

PECIFYING THE ECONOMIC SYSTEM IN
THE KUWAITI CONSTITUTION AND ITS

POSITION FROM THE INDIVIDUAL AND SOCIALIST DOCTRINES

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Abstract :

The objective of this research is to identify whether the provisions in the Kuwaiti constitution, which have dealt with the economic system, were influenced by the individual and socialist doctrines or not? In order to achieve our objective, we ought to study these two doctrines; to examine the provisions of the Kuwaiti constitution and to which extend these economical doctrines have an effect on the Kuwaiti constitutional legislator; and then to identify the key features of the economic system in the Kuwaiti constitution in order to define its position in relation to the general theory of constitutional law and the political system.



تحديد النظام الاقتصادي في الدستور الكويتي وموقعه من المذهبين الفردي والاشتراكي

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المخلص:

إن الهدف من هذا البحث هو تشخيص ما إذا كانت نصوص الدستور الكويتي التي تعاملت مع النظام الاقتصادي متأثرة بالمذهب الفردي أو الاشتراكي أم لا؟ ولأجل الوصول إلى هذا الهدف علينا دراسة هذين المبدئين ومن ثم تدقيق نصوص الدستور الكويتي لنرى إلى أي مدى كان تأثير هذين المذهبين الاقتصاديين على المشرع الكويتي . وبعدها تشخيص خصائص النظام الاقتصادي الرئيسة في الدستور الكويتي وتحديد موقعه وعلاقته في النظرية العامة للقانون الدستوري والنظام السياسي .

Introduction:

The historical factors played an important role in the development of a distinctive constitutional settlement in Kuwait; there were some ground rules applicable to resolving conflicts among the people and organising their relationship with state. These rules were the principle of consensus, Islamic Shari'a law, customary basis and the principle of justice. These rules have its impact on the formulation of the constitution of 1962, which has to depend on sources such as the constitutional document and its complementary laws; constitutional conventions; explanatory memorandum for the constitution, which illustrates the meaning of the text in the constitution and what the constitutional legislator meant by it, and constitutional court jurisdictions, which were considered the basis of the constitution in cases where there were no constitutional text to regulate them. All these sources have made Kuwaiti constitutional law distinctive and different. Also there is a characteristic in the features of the Kuwaiti constitution, such as, some of established conventions bases existed alongside the written constitution, because the Kuwaiti Constitution was presented relatively recently; it also is based upon the realities of the country and the nature of its Arabic and Islamic Heritage. But, how about the sources of the economic system in the Kuwaiti constitution are they the same of these sources or not?

However, the objective of this research is to identify whether the provisions in the Kuwaiti constitution, which have dealt with the economic system, were influenced by the



individual and socialist doctrines or not? In order to achieve our objective, we ought to study these two doctrines; to examine the provisions of the Kuwaiti constitution and to which extend these economical doctrines have an effect on the Kuwaiti constitutional legislator; and then to identify the key features of the economic system in the Kuwaiti constitution in order to define its position in relation to the general theory of constitutional law and the political system. However, this study has divided to introduction and three sections; the first section deals with the economical doctrines (free individual enterprise and socialist). The second section examines the practical applications of individual and social doctrines. The third section studies the provisions of the Kuwaiti constitution and identifies the economical doctrine adopted by the constitution.

SECTION ONE

The Economic doctrines

It is useful to have a brief look at the economic doctrines prevailing at the time the Kuwaiti Constitution was legislated. Study these economic doctrines would able us to judge whether the Kuwaiti Constitution was influenced by these economic doctrines or not? We study these economic doctrines as follows:

1. Free Individual Enterprise¹

This doctrine is based on raising an individual's value to the highest level and enabling him to attain a high social order. Those who advocate this doctrine see the individual as the basis of society and as the first cell within it. Thus, the state

endeavours to make the individual happy by preserving his freedom and rights; nor should the state intervene in his affairs. Its job is to maintain the safety of the state and defend it from any outside danger through its army, to keep security and stability and safeguard justice through its judiciary. Economic activity, however, is a free field, and the state authorities will not intervene or regulate it but will leave the individual to move through it. Here, state intervention is regarded as harmful on its own and is considered to weaken individual creativity and degrade the main motivator which is the basic director of economic activity.²

In ١٧٧٦, Adam Smith and the Manchester School defended this doctrine of individualism. The French Revolution of 1789 was also impressed by this notion of individual spirit, which clearly showed its influence in the French Declaration of Human and Citizen Rights in 1789.³ This system is based upon fundamental principles, one of which is the private property principle; this is considered to be one of the main bases on which this doctrine is based.⁴ This would motivate a proprietor to use his property for future growth and consequently to increase economic activity and productive capacity.

