CHAPTER TWO

Kuwait’s Tryst with Democracy

“Kuwait is too rich for its own good and is too vulnerable to defend itself, its people are too spoiled and too rich to care about democracy. Moreover, Kuwait is too clever and self possessed to tie its future to the policies of the other nations.”

In addition, the state is a product of its past history and the present environment. What it was, has changed today and may not remain the same tomorrow. This statement is true to its word in the case of Kuwait.

Kuwait mainly emerged because of its geographic location — situated on slightly higher and firm ground and with a good and protected harbour away from the sandy terrain and marshy lands. These physical attributes of the area made it an instant attraction to the imperial forces in the 18th century.

---


Kuwait was referred to as Qurain (or Grane) in the early 17th century. The names Qurain or Kuwait are diminutive of the Arabic words Qarn and Kout, the former meaning a high hill and the latter a fortress. These recordings have been substantiated by some geographers and voyagers as well. European geographers also used the name “Grane” or “Grain” to refer to the area of Kuwait. This was most likely their way of writing Qurain, the name of a place located to the south of Kuwait City.

Kuwait was founded in the early 18th century by clans of the Anaiza tribe from Najd area. These clans migrated from the Najd to the Gulf shores owing to drought during the late 17th century. During the course of the migration, tribal groups practicing different professions joined hands to form a new classification to be called the Bani Utub tribe. During the migration, the Bani Utub learnt to build boats and sail which gave them an important political resource of mobility.

Arriving in Kuwait, the Bani Utub discovered a small Bani Khalid settlement, who may have built the fortress there, which became the point of genesis for the name Kuwait. The Bani Khalid, with whom the Anaiza had previous association, during the course of the migration, were a great contributing factor in Kuwait’s rapid rise as a trading town.

---


6 Jill Crystal, Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar (Cambridge: Cambridge University Press, 1990), p. 18.
Kuwait had one of the best natural harbours in the Gulf and its location allowed it to benefit from the caravan trade to Aleppo and Baghdad, from the Shatt al-Arab trade, and from the smuggling trade into Ottoman territories. The Bani Utub developed new political, economic and social arrangements as part of their effort to organise life in a settled economy. Tribal traditions were retained, but they were now placed within a more complex occupational and social stratification. Trade was organised hierarchically and the proceeds from trade were divided accordingly. The top stratum was soon identified as the merchants who were considered the elite in the society and comprised mainly of the Bani Utub.

But the stratum at the very top, even above the merchants, was the Sabah family, one of whom, Sheikh Jaber, was elected the leader of the colony as soon as it was founded and remained so till his death in 1762. Sheikh Jaber administered their day-to-day affairs and looked after security, besides acting as spokesman in their dealings with the Ottoman governors.

The ruler built a fort around the city for protection, as well as to collect taxes. For the protection of their trade, both by land and sea, the merchants paid

---

7 A branch of the Utub left Kuwait to establish a city state in Al-Zubara in the area of Qatar with the permission of the Al-Sabahs. These were the Khalifas, who established dominion in the second half of the 18th century in Qatar and Bahrain. Later, these two countries became separate states under separate branches of the same Khalifa family.

8 Crystal, n. 6, p. 18.

9 Pasha, n. 3, p. 19.
protection money to the Al-Sabah rulers, who had established a good security network by virtue of their tribal militia. Slowly, their influence spread to the realm of the economy as well, leading to competition with the merchants. But, the basis of Sabah power from the beginning was mostly political. Their strength, despite several weaknesses, was diplomatic and negotiating skills. By the late 18th century, the political hierarchy in Kuwait was well established, the merchants deferring to direct orders from the Sheikh. By the 19th century, not only was the ruling Sabah much stronger than a desert Sheikh, but was also capable of naming his son as successor. Beginning with Sheikh Abdalla (1762-1812), four sons succeeded their father and a fifth, his brother: Jabir (1812-59), Sabah (1859-66), Abdalla (1866-92) and Muhammad (1892-96). Thus, the Sabahs had made the transition from a tribal Sheikh to a territorial protector and from a leader to a ruler. The Sabah rule was sought to be explained as having been legitimised by a tribal ideology of genealogy.

The Sabah family rule, however, remained limited until well into the 20th century. Their scope of power wielding and influence was greatly checked by the merchants who had the sole proprietorship to financial power by way of their control over trading activities.

The reign of Mubarak the Great (1896-1915) helped in striking the important pact between the Al-Sabahs and Britain, after the first contact had been

10 Ibid., pp.19-20.

11 Crystal, n. 6, p. 20.
established in 1775. In the late 19th century, Kuwait had grown closer towards the resurgent Ottomans. But, the most radical change Mubarak initiated was to realign Kuwait's foreign policy from a pro-Ottoman orientation to a pro-British one. The controversy over the extension of the proposed Berlin-Baghdad railway to Kuwait, and the consequent Turkish move to put an end to Kuwaiti autonomy, persuaded Sheikh Mubarak Al-Sabah to seek British protection in 1899.\(^\text{12}\) However, by mutual consent, the protectorate treaty was terminated on 19 June, 1961. The ruling Sheikh, Abdallah Al-Salim, assumed the new title of Amir, and Kuwait was admitted as a member of the Arab League and the United Nations. After that, till date, Kuwait became the only state in the Arabian peninsula, which evolved a system of responsive, if not a full-fledged responsible, government.\(^\text{13}\)

From 1756, when the first ruler of Kuwait, Sabah Bin Jabir, took charge, the final decision on the choice of rulers has been in the hands of the people of Kuwait in their role as “partners in managing responsibilities of the rule of the country.” Kuwaitis have the right to question the rulers’ behaviour with regard to two domains: administering justice and non-authoritarian Shura (consultation). Till date, the rule of the Al-Sabah family has never been absolute in style,


