

## Reports

# The Political Asylum of Kuwaitis

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## **Introduction:**

Freedom of expression is a guaranteed right by the international convictions and treaties, as article 19 of the International Covenant says that it is the right of any person to hold any view without violating his/her freedom or belief; and this right includes the freedom of expressing the opinions whether spoken or written, through all means of communication, as it is a legal right that was built upon the remains of a history full of fights, wars, and revolutions, and the most important one was the French revolution against the church's suppression of the freedom of expression and beliefs, to World Wars I and II, to reach a point of peace and think about a new beginning for the humankind as a whole and agreeing on the internationality of the rights and laws that serve the interests of the citizens in their countries and help to provide stability to those countries in all aspects, whether as a government, economy, or a society free of any harm.

And since there should be an exception to every rule, we can find some countries that couldn't live up to respect the human's right of expressing their views according to what the law protects. So, repression, crimination, and jailing were the result of all of that. But because of the love of freedom, most of the people who lost their natural rights seek another right of their international rights, which is the right of asylum to escape the repressing authorities and the domination of power and silence. The right of asylum was agreed on in Geneva Convention in 1951, which has in its first article that every person has the right to seek asylum in any of the countries that signed on the convention if he/she was persecuted due to their race, religion, or political views which made them afraid to express their views and state their personal principles in their mother country; and this can be an alternative solution to prison, but won't be an alternative to the homeland.

In its effort to achieve democracy in the policies and the state system, Kuwait has achieved over the past years some luxury and flexibility to the thinkers and writers on their dealings with the controversial problematic issues hidden from most of the citizens. Kuwait was never the kind of country that would shut the voices or break the pens, but the transition in its policies was gradual, and that was a result of the development in technology in the social media and ways of receiving and leaking information that the world has witnessed, and the developed countries openness politically, ideationally, and structurally. All that was with a system that is based upon a ruling system that lives to some extent in a black and white era, where its members didn't cope with this magnificent improvement and didn't listen to the youth of the country,

so it was a logical consequence to have this conflict and repression and deportation as a result.

And this is what we are going to discuss in our research, the Kuwaitis' political asylum, due to repressing their freedom of expression by introducing the issue, its causes, and results with statistics that don't serve the democracy's interest or the human rights.

### **The first aspect: the excellence period- the freedom of expression constitutionally in Kuwait between 1962-2011.**

The foundation of any country is its constitution, which is considered the key of governing for the system and politics; it also relates to the basis of the rules and regulations, convictions, decrees, and decisions taken by the government or the parliament, which can't contradict what is in the country's constitution.

So, and by returning to the Kuwaiti constitution of 1962, we can find three guaranteed freedoms, mentioned consecutively, in the form of consecutive articles, 35, 36, 37. They all guarantee starting from the freedom of belief, the freedom of view and scientific research, to the liberty of press and publishing, whether written or any other form. These freedom rights are the same that were mentioned in the International Covenant of Human Rights and the General Liberty. It is worth mentioning that Kuwait excelled in respecting these rules in this period, after the constitution, in contrast to most of the Arabic neighbouring countries in its system of ruling and governing the country. And even though, the culture, religion, and the external relations were similar to some extent, and it still excelled in respect to the constitution.

### **Historically:**

Kuwait stood out in the Arab world according to the indicators measuring the liberty of press internationally, by respecting the rights of the thinkers and writers in expressing their opinions and writing freely, sometimes, about their fears, and some other times, about their objections. That didn't stop at this point, but Kuwait was an asylum to most of the Arab thinkers who ran away from the repression of their countries' authorities, besides being a politically and economically stable country as it didn't engage in any internal or external conflicts, especially in the 80s, which encouraged many intellectuals, artists, and poets to settle down in Kuwait, and to mention some of them, the prominent Iraqi poet, Ahmed Mattar, who wasn't only a fugitive writer, but he also had a regular spot in the Kuwaiti newspaper, AlQabas, to publish his

poems which were mostly filled with criticism to the system of the Arabic ruling system. Under the same protection, Kuwait hosted the Palestinian caricaturist, Nagi AlAli.

We can't deny that Kuwait had some restrictions over the liberty of press as a part of its history according to the statistics of some international rights organizations and Kuwaiti activists as there were not less than 7 people who were followed and accused in cases that the activists consider as against the freedom of expression, while the country consider them as cases whom their convicts deserved to be put in jail. And the conflict between respecting the constitution and the International covenants and the authority of the country and the stability of its rule which is seen by the country as a cause of the nation, but seen by the activists as just an excuse to hide the weakness and failure of the government in caring about and managing the affairs of the country and the citizens.