For this, Article 2 of the French Declaration of Human and Citizen Rights considered private ownership to be an individual's natural right, placing it before the right to security and resistance to injustice. The Declaration also gave the right of property ownership more credence than rights to freedom and equality, describing it in Article 17 as a divine



right and not viable for destruction.⁵ On 18 March 1793, the French revolution issued a decree calling for the execution of anyone who demanded the distribution of land and property.⁶ This shows the value given to private property by those who advocated the doctrine of private enterprise and who did not differentiate between consumable ownership (such as houses, carriages, etc.) and ownership of capital or production facilities (such as factories, natural resources etc.).

Furthermore, Free Individual Enterprise considered the principle of private enterprise or free profession to be the second basis on which the individualist doctrine is based. This, in fact, is the freedom of founding and establishing economic projects with whatever is involved in running and regulating such enterprises, including setting workers' wages without the intervention of the state. In other words, business people had the right to run their own affairs in their factories in any way they saw fit.

The advocates of this doctrine consider that the relationship between workers and factory owners ought to be left to the principle of desire and freedom of contract, which helps both sides to reach to a kind of balance, thereby giving better situations. This is due to their interests being inter-related and to the fact that harm which affects business people through workers' demands will inevitably lead to harm of the work itself.

2. Socialist Doctrine:⁷

The English philosopher St. Simon (1760-1825) was the first to present the ideology of socialism in modern times. He also called for individual or private property to be cancelled,



along with the laws of inheritance and exploitation of the workers and for the state to establish productive facilities and to work on the regulating and distribution of work. Though Karl Marx and his colleague Engels published their Communist Declaration in 1848, which embodied 'scientific socialism' by giving socialism its scientific meanings and formulating scientific doctrines that relied on dialectic and evidence, socialism had also been called for in ancient China by the philosophers of the time (Confucius), by the Greeks, the Romans and even in the Islamic era. Between the 1940s and 1980s, and before the demise of the Soviet Union, there were many states in Eastern Europe, the Far East, Latin America, Africa, and the Arab states, which adopted a socialism based on the ideologies of Marx and Engels from the 1800s and of Lenin and Stalin from the 1900s, and known respectively as Marxism or scientific socialism.

To illustrating the essence of this philosophy, the basic points on which scientific socialism was based should be clarified, as follows:⁸

1. The Social Aspect: advocates of this doctrine see that the development of any society is prone to action and reaction among its constitutional elements. Marxism distinguished between two constitutional elements, which are:
 - a. fundamental elements (Infrastructure – like manufacture, production facilities, private ownership, buildings, roads, transports etc.). These main essential elements define the basic lines for social development.

b. secondary elements (Superstructure – like political systems, laws, religion, beliefs, ideology, etc.). These elements express the meaning or essence of the overall controlling system.

Here it can be seen that these secondary elements are the ones controlling the fundamental elements and opening the way for real development. Thus society is either in a period of organizing or in a period of revolution. From this, one can deduce that the revolutionary aspect would be active in changing the secondary elements if these elements were not fulfilling the necessary conditions for the conscience and aspirations of the society.

The French revolution of 1789 changed the secondary element of French society, which was controlled by the bourgeois class.⁹ Therefore, it can be said that in any society in which there is a controlling class and a controlled class, the former will impose its wishes and its ideology on the latter. From this it can be assumed that in its economic and financial aspects, the overall ideology in any society belongs to the controlling class. Here, the material element is the one that defines the components and the development of the moral element in human society. These moral manifestations find their basis in the material features of the society. For this reason, theorists believe that all moral ideas are embodied in the sociological frame (e.g., behaviours, legal systems, religion, arts and literature), all of which are subjected to the material world.



Marxists say that people's principles are not what define their existence; it is their social existence that defines their principles.¹⁰ Furthermore, Marxism sees that historical contexts were all subjected directly to dialectical materialism; hence, historical analysis itself is subjected to material arguments.¹¹

2. The Economic Aspect: In his time Karl Marx analysed the economic reasons for class struggle, regarding private ownership of manufacturing and economic monopoly as the main factors for the struggle between the classes. Marxists believed that every political ideology was initially a means of fighting injustice and persecution; thus, the salient attributes of any ideology are defined through their interpretations of injustice and analysis of persecution. They also saw that in the first instance injustice was an economic injustice, resulting from its structural apparatus in manufacturing and private ownership. Meanwhile, the liberals saw injustice, in the first place, to be a political injustice resulting from the aristocratic and monarchic structure of the state.

