

Democracy In Kuwait: From A Legislative Perspective

Bashar Awad Altarawneh¹,
Abed Alhakim Isleem Salman Alqaraleh²

¹Applied Science Private University, Jordan
Middle East University, MEU Research Unit, Jordan
Basharawad84@yahoo.com

²Applied Science Private University, Jordan
Middle East University, MEU Research Unit, Jordan
a_alqaraleh@asu.edu.jo

Abstract

This study aimed at identifying the democracy in Kuwait from a legislative perspective. The study used three approaches: analytical descriptive approach, systems approach, and legal approach.

The results concluded several results, most notably: first, democracy in Kuwait acquired certain characteristics that distinguished it from many other political systems in the region. Also, the general trait of practicing democracy in Kuwait was its slow progress; second, the Kuwaiti democracy was expressed in legislations, either in constitution, or in the election law of the National Assembly and the law of public meetings and gatherings; and third, legislations, and more specifically the constitution, affected the political participation and the process of representing the political parties.

The study recommended the following: first, the importance of mentioning the political parties in the Kuwaiti constitution from which a law regulating the work of parties is derived - Kuwait is a country that is based on the parliamentary system and enjoys a political awareness that is manifested in the form of a well-developed partisan work; second, modifying the law of public meetings in order to be compatible with constitution articles; enhancing cooperation between the legislative and executive authorities in order to enhance the political life in Kuwait.

Keywords: democracy in Kuwait, constitution, election law of National Assembly, public gatherings and meetings law, political participation.

Introduction:

The democratic system is characterized by the complete freedom to individuals, where such a freedom is only restricted by a law enshrined by the National Assembly. The allowed freedoms include the freedom of belief, the freedom of opinion and expression, personal freedom, the freedom of choosing work, the freedom of establishing parties and citing their political programs, the freedom of establishing partisan and non-partisan newspapers and journals, and the freedom of opposing the ruling system and organizing protests and demonstrations (Bahamdan, 2022: 105). This context was applied in several political systems that are mainly based on democracy in their political work.

Some political systems adopted another path towards democracy, in terms of practice. This mainly indicates the variation among the political systems around the world in relation to adopting the appropriate democratic practice to be applied in reality, in accordance with the nature of the community and its beliefs related to the political system which derives his ideas from the aspirations of the community. The political system could somewhat pass through an opposite direction towards the decisions that eventually take the side of public interest.

Kuwait is one of the Arab countries that practiced democracy in various domains that are compatible with the nature of its political system- the parliamentary system that is based on election by citizens in order to set the legitimacy of the council that represents citizens in front of the government. Indeed, democracy and practicing it manifested several important features that could be similar or different with several other political systems around the world.

Kuwait applied democracy by setting legislations through which that practice is organized within the state, where some of these legislations are basic (represented in constitution), and others derived from constitution. Those legislations had a prominent role in establishing the foundation of democratic practice and enhancing political participation. The Kuwaiti state has founded several practices for democracy, represented by electing, protesting and gatherings, while it lacked an important part during its democratic practice; which is the absence of partisan life and partisan work. Therefore, this study was conducted to review the Kuwaiti democracy from a legislative perspective.

The study problem:

The study problem lies in taking a view of the Kuwaiti democracy by displaying the legislations in which it was interested; most importantly, the study addressed the democracy which established the legislations

under which the concept of political participation was included. Kuwait adopted democracy since the state's establishment by enshrining a legislation which is viewed as the start of the following steps towards democracy, where people's participation reached the positions of decision-making. However, the problem of this study was cited given the authenticity of democracy in Kuwait, where such an inherent democratic style should express more modernized methods of democracy, especially that it is a state which depends on the parliament in its work; however, the political parties and the regulations governing their activities are lacking despite its strong electoral process, and that its people frequently request several reforms in democracy and its practice.

The study questions:

This study aimed to answer the following questions:

- 1- How was democracy established in Kuwait?
- 2- How was democracy achieved in the Kuwaiti legislations?
- 3- How did the Kuwaiti legislations affect on the political participation?

The study objectives:

The study aimed to achieve the following objectives:

- 1- Identifying the establishment of democracy in Kuwait.
- 2- Identifying democracy in Kuwait from a legislative perspective.
- 3- Identifying the impact of the Kuwaiti legislations on the political participation.

The study importance:

The importance of this study lies in identifying one of the political systems in the Arabic region, which is Kuwait, and the democracy applied in it; the democratic practice and the development that it experienced during a long period of time, especially, the democratic process in the last few years that witnessed more awareness among several groups in it. Indeed, yesterday is not like today, in that political systems change in terms of applying and practicing democracy in a way that maintains its continuity and keeps the social interior affairs from any processes of instability. Legislations are considered as the most important instruments through which we can identify the extent of applying and practicing democracy in Kuwait.

The study period:

This study addressed democracy in Kuwait by showing the legislations that are related to democracy. The study period extended between (2005-2022), which is a sufficient modern period- that included the last

event of parliamentary elections that took place in 2022- to measure democracy through the regulations that govern the democratic action in Kuwait, and refer to some details relevant to legislations that have been issued since 2005.