\(^{13}\) According to Charles E. Butterworth’s “State and Authority in Arabic Political Thought,” in Ghassan Salame ed., *The Foundations of the Arab State* (New York: Croom Helm, 1987), p. 91, despite constitutional provisions for something resembling parliamentary democracy or even direct popular participation in government, there is no doubt that Yemen (then South Yemen) is ruled by a small group of military officers.
but has been relying on *Shura* — seeking the advise of judicious people, particularly the merchants who have aided in the phenomenal growth of the country's economy.\(^1^4\)

Throughout its history, the relationship between the Kuwaiti people and their rulers had the above mentioned special character which was witnessed and documented by local and foreign historians. For example, according to Saif al-Shamlan, Sabah I bin Jabir, who ruled till 1743, “used to consult with the people of Kuwait about important matters and would not take a decision without their advice.” Abdullah bin Sabah bin Jabir, between 1743 and 1813, according to Sheikh Yussuf bin 'Isa, was “a decisive man, close to what is right, justice-loving, good politician, would not take a decision before consulting with his folks, would not dissent from what they would consider to be right.”\(^1^5\)

It is interesting that a map made by the geographer J. Ritter of Berlin in 1818 refers to Kuwait as a “Republic.” It appears that Ritter inquired about the system of government in Kuwait, and was informed that it did not follow the law of primogeniture like European monarchies, and that the ruler of Kuwait was chosen from the Al-Sabah family on the basis of his qualities of leadership. Ritter seems to have concluded that, from a European viewpoint, such a system was


\(^{15}\) *Kuwait and Social Development: Leadership, Planning, Popular Participation and Humanitarian Orientation*, (Kuwait: Centre for Research and Studies on Kuwait, 1995), p. 19.
more republican than monarchist. An English scholar, Alexander Johnstone, also used the term "Republic" with reference to Kuwait and his map was included in the Grand Atlas published in Edinburgh in 1874.

The political system before Independence was simple and none too complicated and there being no arrangements and organisations for a political life. The power of the ruler was regarded as the executive authority in law enforcement matters, whereas the legislative authority used to be the collection of prevailing traditions and conventions made more by the Kuwaitis than the rulers. Since life was simple, legislation was not needed to organise the apparatus of the country. The ruler himself settled complaints and major differences that arose among those who constituted the country. Minor disagreements were handed over to a specialist "Market Sheikh" or "Market Chief," a post that is designated as a police commissioner in modern days.

If the case was complex and hard to settle, the ruler referred it to a special judge assigned by him. Professional cases were turned over to a panel of experts

16 Kennedy, n. 5, p. 161. The same was confirmed during the course of an interview with Dr Youssef Abdul Moati (Consultant) and Dr Yacoub Y. Al-Hijji (Advisor and Researcher) at the Centre for Research and Studies on Kuwait on 13 February, 1999, in Kuwait. According to the two academics, Kuwait was also referred to as "Republic" by the British advisor in Constantinople. Documentary evidence of Kuwait being historically referred to as a "Republic" is also available by way of some maps in Abdullah Yousif Al Ghunaim, *Kuwait: Readings in Historical Maps*, (Kuwait: Centre for Research and Studies on Kuwait, 1992.)

17 Kuwait and Social Development, n. 15, p. 20.

18 Assiri, n.14, p. 20.
called “people of the professional type” (Abel Al-Sanif). The ruler rarely indulged in any public religious acts because he was not designated to be a head of a sectarian faith. Instead, the ruler exercised secular authority.

Despite the absence of any formal mechanism to balance and limit the power of the ruler, two conventions set certain public restrictions on his routine practices. First, Shura, which was a vow of allegiance of the elite which was contingent on the condition that the people would be consulted in matters of daily life in order to satisfy all parties concerned. The second convention imposed that the restriction should be followed. Though established laws did exist, its legality was rooted in the Islamic Sharia (jurisprudence), interpreted by religious scholars.19

The history of Kuwait has incorporated the foundation of a traditional and discernable political system that has been linked to the rule of the Al-Sabah dynasty. The succession of 13 rulers in the administration of the country was distinguished by achievements and challenges, as well as failures characterising the economic, social and political evolution of Kuwait. The special relationship between the rulers and the ruled and the continuity of some political designs, based on counseling and consultation, has been carried forward into the modern and contemporary system.

Confirming this practice, Dr Mudhi al-Hmoud said: “Democracy is rooted in Kuwaiti history and in the Al-Sabahs. In fact, the ruling family is part of the

19 Ibid., p. 21.
evolutionary process of democracy, with people’s participation being an integral part of every stage of that process.20

We have already seen that democracy, as a system of governance, is a rare phenomenon in the Arab world. The irony, however, lies in the Arab Gulf states, where, despite economic development and progress, political development is still at a very rudimentary stage and much less in participation. These countries are, in most cases, ruled by established monarchies making hereditary family rule the means of succession. In Kuwait, however, things changed rapidly with the impact of oil revenues.

Pre-Independence flirtations with democracy

It would be unfair to decipher that democratic values in Kuwait found its genesis only in the post-independence era. In fact, many firmly believe that democracy as a value has been deeply rooted in the tradition of Kuwaitis and that it has existed in one form or another, even during the days of the British protectorate, though the experiences were short-lived. To substantiate this, the experiences of 1921 and 1938 need to be highlighted.

