

Final Report on the 2023 National Assembly Elections

June 8th 2023

Executive Summary

The present report is drafted with the intention of ensuring the transparency and integrity of the National Assembly elections, held Tuesday June 6, 2023. It is worth mentioning that this was the seventeenth legislative term, after 19 elections held in the history of parliamentary life in Kuwait. The elections were preceded by the issuance of a decree on May 1, 2023 to dissolve the 2020 Parliament, for the second time after being reinstated by the Constitutional Court, and following the call for new elections, which results were announced in the early morning hours of the following day. This led to the election of 50 MPs representing the nation in five districts. Overall, 207 candidates competed including 13 women, which was the lowest number since the elections held in July 2013.

In this context, the Democracy Commission of Kuwait Transparency Society observed the voting and counting processes, in addition to the election environment, to confirm the integrity of elections and evaluate electoral practices. The number of voters registered in the voting lists has reached 795,911, including 388,099 men and 407,812 women, as follows:

First district	Second district	Third district	Fourth district	Fifth district
100185	90478	138364	208971	257913

Voter turnout reached around 52% according to the Commission's estimations, compared to 54%

% in the 2022 parliamentary elections. The Commission observed all official procedures related to election administration. Efforts also included monitoring most of the news circulating in the mainstream media and social networks, as well as statements delivered by candidates on public and private TV stations and in the press. The observation started with the issuance of the writ of elections up until the announcement of the final results by the Judicial Committee. It resulted in a set of observations detailed in this report, which do not undermine the integrity of the voting and counting processes. Indeed, the “transparent” approach adopted by the Supreme Judicial Committee and other election administration actors, in addition to the speedy announcement of results, deserve praise and credit.

We hope that these recommendations will be carefully examined by the officials concerned, in order to contribute further to the development of democracy and election administration measures in Kuwait. In addition, we hope that God will protect Kuwait and its people from all harm and grant them security, stability, good health and strengthened democracy. We wish the new MPs success in fulfilling their duties and responsibilities to further service the interests of the nation.

National Commission for Democracy

Preface

Decree No. 62 of 2023, issued on Monday May 1st, 2023, invited voters to elect members of the National Assembly, in accordance with the system of five districts and single vote, on Tuesday June 6th, 2023. This election was a first in Kuwait to be held after the issuance of two decrees to dissolve the National Assembly of 2020. The first was revoked pursuant to the decision of the Constitutional Court, based on which the second was issued to rectify this error in procedures. On Monday May 29th, 2023, the Kuwaiti Cabinet issued a decision to allow Kuwait Transparency Society to participate in and observe the 2023 parliamentary elections, with the objective of supporting its partnership with civil society organizations in the democratic process.

Kuwait Transparency Society carried out the work of the “National Commission for Democracy” affiliated to it, to observe the 2023 National Assembly elections and ensure their integrity in accordance with the applicable laws. Accordingly, the Commission invited all citizens to volunteer in its teams by providing them with a link for registration. The objective was to create election observation teams for each electoral district. 147 citizens volunteered to join their local team. The Commission organized a training for volunteers, in partnership with Kuwait Anti-Corruption Authority (Nazaha). As a result, 80 participants were trained, including the actual number of participants in the local team to observe E-Day, in addition to members of the General Assembly and team leaders. The Commission also hosted an international team of 2 experts that represented the National Democratic Institute and the Tunisian Mourakiboun observation network, to contribute to the evaluation of the democratic environment in Kuwait.

In order to evaluate the democratic environment in the State of Kuwait, the Commission initiated a general observation process of what election authorities and other candidates published in the media and on social media, and measured their alignment with applicable laws and regulations as well as relevant international technical standards.

Following are the key observations regarding the National Assembly elections:

First: general observations regarding the election season

1.The Independent Electoral Commission:

Ever since the Constitutional Court revoked the legislative decree No. 21/2012 on the establishment of the High National Election Commission which supervised the elections and the organization of electoral campaigns, in coordination with the relevant governmental and non-governmental agencies, the administration of the electoral process remained the same, that is: a shared process among the Ministries of Justice, Interior, Information and Kuwait Municipality. This resulted in some election administration shortcomings, including:

- 1.Unclear justifications behind barring some candidates from running for elections, in addition to the absence of debate on the constitutionality of Law No. 27/2016, also dubbed “the offender law”, which amended the provisions of Law No. 35/1962 on the National Assembly elections.
- 2.The lack of campaign organization and the absence of monitoring of the offending electoral speech and the required permits.
- 3.The delay in announcing the detailed final results, in addition to a series of problems that marred the vote counting and compilation process (fourth and second districts).

It is worth noting that KTS has submitted to His Highness the Prime Minister suggestions regarding the Independent Electoral Commission, which could have prevented all the above-mentioned shortcomings. We hope that this initiative will be adopted to advance the democratic process in Kuwait.