The theoretical framework and the previous studies:

First, the theoretical framework:

Policy and political work have an important role in the life of human communities; indeed, it is related to each single detail of their daily life. In this vein, each legislation that governs citizens' life in their educational, social and economic domains as well as the life domains are the result of a political work, and that the present and future are closely related to the political decisions made by those with authority (Al-Ajami, 2016: 310). This entails that being existent within the range of decision-making is an essential thing that prevents individuality in taking power and authority.

This context mainly addressed democracy which is closely related to political participation in terms of principle and content, where the existence of democracy implies the existence of political participation and vice versa; however, the existence of democracy doesn't necessarily mean that there is a complete political participation. In fact, completeness or incompleteness means that the criterion of political participation has been achieved in certain domains, but not in others; the reason of such a case could be attributed to the fact that the political system and the community belonging to it may not have reached the targeted levels. In this context, the legislations and rules that establish a real political participation could be existing, but the political system may not be ready for that or it could expect that extending participation, especially among gatherings will result in conflict inside the community. That could have a certain meaning, which implies that the system is still within the stages of transformation in its social and political structures, and that refers to one of the terms used by political sociology.

Democracy has several dimensions, in that it is difficult to cite a certain definition to it. Indeed, democracy can be identified by looking at the directions that applied democracy, such as the liberal democracy that supported the individual's freedom, and the socialism that was more interested in the group (Al-Sharqawi, 2007: 130).

Democracy is not merely a paper that is thrown in the election's box, or a seat that is occupied by an elected candidate in the house of representatives. In fact, democracy refers to the principles of freedom and equity...the values of tolerance, dialogue and pluralism...and it is also represented by the mechanisms of the right electoral system that

ensures the individual's participation in the process of decision-making, monitoring and electing. Democracy involves adopting the decisions of the majority and holding authority peacefully...democracy represents constitutional assurance that advocates the principle of state's sovereignty, considering the state is the source of authority and has the liability for itself, where its entity is separated from the individuals ruling it, and that the human rights, justice and equal opportunities are guaranteed in the state. Democracy constitutes the institutions that are represented by the parliamentary council, representative government, independent justice system and civil community institutions apart from the governmental guardianship (Aldyun, 2007: 2).

The concept of political participation is viewed as one of the most prominent topics in all the communities. This participation manifests itself more clearly in the democratic urbanized communities due to its wide range and effectiveness. This concept is also important for the communities that have difficulty in political participation, as it is the process through which citizens can express their desires and appeal for their rights. Indeed, political participation is important to prevent exploiting power and authority by certain individuals in those communities- this necessitates enhancing political participation in the right way in order to achieve its desired objectives (Al-Mashaqba; Al-Khalaileh, 2016: 72).

Political participation is considered as the basis for democracy by extending the range of comprehensive elections, which differs from one country to another to include both men and women, and is enhanced through the legislative institutions that encourage political gatherings, partisan existence, putting posters and making communications; encouraging participation contributes to implementing political legitimacy which, in turn, converts people towards being political beings (Saleh, 2005: 17). Furthermore, political participation extends the base of making the political decision inside the country, where responsibility is distributed to all the categories within the political system and they are involved in the decisions that will be made.

Previous studies:

(Ezz Al-Arab, 2021) conducted a study entitled "the elections in the Kuwaiti National Assembly: new elite and opposition allies". The study highlighted the elections of the Kuwaiti National Assembly by investigating the context of the Kuwaiti National Assembly elections (December, 5, 2020), the indicators of the election's results, and the relationship between the National Assembly and the government. The Kuwaiti government will continue its efforts in facing the multiple

stressful crises, such as the economic collapse, the decline of public services, and disturbances in the political system which, in turn, makes the country closet to a mid-way democracy or a hybrid regime, that combines both presidential and parliamentary systems. This, in turn, makes an overlap between the work of the government and the house of representatives; this overlap leads to more conflicts between them.

(Al-Zaidi, 2021) conducted a study entitled "the parliamentary elections in Kuwait of 2020: challenges and change willingness". The study aimed to identify the parliamentary elections in Kuwait in 2020, in terms of challenges and change willingness. The study addressed the establishment and development of the parliamentary movement. The first stage included the parliamentary experiment in Kuwait that has been introduced with its historical legacy since 1921 and continued in its developmental stages through 1938. The following stages included the parliamentary elections of 2020 as well as the internal and external challenges. The results revealed that there are several social and security problems in Kuwait, referred to as "residence trade" or human trafficking. Also, there are the problems of Bedoon, expatriate workers, economic crisis, corruption, political Islam, tribe, one-vote law, and woman's issue. The results demonstrated the external challenges that faced Kuwait. The results concluded that the political reality in Kuwait needs more constitutional reforms, a change for the political structure, developing work program for reforms and amendments in the constitution.

(Al-Jorman, 2019) conducted a study entitled " the constitution of the Kuwaiti system and the process of political decision-making". Kuwait is one of the authentic countries in the Arabian Gulf region that gained its independence in 1961. The parliament and the other authorities have been founded since the establishment of the state. The state has a valid constitution since then. Indeed, it is one of the countries that are viewed as a reference in the democratic practices in the Arabian Gulf and the Arab region. Therefore, research and analysis in the role of the different authorities, especially the legislative and the executive authority in the process of making the external policy in Kuwait is necessary. The current situations reveal the good experience of the Kuwaiti state in managing its external affairs in the light of the conditions that the state experienced with its neighborhood and the interventions performed by the major countries. This situation entails the necessity of investigating the way of making the external decisions and revealing the real role of the executive and legislative powers in preparing the external policy and making decisions.