In 1921, after the death of Sabah Mubarak Al-Sabah and the elevation of Ahmad Al-Jaber Al-Sabah as ruler, a group of notables under Hamad Al-Saqr, a leading merchant, organised themselves into a council. This council comprised of

20 Dr Mudhi al-Hmoud is Vice-President, Kuwait University, and a well-known women’s activist. These views were expressed during the course of an interview at the Kuwait University in Kuwait on 14 February, 1999. Interestingly, Dr Hmoud was one of the few women who addressed election gatherings in 1996.
12 notables representing the eastern and western sides of the town. Hamad Al-Saqr, the Council Chairman, soon became the most prominent political figure outside the Sabah family. He was recognised as the leader of the opposition that was brewing. This council submitted a petition to the ruling family demanding their right to advise on the administration of the country and, specifically, on the succession. This kind of demand and opposition was something unknown to the Kuwaiti system. Prior to this, the political technique that the merchants most often adopted to express opposition was simply to leave the country. But in the 20th century, the merchants began to abandon emigration. Instead, they preferred new political institutions. In this, the 1921 Council demanded, first, that the ruling family select Salim's successor from among the three contenders that they had approved: Ahmed Jabir, Hamad Mubarak and Abdalla Salim. Failing to meet this demand meant that the council would appeal to Britain.

Seeing the confrontation as being non-beneficial, the ruling family selected Ahmed Jabir after consultation. It was decided that he would rule until his death. What this choice actually established was a new succession pattern, the alternation between the Jabir and Salim lines, which continues till date. Ahmed, on being confirmed as the successor, called a meeting of the local notables and promised to consult them on all important matters and to work with the council. He, however, maintained that promise only for a short duration. After two months,

---

21 Mubarak's reign had seen in the Pearl Broker Revolt of 1910 the last large-scale political use of exit and the first experimentation with new institutions.
the council collapsed as a result of internal dissension.\textsuperscript{22} The council failed in its efforts to consolidate the merchants into a formal and institutionalised form of decision-making process. The only success came in the form of leaving behind a highly organised and politicised merchant community, who ensured that the council and its members remained politically active in the following years. Though their activity remained largely ineffective in terms of the results achieved, the 1921 Council came to be regarded as a “dress rehearsal” for the legislative Assembly of 1938, which was another important development in the process of political development in Kuwait.\textsuperscript{23} In fact, the Kuwaiti Constitution is seen as a “crowing achievement” to the 1938 movement.\textsuperscript{24}

The 1938 Majlis Movement was a result of the accumulated problems during the inter-war period, which saw a severe economic dislocation troubling the merchants to a large extent. The problems of the 1920s included the decline of the pearl industry, the conflicts of Ibn Saud and the loss of tribes. These problems heightened in the 1930s with the world depression. When the ruler responded to the growing economic crisis with new taxes in the early 1930s and with toleration

\textsuperscript{22} Abd9 I. Baaklini in “Legislatures in the Gulf Area: The Experience of Kuwait, 1961-1976,” in \textit{International Journal of Middle East Studies}, Vol. 14, (1982), p. 363, cites another reason for the failure. According to him the failure lay in the fact that the British Resident in Kuwait never encouraged the enactment of the agreement because he found it more convenient to deal with one man rather than a council.

\textsuperscript{23} Crystal, n. 6, p. 45.

for the increasing corruption of ruling family members in state institutions, the merchants challenged the Al-Sabahs. The oil factor hastened the process of that eruption with the merchant opposition beginning to assume an organised form. It began with a set of economic and political grievances. It took shape as the merchants learnt to turn newly development institutions into political ends. It further grew as the merchants turned to allies inside the country and what they hoped were allies outside.  

The uprising began in early 1938 when a group of merchants met secretly to draw up a list of reforms, which they then circulated in leaflets and anti-government writings on public walls. Some merchants even called for Ahmed to step down in favour of Abdalla Salim. These actions were accompanied by the simultaneous appearance of articles in the Iraqi press criticising the Kuwaiti government. The merchants drew on popular demands for an improvement in basic social services — education, health care, and development — and a limit to corruption.

If the leading merchants backed by dissenting members of the ruling family led by Abdalla Salim and his brothers comprised the Opposition side, the other side included the Sheikh and most of the ruling family, the palace supporters, a few leading merchants and many of Kuwait’s Shias.  

25 While the dissident branches of the ruling family were the allies inside the country, Britain and Iraq were the allies outside.

26 Jill Crystal, in n. 6, p. 46, states that most of the political bodies were becoming the monopoly of the Sunnis, thereby isolating the minority Shias.
cracked down on the dissidents forcing many to flee the country. T
remained put together a delegation and petitioned the ruler to form an elective
council, for which an electorate list was drawn up comprising notables from the
heads of 150 leading families. From this an elected legislative Assembly of 14 was
established.27

However, owing to dissent after the election, the breakaway group led by
Yusif al-Qinai, organised themselves into Kuwait's first political party, the
National Bloc. Notwithstanding the differences, this group supported the
legislative Assembly, spread cultural consciousness, and kindled the spirit of unity
among Kuwaitis.

The Sheikh, gathering from the developments that it was unwise to
prolong the crackdown on the Opposition, decided in July 1938 to give consent to
the Assembly. The new Assembly then prepared a basic law, which extended the
Assembly's control over key state institutions. The law was also a participatory
document wherein Article One referred to "the people" and their elected
representatives as the source of authority.28 The Assembly lasted six months, but
during that brief time it introduced a number of reforms encompassing almost all
spheres of societal life. What drew the ruling family to turn around was the
attempt by the Assembly to attack the income of the Al-Sabahs. Included in this
was the cancellation of the pearl tax to the ruler. The Council began to collect and

27 Ibid., p. 47.
28 Ibid., p. 48.
distribute revenues by itself, a job thus far carried out by the ruler. They even began to pay the Sheikh and the ruling family a fixed allowance and extracted a promise from the Sheikh that he would turn over the next oil cheque to them.

