

# Kuwaiti Women and the Right to Vote

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The adoption of the Kuwaiti Constitution in 1962 and the granting of political rights to Kuwaiti women in 2005 constitute two major turning points in modern Kuwaiti history. These two dates will stay inscribed in the memory of Kuwaiti generations for a long time to come.

Kuwaiti women's participation in the political life of their country has been one of the hot controversial topics on the Kuwaiti political scene since the adoption of the constitution but has grown in intensity in the last 15 years – since the liberation of Kuwait from Iraqi occupation. The subject of controversy was Article 1 of the electoral law number 35/1962 adopted by the Founding Council, elected in 1961 and trusted with the drafting of a permanent constitution for Kuwait. Divided opinion on this article, conflicting interpretations of it, and disagreements over its constitutionality were existent within the executive and legislative authorities as well as within professional and private interest groups. This article was also a subject of controversy in the religious, constitutional and legal debates that accompanied the early stages of democratic practices in the country.

Article 1 of the electoral law 35/1962, which restricted voting rights to males only, has totally deprived the Kuwaiti woman of her right to political participation. This

deprivation lasted for over 45 years (i.e. since the adoption of the Constitution in 1962 and up till May 16, 2005) despite the leading roles played by Kuwaiti women at all levels in the public and private sectors as well as in civil society associations. This absencing and marginalization of the woman's political role was behind the successive demands by women since 1971 for abolishing this article.

The demands were later adopted by some members of the Nation's Council (parliament) who raised this issue repeatedly during more than ten legislative terms. In defending their demands for the abolishment of this article, parliamentarians argued that they are duty bound to establish equality and justice and to ensure equal opportunities for all citizens to assume public office in compliance with the Kuwaiti Constitution, which provides that the collective and concerted efforts of all citizens must be the basis of all national activity. The Kuwaiti Constitution equates men and women in their legal duties and rights, the first of which is that of participation in running the affairs of the state, directly or indirectly, through the exercise of the right to vote and run for public office including parliamentary seats. This is clear in Article 80 of the Constitution which provides that the Council of the Nation is composed of 50 members elected by direct



public, secret ballot. It is also clear in other provisions that, not only does it call for equality among men and women, but makes it mandatory and considers lack of respect for it unconstitutional. Among those other provisions are:

Article 6. Kuwait is a democracy. Sovereignty is vested in the nation which is the source of all authorities.

Article 7. Justice, freedom and equality are the pillars of Kuwaiti society.

Article 8. The state is responsible for preserving the pillars of society, providing security, and equal opportunity for all citizens.

Article 29. People are equal in human dignity. They are equal in front of the law in their public rights and duties without any discrimination on the basis of sex, origin, language or religion.

Article 108. A Member of the Nation's Council represents the whole nation.

Day after day and year after year the unified and concerted efforts of various groups that believe in democracy were increasing in scope and intensity. The devotion and persistence of those groups started to pay dividends, the first of which was the declaration by His Highness the Prince on May 16, 1999 of his desire to empower the Kuwaiti woman to exercise her full political rights including the right to vote and run for public office.

His Highness the Crown Prince and Premier issued Decree 9/1999 which provided for abolishing Article 1 of the electoral law. This decree was submitted to the Nation's Council in a law proposal. This governmental move was the first, during ten successive legislative terms, to publicly admit the unconstitutionality of this article and the need to abolish it. As stated in the speech delivered by Sheikh Subah Al-Ahmad, during the historical session in which Decree 9/1999 was put to the vote, the purpose of this decree is to end the serious violation of the Constitution inherent in this article because democracy,

broadly defined, has no chance of success without a parallel broadening of the popular base to include both men and women and enabling it to exercise its sovereignty in both its legislative and supervisory roles ... Politics today is about democracy and human rights.