(Ezz Al-Arab, 2017) conducted a study entitled " the elections in the Kuwaiti National Assembly and the return of opposition". The study

addressed several points: first, the election's environment, where these elections were held in difficult internal conditions and complex regional circumstances, since it is the first time for dissolving the house of representatives due to external causes and security challenges, but not internal ones; second, the issues of elections, where several political issues received a debate in Kuwait during the stage that preceded elections, including the political ramifications to implement the document of financial and economic reforms, get rid of corruption in governmental expenditures, withdraw nationality and deprive the individuals who curse the state's ruler from being nominated to the parliamentary elections; third, the results of elections, where the participation in the fifteenth house of representatives was about (70%) which is higher than the percentage in the previous elections; fourth, the future of political stability, it is expected that conflicting relationship between the government and the house of representatives as compared to the previous house of representatives. The study confirmed that the changes that took place in the structure of the current house of representatives enable the current members of the house of representatives to cancel any law or interrogate any ministers or even the prime minister.

What distinguishes this study from the previous studies:

- The study introduced a general description for democracy in Kuwait as a complimentary part for the previous studies.
- This study addressed democracy in Kuwait by showing the legislations.
- The study described the legislations through which democracy was introduced in Kuwait and the impact of those legislations on political participation with all its practices in the Kuwaiti state.
- The study cited recommendations that contribute to reaching higher levels of practicing democracy in Kuwait in the short and long run.

The study methodology:

The study used three approaches: the analytical descriptive approach to describe democracy and legislations in Kuwait, and then analyze democracy and demonstrate its structure based on the legislations that established political participation; the system approach, which is based on identifying some of the demands of the Kuwaiti people that affected decision makers, in terms of developing democracy; the legal approach, which contributed to showing the legislations that are related to the concept of political participation.

The first topic: a general view about the establishment of democracy in Kuwait:

Democracy was established in Kuwait in the same way it was introduced in the Arab countries that gained independence from the major countries at that time. The beginning was common among all countries, where there has been a constitution that regulates the political action inside Kuwait. Indeed, this was reflected on the democratic experiment in Kuwait which was based on the existence of a constitution approved by an elected council which, in turn, leads to enshrining the laws that regulate the included articles in the constitution. The democratic experiment in Kuwait was based on the principle of renewal, and sometimes stability based on a number of political and social convictions in Kuwait.

The first requirement: the general traits of democracy in Kuwait

Kuwait is considered as one of the oldest countries in the Arabian Gulf region, where it gained independence in 1961. Since that time, the parliament and other authorities were established, and its constitution has been valid since then. The Kuwaiti political system witnessed several developments, starting from the state's independence up to the establishment of the new state (Al-Jorman, 2019: 180). The Kuwaiti political system was interested in finding a mechanism through which democracy can be developed. Doing so, necessities citing legislations that mainly aim to enhance democracy in Kuwait by promoting the political participation, especially in the elections of the house of representatives.

The Kuwaiti political system was characterized by certain characteristics that distinguished it from several other Arabian political systems. Despite the politically non-open regional surrounding, there is a relative internal political openness on the political life. In this vein, Kuwait included semi-elected councils, effective popular movement, as well as political opposition forces that can affect the current situations and enhance more political participation. Indeed, one of the most prominent causes of the political phenomenon that is active in certain periods refers to the conditions under which the Kuwaiti political community was established, where this political community emerged based on a mutual understanding, in that no single political or social powers imposed their perspective on others (Al-Najjar, 2010: 1).

Some scholars suggested that the Kuwaiti experiment is the only experiment that can be described as "Bedouin democracy" in the light of the political experiment and the parliamentary life that has been prevalent since independence. Several successes and failures were witnessed in more than one electoral experiments in the house of

representatives, and frequent confrontation took place with the successive Kuwaiti governments that led to the ruling system to intervene and dissolve the house of representatives; this situation affected the experiment of democracy in Kuwait (Al-Zaidi, 2016: 1). Furthermore, some specialists found that the political system in Kuwait maintained its performance after dependence, and the democratic experiment didn't achieve noticeable progress, even though the Kuwaiti community is aware about the importance of democracy, and the fact that Kuwait allows more space for political and civil freedom as compared to the surrounding region (Abdul-Aziz, 2022). The general trait of democracy in Kuwait shows a slow progress in the democratic practice despite the availability of all the relevant requirements, particularly the political awareness among the Kuwaiti citizens.

The second requirement: building the Kuwaiti democracy and its characteristics:

The start of democracy in Kuwait was simultaneous to its independence during the period of Sheikh Abdullah Al-Salim Al-Sabah in 1961. It was the start of a new political era that paved the way for establishing a democratic constitutional system that guarantees rights and freedoms for the Kuwaiti people, and give them more opportunity to have a role in participation in managing the state's affairs. On August, 29, 1962, an official decree was issued, where it included a statement of holding general elections to select an assembly that prepares a permanent constitution, where that assembly was valid for one year. Later on, a law was issued to regulate the process of electing the members of the constituent assembly. The Kuwaiti state was founded based on a social contract between the House of Sabah and the Kuwaiti people. This contract continued even after the independence of Kuwait (Al-Jorman, 2019: 181). Indeed several factors urged the ruling family in Kuwait to adopt the semi-parliamentary system, outlined as follows (Bani Salama, et al., 2012: 152):

- The pressures by enthusiastic traders to make real political reforms and adopt a parliamentary ruling system.
- The popular support for the ruling regime during the independence crises resulting from the Iraqi threats.
- The positive development of the relationship between the ruler and the political powers appealing for people's participation.

