tension acted as a catalyst for the defeat of the traditional opposition veteran, Ahmad al Khatib, who appeared in a Shi'ite mosque in support of Ahmed al Mohri (the sympathiser of Ayatollah Khomeini who the Kuwaiti government had stripped of his nationality and deported him with his family to Iran).¹⁹

¹⁸ Al-Shayaji, op.cit. p. 280.

Table 6.1 the Distribution of the Seats in the National Assembly for the Election of 1981

District	Badu	Merchants	Arab Nationalists	Shi'ite	Sunni religious Groups	Others	Total
1st.	1	-	-	1	-	-	2
2nd.	-	-	-	-	1	1	2
3rd.	-	2	-	-	-	-	2
4th.	-	-	-	-	-	2	2
5th.	-	-	-	1	-	1	2
6th.	-	-	-	-	1	1	2
7th.	-	-	-	-	1	1	2
8th.	-	-	-	1	-	1	2
9th.	-	-	-	-	1	1	2
10th.	-	-	-	-	-	2	2
11th.	-	-	-	-	-	2	2
12th.	2	-	-	-	-	-	2
13th.	-	-	-	1	-	1	2
14th.	1	-	-	-	-	1	2
15th.	2	-	-	-	-	-	2
16th.	2	-	-	-	-	-	2
17th.	2	-	-	-	-	-	2
18th.	2	-	-	-	-	-	2
19th.	2	-	-	-	-	-	2
20th.	2	-	-	-	-	-	2
21st.	2	-	-	-	-	-	2
22nd.	2	-	-	-	-	-	2
23rd.	2	-	-	-	-	-	2
24th.	2	-	-	-	-	-	2
25th.	2	-	-	-	-	-	2
Total	27	2	-	4	4	13	50

Source: Calculated from data on election results from the Kuwaiti National Assembly

The Islamists: In contrast, the Sunni religious groups had waged an organised campaign that worked well to discredit the nationalists and gained them four seats which reflected their new enhanced importance in Kuwaiti politics. These Sunni deputies came from the two main religious groups, three seats went to the Society for Social Reform (Muslim Brothers), and one seat was won by the

¹⁹ Ibid., p. 270.

Society for Cultural Revival (*Salafiyyin*). The *Salafiyya* movement is an ultra-conservative group and relatively a recent phenomenon concerned primarily with the return to the Qur'an and *Shari'a*. Its interest in politics is only used as a method to advance its religious calling and make the *Shari'a* the only source of legislation in Kuwait. Because of that they have some differences with the Muslim Brothers, accusing them as being concerned foremost with politics on the expense of Islamic *Shari'a*.²⁰ The *Salafiyyin* perceive their participation in the assembly as being solely motivated by their concern over *Shari'a*.²¹ Despite these differences the two Sunni religious groups became the leading opposition block in the assembly by sponsoring conservative fundamentalist bills such calling for the *Shari'a* to be the only source of legislation, for a ban on Christmas celebrations and for new restrictions on women's behaviour in public places.²²

Part of the reason for the rise of the Islamic influence is related to the government's interest in undercutting nationalist-leftist opposition, thus it increased cooperation with the Sunni religious groups and promoted them by incorporating them into high level political positions.²³ Al Harbi also points also to other reasons for the spread of these groups in Kuwait. Firstly was the dissolution of the assembly and its relatively long absence which helped strengthen religious ties and gave religious civil associations belonging to the Muslim Brothers, *Salafiyyin* and the Shi'ite much more influence and it widened their base of support. Secondly was the Iranian revolution and its influence on the Shi'ite especially in light of the discrimination that the Shi'ite of Kuwait had suffered over the years. Thirdly were the Iran-Iraq war and its consequences on inflaming religious feelings and divisions. Fourthly was the alienation that some educated segments of the population felt due to the speed of urbanisation and the change of society that was undermining traditional values and ways of life. Lastly was the limited understanding of political activism and parliamentary life,

²⁰ Al-Harbi, op.cit. p. 53.

²¹ Ibid., p.53-54.

²² Abdo I. Baaklini. Legislative Politics in the Arab World: The Resurgence of Democratic Institutions. (Boulder, Colorado: Lynne Rienner Publishers, 1999). p. 182.

²³ Shafeeq Ghabra. "Voluntary Associations in Kuwait: The Foundations of a new System" Middle East Journal. 45, no. 2 (Spring, 1991): p. 206.

perceiving it as an extension of religious preaching and sermonising and tribal status that is linked to extreme religiosity.²⁴

The mustering of huge financial resources by the Muslim Brothers through a variety of channels, was also a very important factor in enhancing their influence on society. For one, they control the Kuwait Funding House, which is considered to be among the strongest banks in Kuwait. The House is exempt from abiding by the laws that govern commercial banks, and the control of the Central Bank over it is only of supervisory nature, allowing it great flexibility in pursuing its political agenda. They control also the Alms House, the central committee of *Waqf*, and many cooperatives and charities.²⁵

The increased importance of the Shi'ite religious trend in particular was directly related to the establishment of a Shi'ite religious rule in Iran. The Cultural and Social Society has represented the interests of the Shi'ite community in Kuwait since 1968. However, its significance increased and its Islamic identity intensified after the Iranian revolution. It became a major political force within the community and was involved in the mobilisation of Shi'ite the candidates for the assembly.²⁶ Another contributing reason to the politicisation of Shi'ite in Kuwait, as argued by Crystal, was to counter the discrimination and opposition that they faced from Sunnis. She notes that:

*Shias...see politicisation of Shia community as its best defence against Sunni opposition.*²⁷

This politicisation is reflected in the shift of the voting pattern of Shi'ite. The results of the 1981 election shows that three of the four candidates that won a seat represented Shi'ite organisations that had sympathy for Khomeini, while the traditional Shi'ite supporters of the government lost votes.²⁸ Despite the

²⁴ Al-Harbi, op.cit. p. 47-49.

²⁵ Ibid., p.51-52.

²⁶ Ghabra, op.cit. p.208.

²⁷ Jill Crystal. Kuwait: The Transformation of an Oil State. (Boulder: Westview, 1992).p.111-112.

²⁸ Al-Shayeji, op.cit. p. 293.

tension and sharp division between Sunnis and *Shi'ites*, the deputies that represented the Shi'ite community had on some issues joined forces with the Sunni groups in the assembly.

The period of the eighties was particularly difficult for Kuwait considering the escalation of opposition in the form of a series of violent actions. As seen from Table 6.1 acts of violence had been on the increase. On December 12, 1983, explosions occurred in seven different places, including the American and French embassies as well as in a number of other public institutions. Another serious bombing attack took place on May 25, 1985, during the passing of the ruler's parade which resulted with injury to the Amir and the death of three of his guards. On another occasion, in June 1986, the petroleum complex at the port of Mina al Ahmadi was bombed, followed by similar bombs at various Kuwaiti ports.²⁹ In 1986 Iran intensified its attack on the Kuwaiti oil sector by targeting its oil tankers, and since neither Kuwait nor the GCC had the military capabilities to protect these tankers, Kuwait was forced to lease three Soviet tankers and to reflag eleven Kuwaiti tankers under US warship escorts.³⁰

Although the dissidents carrying out such political violence were mostly non-Kuwaitis, pro-Iranian Shi'ite (Iraqis, Iranians and Lebanese), the government's effort to suppress dissent targeted the Kuwaiti Shi'ite community.³¹ That added to the grievances felt by the Shi'ite and increased their sense of becoming a besieged community. Among these grievances was the lack of support for Shi'ite mosques and religious centres, the government restrictions in employment and higher education, private sector discrimination by Sunni employers, restriction on Shi'ite non-political gatherings and expression, plus the anti-Shi'ite incidents that were committed by some sections of the Sunni community.³² The execution of the sixteen Kuwaiti *Shi'ites* convicted of the planting of bombs on the pilgrimage at Mecca added to the feeling of isolation of

²⁹ Ibid., p.293.

³⁰ Fact on File, May 29, 1987. p.377-378.

³¹ Crystal, 1992, op.cit. p.112-112.

³² Ibid., p.112-113.

the Shi'ite community especially as they saw that the Kuwaiti government did not protect the interests of its citizens.³³

One of the main casualties of the escalation of such protests, that resorted to violent means, was the freedom of expression. In 1982, the National Assembly in 1982, objected to the restriction of the press and voted to drop a controversial article from the press law which had been introduced in 1976, after the dissolution of the assembly. That article granted the government wide powers to suspend publications for a long period of time and imprison and fine editors and publishers. However, the escalation of political violence caused the assembly to reconsider the position on security related restrictions. That included the restrictions on public assembly, press restrictions and, most importantly, the passing of a strong anti-subversion bill that put heavy penalties for the possession of explosives and active political violence, together with a bill which set the death penalty for crimes against aviation safety.³⁴ Also, during the period, November between 1985 to November 1986, around twenty-seven thousand people were deported from Kuwait as a result of the adoption of much harsher measures when dealing with immigrant workers, if they were suspected of any political agitation and activities.³⁵

The *badu*: As the government intended, the *badu* gained most from the new election law. The twenty-seven seats they won gave them a majority share in the assembly by 54 percent. Their increased importance was directly related to redistributing constituencies since twelve of the newly created districts were closed to tribal candidates. In the other two districts of tribal influence the *badu* shared the seats with a Shi'ite in one and with a Sunni Islamist in the other.

It is difficult to put the blame on the *badu* for the advantage they gained from the redistribution of districts. They benefited from a structure and a system put by the government in order to advance its own interests and maintain its power over the assembly. Also, this type of redistribution – with the boundaries of a district corresponding to the geographic concentration of a particular group -

³³ Ibid., p.113-114.

³⁴ Ibid., p.115.

³⁵ Al-Bahrani, op.cit. p.164-165.

emphasised the phenomenon that developed in Kuwait of “service deputies”. Deputies, notably among the *badu*, pledged and petitioned hard to provide services to their own districts.³⁶ Their role as legislators and controllers of the power and authority of the executive was pushed to the background. The *badu* as group have been traditionally staunch supporters of the ruling family because of their dependence on the state. Large numbers of them have been engaged in state related employment whether it is army, the police or in the oil sector. Sometimes they ally themselves to the opposition in the assembly in order to pressurise the government to meet the demands of their constituency. However as explained by Peterson, such opposition does not affect their voting patterns, as they mostly vote pro-government:

*The rhetoric of assembly debate and statements to the media gave the impression that nearly all elected assembly members fell into the rank of opposition. Even the tribalist members, staunch supporters of the regime, tended to start off assembly sessions with declarations of the government’s neglect of their constituencies’ educational, transport, and social services needs. These criticisms did not affect voting patterns, however.*³⁷

Badu deputies are, on the one hand, very sensitive to the demands of their constituencies while, on the other, they are sharply aware of their special relationship with al Sabah. The balance between the two requires that sometimes they join in, at least in the rhetoric, with the opposition in the assembly.

6.5 Issues that Dominated the National Assembly

The fifth National Assembly was described as an assembly with “no spice”, primarily due to the absence of the traditional vocal opposition and the presence

³⁶ Huda Mitalks. “ Al-tajruba al-dimuqratiya fi al-kuwayt”. (Democracy Experience in Kuwait) *al-siyasa al-duwaliya*. (Cairo: Issue N. 120. April, 1990.) p. 28-29.

³⁷ J. E. Peterson *The Arab Gulf State: Steps Toward Political Participation*. (New York: Praeger, 1988). p.57.

of a large number of pro-government deputies.³⁸ However, that did not prevent the assembly from engaging in tough debates and adopting challenging positions to the government. An example of this was the draft of the proposed amendments of the Constitution. The government had a hard time convincing the assembly of these amendments, and opposition to it became so widespread that the government retreated on the matter. Another serious issue that caused some heated debates in the assembly was the collapse of Souq al Manakh, the unofficial stock market. The following is a detailed discussion of some of these issues that concerned the assembly.

The passing of laws: During the period of absence of the National Assembly, the government decreed a large number of laws and by-laws. The first task of the fifth assembly was to look at these laws, in addition to the draft amendments of the Constitution that was favoured by the government. On the issue of the various pieces of legislation decreed by the government the assembly performed submissively and endorsed practically all the 461 Amiri laws and decrees except a handful, in order to show some symbolic opposition.

Among these laws which the assembly had endorsed included the new election law which elicited a lot of criticism during the campaign stage of the election. Criticisms centred on the fact that

*such bold procedures tampered with democracy and undermined Kuwait's electoral procedures and laws as well as the law favoured tribal, sectarian, familial and religious sect at the expense of platforms and the merits of candidates.*³⁹

The passing of that law by the assembly sealed the fate of the assembly in future years. Such a law undermined the very idea of creating a national institution where deputies could consider the interests of their constituencies but not focus with a such clear cut basis of tribe, sect and family affiliations. Such divisions in the assembly also undermined its effectiveness and enhanced the

³⁸ Interview with Mohammad Alhajeri, Kuwait, November , 2002

³⁹ Al-Shayjeji, op.cit. p. 283.

power and authority of the executive. More importantly, if the assembly appeared to be ineffective, it would be much easier for the people to lose faith in it and even its existence would become for less crucial to them, which is something that would serve the ruling family very positively.

On the issue of the amendments of the Constitution, the assembly proved to be far less accommodating for the government. As mentioned before the special committee that was formed to study the proposed amendments of the Constitution rejected all suggestions. An extended and heated public debate ensued concerning these amendments. Seminars and panels were sponsored denouncing them, while educating the public about the dangers that were inherent in these amendments should they be accepted. Nationalist publications and nationalist leaders took it upon themselves to analyse and publicise the dangers of the amendments. *Al Tali'a* published a critical, in-depth analysis of the ramifications of these amendments if they were to be approved, and *al Watan* also denounced the amendments. Ahmad al Khatib and Jassim al Qitami, in their respective capacity as the chairman of the National Coalition and the Chairman of the Democratic Coalition, co-authored a letter addressed to the National Assembly. In that letter they explained in depth the perils they perceived in the proposed amendments. They particularly emphasised that the Constitution:

*was not a gift from the ruling family, or a reward to the people, but was the most important accomplishment of all Kuwaitis, and it came as a natural evolution of Kuwaiti society and its dedication and fierce fight for years to achieve such freedoms.*⁴⁰

As indicated by al Shayjeji, the totality of the amendments to articles 50, 65, 66, 69, 71, 73, 80, 83, 87, 91, 95, 100, 101, 104, and 112 of the Constitution

would have stripped the National Assembly of its Constitutional legislative power to initiate bills, to override the Amir's veto, to function as a safeguard and defender of Kuwait's rights and freedoms, and to operate as a check and balance by quizzing,

⁴⁰ Al-Munis, op.cit. p.71-79.

*questioning, and holding the government responsible and accountable for its actions. The National Assembly would have been intimidated and become an ineffective rubberstamp institution with only a façade of power and legitimacy. The government strategy was to keep the National Assembly functioning as ineffectively as possible, to give the impression that Kuwait has a National Assembly. In truth, they wanted the National Assembly in complete submission to the government.*⁴¹

In 1982, the assembly voted on the principle of amending the Constitution; 37 voted in favour while 27 opposed it. The issue dominated the discussions of the assembly for about eight months. In the end, the assembly agreed to submit the issue to the National Assembly's legal and Constitutional committee for a final decision. The government realised the extent of the opposition to the amendments and in May 1983 it withdrew the decree from the assembly to avoid an inevitable defeat. A defeat would mean that the bill would be openly debated in the assembly item-by-item, and the government wanted to evade such a high risk debate focusing on the controversial amendments.⁴² The government gave the following as its justifications for the withdrawal:

*The national interests of the country impel us to postpone the discussion on revising the Constitution so that the MPs will have enough time to study the issue. The pressure of the public opinion forced the Assembly to reject the decree. Therefore the Government realised the folly of discussing the issue in such an atmosphere.*⁴³

In fact, the government showed a total retraction on the matter. The crown prince, and prime minister, during an interview said, *the government has no intention to amend any article of the Constitution, and the amendment procedure is clear and is stipulated in accordance with Article 172.*⁴⁴ This

⁴¹ Al-Shayehji, op.cit. p. 299.

⁴² Majles Al-'uma. Halat hul al-barlaman. (Case of the Dissolution of the Assembly). Published by Kuwait National Assembly, 1999. p.20.

⁴³ Al-Qabas Newspaper, Kuwait, 7, May 1983.

⁴⁴ Al-Shayehji, op.cit. p. 299.

statement supports the stance taken by those who from the start saw the government proposal as unconstitutional.

The failure to revise the Constitution jeopardised the government's ability to sign the Gulf Security Agreement. The Kuwaiti interior minister was forced to admit that *the present agreement conflicts with our Constitution. Kuwait is unable to sign the agreement unless some of its articles are changed.*⁴⁵ Although it was the strength of public opposition to the amendments that forced the government to retreat, some deputies thanked the government, giving it some credit. Such action gave credence to the belief, prevalent among most Kuwaitis that the assembly was a gift from the Ruler and hence, it can be dissolved at his discretion rather than it being a constitutionally guaranteed institution.

Women's rights: Women's political rights were first put on the agenda of the National Assembly in 1971, during the first Kuwaiti women's conference to be held in Kuwait, under the auspices of the Society for the Advancement of the Family. The conference presented a petition to the assembly demanding political rights in addition to presenting an ambitious programme of social reform. The arguments presented about the right of women to vote were based on their Constitutional right as the Kuwaiti Constitution stipulated that the 50 members of the National Assembly *shall be elected directly by universal suffrage and secret ballot in accordance with the provisions presented by Electoral Law.*⁴⁶

This Constitutional right has been denied for women by the election law, which limits the right to vote for only Kuwaiti males. This is in violation of the principle presented in the constitution of universal suffrage. The petition emphasised other equal rights for women, including employment in all fields, equality with promotion, attainment of higher positions, child support and - most controversially - the request to restrict polygamy. The latter point was done by asking for the second marriage contract to be signed in court and therefore,

⁴⁵ Jerkhi, op.cit. p. 406.

⁴⁶ Haya.Al-Mughni, Women in Kuwait: The Politics of Gender. (London: Dar Al-Saqi Books 1993).p.83.

barring the husband from gaining child support for his second marriage if his first wife had a child.⁴⁷ The reaction to the equal rights bill was to shelve it for almost two years before they, considered it, in 1973. Its consideration caused a stormy debate in the assembly, and created a confrontation described as follows:

*The tension reached a climax....when the speaker declared a half-hour recess in a bid to bring order back to the House, which had plunged into complete chaos. Supporters and opponents of the bill exchanged the most hurtful charges ever heard in the Assembly. The recess, instead of calming tempers, increased them because the two groups fought it out in the lounge.*⁴⁸

The bill's supporters (the nationalists and a few liberal merchants) argued that Islam did not forbid women from political participation and that there was no contradiction between Islamic values and heritage and women's political participation. However, opponents of the bill focused more on debating the issue of polygamy more than the right to vote. The assembly avoided voting on the bill and the debate ended *with bitter resentment between deputies, political rifts and total confusion as to how to define and circumscribe the rights of women.*⁴⁹

The second occasion on which the assembly was faced with this controversial matter was ten years later in 1981, when deputy Ahmad al Takhem proposed a bill to amend Article (1) of the election law to include women voters, while at the same time restricting Article (19) of the election law to bar women from holding office. This is the position taken by some Islamic groups mainly the Muslim Brothers, in contrast to the *Salafiyyin* and conservative *'ulama*. The Muslim Brothers argued that Islam forbade women to rule but did not exclude them from politics. Thus, one Islamic deputy put the case forward during the debate in the assembly by declaring:

⁴⁷ Ibid., p.82.

⁴⁸ Kuwait Times, 2, December 1973.

⁴⁹ Al-Mughni, op.cit. p.86.

*The Islamic movement in this country will grow because all those who are calling for liberties and national issues are members of the Islamic trend. Therefore, if we allow women to participate in political decisions, this mean the political growth of the Islamic movement.*⁵⁰

The Muslim Brothers saw a political advantage and expedience in allowing women to vote. The potential impact of women voters would be considerable, since women constitute 52 percent of the Kuwaiti citizens, and the majority are from either conservative or *badu* backgrounds. The debate that ensued on the issue was unlike the previous one in the fact that it was smooth and finally a vote was taken on January 1982. The result showed an incredible opposition to grant women the right to vote. The Islamic deputies with support of their conservative *badu* deputies were able to defeat the bill 27 votes against only 7 in favour, with 16 abstentions.⁵¹

Women organisations in Kuwait lacked a consensus on the issue and the elements of conservative women in Kuwaiti society had gradually become more organised since early eighties. This was manifested in the formation, in 1981, of the first religious organisation for women, *Bayader al Salam*, which was supported by Yousef al Rifaa'y the wealthy merchant, who led the opposition movement of the equal rights bill in the early seventies in the assembly.⁵²

Another religious organisation, supported by the government, was established as a counter force to the *Bayadar*. In 1982, the Islamic Care Society was set up and was headed by the Crown Prince's wife, Latifa Fahed al Salem al Sabah. The aim of the organisation was to stress Islam but also emphasise national identity and loyalty to the state, in contrast to *Bayadar* which emphasised on people's loyalty and obedience to God alone.⁵³ The growth of the women-

⁵⁰ Nurya Al-Sidani. *Al-masira al-tarikhiya li huquq al-mar'a al-kuwaytiya 1971-1982*. (The Historical progress of Women's Political Rights, 1971-1982). (Kuwait: n.p.1983). p.162.

⁵¹ Ibid., p.162.

⁵² Al-Mughni, op.cit. p.96.

⁵³ Ibid., p.105.

Islamists trend rendered the lobbying of women to join their cause as rather ineffective, as liberal women are a very small minority group in Kuwait and the rise of women's religious organisation's was in harmony with the rise of the Islamist tide in general in the Kuwaiti society. Divisions based on class and ideology has played a decisive role in women's movements in Kuwait, by weakening their support and prolonging the disenfranchisement of women. During the eighties, liberal, educated, middle class women were drawn during into the religion based-women's organisations and moved away from the more secular and Liberal oriented ones.⁵⁴

After the defeat of the bill, a petition signed by 1,000 women was sent to the deputies in order to thanking them. The petition stated that:

*True believing women support the rejection of the bill and disapprove of any debauchery. We ask that the debate on the matter be closed for ever...we all hope that our country will be secure and that women's rights will be maintained in accordance with our respected Shari'a.*⁵⁵

On the other side of the debate, those women who were infuriated by the rejection of the bill sent a complaint to the deputies wrote articles on the issue and organised seminars to discuss the issue. When their complaint was addressed in the assembly, in Feb 1982, a group of them attended the discussion to show their annoyance and their determination to follow the issue.⁵⁶

In the early eighties the government appeared to be in favour of granting women the right to vote. In 1980, Crown Prince, and Prime Minister, Sa'ad al Abdullah al Sabah, stated in a televised speech that

⁵⁴ Ibid., p.96.

⁵⁵ Ahmad Al-Qatan. Al-mar'a fi al-islam. (Women in Islam). (Kuwait: Maktabat al-sindus, 1987).

⁵⁶ Al-Mugnai, op.cit. p.144-145.

*the time has come to take note of the position of Kuwaiti women and their effective role in society, and put forward the matter of the vote for study and discussion.*⁵⁷

Perhaps the bill of 1981 took its cue from this statement. However, it became very clear that the Islamist and conservative element in the society is strongly opposed to such a move, including a large proportion of women.

Souq al Manakh collapse: The third issue that caused a heated debate in the assembly was the financial collapse of Souq al Manakh, the unofficial market for stock trading, named after the building in which the trading took place. Souq al Manakh stock trading developed in Kuwait following the huge growth of oil income and the simultaneous development of a large financial sector. The initial boom of stock trading occurred in the seventies until the 1977 crash, when prices fell and many traders and merchants faced bankruptcy. The government responded by bailing them out and, in consultation with the Chamber of Commerce, introduced a regulated stock market where, among many other restrictions, it restricted the trading in companies registered outside Kuwait. As Crystal points out, it was the success of government measures that led to the development of the unofficial market that dealt chiefly with companies owned by Kuwaitis, but were registered outside Kuwait and which lacked both records and assets.⁵⁸ In other words, many of the traded companies existed only on paper.

This situation was further exacerbated by the manner of in which the market operated, which was based on forward dealings; buying stock with postdated cheques that were traded at premiums reaching 400 percent.⁵⁹ Several factors contributed to the collapse of the Souq: the economic situation showed signs of contracting; the Iran-Iraq war; reduction of oil revenues; and the tightening of local credit. However, the crash itself was triggered by something that was

⁵⁷ The Middle East, October, 1985. p.9.

⁵⁸ Jill Crystal. Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar. (Cambridge: Cambridge University Press, 1995).p.98.

⁵⁹ Peterson, op.cit. p.48.

totally unexpected - the bouncing of a cheque by Jassim al Mutawwa, one of the eight big dealers involved in the Souq.⁶⁰

The investigation of the Souq revealed that 28,861 cheques existed with a total value of KD26.6 billion (\$90.8 billion), but with cross-debts cancellation, their value was reduced to \$40 billion.⁶¹ An extremely significant amount, more than two thirds of the debt was held by eight or nine major dealers with Jasim al Mutawwa accounting for half of that.⁶² The others included Muhammad al Ibrahim, Ahmad al Kandari, Basil al Asta, Zayad al Mutawwa', Abdullah Muhammd Kabazad, Najib al Mutawwwa' and Humud al Jabri - a member of the assembly.⁶³ The assembly laid the blame for the crisis squarely on the government and demanded immediate intervention to solve the crisis. The religious groups found an opportunity to attack the government on religious grounds. The editor of *al Mujtama'* the mouthpiece of the Muslim Brothers in Kuwait wrote:

*Souq al Manakh is a gambling table. This market has made Kuwait live for the past five years in a state of financial psychosis. Now the fable ethics of the Kuwaiti market have collapsed...Souq al Manakh has damaged the religious, social and educational life of this country. People have found it easy to do what is prohibited in a religious society, which they used to refrain from.*⁶⁴

The debate in the assembly centred on decree Act No. 57/1982, which was passed while the assembly was in recess. It was presented for approval when the assembly reconvened on 5 October 1982.⁶⁵ One of the major problems with the act is that some deputies found it unconstitutional, since it disregarded their

⁶⁰ Crystal, 1995, op.cit. p.98-99.

⁶¹ Peterson, op.cit. p.48.

⁶² Crystal, 1995, op.cit. p.99.

⁶³ Fida Darwiche. The Gulf Stock Exchange Crash, The Rise and Fall of the Souq Al-Manakh. (London: Croom Helm, 1986) p.107.

⁶⁴ Ibid., p.99-100.

⁶⁵ Ibid., p.108.

right of litigation before the judicial authority. They argued, including the deputy speaker that the Act was only issued to protect major investors as it seemed to ignore small scale investors, as it stopped criminal and judicial procedure against those that had drawn the cheques.⁶⁶ Thus, it shifted the burden onto those who were left holding the cheques without having the right to apply to court in order to secure them. One deputy asked for the resignation of the Minister of Commerce, Jassim al Marzuq, due to the inability of the ministry to act effectively and speedily to resolve the crisis.⁶⁷

The deputies, in their lengthy discussion of the Act, focused on four specific points: the necessity to grant the right of litigation to the holders of cheques; the preservation of the Constitutionality of any solution; the safe guarding of the full rights of citizens; and the application of severe penalties to manipulators and others involved in the crisis.⁶⁸ In the end, the government and the assembly agreed to find a compromise formula to supplement the act and the law was finally approved, together with the government's decision to set up a fund, to be used as a safeguard for small investors and enable them to recover their money.⁶⁹

The assembly was angered by another unconstitutional procedure taken by the government against one of its members and Hamud al Jabri, one of the major debtors in the Souq. The government stripped him of his parliamentary immunity in order to allow the Board of Arbitration to confiscate his property and forbade him from travelling abroad. The assembly suspended this action, since it was unconstitutional and issued the following statement:

Having seen the procedures taken against a member of the assembly during the official recession of the assembly and thereafter, the assembly renounces all unconstitutional procedure taken...It stressed emphatically that such renunciation does not mean the

⁶⁶ Ibid., p.109-110.

⁶⁷ Ibid., p.110.

⁶⁸ Ibid., p.110.

