POLICY BRIEFING

Kuwait's political crisis deepens

Abstract

Parliamentary elections were held in Kuwait on 2 December 2012 despite a deepening political crisis and the opposition’s call to boycott the polls. The vote had been programmed after a pro-reform parliament, elected in February 2012, was disbanded by the country’s Constitutional Court. In a bid to weaken the opposition’s influence, Kuwait’s Emir changed the electoral system before the election.

Kuwait has been experiencing political stalemate for many years, the result of a constitutional struggle between the elected parliament and the ruling family. Questions of corruption and patronage have undercut progress and dialogue since the 1960s. The outcome of the December 2012 elections — a parliament dominated by pro-government members — may further poison the political atmosphere. Today, the opposition is still staging demonstrations, calling the Emir’s actions into question and challenging the new parliament’s legitimacy.
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1. Kuwait's political system

Kuwait has the longest modern history of political participation in the Middle East and the government has traditionally been based on consultation and cooperation and the rule of al-Sabah family on popular consensus. Despite the recent setbacks, Freedomhouse still classifies Kuwait as partially free.1

Kuwait was established in the seventeenth century by a group of tribes that migrated from the Arabian Peninsula and settled in the region of Kuwait. It became an independent state in June 1961, and its Emir, Abdullah III al-Salim al-Sabah promulgated the country's first constitution in November of the same year. Kuwait's constitution outlined the country's system of government as a 'fully Arab State with a democratic style of government, where sovereignty rests with the nations, which is the source of power.'2 The constitution divided the powers of the government into three branches: executive, legislative and judiciary.3 The text further provided its citizens with civil liberties — including freedom of opinion and expression, freedom of press and assembly — while guaranteeing a number of social rights, such as the right to healthcare, education and welfare.4 The constitution was hailed as one of the most liberal in the region.

Yet this greatly-desired, quasi-liberal constitution creating civil liberties and an elected parliament, also posed a threat to Kuwait's ruling family. The country's parliament is the most democratic among the GCC countries. The unelected Emir, Kuwait's head the state, routinely manipulates the country's electoral system. The Emir has dissolved the elected parliament on numerous occasions and suspended the constitution twice, from 1976 to 1981 and from 1986 to 1992. Moreover, the ruling family retains supreme political power and holds all the key positions within the government. The Emir's power to dissolve the parliament at his discretion has been exercised five times since 2006 by the current Emir Sabah IV al-Ahmad al-Jaber al-Sabah.

The struggle for Kuwaitis and the parliament to regain their civil liberties from the Emir underlies Kuwait's current political stalemate — an impasse that has existed since the inception of the state.

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2 Kuwait’s 1961 Constitution
3 Kuwait’s 1961 Constitution
4 Ibid,
1.1. **The executive branch (the Emir)**

Kuwait's executive power lies solely with the ruling family⁶. As the country's head of state, the Emir he has the power to appoint and dismiss the prime minister. The Emir can also dissolve the National Assembly and call for national elections, or in cases of national emergencies, suspend the constitution and assume supreme authority over the country. Within one year of his accession to the throne, the Emir appoints an heir apparent, whose nomination must be approved by a majority of members of the National Assembly.

The Emir is the commander in chief of the armed forces. He exercises his powers principally through his ministers, whom he appoints upon the recommendation of the prime minister. These ministers serve in the parliament as members. The current cabinet has 16 ministers, almost half from the al-Sabah family. Many strategic state and private positions are held by family members in the ministries of foreign affairs, the interior and defence, as well as the most important investment bodies and state companies.

1.2. **The National Assembly (Parliament)**

Articles 79-122⁷ of the constitution institute the unicameral National Assembly and lay out the rules governing its formation, rights and duties. For parliamentary elections, the country is divided into five districts, each electing ten representatives to the National Assembly. Legislators serve four year-terms with no term limits, and have the power to propose legislation as well as consider and vote on legislation introduced by the Emir. They may scrutinise the cabinet ministers' activities, oppose policy proposals from the ruling family, and express their lack of confidence in the prime minister and cabinet. However, the parliament lacks independent legislative powers and cannot establish new policies without the executive branch's approval.