Kuwait has the only parliamentary experiment among the other states in the Gulf Cooperation Council in the light of the political developments and the democratic life since independence (Al-Zaidi, 2021: 45). After the issuance of constitution in Kuwait, which ensured a democratic basis in it, the indicators of political participation began

to emerge, especially after electing the constituent assembly, followed by several elections in the 1970s and the 1980s, and a continuity of the parliamentary life after the liberation of Kuwait following the Iraqi invasion. The democratic style in Kuwait gained more progress, where the parliamentary elections were held during (1996-2009). The period (1999-2009) witnessed frequent crises between the parliament and the government, where such crises were solved either by dissolving the parliament or the resignation of the government (Bani Salama, et al., 2012). The elections for the Kuwaiti national assembly continued until (2022), and the democratic process in Kuwait was accompanied by several crises, particularly in relation to woman's participation, partisan work and gatherings, as well as instability in the parliament that leads to dissolving it.

The characteristics of the democratic experiment in Kuwait is divided into the following: 1) the authenticity of the experiment; 2) the central role of the political leadership or the ruler in leading and enhancing the democratic process ; 3) openness to the political opposition and the belief in the role and importance of opposition ; 4) the low level of political participation; 5) the possibility of gaining more progress and development (Bani Salama, et al., 2012: 158-159). We can say that Kuwait hasn't passed those characteristics, since it does it more efforts to bring about several indications that may enhance democracy, particularly with the existence of several scholars' recommendations that urge the state of Kuwait to promote its democratic experiment.

The second topic: The Kuwaiti legislations related to democracy

Rights and freedoms have an important role in the life of people, especially in the current time. Undoubtedly, the prosperity and progress of nations mainly depend on guaranteeing those rights and freedoms. Indeed, those rights and freedoms are viewed as a sign of innovation and development (Al-Aifan, Al-Ayyash, 2013:24). The Kuwaiti state established a number of legislations that could make advantage of democracy as a supporting element to it while practicing the political life at the national level. Based on those legislations, the rights and freedoms of individuals were set inside the state of Kuwait. In this vein, democracy adopts several methods in implementing those rights and freedoms according to the existing political system. Also, this topic addresses democracy in Kuwait from a legislative perspective.

The first requirement: constitution

The Kuwaiti constitution that has been issued since 1962 is one of the rigid constitutions, since it cited complicated conditions in case of any desired amendments. As for its establishment and the way it was cited, it is considered as a contractual constitution between the ruler and people (national assembly, Kuwait, 2021). Some scholars suggested

that Kuwait followed an ideal constitutional method that is based on the modern political thought in practicing authority, and thus established its system according to the parliamentary system which is considered amongst the most important ruling systems in the modern era; in this way, the Kuwaiti constitution achieved balance between the state's authorities (Al-As'ousi, 2020: 357). The Kuwaiti constitution was approved in order to enhance the democratic approach and construct a constitutional democracy (Al-Sabaga, 2014: 41).

The constitution was valid following the law No. 1 of 1962, relating to the basic system of ruling during the transition period. According to the provisions of the constituent assembly, this constitution was approved and passed. Article (4) of the constitution provided that Kuwait is a hereditary emirate ruled by a prince, who should be one of the descendants of the late Mubarak Al-Sabah. Article (6) provided that the ruling system in Kuwait is democratic, where the sovereignty is for the nation which is the source of all the authorities, and sovereignty is practiced based on the context of constitution (the Kuwaiti constitution, 1962, 2011).

Article (43) provided the freedom of establishing associations and unions according to national bases and peaceful methods is guaranteed in the light of the conditions cited by law, and that no one should be forced to join any association. Article (44) provided that individuals have the right of holding private assembly without permission or prior notification, and the police may not attend such private meetings, and the second part of the same article provided that public meetings, demonstrations, and gatherings are permitted in accordance with the conditions and manners specified by law, provided that their purpose and means are peaceful and not contrary to morals (the Kuwaiti constitution, 1962, 2011).

Kuwait adopted the parliamentary system in its constitution based on the existence of executive and legislative powers, where the latter represents the elected power. Article (50) approved the principle of separation of powers with the possibility of co-operation with each other, and article (51) provided that "the legislative power is vested in the Amir and the National Assembly in accordance with the Constitution". Article (56) provided that the prince/ Amir, after the traditional consultations, appoints the Prime Minister and relieves him of office. The Amir also appoints Ministers and relieves them of office upon the recommendation of the Prime Minister. Also, ministers are appointed from the members of the National Assembly and others, and the number of ministers shall not exceed one-third of the total number of the members of the National Assembly. Article (58) provided that the Prime Minister and the ministers are responsible in front of the Amir for the general policy of the State. Also, every

Minister is individually responsible before the Amir for the affairs of his ministry. According to article (80), the National Assembly is composed of (50) members elected directly by universal suffrage and secret ballot in accordance with the provisions prescribed by the electoral law, and the Ministers who are not elected members of the National Assembly are considered members in the assembly based on their jobs. The constitution determined the period of the National Assembly with four years according to article (50). Article (102) provided that the Prime Minister does not hold any portfolio; nor shall the question of confidence in him be raised before the National Assembly (the Kuwaiti constitution, 1962, 2011).