⁶⁹ Ibid. p. 111

*defence of the member but that defence of the Assembly as their legislative authority and protector of the Constitution. The Assembly urges the necessity of observing duly laid Constitutional procedure in respect of the removal of immunity.*⁷⁰

The reluctance of the government to interfere and regulate the Souq was attributed to seeing the market *as beneficial way to redistribute wealth among the Kuwaiti population.*⁷¹ Another reason was the involvement of members of the al Sabah family including Khalifa Abdullah al Sabah, Muhammad Khalifa al Sabah and Duaij Jaber Ali al Sabah. The Finance Minister, Abdallatif al Hamad, was among the few who wanted to see a tough response by the government leading to criminal proceedings and the imprisonment of those responsible.⁷² However, the government's position was the same as the suggestion of the Chamber of Commerce, to bail out investors and use arbitration boards.⁷³

This crisis, which had bankrupted many and affected small investors, damaged the reputation of Kuwait and its investment climate, and increased the state's role, which people such as al Hamad, had embarked upon reducing two years earlier. The liberalisation of the economy, by reducing the role of the state and expanding the private sector would be an effective way of reducing the power that al Sabah holds over the society and its citizens. Economic liberalisation can have some benefits to political participation if it is allowed to happen. There has been much talk in Kuwait about restructuring the economy but very little has actually happened. This could be due to the far too many vested interests by many different groups, with competition between those who depend on state employment and benefits, those who depend on state lucrative contracts and those who depend on the redistributive function of the state in general while, notwithstanding, the vested interests of the ruling family itself.

⁷⁰ Al-Watan Newspaper, Kuwait, 20 October 1982.

⁷¹ Crystal, op.cit. p. 98.

⁷² Ibid., p.98.

⁷³ Ibid., p. 99.

The crisis also presented itself as being an opportunity to re-establish the dominance of the old merchant group. As eloquently put by Crystal: *established merchant families are eager for the stock market nouveau riche to be nailed to the wall.*⁷⁴ The heavy involvement of the Chamber of Commerce and its cooperation with the government consolidated their position in the following years, as indicated by the protectionist policies that the government adapted to their own benefit.⁷⁵

6.6 Elections for the Sixth National Assembly

Some considered that the elections for this assembly represented a new phase in the development of the election process, the political platforms, and the popular awareness of crucial political issues.⁷⁶ The reason for this optimism was attributed to the type of candidates that the elections attracted. The majority of candidates were considerably younger than those in previous elections and they also brought with them the method of debates and seminars which are organised specifically to discuss issues inside *diwaniyyas* and in electoral centres. Because of employing this new method, the number of candidates was around 231, which was much lower than in previous years, while the change in the members of the assembly was higher, at around 56 percent. Only 22 members out of 45 candidates from the previous assembly won a seat in the 1985 assembly, while some veterans of the parliament won seats due to the influence of the *diwaniyyas*.⁷⁷ The educational level of candidates had also improved; around 54 percent of deputies held a university degree as compared to 40 in the previous assembly; see Table 6.2.

⁷⁴ Ibid., p. 100.

⁷⁵ Ibid., p.100.

⁷⁶ Al-Maqamis, op.cit. p.76.

⁷⁷ Ibid., p.76-77.

Table 6.2 Educational Levels of Members of the Assembly during the Period 1963-1975

<i>National Assembly</i>	<i>University Degree %</i>	<i>High School & Below %</i>
1963	18	82
1967	10	90
1971	34	66
1975	42	58
1981	40	60
1986	54	46

Source: al Bahrani, *Factors Influencing Ruling Elites: Policies on Political Participation in the State of Kuwait*, Ph.D., University of Denver, 1988, p 262.

The results of the election, as seen in table 6.3, was marked by a comeback of the nationalists capturing 5 seats, as compared to their total defeat in the previous election. According to Baaklini three major factors facilitated such a win. Firstly, they ran only one candidate in their strongest districts. Secondly, in predominantly tribal districts, they ran a tribal candidate with strong liberal leanings. Thirdly, the opposition took advantage of the huge discontent of the Kuwaitis over the widespread of corruption in the government, which was coupled with the outcry over the collapse of Souq al Manakh and the government's handling of the matter.⁷⁸ As for the rest of the political groups, the *badu* maintained their impressive presence by holding onto their twenty-seven seats, the Shi'ite and the Sunni religious groups maintained their four seats each, while the independents gained ten seats.

Table 6.3 The Distribution of the Seats in the National Assembly for the Election of 1985

<i>District</i>	<i>Badu</i>	<i>Merchants</i>	<i>Arab Nationalists</i>	<i>Shi'ite</i>	<i>Sunni religious Groups</i>	<i>Others</i>	<i>Total</i>
1st.	1	-	-	1	-	-	2
2nd.	-	-	-	-	-	2	2
3rd.	-	1	1	-	-	-	2
4th.	-	-	-	-	-	2	2
5th.	-	-	-	-	1	1	2
6th.	-	-	-	-	1	1	2
7th.	-	-	1	-	1	-	2
8th.	-	-	1	-	1	-	2
9th.	-	-	1	-	-	1	2
10th.	-	-	1	-	-	1	2
11th.	-	-	-	-	-	2	2
12th.	2	-	-	-	-	-	2
13th.	-	-	-	2	-	-	2
14th.	2	-	-	-	-	-	2
15th.	2	-	-	-	-	-	2
16th.	2	-	-	-	-	-	2
17th.	2	-	-	-	-	-	2
18th.	2	-	-	-	-	-	2
19th.	2	-	-	-	-	-	2
20th.	2	-	-	-	-	-	2
21st.	2	-	-	-	-	-	2
22nd.	2	-	-	-	-	-	2
23rd.	2	-	-	-	-	-	2
24th.	2	-	-	-	-	-	2
25th.	2	-	-	-	-	-	2
Total	27	1	5	3	4	10	50

Source: Calculated from data on election results available from the Kuwaiti National Assembly

6.7 Issues that Dominated the Sixth National Assembly

With the return of the nationalists and the growing strength of the Islamists, this assembly proved to be very assertive and extremely vocal. Also the environment of the mid-eighties was more challenging in terms of the Iran-Iraq war and the economic recession. Hence, there were a variety of issues and

⁷⁸ Baaklini, 1999, op.cit. p. 182.

concerns that the assembly found itself embroiled with, which centred on the Souq al Manakh crisis and also government accountability as a result of widespread corruption in the country.

The assertiveness of the assembly was grounded in the unexpected alliance between the nationalists and the Islamists, which managed to block government bills and sponsor legislation or resolutions against the government. They focused on the issue of corruption and accountability of the executive in general and exercised their right to question ministers including those belonging to the al Sabah family.

The debate over Souq al Manakh continued to engage the assembly whose deputies were very unhappy about its financial settlement and persisted in the accusation of a cover-up by the government, because of the involvement of influential individuals. The opposition took a firm stand against the government having bailed the speculators of the Souq. They also exposed some of the wrongdoings of the Fund for the Relief of Small Investors, which was set up to compensate small investors who lost money in the crash.⁷⁹ One of the causalities of this exposure was the Justice Minister, Sheikh Salman al Du'ayj al Sabah.

The assembly forced his resignation in May 1985, once it became apparent that his 14 year old son had been classified as a "small investor" and had received \$4.5 million from the fund largesse.⁸⁰ It was the first time that a member of al Sabah was interpellated by the assembly, in a highly public and widely covered event by the media. Thirty-seven deputies went on record to oppose the minister, making his impeachment an assured eventuality.⁸¹ Sheikh Salman decided to resign to save face of al Sabah and the government. Al Sabah took that incident to be very damaging and humiliating to the authority of the family, while asserting the power of the assembly. However, beyond causing the

⁷⁹ Ibid., p.183.

⁸⁰ Peterson, op.cit. p. 49.

⁸¹ Al-Shayjeji, op.cit. p. 333.

resignation of the Justice Minister the assembly was unable to resolve the crisis and was criticised for that failure.⁸²

The assembly sought question also the Oil Minister, Sheikh Ali al Khalifha al Sabah, who was targeted because of the failure of the economic policy of the government in dealing with al Manakh debacle. He held the finance post jointly with Abd al Latif al Hamad, from September 1983 to March 1985, the critical period of dealing with the Souq crisis. Al Hamad resigned over the government's handling of the crisis. To avert further confrontation with the assembly the Oil Minister resigned shortly after the resignation of the Justice Minister. However, although his resignation was not accepted by the Prime Minister, this did not abate the ever increasing vocal criticism of the government.

The other issue that returned to the discussions of the assembly was that of women's rights. The liberal/nationalist candidates during the election campaigns, were induced by women's groups to incorporate the issue of women's suffrage into their political platforms. Thus following the election, a group of deputies brought forward a bill to grant women the vote. In response to this bill, the internal committee of the assembly with (three of its five members being staunch opponents of women's vote) requested the Ministry of Awqaf and Islamic Affairs to rule on the matter. The ministry issued a *fatwa* declaring that *the nature of the electoral process befits men, who are endowed with ability and expertise; it is not permissible that women recommend or nominate other women or men.*⁸³ That quickly put an end to the issue.

Another issue that caused uproar in the assembly was the debate over the draft law of the judiciary's independence sponsored by the assembly. The government's request to hold the session behind closed doors resulted with twenty-four deputies walking out of the session in protest. Although their absence did not affect the quorum needed to hold the session, it asserted the desire on the part of the deputies for openness, especially when the matter to be discussed was not an extraordinary case or pertained to the country's

⁸² Ibid., p.339.

⁸³ Peterson, op.cit. p.59.

security and national interests. The government insisted on a closed-door session to avoid further public embarrassment lest the assembly was able to pass the law and uphold the judiciary's independence.⁸⁴

On foreign policy issues the assembly took an outspoken stance by denouncing the Iranian escalation of the war and the US attack on Libya. The assembly issued a statement denouncing Iranian aggression because *it constitutes a grave danger to the whole region and leaves the door wide open for foreign intervention.*⁸⁵ Aid to Syria was another matter that caused huge embarrassment to the government, because of the insistence of the assembly to stop the aid because of Syria's involvement in Lebanon.

In the midst of such increased pressure from the assembly to call the government to account over such issues, and the deteriorating internal security situation and growing external pressures - especially from Saudi Arabia - led the Amir to make his the decision to suspend the assembly. This suspension and its circumstances shall be the focus of the following chapter.

6.8 Conclusion

The above discussion suggests that al Sabah were forced to restore the National Assembly due to a combination of domestic and regional factors. The longer the assembly remained suspended the more dissatisfied and disgruntled Kuwaitis became and the more widespread the discussions become in the *diwaniyyas*, concerning the necessity to restore the representative system of government in accordance with the Constitution. The unleashing of Islamic fundamentalism as a result of the Iranian revolution increased the relevance of the assembly as an institution that can check the tide of Islamists. The mere presence of the National Assembly is of immense value to provide legitimacy to al Sabah, restore a balance between liberal/secular Kuwaitis and Islamists, and is a potent symbol of Kuwait's sovereignty and independence.

⁸⁴ Al-Shayehji, op.cit. p. 69.

⁸⁵ Ibid., p.14.

The eighties were not only a period of changing ideological tendencies in the region it was also a period of changing economic conditions and the end of the unprecedented boom era of 1973-1982. Thus, despite the change in election law and the dominance of loyal deputies, the fourth and fifth assemblies were vocal and highly critical of the government on many issues, but especially focused on economics. Government mismanagement, widespread corruption, and the immense wealth accumulated by the al Sabah family became constant targets for the opposition. Because of these serious issues to many Kuwaitis the assembly became the instrument through which al Sabah dominance can be curtailed and government mismanagement controlled. The seventies' relative indifference to the assembly has been replaced by an ever increased commitment to it.

However, although the basis of the power and legitimacy of al Sabah has been undermined by the reduction of oil revenues and the decline in the oil market that did not necessarily translate automatically into political weakness. They have been able to suspend the assembly once more and amend or remove some articles of the Constitution without undermining or threatening their rule. Such ability attests to the fact that the fragmentation of Kuwaitis along sect, tribe and family affiliation, together with the dependency of the merchant community, the Kuwaiti *badu* and middle class Kuwaitis on the coffers of the government, make al Sabah the most relevant political force in the country. The opposition in Kuwait, either secular or religious, does not present itself as genuine alternative to al Sabah. What they aspire for is a share in the decision making process and holding the government accountable and being answerable to the deputies of the assembly. However, they have been unable to attain even that small concession. Its weakness stems from the division of the opposition on ideological grounds, its fragmentation along traditional lines of association as well as its total ineffectiveness when it comes to translating its strong rhetoric into influence on the policymaking process.

Chapter Seven

The Second Suspension of the National Assembly and the Interlude before the Iraqi Invasion

7.1 Introduction

The second suspension of the National Assembly in 1986 confirms the vulnerability of the legislative branch of government to the executive and the persistence in difference in the vision of al Sabah and Kuwaitis of the function and purpose of the National Assembly. This gives credence to the view held by Sisson that legislatures must maintain sufficient autonomy and power, in order to be able to influence the course of policy-making.¹ The experience of Kuwait indicates that the overarching power of al Sabah have limited the value of the National Assembly by reverting to its suspension whenever its influence challenged the authority of the ruling family. The autonomy and power granted to the assembly by the Constitution appears not to be a sufficient protection against the power of the ruling family.

As shall be seen from the discussion of this chapter, similarities between the first and second suspension of the National Assembly attests to the presence of this

¹Richard Sisson. "Comparative Legislative Institutionalization: a Theoretical Exploration". In Comparative Perspective (ed.). Allan Kornberg. (New York: David McKay Company, 1973).

structural problem. However, Sheikh Jaber's decision to suspend the National Assembly indefinitely was a result of a radically changed economic situation and a more challenging domestic and regional environment, with opposition from assembly members and Kuwaiti citizens. The suspension, combined with the government's imposition of further restrictions on press and public freedoms, angered many Kuwaiti citizens and caused the development of what became known as the pro-democracy movement. This movement, led by members of the National Assembly, reflected the feelings of many Kuwaitis and the willingness to challenge the government. The growth and strength of the movement resulted in confrontations with the government and its security forces. Although on one level this represented a fundamental change in the relation between al Sabah and its citizens, on the other, the basic objective of opposition remained the sharing of power and not presenting itself as an alternative political force.

The chapter shall discuss the development of this movement and its inability to force al Sabah to restore the National Assembly, which emphasizes that the root of this power struggle between the two organs of state power lies in the fact that al Sabah combines economic and political power together, by making society heavily dependent on the state. That gives the ruling family the ability to be unresponsive to either challenges or the demands presented by from its citizens. The second suspension of the National Assembly further undermined the institutionalisation of democracy in Kuwait while upholding the autocratic rule of al Sabah.

The chapter shall discuss the period leading up to the Iraqi occupation of Kuwait as it bears relevance to the study. The absence of a National Assembly during a critical period of high tension between the Iraqi and Kuwaiti governments removed from Kuwaiti citizens their right to participate in policies that have a direct impact on their livelihood and also the survival of their entire society. However, it is very difficult to assume that the outcome of the dispute might have been different if the National Assembly was part of the decisions that constituted the overall policy of Kuwait towards Iraq during that uncertain period. But, what can be noticed is that,

without a suspension, at least the chance would have been given to Kuwaiti citizens, through their deputies to debate and influence government policy.

7.2 The Second Suspension of the National Assembly

The Amir of Kuwait, Sheikh Jaber, on 3 July 1986, issued a decree suspending the National Assembly and four articles of the Constitution; 56 (3), 107, 174 and 181. When the cabinet resigned on 1 July, many Kuwaitis thought that the Amir would have formed another cabinet. As assembly member Ahmad al Rub'i confidently said, *we expect a new government to be formed in harmony with the assembly.*² The Amir's suspension of the assembly came as a surprise, perhaps because it was Amir Jaber who was responsible for the return to parliamentary life. The Amir's address to the nation provided ample examples of the similarities between the first and second suspension in terms of the rational reasons given to justify them. The Amir expressed his disappointment about the deteriorating situation between the assembly and the government in the following words:

*I waited long in the hope that the two authorities would be able to reach constructive understanding and dialogue to resolve these issues. However, the dialogue changed into arguments and rancour, and the articles of laws and bills became an exchange of weapons instead of cooperation in arms... General issues were mixed with personal issues and debate became settlements of old scores or plans for new perception, and embodiment of stands aimed at propaganda rather than information, slandering rather than rectification.*³

Then he moved on to accuse the assembly of practicing a misguided and distorted democracy, which he suggests has intensified divisions in Kuwaiti society and undermined the stability and unity of the country. He emphasized that democracy means foremost the stability and unity of Kuwait and reminded Kuwaitis of what

² Nadim Jaber. "How Democracy went up in Smoke". The Middle East. (1986). p.14.

³ The Amiri address by the Sheikh Jaber al Ahmed al Sabah on 3/7/1986.

happened to Lebanon, without mentioning the country by name. To that effect he declared:

*I have seen the picture of democracy shaking, and the practice slipping away, taking with it social conduct and norms, and the cohesion inherent in Kuwaiti society disintegrating with it. Responsibility is in disarray and has been struck by many hands, and the citizens do not know anymore who is responsible for the events which are taking place...Democracy in our opinion is that Kuwait should exist first of all, and we are at its service, protecting it with our bodies and souls...Look what has happened to others. Look how dissensions were able to blow up countries which were secure and calm and whose livelihood came in plenty from everywhere. This is what they have tried to carry out by breaking up the Kuwaiti ranks.*⁴

The Amir also criticized the interference of the National Assembly in foreign affairs, which brought animosity with some Arab states. He indicated that the assembly had forgotten the limitation imposed on Kuwait in its dealings in the region, by indicating that:

*We are not content with Kuwait's internal problems, which on their own are capable enough of exhausting all efforts, but we have also entered into external battles, which are not compulsory for us. Through them we have created unnecessary animosities, and some of us have begun to say whatever we want to whoever we want, forgetting or pretending to forget the size, capabilities, heritage, and interests of Kuwait. Do we need all these open fronts?*⁵

⁴ Ibid.

⁵ Ibid.

The Amiri decree emphasized the seriousness of the internal security situation in Kuwait, which was directly related to the Iran-Iraq war, and raised the importance of internal unity and stability of Kuwait. In a way, it can be argued that such importance can be used to justify sacrificing the assembly and suspending four articles from the Constitution:

The country has faced many ordeals and harsh conditions that it has never experienced all at once before. Thus, its security was exposed to fierce external plots, which threatened souls and almost destroyed the resources of this nation and the source of its livelihood. The flames of war raging between its two Muslim neighbours have almost reached its borders. And it has faced a strong economic crisis. And instead of efforts coming together, and all parties cooperating in order to contain these crises, opinion was divided, and blocs and parties emerged which have led to the shattering of national unity and to interruption of work to the point where the Council of Ministers has become unable to continue its task.⁶

The suspension of the four articles freed the Ruler, as was done in the previous suspension, from any Constitutional obligations and from any restriction on his power and the power of the executive. It also indicated that the Amir intended a prolonged suspension of the assembly. Once more in the name of unity and stability, political participation was eliminated and some important articles of the Constitution were put on hold. In addition, the government followed the suspension by applying strict press censorship and for the first time officials from the Ministry of Information sat in at each newspaper office, in order to monitor the articles written by journalists.

However, despite the similarities in the manner and reasons of the first and second suspensions, this time the suspension was not accompanied by a commitment from the government for its future restoration and, more importantly the general

⁶ Ibid.

mood of deputies and Kuwaitis was far more combative. Before discussing the development of the pro-democracy movement in the wake of the suspension of the assembly, the following section looks at the overall regional and domestic factors that played a role in the Amir's decision.

7.3 Regional and Domestic Factors Behind the Suspension

The Amir's explanations for the suspension of the assembly have concentrated on the terms of national interest and security and for the sake of maintaining the cohesiveness of the society as a whole. However, on the domestic front what was really at stake was the assertion of the authority of the assembly by its deputies, which has brought them in direct conflict with the ruling family. Perhaps as one nationalist deputy put it, *we ignored the political reality of the system and of the Gulf, and allowed our gains to be lost in a single blow, we should have calculated that this was bound to happen.*⁷ Thus, more than anything it was the assertion of the right to participate in the decision-making process and to influence government policies that resulted in the dissolution of the assembly. It is this basic structural problem in the relation between the assembly and the legislative that was the source of contention and conflict between the two state powers. This can also explain the difficult and strained relation between the government and the deputies despite the fact that citizenship and election laws allowed only the few and most loyal supporters of the government to participate in political life.

The Amir was, at that time, angered and resented the assembly's involvement in foreign affairs; a domain that al Sabah considered to be exclusively theirs. One immediate result of the dissolution was that the government was able to avoid one sticky issue that it found very hard to push through the assembly over the past four years; aid to Syria.⁸ The assembly had been highly critical of Syria's role in Lebanon which caused a huge embarrassment for al Sabah. The tension between

⁷ The Middle East, August 1986.

⁸ Middle East Economic Digest, MEED, July 12, 1986. p. 17.

the government and the assembly reached its zenith when the assembly requested the formulation of a committee of deputies to look at the financial statements and records of the Central Bank. The matter was referred to the Constitutional Court, which approved the right of the assembly.⁹ This kind of accountability was unacceptable for the ruling family. Despite the powers granted to the National Assembly by the Constitution, al Sabah perceived the assembly more in the view of what the following assessment describes, as mentioned by al Naibari:

*Kuwait assembly is more a channel for opposition, criticisms and raising voices than a framework for contributing to political decision-making process and for guiding public policy. By saying that I do not mean to belittle the importance of the assembly, but to emphasize that the assembly is a great gain that all efforts must be exerted in order to maintain it and develop it.*¹⁰

Not only the domestic situation was difficult, but the regional one was tense and unstable, and become fuelled by the Iran-Iraq war. Al Sabah felt vulnerable, and the assertiveness of the assembly on both domestic and foreign issues exacerbated that vulnerability. Pressure from Saudi Arabia was an influential factor in the decision to dissolve the assembly, as it had been in the previous dissolutions. Al Sa'ud were persistent in their disapproval of the assembly and Kuwait's experiment with parliamentary democracy, especially that the assembly continued to be very critical of the Saudi government and its dominance in the Gulf Cooperation Council. Ahmad al Rub'i commenting on the dissolution said that *we are now really part of the Gulf Cooperation Council.*¹¹ He was basically suggesting that Kuwait bowed to the pressures from other Gulf states, primarily Saudi Arabia, and also that they were all equally as undemocratic as Kuwait.

⁹ Rashid Hadi. Hall majlis al-'umma w-al-haraka al-dusturiya. (The Dissolution of the National Assembly and the Constitutional Movement). (Beirut: n.p., 1992).p. 16.

¹⁰ Mufid Al-Zaidi. Al-tayyarat al-fikriya fi al-khalij al-'arabi,1938-1978. (Intellectual Trends in the Arab Gulf 1938-1971). (Damascus: Arab Unity Centre, 2000).p.138.

¹¹ Middle East Economic Digest , MEED. July 1986. p.17.

Saudi Arabia tried to undermine Kuwait's democratic experience through the Gulf Security Agreement. Some parts of the agreement contradicted some of the articles of the Kuwaiti Constitution. That meant that Kuwait needed to revise the Constitution in order to sign the agreement and that is exactly what al Sabah attempted to do. However, the agreement was seen by a large segment of Kuwaiti citizens as being very dangerous to parliamentary experience and limited freedom in general, in throughout Kuwait. Some of the articles of the agreement prohibited any criticism of the ruling regimes in the Gulf and prohibited citizens of the GCC from interfering in the public affairs of the council, while giving the council the right to detain suspected persons without a trial for an unspecified period of time. The agreement went as far as demand that universities and other cultural centres must inform all six members of the Council before holding conferences, and that these countries must share and exchange information on actual or potential dissenters.¹² In other words: *the agreement was specifically designed to minimize political freedoms in Kuwait.*¹³

Public reaction in Kuwait was strongly against the agreement and several meetings were organized to warn against its dangers. The press, the National Union of the Kuwaiti Students, the General Union of Kuwaiti Workers, plus the social and cultural centres, all spoke vigorously against the agreement and those who were pressurizing Kuwait to sign it. The National Assembly deputy, Abdul-Mohsen Jamal, when criticizing the agreement, indicated how a security pact failed to mention the external dangers facing the Gulf states, while perceiving danger to be coming from the people of these states.¹⁴ He emphasized that the treaty had been designed to crush those who might speak against corruption and misuse of authority in the Gulf region.¹⁵ Another deputy, A. al Nifisi, said that the agreement

¹²Jasem Mohammad Jerkhi. "The Electoral Process in Kuwait: A Geographical Study". Ph. D, thesis, University of Exeter, 1984. p.391-392.

¹³ Ibid., p.393.

¹⁴ Ibid., p.511-512

¹⁵ Ibid., p. 512

*was made to protect the Governments from their people.*¹⁶ Because of such strong opposition, the Kuwaiti government was unable to make the necessary changes to the Kuwaiti Constitution, which would have allowed it to sign the security pact.

The regional instability combined with what appeared to be an overwhelming domestic wave of resentment, anger and criticism against the government exerted huge pressure on al Sabah. In return they blamed the atmosphere of opposition in the country on the boldness of some deputies and the openness of debates in the National Assembly, ignoring the fact that the Kuwaiti people and the assembly were angered and concerned over concrete issues such as the widespread corruption and the government's mishandling of Souq al Manakh and their obvious attempts to undermine the Constitution.

The reaction of Kuwaitis to the suspension was qualitatively different than it was during the first suspension. The reason for that was that the eighties had presented a far more difficult period, especially economically. The wealth and prosperity of the seventies was unparalleled. This time round people were extremely resentful of the huge income gap between al Sabah on the one hand and the rest of Kuwaitis on the other, and among Kuwaitis themselves, as well as being highly critical of the widespread corruption and mismanaged state of the economy. All these factors played a role in creating a different response to the suspension.

Following the announcement of the dissolution, members of the opposition bloc; Islamist and nationalist deputies in the assembly, issued a statement requesting the government to reconsider its decision. A year later a memo signed by 26 deputies from the opposition bloc was presented to the Amir, reiterating their previous request.¹⁷ This initial reaction was considerably muted. However, the continued suspension of the assembly resulted in a gradual growth of the

¹⁶ Ibid., p.512.

¹⁷ Rashid, op.cit. p.19-20.

opposition movement emerging from different quarters of the Kuwaiti society. One of the most influential opponents of the dissolution were the merchants. They had seen their economic dominance being threatened by the expanding participation of the younger members of the ruling family in business activities, and viewed the assembly as an effective tool to ensure government accountability and enforce checks on the ruling family's ability to engage in improper practices. The merchants, subsequently, saw its restoration as a mean to check the extension of the political and economic power of al Sabah.¹⁸ The merchants, despite their huge influence and wealth, never presented themselves as an alternative political force to al Sabah. However, increased concentration of political and economic power in the hands of al Sabah motivated them to use the assembly as a tool to check that dominance but without threatening al Sabah's political power.

Resentment by the Kuwaitis in general was increased by the accumulated evidence of mismanagement, corruption and incompetence of the government and the ruling family.¹⁹ Also education, urbanization and overall development of the society meant that people are less willing to accept autocratic rule. Thus, a combination of factors that reflected changes in the society produced what could be considered as the first grass root movement in Kuwait to restore the assembly and the Constitution.

7.4 The Pro- Democracy Movement

Political participation and power sharing arrangements between the ruling family and the people of Kuwait, as it was envisioned in the 1962 Constitution, became extremely important to Kuwaiti citizens, making it harder to justify the absence of the legislative or to pacify citizens, especially when the economic situation was very difficult.

¹⁸ Rashid, op.cit. p.64.

¹⁹ Abdo I. Baaklini. Legislative Politics in the Arab World: The Resurgence of Democratic Institutions. (Boulder, Colorado: Lynne Rienner Publishers, 1999). p. 185.

The end of the Iran-Iraq war, in August 1988, provided the Kuwaitis with the opportunity of reaffirm their commitment to democracy and revive their demands for the restoration of the assembly. Essentially, the continued suspension of the National Assembly; the many restrictions imposed by the government on press and freedom of expression; the build up of resentment and hostility towards the government's inability to curb the misuse of public funds, the entire Souq al Manakh debacle and such widespread spread corruption, all contributed to the surge in the demand for a return to the representative system of government. Merchants were joined by professionals, intellectuals, former assembly members and some government officials, leading to the development of a pro-democracy movement focused on the reinstatement of parliamentary life and restoration of the Constitution.