This was the final stage of the tolerance level of the Sheikh who dissolved the Assembly. Though the members resented, the Sheikh came down heavily on them and detained them as political prisoners. Totally out-manned, the Assembly finally conceded defeat.

The Assembly failed for three reasons. First, the merchants were unable to cash on the initial support of Iraq and, especially Britain, both of whom were considered as reliable external allies. Second, in an attempt to maintain good relations with the external allies, the Opposition projected a situation of threat to the Kuwaiti security, which made them lose popular support. Third, the merchants were unable to put together a durable domestic Opposition coalition. It could not manage to extend beyond the Bani Utub elite and, thus, failed to expand its merchant base into a unifying national movement. Further, at home, they were unable to consolidate their support among dissidents in the ruling family.

In spite of the failure, one important outcome of the Majlis Movement was in turning the leading merchants away from Britain. As they turned away from Britain, they assumed a more nationalist stance and began seeing more connections between their opposition to Britain and that of other Arabs. Other than this, the Majlis Movement left behind two legacies referred to as coalitional

29 Ibid., p. 50.
The coalitional legacy was that it left Kuwait's merchant community at a peak of political organisation just at the moment when its historical economic base of political power was about to be dislodged by oil. The institutional legacy has been identified in the Assembly being the catalyst for the formation of new state institutions such as the National Assembly after Independence.

Thus, in spite of the prevailing trend in the region against granting of democratic freedom, Kuwait, engineered by a different breed of ruling class, can be viewed as a trend setter. The Al-Sabahs, in their efforts, were aided by the oil revenues. The National Assembly became a necessity to overcome both the foreign policy crisis and the national crisis, which arose during the transition of Kuwait from a British protectorate to an independent country. But, it was primarily the rulers' sense of urgency in creating a separate identity for Kuwait, different from that of the other countries in the region, that enticed them towards this end. All this was an evolutionary process. The 1921 and 1938 movements justify the spirit of democratic content that has associated with Kuwait. Though these movements failed, it definitely served as a launching pad for the political development of the future. With such a history of attempts at democratic reforms, it would be unfair to categorise Kuwait within a paradigm of the Arab world, which cannot boast of such democratic traditions in their history. It is precisely

---

30 Ibid., p. 22.
this factor which puts Kuwait ahead of others or clearly in a different mould of political structures.

With the coming of the oil age, a new phase of "constitutionalism" was initiated. This led to the adoption of a written Constitution after Independence, with an attempt to transfer the right to rule by tradition, within a tribal and Islamic context, to the exercise of authority in the name of the people, with whom sovereignty theoretically rests. In doing so, the rulers were sought to be put under the same kind of obligations and constraints as the other citizens, although this remains subject to abuse and monopolising of power by the ruling families. In spite of this abuse and monopoly, the most worthy and commendable political change has come about in the process of institutionalisation.

From an Indian perspective, Kuwait is anything but a democratic political system with little or no legitimacy for the Al-Sabahs. But, by Arab standards the Al-Sabah government is described as relatively liberal, tolerant of a fairly free press and moderate towards the growing pressures for political change. The Al-Sabah family, calling itself a ruling family unlike the others, who call themselves royal families, in the Gulf Cooperation Council states, governs the state according to laws rather than their own fancied ideas. An effective system of "checks and balances" being one of the critical elements in any democratic society, Kuwait's

---


32 Pasha, n. 3, p. 259.
Constitution has addressed this through the creation of a National Assembly made up in part by representatives determined through the process of free elections, even though voting rights are restricted to first class male citizens.  

The political and economic prominence of the small city-state of Kuwait prior to the discovery of oil in the 1930s was based on the socio-cultural principles upon which the city was organised. These principles, which were tribal, provided and still continue to provide the Al-Sabahs with the required strength to maintain their rule. This social structure was based on a desert tribal model which “places patrilineal descent groups in a social hierarchy according to an ideology of noble descent.”

The system of governmental organisation in Kuwait during the pre-oil period was predominantly of the traditional type. Power was vested in an autocratic ruler, who according to tradition was selected from among the members of the Al-Sabah family for his superior personal qualities. The selection of a new ruler was regarded strictly as a family matter. Though there was nothing similar to the political structures that exist today in Kuwait, the system is supposed to have given Kuwaitis much greater freedom and expression.

---


for tradition made public opinion an important political force. Hence it became mandatory, rather customary, for the ruler to consult the notables of his community regarding matters of importance. The traditional decision-making apparatus was a functional partnership between the ruling family, Al-Sabah Sheikhs and the representatives of the merchant families, Al-Ghanim, Al-Khalid, Janaah, Al-Salih and others.

In the 1930s, just when the political influence of the merchants was peaking, the "oil era" began in the Gulf and Arab peninsula. More specifically, the discovery of oil in commercial quantities in Kuwait was made in 1938, bringing new forces which restructured the political life. The most important impact of oil was that it gave rulers direct access to revenues generated outside the local economy. In the pre-oil era the revenues had be accrued from the general public, through the merchants, who in turn demanded a political price. But, with the finding of oil, the rulers began receiving revenues independently. The new revenues snapped the link binding the rulers to the merchants.

The second consequence was that, though the merchants did not disappear as a class and continued to function as a collective body, oil altered the merchants' historical economic base and with it the forces that made them a class. This was

36 Al-Naqeeb, n. 24, pp. 78-79.

37 Crystal, n. 6, p. 7.
because oil industry involves few social and economic linkages among the workers. 38

Third, the transition to oil was accomplished through a trade of formal power for wealth between the ruler and the trading families. In exchange for a portion of oil revenues, the merchants were compelled to renounce their historical claim to participate in decision-making.

