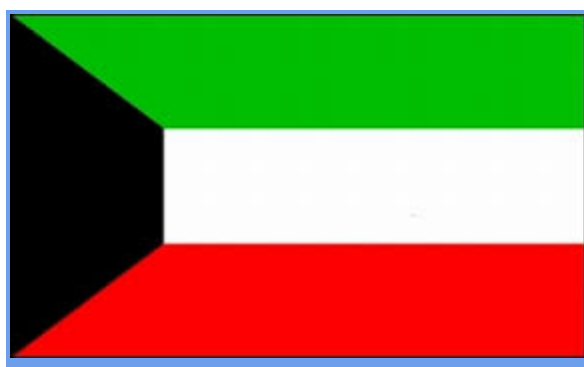




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Citizens' Rights in State of Kuwait



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INTRODUCTION

Kuwait is an sovereign Arab nation located on the Arabian Peninsula in Western Asia. . The country has covers an area of 17,820 km² (6,880 Square Miles). Its Population is approximately 3,32 million of which 1,03 million are Kuwaitis, and the rest non-Kuwaitis and foreigners according to the central government of Kuwait, and their official religion is Muslim (76.7%). Kuwait shares border to the north with Iraq, and Saudi Arabia to the South.

Its Capital city of Kuwait is Kuwait City which has a population of 2.23 million.

As Government they have a constitutional monarchy, currently under rule by the Emir (Head of State), Sabah Al-Ahmad Al-Yaber Al-Sabah since 2006, and his appointed Prime Minister Jaber Al-Mubarak Al-Hamad Al-Sabah since 2011.

Kuwait has a strong and open economy. The Kuwaiti currency is the Kuwaiti Dinar (KWD). The country has about 104 billion barrels of confirmed oil reserves. Petroleum represents more than 50% of their gross domestic product, 95% of their international exports, and 80% of their government revenues. The national GDP is of \$163.671 billion and \$58,080 is the Per Capita figure.

Kuwait uses Sunni Islam as its state religion, while its legislation is based on Sharia. Kuwait's legal system is based on Sharia law, English law, Egyptian practice, and elements from the Ottoman system. Sharia courts deal with personal and family issues. The Kuwait Constitution set the general principles for basic rights of citizens, and has a separation of powers (Legislative, Executive and Judicial). A National Assembly of 50 members is installed. Their Constitutional principles may be those of an average democratic country, but it still is an Monarchy, and the Emir has constitutional powers, which reflect on implementation of policies and interpretation of all law. This, as set by the Constitution of Kuwait, makes it a typical Arab democratic constitutional monarchy, although political analysts say Kuwait has the most open political system in the Gulf Arab region.

HEALTHCARE FOR CITIZENS





CITIZENS RIGHTS WATCH

CRW Report 2014

Article 15 of the Constitution of Kuwait, states that the “State will care for public health”, and has attempted to do implement a system to do so, but results have been varied. For Kuwaitis the medical attention at public medical facilities is free, or given at very low cost.

In 1990 Kuwait implemented a new healthcare policy and the following Law No.1 1999 “Healthcare Insurance Law” for aliens was the result of the (years before) proposed changes. Kuwait intended to invest in new hospital infrastructure to specifically cover insured citizens and expats, whilst the already existing government hospitals would focus more on citizens which did not have the commendatory insurance. The intention also was that new Hospitals were to be managed by the private sector, under vigilance of the central government. This would take the pressure of some highly sought hospitals, segregating people in need of attention, and it aimed to improve the quality of medical care. There is no neutral information of the results.

Since the year 2000, it is mandatory for expatriates to have health insurance. Renewal of residence highly depends on having health insurance, and for those which have a private insurance, visas are extended for as long as the Health insurance is valid.