## **The second aspect: the declining period- freedom of expression in Kuwait after 2011.**

### **Legally:**

In contrast to the welfare and stability in democracy that Kuwait experienced for decades compared to the countries around it, except for Lebanon, the rest of the countries like Iraq, Saudi Arabia, and Bahrain, were suffering from horrible changes in the freedom of expression and opinion. This right was not a right anymore, it became an enemy to the state, and a sin of the thinkers and the intellectuals. The change happened after 2011, after the occurrence of some political crises, changes in thoughts, the emerging of some demands and questions that happened simultaneously with the Arabic spring as a result of criticism and the development in information and media. The Kuwaiti citizens didn't trust their government or their system anymore, just like the nations of the democratic countries, they also didn't believe the media of the government, nor the governmental publications as the system didn't cope with or utilize the social media in a smooth way that serves their goals and benefits them in approaching the core of the people's interests and problems. The government also didn't give any attention to the role of conversing and discussing and holding conferences and seminars where they can clarify their problems and their plans in solving them sooner rather than latter. All of that contributed in making the government very weak and vulnerable. It collapsed that year by resigning which represented a knockdown to the stability in the

region as it revealed the fragility of the ruling system after the prosperous period in the 80s and 90s of the past century.

But this was not a lesson to the following government, it was rather a nightmare as the succeeding government tried hard to make sure that what happened won't be repeated again and there won't be any ability to push any upcoming government into resigning under the influence of the freedom of expression and opinion. The government can resign by the orders of the prince, problems in the parliament, or due to failure alliances as what happens with the rest of the Arab countries, but not to resign because of the nations' demands or the thinkers and the intellectuals and that led them to make a place for the constitution in the country's system, use laws that don't organize the government or its way of studying, working, and activating decisions that serves the best interest of the country, but laws were a telescope to closely monitor the movements of the activists, the non-governmental rights organizations, and the social media. They also formed gangs of electronic committees to defend the decisions and policies of the government, follow the users of Twitter and their posts, and the writers and journalists on the free electronic newspapers and platforms.

Under the authority of the publication ordinance in 2006, which was not activated to a great extent, but it was stated clearly in its articles that were not as organizing to the rights as they were flexible in some aspects, the ruling system or the national security can hold a discretionary power to accuse some people, and it was clearly invading the international laws. For example, article 6 of this law bans publishing any announcements on the internet that criticizes the prince, the men of religion, or the judicial system and any kind of authority in the country. It reached to even controlling or prohibiting talking about the international affairs of Kuwait, or about the secrets of the internal and external relations under the pretext that this threatens the safety and security of the country.

Hence, they set penalties that can imprison someone, but usually the duration and the value are determined based on the security and judicial interpretations and using this discretionary power allowed to them in understanding what can be understood to serve the interest of the ruling system. And that is what concerns the internet, so it would be considered a kind of imagination to find a widespread printed newspaper published in Kuwait that calls for the freedom of criticizing or opposing the ruling system or even expressing a personal opinion in good faith.

Unearthing the previous laws which had no significant importance and were mostly inactivated was of the repetitive decisions of the government, as they

continued repressing the freedom for the next three years under the pretext of new and old laws, and among them what the national security law issued in 1970, which didn't differentiate between the rights and the limits, but its articles were so fixable and unspecific to the crimes, especially to what concerns the freedom of expression and the liberty of press. For example, in its articles number 4 and 25, they insured the punishment more than insuring the discipline and the security of the individuals rights as they consider expressing the opinion about any country could affect negatively the relationship between it and Kuwait, and could even cause a war, and that is an exaggeration. It is only an excuse that allows some people who don't have a high authority in the country, they aren't princess, ministers, or even members of a severing body, they are just irrelevant individuals, their opinions based on the international laws and the International covenant are just personal opinions expresses nothing but their owners points of view. The punishments are for the contempt of religion, God, prophets, or the family of the prophet and the like, and that is implied in the political affairs. These accusations are nothing but an excuse as they used the religion, the prophets, and the beliefs as terms that can be used to hunt their preys of the users of Twitter and the bloggers specifically, and the liberate thinkers and intellectuals generally.

The blinding under the scarecrow of the security and stability if the country required for more laws related to the liberty of press and expression in Kuwait and moving plainly from the laws that touches reality to the laws directed to the virtual world, avoiding any movement or gathering, or any activity that aims to practice an international right that Kuwait had allowed in the past.

Unfortunately, all that was crowned in 2015 by the statement of the law number 63 which is related to fighting the digital information crimes, which is a sequence of the previous law of press and publishing issued in 2006. That was to be able to corned any idea or view whether it is on paper or an electronic board, and that was what is included in the definition in article 1 of the law of anti-information technology crimes as it is any tool or method used for communication and delivering information electronically, electrical or digital, or electromagnetic tool, and include any and all the similar methods and tools. The text is plain, very flexible. It is nothing but a highly developed monitoring and controlling system in repression and hindering the intellectual and practical development of the Kuwaiti nation.