2. High Judicial Committee for Election Supervision:

As has always been the case, the Minister of Justice and Minister of Religious Endowments and Islamic Affairs Dr. Amer Al-Ratam issued a ministerial decision to form the advisory committee for the supervision of the National Assembly elections, headed by Counselor Younes Alyassin, with the membership of Counselors Ishak Al-kandery, Sultan Boujarwa, Adel Al-Dosary, and Abdel Salam Buaijan. The committee shall establish and create the main, original and sub-committees overseeing the electoral process. The council also approved the nomination of the First Public Attorney at the Public Prosecution, Judge Badr Al-Masaad to head the candidates' application vetting committee and make sure they all meet the requirements. Other members of the committee shall include

formal State actors, including the departments of Investigation, Fatwa, Forensics and Elections.

Additionally, KTS has visited the acting head of the Supreme Council of Justice, Judge Adel Boursaly, in order to discuss granting permission to KTS team, to observe the parliamentary election and verify it is on the right course. The Judicial Committee for Election Supervision cooperated with KTS's local team of volunteers, allowing them into the electoral commissions, and to monitor the voting and counting processes.

3. Electoral Corruption Reporting Mechanism:

Since the revocation of the Supreme National Committee for Elections, which used to receive reports on electoral crimes and violations, the responsibility of receiving the reports befell again on the Ministry of Interior. The Ministry announced the launch of a hotline dedicated to receiving reports of election violations. It did not, however, designate centers in each district to receive such reports and refrained from cooperating with civil society organizations pursuant to the cabinet's decision. The Commission, however, commends the exceptional role of the Security Information Department concerning its immediate response to all the Commission's observations.

4. Vote-buying:

Law number 35/1962 on the National Assembly elections penalizes vote-buying, which is one of the most heinous electoral violations, with imprisonment for no more than 5 years and a fine ranging between two thousand dinars as a minimum and five thousand dinars as a maximum, or either one of the two penalties.

Online media shared information on arresting a number of vote-buyers in the second and fifth districts. The culprits and their collaborators have then been referred for prosecution.

Kuwait Transparency Society, through the National Commission for Democracy, values the efforts of law enforcement agencies in addressing these issues, and calls for the establishment of real guarantees that would consolidate the neutrality of the said procedures, to make them public, transparent, and participatory in collaboration with the civil society.

In general, the current model of delimiting large districts, along with the “one-person, one-vote” system, facilitates the spread of vote-buying and increases the burden of tracing this crime on the Ministry of Interior.

5. Opinion Polls:

The impact of opinion polls on expected winners in the 5 districts decreased in these elections. This followed a statement by the Ministry of Information in which it enforced its legal mandate, according to Law No. 8/2016 on regulating electronic media, and Law No. 61/2007 on the organization of audio-visual media, to restore the professionalism of this sector that had turned into a business.

6. Electoral Speech:

The geographical distribution of electoral districts, in addition to the electoral system that encourages individual candidates, has led, one way or another, to the surge of sectarian and tribal narratives. On the other hand, the number of campaign offices in these elections also decreased. In an unprecedented move, 3 MPs of the 2020 and 2022 parliaments- Abdullah Al-Mudhaf in the first district, Mohalhal Al-Mudhaf and Mohannad Al-Sayer in the 3rd district- in addition to MP Abdul Karim Al-Kendary of the 2013, 2016, 2020 and 2022 parliaments,

issued a joint statement on May 1st, stating that they were going to run for the 2023 National Assembly elections without a campaign office. A few days later, they were joined by veteran MP Hassan Jawhar, who announced he was running for the elections through his official twitter account.

It was also noted that the candidates had limited themselves to giving flimsy promises of change and serving the public interest without proposing any realistic mechanisms or tools for real solutions or programs, or clarifying their feasibility at the close and medium range. This is due to the single-vote electoral system and uneven districting.

Instead of targeting the minds, most of the promises delivered used slogans targeting voters' emotions and alignments, and hence nurturing populism, especially among the opposition candidates.

7. The role of Civil Society Organizations

The Council of Ministers' call for a number of public welfare societies to observe the electoral process was well-received among the observers. This enhanced transparency and further contributed to the integrity of the electoral process.

However, the Council of Ministers' decision to ban KTS from hosting an international team was not a wise call, considering this initiative had the potential to develop the democratic institutional system and experience- sharing between local and international organizations, which could improve Kuwait's position in the relevant international rankings.

Nevertheless, KTS did host 2 international experts from Tunisia's Mourakiboun and the National Democratic Institute in order to observe and assess the electoral process according to international standards.

The Commission reiterates its calls for the legislative and executive authorities to amend the Kuwaiti legislation, in order to grant civil society organizations the mandate to effectively oversee the electoral process, based on a clear and explicit legal text, which could establish an environment for continuous assessment and rectifications of any flaws.