Kuwaiti's civil associations (trade unions, business organizations, civic clubs, ethnic, religious, and professional groups) all played a crucial role in popularising and strengthening calls for the restoration of democratic life in Kuwait.²⁰ As indicated by Ghabra, it was parliamentary experience per se that gave these associations a role to play in the political process of Kuwait. He points out that:

*In the context of the emerging parliamentary experience, the associational groups gained legitimacy and influence. Debate within the parliament gave a special flavour to Kuwait's political culture which was characterized by an element of openness and willingness to air opposition publicly.*²¹

Opposition from these associations has been regarded by the state in a similar light as to the opposition that emanates from parliament; as a challenge that might

²⁰ Shafeeq Ghabra. "Voluntary Associations in Kuwait: The Foundations of a New System" Middle East Journal, 45, no. 2 (Spring 1991): p. 199-215.p.199-200.

²¹ Ibid., p202.

undermine al Sabah's traditional rule.²² The government attempted to limit the influence of civil associations on Kuwait's political process by passing several laws to restrict their freedom. In the wake of the 1976 dissolution of the National Assembly, the elected boards of some associations were dismantled and replaced by boards appointed directly by the government. The suspension of the National Assembly and several government restrictions affected the activities of many of the associations. However, it was these two factors eventually that galvanized Kuwaiti associations to lead a movement for the return of democratic life to Kuwait. They formed a representative committee of 45 members, hence the name of "the forty-five" group, in 1989, to coordinate activities.

The committee of 45 was representative of all major political groups in the country except the Sunni religious groups. The group included eleven nationalists, five merchants, twelve *badu*, three Shi'ite and fourteen liberals. Its major task was to prompt Kuwaitis to sign a petition to the Amir calling for the restoration of the assembly and return to democratic life as guaranteed by the Constitution. They managed to gather thirty-five thousand signatures.²³ The government ignored the petition and refused to meet the representatives of "the forty-five" group. Coordinating the efforts among the various segments of Kuwaiti opposition led to the formation of a larger bloc known as the Parliamentary Bloc.

The Parliamentary Bloc: The 45 committee was joined by another group of thirty-two vocal members of the dissolved assembly, which included six nationalists, eight liberals, twelve *badu*, three Shi'ite and three Sunni Islamists. These two groups were formalized into a movement called the Constitutional Movement or more commonly known as the Parliamentary Bloc. In its first statement the movement declared that it was:

²² Ibid., p. 199-200.

²³ Fahd 'Abdullah Al-Mudryis. (Al-Mudryis). Al-haraka al-dusturiya fi al-kuwayt. (The Constitutional Movement in Kuwait). (Kuwait: Dar al-qurtas, 2002).p. 23.

*A popular Kuwaiti movement that includes all Kuwaiti citizens who believe in Constitutional legitimacy and the Kuwaiti Constitution as the legal frame for the system of government and legislation and as representing the foundations of the Kuwaiti society.*²⁴

In effect, the movement included all the political, ideological and religious affiliations in Kuwait; nationalists, leftists, Islamists (Sunni and Shi'ite) and independents. It was the first time that the Shi'ite participated in a popular movement with the Sunnis. As for the specific objectives of the movement, they included the following aims on their agenda:

1. To regain Constitutional legitimacy.
2. To hold parliamentary elections according to the existing election law.
3. To defend the Kuwaiti Constitution and Constitutional legitimacy.
4. To strengthen the separation of the executive, legislative and juridical authorities through a National Assembly that would represent the will of the people, and a national government that would be bound by the Constitution.
5. To annul and amend the laws those violate and contradict the public freedoms which have been guaranteed by the Constitution.
6. Raise public awareness and organise Kuwaiti citizens.
7. The movement shall achieve its objectives through peaceful means.²⁵

²⁴ Ibid., p.23.

²⁵ Ibid., p.23.

The refusal of the government to accept the petition caused, on the one hand, an embarrassment to the leaders of the movement, while, on the other, intensified the persistence of the Kuwaitis in their demands to restore the assembly. The government's staunch refusal to accommodate the demands of the pro- democracy movement led to the appearance of Monday *Diwaniyyas*.

Monday diwaniyyas: The movement needed a place and a forum to discuss and make public its demands and their legitimacy. The *diwaniyyas* as the traditional meeting place of Kuwaiti males fulfilled such a need especially that it was exempt from the restrictions imposed on public meetings. These Monday meetings became a regular feature in a number of *diwaniyyas* across the country and a source of tension and worry for the government as thousands of citizens participated. Many attendants were openly critical of the government and the political and informational effects of these gatherings were very positive. Some of these meetings were met with closures while others were dispersed by the government, such as incidents at *al Jahara*, *Kyfan* and *Farwaniya* which heightened the tension between the government and its citizens.

Al Jahara incident: *Al Jahara* is a *badu* district and the pro-democracy movement intended to meet there to indicate that pro-democracy feelings are not exclusive to urbanised, inner districts of Kuwaiti but extend to all areas and segments of the population and especially to the outer districts inhabited primarily by *badu*.²⁶ Around 5,000 Kuwaitis gathered in *al Jahara* and confronted the security forces that prevented them from reaching the *diwaniyya*.²⁷ Although the government succeeded in preventing the main gathering from taking place much smaller different gatherings took place and were addressed by some deputies.²⁸

²⁶ Rashid, op.cit. p.32.

²⁷ Al-Mudyris, op.cit. p.29.

²⁸ Rashid, op.cit. p.33.

Kyfan gathering: The following meeting in the *Kyfan* area was distinguished by the huge number of attendants especially from the *al Jahara* area in defiance to the previous cancellation of their meeting.²⁹ The government was ready with its special security forces and circled the *diwaniyya* so no one could reach it.³⁰ The gathering took place in a street near to the *diwaniyya* and dispersed peacefully following some speeches and the agreement on *Farwaniya*, an inner district of Kuwait as the place for the next meeting on the 22 January 1990.³¹

The government on 20 January announced that the Amir would address the public that evening. The announcement came in the midst of the intensification of the tension between the government and its security forces and the pro-democracy movement. The government found itself in a position where it could no longer ignore the popular demands of its citizens nor depend on repressive means. However, the Amir's speech was seen by some as a great disappointment, since it emphasised security and stability of the country and called for opening a dialogue with the opposition in order to find a new formula to restore the democratic life and prevent a third relapse of democracy.³² The parliamentary bloc and its supporters and most of those involved in the pro-democracy movement were hoping for a more direct indication of the government's intention to restore the Constitution and the National Assembly.³³

However, in light of what appeared to be an accommodating step by the government the movement decided to halt its Monday meetings and to use the scheduled meeting in *Farwaniya* to inform the people.

²⁹ Ibid., p.33

³⁰ Jasim Muhammad Karam. "Intikhabat al-majlis al-watani li'am 1990: dirasa fi al-jughrafiyha al-siyasiya." (The Kuwait National Assembly 1990: a Study in Political Geography). Annals of the Faculty of Arts. V. 7 N. 150. (Kuwait: Kuwait University, 1996). p.20.

³¹ Rashid, op.cit. p.38.

³² Karam, op.cit. p.8.

³³ Rashid, op.cit. p. 14.

Farwaniya meeting: That meeting attracted huge numbers which were estimated to fall between 10 to 30 thousand.³⁴ The security forces closed entrances to the area and had a large presence, in addition to helicopters flying over the area and a number of military vehicles guarding the area.³⁵ The movement denounced the methods of the government but realized the seriousness with which the authorities were intent on stopping such meetings. The movement also thought that halting the meetings would help by giving the dialogue with the government a chance.³⁶ In a public statement the deputies stated that:

*in response to the Amir call for a dialogue and in accordance with our principle since 3 July 1987 of the need for dialogue, we have contacted the Amir requesting a meeting in order to open this dialogue for the sake of national interest.*³⁷

The dialogue lasted for three months. However, at the end of that period, the government made a move which totally ignored the popular demands of the Constitutional Movement, as they asked Kuwaitis to participate in the election of *al majlis al watani* (the national council) as an alternative to the National Assembly for a transition period of four years.

7.5 The National Council

It came as a great surprise to many Kuwaitis that the Amir decided to ignore the strong feelings of Kuwaitis towards their National Assembly and to have opted to find an alternative to their constitutionally guaranteed representative body. The Amir made a speech on April 22 1990, which delineated the function of *al majlis al watani* as follows;

³⁴ Al-Mudyris, op.cit. p.31.

³⁵ Rashid, op.cit. p. 14.

³⁶ Ibid., p.14.

³⁷ Ibid., p.43-44.

1. To evaluate the democratic experience of Kuwait and study the reasons for the lack of cooperation between the executive and legislative authorities.
2. To propose appropriate measures, laws and regulations, in accordance with the spirit of Islamic *Shari'a*, to secure the nation's unity and future stability. The *Majlis* will conduct their investigations in closed sessions and report their findings to the Amir who, in turn, will pass it to the assembly.
3. Discuss the bills presented by the government and present their opinion. The *Majlis* would have the right to present bills and pass them to the government. However, Laws would only be promulgated after the Amir's approval.
4. The *Majlis* would have the right to question ministers and keep a check on the government.
5. The *Majlis* would have the right to relay its concerns to the government who, in turn, must give reasons for failing to take these concerns into consideration.
6. The *Majlis* would have the right to discuss the budget and to give its opinion on the matter.³⁸

The government followed that by the promulgation of the law of *al majlis al watani*. The law makes it clear that the *majlis* is a mere consultative council with no legislative powers. Opinions differed on the Constitutional status and the validity of the Amiri decree, but political opposition to the *majlis* was very strong. The

³⁸ Karam, op.cit.p. 22.

Constitutional Movement categorically refused the idea of creating a *al majlis al watani* and also rejected the transition period, by emphasizing the following crucial points;

1. The *al majlis al watani* and the transition period are unconstitutional, and violate the 1962 Kuwaiti Constitution.
2. The law of the *majlis* would represent a parallel temporary Constitution aiming at replacing the 1962 Constitution.
3. The responsibility given to the *majlis* would restrict it being just a mere consultative council.
4. The *majlis* would be unable to act as a check on the executive since it would have no right to question ministers, or suggest a no confidence vote or form a committee to investigate matters relating to the executive branch. In other words, the *majlis* would have no right to hold the government accountable.
5. The *majlis* would have no right to determine the budget, but would only be able to give an opinion.
6. The percentage of appointed members in the *majlis* will be raised to half instead of the present ratio of one-third of the assembly.
7. No procedures of parliamentary immunity of the members would exist.³⁹

The Constitutional Movement, with support from the merchants and the Chamber of Commerce, issued a statement indicating their intention to boycott the election for the *majlis*, and asked others to join the boycott.⁴⁰ A large number of civil

³⁹ Al-Mudyris, op.cit. p.34.

⁴⁰ Rashid, op.cit. p.69.

associations opposed the creation of the *majlis* and the National Union of Kuwaiti Students called for the boycott of the election and the *majlis*. In addition, a large group of influential Kuwaitis issued a statement indicating that any participation in the *majlis* would be a violation of the rights of Kuwaiti citizens as guaranteed in the Constitution and announced the boycotting of the election.⁴¹ It is interesting to note that the eight prominent personalities from the Muslim Brothers who sent a letter to the Amir, dated as 19 May 1990, instead of opposing the very idea of the *majlis*, pleaded with him to shorten the period of the *majlis* and speed up the calling back of the assembly in accordance with the Constitution in order to maintain national unity and the stability of the country.⁴² In contrast, the Constitutional Movement issued a statement calling the citizens to boycott the election, since participation in the creation of the *majlis* would mean yet another four years of suspension of the Constitution and Constitutional democracy.⁴³

Despite this apparent large consensus that the *majlis* would be a violation of the Constitution, the government still went ahead with its plans. The election was held on 10 June 1990. The government estimated an electoral turn out was 62 percent - much lower than the 86 percent of the previous election.⁴⁴ However, the Constitutional Movement suggested that the turn out was much lower at 42 percent, and to obtain this estimate they had used official sources, from the Ministry of Justice and the Kuwait news agency.⁴⁵ The government orchestrated a media blackout on all candidate numbers relating to the election, except the number of those who had won.⁴⁶ Even if one was to accept the government statistics, in comparison with previous elections it was very low. For example, in 1981 the turn out was 90 percent, while in 1986 it was 86 percent. Thirteen of the

⁴¹ Karam, op.cit. p.26.

⁴² Al-Mudyris, op.cit. p.36.

⁴³ Rashid, op.cit. p.69

⁴⁴ Ibid., p.70-71.

⁴⁵ Al-Mudyris, op.cit. p.40.

⁴⁶ Rashid, op.cit. p.69.

fifty elected deputies were former members of the National Assembly, whereas the rest were “political unknowns”.⁴⁷ This explains why the description of the slates for the election of *al majlis al-watani* was: *dominated by taxi drivers, i.e. non-elite Kuwaitis from tribal backgrounds.*⁴⁸

The success of the government plan in carrying out the election has been attributed to two major factors. The first was the cooperation and participation of the Islamist groups. According to al Mudyris the government obtained their support by appointing a group of young Muslim Brothers in leading positions within several ministries and also in several councils, such as the Planning Council and Governorates’ Councils.⁴⁹ The involvement of the Muslim Brothers in the Pro-democracy movement was limited to the participation of their deputies, while refraining from participation in many of the different forms of protests that the movement called for, which aimed to push the government to retract from its plans to find an alternative for the National Assembly.

The other factor was the participation of the *badu*. The turn out of voters in the outer districts of Kuwait was much larger than in the inner districts, because these districts were predominantly *badu*.⁵⁰ The government’s influence in mobilising these areas was immense and it carried out an intensive campaign to lure the voters in these areas through promises and pledges to improve their life. The *badu* in these areas did not perceive the assembly as a supervisory authority to hold the government accountable, but more as an instrument to be used in order to provide the voters with services and respond to their needs. The matter of whether the council is Constitutional is secondary to their immediate day-to-day concerns.⁵¹ Discrepancies in the turn out between *badu* dominated areas and urban areas

⁴⁷ Al-Mudyris, op.cit. p.40-41.

⁴⁸ Mary Ann Tetreault. “Kuwait’s Democratic Reform Movement.” Middle East Executive Report (9th October 1990). p.17

⁴⁹ Al-Mudyris, op.cit. p. 40.

⁵⁰ Karam, op.cit. p.22.

⁵¹ Al-Mudyris, op.cit. p. 41-42.

were huge. For instance, in the urban area of the seventh district the turn out was only 35 percent while in the twenty second district, a *badu* area, it was more than 78 percent.⁵²

The government also took some significant measures to ensure the success of the election such as the arrest for a few days of leading members of the pro-democracy movement such as Ahmad al Khatib, Ahmad Baqar, Abdullah al Nifisi, Jassim al Qatami, Abdullah al Niyabari and Ahmad al Rub'i.⁵³ For the first time in election history in Kuwait, the radio and television were used as means to publicise the election and encourage Kuwaitis to vote and to broadcast nationalist songs and carry interviews with supporters of the government.⁵⁴ The authorities turned a blind eye to the practice of buying votes that was done publicly.⁵⁵ The Constitutional Movement accused the government of resorting to rather menacing and ugly ways to force people to vote such as insinuating that one might lose a job or retired people might have their pension cut, while conscripts were forced to vote.⁵⁶

However, after the election, the pro-democracy movement did not take any more steps to oppose the *majlis*. Non-confrontation with the authority has characterised the relation between government and the opposition since the first *majlis* of 1938. Every time there was an escalation of tension, the opposition refrained from a show down with the government. As indicated before the opposition in Kuwait does not seek to replace al Sabah rule or provide an alternative political force, as it is too fragmented and weak for that, and such a goal has not been on the agenda of any political group.

As indicated by Gause, political activity in the Gulf states and demands for participation does not threaten the stability and security of these regimes, since:

⁵² Karam, op.cit. p.18.

⁵³ Tetreault, op.cit. p.17.

⁵⁴ Ibid., p.39-40.

⁵⁵ Al-Mudryis, op.cit. p. 39-40.

⁵⁶ Rashid, op.cit. p.71.

*The demands... are phrased in the language of loyal opposition - perhaps the word opposition is even stretching a point. But it is clear that the public in these countries wants more responsible government and greater participatory avenues.*⁵⁷

It is this factor that gives al Sabah comfort when it ignores the demands of its citizens, in the knowledge that there is not an alternative political force that will unite all Kuwaitis behind it and that the opposition will not cross a certain line. It is the fragmentation of Kuwaitis into tribes, sects and families that keeps al Sabah the most relevant force in the society and which skews the relation in favour of the executive despite all the Constitutional guaranties of power-sharing arrangements and balances and checks between the two most important state organs.

The *majlis*, subsequently, convened for the first time on 9 July 1990, followed by a closed session on the 18 of the month to discuss the memo sent by the Iraqi government to the Arab League. The *majlis* rejected the Iraqi accusations and denounced the Iraqi policy of threats and violence, but was interrupted by the Iraqi invasion of Kuwait on 2 August 1990. The period leading up to the Iraqi invasion created confusion about the strength and the stability of the rule of al Sabah. It is possible to suggest that the absence of the National Assembly and the tension between al Sabah and the pro-democracy movement together with the imposition of the *al majlis al watani* on Kuwaiti citizens, led the Iraqi regime to see the domestic internal problems in Kuwait. This situation, combined with the stalemate in the peaceful negotiations for a settlement of the dispute between the two governments, was an ideal opportunity to be exploited. Saddam Hussein might have even thought that the invasion itself might be welcomed by the Kuwaiti population.

⁵⁷F. Gregory Gause. Oil Monarchies: Domestic and Security Challenges in the Arab Gulf States. (New York: Council on Foreign Relations, 1994). p.118.

Some have argued that: *while a democratic regime in Iraq would have restrained any aggressive tendencies, a democratic regime in Kuwait might have provided the personnel to deal with the situation more effectively.*⁵⁸ The fundamental error made by the ruling family was their belief that Saddam Hussein would not invade but this raised the question of the government's competence, while the speedy fall of Kuwait itself, raised the question of such severe the lack of adequate contingency plan and the role of the military leadership.⁵⁹ It is important in that context to shed some light on the period that lead up to the invasion.

7.6 On the Eve of the Iraqi Invasion

The period between the cease-fire with Iran in August 1988 and the Jedda meeting in July 1990 saw an escalation of hostility and tension on two fronts. The first, as discussed above was between al Sabah and the pro-democracy movement and the second was between Iraq and Kuwait. The first issue was resolved by al Sabah, by ignoring the Constitution and imposing on Kuwaiti citizens an alternative body to the National Assembly, through *al majlis al watani*, while the second issue ended up with a much worse consequence for Kuwait and the region as a whole. The geographical nearness, unresolved question of border demarcation and the unmistakable military imbalance in the relative strength of the two states made Kuwait an obvious pressure point for the Iraqi regime.⁶⁰ One might add that the internal situation of Kuwait also, played a factor in the Iraqi regime calculation, making them believe that Kuwaitis would welcome a change in the regime in Kuwait.

⁵⁸Gareth Kingdon. No Security without Democracy in the Gulf. 2nd ed. (London: Gulf Centre for Strategic Studies, 1991). p.39.

⁵⁹ Ibid., p.39.

⁶⁰ Majdy Ali 'Ubaid. Al-muqaddima al-siyasiya li'l-ghazw. (Political Preamble to the Invasion.) al-siyasa al-duwaliya. (Cairo: Issue N. 102. October, 1990.) p. 18.

The Organization of Petroleum Exporting Countries (OPEC), responding to a glut in the world market, had laid down quotas for each member and set the price of oil at \$18 a barrel. Kuwait and the UAE were openly flouting their quotas. For the debt burdened Iraqi economy, that translated into huge financial losses, since every single dollar drop in the price of a barrel of oil, resulted in a \$1 billion foreign currency loss.⁶¹ This led Saddam Hussein to demand an end to quota violations, an increase of Iraqi production and a price rise to at least \$25 a barrel.⁶² That angered the Iraqi regime and Saddam Hussein considered Kuwait's maintenance of its oil-production levels as tantamount to a Kuwaiti declaration of "economic war". In reference to that he stated:

*War ...is also done by economic means. Therefore, we would ask our Arab brothers who do not mean to wage war - I am now speaking only as far as Iraqi sovereignty is concerned - I say to those who do not mean to wage a war on Iraq: This is in fact a kind of war against Iraq...We have reached a point where we can no longer withstand pressure.*⁶³

Attempts to settle the differences between Kuwait and Iraq and solve the intensifying dispute over oil production were futile. Iraq decided to bring the matter before the Arab League for consideration and a memorandum was submitted by foreign minister, Tariq Aziz on July 15 1990, to the Secretary-General of the Arab League, reiterating the Iraqi list of grievances against Kuwait. Foremost among them was Iraq's accusation of Kuwait having carried out a deliberate policy to undermine Iraq in cooperation with United Arab Emirates, by glutting the oil market and exceeding their OPEC's oil production quotas. Iraq argued that this over

⁶¹ Micah L.Sifry and Christopher Cerf (ed.). The Gulf Reader, History, Document, and Opinions. (New York: Times Books, 1991).p. 63.

⁶² Ali Musallam . The Iraqi Invasion of Kuwait: Saddam Hussein his State and International Power Politics (London: British Academic Press, 1996).p. 94.

⁶³ Sifry, op.cit p.63.

production caused a reduction in the price of a barrel of oil from \$18 to \$11-\$13. Consequently Iraq estimated its losses to be around \$89 billion.⁶⁴

In response to this, Kuwait sent its own memorandum to the Secretary-General of the Arab League denying all of the Iraqi accusations. It reiterated its position that it had provided Iraq with massive financial and logistical support, and thus felt it had done enough to support Iraq and was not willing to concede more. However, it offered to discuss the demarcation of the frontier, which was rejected by Iraq because the frontier treaty of 1963 was not ratified by Iraq.⁶⁵ Despite these serious differences, an arrangement, through President Mubarak of Egypt, was made for a meeting between the two sides on the 31 July 1990, in Jeddah.

Prior to the scheduled Jeddah meeting, Saddam Hussein summoned the US ambassador in Iraq, April Glaspie, for a meeting on 25 July 1990. The purpose of which was to establish an understanding between the two governments about the Iraqi situation and to find out the American position on the Iraqi-Kuwait dispute.⁶⁶ An open discussion took place about the price of oil. Saddam proposed a rise to \$25 a barrel, since the drop in the price to \$12 a barrel had resulted in a reduction in the income from oil of some six to seven billion US dollars.⁶⁷ Glaspie's answer to that was: *we have many Americans who would like the price to rise above \$25, since they are from oil producing states.*⁶⁸ Glaspie clearly showed sympathy to Iraq's need to maintain the price of oil at a certain level, which corresponded with American interests. Considering the tension in the region and the Kuwaiti-Iraqi dispute, Saddam Hussein indicated to Glaspie that

⁶⁴ Centre for Research and Studies on Kuwait. Iraqi Aggression on Kuwait: the Truth and the Tragedy. (Kuwait: 1990).p.55-65.

⁶⁵ Ibid.

⁶⁶ Khadduri, op.cit. p.102.

⁶⁷ Ibid., p.112.

⁶⁸ Ibid., p. 113.

We do not want war... but do not push us to consider war as the only solution to live proudly and to provide our people with good living. ⁶⁹

In response ambassador Gaspie indicated that: *we have no opinion on Arab-Arab conflict, like your border disagreement with Kuwait.* ⁷⁰ The Iraqi regime must have mistook that to mean that the US administration would not interfere in its dispute with Kuwait, hence making the option of military action possible. However, Gaspie made it very clear to deputy foreign minister, Nizar Hamdoun, prior to her meeting with Saddam Hussein that the US: *can never excuse settlement of disputes by other means than peaceful means.*⁷¹ Gaspie was reflecting the State Department position set clearly in the American policy guidance on the Iraq-Kuwait dispute. The policy indicated that *all disputes should be settled by peaceful means, not intimidation and threats of use of force; Second, the United States takes no position on the substance of bilateral issues concerning Iraq and Kuwait.*⁷² Third, the policy stated the commitment of the United States to the free flow of oil and the independence and integrity of the Gulf countries.⁷³ Thus, there was no indication that the US will go along with Iraq in its plans to occupy Kuwait, and Gaspie's instructions were clear about stressing peace and cooperation. However, she may have failed to warn Iraq against the use of force in stronger terms.⁷⁴

There was great optimism concerning the Jeddah meeting which would be held with the objective of reviewing differences and making proposals for a settlement to be finalised at another meeting in Baghdad.⁷⁵ Instead, a deadlock persisted in the position of the two governments as indicated by the separate statements made by

⁶⁹ Ibid., p.112.

⁷⁰ Musallam op.cit, p.95.

⁷¹ Khadduri, op.cit. p.114.

⁷² Ibid., p.109.

⁷³ Ibid., p.109

⁷⁴ Ibid., p. 114.

⁷⁵ Ibid., p.114.

each side. The Iraqis indicated that: *we have not felt that the Kuwaitis are serious about redressing the grave damage inflicted on Iraq as a result of their recent behaviour and positions against Iraq's basic interests.*⁷⁶ However, Kuwaiti officials indicated that the talks had: *collapsed because Kuwait did not give in to Iraqi demands to write off debts and to relinquish some of its territories.*⁷⁷

Despite the failure of the Jeddah meeting no one expected a full-scale invasion of Kuwait. Most potential scenarios expected a limited action such as the annexation of Ratqa, or an attack on the islands of Warbah and Bubiyan.⁷⁸ Iraq's full invasion of Kuwait caught the world by surprise, especially the unprepared Kuwaiti government and Kuwaiti military, despite the massing of Iraqi troops on the border. Initially, Iraq claimed that its troops marched into Kuwait in support of a domestic revolution and announced the formation of a provisional government. However, this pretence was dropped when an official declaration of the annexation of Kuwait came on 8 August. Events in the first week of the invasion moved very quickly and decisively by the Iraqi regime as well as the international community led by the United States. The UN Security Council passed resolution 660 in the first hours of the invasion demanding an unconditional withdrawal from Kuwait. This was followed by another 11 resolutions within a very short period of time, between 2 August - 29 November 1990, leading to resolution 678 which authorises the US led coalition "to use all necessary means" against Iraq.⁷⁹ The subsequent liberation of Kuwait and the restoration of the al Sabah rule were based on that resolution.

⁷⁶ Ibid., p117.

⁷⁷ Centre for Research and Studies on Kuwait, op.cit. p.62

⁷⁸ Ibid., p.62.

⁷⁹ Ibid., p.80.

7.7 Conclusion

The discussion above clearly reveals the constant tension between an assembly that carries out its functions and a ruling family that needs the legitimacy the National Assembly bestows on its rulership without the challenges that an effective and well functioning legislature produces. Because of the nature of the Kuwaiti opposition being peaceful and non-confrontational with the government, it is relatively easier for al Sabah to resort to unconstitutional methods. Part of this weakness of opposition stems from the fact that legitimacy of the al Sabah rules is never in question but it is the manner of their governance that has been under attack. In addition, all social groups in Kuwait depend heavily on the state and its redistributive function. Oil revenues are the basis of the strength of al Sabah rule and the source of the weakness of both the opposition and the assembly. This fact gives al Sabah security in their rule and allows it to extend the arm of repression and ignore the Constitution when it deems necessary in order to maintain the absolute power of the ruling family. Despite this dependency Kuwaiti citizens have not been completely passive and accepting of the autocratic rule of al Sabah. On the contrary the constant tension between the assembly and the government is a sign that a more dynamic relation exists between the state and society. Opposition in Kuwait is ineffective but it is also not passive, which leaves open the opportunity for a change in the system.

The regional environment in the Gulf adds further pressure to the already delicate relation between al Sabah and the assembly. Arab Gulf states, especially Saudi Arabia, have seen the Kuwaiti experience as a threat to their autocratic rule, hence their desire to suppress the Kuwaiti experience. One can easily say that the lack of accountability and participatory system of governance in Arab Gulf states is, by itself, a restraining factor for the development of Kuwaiti democracy. The prelude to the Iraqi invasion of Kuwait demonstrated the disastrous consequences of this lack of democratic political systems in the region.

On the one hand there was an Iraqi regime which was under massive political and economic pressure, while attempting to find a solution to its predicament and using all means at its disposal for that purpose. The eight-year war with Iran ended with a hollow victory and, more importantly, totally debilitated the Iraqi economy and created massive debt. The drop in oil prices further aggravated the Iraqi situation and directly influenced the country's income levels. On the other hand Kuwait's domestic situation was complicated by the absence of the National Assembly and the need of al Sabah to silence all criticism and any opposition to government policies.