Fourth, oil gave the regime the resources to develop new allies among the national population who were below the merchants in the social strata. The rulers have been careful, ever since, to distribute revenues in "politically useful ways," allowing benefits to trickle down to all nationals, even the poor. 39 Thus, the rulers were able to deal directly with the people without the intermediary role of the merchants.

Fifth, after the oil revenues began to have a major impact on the state, the Al-Sabahs consciously strived to maintain the tribal structure with its desert social ideology and this continues to exist. With oil revenues, the Al-Sabahs acquired a powerful economic base in addition to their traditional political-security role. Considerable evolution took place in the positions of both the ruling family and the ruler. The most important change was not just the expansion of ruling family's role in politics but the increasing formalisation of that role. Although Kuwait had been ruled by members of the Al-Sabah family since the 18th century,

38 Ibid., p. 7.
39 Ibid., p. 10.
the family began to rule as an institution only since the finding of oil, and particularly, after the flow of oil revenues became systematic.  

Further, historically, Kuwait's ruling family was not a cohesive political institution with the ruler relying on his family to the least extent possible. He is noted to have preferred court favourites and merchants. With the finding of oil, that relationship transformed to become more family-centric and preference, if any, was sought to be derived from among the people in general.

Kuwait's tryst with democracy was buried in a few necessities, which forced the rulers to unleash measures, at an urgent pace, towards establishing the National Assembly. Soon after independence, Kuwait was confronted with a constellation of difficulties. First, the foreign policy crisis stemming from an Iraqi claim to part with the newly independent territory or else face the threat of seizure. In fact, this threat has been so perennial that it led many to doubt Kuwait's status as a nation-state. It has been regarded "not as a country, not a people, not a city, not even a town. It is an oil Oasis."  

The second crisis was a national crisis of identity and loyalty stemming from the ideological and practical demands of Independence. Contributing to this crisis were several problems such as a rising flood of alien immigrants;


42 Crystal, n. 40, p. 92.
growing pressure of an emerging middle class which was, to a large extent, denied political power at home; and problems associated with rapid economic and social change.

The foreign policy crisis was cleverly addressed using diplomatic moves. A new treaty arrangement between Kuwait and Britain provided for British military support against threats. Britain initially sent its forces to Kuwait to be replaced by Arab League forces, which thwarted Iraqi designs to take over Kuwait.

The second, national identity crisis, took a while longer to be resolved. Judging that the issue of national identity and a brewing political crisis were interconnected, the Amir, Sheikh Mubarak, thought it wise to dismantle the patriarchal system which vested political power solely in the ruling family. The sense of patriotism that had taken its genesis in the act of Kuwaiti Independence was sought to be nurtured and consolidated through a political action and that through the setting of a consultative institution in the form of the National Assembly. In large measures, as would be elaborated later, this institution proved successful in not just consolidating a national identity but used that identity to consolidate independence and ward off any external threat. Thus, just as the

43 Only first class male citizens of Kuwait were allowed to vote to elect members of the National Assembly. This gave a new sense of importance to Kuwaitis over the large migrant population.

44 Despite this, Iraq managed to briefly threaten Kuwait's sovereignty by temporarily occupying Kuwait in 1990.
populace would usually turn to the established leadership in a moment of political crisis, so too did the ruler decide to turn to popular support.\textsuperscript{45}

Another important reason for starting the National Assembly was to draw a dividing line between the merchants and other politically important groups. It was felt that the National Assembly would serve as a vehicle for balancing and partly replacing them with new and more controllable allies. At first, these allies were simply regular citizens, outside the ruling family and outside the elite merchant community. With successive assemblies, the Amirs became more organised and focussed in their search for allies. They began to target different groups for Assembly seats, depending on which Opposition groups required balancing. As a result of this strategy, bedouins, Shias, religious conservatives and progressives, all of whom never formed part of the political order earlier, were now brought in. Once politicised, they were difficult to control except with an organised political body such as the National Assembly.

According to Hassan Ali Al-Ebraheem, one of the major challenges facing newly emerged small states is the achievement of mature political development through national integration. Failure to achieve this goal has been paid with a very high price in ethnic or religious conflict and factional strife. In this respect, Kuwait, which since its founding has been ruled as an hereditary emirate, has been

\textsuperscript{45} Crystal, n. 6, p. 85.
based on election and consultation, but every effort has been made over the years to strengthen and nourish these popular bonds.\textsuperscript{46}

Apart from these, two other considerations for preferring to have an elected Parliament, with whatever degree of powers, as opposed to having no such representative body, needs to be considered. First, the rulers were genuinely concerned that Kuwait should be seen by other countries of the world as a modern state possessing a modern system of government.\textsuperscript{47} Since a wave of democracy and like institutions were in vogue, a constitutional and parliamentary system seemed ideal to project its image abroad.

Second, they realised the advantages of a Parliament acting as a buffer between the government and the people, so that in times of political unrest, this democratic channel would absorb most of the heat, which would otherwise be

\textsuperscript{46} Hassaan Ali Al-Ebraheem, \textit{Kuwait and the Gulf: Small States and the International System} (London: Croom Helm, 1984), p. 88. Further, according to Dr Youssef Abdul Moati (Consultant) and Dr Yacoub Y. Al-Hijji (Advisor and Researcher) at the Centre for Research and Studies on Kuwait, Sheikh Abdullah Salim, in the inaugural speech of the National Assembly, said: “Cooperation among all communities and consolidation of unity will stall the threat of invasion.” He said just this in a manner that characterised the bedouin style, and yet, was profound in its meaning. The manifestation of that statement, to some extent, found its way in the functioning of the National Assembly, which, from the beginning, has been a contracting relationship between the Amir and the people. These views were expressed by the two academics in an interview in Kuwait on 13 February, 1999.

directly leveled against the government and the ruling family. Thus, it was a way of letting off politically dangerous steam.