## **Detentions and tyranny:**

In the name of the accusations of the attempt against the security and the sovereignty of the state, the authorities made many arrests which was uncovered to the public by some rights organizations and independent activists, and international reports. They reported the detention of more than 63 people, in addition to 67 other persons only because of retweeting that supports the statement of the MP's Musallam AlBarrak who was accused of the contempt of the prince.

Some right organizations consider that the period of current detentions is now in its peak with more than 500 persons detained for their point of view, and the international report of the liberty of press of the Reporters Without Borders, as this report came very disappointing showing that Kuwait ranked as the 105th relating to freedom of the press and opinion, and the secrecy of trials worldwide. It is also reported that about 7 executions by hanging in 2013 occurred for 7 accused men with drugs; other accusations also were given which are not classified as violent crimes.

Sara AlDres is considered the first detained Kuwaiti woman who was arrested for her views along with a huge number of detainees. We can also find the activist Abd Allah AlRassam, who was accused of tweeting a post that insults the Emir, the legislation professor Ahmed AlThaidy, and the detention and prisoning of the journalist Aiyad AlHarbi for 2 years for tweeting the poem of Ahmad Mattar, who was a refugee in Kuwait years ago when it was full of freedom of thinking and expressing opinions away from the repressing countries.

## **The third aspect: the political asylum of the Kuwaitis.**

As a result of the detentions and terrorizing the freedom of thinking and expressing in Kuwait, and to escape the tyranny of the authorities, and in the search for a window for the humanity, respect and development, a great number of Kuwaiti people are recently seeking to use one of their internationally guaranteed rights, which is the right of political asylum to another country which allows the freedom of tweeting, blogging, and living out of the box, escaping the ambiguous laws and the blurry terms. For that, in 2015, Mohammad AlMail, who was sent by the Kuwaiti government to study in Britain, asked for the right of political asylum there to escape a judgement by default from the court of assizes for 10 years in prison that was waiting for him once he returns back to Kuwait. That made him the youngest Kuwaiti political refugee as he was only 18 years old.

In the same year, the activist Saqr AlHashash gets freed of a more than 90-year-jail sentence, which is considered the longest detention period in the history of Kuwait, and all of that was for accusations related to his political views and beliefs based on issues seen by the country as red lines, yet, he finds them very normal in his new home, Holland.

To join the train of asylum in 2016 the MP's Abd AlHamed Dashti, who sought asylum in Switzerland, after being sentenced for 62 years in prison for his political views that, according to what was mentioned in the charges, violates the Emir's stance and the security and stability of the country and the surrounding countries, which is prohibited and incriminated by the force of law.

Immigration without returning back became a repetitive and an unescapable necessity, as from time to time, we find students and activists immigrate without any pursuit or questioning. But immigration is considered as an asylum to these countries as some experts believe that the fear of detention became in the second rank after the fear of expression. So, and according to the Kuwaiti journal, AlRaai, a great number of the Kuwaiti people live abroad for a long time without returning back home, which can represent a kind of silent asylum which is deep in delivering the idea that the homeland is not a fertile land for freedom, rights, humanity and respect that came in the constitution and the international conventions anymore.

## **Conclusion:**

The haphazardness of the government in Kuwait, issuing injunction laws and adding and adjusting the penalties and punishments, forming electronic committees monitoring the posts and movements of the activists, put Kuwait in a weak position not in a strong one.

It must be known that the citizens of the country are its builders, its present and future. The world now is not limited by laws or decrees agreed on by the governments and imposed on the country to control its reins. The world now has no boundaries, full of information that varies in size, value, and the ease to access. No law or authority can oppress an idea or a point of view. The idea never dies, even if its owner was hanged. So, the government must think out of the box by embracing the new era of the youth, becoming an authority that is not afraid of a tweet, a post, or a blog. A strong and clear authority, but understanding as it used to be, not for its people only, but for all the thinkers and intellectuals all over the world.



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### **References:**

- The civil and political rights international convention, 16 December, 1966, and started to be executed from 24 March, 1976.
- Geneva convention, 1951, concerning the situation of the refugees.
- The Kuwaiti constitution, section 3 - public rights and duties.
- Kuwait, law number 3 for 2006, about the press and publications (3/ 2006), number of articles 33.
- Law number 63, year 2015, concerning fighting IT crimes.
- Human Rights Watch: Kuwait- IT crimes law is a hit to the freedom of expression.
- A report from Dark Politics company for media and political consultants.
- AlRaai Kuwaiti newspaper: Kuwaitis ask for asylum.
- Human Rights Watch: Kuwait: the laws restricting the freedom of expression must be reformed.
- Kuwait has deteriorated on the liberty of press rates – Reporters Without Borders.