It is difficult to speculate whether, during the dispute between Iraq and Kuwait, if the Kuwaiti National Assembly was actually functioning. However, one thing that is certain, is that it would have deprived the Iraqi regime with the pretext that they had come in support of a revolt in Kuwait against al Sabah. In addition, the domestic situation in Kuwait would not have been interpreted as being rife for a change in leadership and that the Kuwaitis would have not welcomed the Iraqi regime to take over of their country. In that context, with Iraq targeting Kuwait was made far easier with the absence of democracy in both countries. That lesson was not lost on the Kuwaiti people, who made the issue of democracy and accountability of government a prime objective in the period of post-liberation. However, despite the loyalty and allegiance that the Kuwaiti people showed to their rulership, al Sabah still found it extremely difficult to change their autocratic ways, and the discussion in the following chapter will reveal the reasons why.

Chapter Eight

The Representative System of Government in Kuwait Post Liberation

8.1 Introduction

Discussion of the circumstances of the return to the representative system of government in the period following the liberation of Kuwait is of particular interest because of its relation to the underlying argument of this study. Al Sabah, despite the inability to protect Kuwait and its citizens, remained the only relevant political force in Kuwait, which was reflected by the rallying of Kuwaitis behind the ruling family while they were in exile in Saudi Arabia. The Jeddah conference, held in October 1990, saw a gathering of around one thousand Kuwaitis representing all Kuwaiti political groups which expressed their support and loyalty to al Sabah under the principle of: *if we do not hang together, we will surely hang separately.*¹ It was this acknowledgement that there was no viable alternative to al Sabah that provides al Sabah such immense power and allows them to violate the Constitution, suspend the National Assembly and restrict freedoms without fearing any serious backlash from Kuwaiti citizens.

The hopes raised by representatives of Kuwait at the conference included the issue that drastic changes towards establishing a more democratic system of

¹ Paul Aarts. "Post-War Kuwait and the Process of Democratization: The Persistence of Political Tribalism" in Abbas Abdelkarim Ahmed (ed.). Change and Development in the Gulf. (Houndmills: Macmillan, 1999). p.218.

government should take place. These high hopes were based on the promises reached between them and the Amir that the Ruler pledges restoration of the 1962 Constitution. In return for that, the opposition would stand loyal and firm behind al Sabah. The representatives hoped that standing by al Sabah in such a critical moment would give them some leverage in the post-liberation period to carry out the needed reforms for a better functioning representative system of government. Although the crisis of occupation had made Kuwaitis far more resolute and assertive about their demands to share political power, the discussion in this chapter will show that al Sabah had to be forced into keeping their promise about a return to the representative system of government by Kuwaitis. The excitement and enthusiasm that accompanied the fixing of a date for election of the National Assembly and the formation of political groups that looked more like political parties was short lived, since the opposition was unable to extract anything of any significance from al Sabah. The structural tension between a dominant executive and a weak assembly remained unaltered, merely because despite the dramatic events of the Iraqi occupation of Kuwait, the basis of legitimacy of al Sabah rule had not changed. They still maintained their control of state revenues and the oil sector and still led a fractured society where no other political or social force had any dominance. Opposition *vis a vis* al Sabah, remained fragmented on many grounds: ideological, sectarian, tribal and ethnic, which obviously weakened it significantly while al Sabah remained the only political force that united all Kuwaitis behind it.

8.2 Restoration of the National Assembly

The restoration of the National Assembly had been a key demand of the Kuwaiti citizens following its second suspension in 1986. The *al majlis al watani* that replaced the assembly was seen as being unconstitutional, and against the wishes of most Kuwaitis. However, the first thing al Sabah did after liberation was impose martial law, possibly as part of a strategy to make minimum concessions to democracy and to restore the “old order”.² This situation was

² Gareth Kingdon. No Security without Democracy in the Gulf. 2nd ed. (London: Gulf Centre for Strategic Studies, 1991).p.41.

further aggravated by the fact that the Crown Prince and Prime Minister, Sa'ad al Abdullah, returned to Kuwait five days after the cease-fire was announced by George W. Bush, while the Amir of Kuwait, Jaber al Ahmad, returned two weeks later. Many Kuwaitis were angered by the announcement of the Crown Prince, Prime Minister, that reconstruction and security should take precedent over democratisation, as well as by the formation of a new cabinet incorporating most of the members of the previous government who were held responsible for the failure in preventing the Iraqi aggression.³

These actions indicated that Al Sabah hoped to return to the political system that existed before the invasion without making any reforms. After liberation al Sabah convened *al majlis al watani* in several closed sessions. The most important was the session on 24 July 1991 where the Amir presented *al majlis* the security pact between the US and the Kuwaiti government. The council approved the pact which was a point of contention with opposition groups who naturally wanted a have a say in the future security arrangements of the country.⁴

The Kuwaiti government attempted to soften the political discontent and alienation of its citizens by resorting to its old ways of distributing benefits and payments to its citizens and by making use of its control over financial and economic resources.⁵ These incentives included back-paid salaries for the invasion period - the state employs nine out of ten Kuwaitis; they wrote off billions of dollars of loans; increased grants and loans by 50 percent to male Kuwaitis who would marry Kuwaiti women; increased monthly child benefit allowances; increased assistance to all Kuwaiti widows, orphans, and the poor by 50 percent of the, and they increased salaries to all public sector employees by 25 percent.⁶ The resumption of oil production to pre-war levels helped al Sabah to use the wealth of the state to try to placate Kuwaitis. However this

³ Aarts, op.cit. p.219-220.

⁴ Middle East Economic Digest. "Saudi Arabia; Slow Steps Forward". (MEED). (Special Report: Vol. 44. 24 March, 2000). p.10.

⁵ Abdullah Al-Shayehi. "Kuwait at the Crossroads: The Quest for Democratization." Middle East Insight. 8.5. 1992.p. 43.

⁶ Ibid., p.43.

powerful diplomacy of the dinar was not enough to stem the tide of democracy.⁷ Political concessions were essential and it became impossible for al Sabah to continue with its policy of ignoring the demands for the restoration of the Constitution and the assembly.

Kuwait's difficult economic and political situation focused the attention of the citizens and opposition groups on the widespread problems in the society of corruption, waste and inefficiency as well as the weakness of the traditional autocratic system of governing. Moreover, Kuwaitis were incensed by the behaviour of the ruling family who had been saved the anguish of the occupation, since they sought refuge in neighbouring countries in the Gulf, and their legitimacy was maintained through the support of the opposition, while they were in exile. Even before the country was liberated, pro-democracy groups were circulating a "national manifesto" which called for the immediate reinstatement of the National Assembly and to install a competent government within which al Sabah would be banned from holding any cabinet posts.⁸

The *diwaniyyas*, after liberation, put the issue of restoration of the assembly back on the Kuwaiti political agenda, emphasising the importance of political participation of Kuwaiti citizens in the decision-making process and in running the affairs of their country. Meetings, as in the period before the invasion, were held regularly among different political groups and members of the dissolved assembly in order to coordinate the campaign of pressure on the government. Kuwaiti citizens protested first against the inefficiency and incompetence of the government in coordinating normalisation efforts and the al Sabah monopoly of the state apparatus. These protests intensified during the months of April and May 1992. A prominent merchant remainee expressed the feelings of most Kuwaiti remainees by stating that: *if we conquered our fears of the Iraqis, this government is not about to frighten us.*⁹

⁷ Ibid., p.43.

⁸ Kingdon, op.cit. p.46.

⁹ Jacqueline S. Ismael. Kuwait: Dependency and Class in a Rentier State. (Florida: University of Florida Press, 1993).p. 179.

In the post-liberation period a new division emerged among the Kuwaitis between those who stayed during the occupation, called *al Samidoon*, or the remainees and the *al Hariboon*, or the fleers, who had returned after liberation. The tension between the remainees and the returnees was underlined by the inability of al Sabah to coordinate the efforts of normalisation in the country. These tensions resulted in the death of one outspoken remainee and the wounding of another. Another powerful merchant remainee went as far as to accuse the ruling family of organising death squads to eliminate members of the opposition.¹⁰ The main political groups within the community of remainees presented the Amir with a petition on 31 March 1992 "A Future Outlook for the Reform of Kuwait". It was signed by 96 prominent figures, predominantly influential merchants. They demanded the following:

- commitment of the restoration of the Constitution and the restitution of the 1985 parliament and a fixed election date;
- an independent judiciary and free press;
- freedom of speech and association and
- appointments to civil services based on merit and corruption, must be combated by submitting all state contracts to a review panel composed of Kuwaitis known for their honesty and integrity.¹¹

The response of the Amir to these demands by the opposition was to announce that elections would be held sometime in the future with possible electoral reforms. This response was received as being totally inadequate and the situation deteriorated even further, especially as the cabinet which had resigned on 20 March 1992 was not replaced until 20 April with mere cosmetic changes. Al Sabah retained the most important posts of Interior, Defence, Oil and Foreign Affairs and the cabinet was filled with palace loyalists. Eventually, the

¹⁰ Ibid., p.179.

¹¹ Ibid., p.179.

opposition called for a press conference on 22 April, the same day that the US secretary of state James Baker was to arrive in Kuwait. The aim of the opposition was to focus world attention on the lack of commitment of the Kuwaiti government towards any democratic reforms. The government reacted by banning the conference. However, while the opposition was contemplating a new strategy to escalate their campaign for democratic reforms came the Amiri decree in June. The decree announced the ending of martial law by the end of June and set the date, October 1992, for a general election for the National Assembly, thus signalling the return to the constitutionally guaranteed representative system of government.

The pressure exerted by the US on al Sabah to make sure that their public promise to restore the National Assembly actually took place - the Constitutional National Assembly, not the *al majlis al watani* - played an important role in the ruler's decision. Criticisms in the West and the US were rife against a battle to save a monarchy which dissolves its elected parliament.¹² This shows that al Sabah restored the National Assembly not out of a serious commitment to the constitutionally guaranteed representative system of government, but because of a combination of domestic and external pressure. This lack of commitment still remains to be a major obstacle towards moving Kuwait away from autocracy to democracy.

8.3 Emergence of Structured Political Forces

One most significant change after liberation was the reshaping of Kuwaiti political groups into a more structured form, and the announcement of the formation of seven groups, some of which looked more like a party formation. These groups differ in their outlooks and ideology, but all share the belief in the necessity of creating a more accountable government and a more open system of government. However, none of these groups have a wide enough grass root support to make either it an alternative political force or a dominant political

¹² The Estimate. "Kuwait Election's Surprise". The Estimate (Vol. XI. 10 May, 1999).

force.¹³ The Islamists are the one group with, possibly, the widest following but, because they are fractured on a sectarian basis, Sunni-Shi'ite, and the different ideological basis between the Muslim Brothers and *Salafiyyan*, their ability to dominate politics in Kuwait is limited. Cooperation among these groups becomes subsequently very important if they are to make any impact on government policies and issues of accountability and transparency. That is why the government plays one against the other in order to weaken their coordination and effectiveness. These groups are divided and the important differences will be discussed in detail:

8.3.1 *The Constitutional Grouping*

The group comprises mostly of the business elite of Kuwait, historically linked to the Chamber of Commerce. However, the group is not meant to represent the Chamber of Commerce but, on the contrary, the objective is to separate the Chamber from the political arena, since many members of the Chamber are not politically active.¹⁴ This is indicative of the fact that the merchant community, the most powerful economic group in Kuwait, appear not to have any political aspiration of its own. As put by one commentator, the Kuwaiti business community demand a stronger say in the decision making process; a merit based government; and more opportunities for the private sector - but not at the price of ruining the al Sabah regime.¹⁵

The Constitutional group is led by Abdull Aziz al Saqr, who is a very influential merchant and a strong political figure in Kuwait. He played a leading role during the Jeddah conference in achieving a compromise between the ruling family and the opposition. The group does not have a specific political programme or an organisational structure, however it does firmly believe in Constitutional

¹³ Interview with Dr. 'Abdul-muhsan Al-Mad'aj. Durham , July, 2003.

¹⁴ Fahd Abdullah Al-Mudayris. (Al-Mudayris). Al-tajammu'at al-siyasiya al-kuwaytiya: marhalat ma ba'd al-tahrir. (The Political Groupings in the Post Liberation Phase). (Kuwait: Dar al-qurtas, 1994).

¹⁵ U. Rabi "The Kuwaiti Royal Family in the Post-Liberation Period: Deinstitutionalizing the 'First among Equals' in Kuwait". in: J. Kostiner (ed.), Middle East Monarchies: The Challenge of Modernity. (Boulder: Lynne Rienner Publishers, 2000). P159.

democracy, the official establishment of political parties and the adoption of a peaceful means for reform. On specific domestic issues, such as the separation of the post of Prime Minister and Crown Prince, they are in favour of that, in addition having to a firm belief in the equality among all Kuwaitis, both naturalised and original, as well as what they view as the necessity of giving women the right to vote.¹⁶

8.3.2 *The Democratic Forum*

The Forum comprises of the liberal nationalist trend that has been eclipsed by the rise of the Islamic trend, and by its internal divisions. It includes well-known Arab nationalist figures and outspoken critics of the government, such as Ahmad al Khatib, Abdullah al Naibari, Ahmad al Rub'i and Jassim al Qatami. In its political programme, which was declared on the 5 December 1992, the forum acknowledged that the occupation debacle had accelerated the birth of the forum since it imposed new reality and the necessity to move popular political participation into a more institutionalised frame.¹⁷ Unlike the Constitutional group the Forum has an organisational structure, a secretary-general and an executive committee, as well as its own publication, *Voice of People*. This publication was the mouthpiece for the group between March 1991-July 1992.¹⁸ However, the *al Tali'a*, which had previously been the traditional voice of the progressive Kuwaiti movement, is now the voice of the Forum. The Secretary-General of the Forum is also the editor of *al Tali'a*.

The Forum adheres to three basic tenets. The first holds that democracy and the respect of human rights is possible through pluralism and fairly elected political parties. The second holds that the promulgation of a law for the organisation of political parties is essential for any democratic life in Kuwait. The third is the importance for reform within the existing structure of the political

¹⁶ Al-Mudryis op.cit. p.30-33.

¹⁷ Ibid., p.11.

¹⁸ Ibid., p. 11.

system, and political accountability, in accordance with the Constitution.¹⁹ They are also in favour of separating between the ruling and governing body; the rulership must be for al Sabah but the governing must be placed in the hands of the people, hence the Forum advocates the separation of the post of Crown Prince and Prime Minister as well as the exclusion of al Sabah from becoming key ministers; Defence, Foreign Affairs and Interior.²⁰ The most important change in the thinking of the group is their embracing of the private sector, thus moving away from the socialist commitment that the founders of the Forum had previously used to advocate.²¹

8.3.3 The Islamic Constitutional Movement

This is the new name adopted by the Muslim Brothers in Kuwait, who represent the moderate Sunni Islamic movement.²² It has a specific political programme and an organisational structure. Its programme provides a general view of the need to follow Islam and Islamic teachings in order to reform the legal, social and political systems in Kuwait, making them more in line with Islamic principles.²³ It is led by figures such as Ismai'l al Shatti, Mubarak al Duwayla and Nasser al San'a. The movement is against the establishment of political parties because it believes that this creates divisions, but they do, interestingly support giving women the right to vote although not the right to hold office.²⁴ They are in agreement with other groups that the posts of Crown Prince and Prime Minister must be separated and they advocate peaceful means of reforming the entire political system. In addition to that they also, advocate total cooperation with other groups, irrespective of the ideological differences.

¹⁹ Ibid., p.12-13.

²⁰ Ibid., p.13.

²¹ Al-Mudyris, op.cit. p.13.

²² Ismael, op.cit. p.180.

²³ Al-Mudyris, op.cit. p.14.

²⁴ Ibid., p.16.

Despite the wide support of the movement, its credibility over the years suffered some what, also to its positive relation with the government and the fact that many of its supporters hold important positions in the public sector.²⁵ The fleeing of many of its leaders during the time of the Iraqi invasion and the occupation this certainly further undermined its credibility.²⁶

8.3.4 *The Popular Islamic Grouping*

This group is the official political front of the *Salafien* movement in Kuwait, who are much stricter than the Muslim Brothers in their demands for the application of *Shari'a*. This group lacks links with the government and very few of them hold government positions, hence they enjoy far more credibility than any of the traditional opposition elements in Kuwait.²⁷ Also, most of their leaders remained in Kuwait during the occupation and some were detained by the Iraqis.²⁸ Its leaders include Jassim al Aoun, Ahmad Baqir and Khalid al Issa. The organisational structure of the group is secretive, and neither the founding fathers nor the leading figures of the movement are publicly known because of their fear of elimination, as what actually happened in Egypt to the Muslim Brothers.²⁹ This secretive and underground work contradicts the candour that is characteristic of political work in Kuwait and contravenes the principle of openness that all other political groups call for.

The monthly *Furqan* magazine is the mouthpiece of the group representing their views on domestic, regional and international issues. The political programme of the group is similar to the *Salafien* focusing on the establishment of an Islamic state according to the *Shari'a* by peaceful means and emphasising gradual reforms as the way forward to achieving that goal.³⁰ They believe that

²⁵ Interview with 'Aaydh Al-Barazi, Kuwait, November, 2002.

²⁶ Al-Shayehji, op.cit. p.44.

²⁷ Ibid., p.44

²⁸ Ibid., p.44.

²⁹ Al-Mudryis, op.cit. p.21.

³⁰ Ibid., p.22.

there is a need to legalise political parties, despite the reluctance of Kuwaitis to belong to parties and to belong to political groups.³¹ They hold a similar view to other political groups on the issue of separating the posts of Prime Minister and Crown Prince. They see it as an adherence to the Constitution where such separation is indicated in Article (56) and the explanatory note accompanying the Constitution. As for women's rights the group's position is not very clear. They claim that there is a need to be patient about giving women the right to vote while they stand against the right of women to hold office because, in their view, it contravenes with *Shari'a*. The problem for the group, as well as the Islamic Constitutional Movement, is that the Constitution does not separate between the right to vote and the right to hold office; they are viewed as being equal.

8.3.5 *The National Islamic Alliance*

The emergence of a distinct Shi'ite political group occurred only as recently as 1981. However, their political presence became more visible in the period after the second suspension of the assembly in 1986 and especially during the 1989 pro-democracy movement. The Shi'ite community was very active in community action committees, set up during the Iraqi occupation, and in resisting Iraqi occupation. After liberation, the alliance was declared and supported the declaration of the "Future Outlook for the Reform of Kuwait".

The alliance is more a political vehicle for organising the wide range of views held by the Shi'ite community and hence, it has no organisational structure or a specific programme.³² They adhere to the basic tents of commitment to the Constitution, the freedom of individuals and total equality, together with the principle of national unity.³³ On specific domestic issues, they support the separation of the posts of Prime Minister and Crown Prince. They also see no contradiction between Islam and giving women the right to vote and nominate.

³¹ Ibid., p.23.

³² Ibid., p.23.

³³ Ibid. p.23.

They adhere, like other groups, to reforms and changes through Constitutional and peaceful means.

8.3.6 The Coalition of Parliamentarians

The roots of this coalition go back to 1989 when 32 deputies met under the leadership of Ahamd al Sa'doun to discuss the situation in Kuwait in light of the continued suspension of the assembly. Al Sa'doun who heads the group enjoys immense credibility among all the various political groups.³⁴ He has been a strong critic of the government and a symbol of the opposition struggle for political participation. Other figures include Salih al Fadallah, Sa'ad al Tammi, Faisal al San'a and Ahmad al Shira'an.³⁵

The coalition does not have any organisational structure or specific programme and includes a variety of political, religious and ethnic trends.³⁶ However, they stand firm like other groups on the commitment to the Constitution and the maintenance of democratic gains of the Kuwaitis, in addition to supporting reforms through peaceful means. They also firmly believe that the development of organised political participation can not occur without a legalisation of political parties.³⁷

As to the principle of separation of the posts of Crown Prince and Prime Minister, the coalition does not think this is the real issue. What is more important is the commitment to the Constitution, as long as the Prime Minister acts acting in accordance with the Constitution; thus, combining the two roles is of no significance.³⁸ They firmly stand behind giving women the right to vote and nominate through amending the law of election.

³⁴ Al-Shayjeji, op.cit. p.46.

³⁵ Ibid., p.46.

³⁶ Al-Mudyris, op.cit. p.31.

³⁷ Ibid., p.31

³⁸ Ibid., p.31

8.3.7 *The Independents*

The independents - a loose collection of respected and known individuals with no particular ideology or political affiliation - remain an important safety valve, balancing among the various political groups present in Kuwait.³⁹ They share some of the basic tenets of the other groups such as commitment to the Constitution and the maintenance of democratic gains of Kuwaitis, the rejection of confrontation with the authorities, and they favour peaceful means of reform. They support the principal of separation of the posts of Prime Minister and Crown Prince, but, despite that, they still believe that what is more important is the ability to cooperate between the assembly and the government and the ability of the assembly to hold the government accountable in accordance with the Constitution.⁴⁰ They support women to have the right to vote and nominate and also firmly reject the position of the Islamic groups.

Other than these formal groups, the *badu* stand apart to some extent. The large constituency of tribal deputies have been loyal supporters of the government and vote along government lines and support bills favoured by the government. Their legitimacy and local support stems from an ability to provide services and respond to the local needs of their constituency. Their control in previous assemblies was large. In the 1992 elections they ran, as usual, without any direct association with any political group, following the tribal primary elections. Their representation remained high, but a new breed of deputies is emerging among the *badu* constituency; younger, more educated and seem to be developing their own agenda and leaders.⁴¹

³⁹ Ismael, op.cit. p.180.

⁴⁰ Al-Mudyris, op.cit. p.35.

⁴¹ Interview with Mohammad Alhajeri, Kuwait, November, 2002

8.4 The 1992 National Assembly

A distinguishing feature of the seventh National Assembly was the level of cooperation, which had been unseen before, among the various political groups during the campaign and elections. They issued a joint statement announcing a set of principles regarding the necessity to safeguard the integrity of the election and warned the government of the dangers of some of its supporters buying votes in an attempt to weaken opposition candidates. In addition, the statement focused on political and economic reforms and amending government policies.⁴²

The various political groupings announced their candidates and the names of independent candidates, whom they wanted the constituency to vote for. This election had at least 186 candidates classified as independents, the majority of which were government supporters. However, there were around sixty who supported the forty core candidates of the recognisable political force candidates and their ideas.⁴³ These core candidates were united in their criticism of the government and in their view of political reforms. Their campaign concentrated on political and institutional reforms, the freedom of the press and independence of the judiciary.⁴⁴

The turn out of voters was high. Out of the 81,400 eligible voters, 67,724 of them went to the polls.⁴⁵ However, the electoral body was still very small, around 15 percent of Kuwaiti citizens who were eligible to vote.⁴⁶ The results registered a clear and loud disapproval of the government's performance during the Iraqi invasion, and a backlash to the indefinite suspension of the assembly

⁴² Shafeeq Ghabra. "Democratization in a Middle Eastern State: Kuwait, 1993." Middle East Policy. (Vol.3. No. 1 1994) p.107.

⁴³ Ibid., p.107.

⁴⁴ Ibid., p.107-108.

⁴⁵ Jill Crystal & Abdullah al-Shayegi, 'The Pro-Democracy Agenda in Kuwait: Structures and Context', in Bahgat Korany (ed.). Political Liberalization & Democratization in the Arab World. Vol. 2: Comparative Experiences (Boulder: Lynne Rienner, 1998). p.115.

⁴⁶ Dale Gavlak. "The Kuwaiti 1992 Elections: Rainbow Coalition after a Desert Storm". JIME. 1992.p.17.

in 1986 and the subsequent creation of the *al majlis al watani*, by giving the Islamists and opposition groups, in general, a land slide victory.

The three Islamic groups won nine seats with another eleven seats having been won by independents supported by this trend. That, in total, gave the Islamist trend twenty out of the fifty seats. A number of liberal independents won 5 seats. The low number of independent deputies, as compared to the number of candidates, only seventeen won seats out of hundred and eighty four candidates. This indicates a new trend in Kuwait's politics, which moves towards favouring more organised political blocs. The *badu* candidates did well in winning 16 seats altogether; see Table 8.1. it is interesting to note that some opposition candidates and supporters were able to win seats in *badu* dominated districts.⁴⁷ The majority of the assembly was subsequently composed of the opposition parties, as thirty four of the members of the new assembly could be characterised as "opposition". The Prime Minister selected six of the elected members to serve in the cabinet. The six represented liberals, fundamentalists, Shi'ite and tribal leaders. However, al Sabah still remained in control of the four key ministries; Information, Defence, Interior and Foreign Affairs.

⁴⁷ Ghabra, op.cit. p.112-113.

Table 8.1 The Distribution of the Seats in the National Assembly for the Election of 1992

<i>District</i>	<i>Badu</i>	<i>The Constitutional Grouping</i>	<i>The Kuwaiti Democratic Forum</i>	<i>The Coalition of Parliamentarians</i>	<i>The Islamic Constitutional Movement</i>	<i>The Popular Islamic Grouping</i>	<i>The National Islamic Alliance</i>	<i>Independents / Liberals</i>	<i>Independents / Islamists</i>	<i>Total</i>
1st.	-	-	-	-	-	-	1	1	-	2
2nd.	-	-	1	-	-	-	-	1	-	2
3rd.	-	1	-	-	-	-	-	-	1	2
4th.	-	-	-	-	-	-	-	1	1	2
5th.	-	-	-	-	-	1	1	-	-	2
6th.	-	-	-	1	-	-	-	1	-	2
7th.	-	-	-	-	-	1	-	-	1	2
8th.	-	-	-	-	1	-	-	1	-	2
9th.	-	-	1	-	-	-	-	-	1	2
10th.	-	-	-	1	-	-	-	-	1	2
11th.	-	-	-	2	-	-	-	-	-	2
12th.	1	-	-	1	-	-	-	-	-	2
13th.	-	-	-	-	-	-	1	-	1	2
14th.	2	-	-	-	-	-	-	-	-	2
15th.	2	-	-	-	-	-	-	-	-	2
16th.	1	-	-	-	1	-	-	-	-	2
17th.	1	-	-	-	-	-	-	-	1	2
18th.	2	-	-	-	-	-	-	-	-	2
19th.	-	-	-	1	-	1	-	-	-	2
20th.	2	-	-	-	-	-	-	-	-	2
21st.	-	-	-	-	-	-	-	-	2	2
22nd.	1	-	-	-	-	-	-	-	1	2
23rd.	1	-	-	-	1	-	-	-	-	2
24th.	1	-	-	-	-	-	-	-	1	2
25th.	2	-	-	-	-	-	-	-	-	2
Total	16	1	2	6	3	3	3	5	11	50

Source: Calculated from data on election results from the Kuwaiti national assembly

Despite some of the positive changes that took place in terms of formalisation of political groups and the cooperation among the opposition, democracy in Kuwait is still only practised along tribal, sectarian and religious lines because a change in the shape of the assembly would require amendments in the election law. As indicated:

*Democracy, as we understand it, is a way of citizen participation in the affairs of society. But, unfortunately, it brings us inexcusable behaviour by awakening tribal and sectarian fanaticism. What we saw in the 1992 elections for the Assembly, municipal council, and cooperatives - voting for tribal and sectarian reasons will fragment our society rather than unite it.*⁴⁸

The government, in order to offset the powerful liberal critics that were in the 1992 assembly, formed an alliance with the Islamist trend. In the sixties it expanded the role of the *badu* and increased their presence in the assembly and gave them higher prestige in society in order to marginalise its liberal critics and the liberal trend in the assembly. In the eighties and even more so in the nineties, the Islamists became another group to use in order to undermine the efforts of the liberal/nationalist deputies. Despite the alliance with the Islamists, the government had its share of disputes with the assembly, especially on significant issues such as the massive re-armament which followed the war, the misuse of public funds and allegations of corruption. However, the assembly, were unable, due to internal divisions, to tackle real and serious problems and ended up being devoted to merely marginal issues, such as the veiling of women, the segregation of education etc...⁴⁹ The serious programme of political and economic reforms that the opposition talked about prior and during the election campaigning did not materialise. The 1992 assembly served its term and was replaced by a new assembly in October 1996.

⁴⁸ Muhammad Al-Raumaihi. "Kuwait: Oasis of Liberalism". Middle East Quarterly (September 1994) p.14.

⁴⁹ Ibid., p. 14.