Regarding the quality of medical attentions, Public and Private Facilities are of similar standards. The average quality of health care is similar to those of The United States and Western Europe. On different websites and magazines it is stated that there are little waiting lines for getting Medical attention in Kuwait, but recent events in the last two years may show otherwise. In June 2013 the Minister of Health of Kuwait had declared that medical attentions at Public Hospitals would be segregated. Kuwaitis, which had earlier that year complained of long waiting lists for medical care, would be attended in the mornings, whilst expats (mainly composed of people from India, Pakistan, Bangladesh, Philippines, Egypt and Syria) which compose 2/3's (two thirds) of the population, would only receive attention in the afternoon, reducing the attention time significantly. It was also rumored that medical staff would be segregated, but it was unclear of how this implementation would apply exactly. Consequence of these measures has been that expats should go to seek medical attention elsewhere, of the private sector, which is more expensive. Also, even though their fees are controlled by the government, they charge for registration as well as they do for medical care. Different international organizations from around the world have determined these measures to be racist.



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CRW Report 2014

FREE EDUCATION FOR CITIZENS



Article 13 of the Constitution of Kuwait declares that “Education is a fundamental requisite for the progress of society, assured and promoted by the State”. Article 40 of the same constitutional body states that: “Education is a right for Kuwaitis (citizens), guaranteed by the State in accordance with law and within the limits of public policy and morals. Education in its Preliminary stages is compulsory and free in accordance with the law. According to the Emir’s office, one of the nation’s top priorities is to make sure Kuwaitis are educated and independent.

Nowadays Kuwaiti Law guarantees free access of Kuwaitis to education, which is actualized in Ministerial Decree No. 76 of 2006, changing the educational ladder slightly and confirming that primary and intermediate education is compulsory and free in Kuwait. Pre elementary or Kindergarten is optional, and usually private. Foreigners in Kuwait usually prefer to roll their children into a private school, for their international features, and the possibility to get and more “western” education. Private Schools are subsidized very generously by the government. Public schools in Kuwait are usually segregated; private schools on the other hand, are generally co-educational. There are exceptions on private schools, which have to do with Islamist influences.

In the year 2007 enrollment rates to primary schools was of 99%. The enrollment rates for intermediate and secondary education where 91%. The ratio of citizens of Kuwait seeking higher education was of 26% for women and only 11% for men, making it 18% for both sexes.

The good quality of Education citizens receive in Kuwait is a reflection of the seriousness the government has put into this matter. The Government of Kuwait has manifested that the amount of resources in education has been rising notoriously since the year 2000. Indeed Kuwait spends a lot of resources into education, and the government also has ensures that all new schools are obligated to have a school library, and that the amount of books in school libraries have risen from 230.000 (before the Iraq invasion) to 3 million nowadays. Also the government has published their intention of implementing what they call “Education Net” to unify all government schools in one data network, which would aid students and teachers offering them more material to study and to consult.

Since 1996 higher education in Kuwait’s colleges and university was segregated by law, but in June of 2013 there has been an initiative by lawmakers in Kuwait to pass a new law which would abolish the segregation.



HOUSING FOR CITIZENS



Unless the 16th Article is interpreted as a philosophical foundation (states about Property Rights of Citizens), there is no direct connection of the right to housing in the Constitution of Kuwait, nonetheless, there is legislation regarding housing for citizens (Law No. 47 of 1993 regarding housing Welfare and its amendments). According to an informal survey, Kuwaiti citizens feel that it is their uncompromised birthright to own a house. This makes it a very important subject in Kuwait, and the government in the past decades has expressed its willingness and compromise to assure a house for each and every legal Kuwaiti family.

Yet, housing is perhaps the most urgent and unresolved matter in Kuwait. Married Kuwaiti men can apply for government housing, loan or a land voucher, as long as the applicant does not own or co-own any real estate the moment of request, The loan granted by the government has a very low interest rate (virtually non-existent) and is paid off slowly. Taking into account that 92% of the nation's land has not yet been developed and the bureaucracy it means to the government to process the applications, long waiting lists have been growing ever since the Housing Welfare Law came into force, and by 2012 there is a list of 100,000 applications which are waiting (some of them for twenty years) solution to their housing issues. The list of applications is likely to grow the following years, given that 80% of Kuwaitis are under the age of 40. During the waiting time, which averages 17 years, the applicant receive a monthly sum of 150 KWD (533 USD), which do not cover the high prices of rent in the country.

