



## Kuwait's Endless Elections: The Opposition in Retreat

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### SUMMARY

- Deep opposition to unilateral changes to Kuwait's electoral laws motivated opposition boycotts in elections in December 2012 and more recently in July 2013.
- Although public support for the traditional opposition is in decline, its absence from politics will not necessarily smooth relations between the Assembly and the ruling family.
- For reform in Kuwait to continue, the opposition must convince the Kuwaiti electorate that party government will be good for Kuwait.
- The U.S. should continue to work with the ruling family and the opposition to encourage reform, including efforts to condemn restrictions on freedom of speech and opposing moves to undermine or suspend the 1962 constitution.

In the spring of 2012, Kuwait's government, led by the al-Sabah ruling family, found itself in increasingly serious conflict with the National Assembly. At the time, of the 50 members of parliament, 34 were members of the opposition: a loose coalition of Islamists, Bedouin, liberals, and nationalists. The ruling family felt increasingly besieged by the opposition's commitment to expanding the Assembly's influence over the government (by which is usually meant senior members of the ruling family who hold core posts in the executive branch). Following National Assembly elections in July 2013, however, senior leaders in the ruling family have regained the upper hand, after changes to the electoral law prompted an opposition boycott. This brief addresses the implications of these developments for the future of political participation in Kuwait, as well as their effects on bilateral relations between the United States and Kuwait.

### THE RISE OF OPPOSITION POLITICS

Kuwait's 1962 constitution gives the National Assembly more power than the legislative body of any other Gulf monarchy. The use of this power, and the degree to which it is used to check the ruling family, has historically depended on the size, attitude, and composition of the opposition in the National Assembly. Much more than in other Gulf states, elections in Kuwait matter.

From 2006 through 2012, the opposition in the National Assembly fought a series of battles with the government and won most of them. In 2006, a majority in the National Assembly forced the government to reduce the number of electoral districts. Later, in 2009, the National Assembly subjected the prime minister to a vote of confidence for the first time in Kuwait's history. In 2011, the opposition forced the prime minister to resign following a scandal in which bribes had been given to members of the Assembly. Almost all

of those members lost their seats in the February 2012 elections, resulting in the election of an opposition majority of 34 members, the largest in Kuwait's history.

This, however, was the high point of the opposition's strength. In June 2012, the Constitutional Court ruled that the February elections were illegal, citing flaws in the dissolution of the previous Assembly, which was elected in 2009. The move reinstated the previous Assembly until new elections could be called. Kuwait's judiciary is largely independent, and does not always rule in accordance with the wishes of senior leaders in the ruling family—though in this case the government welcomed its decision. Soon thereafter, the emir unilaterally changed the electoral law, claiming the authority to do so on the basis of Article 71 of the 1962 Constitution, which allows him to issue emergency decrees. This turned out to be a deft move, all the more surprising in that deftness was a quality lacking in ruling family responses to the opposition over the preceding years. By explicitly claiming that his decree was constitutional, and by declaring that he would be bound by the result of any appeal of his decree to the Constitutional Court, the emir could argue that he was playing by the rules set down in Kuwait's popular 1962 constitution.

There are 50 seats on the National Assembly, with members of parliament elected from five districts (each with ten seats). Under the previous law, each voter could select four candidates. The emir's 2012 decree reduced the number of votes each citizen had from four to one, leaving the rest of the electoral system intact and effectively adopting the relatively rare single non-transferable vote (SNTV) system. The new rules made it more difficult to run lists of candidates. Since Kuwaiti lists are more tribal than ideological, bigger tribes in the two largest outlying districts were harmed disproportionately. The change to the electoral law allowed the ruling family to recruit a base of support in the National Assembly from among some of the smaller tribes and other electoral blocs not able to win seats previously. One salutary effect of the new system was the election of several MPs from clans that

traditionally occupied lower caste positions in the traditional tribal hierarchy.

This change in the electoral system, however, hardly guaranteed a majority favorable to the government. The opposition's boycott of the December 2012 and July 2013 elections in protest of the new electoral law, though, did generate a more accommodating Assembly. Most organized political groups and many members of Kuwait's larger tribes joined the boycott. Turnout fell by around a third from the previous election. The sharpest fall in turnout occurred in the two largest outlying, and mostly tribal, districts.