Democratic forces in Kuwait hope to establish a true parliamentary system, with cabinet ministers fully accountable to the elected Parliament. Even without an effective parliamentary authority, the opposition has tried to use Kuwait's parliament during the last five years as a tool to limit the political influence and economic power of the al-Sabah family. The parliament has often functioned as the *de facto* opposition to the government. As the current system lacks tools for resolving disputes, the Emir has frequently simply resorted to dissolving the parliament. This has undermined the credibility of the institution and created an adversarial

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⁶ Kuwait’s 1961 Constitution
⁷ Kuwait’s 1961 Constitution
The newly elected parliament is dominated by non-attached, pro-regime members.

Relationship between the two branches of government.

Political parties are illegal in Kuwait, but the political landscape is developed in comparison to that of the other Gulf countries. Political groups in the country play the role of parties. The Islamists are currently divided into the Islamic Salafi Alliance and the Islamic Constitutional Movement (the Kuwaiti branch of the Muslim Brotherhood). The National Islamic Alliance and the Justice and Peace Alliance represent the two main Shiite societies. The main pro-democracy groupings are called the National Democratic Alliance and the Democratic Forum, neither of which participated in the December elections.

The Parliament elected in December 2012 is dominated by non-attached pro-regime members. The biggest political group is the Shiite National Islamic Alliance with five members. Fewer than 20% of the current members were members in the previous parliament.

Figure 1: Composition of the Parliament
1.3. Judicial branch

The constitution guarantees the independence of the judiciary, but all judges are appointed by the Emir.

Articles 162-173 of the constitution establish the integrity and impartiality of judges and the independence of the judiciary. The Supreme Council of the Judiciary is designated as the judiciary's highest body and guarantor of judicial independence. The constitution describes shari'a (Islamic law) as 'a main source of legislation'. The text also states, 'judges shall not be subject to any authority'. In practice, however, the Emir appoints all judges, and the constitution gives him sole power to pardon convicts or commute sentences.

2. The deep roots of the current political stalemate

In theory, Kuwait's constitution restrained the power of the Emir. Yet Kuwait falls well short of a fully fledged constitutional democracy. The power struggle between the executive branch and the parliament has become an invariable feature of Kuwaiti politics. The constitution and Parliament were suspended in 1977-1981 and again in 1986-1992. The country has had five cabinets of ministers during the past six years.

2.1. Constitutional crisis

The origins of the recurrent political impasse date to a decades-old disagreement between the Parliament and the ruling family over the use of the country's oil resources.

The Emir was successful in manipulating electoral rules to shape a parliament loyal to the regime in the 1981 election.

The origins of the country's impasse lie in the late 1960s and early 1970s, when the parliament refused to ratify oil agreements reached between the ruling family and oil companies. The parliament considered the oil contracts to be less than transparent, primarily of benefit to the ruling family, and lacking parliamentary oversight. The quarrel continued, and a lack of cooperation between the two branches of the government led to the resignation of the prime minister in August of 1976. In response, the Emir, Sabah al-Sabah dissolved the parliament, suspended the constitution, and introduced structural changes to make the parliament more compliant. With the help of oil revenues, the Emir sought loyal constituencies and alliances that he then used to alter the composition of the parliament and usher his policies through the legislature. Aiming to weaken the merchants and Arab nationalists who formed the core of those political forces critical of the regime, the Emir reached out to nomadic Bedouin tribes and others who, until 1981, had been denied citizenship and thus lacked political rights.

To further consolidate power and strengthen the electability of his preferred candidates, the Emir redrew voting districts, increasing the political power of the tribes. The country was divided into 25 electoral

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15 Kuwait’s 1961 Constitution
16 Ibid,
17 BAZ, AHMED ABDULLAH SAAD. Political Elite and Political Development in Kuwait. The George Washington University, 1981 United States -- District of Columbia
18 Tétreault, Mary Ann. *Frankenstein’s Lament in Kuwait.* Foreign Policy in Focus. November 1, 2001
The manipulation of the electoral system created a system of mounting corruption and patronage.

2.2. Ineffective calls for reforms

Kuwait remained without an elected parliament from 1986 to 1992.

In the 1980s the Emir’s divide-and-rule approach began to fray. Growing corruption and a lack of economic development led to a pro-reform majority in the 1985 parliamentary election. The next year, the Emir suspended the constitution and dissolved the parliament, claiming that Kuwait’s national security was under threat from regional neighbours. The country remained without a parliament until the end of operation Desert Storm (1991).  