Several factors, however, were behind the delay in the Kuwaiti woman acquiring her full political rights. Among them are:

**First: The attitude of the executive authority.**

Successive Kuwaiti governments have failed to take a clear stand on this issue. Ministers in those governments have:

- a. Never submitted any law proposal acknowledging and emphasizing the right of Kuwaiti women to vote and run for elections;
- b. Never invoked the unconstitutionality of Article 1 of the electoral law governing the elections of members of the Nation's Council.
- c. Never declared clearly their support for any of the law proposals on this issue submitted by some members of the Nation's Council during the first eight legislative terms.
- d. Never permitted the inclusion of women on voters' lists.

This neutral governmental position was a major factor behind the delay in women acquiring their political rights and their actual exercise. This continued to be the case despite the governments' support, as reflected in the position of its leadership, His Highness the Prince, for enhancing the role of women in all fields, integrating them in the process of development, and ensuring their access to leadership positions besides praising their contribution to the building and development of Kuwaiti society.

Was this passive governmental attitude able to survive?

The declaration of His Highness the Prince on May 16, 1999 of his initiative concerning the empower-



ment of Kuwaiti women to exercise their full political rights made it difficult for the government to sustain its neutral stand on this issue, especially since this initiative was based on a strong respect for the Constitution and a belief in democracy. As such, Decree 9/1999 was drafted in a law proposal calling for the amendment of Article 1 of law number 35/1962 governing the elections of members to the Nation's Council. The governmental speech, delivered by the first vice-premier, stressed the importance of women's participation in the country's political life, praised the role played by Kuwaiti women and their valuable contributions during the rough times and crises in Kuwaiti history. It acknowledged women's right to full participation, freedom of expression and to providing counsel in accordance with the democratic system. It also highlighted women's competence, professionalism and expertise, prerequisites for enhancing their contribution in the legislative and supervisory processes.

This contribution, which was considered a major goal of the issued decree made it possible for women, though at a later stage, to file administrative suits in front of the administrative court and impeach the latter's decisions in front of the Constitutional Impeachment Committee.

### **Second: The legislative authority's attitude towards women's political rights.**

Kuwaiti electoral law number 35/1962 governing elections of the members of the Nation's Council.

It is important to note that the Kuwaiti Constitution did not provide for the exclusion of women from the right to vote nor did it restrict this right solely to men. Constitutional provisions, worded in general terms, delegated to the legislature an unconditional authority to put down the requirements to be met by the voter and the candidate.

Electoral law number 35/1962 and its later amendments was drafted and issued by the legislative authority with its first article restricting the right of voting to the male population by stating:

"Any Kuwaiti male who is 20 years of age has the right to vote." It is apparent that this article does not comply with the constitutional principles and provisions which clearly call for justice, equality, and freedom; vests sovereignty in the nation, the source of all authorities; and provides that the Member of the Nation's Council is a representative of the whole nation (Articles 6, 7, 29 and 108 of the Kuwaiti Constitution).

Moreover, the above-mentioned article clearly deprives the woman completely of her right to vote by specifying the sex of voters. This resulted in the deprivation of about half the population of the right to vote as citizens equal

in rights and duties to the male population. This article constituted a major obstacle that faced Kuwaiti women and kept them out of the political decision-making process and positions.

However, Kuwaiti women refused to surrender to the pressures exerted by opponents, settle for and be satisfied with the rights she was enjoying and the high administrative positions she was assuming. She has worked hard to amend or abolish this article in accordance with the Kuwaiti constitutional provisions.

More than 12 law proposals were submitted to parliament between 1973-99 demanding the abolition of this article. However, the opposing majority, basing its arguments on religious and social grounds, succeeded in blocking such a decision. This opposition did not weaken the Kuwaiti woman and her supporters. On the contrary it increased their power, patience and efforts, which resulted in the above mentioned initiative by the Prince and the issuance of legislative decree number 9/1999.