Deep opposition to unilateral changes to Kuwait's electoral laws motivated the opposition boycott: the electoral system has been a flashpoint between the opposition and the government for decades. While the Constitutional Court declared the decree to have been constitutional, the opposition argued that amending the law in the National Assembly would have been more democratic. The new system also suffers from known defects of the SNTV system: in the Kuwaiti context, voters will typically cast a single vote for a member of their family, clan or tribe. This encourages an already very strong tendency in Kuwait towards particularist politics. A second, third, and fourth vote might be cast on the basis of ideology rather than kinship. Some prominent opposition politicians probably benefited from the four-vote system for this reason, though even in this system ideological lists experienced only modest success.

#### DECEMBER 2012 ELECTIONS AND THE NATIONAL ASSEMBLY

Many Kuwaitis had high hopes for the National Assembly elected in December 2012. Previously, incessant conflict between the ruling family and the opposition was seen as the most important obstacle to improving the performance of the Kuwaiti state in areas such as housing, health care, and education. The absence of opposition firebrands, it was hoped, would allow the government to concentrate on governing, rather than dealing with obstreperous opposition voices in the National Assembly.

Indeed, the National Assembly was substantially more cooperative than its predecessor, but not by any means a rubber stamp. One minister resigned under threat of interpellation (which is a first step towards a vote of confidence), and the government had to seek votes in the National Assembly to delay five interpellations. Had the Assembly lasted longer (the Constitutional Court invalidated it in mid-June 2013), it likely would have demanded votes of confidence in several ministers by the end of the year.

Like its predecessors, the Assembly had a penchant for populist legislation. One of the more important measures it implemented was the creation of a fund (with state money) to pay interest on Kuwaitis' consumer loans: the government, however, did manage to negotiate a reduction in the expense of the law. The Assembly also managed to pressure the government to shelve a bill that would have sharply restricted press freedoms in Kuwait. On a positive note, the National Assembly passed several laws on topics ranging from foreign direct investment, to housing loans for women, to a reform of laws governing corporations. The National Assembly also passed a law on terrorist financing. Previous failures to do so had long been an irritant in relations with the United States.

### JULY'S ELECTION AND A SECOND OPPOSITION BOYCOTT

Despite the widespread perception that a boycott would be unproductive, the opposition again boycotted elections in July 2013. This followed the Constitutional Court's dissolution of the body in June, on the basis of flaws in the emir's decree setting up the electoral commission that oversaw the elections. However, the Constitutional Court also found the emir's decree that changed the electoral law to SNTV to be constitutional. This was enough to convince many Kuwaitis to participate in the elections. By the time of the elections, the opposition clearly had lost a fair amount of the public support it had enjoyed a year earlier.

While the boycott continued, it frayed a great deal at the edges. A number of liberal/nationalist candidates ran, as did three of the 34-member opposition in the February 2012

Assembly (all three won seats). The Muslim Brotherhood joined the boycott, though without much enthusiasm. The shaykh of the Awazim tribe reversed course and called on members to participate. Turnout hovered around 52%, 10% below previous elections that were not boycotted. However, the timing of the election also depressed turnout figures, because it was held during Ramadan in the middle of the Gulf summer.

Following the July election, senior members of the ruling family had reasons to be satisfied with the past two elections. The opposition, seemingly unstoppable in 2011, had lost several rounds. The changes to the electoral law made in 2012 diluted the power of some larger tribes, which had been opposition strongholds in recent years (especially the Ajman and Mutair). These changes also resulted in a temporary increase in the number of Shi'a ministers, now a reliably pro-government bloc, in December 2012, but the number of Shi'a MPs fell back to more usual levels in July.

The absence of traditional opposition in this Assembly does not mean that relations between the National Assembly and the ruling family will be smooth. The July election returned many MPs whose attitude toward the ruling family is likely to be less cooperative. Given that the next election is likely to see further erosion of the boycott, if not its complete abandonment, some of the new MPs may attempt to pick up some of the voters who supported the traditional opposition. At the very least, there is little reason to doubt that the new Assembly will have a fondness for populist law making, and that MPs will begin to target unpopular ministers.