**Important provisions of the Constitution**

In the period of the British protective presence, the otherwise destabilising impact of a rapidly modernising society and economy on the traditional political system was somehow cushioned. However, once the British withdrew, the ruler had to devise new ways of preserving the political continuity while, at the same time, encouraging further social and economic change.48

In December 1961, for the first time in Kuwaiti history, an election was held to choose members of the Constituent Assembly. In this election, there were 74 candidates for 20 seats. The inclusion of the Cabinet ministers as ex-officio members raised the total membership to 31. This Assembly drafted a new Constitution, which was operationalised in 1962 under Amir Abdullah al Salim Al-Sabah, the head of a prominent merchant family who had settled in Kuwait since the 18th century. It is this Constitution which provided for the establishment of a legislature, the National Assembly and an executive body, the council of ministers. The Constitution had a total of five parts namely, the state and the system of government, fundamental constituents of the Kuwait society,

public rights and duties, powers, and general and transitional provisions. All these provisions put together amount to 183 articles.

Important among these and pertaining to the National Assembly includes Article Six, which says: “The system of government in Kuwait shall be democratic under which sovereignty resides in the people, the source of all powers.”

According to Article Four, Kuwait is a “constitutional and hereditary Emirate maintained in the time of Al-Sabah family.” There is also a provision for a 50-member elected National Assembly representing the 25 districts of the Emirate. These are to be elected by secret ballot under Article 80, as well as 11 non-elected Cabinet ministers as ex-officio members under Article 81. Members must be Kuwaitis by origin, qualified as an elector, 30 years old, and literate in Arabic according to Article 82. Article 107 mentions that the Amir may dissolve the Assembly once, but must call for new elections within two months. Articles 99 and 100 hold that the Assembly members question the Prime Minister and the other ministers and raise debate on matters within their competence. While Article 101 states that individual ministers are subject to votes of no-confidence, Article 102 states that only the Amir has the right to demand the resignation of the Prime Minister or the Cabinet as a whole.

49 Bansidar Pradhan, “Kuwait’s Slippery Road to Democracy,” Link, (18 October, 1992), p. 36.

50 Two members from each electoral district.

51 This provision was, however, suspended during the 1976 and 1986 dissolutions.
Article 56 mentions that ministers are to be appointed from among the Assembly members and others, and the Cabinet is not to exceed one-third the members of the Assembly. Article 60 lays down that before assuming office, the Amir is directed to swear on oath to respect the Constitution and defend the state before a special session of the Assembly. Article 79 specifies that laws may be promulgated only after being passed by the National Assembly and sanctioned by the Amir and the Assembly can override the Amir’s veto by a two-thirds majority as under Article 66. Article 140 mentions that the Assembly must approve the state’s annual Budget. Article 174 is categorical in stating that a two-thirds majority and the approval of the Amir are required for the revision of the Constitution.

Analysing the Kuwaiti Constitution leads us to understand that there was a conscious attempt to adapt the new political system to the realities of Kuwait at that time. It was also an attempt to link it with the country’s past heritage. The Constitution tried to embody values cherished and practiced by the Kuwaitis, including such individual or collective freedoms as those of belief, association, press, creed and assembly. It also made a deliberate attempt to leave the question of political parties ambiguous. This was because, in the tribal context that Kuwait existed, political parties were feared as a source of conflict, which would lead to national deterioration.\footnote{Baaklini, n. 22, p. 363.} Although the Kuwaiti legislators were aware that political parties were important to the functioning of the political system, they opted not
to mention them in the Constitution because they judged that the parties would be dominated by and serve the interests of the alien Arab majority of the population and not of the native Kuwaitis. 53

The Constitution also ensured that the process of state-building and creation of a national identity, which was contingent on solidarity among all the Kuwaitis, was also met. It clearly made a distinction between Kuwaitis and non-Kuwaitis and gave political rights to only those who had a completely Kuwaiti identity. Another attempt of the Constitution was to link the new constitutional order with the Arab-Islamic heritage. Though this was done only at the conceptual level, it was much more than an exercise in semantics for it had the power of bringing to mind historical phenomena and practices cherished by the Kuwaiti Arabs. In referring to the legislature, the Constitution used the Arabic word “mubaya” or acclamation. Acclamation was the process by which the Arab caliphs used to be elected and approved by the leaders of the community. The

53 Ibid. However, Baaklini says that political parties did emerge and that they were allowed to function and publish their newspapers though they had no formal status. The government adopted a benign attitude towards them as long as they did not engage in activities that endangered the State’s territorial integrity or national sovereignty. Further, according to Jacqueline S. Ismael in *Kuwait: Dependency and Class in a Rentier State*, (Miami: University Press of Florida, 1993), p. 180, although political parties were banned, the seven groups, which comprised the effective Opposition for the October 1992 elections, functioned informally as political parties. In December 1991, in a direct challenge to the government’s ban and in an effort to force the legalisation of political parties, the Kuwaiti Democratic Forum announced its intention to form Kuwait’s first political party. Although the other groupings did not follow suit, they did form a committee, called the Permanent Committee to Lead Popular Action, to spearhead a drive to create an open forum for debate of political issues in preparation for the election.
usage today means the confirmation of the nominee by a majority vote in the National Assembly. Similarly, instead of saying “removal” or “resignation” of a Cabinet from the office of a Prime Minister or a minister the more conciliatory “excused from office” was used. Instead of saying the Amir would “veto” a law, the Constitution used the phrase “request to reconsider the projected law.” Instead of calling it a “vote of no-confidence” in the Prime Minister, the Constitution used the phrase “difficulties in cooperating” with the Prime Minister.54

These and other concepts were a deliberate attempt to make the Kuwaitis feel that their Constitution and the practices it instituted had its origin in Islamic history and practices and were not the blatant borrowings from Western countries. It was also meant to help preserve a closely knit community whose dealings are based on mutual respect and appreciation.