Second: General Observations on Election Day

The Electoral Landscape:

His Highness's speech was met with significant response, in light of its positivity and insistence on national reform and governance of the three authorities. Indeed, it vowed to "issue a series of due political and legal reforms, to move the State towards a new phase of discipline and legal reference".

On Tuesday June 6, 2023, a usual working day, male and female voters swarmed the polling centers since the first hours of the election day. The authorities have, however, declared it an official holiday dedicated to carrying out the elections. The Kuwaiti people, this time too, hope that these elections shall establish political stability between the government and the parliament, and help end the consecutive crises of the last few years.

Weak Representation of Women:

Women's participation in these elections was poor. Only 13 women in all five districts have taken on the challenge of maintaining women's representation under the parliament dome. 4 women ran in the fourth district, 6 in the second and third districts- i.e. 3 candidates in each one-, 2 candidates in the first district, and 1 in the fifth. Interestingly, the number of female voters exceeded the number of male voters according to the voters' lists, with 407148 female voters (51.3%) and 386741 male voters (48.7%).

Third: The Role of Governmental Agencies in Organizing the Electoral Process:

Many governmental agencies were involved in the management of the electoral process, starting by the Ministry of Interior, in addition to the Ministries of Health, Information, Justice, Education, and the Kuwait Municipality, among others. Following are the most important observations:

1.The Ministry of Interior:

Being the primary concerned party responsible for these elections in particular, the Ministry of Interior played, through its staff, a distinguished role. They organized the elections since the wee hours of the morning until the end of the count and announcement of results. But despite the heavy presence of the Ministry of Interior representatives, the candidates' delegates were observed in the polling stations serving drinks and food. Candidates' pictures were placed on the tables as a kind of election propaganda without them being removed.

2. The Kuwait Municipality:

When registering candidates, it was noticed that there was no representative of the Kuwait Municipality in the election administration process. This made it difficult for candidates to follow the electoral procedures related to permits of campaign offices and electoral advertisement. It is worth mentioning that the Municipality launched its services through the one-shop government application for electronic services (Sahel) in order to achieve the State's goal to digitize services.

3. The Ministry of Information

Through its official channels and social media accounts, the Ministry of Information undertook the task of covering daily news related to the National Assembly elections. It was clear that there was a plan to formulate general policies based on the speech of His Highness the Crown Prince, Sheikh Mishaal Al-Ahmad Al-Jaber Al-Sabah, on behalf of His Highness the Emir of the country, Sheikh Nawaf Al-Ahmad Al-Jaber Al-Sabah. These were scheduled to be disseminated through televised political programs, prints and publications, and during commercial breaks. The plan also supposed the creation of teams tasked with monitoring the violations of the Ministry of Information's rules, especially those pertaining to the electoral silence.

The Ministry called the candidates to register their electoral program at the Ministry to be broadcasted on television. We value the Ministry's call as it aligns with the international standards of the official media role, and meets the standards of neutrality and transparency. Additionally, the Ministry shutdown rating and analytical election programs which could influence voters' opinions, without a clear mechanism to verify the information.

Recommendations:

To make an improvement, democracy in Kuwait in general, and the electoral process management in particular, require a number of legislations and policies. Such a responsibility should be shouldered by the National Assembly and the Council of Ministers in the near future, including:

1. Working on issuing the “General Authority for Democracy” law, which shall have the mandate of: general election management, including monitoring electoral spending, electoral advertising and media, voting for residents outside of Kuwait, vote counting, community participation, opinion polls, electoral silence, in addition to spreading democratic culture.
2. Reviewing the redistricting system and voting mechanisms to advance justice. Revisiting individual and collective candidacy system in order to strengthen citizenship and communication for the purpose of achieving development.

3. Striving to promulgate a law guaranteeing the civil society organizations' right to observe the electoral process as a human right established in the international instruments, conventions, and standards, in addition to strengthening the neutrality and transparency of the electoral process.
4. Working on enacting the Political Group Law which regulates their work according to conditions and limitations governing their establishment, instead of the secrecy that presently shrouds their activities. The law shall also regulate their rights and obligations, their financial affairs, transparency of their sources and banks, in line with the constitution.

5. Amending the National Assembly Election Law No 35/1962 to include:

- Regulating the right of vote for Kuwaitis in pretrial detention or those imprisoned in cases that do not lead to their disenfranchisement.
- Providing a better service to ensure the participation of persons with disabilities, the elderly, and patients.
- Specifying standards of candidate disqualification, the time required, and the procedures to challenge such a decision.
- Imposing harsher penalties on election violations, especially in cases related to by-elections and vote-buying, and taking measures up to disqualifying the win of candidates who committed these violations.

The End