### U.S. POLICY AND KUWAIT

The close relationship between the United States and Kuwait is based on an enduring coincidence of national interest, cemented by the U.S.-led liberation of Kuwait in 1991. Kuwait cooperated with the United States during the Iraq War and was declared a Major Non-NATO Ally in 2004. Kuwait's elections reinforce this relationship: it is substantially more democratic than any of the other Gulf monarchies (and most other American allies in the region). This reduces

the tension in U.S. policy between the pursuit of security or stability and the promotion of democratic values.

While Islamists often win a significant number of seats in the National Assembly, and while many Kuwaitis disagree strongly with some aspects of U.S. foreign policy, the chances that elections will result in the emergence of a powerful bloc hostile to U.S. interests are quite slim. Kuwaitis will not forget 1991 soon, and many understand the value of the alliance with the United States.

The fact that the Kuwaiti political system is only partially democratic is not a serious obstacle to relations with the United States, and it should not be. Kuwait's 1962 constitution is very flexible and gives citizens a mechanism through which to demand more democracy. Citizens can vote for MPs who will push for greater Assembly control over the executive. Kuwait will democratize if and when a stable majority in the National Assembly is permitted to form a government, and this can be accomplished within the bounds of the 1962 constitution.

The SNTV electoral system is not a move forward, and the unilateral imposition of the system by the emir was unfortunate. But it is within the bounds of the 1962 constitution, and it is not an insuperable obstacle to further democratization: what is really needed for more democratization to occur is for the opposition to convince the Kuwaiti electorate that party government will be good for Kuwait. The United States has every reason to want Kuwait to continue to make progress on reform. A stable future for the other Gulf monarchies cannot be built indefinitely on undiluted authoritarianism, and Kuwait is the model in the Gulf of the promise, and peril, of expanded political participation.

#### POLICY RECOMMENDATIONS

**1. The U.S. should continue to support the 1962 constitution, while discouraging unconstitutional attempts to suspend it.** U.S. policymakers must send a consistent message to the ruling family that it will oppose any effort to suspend the National

Assembly, or to dilute the Assembly's ability to remove confidence in ministers. This is not seriously being discussed in Kuwait today, but hardline members of the ruling family have entertained this option in the past. As late as 2009, the ruling family held a meeting in which an unconstitutional suspension was discussed.

**2. The U.S. must work with the Kuwaiti government to address the status of Kuwaiti citizens currently being detained at Guantanamo Bay.** The U.S. still holds two Kuwaiti citizens in indefinite detention, though the emir himself has made it clear he wants them returned to Kuwait. If the U.S. has good reasons to continue detaining the two Kuwaitis, it should set those out in public in a court of law. If it has no evidence, it should hold itself up to the values it demands of other countries and send them back to Kuwait.

**3. The U.S. must continue to condemn efforts on the part of the ruling family to stifle dissent through restrictions on freedom of speech.** It is true that freedom of speech restrictions, particularly when this speech comes in the form of criticism, are widely accepted in Kuwaiti political culture. But the emir is an active political actor in Kuwait's politics, and he should not be above criticism. In the past, U.S. officials have criticized restraints on free speech by the Kuwaiti government. A statement made by the State Department spokeswoman in February 2013 (in response to a question about prosecutions for the crime of insulting the emir) generated an above-the-fold headline in the leading Kuwaiti daily. These condemnations should continue.

**4. U.S. officials should work closely with the government of Kuwait to reform the country's antiquated visa system.** The State Department's report on Trafficking in Persons identifies deep and serious problems with Kuwait's visa system, including the selling of visas to workers, violations of contractual

terms, and inadequacy of redress. Because Kuwait ranks in the lowest tier of nations in the report, it is subject to US sanctions, though the Administration has repeatedly waived them. U.S. officials, however, should raise the issue more frequently than they do. It appears that a substantial part of the problem with the visa trade is caused by a relatively small group of visa traders with political connections, and many Kuwaitis support change. Pressure from the United States might help encourage reform.

**5. The U.S. Embassy in Kuwait City should more seriously engage with Kuwait's *bidoon*.** Kuwait has a sizable population (around 100,000) of stateless citizens, the *bidoon*. The government does not distribute citizenship freely, in part because citizenship amounts to a share in the national oil trust fund. But the *bidoon* are Kuwaitis by virtually every measure, and current policy relegates them to a second-class, marginalized population in their own country. International conventions clearly establish the *bidoon's* right to citizenship.



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