Further, over the years, the Constitution has been flexible enough to allow Kuwait to maintain its Arab credentials through the extensive economic assistance it provided to other Arab states. In 1961, it established the Kuwait Fund for Arab Economic Development to provide capital to other developing Arab states. It also became a principle contributor to the fund established for defeated Egypt and Jordan at the 1967 Khartoum Conference. Along with Saudi Arabia, Kuwait was the principle financier of the 1967 and 1973 wars against Israel. Kuwait also funded the Palestine Liberation Organisation, apart from playing host to a number of Palestinians.

54 Baaklini, n. 22, p. 364.
In no other place was the Constitution of Kuwait more innovative than in its attempt to define and circumscribe the authority, jurisdiction, and prerogatives of the executive branch. Without copying the systems that are common elsewhere in the world, the Kuwaiti legislators adopted that system which sought to blend the parliamentary, the presidential and the constitutional monarchy systems, and yet managed to preserve the main strengths of each. The search for stability and the attempt at institutionalising the succession process were the main aims of the Constitution. Towards this end, as mentioned earlier, it tried to maintain a link with the Islamic Arab heritage. It also utilised traditional institutions, particularly with regard to the ruling family and its role. Next, the Constitution attempted to avoid a problem that had caused trouble in new states, namely, the crisis of succession to the chief executive. Finally, it kept open the possibility of controlling the executive and allowing popular participation, change and innovation.55

The chief executive, who assumed the title of governor of the State of Kuwait (Amir), was always to be a member of the Al-Sabah family, a descendant of Mubarak Al-Sabah. A constitutional law specifying the line of succession was passed in 1962. Except in four cases, the governor of Kuwait acted in council, meaning that all his decrees and orders had to be issued by the Cabinet. Since he was not constitutionally responsible to the National Assembly for his acts, he could only act through his Cabinet, which was constitutionally responsible to the

55 Ibid., pp. 364-365.
Assembly. The four instances that have been cited wherein the governor can act without the endorsement of the Cabinet are: first, when the Crown Prince is unable to assume the responsibility of the governor, then the Amir had the right to choose a substitute to rule the country in his absence. However, the ad-hoc governor had to meet the qualifications set for the members of the Assembly and had to be sworn in by a special session of the Assembly; second, the Amir had the right to declare martial law under specified emergency situations. Such action was to be presented to the Assembly for approval within 15 days. If the Assembly was dissolved, the martial law was to be presented in the first session of the new Assembly. The martial law could not continue unless approved by the majority of the members, and even after it was approved once, the action was to be reviewed every three months; third, though offensive wars were constitutionally prohibited, the Amir had the right to declare defensive wars without the prior approval of the Assembly; and lastly, the Amir had the right to conclude treaties, provided he referred them immediately to the Assembly with full explanation. A treaty would become law only after it had been approved and promulgated in the official gazette. Treaties involving peace, those relating to land, property, natural resources, sovereignty of the state, those concerning the public and private rights of citizens, all commercial trade, navigational and residency treaties, and any treaty that involved expenditures not specifically allocated in the Budget or that involving any amendment to the existing Kuwaiti laws were all prohibited unless passed by a law in the Assembly. This prevented the Amir from entering into any
treaty with respect to the above, unless it was specifically discussed and approved by the Assembly and unless it, was publicly promulgated like any other law.\textsuperscript{56}

Of relevance in this regard is the deliberations of the National Assembly with reference to its foreign aid appropriation to the Arab and African countries in 1976. The government's promise to provide a specified amount of aid to certain countries made at the Algiers Conference in 1973 was not only thoroughly scrutinised but was also criticised by those Assembly members who advocated a different set of priorities in the national Budget. These men also blamed the government for making the pledge without consulting the Assembly. In other words, while the Government of Kuwait usually enjoyed the support of the Assembly and can be expected to live up to its pledges, it does not mean they will be honoured without approval of the Assembly which alone has the right to decide on such issues.

The Cabinet in the Kuwaiti political system is neither parliamentary nor presidential. It was devised to be an indigenous institution, which met the specificities of the Kuwaiti political needs. Apart from being the political apparatus through which the Amir acted, the Cabinet served as a forum to involve the Al-Sabahs in politics. As a matter of custom, members of the ruling family did not contest in the election for the Assembly. The purpose, it is understood, was to preserve the integrity of the Al-Sabahs from being tarnished in an acrimonious political campaign. It was also believed to serve the purpose of keeping the

\textsuperscript{56} Ibid., p. 365.
election free from any actual or moral pressure by the ruling family. The Kuwaiti legislature being unicameral, it was not possible to ensure prominent members of the ruling family in the Assembly by virtue of awarding them titles and creating something similar to the House of Lords in Britain. Instead, if approved by the Assembly, they were allowed to serve as Cabinet ministers. In fact, the Prime Minister was always the Crown Prince. This arrangement legitimised open participation of the ruling family members in the political life of the state and made their activity subject to scrutiny and debate by the Assembly as well as by the press. Each Kuwaiti minister was accountable to the public for his action. Further, open participation in public policy-making meant that there was little or no need for the ruling family members to conspire or be secretive about their ideas, intentions and actions.  