The Iraqi occupation and its aftermath was an important turning point in the political life in Kuwait. During the occupation the political opposition played a role in the resistance and the royal family became susceptible to calls for a return to the old political contract between the ruler and the ruled. Members of the royal family held a conference with a group of prominent Kuwaiti citizens in Jeddah, where the participants agreed to renew their support for al-Sabah as a ruling family for the country, in exchange for a clear commitment by the ruling family to constitutionalism including the return of parliamentary life. Parliamentary elections were held in 1992.

Throughout the 1990s, calls for political reforms continued without major advances.

With 85% voter turnout, the pro-reform opposition won 31 seats and demanded institutional changes to avoid repeating the Emir’s dismissal of the constitution. The new parliament focused on reinstating civil liberties and holding the ministers accountable in cases of corruption and misuse of power. Other important achievements in this period included the abolition of the State Security Court and the appointment of a woman as

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21 The denomination ‘pro-reform’ opposition is used in this paper to describe their call for political reform (recognition of formal political parties and ministers appointed by the parliament).
22 The Emir appointed her out of the short list of three candidates. Mohammad Torki Bani Salameh and Mohammad Kanoush al-Sharah: Kuwait’s Democratic Experiment: Roots, Reality, Characteristics, Challenges, and the Prospects for the Future, available on
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The president of the University of Kuwait. 22

The 1996 election resulted in a slightly more pro-regime parliament, but calls for political and economic reform continued, leading to further stalemate and the dissolution of the parliament again in 1999. 23

2.3. Reinforced pro-democracy movement

In 2003, the Kuwaiti pro-democracy movement grew more vocal. A number of young people mobilised under the ‘Orange Movement’ to demand political reform and curtail electoral corruption. The 2003 election gave the opposition 21 seats, forcing the ruling family to re-establish the original five electoral constituencies in Kuwait. Reforms continued until 2006. It was during this brief window of political progress that women were granted the right to vote and run for office24.

The opposition challenged the constitutionality of a decree banning public gatherings, issued during the suspension of the constitution issued in 1980s and left in place since. In May 2006, the court suspended the decree, emboldening opposition and youth groups who called for electoral reform. Amidst this growing popular movement, Emir Sheikh Jabir al-Ahmad al-Sabah died, and Sheikh Sabah al-Ahmad al-Sabah, the prime minister at the time, became the new Emir. The new Emir dissolved the parliament and called for elections to be held in July 2006. He decided to hold these elections according to the old system, with 25 electoral districts, in order to ensure the next parliament would be more favourable to his position. In this, he was unsuccessful. The new parliament was dominated by pro-reform members, who reinstated the five-district system and pledged to end corruption25. Sheikh Nasser al-Mohammed al-Sabah, the Emir’s nephew was appointed Prime Minister.

With this victory, the opposition shifted their attention to corruption, aggressively questioning key cabinet members of the Sabah family about their alleged misuse of state funds and about contracts given by the ruling family in a number of following sectors — energy, health, sports and education. Yet according to the constitution, the Emir is immune and inviolable. The Emir did not allow his prime minister, suspected of corruption, to be questioned by the parliament. Some cabinet members did appear before the parliament and all ministers handed their

http://mideast.shisu.edu.cn/picture/article/33/01/3f/ce84814c4b5889bf254bf56202a/95c00e84-98d4-48d2-b4b9-375d84328a68.pdf
23 http://www.ipu.org/parline-e/reports/arc/2171_96.htm
25 “Kuwait passes election reform law.” BBC. July 17, 2006 The pro-reformists advocated the reinstatement of 5 electoral districts as it would favour pro-reform vote in future elections.
The Emir maintained his previous prime minister even after the 2008 parliamentary elections confirmed a pro-reform majority. His intransigence angered the reformists. In 2009, a pro-regime parliament was elected.

The pro-reform opposition won again in this vote, with the Emir again disregarding the parliament’s opinion and appointing his previous prime minister. The opposition organised protests to demand reforms, including the introduction of formal political parties, and ministers — including the prime minister — who would be held accountable to the parliament.

Within a few months of the new parliament’s opening session, the parliament’s constituencies pursued their allegations of corruption. While members of parliament asked the prime minister to be questioned before the parliament, the ruling family continued to protect him. Only a few ministers resigned prior to the dissolution of the parliament in March of 2009.

