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Freedom House

Freedom in the World 2019 - Kuwait

Partly Free

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Overview:

Kuwait is a constitutional emirate ruled by the Sabah family. While the monarchy holds executive power and dominates most state institutions, the elected parliament plays an influential role, often challenging the government. Partly due to friction between lawmakers and the executive, government reshuffles and snap parliamentary elections have been frequent since 2011. State authorities have constrained freedoms of speech and assembly in recent years.

Key Developments:

Key Developments in 2018:

- In July, the Cassation Court confirmed prison sentences for a group of opposition figures, including current and former members of parliament, who had played a role in 2011 protests that included the storming of the parliament building. A Constitutional Court ruling in December removed the two sitting lawmakers from office as a result of their convictions.
- A Kuwaiti blogger was arrested in February for "insulting" the United Arab Emirates (UAE), and in October several Kuwaitis were arrested for "insulting" Saudi Arabia on social media.
- In April, Kuwait expelled the ambassador of the Philippines after his staff helped a number of Filipino domestic workers to escape from households where they said their employers had abused them.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 13 / 40

A. ELECTORAL PROCESS: 2 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4

The emir, the hereditary head of state, chooses the prime minister and appoints cabinet ministers on the prime minister's recommendation. At least one cabinet minister must be an elected member of parliament. The parliament can remove cabinet ministers through a vote of no confidence, and the emir can respond to a similar vote against the prime minister either by forming a new cabinet or by dissolving the parliament and holding elections.

The current emir, Sabah al-Ahmad al-Jaber al-Sabah, took office after the death of his half-brother in 2006. The current prime minister, Jaber al-Mubarak al-Hamad al-Sabah, has held his post since 2011. All prime ministers and most senior cabinet ministers have been members of the ruling family.

A2. Were the current national legislative representatives elected through free and fair elections? 1 / 4

The 50-member National Assembly (parliament) is elected by popular vote on a formally nonpartisan basis. The emir may appoint up to 15 cabinet ministers who were not elected members of the assembly, and these are considered additional ex-officio members, though no ministers can take part in confidence votes. The parliament in theory serves four-year terms. However, the emir and the Constitutional Court have the power to dissolve the assembly, which has occurred four times since 2011. Most dissolutions come in response to serious disputes between the appointed government and lawmakers, and the timing of elections is effectively determined by the executive for political reasons. Kuwaiti elections are relatively competitive, but they are not typically observed by independent, well-established monitoring organizations, and corruption and nepotism in campaigns remain a concern.

The most recent dissolution of parliament was in October 2016. In the ensuing November elections, opposition factions—including Islamist, nationalist, and liberal blocs—won 24 of the 50 seats. Approximately 70 percent of eligible voters turned out.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4

Elections are administered by the Interior Ministry rather than an independent institution, and the electoral system lacks transparency, as evidenced by an opaque voter registration process. The emir has used his extensive powers to implement changes to electoral laws in close proximity to elections. In 2012, he issued a decree two months ahead of elections that reduced the number of candidates elected in each district from four to one—a move that was allegedly designed to limit the opposition's ability to build effective coalitions in the parliament.

B. POLITICAL PLURALISM AND PARTICIPATION: 7 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 2 / 4

Formal political parties are banned, and while parliamentary blocs are permitted, the prohibition on parties inhibits political organization and the sharing of resources among like-minded candidates.

Politicians have some space to criticize the government, but those who challenge the emir's authority or seek to increase the role of elected representatives have faced criminal charges. In July 2018 the Cassation Court ordered the imprisonment of a group of opposition figures, including two current and several former lawmakers, on long-contested charges related to the storming of the parliament building during 2011 protests calling for the resignation of the prime minister. The court imposed sentences ranging from two to three and a half years, and the two sitting lawmakers, both Islamists, were removed from office following a Constitutional Court ruling in December. One of the former National Assembly members sentenced, prominent opposition leader Musallam al-Barrack, had completed a two-year prison term in 2017 on separate charges of insulting the emir.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 2 / 4

The constitutional system does not allow democratic transfers of power at the executive level. Opposition blocs are able to gain representation in the parliament, as demonstrated by the results of the 2016 legislative elections. Only 20 members of the outgoing parliament were reelected, though the turnover was attributed in large part to the fact that many opposition candidates had boycotted the previous two elections, in 2012 and 2013, to protest the emir's unilateral introduction of the new electoral system.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4

The hereditary emir and the ruling family frequently interfere in political processes, including through the harassment of political and media figures, and the government impedes the activities of opposition parliamentary blocs.

Since 2014, dozens of people, including journalists, activists, and clerics, have been stripped of citizenship for criticizing the government. However, the government has slowed its use of citizenship revocation as a form of political reprisal, and in 2017 it reinstated the citizenship of a number of people who had it revoked.