Al Shayeji provides a scathing assessment of the Kuwaiti opposition, by concluding that

*The Kuwaiti opposition is more a poodle than a pitbull: it barks but remains tame. This is an opposition that seems to have been opposing for too long. In the process, it has taken on many of the characteristics of every government it seeks to challenge, i.e., it lives by wheeling and dealing, bargaining and buying, compromising and contracting.*⁵⁰

Hopes were raised at what had initially appeared to be a new dawn of democracy in Kuwait, through the cooperation and announcement of a unified manifest by the Kuwaiti opposition. However, it quickly turned out to be more of the same and very little significant changes took place in the relation between the assembly and al Sabah or the ability of the assembly to execute its duties in accordance with the Constitution. One chronic weakness of any opposition in Kuwait was augmented: division of opposition groups, which makes real democratic changes, seem to be implausible in the short term. In addition, political parties are still officially banned and public gatherings need to receive prior-approval from the government.

8.5 The Re-emergence of Key Issues of Democracy at the Centre of Political Debate

The three major issues that delineated the political debate in Kuwait since the promulgation of the Kuwaiti Constitution and the institutionalisation of a representative system in the government in 1962, re-emerged in the post-liberation period, becoming most significant in terms of measuring the success of the return to the representative system of government. These three issues were the accountability of the government, the broadening of political participation and the protection of individual freedom of expression and association. Together they represent priority areas for the development of

⁵⁰ Al-Shayeji, op.cit. p. 46.

democracy in Kuwait. The following discussion shall focus on each issue separately.

8.5.1 Government Accountability

It is this very important element of a democratic system where government ministers are subjected to parliamentary grilling that has over the years, generated a political crisis and huge tension between the government and the assembly.⁵¹ The subjection of government ministries to parliamentary grilling is routine in most democracies in the world. In Egypt, to take an example from the Arab world, cabinet ministers are regularly questioned - at least 20 grillings occur per session - without causing any political commotion.⁵² In comparison no more than 23 cross examinations of ministers have been conducted over the life span of Kuwait's nine assemblies.⁵³ These cross examinations have twice led to the dissolution of the assembly and twice resulted in the resignation of the entire government. Underlying the persistence in the tension between the assembly and the cabinet has been the limited view of the ruling family of the function of the legislature, as expressed by the Crown Prince, Prime Minister, Sheikh Sa'ad:

*the role of the Members of parliament is to discuss bills, which are submitted by the government, and not to obstruct the cabinet's work.*⁵⁴

This limited understanding of the role of the assembly and its deputies contradicts with the wide ranging powers granted by the Constitution, including casting a vote of no confidence against a minister; to initiate a policy of no

⁵¹ Hamzah S Olayan. "Latest Test of Wills Rocks Kuwaiti Politics". The Daily Star. (May, 15, 2002.)

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Sherine Bahaa. "Jaber Keeps Ship a Float." Al-ahram Weekly On-line (18-24 June 1998. No. 382). www.weekly.ahram.org.eg.

cooperation with the Prime Minister; questioning ministers and investigating government conduct; establishing investigative committees; and discussing any issue that it finds appropriate.⁵⁵ Differences between the assembly and the government became more acute after the liberation because of a very broad sense of public discontent with the mismanagement of state finances and such widespread corruption. The purchase of arms in particular became a very sensitive and highly controversial issue, which prompted some legislators to claim that the decision are made according to commission received by top officials, rather than any efficiency or competitive prices. The government was accused of wasting funds on weaponry that neither suits the needs of the Kuwaiti army or enhances the security of Kuwait.⁵⁶ Cordesman suggests a similar position by indicating that the Kuwaiti government does not pay great attention to the over-all standardisation of the Kuwaiti forces in order to equal those of other Gulf states, and makes politically motivated purchases with its major Western allies.⁵⁷ Therefore, the military lacks overall co-ordination and any standardisation with those of other Gulf states and there is only partial standardisation with the US land and air forces, its major Western military ally. This kind of arms' sale policy is extremely costly and rather ineffective in terms of defending the sovereignty of Kuwait.⁵⁸

The huge military expenditure by the Kuwaiti government has caused disquiet among many Kuwaitis and the assembly. In 1992, the government's plan of spending around \$12 billion on arms over a period of twelve years met with direct objections from the national assembly.⁵⁹ However, the government did not wait for the approval of the assembly because it had already spent billions by the time the assembly had approved the \$12 billion expenditure.⁶⁰ Such levels of expenditure raise the question of Kuwait's continued ability to fund its

⁵⁵ Al-Raumaihi, op.cit. p.14-15.

⁵⁶ Bahaa, op.cit. p.1.

⁵⁷ Anthony Cordesman. Kuwait Recovery and Security after the Gulf War. (Oxford: Westview press, 1997).p.76-77.

⁵⁸ Ibid., p.77.

⁵⁹ Ibid., p.76.

⁶⁰ Ibid., p.76.

ambitious plans for expanding its military force.⁶¹ During the period between 1990-1993 Kuwait ranked third in world arms agreements, while it did not number in the top ten nations during 1986-1989.⁶²

Following liberation Kuwaitis felt a great need to critically reassess the run of events and to hold the government accountable. This assessment was mostly acute in the performance of the military whose total “unpreparedness” had raised many questions which especially considered the huge sums of money that the government had spent in the past. Serious moral and leadership problems emerged after liberation which led a group of senior officers to send the Amir of Kuwait a letter calling for the investigation and dismissal of Defence Minister, Sheikh Nawaf al Ahmad al Sabah, for having failed failing to take the appropriate military action.⁶³ They also called for an investigation of the Interior Minister, Sheikh Salem Sabah al Salem, for his failure to make appropriate internal security measures.⁶⁴ Other protests from the military took the form of demands for the resignations of top military officers and defence personnel and other who were blamed for the “unpreparedness” of Kuwait. There were also complaints about the corruption in the military, where officers were promoted purely because of either family connections or political reasons, while ignoring those who had fought in the resistance. Also complaints were made about post-war contracts having been awarded based on favouritism and corruption.⁶⁵ Al Sabah needed to take serious action in order to satisfy both the military and public opinion. However, they opted for cosmetic changes such as rotating ministers in different ministerial positions while retiring a limited number of officers.⁶⁶

The corruption and misuse of public funds was another area that caused huge friction between the assembly and the government and accusations against the

⁶¹ Ibid., 76-77.

⁶² Ibid., p.77.

⁶³ Ibid., p.94

⁶⁴ Ibid., p.94.

⁶⁵ Ibid., p.94.

⁶⁶ Ibid., p.94.

government were rife. They included several issues: Firstly, a charge against some ruling family members for authorising the expenditure of public funds which totalled billions of dollars, but without gaining the supervision of the Audit Bureau, the legislative watchdog for monitoring state finances. Secondly, the government was accused of illegally using public funds to support particular candidates in parliamentary election campaigns, in addition to irregularities within the Kuwait Investment Authority and the failure to reform the authority and other agencies. Last but not least, was the allegation that the government was pursuing policies that suit the country's elite while planning to slash social security benefits and retirement pension entitlements for the lower class Kuwaitis.⁶⁷

The assembly was able to debate sensitive issues of power sharing, fiscal accountability of the al Sabah family and the topics of corruption and waste, yet it failed to take decisive decisions on any of these vital issues.⁶⁸ The weakness of the opposition remained with its inability to translate its vocal criticism and disquiet about the government into any action and effective policy. The ability of the ruling family to play the political groups in the assembly against each other, as well as to co-opt and incorporate opposition elements, continued to undermine the assembly.

8.5.2 Broadening of Political Participation

The Kuwaiti franchise remains extremely restricted, as only around 10 percent of the population is eligible to vote, which undermines the whole system.⁶⁹ Women are still without the right to vote and the issue of the *bidoon* has, in fact, become far more complicated after liberation, as now some naturalised citizens have been selectively given the right to vote.

⁶⁷ Ibid., p.95.

⁶⁸ Ibid., p.64.

⁶⁹ The Estimate. "Kuwait's Political System". Part two: Parliament. (Vol.13. No. 13. June 18, 1999)

Kuwaiti Women: The exclusion of women from political life does not make sense when Kuwaiti women have gained gender equality in education and the work force. Kuwaiti women far outnumber male graduates from institutions of higher education. About 70 percent of Kuwait University students are female while there are more than 10,000 female school teachers in contrast with only around 3,000 male teachers.⁷⁰ Their participation in the work force is also as impressive, holding important positions in a variety of fields; the public sector, universities, commerce and industry.⁷¹ In addition to this, their exclusion contravenes the principles of equality of all citizens which is guaranteed in the Kuwaiti Constitution. In the initial optimistic atmosphere after the liberation, Kuwaiti women expected in recognition for their services and their sacrifices during the Iraqi occupation, that they would gain the right to vote and hold office.

The matter was raised in front of the 1992 National Assembly. A draft bill submitted by deputy Hamad al Jou'an in October 1992, proposed in giving women the right to vote and called for the creation of a special committee of religious and legal scholars to study the issue of women standing as candidates. Al Naqeeb, when commenting on the prospect of women gaining the right to vote, said: *granting women the vote was not anticipated but is very welcome. It will change the whole perspective of Kuwait politics if passed...it will usher in a new dawn of cultural and social openness, new faces, new tactics and new elements.*⁷² Women's participation in the electoral process would not only boost the number of voters and add a new dimension to Kuwaiti politics, but would be a fulfilment of the basic principle of universal suffrage, and an important step towards augmenting democracy in Kuwait. However, this bill just as other similar bills before it was not passed, and the high hopes for extending the vote for women did not materialise.

Eventually, Kuwaiti women were given the right to vote and to stand for office by a royal decree issued by the Amir of Kuwait, Sheikh Jaber al Ahmad al Sabah

⁷⁰ Ibid.

⁷¹ Luke Phillips. "Women Force their way into Kuwait Polls". The Indian Express. (July 1, 1999).p.1

⁷² Ibid., p.1.

on 16 May 1999. A statement by the cabinet, following a meeting with the Amir, confirmed that his highness had decreed in giving women the right to nominate and the right to vote, in his full appreciation of their vital role in building and developing Kuwaiti society, their sacrifices and their capabilities in facing the many challenges that confronted the country over the future years.⁷³ However, these were not the only reasons behind the decree. It came 12 days in the wake of the government's dissolving of the assembly on May 16 and the calling for new election. It could be argued that it was a manoeuvre aimed to reduce the growing influence of the Islamists in the assembly, while making themselves represent the: *symbol of democratisation and modernity*.⁷⁴

The legal battle seemed to have been won and women would at last have access to a channel in which to voice their concerns and introduce changes in civil laws affecting marriage and family. As pointed out by Khaldoun Al Naqeeb *the decree giving women its rights opens the way for women and their supporters to struggle for wider social reform focusing on the antiquated and backward civil rights laws*.⁷⁵

However, this elation did not last long and the legal and political battle for Kuwaiti women still continued. On 23 November 1999 the National Assembly rejected the Amir's decree: 41 deputies voted against while 21, including the 13 cabinet ministers, voted for it.⁷⁶ It must be noted that this came within the wider frame of opposing all the Amir's decrees on a variety of matters that had been announced since he dissolved the 1996 elected assembly. According to the Constitution, royal decrees are only issued when the National Assembly is not in session and only if it is absolutely necessary. To many in the assembly, the sixty decrees that the Amir issued were of no pressing nature, thus issuing them undermined the legislative function of the Kuwaiti parliament.⁷⁷ One can argue

⁷³ The Estimate, op.cit. p.3.

⁷⁴ Ibid., p.3.

⁷⁵ Khaldun Al-Naqib (al-Naqeeb, Khaldhun). 'Ara' fi fiqh al-takhalluf. (Opinions on Doctrine of Backwardness). (London: Dar al-saqi, 2002).

⁷⁶ Azza Wahbi. "The Legislative Function of Arab Parliaments: the Case of Kuwait." United Nations Development Programme. <http://www.pogar.org/publications/legislature/wahby1/section4b.html>. p.4.

⁷⁷ Al-Hayat Newspaper, Friday 12 November 1999.

that the vote is not a true reflection of the position of the assembly but a move that was essential to preserve the integrity of the Constitution and to stop Amiri decrees under the guise of an emergency measure.⁷⁸

However, there is strong opposition to women's rights that has persisted over the years, and every time the issue is presented to the assembly it has failed to gain the support it needs. Part of that failure has been due to political/ideological differences since, surrounding the issue of the women's franchise, the differences between liberals and fundamentalists have been clearly visible. Islamists favour segregation of the sexes in education, work, sports and travel and they pursue a very conservative view of women in society, with the ultimate goal of applying the principles of Islamic law. What made Islamists more successful with their approach was their ability to reach out to Kuwaiti women and build a solid conservative base among them.⁷⁹ Also, differences exist among the various Islamist political groups as the discussion in the previous section showed. Some support the right of women to vote but not for them to hold political office, while others support political rights based on an interpretation of Islamic law. Some strict Islamists see the political participation of women as violating Islamic *Shari'a* and is a part of the Western agenda that is invading the Gulf, with its Western ideas and ideals in an attempt to replace Muslim culture with a foreign, Western culture.

Other factors had also played an active role. These included the lack of an active women's movement with a wide social base, that could compete with the Islamist trend among women. Also, the social conditioning of both men and women imposes the traditional notions of inequality, where the men take the responsibility of politics and women take the responsibility of the family.⁸⁰ Deputy Saadoun al-Otaibi clearly expressed such a notion by stating: *how*

⁷⁸ Ghabra, op.cit. p.2.

⁷⁹ Ibid., p.1.

⁸⁰ Bandar Al-Dhifayri. *Al-musharaka al-siyasiya li'l-mar'a fi al-kuwayt*. (Political Participation of Kuwaiti women). (Kuwait: n.p.1995). p.69-71.

would you have expected me to feel if a candidate called to tell me, I need to speak with your wife and daughter?.⁸¹

Naturalised citizens: Kuwaitis remain very wary of giving full rights to naturalised citizens and especially, political rights. The right for naturalised citizens to vote and to participate in political life is considered as a fundamental basis to the principles of democracy. The second class citizenship status is an injustice, to the same extent as women's franchise that needs to be addressed in Kuwait.⁸² However, in terms of numbers, naturalised citizens do not represent a significant consequence as women do, because of the extremely restrictive nature of the citizenship law in Kuwait, which makes making the number of those eligible to citizenship extremely small in the first place.

However, the 1992 assembly recognised the significance of the democratic principle by successfully in broadening the base of the electorate in 1994, by passing an amendment to the citizenship law which extends the right to vote to the sons of naturalised Kuwaiti citizens.⁸³ This legislation was passed with ease in comparison to the failure to pass a bill in support of women, because the enfranchisement of naturalised citizens is much less ideologically and emotionally burdened.

The *Bidoon* or, as the Kuwaiti government prefers to call to them, "the non-Kuwaiti nationals" remained a thorny and unresolved issue in Kuwaiti politics. As mentioned in Chapter Three their whole situation after deteriorated liberation. Thousands of *Bidoons*, who were stranded outside the country during the period of the Iraqi occupation, were not allowed to return. This reduced their numbers from 350,000 down to around 122,000.⁸⁴ Moreover, they were accused of collaborating with the Iraqi regime and were blamed for the failure of the Kuwaiti military because they had represented a large share of its

⁸¹ Equality now. "Kuwait: The Struggle for Women's Suffrage". January 2001. http://www.equalitynow.org/english/actions/action_1901_en.html

⁸² Ismael, op.cit. p.182.

⁸³ Wahby, op.cit. p.4.

⁸⁴ Paul Aarts. "Parliamentary Politics in Post-War Kuwait: Withered Euphoria". *JIME Review*. (Cairo, Liaison Office. Winter 1996). p.52-53.

rank and file. Consequently, they were dismissed en masse from the army and police retroactively, from 2 August 1990, and only a very small fraction were allowed to rejoin their posts.

By focusing on and targeting the *Bidoon*, the government had, in effect avoided dealing directly with the issue of the ineffective performance of the military and the need to conduct an overall strategic reassessment of the military establishment. At the time of the Iraqi invasion, the entire Kuwaiti military force, of around 20,000 men, was a mixture of *Bidoon* and foreign personnel who specialised in technical service, logistic support plus maintenance and training.⁸⁵ The foreign personnel included Jordanians, Egyptians and Pakistanis while, those working with for the more advanced, Western-supplied military equipment, were British, American and French staff as technical teams.⁸⁶ Manpower shortages has always been a persistent constraint on the development of the Kuwaiti military. However, this shortage was further aggravated during post-liberation, due to the policy of the government that excluded certain segments of the population; i.e. members of the Kuwaiti resistance, also exclusion of the army of 10,000 *badu*, mostly *bidoons*, and by not making any attempt to enlist its Shi'ite citizens.⁸⁷ In 1996, Kuwait had a total force of only 16,000 troops.⁸⁸ It is still heavily dependent on foreign personnel for its technical services, logistic support and the maintenance and training, plus its links with the American, British and French military for contractor support missions. This puts considerable limitations on any plan to expand and enhance its own military capabilities and makes absolutely no sense in its policy of excluding several segments of the Kuwaiti population. Naturalising the *Bidoon*, who would have already served in the military and showed their loyalty for many years, would make much better sense than simply dismissing them en masse.

⁸⁵ Cordesman, op.cit. p.129.

⁸⁶ Ibid., p.67-77.

⁸⁷ Ibid., p.92.

⁸⁸ Ibid., p.94.

One must say that even in the assembly, few even among the opposition, support granting full citizenship status to the *Bidoon*. The newly established committee in the National Assembly for the Defence of Human Rights has very seldom addressed this issue.⁸⁹ Most deputies seem to prefer a very limited process of naturalisation.

8.5.3 Democracy and Freedom of Speech

Democracy in Kuwait has always operated and in a very restrictive legal framework which limits the freedom of expression, and violates the freedoms that were guaranteed in the Kuwaiti Constitution. The most important legal structures that have a direct impact on the development of a culture which allows free speech and people's free affiliation and association are the Press and Publication Law, the Public Assembly and Procession Law, and the Clubs and Public Associations Law. However, these laws create a certain environment that puts civil associations in Kuwait under tight scrutiny, which leads to fear and self-censorship. This situation does not help in creating an atmosphere for a responsible debate on current issues and makes the assembly as the only open public political space for legitimate discussion and debates. The ability of the executive to pass these laws is another indication of the weakness of the opposition and how the shaping of the National Assembly is done in a manner that clearly serves al Sabah's interests, by filling it with loyalists. This undermined the emergence of any genuinely free culture with the free expression of opinions and the association with different political groups.

The Press Law. Since the sixties the press in Kuwait has witnessed the proliferation of newspapers and publications which adhere to a variety of positions and have been instrumental in publicising and debating issues. They are a source of embarrassment to the government and a source of pressure. Over the years, restricting and controlling it became very common feature in Kuwaiti political life. The Press law No. 3 (1961) that regulates all published material in Kuwait has been amended many times: law No. 29 (1965), No. 9 (1972), No. 59 (1976), No. 69 (1979), No. 57 (1986), No. 73 (1986) and No. 134

⁸⁹ Aarts, 1996, op.cit. . p.53.

(1992). These numerous amendments are an indication of the tendency of the government to resort to law to impose restrictions and control on the freedom of expression when it deems it necessary. The National Assembly has rescinded some of these amendments such as Amiri order No. 59 (1976), Amiri order No. 73 (1986) and Amiri decree No. 134 (1992).

Among the most restrictive and most contested articles of the law has been Article (35). The original Article, in law No. 3 (1961), prohibits the cancellation of a any newspaper license or the closure of a newspaper except through a judgement by the criminal court, and the period of closure should not exceed one year. However, in a subsequent amendment to the law in 1965, the cabinet was then given the right to suspend or cancel the license of a newspaper, but still up to one year. This was rescinded in 1972, by reverting back to the original provision in Law No. 3 (1961).

However, in a subsequent amendment in law No. 95 (1976), an Amiri decree returned the right back to the cabinet for them right to close a newspaper for up to two years and also the right to cancel the licence of a newspaper. The amendments in Law No. 73 (1986) added more restrictions on publishing by prohibiting the publication of any material without prior approval from the Ministry of Information. In addition to that, non-commercial statements or announcements were prohibited from publication also without prior approval from the Ministry of Information. The Ministry of Information inspectors were given the right to enter the premises of newspapers, publishing houses and retailers for the purpose of implementing the law.

Other important restrictions include the prohibition of the publication of any material that is perceived to contravene with national interest or that serves a foreign country or an authority or that would undermine the political and social fabric of Kuwait. Any violation of these prohibitions results in imprisonment for up to six months and a financial fine. The law also includes a list of issues and material that the press cannot deal with including the prohibition of publishing material that would criticise the heads of state or possibly damage Kuwait's relations with other Arab and friendly states. In addition, the press is prohibited from publishing news that might influence the value of the national currency or

any news concerning the bankruptcy of merchants, commercial enterprises, banks or currency dealers, unless a permission has been granted from the appropriate court. The government, to ensure conformity towards these wide ranging restrictions, which extremely limits the role of the media as a source of news analysis, as well as holding the government accountable, imposed penalties including imprisonment, fines, closures and cancellation of licences of newspapers, depending on the offence and any repetition of the offence.

The Law of Public Assembly and Procession: This is another very useful instrument for limiting both the public's political space and their ability to organise and publicise issues and differing political positions. This law was introduced by the government in 1963, and it controls public meetings, processions and associations to a great extent. The law stipulates that organisers of public meetings should obtain permission from the Governor of the district in which the meeting will be held. The government has given the Governors the right and responsibility to prevent public meetings, which may *disturb security or public order*.⁹⁰ The law also gives the police the power to attend public meetings under the pretext of *preserving law and order*.⁹¹

The stipulations of this law directly contravene with the Kuwaiti Constitution. Article (44) guarantees the right of private assembly without permission or prior notification, and prohibits the police from attending such private meetings. Due to pressure from opposition deputies the law exempted the Kuwaiti traditional *diwaniyya*. Article three of the law stipulates that: *Diwaniyyas that take place inside or in front of private houses to discuss a variety of issues without a specific invitation to discuss a particular public matter, are not considered to be public gatherings*.⁹²

The law was amended in 1976, 1979 and in 1988. The explanatory note, accompanying the amended law of 1979, justified the amendments on the

⁹⁰ Law of Public Assembly and Procession. No.13. 1963.

⁹¹ Ibid.

⁹² Ibid.

ground that the practical application of the law revealed many flaws and defects which made it imperative to reconsider the law and to have a law: *that is in line with recent developments and in agreement with practice and reality.*⁹³ However, these amendments, in effect, aimed to make it much harder for Kuwaitis to organise public meetings and legally prohibited non-Kuwaitis from the freedom of speech and expression. In addition, the law amendments gave the government the upper hand in controlling the manner in which Kuwaitis are able to express themselves.

Article (4) of the amended law prevents the organisation and the convening of a public meeting without prior approval from the Governor. In addition, it prohibits the announcement and the advertising of a meeting, except after getting approval and a licence from the Governor. Article (5) stipulates that a request for a licence to hold a public meeting must be signed by at least three and no more than five, Kuwaiti citizens registered in the voter's register. The request must include their names, professions, place of residence, the place and time of the meeting and the purpose of the meeting. This combined with the stipulation in article (12) that prohibits the participation of non-citizens in public meetings, processions and demonstrations, reveals the extent of the discrimination that is levied to the majority of the people living in Kuwait.

The amendments go further to give the Governor through Article (7) the right to suspend any meeting *if it disturbs security and public order.*⁹⁴ Such a sweeping statement gives the Governor discretionary powers in fact, to stop any meeting from taking place under the pretext of interfering with public order. Articles (11) and (14) give the right to the police force to attend public meetings under the pretext of maintaining law and order, in addition to giving them the right to disperse a meeting if requested by the organising committee and/or in order to maintain law and public order.

The Clubs and Public Associations law: This law affects the development of civil association and the life of non-Kuwaitis in particular. Law No. 24 (1962)

⁹³ Law of Public Assembly and Procession. No.65. 1979.

⁹⁴ Ibid.

has been amended four times: Law No. 28 (1965); Law No. 75 (1988), Law No. 12 (1993), and Law No. 14 (1994). The most important restrictive articles of the law are articles 4, 6, and 11. Article (4) allows only Kuwaiti citizens to form clubs and associations, while Article (11) allows only Kuwaiti citizens to be on the boards of clubs and associations. Again, considering the huge non-Kuwaiti population in Kuwait, one can imagine the severe limiting nature of the law on the many thousands of non-Kuwaiti nationals who work and reside in Kuwait. Article (6) of law 24 (1962) forbids clubs and associations to have any: *interference in politics, religious disputes or incitement of racism, sectarianism and factionalism.*⁹⁵ This gives the government a huge latitude since anything could be interpreted as interfering in politics or inciting racism, sectarianism and factionalism.

The other leverage that the government has over public association is stipulated in Article (27). The Article gives the Minister of Work and Social Affairs the right to dissolve a club and an association and/or should he see fit, the right to temporarily replace the elected board by another board appointed by the Minister. This Article was amended in law No. 75 (1988) to give the right of dissolving clubs and associations to the cabinet, under a blanket stipulation of: *if that was necessary to protect the public interest and public security.*⁹⁶ It also extended the authority of the Minister of Work and Social Affairs to be able to replace the elected board by an appointed one, to remaining office for an unlimited period of time.

The development of democratic practices need to be rooted in the society and the only way for that to happen would be to allow public gatherings, civil association, clubs etc to develop, without these people being denied the opportunity to organise responsible debates and develop action plans.

⁹⁵ Clubs and Public Associations Law No.24. 1962.

⁹⁶ Clubs and Public Associations Law No.75. 1988.

8.6 Conclusion

Kuwaiti citizens succeeded in the post-liberation period to regain their National Assembly and to fulfil a demand that has been reiterated since the second suspension of the assembly in 1986. This occurred due to the huge pressure exerted on al Sabah by all political groups in Kuwait and not simply as a result of al Sabah keeping the promises they had made while they were in exile, during the Iraqi invasion. The significance of forcing this concession of al Sabah reveal that civil society has room for manoeuvre and this gives hope that state power can be curtailed by civil society.

The main reason why al Sabah were not disposed to concede willingly lies in the fact that the basis of their legitimacy and power was not undermined. Oil revenues remain the major source of state expenditure and the livelihood of Kuwaitis depends on the redistribution of that wealth into the economy. This factor combined with the inability of the different political groupings to present itself as an alternative source of state power undermine the power of civil society vis a vis al Sabah. Nonetheless, most of the sensitive issues about government accountability, fiscal control and corruption as well as widening political participation and guaranteeing individual freedoms, remain very hot topics of discussion and are a source of friction and tension between the assembly and the government.

The Iraqi occupation exposed Kuwait's security and vulnerability to a great extent and that became a concern for both Kuwaiti citizens and the ruling family. However, the manner which al Sabah took to rectify this was to focus on a very narrow understanding of security and to also focus on military expenditure and bi-lateral defence agreements with the West. Kuwaiti citizens, as expressed by their aim to achieve democratisation, took the view that deepening and expanding participatory politics was the key for maintaining the sovereignty and security of Kuwait. Without more cooperation and coordination among all the opposition groups in Kuwait very little can be achieved in order to advance the case of establishing any genuine democracy in Kuwait.

Conclusion

Three major concluding points can be identified from this study about citizenship, political participation and the National Assembly of Kuwait. These points emphasis on the hand that the central problem in realising genuine democracy in Kuwait arises from the determination of al Sabah to preserve its power while on the other they show the usefulness and the importance of employing the concept of citizenship in the analysis of the relation between state and society in Kuwait. In that, the study has supported the work being undertaking by a number of writers on the Middle East who focus on the citizenship concept including Tétreault, Longva, and Butenschon.

The first point relates to the importance of the strategies used by the ruling family to limit any challenge to its authority. Thus, we see in the experience of the Kuwaiti National Assembly how the particular mechanisms used by al Sabah to apply the stipulations of the Kuwaiti Constitution for the creation of a representative system of government allowed, on the one hand the enhancement and the widening of the ruling family basis of legitimacy while, on the other hand, caused the emergence of a fractured and ineffective model of democracy. The restriction of citizenship to a very small proportion of the population created an elite institution of the National Assembly, representing the interests of a very small proportion of the population, while through election law that elite institution has been fractured along traditional lines of affiliations increasing the relevance of family, tribe and sect interests on the expense of creating a common attachment to the state. The election law, contrary to the stipulated principle of universal suffrage in the Kuwaiti constitution, has excluded Kuwaiti women from political participation, despite their involvement in many aspects of the economy and the civil apparatus of the state. The problem is not the presence of divisions in society, whether they are tribal, ethnic, sectarian or ideological, but it is the manner which the state manages these divisions, that is of utmost importance. In the case of Kuwait these divisions have been exaggerated

in order to maintain the dominance of al Sabah to the detriment of developing a common sense of citizenship among the larger population.