Based on the above, we can see that the texts of the Kuwaiti constitution assured the practice of some democratic domains based on the existence of authorities, including the legislative power, whose members are elected by citizens. The Kuwaiti constitution also stated several rights and freedoms, including the freedom of establishing associations and unions, the freedom of gathering, as well as other democratic manifestations.

The second requirement: National Assembly Election Law

Law (35) of 1962 is considered as the law related to the elections of the Kuwaiti national assembly, which is still valid alongside with the amendments made to it, where article (1) stated that each Kuwaiti citizen aged 21 years old or above has the right to elect, excluding the nationalized who didn't complete (20) years of nationalization, according to the article (6) of the decree (15) of 1959 within the Kuwaiti nationality law. The woman who desires to elect or to be nominated should be adhered to the rules and provisions of the Islamic Sharia. Article (5) stated that the elector can't choose more than once in the on-vote elections. Article (33) stated that elections are held under secret ballot. The law also stated several other things, including electors' tables, procedures of elections, challenging the validity of membership, and the crimes of elections (election law (35) on national assembly in 1962).

The most prominent changes in the Kuwaiti election law were related to the issuance of law (17) of 2005 for amending article (1) of the law (35) of 1962, where the woman was allowed to practice her political rights. This amendment was justified based on democratic causes, where it will allow more individuals to practice their political rights, and give equal rights to both men and women, in terms of practicing political life. This situation manifests the core meaning of democracy, where it aims to involve as many citizens as possible in the political participation in parliamentary councils (law 17 of 2005).

Therefore, we may conclude that the law of elections guaranteed all the categories of the community the right to elect those representing them in the Kuwaiti National assembly. The constitution has granted

women the right to participate in the elections either as a candidate or an elector since 2005 to have equal rights with men.

The third requirement: a law decree about public meetings and gathering

Given the democratic nature of the Kuwaiti state and its belief in the ideas that enhance the development in the community and in the political life, a law decree was cited and demonstrated the necessity of promoting a high level discussion concerning the different issues in which citizens are interested. In this vein, the law decree (65) of 1979 was cited in terms of the public meetings and gathering, where it included several articles and sections that regulate public meetings and gathering in the state of Kuwait. In this study, we will show the most important texts related to the study topic.

This law defined public meetings in article (1), as "every meeting that is attended or can be attended by (20) individuals at least in order to discuss a topic, public topics or requirements related to certain categories". Article (3) stated that the meetings that are held in houses or in front of houses to talk about various topic, without the existence of public invitation to discuss a specific public topic, are not viewed as public meetings. Article (4) stated that public meetings shouldn't be held or organized without taking the required official approval from the governor whose area of authority will witness that meeting. Also, individuals are not allowed to invite for any meetings or spread any news about them unless they obtain the official approval. Article (6) stated the request related to holding a public meeting should be introduced at least (5) days before the allotted time for holding the meeting, and if the governor doesn't notify the requesting individuals about the agreement two days before the restricted time, that would indicate the refusal of holding that meeting. The meeting organizers are allowed to complain to the minister of interior affairs concerning that. Article (7) stated that those who desire to organize an electoral meeting should notify the governor, in a written form, about the meeting that will be held in his area of authority two days before the meeting at least. The governor can cancel this meeting if he thought that the intended meeting could disrupt security or public system, provided that the meeting organizers should be notified about canceling the meeting (24) hours before the time of holding it; the passage of this time before notification would mean that the meeting is not allowed. The meeting that is held to support a certain candidate for the municipality of parliamentary elections is viewed as an electoral meeting provide that the time of the meeting is determined during the period extending from inviting electors for electing until the day preceding the holding of that meeting (the law of public meetings and gathering (65) of 1979).

We can see that the previous law stated the approval of the governor for holding the public meeting. If we go back to the constitution items from which this law is supposed to be derived, we can notice that it opposed several matters stated in article (44) of the constitution.

The third topic: legislations in Kuwait and their effect on political participation

Those interested in the democratic development in the history of the different political systems would certainly notice that political participation is considered as one of the democratic signs upon which democracy is based. This means that democracy is a specific common entity; however, it differs in terms of practice from one community to another, in that each political system takes the pattern of the democratic practice that suits it, and that political system can be measured based on one of its signs, including political participation. Indeed, Kuwait is one of the countries that adopted a certain pattern in its democratic practice in accordance with the requirements of its community; it established the foundations upon which a democratic base can be installed and measured based on political participation. In this vein, the political participation was enhanced in the state of Kuwait based on the above-mentioned legislations. In this topic, we will show the impact of legislations in Kuwait on political participation.