The reason Kuwaitis cannot buy houses commercially is their excessively high prices. Rent in Kuwait is extremely high, and has kept rising the last years. One of the reasons for these excessive prices is that non-Kuwaitis are not allowed to buy real estate in Kuwait, meaning that their only option is to rent. As the non-Kuwaiti population of the country represents two thirds of the total population, it is obviously good business for real estate owners, which will not let go of their privilege property and guaranteed income, and charge wealthy and accommodated non-Kuwaitis an important sum for rent.

To worsen the housing problems of Kuwait for the Kuwaitis, it would seem that the government is not open to changes in its policies towards housing and is also unwilling to see or recon their flaws of its current plans and strategy.



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EMPLOYMENT FOR CITIZENS



Article 22 of the Constitution of Kuwait states “Relations between employers and employees and between landlords and tenants shall be regulated by law on economic principles, due regard being given to the rules of social justice”. Also, article 41 states “(1) Every Kuwaiti has the right to work and to choose the type of his work; (2) Work is a duty of every citizen necessitated by personal dignity and public good. The State shall endeavor to make it available to citizens and to make its terms equitable.

Right to work may be the main base stone of Kuwait, and indeed the unemployment rate is around 2.00% nowadays. But naturally, assuring the existence of work is part of the obligation of the Kuwait Government, and another, is the regulation of employment through its Labor law, which has been renewed in February of 2010.

The new law is a definitive improvement in comparison of the old Law, which was considered by many as archaic and anachronistic, and also unfair to the employee. Under the new law some provisions have been improved and created, such as salary, public holidays, paid leave and sick leave, end of service payments and situation of women, pregnancy and pregnancy leave. It still has some loopholes, regarding for example the “Kafeel” sponsorship system. This system mandates that expatriates must be sponsored by a local employer to get a work permit. Without it a expat will not be able to work, which makes him dependent on his boss, to acquire the work permit and to change jobs when in Kuwait. The sponsorship also inspires the sale of Visas by employers in Kuwait which is illegal. Recently there has been movement to remove this system and to improve the situation of expats in Kuwait, but there has also been news to attempt to reduce foreign workforce by 50%.

The labor law of 2010 is mandatory to private employees and employers. Kuwaitis are mainly employed in public jobs, whilst expats are employed in the private sector. Expats represent the 80% of the workforce of Kuwait. Most of these are of countries like India, Pakistan and other impoverished national economies. They are usually underpaid.



DIGNITY OF INDIVIDUAL & CONCLUSIONS

The Constitution of Kuwait is very concise and clear about rights of individuals in its contents, stating:

“Article 29 [Equality, Human Dignity, Personal Liberty] (1) All people are equal in human dignity and in public rights and duties before the law, without distinction to race, origin, language, or religion. (2) Personal liberty is guaranteed.

...Article 31 [Arrest, Move, No Torture] (1) No person shall be arrested, detained, searched, or compelled to reside in a specified place, nor shall the residence of any person or his liberty to choose his place of residence or his liberty of movement be restricted, except in accordance with the provisions of the law. (2) No person shall be subjected to torture or to degrading treatment.

Article 32 [Nulla Poena Sine Lege, Personal Penalty] (1) No crime and no penalty may be established except by virtue of law, and no penalty may be imposed except for offences committed after the relevant law has come into force. (2) Penalty is personal.

...Article 34 [Presumption of Innocence, Right to Trial] (1) An accused person is presumed innocent until proved guilty in a legal trial at which the necessary guarantees for the exercise of the right of defense are secured. (2) The infliction of physical or moral injury on an accused person is prohibited.