The second concluding point relates to the centrality of oil in building and maintaining the legitimacy of al Sabah. It is an indisputable fact that oil provided al Sabah with the opportunity to widen its base of legitimacy and enhance its domination over Kuwaiti's society. However, that factor did not necessarily translate into having an autonomous power separated from society. Kuwaiti citizens showed immense loyalty to al Sabah, which was exemplified with their firm stand behind them during the Iraqi occupation. However, these citizens have not been completely passive. On the contrary, Kuwaitis have always been very active in political debates, by criticising and exerting pressure and putting demands on the executive to create a more accountable government and a better functioning representative system of government. The problem lies in their ineffectiveness which is partly because of the exaggeration of - and the importance attached to - the divisions of Kuwaitis along ideological, tribal and sectarian lines. That causes friction and rivalries among the opposition and personalises the political process but also gives al Sabah the ability to play these diverse groups against each other.

The third concluding point relates to the prospect of achieving a more democratic system of government. Kuwait, like other Gulf states, is not ordained to remain authoritarian or have an unstable democracy, since the main reason for the limited development of democracy relates directly to the practices of the state and the ruling family. However, changing that, as the post-liberation period has shown, might not be an easy task, especially in light of the fragmentation of the society and the lack of political cooperation and accommodation beyond the limits of family, tribe, sect etc... However, it is not impossible. The impact of education, urbanisation and a global trends all moves towards political-liberation across the developing world. In addition to that, Kuwait has the already experienced changes in the political economy due to fluctuation in oil prices, so this on the long run will increase pressures from below and create opportunities for a far better functioning representative system of government to be established. The writer shares Gerd

Nonneman's optimism that there may be potential for further but extremely gradual evolution towards more substantial participation by Kuwaitis in the political process.¹ However this remains highly constrained and problematic in the absence of a genuine change in al Sabah's basic determination to retain its power to rule.

Nonetheless demands to effect the following changes have been a recurring theme for opposition groups, and these can open up the possibility of creating a sense of common citizenship and a better functioning representative system of government:

1. The expansion of suffrage through lowering the age of voting to 18 and granting women the right to vote in order to create a more inclusive political system.
2. Solving the persisting problem of *bidoons* and reducing the restrictions on their ability to acquire Kuwaiti citizenship through naturalisation.
3. Lifting the ban on the formation of political parties, which is essential for two main reasons. The first is to lessen the effects of traditional forms of attachments and ties and secondly, to raise the political debate to the level where discussion revolves around programmes, policies and issues that directly influence people's lives, thus deputies are elected not based on personal contacts, but because they have clear programmes and a set mandate which attract voters.
4. Decentralisation of the government through establishing elected municipal councils thus increasing the accountability of state officials and increasing interaction between the people and the government.²

Changes in the international oil market, due to the construction of the Caspian Sea oil pipeline, might well reduce the importance of the Gulf area in the world

¹ See Gerd Nonneman (ed.) Political and Economic Liberalization, Dynamics and Linkages in Comparative Perspective. (London: Lynne Rienner Publishers, 1996). p.59.

² Khaldun Al-Naqib. (al-Naqeeb, Khaldhun). Sira' al-qabila wa al-dimuqratiya: halat al-kuwayt. (The Conflict between Tribalism and Democracy: the case of Kuwait). London: Dar al-saqi, 1996). p.163 and 171-172

economy, and this might create opportunities for a new source of legitimacy for Gulf states to emerge, based on representation and accountability. Opposition in Kuwait, regardless of the continuation or a shift in the importance of Gulf oil has a huge responsibility to move beyond the rhetoric and rise to the challenge by coordinating efforts and presenting a coherent and solid front in order to extract concessions from the executive branch which will allow for a better functioning representative system of government.

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Appendix A

THE CONSTITUTION OF THE STATE OF KUWAIT

In the name of Allah, the Beneficent, the Merciful,

We, ABDULLAH al-SALIM al-SABAH AMIR of the State of Kuwait, Being desirous of consummating the means of democratic rule for our dear Country; and, Having faith in the role of this Country in the furtherance of Arab nationalism and the promotion of world peace and human civilisation and, Striving towards a better future in which the Country enjoys greater prosperity and higher international standing, and in which also the citizens are provided with more political freedom, equality and social justice a future which upholds the traditions inherent in the Arab nature by enhancing the dignity of the individual, safeguarding public interest, and applying consultative rule yet maintaining the unity and stability of the Country; and, Having considered Law Number I of 1962 concerning the system of Government during the period of transition; and, Upon the resolution of the Constituent Assembly; Do hereby approve this Constitution and promulgate it.

PART I

THE STATE AND THE SYSTEM OF GOVERNMENT

Article 1

Kuwait is an Arab State, independent and fully sovereign. Neither its sovereignty nor any part of its territory may be relinquished. The people of Kuwait is a part of the Arab Nation.

Article 2

The religion of the State is Islam, and the Islamic Sharia shall be a main source of legislation.

Article 3

The official language of the State is Arabic.

Article 4

Kuwait is a hereditary Amirate, the succession to which shall be in the descendants of the late Mubarak al-Sabah. The Heir Apparent shall be designated within one year, at the latest, from the date of accession of the Amir. His designation shall be effected by an Amiri Order upon the nomination of the Amir and the approval of the National Assembly which shall be signified by a majority vote of its members in a special sitting.

In case no designation is achieved in accordance with the foregoing procedure, the Amir shall nominate at least three of the descendants of the late Mubarak al-Sabah of whom the National Assembly shall pledge allegiance to one as Heir Apparent.

The Heir Apparent shall have attained his majority, be of sound mind and a legitimate son of Muslim parents. •

A special law promulgated within one year from the date of coming into force of this Constitution shall lay down the other rules of succession in the Amirate. The said law shall be of a constitutional nature and there fore shall be capable of amendment only by the procedure prescribed for amendment of the Constitution.

Article 5

The flag, emblem, badges, decorations and National Anthem of the State shall be specified by law.

Article 6

The System of Government in Kuwait shall be democratic, under which sovereignty resides in the people, the source of all powers. Sovereignty shall be exercised in the manner specified in this Constitution.

PART II

FUNDAMENTAL CONSTITUENTS OF THE

KUWAITI SOCIETY

Article 7

Justice, Liberty and Equality are the pillars of Society; co-operation and mutual help are the firmest bonds between citizens.

Article 8

The State safeguards the pillars of Society and ensures security, tranquillity and equal opportunities for citizens.

Article 9

The family is the corner-stone of Society. It is founded on religion, morality and patriotism. Law shall preserve the integrity of the family, strengthen its ties and protect under its auspices motherhood and child hood.

Article 10

The State cares for the young and protects them from exploitation and from moral, physical and spiritual neglect.

Article 11

The State ensures aid for citizens in old age, sickness or inability to work. It also provides them with services of social security, social aid and medical care.

Article 12

The State safeguards the heritage of Islam and of the Arabs and contributes to the furtherance of human civilisation.

Article 13

Education is a fundamental requisite for the progress of society, assured and promoted by the State.

Article 14

The State shall promote science, letters and the arts and encourage scientific research therein.

Article 15

The State cares for public health and for means of prevention and treatment of diseases and epidemics.

Article 16

Property, capital and work are fundamental constituents of the social structure of the State and of the national wealth. They are all individual rights with a social function as regulated by law.

Article 17

Public property is inviolable and its protection is the duty of every citizen.

Article 18

Private property is inviolable. No one shall be prevented from disposing of his property except within the limits of law. No property shall be expropriated except for the public benefit in the circumstances and manner specified by law, and on condition that just compensation is paid. Inheritance is a right governed by the Islamic Sharia.

Article 19

General confiscation of the property of any person shall be prohibited. Confiscation of particular property as a penalty may not be inflicted except by a court judgment in the circumstances specified by law.

Article 20

The national economy shall be based on social justice. It is founded on fair co-operation between public and private activities. Its aim shall be economic development, increase of

productivity, improvement of the standard of living and achievement of prosperity for citizens, all within the limits of law.

Article 21

Natural resources and all revenues there from are the property of the State. It shall ensure their preservation and proper exploitation due regard being given to the requirements of State security and the national economy.

Article 22

Relations between employers and employees and between landlords and tenants shall be regulated by law on economic principles, due regard being given to the rules of social justice.

Article 23

The State shall encourage both co-operative activities and savings, and supervise the system of credit.

Article 24

Social justice shall be the basis of taxes and public imposts.

Article 25

The State shall ensure the solidarity of society in shouldering burdens resulting from public disasters and calamities and provide compensation for war damages or injuries received by any person as a result of the discharge of his military duties.

Article 26

Public office is a national service entrusted to those who hold it. Public officials, in the exercise of their duties, shall aim at the public interest. Aliens may not hold public offices except in the cases specified by law.

PART III

PUBLIC RIGHTS AND DUTIES

Article 27

Kuwaiti nationality shall be defined by law. No deprivation or withdrawal of nationality may be effected except within the limits prescribed by law.

Article 28

No Kuwaiti may be deported from Kuwait or prevented from returning thereto.

Article 29

All people are equal in human dignity, and in public rights and duties before the law, without distinction as to race, origin, language or religion.

Article 30

Personal liberty is guaranteed.

Article 31

No person shall be arrested, detained, searched or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the provisions of law. No person shall be subjected to torture or to degrading treatment.

Article 32

No crime and no penalty may be established except by virtue of law, and no penalty may be imposed except for offences committed after the relevant law has come into force.

Article 33

Penalty is personal.

Article 34

An accused person is presumed innocent until proved guilty in a legal trial at which the necessary guarantees for the exercise of the right of defence are secured. The infliction of physical or moral injury on an accused person is prohibited.

Article 35

Freedom of belief is absolute. The State protects the freedom of practicing religion in accordance with established customs, provided that it does not conflict with public policy or morals.

Article 36

Freedom of opinion and of scientific research shall be guaranteed. Every person shall have the right to express and propagate his opinion verbally, in writing or otherwise, in accordance with the conditions and procedures specified by law.

Article 37

Freedom of the press, printing and publishing shall be guaranteed in accordance with the conditions and manner specified by law.

Article 38

Places of residence shall be inviolable. They may not be entered without the permission of their occupants except in the circumstances and manner specified by law.

Article 39

Freedom of communication by post, telegraph and telephone and the secrecy thereof shall be guaranteed; accordingly, censorship of communications and disclosure of their contents shall not be permitted except in the circumstances and manner specified by law.

Article 40

Education is a right for Kuwaitis, guaranteed by the State in accordance with law and within the limits of public policy and morals. Education in its preliminary stages shall be compulsory and free in accordance with law.

Law shall lay down the necessary plan to eliminate illiteracy. The State shall devote particular care to the physical, moral and mental development of youth.

Article 41

Every Kuwaiti has the right to work and to choose the type of his work. Work is a duty of every citizen necessitated by personal dignity and public good. The State shall endeavour to make it available to citizens and to make its terms equitable.

Article 42

There shall be no forced labour except in the cases specified by law for national emergency and with just remuneration.

Article 43

Freedom to form associations and unions on a national basis and by peaceful means shall be guaranteed in accordance with the conditions and manner specified by law. No one may be compelled to join any association or union.

Article 44

Individuals shall have the right of private assembly without permission or prior notification, and the police may not attend such private meetings. Public meetings, processions and gatherings shall be permitted in accordance with the conditions and manner specified by law, provided that their purpose and means are peaceful and not contrary to morals.

Article 45

Every individual shall have the right to address the public authorities in writing over his signature. Only duly constituted organisations and bodies corporate shall have the right to address the authorities collectively.

Article 46

Extradition of political refugees is prohibited.

Article 47

National defence is a sacred duty, and military service is an honour for citizens which shall be regulated by law.

Article 48

Payment of taxes and public imposts is a duty in accordance with law which shall regulate exemption of small incomes from taxes in such a way as to maintain the minimum standard of living.

Article 49

Observance of public order and respect for public morals are a duty incumbent upon all inhabitants of Kuwait.

PART IV

POWERS

Chapter I — General Provisions

Article 50

The system of Government is based on the principle of separation of powers functioning in co-operation with each other in accordance with the provisions of the Constitution. None of these powers may relinquish all or part of its competence specified in this Constitution.

Article 51

Legislative power shall be vested in the Amir and the National Assembly in accordance with the Constitution.

Article 52

Executive power shall be vested in the Amir, the Cabinet and the Ministers, in the manner specified by the Constitution.

Article 53

Judicial power shall be vested in the Courts, which shall exercise it in the name of the Amir within the limits of the Constitution.

Chapter II — The Head of State

Article 54

The Amir is the head of the State. His person shall be immune and inviolable.

Article 55

The Amir shall exercise his powers through his Ministers.

Article 56

The Amir shall, after the traditional consultations, appoint the Prime Minister and relieve him of office. The Amir shall also appoint Ministers and relieve them of office upon the recommendation of the Prime Minister. Ministers shall be appointed from amongst the members of the National Assembly and from others. The number of Ministers in all shall not exceed one-third of the number of the members of the National Assembly.

Article 57

The Cabinet shall be re-constituted in the manner specified in the preceding Article at the beginning of every legislative term of the National Assembly.

Article 58

The Prime Minister and the Ministers shall be collectively responsible to the Amir for the general policy of the State. Every Minister shall also be individually responsible to the Amir for the affairs of his ministry.

Article 59

The Law referred to in Article 4 of this Constitution shall specify the conditions under which the Amir shall exercise his constitutional powers.

Article 60

Before assuming his powers the Amir shall take the following oath at a special sitting of the National Assembly:

(I swear by Almighty God to respect the Constitution and the laws of the State, to defend the liberties, interests and properties of the people and to safeguard the independence and territorial integrity of the Country.)

Article 61

In the event of his absence outside the Country and the inability of the Heir Apparent to act as Deputy for him, the Amir shall appoint, by an Amiri Order, a Deputy who shall exercise his powers during his absence. The said Amiri Order may include a specified arrangement for the exercise of the said powers on behalf of the Amir, or a limitation of their scope.

Article 62

The Amir's Deputy shall satisfy the qualifications laid down in Article 82 of this Constitution. If he is a Minister or a member of the National Assembly he shall not take part in the ministerial functions or in the work of the Assembly during the period he is acting as Deputy for the Amir.

Article 63

Before assuming his powers the Amir's Deputy shall, at a special sitting of the National Assembly, take the oath mentioned in Article 60 of this Constitution with the following phrase added thereto (and be loyal to the Amir.) In case the National Assembly is not in session, the Oath shall be taken before the Amir.

Article 64

The provisions of Article 131 of this Constitution shall apply to the Amir's Deputy.

Article 65

The Amir shall have the right to initiate, sanction and promulgate laws. Promulgation of laws shall take place within thirty days from the date of their submission by the National Assembly to the Amir. This period shall be reduced to seven days in case of urgency. Such urgency shall be decided upon by a majority vote of the members constituting the National Assembly.

Official holidays shall not be counted in computing the promulgation period.

If the period of promulgation expires without the Head of State demanding reconsideration, the bill shall be considered as having been sanctioned and shall be promulgated.

Article 66

Reference of a bill for reconsideration shall be by a decree stating the grounds therefore. If the National Assembly confirms the bill by a two-thirds majority vote of its members the Amir shall sanction and promulgate the bill within thirty days from its submission to him. If the bill does not receive the said majority, it shall not be reconsidered during the same session. If the National Assembly, in another session, confirms the same bill by a majority vote of its members, the Amir shall sanction and promulgate the bill as law within thirty days from its submission to him.

Article 67

The Amir is the Supreme Commander of the Armed Forces. He appoints and dismisses officers in accordance with law.

Article 68

The Amir shall declare defensive war by decree. Offensive war is prohibited.

Article 69

The Amir shall proclaim Martial Law in the cases of necessity determined by law and in accordance with the procedure specified therein. The proclamation of Martial Law shall be

by decree. Such decree shall be referred to the National Assembly within the fifteen days following its issue, for a decision on the future of Martial Law. If the proclamation takes place during the period the National Assembly is dissolved it shall be referred to the new Assembly at its first sitting.

Martial Law may not continue unless a decision to that effect is made by a majority vote of the members constituting the Assembly. In all cases the matter shall be referred to the National Assembly in accordance with the foregoing procedure, every three months.

Article 70

The Amir shall conclude treaties by decree and shall transmit them immediately to the National Assembly with the appropriate statement. A treaty shall have the force of law after it is signed, ratified and published in the Official Gazette.

However, treaties of peace and alliance; treaties concerning the territory of the State, its natural resources or sovereign rights, or public or private rights of citizens; treaties of commerce, navigation and residence; and treaties which entail additional expenditure not provided for in the budget, or which involve amendment of the laws of Kuwait; shall come into force only when made by a law. In no case may treaties include secret provisions contradicting those declared.

Article 71

Should necessity arise for urgent measures to be taken while the National Assembly is not in session or is dissolved, the Amir may issue decrees in respect thereof which shall have the force of law, provided that they shall not be contrary to the Constitution or to the appropriations included in the budget law.

Such decrees shall be referred to the National Assembly within the fifteen days following their issue if the Assembly is in being. If it is dissolved or its legislative term has expired such decrees shall be referred to the next Assembly at its first sitting. If they are not thus referred they shall retrospectively cease to have the force of law, without the necessity of any decision to that effect. If they are referred and the Assembly does not confirm them, they shall retrospectively cease to have the force of law, unless the Assembly approves

their validity for the preceding period or settles in some other way the effects arising there from.

Article 72

The Amir shall, by decree, issue the regulations necessary for the execution of laws without amending or suspending such laws or making any exemption from their execution. A law may prescribe a less formal instrument than a decree for the issue of the regulations necessary for its execution.

Article 73

The Amir shall, by decree, issue regulations for public order and health, and regulations necessary for the organisation of public services and administration, not conflicting with any law.

Article 74

The Amir shall appoint and dismiss civil and military officials and diplomatic representatives to foreign countries in accordance with law. He shall also accept credentials of the representatives of foreign countries.

Article 75

The Amir may, by decree, grant a pardon or commute a sentence. However, general amnesty shall not be granted except by a law and then only in respect of offences committed prior to the proposal of the amnesty.

Article 76

The Amir shall confer Orders of Honour in accordance with law.

Article 77

Coins shall be minted in the name of the Amir in accordance with law.

Article 78

Upon the accession of the Head of State his annual emoluments shall be fixed by a law for the duration of his reign.

Chapter III — Legislative Power

Article 79

No law may be promulgated unless it has been passed by the National Assembly and sanctioned by the Amir.

Article 80

The National Assembly shall be composed of fifty members elected directly by universal suffrage and secret ballot in accordance with the provisions prescribed by the electoral law.

Ministers who are not elected members of the National Assembly shall be considered ex-officio members thereof.

Article 81

Electoral constituencies shall be determined by law.

Article 82

A member of the National Assembly shall

- (a) be a Kuwaiti by origin in accordance with law.
- (b) be qualified as an elector in accordance with the electoral law.
- (c) be not less than thirty calendar years of age on the day of election.
- (d) be able to read and write Arabic well.

Article 83

The term of the National Assembly shall be four calendar years commencing with the day of its first sitting. Elections for the new Assembly shall take place within the sixty days

preceding the expiry of the said term, due regard being given to the provisions of Article 107.

Members whose term of office expires may be re-elected.

The term of the Assembly may not be extended except for necessity in time of war and by a law.

Article 84

If, for any reason, a seat in the National Assembly becomes vacant before the end of the term, the vacancy shall be filled by election within two months from the date on which the Assembly declares the vacancy. The mandate of the new member shall last until the end of that of his predecessor.

If the vacancy occurs within six months prior to the expiry of the legislative term of the Assembly no successor shall be elected.

Article 85

The National Assembly shall have an annual session of not less than eight months. The said session may not be prorogued before the budget is approved.

Article 86

The Assembly shall start its ordinary session during the month of October of every year upon a convocation by the Amir. If the decree of convocation is not issued before the first of the said month, the time for the meeting shall be deemed to be 9 a.m. on the third Saturday of that month. If such day happens to be an official holiday, the Assembly shall meet on the morning of the first day thereafter.

Article 87

Notwithstanding the provisions of the preceding two Articles the Amir shall summon the National Assembly to hold its first meeting within two weeks of the end of the general election. If the decree of convocation is not issued within the said period, the Assembly

shall be deemed to have been convoked for the morning of the day following these two weeks, due regard being given to the relevant provision of the preceding Article.

If the date of the meeting of the Assembly falls after the annual date mentioned in Article 86 of the Constitution, the term of the session specified in Article 85 shall be reduced by the difference between the said two dates.

Article 88

The National Assembly shall, by decree, be called to an extraordinary session if the Amir deems it necessary, or upon the demand of the majority of the members of the Assembly.

In an extraordinary session the Assembly may not consider matters other than those for which it has been convened except with the consent of the Cabinet.

Article 89

The Amir shall announce the prorogation of ordinary and extra ordinary sessions.

Article 90

Every meeting held by the Assembly at a time or place other than that assigned for its meeting shall be invalid, and resolutions passed thereat shall, by virtue of law, be void.

Article 91

Before assuming his duties in the Assembly or in its committees, a member of the National Assembly shall take the following oath before the Assembly in a public sitting

(I swear by Almighty God to be faithful to the Country and to the Amir, to respect the Constitution and the laws of the State, to defend the liberties, interests and properties of the people and to discharge my duties honestly and truthfully.)

Article 92

The National Assembly shall elect at its first sitting and for the duration of its term a President and a Deputy President from amongst its members. If either office becomes vacant the Assembly shall elect a successor for the remainder of its term.

In all cases election shall be by an absolute majority vote of the members present. If this majority vote is not attained in the first ballot, another election shall be held between the two candidates receiving the highest number of votes. If more than one candidate receives an equal number of votes in the second place, all such candidates shall participate in the second ballot. In this case the candidate who receives the greatest number of votes shall be elected. If there is a tie in this last ballot, the choice shall be by lot.

The oldest member shall preside over the first sitting until the President is elected.

Article 93

The Assembly shall form, within the first week of its annual session, the committees necessary for its functions. These committees may discharge their duties during the recess of the Assembly with a view to submitting their recommendations to it when it meets.

Article 94

Sittings of the National Assembly shall be public, though they may be held in secret upon the request of the Government, the President of the Assembly or ten of its members. The debate on such request shall be held in secret.

Article 95

The National Assembly shall decide upon the validity of the election of its members. No election may be declared invalid except by a majority vote of the members constituting the Assembly. This jurisdiction may, by law, be entrusted to a judicial body.

Article 96

The National Assembly shall be the competent authority to accept resignation of its members.

Article 97

For a meeting of the National Assembly to be valid more than half of its members must be present. Resolutions shall be passed by an absolute majority vote of the members present, except in cases where a special majority is required. When votes are equally divided, the motion shall be deemed to be rejected.

Article 98

Immediately upon its formation, every Cabinet shall present its programme to the National Assembly. The Assembly may make comments with regard to such a programme.

Article 99

Every member of the National Assembly may put to the Prime Minister and to Ministers questions with a view to clarifying matters falling within their competence. The questioner alone shall have the right to comment once upon the answer.

Article 100

Every member of the National Assembly may address to the Prime Minister and to Ministers interpellations with regard to matters falling within their competence.

The debate on such an interpellation shall not take place until at least eight days have elapsed after its presentation, except in case of urgency and with the consent of the Minister concerned.

Subject to the provisions of Articles 101 and 102 of the Constitution, an interpellation may lead to the question of no-confidence being put to the Assembly.

Article 101

Every Minister shall be responsible to the National Assembly for the affairs of his ministry. If the Assembly passes a vote of no-confidence against a Minister, he shall be considered to have resigned his office as from the date of the vote of no-confidence and shall immediately submit his formal resignation. The question of confidence in a Minister may

not be raised except upon his request or upon a demand signed by ten members, following a debate on an interpellation addressed to him. The Assembly may not make its decision upon such a request before the lapse of seven days from the presentation thereof.

Withdrawal of confidence from a Minister shall be by a majority vote of the members constituting the Assembly excluding Ministers. Ministers shall not participate in the vote of confidence.

Article 102

The Prime Minister shall not hold any portfolio; nor shall the question of confidence in him be raised before the National Assembly.

Nevertheless, if the National Assembly decides, in the manner specified in the preceding Article, that it cannot co-operate with the Prime Minister, the matter shall be submitted to the Head of State. In such a case the Amir may either relieve the Prime Minister of office and appoint a new Cabinet or dissolve the National Assembly.

In the event of dissolution, if the new Assembly decides by the above-mentioned majority vote that it cannot co-operate with the said Prime Minister, he shall be considered to have resigned as from the date of the decision of the Assembly in this respect, and a new Cabinet shall be formed.

Article 103

If, for any reason, the Prime Minister or a Minister vacates his office, he shall continue to discharge the urgent business thereof until his successor is appointed.

Article 104

The Amir shall open the annual session of the National Assembly whereupon he shall deliver an Amiri Speech reviewing the situation of the country and the important public matters which happened during the preceding year, and outlining the projects and reforms the Government plans to undertake during the coming year.

The Amir may depute the Prime Minister to open the Assembly or to deliver the Amiri Speech.

Article 105

The National Assembly shall choose, from amongst its members, a committee to draft the reply to the Amiri Speech which will embody the comments and wishes of the Assembly. After the said reply has been approved by the Assembly, it shall be submitted to the Amir.

Article 106

The Amir may, by a decree, adjourn the meeting of the National Assembly for a period not exceeding one month. Adjournment may be repeated during the same session with the consent of the Assembly and then once only. A period of adjournment shall not be counted in computing the duration of the session.

Article 107

The Amir may dissolve the National Assembly by a decree in which the reasons for dissolution shall be indicated. However, dissolution of the Assembly may not be repeated for the same reasons.

In the event of dissolution, elections for the new Assembly shall be held within a period not exceeding two months from the date of dissolution.

If the elections are not held within the said period the dissolved Assembly shall be restored to its full constitutional authority and shall meet immediately as if the dissolution had not taken place. The Assembly shall then continue functioning until the new Assembly is elected.

Article 108

A member of the Assembly represents the whole nation. He shall safeguard the public interest and shall not be subject to any authority in the discharge of his duties in the Assembly or in its committees.

Article 109

A member of the Assembly shall have the right to initiate bills.

No bill initiated by a member and rejected by the National Assembly may be re-introduced during the same session.

Article 110

A member of the National Assembly shall be free to express any views or opinions in the Assembly or in its committees. Under no circumstances shall he be held liable in respect thereof.

Article 111

Except in cases of flagrant delicto, no measures of inquiry, search, arrest, detention or any other penal measure may be taken against a member while the Assembly is in session, except with the authorisation of the Assembly. The Assembly shall be notified of any penal measure that may be taken during its session in accordance with the foregoing provision. The Assembly shall always at its first meeting be notified of any such measure taken against any of its members while it was not sitting. In all cases, if the Assembly does not give a decision regarding a request for authorisation within one month from the date of its receipt, permission shall be deemed to have been given.

Article 112

Upon a request signed by five members, any subject of general interest may be put to the National Assembly for discussion with a view to securing clarification of the Government's policy and to exchanging views thereon. All other members shall also have the right to participate in the discussion.

Article 113

The National Assembly may express to the Government wishes regarding public matters. If the Government cannot comply with these wishes, it shall state to the Assembly the reasons therefore. The Assembly may comment once on the Government's statement.

Article 114

The National Assembly shall at all times have the right to set up committees of inquiry or to delegate one or more of its members to investigate any matter within its competence. Ministers and all Government officials must produce testimonials, documents and statements requested from them.

Article 115

The Assembly shall set up, among its annual standing committees, a special committee to deal with petitions and complaints submitted to the Assembly by citizens. The committee shall seek explanation thereon from the competent authorities and shall inform the person concerned of the result.

A member of the National Assembly may not interfere with the work of either the Judicial or the Executive Power.

Article 116

The Prime Minister and Ministers shall be given the floor whenever they ask for it. They may call for assistance upon any senior officials or depute them to speak on their behalf. The Assembly may ask for a Minister to be present whenever a matter relating to his ministry is under discussion. The Cabinet shall be represented in the sittings of the Assembly by the Prime Minister or by some Ministers.

Article 117

The National Assembly shall lay down its standing orders which shall include the procedure of the Assembly and its committees, and the rules pertaining to discussion, voting, questions, interpellation and all other functions prescribed in the Constitution. The standing orders shall prescribe the sanctions to be imposed on any member who violates order or absents himself from the meetings of the Assembly or the committees without a legitimate excuse.