The first requirement: the political participation in constitution

Constitution is considered as the first station through which democracy is measured in general, and political participation and its application is measured in particular in both official and non-official institutions. Accordingly, we concluded the following:

- The Kuwaiti constitution derived the legitimacy of its existence during the elections of the constituent assembly which issued the constitution. Even though many difficulties faced the implementation of democracy, the exerted efforts enhanced its application and the democratic process was enhanced in accordance with the requirements of the Kuwaiti community.
- The constitution stated that Kuwait is based on democracy, suggesting that all the following steps are certainly democratic. Accordingly, Kuwait adopted the parliamentary system that is based on the existence of an elected legislative authority, which is the National assembly. Therefore, one of the criteria of political participation has been achieved within the range of the constitutional frame.
- While citing the Kuwaiti constitution, the legislator considered including the political issues, as stated in article (44) about the right of

meeting. Hence, meeting could be related to more than one issue, including the political affairs.

– As for the political parties, the Kuwaiti constitution didn't include any obvious guarantees concerning the freedom of formulating parties. Indeed, the Kuwaiti constitution didn't provide any legislations to regulate the freedom of formulating parties (Al-Sabaga, 2014: 41). Moreover, some scholars suggested that the time at which the Kuwaiti constitution was cited was in line with the period when other Arab constitutions were formulated, that included various events and changes in the Arab world. The legislator could have cited articles that regulate the work of parties, but the right view concerning the events that could take place in the future urged the legislator to avoid mentioning the affairs related to parties. The formulated parties in other Arab countries at that time had a prominent role in the instability of those countries, and the parties that reach authority attempt, with all the possible means, to stay in authority, and in some Arab countries the ruling system has turned to be hereditary despite the republican nature of that regime. Given the final goal of political parties related to reaching power, the Kuwaiti legislator addressed that idea in article (56) when stating the issues relating to the assigning of the ministers from the members of the national assembly and others. In this way, the Kuwaiti legislator involved the members of the national assembly in managing the affairs of the executive power, in addition to their legislative role, indicating that authority positions are distributed among several groups, but not a single category (Al-Ta'an, 2008).

Despite the existence of political offices outside the National assembly as well as parliamentary groups inside it, they are not viewed as political parties according to the political concept. Examples of that include the Popular Gathering (Hashd), the Kuwaiti Progressive Movement, the Islamic Constitutional Movement (Hadas), the National Democratic Alliance, the National Islamic Alliance, the Kuwaiti Liberal Movement, and The Kuwaiti Democratic Stand, the Salafi Islamic Gathering, the National Charter Gathering, and the Women's Social Cultural Association. (Al-Aftan, 2022).

As for the above-mentioned, if we looked at the systems that adopt the parliamentary system, which are more close to the state of Kuwait in terms of the form of the political system, we can find that Morocco is a hereditary country, but it adopts the partisan work to the extent that the government is formed from parties. Also, Jordan adopted the parliamentary system and used plurality- currently it aims to increase the partisan representation in the National assembly. Indeed, this paves the way to apply this context, which is the existence of political parties as a choice for the political system. However, it isn't necessary to have a similarity between political systems in practicing democracy, since the practice may differ from one community to another.

As mentioned above, we can see that Kuwait has taken a unique state as compared to several other systems that adopt the parliamentary system. Even though the basic element in this system relates to the existence of gatherings represented by the political parties, the state of Kuwait didn't adopt them or even prevent them.

The second requirement: the political participation in the elections of the national assembly

The first steps of democracy in Kuwait was represented by the elections of the constituent assembly followed by the elections of the national assembly that have been valid since 1963 (Al-Dyin, 2007: 1). The elections continued in Kuwait until 2022 – the date of the last held elections. The elections of the national assembly witnessed three developments : a change in the number of electoral departments, the change in the electoral system, and giving the woman the right to participate in the elections of the national assembly, as a candidate and as an elector.

As for the change in electoral departments, Kuwait started in (10) departments, then (25) and finally to (50) departments according to the law 42 of 2006. That context was applied in the elections held on May, 17, 2008. As for the change in the electoral system and by the end of 2012, citizens had the right to vote to four candidates. After dissolving the National assembly in 2012, they were allowed to vote for one candidate only (the ministry of media, Kuwait, 2022: 6). As for granting the woman the right to participate in the elections, women have the right to participate in the elections of the national assembly, as a candidate and as an electors since 2005.

In the elections of 2006, women gained no seats in the parliament as compared to the elections of 2009, when they earned (4) seats (Al-Jabali, 2022). In the elections of 2012, they earned (3) seats and in the elections of (2013), the number declined to (2) seats in 2013, while in the elections of 2016 , they earned (1) seat (Ezz Al-Arab, 2017: 88). In the elections of 2020, they earned no seats (Ezz Al-Arab, 2021: 164), and in the elections of 2022, they earned (2) seats (Ezz Al-Arab, 2021: 5). Moreover, we can see that the Kuwaiti national assembly wasn't stable, where it was usually dissolved either constitutionally or due to the lack of cooperation between the two authorities (the ministry of media, Kuwait, 2022: 6).

The third requirement: the political participation in public meetings and gatherings

The political system was established in Kuwait, and started by article (44) stating that individuals have the right to meet without the need for permission, and that security forces are not allowed to join their private meetings. The second item of the same article provided that public meetings and gatherings are allowed according to the

conditions cited by law, provided that the meetings should be peaceful and within the range of good morals. Accordingly, the legislator enshrined a law that regulates that, in the law decree (65) of 1979. In this context, some individuals concluded that the concept of public meeting and gathering agree in several domains and have common characteristics, including that they are viewed as an organized gathering of people in a certain geographical area that is organized based on a previous invitation by the organizing committee, in order to discuss certain topics. However, there is a difference between public meeting and gathering in terms of the place of gathering. In this vein, public meetings are held in a certain place, either viewed as public or private, where it shouldn't be in a public road, or otherwise it will be viewed as gathering (Al-Aifan and Al-Ayyash, 2013: 90).