The opportunity of the Crown Prince to act publicly and be part of the Assembly set-up actually enabled him to acquire the much needed political experience and maturity before he took over as a ruler. This association with the Assembly helped him familiarise himself both with the executive and legislative branches of government and develop intimate working relationships with both. However, after the Iraqi invasion, the Opposition called into question the practice of reserving the post of Prime Minister for the Crown Prince. They even demanded a probe into the affairs of the Crown Prince.  

57 Ibid., pp. 365-366.  
58 Ibid.
In order that the legislators be able to fulfil their constitutional functions, they were granted immunities from arrest or prosecution by the government. No member could be prosecuted without the approval of the Assembly. This system of approval of the Assembly was important not just under the above mentioned circumstance but also in other cases. The Kuwaiti Assembly was given adequate power to ensure that all laws originated from the people as represented by the Assembly.

With reference to the relationship between the legislature and the Amir, though the Amir had prerogatives in most issues, his actions came under the direct supervision of the legislature. The Assembly also controlled the purse of the Amir by determining his salary and other allowances and this could not be changed during the entire period of his rule.59

Another area of control over the Amir was in his nomination of a successor to the crown. This nominee was required to be confirmed by a majority of the Assembly members. If the Assembly did not confirm the nomination, the Amir had to nominate three candidates from which one would be selected by a majority vote in the Assembly.

Perhaps the most innovative and striking aspect of the Kuwaiti political system as laid down in the Constitution pertains to the relationship between the

---

59 The Amir was allotted, annually, a fixed sum of money so as to enable him to cover all the expenses of the ruling family, his assistants, staff, rents, travel and representation.
Assembly and the Cabinet. Regarding the vote of confidence, the Kuwaiti Constitution followed neither the parliamentary nor the presidential system. If the Assembly felt that it could not cooperate with the Prime Minister, it could, by an absolute majority vote and indicate the same to the Amir, who would then have to either ask the Prime Minister to resign or dissolve the Assembly and call for fresh elections. Even after this, if the new Assembly decided by an absolute majority not to cooperate with the Prime Minister, the Prime Minister would have to resign and a new Cabinet would have to be appointed.

Another case in point with regard to the relationship between the Assembly and the Cabinet was the tenure of the Cabinet, which coincided with the tenure of the Assembly. At the beginning of every legislative term, designated as four years, the Cabinet was reshuffled to take into account the new political forces represented in the newly elected Assembly. The system served the purpose of providing a stable Cabinet, which was open to change according to the times. What the Constitution of Kuwait attempted was to consciously promote executive leadership, while at the same time allowing for democratic changes. It rejected the complete separation of powers by integrating the Cabinet and the Assembly in their daily work. It also created a mechanism of providing for individual Cabinet responsibilities which went a long way to guard against frequent Cabinet changes. It is needless to elaborate on the fact that the Assembly was made completely autonomous regarding its administrative affairs.

60 Baaklini, n. 22, p. 370.
As is the case with most things that are nascent, criticism about the Kuwaiti Constitution is not unfounded. Pertaining to the provisions in the Constitution, without attending to its actual functioning, it has been termed as being "somewhat ambivalent on the subject of democracy." 61 In particular, the instance of Article Six being more than contradictory to Article Four has been cited and this has led some to brand Kuwait as a form of "constitutional monarchy." 62 Another reaction is that when the Al-Sabah rulers approved this Constitution, they accepted the document as an aid and complement to an existing mode of rule, not as a final authority for deciding questions of sovereignty. Consequently, whenever such questions are contested, the Amir exercises his power to change any article of the Constitution or even suspend or replace it. 63 Those opposing the Al-Sabah form of rule maintain that the ruling family always disliked the 1962 Constitution, seeing it as a threat to their authority, and consequently, were determined to undermine it.

However, these adverse reactions cannot be taken at face value because the Al-Sabahs have used the Constitution and the National Assembly to legitimise their rule. They conducted elections at fairly regular intervals, thereby keeping the citizens politically active, allowed for debates in the Assembly over doubtful issues and issues of uncertainty. Most importantly, the Al-Sabahs used the

61 Lambert, n. 33, p. 184.
62 Ibid., p. 185.
63 Al-Sa'di and others, n. 47, p. 217.
National Assembly as a forum wherein all the social groups in the society could be represented. These attempts were approached by the people with a great sense of acceptance and appreciation, which naturally enhanced the credibility of the ruling family.

However, a more balanced view about the Constitution and the political system in Kuwait comes from Michael Hudson who suggests that, though the ultimate authority rests with the Amir, the Kuwaiti structure of government could be termed a “liberal-nationalist model,” characterised by a combination of “benevolent personal rule, representative structures and nationalist ideology.”

But for the last statement, to pay heed to the other generalisations would mean to doubt the very edifice on which the Kuwaiti political structure has been built. This, without actually analysing the working of the system with respect to the Constitution, is rather unfair. A more concrete branding of the existential reality may be possible only after analysing the issues concerned since Independence, some of which form the subject of the next chapter.

In summary, it would not be incorrect to say that democratic experiments received a major boost in Kuwait only with the finding of oil and the beginning of the “oil era” in the 1930s. But, it is also true that Kuwait did dare, and partly forced by the circumstances of the times, to flirt with democracy even before Independence, as is indicative of the 1921 and 1938 movements. Whatever may have been the necessity for the rulers to set up the National Assembly, it served as

---

64 Deegan, n. 41, p. 36.
a two-way mechanism to let off steam — for the people to voice their opinion and keep a check on the rulers by seeking a semblance of accountability, and for the Al-Sabahs to allow for political concessions to the disgruntled, buy patronage and in the process, enhance their legitimacy. This unique experiment combining tradition with modernity may set the trend for similar institutions in the neighbouring countries as well.