Article 118

The maintenance of order in the National Assembly shall be the responsibility of its President. The Assembly shall have a special guard under the authority of the President of the Assembly. No armed forces may enter the Assembly or be stationed close to its gates unless so requested by the President.

Article 119

The remuneration of the President of the National Assembly, the Deputy President and the Members shall be fixed by law. In the event of a modification of the said remuneration, such modification shall not take effect until the next legislative term.

Article 120

Membership of the National Assembly shall be incompatible with public office except in the cases where compatibility is permitted in accordance with the Constitution. In such cases the right to the remuneration for membership and the right to the salary of the public office shall not be cumulated. The law shall specify other cases of incompatibility.

Article 121

During his mandate a member of the National Assembly shall not be appointed on the board of directors of a company, nor shall he participate in concessions granted by the Government or by public bodies.

Further, during the said mandate, he shall not buy or rent any property of the State, nor shall he let, sell or barter any of his property to the Government, except by public auction or tender, or in compliance with the system of compulsory acquisition.

Article 122

During their mandate, members of the National Assembly with the exception of those occupying a public office not incompatible with the membership of the National Assembly, may not be awarded decorations.

Chapter IV — The Executive Power

Section I — The Cabinet

Article 123

The Council of Ministers shall have control over the departments of the State. It shall formulate the general policy of the Government, pursue its execution and supervise the conduct of work in Government departments.

Article 124

A law shall determine the remuneration of the Prime Minister and the Ministers.

All other provisions regarding Ministers shall apply to the Prime Minister unless otherwise stated.

Article 125

A Minister shall satisfy the qualifications laid down in Article 82 of this Constitution.

Article 126

Before assuming office the Prime Minister and Ministers shall take before the Amir the Oath specified in Article 91 of this Constitution.

Article 127

The Prime Minister shall preside over the meetings of the Council of Ministers and supervise the co-ordination of work among the various ministries.

Article 128

Deliberations of the Council of Ministers shall be secret. Resolutions shall be passed only when the majority of its members are present and with the approval of the majority of those present. In case of an equal division of votes the side on which the Prime Minister has voted shall prevail. Unless they resign, the minority shall abide by the opinion of the majority.

Resolutions of the Council of Ministers shall be submitted to the Amir for approval in cases where the issue of a decree is required.

Article 129

The resignation of the Prime Minister or his removal from office shall involve the resignation or removal of all other Ministers.

Article 130

Every Minister shall supervise the affairs of his ministry and shall execute therein the general policy of the Government. He shall also formulate directives for the ministry and supervise their execution.

Article 131

While in office, a Minister shall not hold any other public office or practice, even indirectly, any profession or undertake any industrial, commercial or financial business. Further, he shall not participate in any concession granted by the Government or by public bodies or cumulate the ministerial post with membership of the board of directors of any company.

Further, during the said period, a Minister shall not buy or take on hire any property of the State even by public auction, nor shall he let, sell or barter any of his property to the Government.

Article 132

A special law shall define the offences which may be committed by Ministers in the performance of their duties, and shall specify the procedure for their indictment and trial and the competent authority for the said trial, without affecting the application of other laws to their ordinary acts or offences and to the civil liability arising there from.

Article 133

Law shall regulate general and municipal self-governing bodies in such a way as to ensure their independence under the direction and supervision of the Government.

Section II — Financial Affairs

Article 134

No general tax may be established, amended or abolished except by a law. No one may be exempted, wholly or partially, from the payment of such taxes except in the cases specified by law. No one may be required to pay any other tax, fee or imposition except within the limits of law.

Article 135

Law shall prescribe rules for the collection of public funds and the procedure for their expenditure.

Article 136

Public loans shall be concluded by a law. The Government may grant or guarantee a loan by a law, or within the limits of the funds appropriated for the said purpose in the budget.

Article 137

General and local self-governing bodies may grant or guarantee loans according to law.

Article 138

Law shall lay down rules for the protection of State properties, their administration, the conditions of their disposal, and the limits within which any of these properties may be relinquished.

Article 139

The financial year shall be fixed by law.

Article 140

The Government shall draw up the annual budget, comprising the revenue and expenditure of the State, and submit it to the National Assembly, for examination and approval, at least two months before the end of each current financial year.

Article 141

The budget shall be discussed in the National Assembly Part by Part. None of the public revenues may be allocated for a specific purpose except by law.

Article 142

Law may appropriate specific funds for more than one year if the nature of the expenditure so requires, provided that each budget shall include the funds allocated for that year, or alternatively, an extraordinary budget covering more than one financial year shall be drawn up.

Article 143

The budget law may not include any provisions establishing a new tax, increasing an existing tax, amending an existing law, or evading the issue of a special law on a matter in respect of which the Constitution provides that a law should be issued.

Article 144

The budget shall be issued by a law.

Article 145

If the budget law has not been promulgated before the beginning of the financial year, the preceding budget shall be applied until the new one is issued and revenues shall be collected and disbursements made in accordance with laws in force at the end of the preceding year.

However, if the National Assembly has approved one or more Parts of the new budget, they shall be put into effect.

Article 146

Any expenditure not included in the budget, or in excess of the budget appropriations, as well as the transfer of any fund from one Part of the budget to another, shall be effected by law.

Article 147

In no case shall the maximum estimate of expenditure, included in the budget law or the laws amending it, be exceeded.

Article 148

Law shall specify the general budgets, both independent and annexed, to which the provisions regarding the budget of the State shall be applied.

Article 149

The final accounts of the financial administration of the State for the preceding year shall be submitted, within four months following the end of the said year, to the National Assembly for consideration and approval.

Article 150

The Government shall submit to the National Assembly, at least once during each ordinary session, a statement upon the financial position of the State.

Article 151

A financial control and audit commission shall be established by a law, which shall ensure its independence. The commission shall be attached to the National Assembly and shall assist the Government and the National Assembly in controlling the collection of the State revenues and the disbursement of its expenditures within the limits of the budget. The commission shall submit to both the Government and the National Assembly an annual report on its activities and its observations.

Article 152

No concession for exploitation of either a natural resource or a public service may be granted except by a law and for a limited period. In this respect the preparatory measures shall facilitate the operations of prospecting and exploration and ensure publicity and competition.

Article 153

No monopoly shall be granted except by a law and for a limited period.

Article 154

Law shall regulate currency and banking and determine standards, weights and measures.

Article 155

Law shall regulate salaries, pensions, compensation, subsidies and gratuities which are a charge on the State treasury.

Article 156

Law shall lay down provisions relating to the budgets and the final accounts of local bodies and authorities which have a public legal personality.

Section III — Military Affairs

Article 157

Peace is the aim of the State, and the safeguard of the integrity of the Country, which is part of the integrity of the Greater Arab World, is a trust devolving upon every citizen.

Article 158

Military service shall be regulated by law.

Article 159

The State alone shall establish armed forces and public security bodies, and that in accordance with law.

Article 160

Mobilisation, general or partial, shall be regulated by law.

Article 161

A Supreme Defence Council shall be set up to conduct affairs relating to defence, to the safeguard of the integrity of the Country and to the supervision of the armed forces, in accordance with law.

Chapter V

Judicial Power

Article 162

The honour of the Judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and liberties.

Article 163

In administering justice judges shall not be subject to any authority. No interference whatsoever shall be allowed with the conduct of justice. Law shall guarantee the independence of the Judiciary and shall state the guarantees and provisions relating to judges and the conditions of their irremovability.

Article 164

Law shall regulate the Courts of various kinds and degrees and specify their functions and jurisdiction. Except when Martial Law is in force Military Courts shall have jurisdiction only over military offences committed by members of the armed and security forces within the limits specified by law.

Article 165

Sittings of the Courts shall be public save in the exceptional cases prescribed by law.

Article 166

The right of recourse to the Courts is guaranteed to all people. Law shall prescribe the procedure and manner necessary for the exercise of this right.

Article 167

The Public Prosecution Office shall conduct penal charges on behalf of society. It shall supervise the affairs of judicial police, the enforcement of penal laws, the pursuit of offenders and the execution of judgments. Law shall regulate this body, lay down its duties, and define the conditions and guarantees for those who assume its functions.

As an exception, law may entrust to the public security authorities the conduct of prosecutions in misdemeanours in accordance with the manner prescribed by law.

Article 168

The Judiciary shall have a Supreme Council which shall be regulated, and its duties defined, by law.

Article 169

Law shall regulate the settlement of administrative suits by means of a special Chamber or Court, and shall prescribe its organisation and the manner of assuming administrative jurisdiction including the power of both nullification and compensation in respect of administrative acts contrary to law.

Article 170

Law shall organise the body which shall render legal advice to ministries and public departments and shall draft bills and regulations. Law shall also regulate the representation of the State and other public bodies before the Courts.

Article 171

A Council of State may be established by a law to assume the functions of administrative jurisdiction, rendering legal advice, and drafting bills and regulations, mentioned in the preceding two Articles.

Article 172

Law shall prescribe the method of resolving conflicts of jurisdiction or of judgments between the various kinds of Courts.

Article 173

Law shall specify the judicial body competent to decide upon disputes relating to the constitutionality of laws and regulations and shall determine its jurisdiction and procedure.

Law shall ensure the right of both the Government and the interested parties to challenge the constitutionality of laws and regulations before the said body.

If the said body decides that a law or a regulation is unconstitutional it shall be considered null and void.

Part V

GENERAL AND TRANSITIONAL PROVISIONS

Article 174

Either the Amir or one-third of the members of the National Assembly shall have the right to propose the revision of this Constitution by amending or deleting one or more of its provisions or by adding new provisions.

If the Amir and the majority of the members constituting the National Assembly approve the principle of revision and its subject matter, the Assembly shall debate the bill article by article. Approval by a two-thirds majority vote of the members constituting the Assembly shall be required for the bill to be passed. The revision shall come into force only after being sanctioned and promulgated by the Amir regardless of the provisions of Articles 65 and 66 of this Constitution.

If the principle of revision or its subject matter is rejected, it shall not be presented again before the lapse of one year from the rejection.

No amendment to this Constitution may be proposed before the lapse of five years from its coming into force.

Article 175

The provisions relating to the Amiri System in Kuwait and the principles of liberty and equality, provided for in this Constitution, may not be proposed for revision except in relation to the title of the Amirate or to increase the guarantees of liberty and equality.

Article 176

The powers of the Amir, specified in this Constitution, may not be proposed for revision when a Deputy Amir is acting for him.

Article 177

The application of this Constitution shall not affect treaties and conventions previously concluded by Kuwait with other States and international organisations.

Article 178

Laws shall be published in the Official Gazette within two weeks of their promulgation and shall come into force one month after their publication. The latter period may be extended or reduced for any law by a special provision included in it.

Article 179

Laws shall apply to that which takes place after the date of their coming into force, and thus shall have no effect in respect of that which has taken place before such date. However, in other than penal matters, a law may, with the approval of a majority vote of the members constituting the National Assembly, prescribe otherwise.

Article 180

All provisions of laws, regulations, decrees, orders and decisions, in effect upon the coming of this Constitution into force, shall continue to be applicable unless amended or repealed in accordance with the procedure prescribed in this Constitution, provided that they are not contrary to any of its provisions.

Article 181

No provision of this Constitution may be suspended except when Martial Law is in force and within the limits specified by the law. Under no circumstances shall the meetings of the National Assembly be suspended, nor shall the immunities of its members be interfered with, during such period.

Article 182

This Constitution shall be published in the Official Gazette and shall come into force on the date of the meeting of the National Assembly which shall not be later than January 1963.

Article 183

Law Number I of 1962 concerning the system of Government during the period of transition shall continue to be in force, and the present members of the Constituent Assembly shall continue in the exercise their duties specified in the said law, until the meeting of the National Assembly.

Abdullah al-Salim al-Sabah

AMIR OF THE STATE OF KUWAIT

Issued at the Siif Palace on the 14th of Jumada a! - Thani, 1382, corresponding to the 11th of November, 1962.

Appendix B

LAW NO. 35 FOR 1962 in regard to

ELECTIONS FOR MEMBERS OF THE NATIONAL ASSEMBLY

We, Abdallah al—Salim al—Sabah, Amir of the State of Kuwait having considered Articles 80, 182, and 183 of the Constitution; the Constituent Assembly having agreed upon the Law, the text of which follows, We do hereby approve and promulgate it.

PART I

VOTERS

Article 1

All male Kuwaitis who have reached the age of twenty—one years are entitled to vote except those naturalized persons who have not completed ten years of naturalization since the coming into effect of Law No. 15 of 1959 in regard to Kuwaiti nationality.

Article 2

Anyone who has been sentenced for felony or for crimes of dishonour or untrustworthiness is prohibited from voting unless his case is reconsidered.

Article 3

Men of the armed forces and the police may not exercise the right to vote.

Article 4

Every voter is to exercise his electoral rights in person in the electoral rights in which his residence is.

The electoral address is the place in which the person normally lives or in which is the

dwelling of his family. Should he have a number of residences he must specify the address he wishes to use wherein to exercise his electoral rights.

If the voter should change his address he must notify the Ministry of the Interior in writing in order to make the necessary alteration in the electoral roll. If the change of address is not notified before summoning the voters, the voter is to exercise his electoral rights in the district in which his name was first registered.

Article 5

The voter is not permitted to cast his vote more than once at any election.

PART II

THE ELECTORAL ROLLS

Article 6

Every electoral district is to have one or more permanent electoral roll compiled by a committee or committees composed of a chairman and two members. The distribution, composition, and assignment of the location of the committees will be decided by the Minister of the Interior.

Article 7

The electoral roll is to include the name of every Kuwaiti residing in the electoral district on 1 February of each year who satisfies the required conditions for exercising voting rights, together with his surname, occupation, date of birth, and address.

It is not permitted for a voter to be registered in more than one electoral district.

The rolls are to be compiled in two copies, in alphabetical order, both of which are to be signed by the chairman of the committee and the two members; one copy is to be kept in the police station in the electoral district and the other in the General Secretariat of the General Assembly.

Article 8

The compilation of, or amendments to, the electoral rolls are to be completed during the month of February of each year. The annual amendments are to include:

(a) the addition of the names of those who have gained the qualification stipulated by the law in order to exercise voting rights:

(b) the addition of the names of those who had been incorrectly omitted from former rolls:

(c) the deletion of the names of those now deceased.

(d) the deletion, of the names of those who have lost the required qualifications since the last review or those whose names had been incorrectly registered.

Article 9

The electoral roll for each electoral district is to be displayed in a prominent position in police stations and other public places which the Minister of the Interior might specify, during the period 1 to 15 March each year.

Article 10

Every Kuwaiti living in an electoral district may request that his name be registered in the electoral roll belonging to it should his name have been incorrectly omitted from registration. Likewise every voter registered in the electoral roll may request the registration of the name of anyone incorrectly omitted or the removal of the name of anyone incorrectly registered.

Requests are to be submitted to the official address of the committee in the period 1 to 20 March and they will, be entered according to the date of their receipt in a special book. Receipts will be given to the applicants and any voter is permitted to peruse this book.

Article 11

The registration committee is to decide upon the requests for registration or deregistration provided for in the foregoing Article by a date not later than 5 April. The committee is to hear the testimony of the applicant or he who has applied on his behalf and is to do what it

considers necessary as regards investigation and inquiry.

Article 12

The decisions of the registration committee are to be displayed in the places referred to in Article 9 of this Law from 6 to 15 April.

Article 13

Everyone concerned with, and every voter registered on, the electoral roll of the district who appeals against the decisions of the committee on an application is to apply to the appropriate police station not later than 20 April. In regard to this appeal, the procedures set out in Article 10 of this Law are to be followed. It will be passed on immediately to the competent Civil Court.

Article 14

The final decision on the appeals mentioned in the foregoing Article is to lie with a judge of the Civil Court appointed by its President. It is permitted to appoint several judges among whom the work will be distributed according to the electoral districts.

The decision on these appeals is to be rendered not later than the end of June.

Article 15

The electoral rolls will be amended to conform with the final decisions which will be issued in accordance with the foregoing articles.

Article 16

Everyone who registers his name in the electoral roll and has become registered in it will finally be given a certificate to that effect which will state his name, his date of birth, his registered number on the electoral roll, the date of registration, and the electoral district in which he is registered.

Article 17

The final electoral rolls will be considered conclusive at the time of an election and no one will be permitted to take part unless his name is registered in them.

PART III

THE ELECTION PROCEDURES

Article 18

The dates of general elections will be appointed by decree and the dates of by-elections by the decision of the Minister of the Interior. The decree or the decision must be published at least one month before the date appointed for the election.

Article 19

It is a condition that whoever is nominated for membership of the National Assembly shall have his name registered on one of the electoral rolls.

Article 20

Requests for nomination are to be submitted in writing to the police station in the area of the electoral district during official working hours in the ten days following the publication of the decree or decision for the calling of the election.

Nominations are to be registered in accordance with the time of their receipt in a special book and receipts are to be given for them. All voters are permitted to peruse the book of nominations.

A list of candidates for each district is to be compiled and displayed in the places specified above in Article 9 of this Law beginning on the day following the closure of nominations.

Article 21

All who wish to be nominated must pay the sum of fifty dinars as a surety which will, be allocated to charitable works to be decided upon by the Minister of Social Affairs and Labour should the candidate withdraw from the nomination or if he should not obtain at least ten of the lawful votes cast in the election.

A request for nomination will not be accepted unless accompanied by a receipt for the payment of this surety.

Article 22

It is not permitted for anyone to be nominated in more than one electoral district. If it is seen that he has been nominated in more than one district he must give up his nomination in all but one district before the close of nominations. If this is not done his nomination in all districts will be considered void.

Article 23

Every civil servant nominated for the election will be considered, pursuant to the Law, to have resigned from his post five days after the closure of nominations unless he should have withdrawn his nomination before that time.

Article 24

Any candidate who withdraws from nomination is to do so in writing in the police station where his request for nomination was made, at least four days before the date of the election. The withdrawal will be written down beside his name on the list of candidates. Also on the day of the election it will be announced by displaying it on the door of the electoral committees in the district.

Article 25

If the number of nominations properly submitted in an election district is not more than the number required to be elected, the Minister of the Interior shall proclaim the successful membership of those nominated without the necessity of holding an election in the district.

Article 26

Ballot papers will be printed at the expense of the government in a form which will be decided by the Minister of the Interior.

Article 27

The conduct of the election is to be entrusted, in each electoral district, to One or more committees; one of them is to be a main co and the others are to be sub—committees.

The committee is to be composed of one person, appointed by the Minister of justice, from the judiciary, the office of the Public Prosecutor, or the civil service who shall assume the chairmanship, one member appointed by the Minister of the Interior, and a representative of each candidate. The candidate must submit the name of his representative to the appropriate police station at least forty-eight hours before the date of the election.

If the candidate does not submit the name of his representative or if he does submit it but he is not present at the start of the election, and should the number of the members of the committee not have reached three, the chairman of the committee is to select one of the voters present to be a member of it.

If the chairman is absent, his place is to be taken by the member he appoints from among the members of the committee.

Article 28

The committee shall select from its members a secretary who is to compile the official report of the election which is to be signed by the chairman of the committee and all other members.

Article 29

Observance of the regulations at the election is the responsibility of the chairman of the committee who for that purpose may, if necessary, request the presence of the police. It is not permitted for members of the police or the military forces to enter the election centre except at the request of the chairman of the committee.

Article 30

Candidates have the right to enter the election centre at any time and for this purpose may authorize as his agent any voter in the electoral district, the authorization to be made in writing.

No one other than the voters and candidates are permitted to be present at the election and none of them is permitted to carry a weapon, openly or concealed.

A weapon, within the meaning of this Article, is considered to be — in addition to a firearm — cold steel or sticks which are not personally necessary.

Article 31.

The election is to last from 8 am to 5 pm.

Article 32

Every voter must produce to the committee, on casting his vote, his certificate of registration on the electoral roll.

Should this certificate be lost, the committee is to accept his vote on the basis of his certificate of nationality and the existence of his name on the electoral roll.

Article 33

The election is to be carried out by secret ballot.

Article 34

The chairman of the committee is to hand a ballot paper to each voter. The Voter is to go to a booth in the election centre and enter his vote on the paper which is to be returned to the chairman who will then put it in the ballot box. The secretary will make a mark on the electoral roll against the name of the voter who has handed in his ballot paper.

A Voter who is unable to record his vote on the ballot paper by himself may record it verbally in such a manner as it cannot be heard except by members of the committee; the chairman will enter the vote on the ballot paper and put it in the box. The voter is permitted to whisper his vote to the chairman of the committee and to one other member only.

Article 35

At precisely 5 pm the chairman is to proclaim the election to be at an end. If all voters have

attended before that time the chairman of the committee shall proclaim the election to be at an end after the last voter has cast his vote.

The election may continue after 5 pm if it is seen that there are voters in the election centre who have not voted. In this case, voting is to be confined to these voters only.

After the proclamation of the end of the election, the committee is to prepare for the counting of the votes.

Article 36

The sub-committees are to conduct the election in accordance with the above— mentioned procedures until the election comes to an end. Then they are all to close the ballot boxes and convey them to the headquarters of the main committee where all the ballot boxes in the district will be opened and counted in the presence of all the chairmen and members of the main committee and the sub committees under the chairmanship of the chairman of the main committee.

Article 37

The committee is to decide upon all matters connected with the election and of the validity or invalidity of every vote cast by a voter; this is to be without prejudice to the provisions laid down in Part IV of this Law.

Article 38

The following will be considered invalid:

- (a) conditional votes;
- (b) votes cast for more than the number required to be elected;
- (c) votes cast on ballot papers other than those handed out by the committee;
- (d) votes cast on ballot papers which the voter has signed or on which he has placed some sign or mark which will identify him.

Article 39

A member of the National Assembly shall be elected by a relative majority of the number of valid votes cast. If two or more obtain an equal number of valid votes, the committee shall ballot among themselves and the successful member shall be the one who the ballot appoints.

The chairman of the committee is to announce the name of the member elected and is to sign, together with all other members of the committee, the official report of the election and send it with the ballot papers to the Ministry of the Interior.

Article 40

The General Secretariat of the National Assembly shall hand to each member who is successful in gaining membership a certificate of his election.

PART IV

APPEAL AGAINST VALIDITY OF MEMBERSHIP

Article 41

Every voter may request that the election which has taken place in his electoral district be invalidated and so may every candidate in the district in which he was nominated.

The request, authenticated by the signature of the mukhtar of the area is to be submitted to the General Secretariat of the National Assembly within fifteen days of the announcement of the result of the election.

Article 42

The National Assembly, if it invalidates the election of one or more members, the real facts of the result of the election having become apparent, is to proclaim as the successful member he whose election it considers to be valid.

PART V

ELECTORAL OFFENCES

Article 43

The following will be punished with imprisonment not exceeding six months and a fine not exceeding 100 dinars, or with any one of these two penalties:

1- All who intentionally register a name on the electoral roll or omit to register a name in contravention of the provisions of this Law.

2- Anyone 'who knowingly gets his or someone else's name registered without fulfilling the required conditions; similarly all who, as above, do not deregister or delete the name of someone else.

3- All who print or publish documents as propaganda for the election without the publication incorporating the name of the publisher.

4- Anyone who casts a vote in the election knowing that his name has been improperly recorded on the roll or that he has forfeited the required qualifications to exercise his right or that his right is suspended.

5- All who deliberately vote in the name of someone else.

6- Any one who exercises his right in any one election more than once.

7- Anyone who divulges the secrecy of an elector's vote without his consent.

8- Anyone who enters the centre set aside for the election without the right to do so and does not leave when ordered to do so by the committee.

Article 44

The following will be punished with imprisonment not exceeding one year and a fine not exceeding 100 dinars, or with any one of these two penalties:

1- Anyone who uses force or threats to prevent a voter from exercising his or another's right, to persuade him to vote in a particular way, or to refrain from voting.

2- Anyone who gives, offers, or promises that he will give a voter an inducement for himself or for another in order to persuade him to vote in a particular way or to refrain from voting.

3- Anyone who accepts or requests an inducement of this nature for himself or for another.

4- All who publish or broadcast among voters untrue information about the behaviour or morals of a candidate with the intention of influencing the Outcome of the election.

5- Anyone who enters a place set aside for the assembly of voters and carries a weapon in contravention of the provisions of Article 30 of this Law.

Article 45

The following will be punished with imprisonment not exceeding three years and a fine not exceeding 2,000 dinars, or with any one of these two penalties:

1- Anyone who misappropriates, conceals, destroys, or despoils the electoral roll or any other document connected with the conduct of the election or changes the outcome of the election in any other manner.

2- Anyone who impairs the conduct or organization of the election by the use of force or threats or who takes part in a mob, shouting, or demonstrations.

3- Anyone who makes off with the box containing the ballot papers or destroys it.

4- Anyone who insults the election committee or one of its members during the progress of the election.

Article 46

Attempted electoral offences, as set down above, will be punished with the penalties stipulated for the offence itself.

Article 47

Public and civil proceedings in electoral offences specified in this Part except the offence

specified in paragraph 7 of Article 43 — will be dropped six months after the day of proclaiming the result of the election or the final date of action on an investigation.

Article 48

If an offence is committed or attempted to be committed in the election centre, the chairman of the election committee is to compile an official report of the incident and order the arrest of the accused person and hand him over to the police for lawful proceedings to be taken.

PART VI

GENERAL AND PROVISIONAL REGULATIONS

Article 49

If a member of the National Assembly accepts a public office, membership of the board of directors of a company, or membership of the municipal council he will be considered to have resigned his membership of the National Assembly from the date of his acceptance of the post or membership of the directing board of the company, or from the date when he finally takes up his membership in the municipal council.

Article 50

Membership of a member of the National Assembly will be forfeited should a condition stipulated for being a member cease to be met or if it comes to light that it was not met before the election. The forfeiture of membership shall be proclaimed by a resolution of the Assembly.

Article 51

The first elections for the National Assembly are to take place in the ten electoral districts which formed the basis of the election of the Constituent Assembly except that each district will elect five members to the National Assembly.

Article 52

With regard to the first election for the National Assembly, the dates referred in Articles 8, 9, 10, 11, 12, 13, 14, 15, and 20 of this Law shall be within the discretion of the Minister of the Interior in such a manner as to convene the National Assembly not later than the end of January AD 1963.

Article 53

Ministers are to take appropriate action for the execution of this Law and to act from the date of its publication in the National Gazette. The Minister of the Interior is to issue the necessary decisions for its execution.

Amir of the State of Kuwait

Abdallah al-Salim al-Sabah

Issued on 15 Jumada al-Thania AH 1382

corresponding to 12 November AD 1962.

Appendix C

Nationality Law, 1959*

Article 1

Amiree-Decree No. 15/1959

Original Kuwaiti nationals are those persons who were settled in Kuwait prior to 1920 and who maintained their normal residence there until the date of the publication of this Law. Ancestral residence shall be deemed complementary to the period of residence of descendants.

A person is deemed to have maintained his normal residence in Kuwait even if he resides in a foreign country if he has the intention of returning to Kuwait.

Article 2

Amiree-Decree No. 15/1959

Any person born in, or outside, Kuwait whose father is a Kuwaiti national shall be a Kuwaiti national himself.

Article 3

Amiree-Decree No. 15/1959

The following shall be Kuwaiti nationals:

(1) Any person born in, or outside, Kuwait to a Kuwaiti mother whose father is unknown, or whose kinship to his father has not been legally established, or whose father is of unknown nationality or is a stateless person.

* Translated by R. H. Al-'Anezi "A Study of the Role of Nationality in International Law with Special Reference to the Law and Practice of Kuwait." Ph .D thesis, University of Cambridge, 1990.

(2) Any person born in Kuwait to parents unknown. A foundling shall be deemed to have been born in Kuwait unless the contrary is proved.

Amiree-Decree No. 100/1980

The following shall be Kuwaiti nationals:

(1) Any person born in, or outside, Kuwait to a Kuwaiti mother whose father is unknown, or whose kinship to his father has not been legally established.

(2) Any person born in Kuwait to parents unknown. A foundling shall be deemed to have been born in Kuwait unless the contrary is proved.

Decree-Law No. 40/1987

Kuwaiti nationality is acquired by any person born in Kuwait whose parents are unknown. A foundling is deemed to have been born in Kuwait unless the contrary is proved.

Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person [upon his attaining his majority who was] born in, or outside, Kuwait to a Kuwaiti mother whose father is unknown or whose kinship to his father has not been legally established. 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.