Article 35 [Freedom of Religion and Belief] Freedom of belief is absolute. The State protects the freedom of practicing religion in accordance with established customs, provided that it does not conflict with public policy or morals.

Article 36 [Freedom of Opinion and Expression] Freedom of opinion and of scientific research is guaranteed. Every person has the right to express and propagate his opinion verbally, in writing, or otherwise, in accordance with the conditions and procedures specified by law.

Article 37 [Freedom of the Press] Freedom of the press, printing, and publishing is guaranteed in accordance with the conditions and manner specified by law.

...Article 162 [Impartiality of Judges]

The honor of the Judiciary and the integrity and impartiality of judges are the bases of rule and a guarantee of rights and liberties.”

In the last years, it is necessary to connote that there has been political distress due to different matters and subjects which were critical to both Kuwaitis and non-Kuwaitis. Parliament was closed 6 times by the Emir since 2007. A lot of manifestations occurred against the authorities and the governmental institutions. During protests there were a lot of human rights violations, and citizen right breaches, such as unfounded arrest, arbitrary judicial determinations, public beatings of protesters, and many others. All of them directly contradict the principles of the Kuwait Constitution.



CITIZENS RIGHTS WATCH

CRW Report 2014

In Kuwait, although the 29th article of the constitution says otherwise, Homosexuality is a punishable crime. Since 2008, cross-dressing is also illegal. In 2013 there was a plan to enforce a medical test to people applying for visas to Kuwait and to obtain work permits. The medical test would determine the applicant's homosexuality or transgender nature. Amnesty International very promptly determined the measure to be outrageous, and advised it should be rejected immediately.

About citizenship, one could/would encounter, from the legal standpoint that is, a very significant loophole in all of the Constitution of Kuwait, as is the lack of definitions, specifically of what "citizen" is. Most of the times the word could be interpreted according to its universal definition, but others it seems to segregate Kuwaitis and non-Kuwaitis, the latter not being thought of as a normal citizen in Kuwait, but merely as a visitor. If one thinks about the situation about some expats working legally in Kuwait, the situation grows dimmer, considering they are not able to seek residency, less, being taken as a Kuwaiti. This even counts for their children which are born in Kuwait, and cannot be considered legally as Kuwaitis.

Also, according to recent press releases of local Kuwaiti press, the access to a non- partial judicial system is very difficult, especially when they are about private matters against the State. There are a considerable number of cases where judges seem to rule unjustly in favor of the State. This behavior of judges and tribunals is contrary of what is established in the national Constitution, does not go unnoticed by the press, but there is also little solution to this matters, even on appeal phases. For Kuwaitis going against a the Government is virtually impossible, although there has also ben rulings against the emir family on some issues, but these matters are more of a political nature than of the Kuwaitis citizen rights.

Women rights in Kuwait

It may be that Kuwaiti women are considered to be the most emancipated women of the Middle East Region. It also may be that Kuwait figures as the second highest Middle East Country in gender equality, and effectively, 50% of Kuwaiti Women are actively participating in Kuwait's Workforce. Still one has to take into account that the gender gap is very high when compared to western standards, in which nowadays still activist have groups which fight for gender equality rights.

To better understand gender discrimination one should compare rights of men to those of women in Kuwait. For instance, Kuwaiti Law forbids Kuwaiti women which marry a foreign man to pass on her nationality upon her children and husband, whilst, married men to foreign wives, do have that right. Another important point is that family matters are interpreted according to Islamic (Sunni) law, instead of a family code or civil law. This means that Men are given certain status and privileges over women when it comes to



Divorce, inheritance and child custody. Also one has to keep in mind that these are women which were officially granted their right to vote in national elections in 2005, but their right to be chosen was suspended, until May 2009, when Kuwaitis elected 4 women to parliament. Added to this, Kuwait does not have laws against domestic violence, marital rape and sexual harassment. Also, court orders have forbidden women to be judges and public prosecutors.