In the absence of political parties, major tribes hold their own informal and technically illegal primary elections to unite their members behind certain parliamentary candidates, who then typically use their public office to generate economic benefits for members of their tribe.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 1 / 4

The electorate consists of men and women over 21 years of age who have been citizens for at least 20 years and who have a Kuwaiti father. Most members of state security agencies are barred from voting. About 70 percent of the country's residents are noncitizens; citizenship, normally transmitted by a Kuwaiti father, is extremely difficult to obtain for those without at least one Kuwaiti parent, and cannot be granted to non-Muslims. More than 100,000 residents, known as bidoon, are stateless.

The Shiite Muslim minority makes up about a third of the citizen population but is not well represented in the political system. Shiite candidates won six seats in the 2016 parliamentary elections, down from eight in the previous elections.

Women have had the right to vote and run for office since 2005, and there is one female member of parliament. Entrenched social attitudes hamper more active participation by women in the political process, and the interests of women are poorly represented in practice. Societal and legal discrimination against LGBT (lesbian, gay, bisexual, and transgender) people prevents them from playing any open role in political affairs.

C. FUNCTIONING OF GOVERNMENT: 4 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 1 / 4

While some laws initiated by elected members of parliament are adopted and implemented, policymaking authority is concentrated in the hands of the hereditary emir and his appointed government. The emir has repeatedly used his power to dissolve the National Assembly when it imposes checks on the executive. He can also veto legislation and issue executive decrees when the assembly is not in session.

C2. Are safeguards against official corruption strong and effective? 1 / 4

Corruption is pervasive in Kuwait, and allegations of corruption lodged by lawmakers against government ministers have been at the heart of the country's recurring political crises. Members of the ruling elite regularly disregard parliamentary calls for accountability and often obstruct elected officials' efforts to investigate graft and abuse of power. The cabinet resigned in 2017 to halt parliamentarians' questioning of a key minister over alleged financial and administrative irregularities.

The government issued implementing regulations for the Anti-Corruption Authority (ACA) in 2015, allowing the new body to begin its work. It has referred some cases for prosecution, but in general its activities appear insufficient given the perceived scale of the problem.

C3. Does the government operate with openness and transparency? 2 / 4

Transparency in government spending is inadequate, and there are few mechanisms that encourage officials to disclose information about government operations. Kuwait does not have any legislation guaranteeing the right to access public information. The State Audit Bureau provides some oversight on revenue and expenditures, reporting to

both the government and the National Assembly, though not necessarily to the public. In March 2018, the parliament approved legislation meant to regulate conflicts of interest among public officials.

CIVIL LIBERTIES: 23 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 6 / 16

D1. Are there free and independent media? 1 / 4

The authorities limit press freedom. Kuwaiti law provides penalties for the publication of material that insults Islam, criticizes the emir, discloses information considered secret or private, or calls for the regime's overthrow. Kuwaiti journalists also risk imprisonment under a restrictive 2016 cybercrimes law that criminalizes the dissemination online of information on similar topics. However, foreign media outlets operate relatively freely.

The government has instructed internet service providers (ISPs) to block certain websites for political or moral reasons. A 2014 telecommunications law created the Commission for Mass Communications and Information Technology, granting the regulator sweeping powers to monitor, block, and censor online material.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 2 / 4

Islam is the state religion, and blasphemy is a punishable offense. The government appoints Sunni imams and oversees their sermons. Shiite Muslims have their own religious institutions, including Sharia (Islamic law) courts, though the government does not permit training of Shiite clerics in the country. Non-Muslim religious minorities are generally permitted to practice their faiths in private; they are forbidden from proselytizing.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 2 / 4

Academic freedom is impeded by self-censorship on politically sensitive topics, as well as by broader legal restrictions on freedom of expression, including the prohibitions on "insulting" the emir and defaming Islam.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 1 / 4

Freedom of expression is curtailed by state surveillance and the criminalization of some forms of critical speech, especially if it touches on the emir or the rulers of friendly states. The cybercrimes law that took effect in 2016, for example, imposes prison sentences of up to 10 years as well as fines for online speech that criticizes the emir, judicial officials, religious figures, or foreign leaders.

Individuals are prosecuted in practice for their online comments. In February 2018, a court sentenced blogger Abdullah al-Saleh to five years' imprisonment in absentia for "insulting" the UAE; he had already received other prison sentences for separate commentary about neighboring states. In October, several Kuwaitis, including the head of a local think tank, were arrested for "insulting" Saudi Arabia on social media.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 4 / 12

E1. Is there freedom of assembly? 1 / 4

Freedom of assembly is constrained in practice. Kuwaitis must notify officials of a public meeting or protest, and those who participate in unauthorized protests are subject to prison terms or, for noncitizens, deportation. Nevertheless, some peaceful protests have been allowed without a permit. Family members and other supporters of the opposition figures and activists accused of storming the parliament in 2011 held a series of protests on the defendants' behalf during 2018.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 2 / 4