Article 4

Amiree-Decree No. 15/1959

Kuwaiti nationality may be granted by Decree upon the recommendation of the Head of the Departments of Police and Public Security to any foreigner of full age satisfying the following conditions:

(1) that he has normally and lawfully resided in Kuwait for at least 15 consecutive years preceding the submission of his application for naturalization, or for at least 8 consecutive years if he is an Arab belonging to an Arab country;

(2) that he has lawful means of earning his living, is of good character and has not been convicted of an honour-related crime;

(3) that he has knowledge of the Arabic language.

Amiree-Decree No. 2/1960

Kuwaiti nationality may be granted by Decree upon the recommendation of the Head of the Departments of Police and Public Security to any person of full age satisfying the following conditions:

(1) that he has lawfully resided in Kuwait for at least 15 consecutive years from the date of the publication of this Decree, or for at least 10 consecutive years from the date of the publication of this Decree if he is an Arab belonging to an Arab country. The requirement of consecutive residence shall not be affected if the applicant leaves Kuwait on official business. If he leaves for a reason other than that of official business, but retains the intention of returning, the period spent abroad shall be deducted from the total period of his residence in Kuwait;

(2) that he has lawful means of earning his living, is of good character and has not been convicted of an honour-related crime;

(3) that he has knowledge of the Arabic language.

Kuwaiti nationality shall not be granted by virtue of these provisions to more than 50 persons in any one year. A Committee of Kuwaiti nationals, appointed by the Head of the Departments of Police and Public Security, shall select from those who apply for naturalization, a number of persons of up to this number who may be naturalized annually upon its recommendation for their naturalization. The Committee shall take into consideration any technical qualifications needed in Kuwait possessed by any given applicant.

Statute No. 70/1966

Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person of full age satisfying the following conditions:

(1) that he has lawfully resided in Kuwait for at least 15 consecutive years from the date of the publication of the Amiree Decree No. 15/1959 or for at least 10 consecutive years from the date of the publication of that Decree if he is an Arab belonging to an Arab country. The requirement of consecutive residence shall not be affected if the applicant leaves Kuwait on official business. If he leaves for a reason other than that of official business, but retains the intention of returning, the period spent abroad shall be deducted from the total period of his residence in Kuwait;

(2) that he has lawful means of earning his living, is of good character and has not been convicted of an honour-related crime or of an honesty-related crime;

(3) that he has knowledge of the Arabic language;

(4) that he possesses qualifications needed in Kuwait.

Kuwaiti nationality shall not be granted by virtue of these provisions to more than 50 persons in any one year. A Committee of Kuwaiti nationals, appointed by the Head of Departments of Police and Public Security, shall select from those who apply for naturalization, a number of persons of up to this number who may be naturalized annually upon its recommendation for their naturalization. The Committee shall take into consideration any technical qualifications needed in Kuwait possessed by any given applicant.

Decree-Law No. 100/1980

Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person of full age satisfying the following conditions:

(1) that he has lawfully resided in Kuwait for at least 20 consecutive years or for at least 15 consecutive years if he is an Arab belonging to an Arab country. The requirement of consecutive residence shall not be affected if the applicant leaves Kuwait on official business. If he leaves for a reason other than that of official business, but retains the intention of returning, the period spent abroad shall be deducted from the total period of his residence in Kuwait;

(2) that he has lawful means of earning his living, is of good character and has not been convicted of an honour-related crime or of an honesty-related crime;

(3) that he has knowledge of the Arabic language;

(4) that he possesses qualifications or renders services needed in Kuwait.

A Committee of Kuwaiti nationals, appointed by the Minister of the Interior, shall select from those who apply for naturalization, the applicants whom it recommends for naturalization in accordance with the provisions of this Article.

The number of persons who may be naturalized in any one year in accordance with the provisions of this Article shall be decided by Resolution of the Council of Ministers.

Statute No. 1/1982

Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to any person of full age satisfying the following conditions:

(1) that he has lawfully resided in Kuwait for at least 20 consecutive years or for at least 15 consecutive years if he is an Arab belonging to an Arab country. The requirement of consecutive residence shall not be affected if the applicant leaves Kuwait on official business. If he leaves for a reason other than that of official business, but retains the intention of returning, the period spent abroad shall be deducted from the total period of his residence in Kuwait;

(2) that he has lawful means of earning his living, is of good character and has not been convicted of an honour-related crime or of an honesty-related crime;

(3) that he has knowledge of the Arabic language;

(4) that he possesses qualifications or renders services needed in Kuwait;

(5) that he be an original Muslim by birth, or that he has converted to Islam according to the prescribed rules and procedures and that a period of at least 5 years has passed since he embraced Islam before the grant of naturalization. Nationality thus acquired is ipso facto

lost and the Decree of naturalization rendered void *ab initio* if the naturalized person expressly renounces Islam or if he behaves in such a manner as clearly indicates his intention to abandon Islam. In any such case, the nationality of any dependant of the apostate who had acquired it upon the naturalization of the apostate is also rendered void.

A Committee of Kuwaiti nationals, appointed by the Minister of the Interior, shall select from those who apply for naturalization, the applicants whom it recommends for naturalization in accordance with the provisions of this Article.

The number of persons who may be naturalized in any one year in accordance with the provisions of this Article shall be decided by an Act.

Article 5

[See also Decree-Law No 100/1980, *infra*, p. 306].

Amiree-Decree No. 15/1959

Notwithstanding the provisions of the immediately preceding Article, Kuwaiti nationality may be granted by an Act to any Arab belonging to an Arab country who has rendered valuable services of great benefit to Kuwait.

Amiree-Decree No. 2/1960

Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree:

- (1) an Arab belonging to an Arab country who has rendered valuable services of great benefit to Kuwait;
- (2) an Arab belonging to an Arab country provided that he had resided in Kuwait since before 1945 and has maintained his residence there until the date of the publication of this Law;
- (3) a non-Arab provided that he had resided in Kuwait since before 1930 and has maintained his residence there until the date of the publication of this Law.

Nationality may only be granted by virtue of the provisions of this Article upon the recommendation of a Committee of Kuwaiti nationals appointed by the Head of the Departments of Police and Public Security.

Statute No. 70/1966

Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree:

- (1) any person who has rendered valuable services to Kuwait;
- (2) any person [upon his attaining his majority who was) born in Kuwait to a Kuwaiti mother and ho has maintained his residence there until reaching the age of majority and whose foreign father Las deserted his mother, divorced her or has died. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals in all respects until they reach the age of majority.

Statute No. 41/1972

Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree

- (1) any person who has rendered valuable services to Kuwait;
- (2) any person [upon his attaining his majority who was] born in Kuwait to a Kuwaiti mother and ho has maintained his residence there until he reaches his majority and whose foreign father has deserted his mother, divorced her or has died. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals in all respects until they reach the age of majority;
- (3) any person [upon his attaining his majority who was] born in Kuwait and who has maintained his normal residence there until reaching the age of majority provided that he has been educated in Kuwait and has completed his secondary education at its schools, that he is of good character and reputation and that he does not hold any other nationality

Decree-Law No 100/1980

Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree, upon the recommendation of the Minister of the Interior:

(1) any person who has rendered valuable services to Kuwait;

(2) any person [upon his attaining his majority who was] born to a Kuwaiti mother and who has maintained his residence [in Kuwait] until reaching the age of majority and whose foreign father irrevocably divorced his mother or has died. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals in all respects until they reach the age of majority.

(3) an Arab belonging to an Arab country provided that he had resided in Kuwait since before 1945 and has maintained his residence there until the promulgation of the Decree providing for his naturalization;

(4) a non-Arab provided that he had resided in Kuwait since before 1930 and has maintained his residence there until the promulgation of the Decree providing for his naturalization. Ancestral residence shall be deemed complementary to the period of residence of descendants for the purposes of the application of the third and fourth paragraphs of this Article, provided that the descendant was born in and is residing in Kuwait. Proof of residence shall be effected according to the procedure prescribed by Article 21 of this Law.

The number of persons who may be naturalized in any one year in accordance with the provisions of paragraphs 3 and 4 of this Article shall be decided by Resolution of the Council of Ministers.

The grant of Kuwaiti nationality in virtue of the provisions of this Article shall be further subject to the conditions laid down in paragraphs 2 and 3 of the Article immediately preceding.”

Statute No. 1/1982

Notwithstanding the provisions of the immediately preceding Article, the following may be granted Kuwaiti nationality by Decree, upon the recommendation of the Minister of the Interior:

(1) any person who has rendered valuable services to Kuwait;

(2) any person [his attaining his majority who was] born to a Kuwaiti mother and who has maintained his residence [in Kuwait] until reaching the age of majority and whose foreign father has irrevocably divorced his mother or has died. The Minister of the Interior may afford to such children, being minors, the same treatment as that afforded to Kuwaiti nationals in all respects until they reach the age of majority;

(3) an Arab belonging to an Arab country provided that he had resided in Kuwait since before 1945 and has maintained his residence there until the promulgation of the Decree providing for his naturalization;

(4) a non-Arab provided that he had resided in Kuwait since before 1930 and has maintained his residence there until the promulgation of the Decree providing for his naturalization. Ancestral residence shall be deemed complementary to the period of residence of descendants for the purposes of the application of the third and fourth paragraphs of this Article, provided that the descendant was born in and is residing in Kuwait. Proof of residence shall be effected according to the procedure prescribed by Article 21 of this Law.

The number of persons who may be naturalized in any one year in accordance with the provisions of paragraphs 3 and 4 of this Article shall be decided by an Act.

The grant of Kuwaiti nationality in virtue of the provisions of this Article shall be further subject to the conditions laid down in paragraphs 2, 3 and 5 of the Article immediately preceding.

Article 6

Amiree Decree No. 15/1959

A foreigner who has acquired Kuwaiti nationality by virtue of the provisions of either of the two Articles immediately preceding this Article shall not have the right to vote in any Parliamentary election or to stand as a candidate for or to be appointed to membership of any Parliamentary body within 10 years following the date of his naturalization. The provisions of this Article shall apply to any who have already acquired Kuwaiti nationality by virtue of naturalization prior to the enactment of this Law. The 10 year period shall be deemed to start to run in the case of such persons from the date of the publication of this Law.

Statute 70/1966

A foreigner who has acquired Kuwaiti nationality by virtue of the provisions of any of Articles 4, 5, 7 or 8 of this Law shall not have the right to vote in any Parliamentary election within 20 years following the date of his naturalization. The provisions of this Article shall apply to any who have already acquired Kuwaiti nationality by virtue of naturalization prior to the enactment of this Law. The 20 year period shall be deemed to start to run in the case of such persons from the date of the publication of this amendment.

A foreigner to whom this Article applies shall not have the right to stand as a candidate for or to be appointed to membership of any Parliamentary body.

Decree-Law No. 130/1986

A person who has acquired Kuwaiti nationality by virtue of the provisions of any of Articles 4, 5, 7 or 8 of this Law shall not have the right to vote in any Parliamentary election within 30 years following the date of his naturalization. The provisions of this Article shall apply to any who have already acquired Kuwaiti nationality by virtue of naturalization prior to the enactment of this amendment. The 30 year period shall be deemed to start to run in the case of such persons from 6 July 1966.

A person to whom this Article applies shall not have the right to stand as a candidate for or to be appointed to membership of any Parliamentary body.

Decree-Law No. 40/1987

A person who has acquired Kuwaiti nationality by virtue of the provisions of any of Articles 3, 4, 5, 7 or 8 of this Law shall not have the right to vote in any Parliamentary election within 30 years following the date of his naturalization. The provisions of this Article shall apply to any who have already acquired Kuwaiti nationality by virtue of naturalization prior to the enactment of this amendment. The 30 year period shall be deemed to start to run in the case of such persons from 6 July 1966.

A person to whom this Article applies shall not have the right to stand as a candidate for or be appointed to membership of any Parliamentary body.

Article 7

Amiree Decree No. 15/1959

The [foreign] wife of a foreigner who has acquired Kuwaiti nationality by virtue of the provisions of either of Articles 4 or 5 of this Law shall become a Kuwaiti national unless, within the period of one year from her learning of her husband's naturalization, she decides that she wishes to retain her nationality of origin. The children, being minors, of a foreigner who has acquired Kuwaiti nationality, shall, *ipso facto*, themselves be considered to be Kuwaiti nationals. They shall have the right to decide whether to retain their nationality of origin within a year of their attaining the age majority.

Should a person to whom this Article applies decides to retain Kuwaiti nationality, the provisions of the Article immediately preceding this Article shall apply to such person.

Decree Law No. 100/1980

The [foreign] wife of a foreigner who has acquired Kuwaiti nationality shall not *ipso facto* be considered to be a Kuwaiti national unless she declares her wish so to be considered within one year following the date of her husband's naturalization. The children, being minors, of a foreigner who has acquired Kuwaiti nationality, shall, *ipso facto*, themselves be considered to be Kuwaiti nationals. They shall have the right to decide whether to retain their nationality of origin within a year of their attaining the age of majority.

Article 8

Amiree Decree No. 15/1959

A foreign woman who marries a Kuwaiti national shall herself become a Kuwaiti national unless she declares her wish within a year of her marriage to retain her nationality of origin. Such one year period shall run from the date of the publication of this Law in the case of any foreign woman who had married a Kuwaiti national prior to that date.

Statute No. 70/1966

A foreign woman who marries a Kuwaiti national shall not herself become a Kuwaiti national by virtue of her marriage unless she declares, to the Minister of the Interior, her wish to acquire Kuwaiti nationality provided that the marriage shall have lasted for at least 5 years from the date of her declaration. The Minister of the Interior may waive all or part of the above requirement as to time or may, during that period, decide not to grant to her Kuwaiti nationality by virtue of her marriage.

Decree-Law No. 100/1980

A foreign woman who marries a Kuwaiti national shall not herself become a Kuwaiti national by virtue of her marriage unless she declares, to the Minister of the Interior, her wish to acquire Kuwaiti nationality provided that the marriage shall have lasted for at least 5 years from the date of her declaration. The Minister of the Interior may decline to grant to her a nationality certificate by virtue of her marriage or may waive all or part of the above requirement as to time. In the event of such woman's marriage being terminated by divorce or the death of her husband, and if a child had been or is born to her by her husband, Kuwaiti nationality may be granted to her by Decree upon the recommendation of the Minister of the Interior, provided that she maintains her residence in Kuwait until the end of such five year period.

Decree-Law 40/ 1987

Kuwaiti nationality may be granted by Decree upon the recommendation of the Minister of the Interior to a foreign woman who marries a Kuwaiti national provided that she declares her wish to acquire Kuwaiti nationality and that the marriage shall have lasted for at least 15 years from the date of her declaration. All or part of the above requirement as to time

may be waived upon the recommendation of the Minister of the Interior. In the event of such woman's marriage being terminated by divorce or the death of her husband, and if a child had been or is born to her by her husband, Kuwaiti nationality may be granted to her by Decree upon the recommendation of the Minister of the Interior, provided that she maintains her lawful and normal residence in Kuwait until the end of such 15 year period.

Article 9

Amiree Decree No. 15/1959

A foreign woman who has acquired Kuwaiti nationality by virtue of either of the two articles immediately preceding shall not lose it upon the termination of the marriage unless she thereupon re-acquires her nationality of origin or acquires another nationality.

Article 10

Amiree Decree No. 15/1959

A Kuwaiti woman who marries a foreigner shall acquire the nationality of her husband if the law of the State of which he is a national so provides; otherwise she may declare her wish to retain her Kuwaiti nationality within one year following the date of her marriage.

Decree-Law No. 100/1980

A Kuwaiti woman who marries a foreigner shall not lose her Kuwaiti nationality unless she acquires the nationality of her husband at her own request.

Article 11

Amiree Decree No. 15/1959

A Kuwaiti national shall lose his Kuwaiti nationality if he becomes voluntarily naturalized according to the law of another State. His wife, being a Kuwaiti national, shall also lose her Kuwaiti nationality by virtue of her husband's naturalization unless, within the period of one year from learning of her husband's naturalization, she informs the Head of the Departments of Police and Public Security that she wishes to retain her Kuwaiti nationality.

His children, being minors, shall also lose their Kuwaiti nationality if they themselves acquire *ipso facto* the nationality of the State according to the law of which their father has become naturalized if that law so provides. Such children shall reacquire Kuwaiti nationality upon their informing the Head of the Departments of Police and Public Security within one year following their attaining the age of majority of their wish to do so.

A Kuwaiti national who has become voluntarily naturalized according to the law of another State shall reacquire Kuwaiti nationality upon request provided that he has renounced his other nationality.

Decree-Law No. 100/1980

A Kuwaiti national shall lose his Kuwaiti nationality if he becomes voluntarily naturalized according to the law of another State. His wife, being a Kuwaiti national, shall not lose her Kuwaiti nationality by virtue of her husband's naturalization unless she voluntarily acquires the nationality of her husband. His children, being minors, shall also lose their Kuwaiti nationality if they themselves acquire *ipso facto* the nationality of the State according to the law of which their father has become naturalized if that law so provides. Such children shall reacquire Kuwaiti nationality upon their informing the Minister of the Interior within two years following their attaining the age of majority of their wish to do so.

A Kuwaiti national who has lost his Kuwaiti nationality by virtue of the provisions of this Article may reacquire his Kuwaiti nationality by Resolution of the Council of Ministers upon the commendation of the Minister of the Interior, provided that he has lawfully resided in Kuwait for at least one year and provided further that he applies for such reacquisition and has renounced his foreign nationality. He shall resume his Kuwaiti nationality upon the acceptance of his application by the Council of Ministers.

Article 11 bis

[See also Decree-Law No 100/1980, *infra*, p. 306].

Decree-Law No. 100/1980

A foreigner who may acquire Kuwaiti nationality by virtue of the provisions of any of Articles 5,7 or 8 of this Law shall renounce any other nationality he may have within three months following the date of his naturalization according to the law of Kuwait and shall provide evidence his having done so to the Minister of the Interior. In the event of his failure to do so, his naturalization shall ipso facto be revoked and deemed void ab initio. Kuwaiti nationality shall be yoked by Decree upon the recommendation of the Minister of the Interior. Kuwaiti nationality which may have been acquired by any dependant of any such person shall also be revoked.

Article 12

Amiree Decree No. 15/1959

A Kuwaiti woman who has lost her Kuwaiti nationality by virtue of the provisions of either of the two Articles immediately preceding shall reacquire Kuwaiti nationality at her request following the termination of her marriage provided that she has maintained her normal residence in Kuwait or has returned to reside in Kuwait.

Decree-Law No. 100/1980

A Kuwaiti woman who has lost her Kuwaiti nationality by virtue of the provisions of either of the two Articles immediately preceding may reacquire her Kuwaiti nationality by Resolution of the Council of Ministers upon the recommendation of the Minister of the Interior, provided that she has renounced her foreign nationality and that she has maintained her normal residence in Kuwait or has returned to reside in Kuwait. She shall resume her Kuwaiti nationality from the date of the Resolution of the Council of Ministers.

Article 13

Amiree Decree No. 15/1959

The nationality of a naturalized Kuwaiti national may be revoked by Decree upon the recommendation of the Head of the Departments of Police and Public Security in the two following cases:

1. where naturalization has been acquired by virtue of fraud or on the basis of a false declaration. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked;

2. where, within 5 years of the grant of naturalization, a person is convicted of any honour-related crime. In such case, the nationality of the convicted person alone may be revoked.

Statute No. 21/1965

The nationality of a naturalized Kuwaiti national may be revoked by Decree upon the recommendation of the Minister of the Interior in the following cases:

1. where naturalization has been acquired by virtue of fraud or on the basis of a false declaration. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked;

2. where, within 5 years of the grant of naturalization, a person is convicted of any honour-related crime. In such case, the nationality of the convicted person alone may be revoked;

3. where the Committee for Reform of the Administration has resolved to discharge such person from public office in accordance with Statute No. 1/1964 regarding Parliamentary Investigation and Reform of the Administration. In such case, the nationality of the convicted person alone may be revoked.

Statute No. 70/1966

The nationality of a Kuwaiti national naturalized by virtue of any of Articles 4, 5, 7 or 8 may be revoked by Decree upon the recommendation of the Minister of the Interior in the following cases:

1. where naturalization has been acquired by virtue of fraud or on the basis of a false declaration. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked;

2. where, within 5 years of the grant of naturalization, a person is convicted of any honour-related crime or of an honesty-related crime. In such case, the nationality of the convicted

person alone may be revoked;

3. where, within 5 years of the grant of naturalization, a person is dismissed from public office on disciplinary grounds for reasons relating to honour or honesty;

4. where the competent authorities have evidence that a naturalized person has disseminated opinions which may tend seriously to undermine the economic or social structure of the State or that he is a member of a political association of a foreign State. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked.

Decree-Law No. 100/1980

The nationality of a Kuwaiti national naturalized by virtue of any of Articles 4, 5, 7 or 8 may be revoked by Decree upon the recommendation of the Minister of the Interior in the following cases:

1. where naturalization has been acquired by virtue of fraud or on the basis of a false declaration. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked;

2. where, within 10 years of the grant of naturalization, a person is convicted of any honour-related crime or honesty-related crime. In such case, the nationality of the convicted person alone may be revoked;

3. where, within 10 years of the grant of naturalization, a person is dismissed from public office on disciplinary grounds for reasons relating to honour or honesty

4. where the competent authorities have evidence that a naturalized person has disseminated opinions which may tend seriously to undermine the economic or social structure of the State or that he is a member of a political association of a foreign State. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked.

Decree-Law No. 40/1987

The nationality of a Kuwaiti national naturalized by virtue of any of Articles 3, 4, 5, 7 or 8 may be revoked by Decree upon the recommendation of the Minister of the Interior in the following cases:

1. where naturalization has been acquired by virtue of fraud or on the basis of a false declaration. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked;
2. where, within 15 years of the grant of naturalization, a person is convicted of any honour related crime or honesty-related crime. In such case, the nationality of the convicted person alone may be revoked;
3. where, within 10 years of the grant of naturalization, a person is dismissed from public office on disciplinary grounds for reasons relating to honour or honesty;
4. where the competent authorities have evidence that a naturalized person has disseminated opinions which may tend seriously to undermine the economic or social structure of the State or that he is a member of a political association of a foreign State. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked.

Article 14

Amiree Decree No. 15/1959

A Kuwaiti national may be deprived of his Kuwaiti nationality by Decree upon the recommendation of the Head of the Departments of Police and Public Security, in the following cases:

1. where a person has entered the military service of a foreign State and has remained in such service notwithstanding an instruction from the Government of Kuwait that he leave such service;
2. where a person has worked for a foreign State which is at war with Kuwait or with which diplomatic relations have been suspended;

3. where a person is normally resident abroad and he has become a member of an association whose objects include objects which may tend seriously to undermine the social or economic structure of Kuwait or where he has been convicted of an offence involving breach of his allegiance to Kuwait. In such cases, only the person concerned may be deprived of his nationality.

Article 15

Amiree Decree No. 15/1959

Kuwaiti nationality may, by Decree issued on the submission of the Head of the Departments of Police and Public Security, be restored at any time to a person from whom it was withdrawn or who was deprived of it in accordance with the provisions of the Articles preceding.

Article 16

Amiree Decree No. 15/1959

The acquisition, withdrawal, deprivation or re-acquisition of Kuwaiti nationality shall be of no retrospective effect, unless express provision to the contrary is made [by the relevant Decree or other instrument].

Article 17

Amiree Decree No. 15/1959

The age of majority referred to in any provision of this Law shall be in accordance with the general provision at any time in force of Kuwaiti law.

Article 18

Amiree Decree No. 15/1959

All declarations, notifications of choice and option, application forms and all other forms and procedures referred to in this Law shall, where effected in Kuwait, be addressed to the

Head of the Departments of Police and Public Security. Where effected outside Kuwait, they shall be presented to the Consular bodies authorised to attend to them.

Article 19

Amiree Decree No. 15/1959

The Head of the Departments of Police and Public Security shall issue to every Kuwaiti national a certificate of Kuwaiti nationality after investigation has been made to establish his right to such nationality in accordance with the provisions of this Law.

Article 20

Amiree Decree No. 15/1959

In every case, the burden of proof shall rest upon one who claims Kuwaiti nationality.

Article 21

Amiree Decree No. 15/1959

Kuwaiti nationality as provided for by the provisions of this Law may be proved by way of an investigation carried out by Nationality Committees established by Decree upon the recommendation of the Head of the Departments of Police and Public Security. Such Committees may accept documentary evidence as constituting proof of Kuwaiti nationality. The Committees may also admit evidence submitted by witnesses considered to be trustworthy, and be guided by matters of common repute and any other circumstantial evidence as they may consider to be sufficient to substantiate a claim to nationality.

The Committees shall report to a Supreme Committee to be established by Decree upon the recommendation of the Head of the Departments of Police and Public Security. No determination of a Committee shall be valid until it shall have been affirmed by the Supreme Committee.

Membership of all such Committees and rules of procedure to be adopted by them shall be regulated by Decree upon the recommendation of the Head of the Departments of Police and Public Security.

Article 21 *bis*-A

Statute No. 30/1970

A nationality certificate may be withdrawn if it appears to have been obtained by virtue of fraud or on the basis of a false declaration or on the basis of false evidence submitted by a witness. Such withdrawal shall be effected by Resolution of the Council of Ministers upon the recommendation of the Minister of the Interior. Kuwaiti nationality which has been acquired by any dependant of any such person may also be revoked.

Article 21 *bis*-B

Statute No. 30/1970

Any person who has made, whether orally or in writing, incorrect statements to the administrative authorities responsible for verification of Kuwaiti nationality or to the Committees established for that purpose, with the object of seeking to prove his own Kuwaiti nationality or that of another, or with the object of seeking to facilitate the acquisition of Kuwaiti nationality according to the provisions of this Law and who is not proved to have made reasonable effort to determine the truth of his statements, shall be liable to either or both of a term of imprisonment not exceeding three years and to a fine of not more than 200 Kuwaiti Dinars.

If such person has furnished statements knowing them to be false, he shall be liable to a term of imprisonment not exceeding seven years and to an additional fine of up to 500 Kuwaiti Dinars.

Article 22

Amiree Decree No. 15/1959

For a period of 2 years from the date of entry into force of this Law, no Kuwaiti passports will be issued save to those who have established their Kuwaiti nationality in accordance with the provisions of this Law.

Article 23

Amiree Decree No. 15/1959

All passports issued before the date of entry into force of this Law and all passports issued during the period of 2 years thereafter as provided by Article 22, to any who does not carry a certificate of Kuwaiti nationality as provided for by Article 19, shall cease to be valid on the expiration of that two-year period.

Article 24

Amiree Decree No. 15/1959

This Law shall be published in the Official Gazette and shall enter into force as from the date of its publication in the Official Gazette.

All Orders for its due implementation shall be issued by the Head of the Departments of Police and Public Security.

Decree-Law No. 100/1980¹

Article 3

Any person who claims that he is an original Kuwaiti national by virtue of the provisions of Article 1 of Amiree Decree No. 15/1959 and any foreigner who may wish to acquire Kuwaiti nationality by virtue of the provisions of Article 5, paragraphs 3 and 4 of that Law shall apply within one year from the date of the entry into force of this Law. No application for confirmation of a claim in accordance with the provisions of Article 1 or for

¹ 1. Article 1 of Decree-Law No. 100/1980 provided for the amendment of certain articles of the Nationality Law, 1959.

2. Article 2 provided for the addition of Article 11 *bis* to the Nationality Law, 1959.

naturalization in accordance with the provisions of Article 5 of that Law shall be received after that date.

Any application submitted on behalf of a minor shall be submitted by his legal representative but shall be finally determined only upon his attaining the age of majority.

Should an applicant die before his application for the acquisition of Kuwaiti nationality is considered, the applications submitted on behalf of his minor children shall be considered forthwith.

Article 4

All Decrees granting naturalization and all nationality certificates issued according to the Resolution of the Supreme Committee for Nationality of 4 February 1961 whereby any person holding a Kuwaiti passport before 15 December 1959 was deemed to be a naturalized Kuwaiti national, are hereby declared to be and always to have been valid.

Any person whose Kuwaiti nationality was acquired by virtue of the above Resolution of 1961 shall be deemed to have acquired it from the date of the promulgation of the Decree providing for his naturalization or from the date of the issue of his nationality certificate.

No further conferment or acquisition of Kuwaiti nationality according to the provisions of the above Resolution shall be made or acknowledged after the date of the entry into force of this Law.

Article 5

The period prescribed by Article 11 *bis* of Amiree Decree No. 15/1959 referred to in this Decree-Law concerning those who had acquired Kuwaiti nationality prior to the date of entry into force of this Decree-Law shall run from that date.