A new election was held in May of 2009. For the first time in almost two decades, a regime-friendly majority came to dominate the parliament. The 2009 elections also marked another change: the country’s first female MPs — four of them — were elected. Despite the apparently favourable outcome, the Emir sought to avoid risks and kept his prime minister away from the parliament. In doing so, he determinedly ignored the demands of some persistent opposition members of parliament and of protestors who took to the streets.

2.4. The opposition wins the February 2012 elections

A corruption scandal touching multiple members of the ruling family was uncovered in 2011. In February 2012 Kuwaitis elected a parliament in favour of political reform.

The political stalemate continued until a corruption scandal was uncovered in the autumn of 2011. The case involved bribes and funds allegedly transferred to as many as to 16 members of parliament in return for voting along government lines. Investigators examined, among other pieces of evidence, the bank records the ruling family. The scandal led in December 2011 to the forced resignation of the prime minister, Sheikh Nasser al-Mohammed al-Sabah, on his post since 2006 despite several attempts by the pro-reformist to step down, as well as the dissolution of the National Assembly and new elections in February 2012.

The February vote produced a landslide victory for the opposition, mainly Islamist and tribal candidates, who won 34 of the 50 parliamentary seats, with a 60 % voter turnout. The new members’ gains came largely at the expense of Kuwait’s well-established liberal and merchant elites.

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The Constitutional Court annulled the election results in June 2012.

In June of 2012, Kuwait’s constitutional court — exclusively composed of the Emir’s appointees — approved an appeal by two Kuwaiti citizens and annulled the February 2012 parliamentary elections, ruling that the decree the Emir used to dissolve the parliament was void. The decision was a blow to the opposition. The court reinstated the 2009 pro-regime parliament. Then, adding insult to injury, the Emir asked the constitutional court to deliver a verdict on the legality of the 2006 five-district system law. In this, however, the Emir failed: the court rejected his request.

In October 2012, the Emir again dissolved the parliament and called for new elections to be held in December. He also issued a decree to change the electoral process, abolishing the country’s complicated system that allowed each voter multiple votes. This move disregarded the court’s previous ruling on the matter, as well as the opposition’s demands of complying with the 2006 electoral law.

2.5. Opposition forces boycott the December 2012 elections

The opposition took to the streets in protest and boycotted the December 2012 elections. Protesting the court’s decision to annul the election and the Emir’s redrawing of political constituencies, the opposition took to the streets. In response, the regime curtailed freedom of expression, increased internet surveillance and arrested individuals who criticised the government.

For their part, members of the opposition accused the government of seeking to manipulate the judiciary in order to control the outcome of any future parliamentary election to monopolise power. Describing the Emir’s strategy as one that aimed to roll back Kuwait’s political freedoms, members of opposition groups and some former MPs announced their withdrawal from the December election.

Nonetheless, elections were held. Pro-government groups won many

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32 Previously each voter had four votes which allowed a strategic choice for second best candidates in addition to the most favoured one.
33 Ibid,
36 The figure was confirmed by an independent observer report.
37 Ibid,
seats in the parliament, with an official voter turnout of 40% — far below February's 60%. Opposition groups evaluated the turnout at only 27% and continued to stage protests, while demanding a return to the multiple-vote system and new elections.

3. Economic outlook

Kuwait's economy is growing, but its plans to modernise and diversify the economy are hampered by the dominating role of the ruling elite in the country's economy.

In the short run, the outlook for Kuwait's economy is positive. Kuwait's GDP is expected to expand by an average of 5% per year over the next few years, according to the IMF. The country's GDP grew by 5.7% in 2011.

Kuwait's economy is dominated by oil revenues, which account for nearly half of the country's GDP and 90% of the state's revenues. The country is the fourth-largest producer of crude oil within the OPEC, eleventh in the world and seventh in terms of exports. Kuwait's oil production accounts for 7% of global oil production, and its reserves are the fourth largest in the world.

The government's National Development Plan (NDP), which maps out a strategy for economic expansion into 2035 through a series of five-year plans, puts the spotlight firmly on diversification and reducing the country's dependency on hydrocarbons. There has been little progress in this regard, in large part because diversification would require privatisation of state-owned industries.