The government restricts the registration and licensing of nongovernmental organizations (NGOs), forcing many groups to operate without legal standing. Representatives of licensed NGOs must obtain government permission to attend foreign conferences, and critical groups may be subject to harassment. The government closed down the Kuwait chapter of Transparency International in 2015.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

Private-sector workers who are Kuwaiti citizens have the right to join labor unions and bargain collectively, and a limited right to strike, but labor laws allow for only one national union federation. Noncitizen migrant workers, who form most of the labor force, do not enjoy these rights and can face dismissal and deportation for engaging in union or strike activity. Civil servants and household workers are also denied such rights; most citizen workers are public employees and do not have the right to strike. Migrant workers have from time to time participated in risky illegal labor actions to protest nonpayment of wages and other abuses.

Labor uncertainty, particularly in light of low oil prices that threatened to cause widespread layoffs in 2016, has led to public tensions between workers and the state in recent years. Civil aviation workers organized a sit-in in July 2018 over demands for the payment of allowances.

F. RULE OF LAW: 7 / 16

F1. Is there an independent judiciary? 1 / 4

Kuwait lacks an independent judiciary. The emir has the final say in judicial appointments, which are proposed by a Supreme Judicial Council made up of senior judges as well as the attorney general and deputy justice minister, and the executive branch approves judicial promotions. Judges who are Kuwaiti citizens are appointed for life, while noncitizens receive contracts for up to three years, reflecting a wider tendency to keep noncitizens employed on precarious short-term contracts.

The courts frequently rule in favor of the government in cases related to politics. In rare instances the Constitutional Court has ruled against the emir, for example in 2012, when it declared his most recent call for elections to be unconstitutional, dissolving the new parliament and reinstating the previous one. However, this appeared to be politically convenient for the emir's government at the time, as the former parliament had a progovernment majority and the more recently elected one had reached a standoff with the executive.

F2. Does due process prevail in civil and criminal matters? 2 / 4

Arbitrary arrests and detentions, which are illegal under Kuwaiti law, still occur with some frequency. Authorities may detain suspects for four days without charge. State prosecutors have issued orders that favor government interests, such as a 2017 ban on the publication of information related to state security cases. Noncitizens arrested for minor offenses are subject to detention and deportation without due process or access to the courts.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 2 / 4

Kuwait is generally free from armed conflict, despite a deadly terrorist bombing at a mosque in 2015, and has relatively low levels of criminal violence. However, while the constitution prohibits torture and other forms of cruel and unusual punishment, these protections are not always upheld. Detainees, especially bidoon, continue to experience torture and beatings while in custody. Overcrowding and unsanitary conditions are significant problems at prisons and deportation centers.

In 2017, the government carried out its first execution in four years, and a total of seven people were executed by hanging that year. The advocacy group Human Rights Watch has reported violations of due process in capital cases.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

Despite some legal protections from bias and abuse, women remain underrepresented in the workforce and face unequal treatment in several areas of law and society. Women account for a majority of university students, but the government enforces gender segregation in educational institutions. LGBT people face societal discrimination, and the penal code prescribes prison sentences for sex between men and "imitating the opposite sex."

Officials consider the country's more than 100,000 bidoon to be illegal residents, and they lack the protections and benefits associated with citizenship. They often live in poor conditions and have difficulty accessing public services and obtaining formal employment. Noncitizen migrant workers are also excluded from the legal protections granted to citizens on a variety of topics.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 6 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4

For the most part, Kuwait does not place constraints on the movement of its citizens, but migrant workers often face de facto restrictions on freedom of travel and residence. The labor sponsorship system limits migrant workers' freedom to change jobs without permission from their existing employer, though a 2016 policy allows some categories of migrant workers to do so after three years.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 1 / 4

Kuwaiti law allows citizens and foreign nationals, but not bidoon, to own private property. Although the law permits the establishment of businesses, bureaucratic obstacles sometimes slow the process. Companies are legally prohibited from conducting business with citizens of Israel.

Sharia-based inheritance rules put women at a disadvantage, particularly those pertaining to Sunni families.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Personal status laws favor men over women in matters of marriage, divorce, and child custody. For example, Sunni women must have the approval of a male guardian in order to marry, and they are only permitted to seek a divorce when deserted or subjected to domestic violence. Domestic abuse and spousal rape are not specifically prohibited by law, and rapists can avoid punishment if they marry their victims.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 1 / 4

Foreign domestic servants and migrant workers are highly vulnerable to abuse and exploitation, often forced to live and work in poor or dangerous conditions for low pay. In 2015, the National Assembly passed legislation expanding the rights of domestic workers, including the right to paid leave and limits on working hours, but implementation remains problematic. In April 2018, Kuwait expelled the Philippine ambassador after videos surfaced that appeared to show embassy staff helping Filipino

domestic workers escape their employers, who allegedly abused them. The two governments reached an agreement in May on new safeguards for Filipino workers in the country.

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