Despite the contradictions in this law, several demonstrations and protests took place and appealed for several issues, such as breaking into the National assembly in 2011 by many protestors who protested against the prime minister (France, 2011: 24). In 2012, after passing the law of one vote, some protests were organized to refuse this law, and the opposition groups refused it and urged people not to vote; the protestors gained the security approval for this (Reuters, 2012).

Some researchers suggested that the political movement in Kuwait after the Arabian revolutions was a peaceful one dominated by rational political demands, where the requirements were limited to electing the prime minister by citizens (Bin Ali, 2019: 148).

Later on, Kuwait was exposed to several issues that resulted in protests in 2019, where the decline in petroleum prices led to deficit in budget which, in turn, affected the "Bedoon" who don't hold the Kuwaiti nationality, or stateless, but they have been born in Kuwait since the independence in 1961, where this category appealed for the things that they lack. Furthermore, political groups of the previous Kuwaiti parliamentarians joined this group to support their demands, combat corruption, cancel loans and interrogate the legislative and executive powers (Al-Mar'ei, 2019). Those demonstrations and protests continued during the last years, especially in 2021.

In 2022, before holding the new elections of the Kuwaiti national assembly, the protesting stand that was performed in front of the national assembly – based on an invitation from the previous parliamentarian Saleh Al-Molla- received too much interaction by social media sites and was joined by several opposing members of the parliament. The ministry of interior affairs stated that it didn't give permission to perform that protest via social media sites under the label of "protesting stand" (Middle East online, 2022). Hence, we can say that Kuwait doesn't oppose any political, social or economic gatherings, but there should be a previous organization approved by the concerned authorities.

In this vein, and provided that cases are performed temporarily, a number of members of the national assembly appealed for reorganizing public meetings and protests and subjecting them to notification, but not licensing. As for gatherings, they are performed in public road or place to support a certain issue or announce a certain situation concerning it. This law evoked more debate, where the constitutional court judged by the invalidity of the law decree items based on the law in (1/5/2006), case No. 1 of 2005 (Al-Anba', 2022).

Conclusion:

The development of democracy in Kuwait was in accordance with the nature of the Kuwaiti community who found themselves facing new political changes, especially after independence, where democratic methods have been established based people's choice since the beginning. Moreover, the constituent assembly was elected to cite a constitution to the state from which some other laws were derived. Those laws dedicated some of the manifestations of democracy and other popular political participation. Indeed, the general trait of democracy in Kuwait showed a slow progress in the democratic practice despite the availability of all the related elements, particularly the political awareness among the Kuwaiti citizens. The Kuwaiti democracy was distinctive from democracy in the surrounding countries, especially in the Gulf region.

The legislations in the state of Kuwait had a special view concerning the implementation of democracy that was suggested based on the constitution, the law of elections, and the law of public meetings and gatherings. Indeed, the observer of the items included in the constitution can see that Kuwait is based on the parliamentary system, but it is not completely applied, knowing that there is the one-vote system that can be referred to plurality system. Furthermore, the law of public meetings and gatherings opposed several texts in the constitution concerning the freedom of public meetings and gatherings. This context could reveal that the legislator didn't take into account the texts of the constitution related to the right of meeting without the need for previous permission or notification.

As for the impact of legislations on political participation in Kuwait, we noticed that the constitution provided for participation and left other issues to the normal laws set by the legislator. Additionally, parties are neither prevented nor officially allowed as opposed to the other constitution, particularly in Arab countries, such as Jordan and Morocco which allowed the establishment of parties in constitution explicitly and set a law regulating their work. As for elections, they are held regularly; however, there is no stability in the periods of the legislative power, as they are dissolved due to the lack of cooperation among the two authorities. As for the political participation in public

meetings and gatherings, they are held after obtaining the required permission; this may impede the expression of freedoms, especially when such meetings are held temporarily, but not permanently.

Recommendations:

- 1- The importance of mentioning the political parties in the Kuwaiti constitution which, in turn, enshrines a law that regulates their work, since Kuwait is based on a parliamentary system and the available political awareness leads to a well-prepared partisan work.
- 2- Amending the law of public meetings and gatherings to be compatible with the items of the constitution.
- 3- Promoting cooperation between the legislative and executive powers to enhance the internal political life in Kuwait.