The construction industry is an expanding sector in Kuwait, with an expected annual growth rate of 7.5% for 2012-2016. Infrastructure projects are the focus of the current 2010-14 plan, which includes important works on roads, ports, an offshore tourist resort, a transportation network linking Kuwait to other GCC countries and a USD 3.6 billion-expansion of Kuwait International Airport.

The state budget is expanding. For the fiscal year 2012-13, the budget indicates revenues of USD 48.9 billion, up 3.7% on the 2011 figure, and expenditure of USD 75.2 billion, 9.3% higher than 2011. The state economy is in a good shape: for the fiscal year 2011-12, the country posted a record surplus of USD 47 billion. Even if final results depend on the evolution of the price of oil, the outlook for this year is positive.

On the other hand, political turmoil is far from over. The low turnout in the parliamentary elections could open the door for the opposition to question the legitimacy of the recently elected parliament. Without proper critical parliamentary oversight, the country's existing problems — corruption, nepotism and patronage — may overshadow privatisation plans of state-owned business first and foremost in the oil sector. The ruling family and its cabinets have exhibited a lack of accountability that

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38 “Kuwait 2011 GDP Growth Seen At 5.6 Pct; 2012 Forecast 4.5%,” Global Investment House. October 12, 2012
has made the parliament reluctant to approve key legislation on economic reforms, infrastructure development and modernisation of the oil sector.

4. Policy options

Kuwait is not a constitutional monarchy in the real sense of the term: the country’s constitution is too tied to the monarchy to allow the elected parliament to be an independent anchor within Kuwaiti politics. Yet the country is more politically developed than any of its GCC neighbours with autocratic political systems.

Kuwait’s regime would be wise not to attempt to turn back the clock, but instead accommodate the opposition’s legitimate, ongoing demands for political reform. An inclusive political climate with an accountable government and the participation of all political forces in the political process would offer a more stable and solid basis for the country’s development.

Since the early 18th century, the al-Sabah dynasty has shared its power with other prominent families and merchants. But, as in a number of other GCC monarchies, the Emir seems to be headed towards a more open confrontation with the opposition and apparently perceive fundamental political reform as a direct threat to the ruling family’s power. Yet the Emir’s refusal to compromise is a politically risky choice and goes against an established Kuwaiti political tradition that privileges negotiated solutions.

In February, the country’s Constitutional Court is expected to rule on challenges filed by the opposition regarding amendments to the electoral law adopted by the new parliament on 8 January 2013. The opposition considers the altered law unjust and unilateral, as well as an insult to parliamentary procedure.

The outcome of recent election is likely to aggravate the political atmosphere, as the opposition continues to stage demonstrations and call into question recent changes and the legitimacy of the new parliament. For protestors, today’s parliament fails to represent the population.

The number and size of demonstrations has increased in the past few weeks, but neither the government nor the opposition seem prepared to grant the concessions needed to rebuild trust and establish a dialogue. The youth movements may soon become impatient and refuse to play by the ‘old rules’ of a stale political game.

Until now, opposition protests have remained peaceful. If the government were to resort to force in an attempt to quell the protests, the move could
The European Parliament is in favour of enhanced political dialogue between the EU and Kuwait.

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In March 2011 the European Parliament suggested a strategic partnership between the EU and the Gulf Cooperation Council and its member states to enhance political dialogue.

In view of the risks of the deepening political crisis in Kuwait, the European Parliament could consider advocating that the EU take the following policy actions:

1. Call on the VP/HR Ashton to engage in a political dialogue with the Kuwaiti Government and with all political forces in the country to promote reforms, to respect human rights (including the freedoms of expression and assembly) and to encourage discussion among all political forces in the country in order to avoid any escalation of confrontation.

2. Reiterate the EP's call to the European External Action Service (EEAS) to devote more human resources to the region. Given that budgetary constraints make it unlikely that a new EU diplomatic mission will open in Kuwait presently, the EU Delegation in Riyadh should be allocated additional human resources to facilitate political dialogue and to enhance the effectiveness of the Union's efforts in Kuwait.

In addition, given the importance that the European Parliament attaches to peaceful democratic reforms and opening political systems, the EP may consider the following steps:

- Call on the Kuwaiti government and the pro-reform opposition to refrain from provocations and violent acts.
- Reinforce the central message of the Parliament's resolutions regarding the respect of the fundamental human rights and adherence to the principles of rule of law.
- Engage with the members of the newly elected parliament as well as representatives of political groups outside of the parliament.

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