The Bidun issue.

The Arab word “bedoon” means “without”. Bidun are called like they are, in a depictive way, for being “without nationality”. The Bidun are descendants of nomad Arabs, and travelling merchants, and their religion is usually Muslim. They have been in what today is Kuwait since approximately the beginning of the twentieth century. They are denied pretty much every basic civil right Kuwaitis have in the country. Regardless of not ever been granted the Kuwaiti nationality, until around 1985 the Bidun where the majority of the Army and Police of Kuwait (around 70%), but ever since that year, laws and other measurements were taken against them, preventing them for being issued all state given documents and limiting their possibility to go to public schools and access to healthcare. They were fired from their jobs, and forbidden to leave the country.

The Bidun also suffer discrimination by Kuwaitis and the local government, such as not being represented in the parliament, no right to vote, they can't get a work permit, and are denied by the government the right to a birth, marriage and death certificate. Due to this situation they have fallen into a very decremented existence, and many of them are employed for very badly paid jobs, and prefer to access the underground economy of Kuwait.

What the government did legally to “shunt” the Bidun was to amend their national constitution and national law which eventually gave the Bidun a state of “illegal residents”. They are treated as such in Kuwait, and live in constant fear of being deported. The legal basis used of the government of Kuwait to deny the Bidun the Kuwaiti nationality was (and is) stating that there is evidence and proof that they have a different nationality, but the Bidun applicants are never shown such proof, and therefore can't deny it legally, and can't take much legal action. In other Gulf countries Bidun are thought of as former nationals of Iran, Iraq and Syria. Frankly, what the government did was merely a smart legal strategy move, towards shutting out the Bidun. When approached on the matter, the Kuwaiti Governments does not make official statements.

Historically the distrust toward the Bidun officially began in 1985, when there was an assassination attempt to the Emir in power at that time, Jaber Al-Sabah. Since that date, which coincides with the moment the Bidun were getting fired and stripped of Nationality Rights, as well as other basic Citizen Rights, a sense of insecurity grew towards them,



CITIZENS RIGHTS WATCH

CRW Report 2014

sponsored mainly by the government. The invasion of Iraq in 1990 worsened matters for them, as a lot of Biduns are thought of as descendants of Iraqis, and therefore distrusted and labeled as possible traitors. Situation for the Bidun has since then not changed much, and the government has not given the needed attention to solve any issue regarding Bidun, but when interviewed, some of Kuwait's political leaders have said that the Bidun issue is a stain on Kuwait's reputation, and that the government should be more concerned about the matter.

Many of the Bidun have been in Kuwait for generations, live in constant fear of deportation and in poverty. In 2011 they held a series of massive manifestations, demanding basic rights of the government, especially of their right to citizenship, with little to no results. There is international law and treaties which rule against the arbitrary deprivation of nationality to people which have none, which makes the policy of the government, which seems to consist in making the Bidun as invisible as possible, seem even more reproachable. The Government has not given any open statements of the Bidun situation, although, following the protests of 2011, they were promised changes in their situations, such as being given birth, marriage and dead certificates. Either this was implemented or not is difficult to say, as it was given a more casuistic approach. In the year 2012 there have been different court orders which gave specific cases of Bidun the right to obtain a government birth certificate, or a marriage certificate. None of these court orders have been complied to by the health or labor. The national Parliament has set into paper a project of law which guarantees the Bidun access to public paperwork, but it has failed to become a law, and it is feared it will not yet come to be.

As a general conclusion, Kuwaitis may have access to basic civil rights in their country, although the Kuwaiti women do not have the same status as the men, by a very long distance. Less so, do the non-Kuwaitis, which are being segregated to attention to health care, and denied citizenship. The Bidun, which are being subject to endless cases of discrimination, have basically no citizen rights.



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