However, the fate of this initiative proved to be no better than that of the preceding law proposals on this issue. The summer of 1999 witnessed a hot debate among supporters and opponents on whether the Kuwaiti woman is entitled to participate in political activity. The debate increased in intensity when the Prince's decree and supporting law proposals were put to the vote. This heightened debate was accompanied by an unprecedented number of meetings and discussions all over Kuwait. Despite all this, the decree was rejected by a majority vote in the historical session held on November 30, 1999. Only seven members voted in favor. Noteworthy is the fact that some supporters of women's political rights voted against the decree arguing that it did not meet the conditions of urgency or necessity.

However, another law proposal was submitted by supporters of women's political rights (who were expecting the fate of decree 9/1999) during the same session. This proposal was successful in meeting the conditions of urgency and necessity. As such this law proposal was put on the agenda for public discussion despite its rejection by the Defense and Interior Committee.

In a historical session held specially to discuss this law proposal, supporters and opponents discussed it and decided to vote on it in principle. All ministers, except one, participated in the voting. The result was 30 votes in favor, 32 against and two abstentions. As such the proposal failed to pass with only a two vote difference.

In October 2003, and during the tenth legislative term, the government submitted to the Nation's Council a com-



prehensive law proposal on municipalities which had among its provisions one that grants Kuwaiti women the right to vote, to candidacy and to appointment on the municipal council. This law proposal was intended as an amendment of law number 15/1973 which deprived women of these rights by restricting to men the right to vote in municipal elections (Article 2:2).

This law proposal put for a first round of voting during the session held on May 1, 2005 shared the fate of the law proposals discussed above. This prompted the government, in a surprising fast move during the session held on May 16, 2005, to demand putting the law proposal on women's political rights to vote during the same session. This aimed at avoiding a second round of discussions as happened with the article on women's rights in the law proposal on municipalities. This wonderful tactic used by the government, (and praised by many) resulted in the acknowledgment and confirmation of the Kuwaiti woman's political rights which, though granted to her in the Constitution, was confiscated from her by Article 1 of the electoral law.

#### Sixteenth May

On May 16, 2005, the law granting Kuwaiti women their political rights was passed by the Nation's Council by a vote of 35 in favor, 23 against and one abstention. The votes in favor were expected to be more had not health and other conditions prevented two members from participation.

May 16, 2005 witnessed the appointment of the first woman minister and the first two female members of the Municipal Council in the history of Kuwait.

May 16, 2005 crowned with success the Kuwaiti women's 35-year struggle. During this struggle Kuwaiti women had to face and deal with the ever-changing and fanatic attitudes and positions of their opponents.

Women resorted to different means including the holding of lectures and conferences, writing in newspapers, interviews and discussions on various television and radio stations, issuing declarations, meetings with parliamentarians and other public officials. Their struggle came to a head when they filed several lawsuits in February 2000 against the Minister of Interior for refusing to comply with the demand of a number of women, among them the author of this article, to have their names registered on the voters' lists. Despite the judges' refusal to look into it for defects in the form, the Kuwaiti women and patriotic men who believe in real democracy and comprehensive development, including political development, continued demanding and insisting until their demands were met on that historical day of May 16, 2005 which coincided with the sixth anniversary of His Highness's desire for political equality.

May 16, 2005 changed all measures and refuted all claims, confirming the citizen's original right regardless of sex. Today men and women are partners in making decisions and monitoring their implementation. May 16 declared loudly that that day was the day of the Princely initiative, the Kuwaiti woman's day, the exceptional day by all measures, not only in Kuwait but regionally and internationally as well, a day with a special radiance that shall illuminate the whole country throughout history.

Therefore, May 16, 2005 is the entrance to the real participation of all women and men in politics provided they meet the conditions set for the voter, be he man or woman, and can assume a position in the ministry or municipal council, vote, and run for the parliamentary elections. No doubt that this will have far reaching results on the political level, especially since the number of women expected to register for voting in the February 2006 elections is more than 200,000.