References:

- Al-Anba' (2022), Representatives: Reorganizing public meetings, processions, demonstrations and gatherings and subjecting them to the notification system, not the previous licensing, available at the following website: <https://www.alanba.com.kw/1158658>
- Bahamdan, Ahlam Bint Mohammad bin Sa'id (2022). Democracy: Doctrine or Mechanism, the Journal of Islamic Research, 8th year, Issue. 83, 101-121.
- Bin Ali, Laqra'. (2019). Civil society in the Arabian Gulf region, a case study of Kuwait, Academic Book Center.
- Bani Salama, Mohammad Abdul-Rahman et al. (2012). The Kuwaiti Democratic Experience: its Roots, Reality, Challenges and Future Prospects, the Journal of the Association of Arab Universities for Literature, Vol. 9, Issue. 1, 139-180.
- Al-Jabali, Samia. (2022). Women in Kuwait's Elections: A New Attempt to Prove Presence, available at the following website: <https://gulfhouse.org/posts/5470/>
- Al-Jorman, Srour Jorman Sorour (2019). The Constitution of the Kuwaiti System and the Political Decision-Making Process, the Journal of Financial and Commercial Research, Issue 3, 175-193.
- Al-Khalaf, Mazin. (2022). After absence from the previous parliament.. Kuwaiti women are looking for their presence again in the National Assembly elections, available at the following website: <https://www.aljazeera.net/women>.
- The Kuwaiti constitution and explanatory note (2011). Kuwaiti Legislations Collection, the Ministry of Justice, first edition.
- Aldyin, Ahmad (2007). Democracy and Elections in Kuwait, Democracy Studies Project in the Arab Countries , the 17th annual meeting - Oxford.
- Reuters (2012). Kuwait allows a protest march a day before the elections, available at the following website: <https://www.reuters.com/>
- Al-Zaidi, Mofeed Kasid. (2021). Parliamentary Elections in Kuwait 2020: Challenges and the Willingness for Change, The Arab Future, Vol. 44, Issue 509, 45-62.

- Al-Zaidi, Mofid (2016). The Democratic Experience in Kuwait: Between Stumbling and Continuity, *The Arab Future*, Issue. 447, 62-73.
- Al-Sharqawi, So'oad. (2007). Political Systems in the Contemporary World, the Faculty of Law - Cairo University.
- Saleh, Samia Khadir. (2005). Political participation and democracy are modern theoretical and methodological directions that contribute to understanding the world around us, Ain Shams University.
- Alsabaga, Hussein Ali (2014). The Parliamentary System in the State of Kuwait: Reality and Future, *The Arab Future*, Vol. 37, Issue. 424, 40-55.
- Al-Ta'an, Eidan Sa'ad (2008). A report on political parties in the Kuwaiti constitution and some Arab constitutions, available at the following website: <http://www.kna.kw/clt-html5/run.asp?id=1104>.
- Abdul-Aziz, Hussein (2022). The Kuwaiti Democracy, available at the following website: <https://www.alaraby.co.uk/opinion>
- Al-Ajami, Hajjaj; Al-Rashidi, Barrak Sint; Al-Ajmi, Nassir Muslim (2016). The Political Participation among the Students of the College of Basic Education in the State of Kuwait: A Field Study, *the Journal of the College of Education - Al-Azhar University*, Vol. 35, Issue 168, Part 1, 309-344.
- Ezz Al-Arab, Mohammad (2017). Kuwait: National Assembly Elections and the Return of Opposition, *Democracy Journal*, Vol. 17, Issue. 65, 185-188.
- Ezz Al-Arab, Mohammad. (2022). The Rise of the Opposition: the Indications of the Results of the Kuwaiti National Assembly Elections 2022, Al-Ahram Center for Political and Strategic Studies, Strategic Estimates, (1-8).
- Al-As'ousi, Ahmad Ibrahim. (2020). The formation of the government and the restrictions included in the Kuwaiti constitutional system, *the Journal of the Islamic University for Sharia and Legal Studies*, Vol. 28, Issue 3, 356-368.
- Al-Aftan, Mohammad (2022). A map of political groups in the Kuwaiti elections, available at the following website: <https://www.independentarabia.com>.
- Ezz Al-Arab, Mohammad (2021). Kuwaiti National Assembly Elections: A New Elite and the Opposition Allies, *Democracy Journal*, Vol. 21, Issue. 81, 163-165.
- Al-Aifan, Mishari Khalifa; Al-Ayyash, Ghazi Obeid (2013). The right of individuals to meet between permission and legislative prohibition. An analytical study for the provision of the Constitutional Court in Appeal No. (1) for the year (2005), *the Journal of Sharia and Law*, Issue. 54, 21-114.
- France 24 (2011). Thousands break into the National Assembly building after using force in combating demonstration, available at the following website: <https://www.france24.com/>
- Law No. 17 of 2005 Concerning the Election of the National Assembly
- Law No. 35 of 1962 Concerning the Election of the National Assembly
- Law No. 65 of 1979 concerning public meetings and gatherings.
- The National Assembly in the State of Kuwait (2021). The Processing of the Democratic Life, available at the following website: <http://www.kna.kw/>

Almar'eij, Ahmad (2019). Wide demonstrations in Kuwait due to corruption and the suffering of the Bedoon, available at the following website: <https://www.independentarabia.com>

Al-Mahaqaba, Ameen; Khalayleh, Hisham (2016). Political Reform and Political Participation in Jordan, Arab Thought Forum.

Middle East Online. (2022). The political crisis in Kuwait takes the form of protests, available at the following website: <https://middle-east-online.com/>

Al-Najjar, Ghanim (2010). The emergence and development of democracy in Kuwait, Development Forum, the 31st annual meeting, the legislative assemblies in the Gulf Cooperation Council states, 1-37.

The Ministry of Media, the State of Kuwait. (2022) Kuwait in brief, available at the following website: <https://media.gov.kw>