In every society two classes appeared. The first represented a group of people owning private enterprise for production and the second was the general public of workers and farmers who did not own anything apart from their own human efforts. As this latter public class did not have the means to enable its efforts to be productive, it was therefore subjected to the power of the former class. Here, the Marxists indicated that this class had been legitimised through Free

Individual Enterprise, i.e., by its individual ownership of the whole public sphere since it possessed all the productive machinery. Thus, this private enterprise system enabled the abuse of man by his fellow man and led to the class struggle between exploited labour and the business or factory owners (capitalists). Such a struggle was, in fact, the first motivator for the historical processes through which all other such struggles were initiated. For this reason, the *Communist Manifesto* of 1848 stated: “The history of each society till our present time is that history of struggles between classes.”¹²

Finally, the Marxists saw that collective ownership of productive means was the only way to liberate man from injustice and exploitation, and to enable him to practise true freedoms by satisfying his needs and setting a limit to the everlasting struggle between the classes.

3. The Political Aspect: Marxists saw that in a society based upon the private ownership of productive means (capitalists), the state was nothing but an instrument of subversion serving the economically monopolising class. As this monopolising class is small in number, to safeguard its privileges against the larger workforce numbers, it utilizes an oppressive police regime to control the exploited class. According to Lenin, the state becomes “an instrument made to safeguard the complete control of one class upon another.”¹³ In this case it could be deduced that the capitalist state is nothing but a political organization of the commercial controlling class and an instrument of oppression serving this class and used in controlling the dispossessed class for the sake of its exploitation. Marxists also saw that the struggle between the

classes would inevitably end in a revolutionary explosion that would bring down the capitalists and lead to the victory of the impoverished class, which would take over the state apparatus and direct it towards a just socialist society by installing scientific socialism. This would discard exploitation and the class system by bringing in collective ownership of the means of production, and eliminating all forms of private ownership, thus making the state a tool in building socialism.

A socialist society would be a collective society; it would regard collective interests and values to be the main concern, whose economic objective was to satisfy collective needs and not to make profits. In this society, the collective wishes and aspirations of its planning apparatus would replace the notion of a market economy, and the basis for the theory of distribution would be “for each according to his needs and from each according to his abilities.”¹⁴ Achievement of this socialist, collective, and just society would necessitate a transitional stage, during which the enemies of socialism would be obliterated, and the poor class would be educated and made aware of the importance of socialism and how to preserve its gains. From this appeared the idea of a revolutionary or proletarian dictatorship, which would remove all obstacles impeding the accomplishment of freedom, fraternity and justice among the people.

Marxists believed this stage of dictatorship was in fact a transitional and temporary stage, and that when collective ownership led to replacement of the private ownership of

productive means, removal of classes, and the end of exploitation among people, all this would negate the various kinds of injustice, oppression and inequality. All forms of poverty and dispossessions would also disappear, and wealth would be distributed to all individuals, according to his/her needs. The socialist society would achieve a state of stability without the need for any proletariat dictator, and hence would enter the communist realm at its highest developed stage. In this stage, the nature of man would change as he started to realize his duties in achieving the required services, and his performance would be creative and productive in subverting the notion of profits.

This state of affairs would cause the state apparatus lose its reason for existing because of the absence of oppression and injustice. Its gradual disappearance would be replaced with a arrangement that would be protected by collective living and that would be similar to the behaviours and traditions by which man had lived in primitive times. All this would be accomplished because of the enormous transformation and development that would appear in the minds and visions of individuals following the removal of class struggle and notions of oppression and dispossession.

SECTION TWO

Practical Applications of Individual doctrine and Socialist doctrine

The implementation of such doctrines has differed from one country to another according to their circumstances and



to the extent of their social, economic and political development. Socialist implementation in Russia¹⁵ was not the same as that implemented in China,¹⁶ or in other popular democratic countries¹⁷ or in Cuba.¹⁸

However, the socialist parties in Western Europe see that the accomplishment of socialism can come through democratic development rather than through the path of revolution envisaged by the Marxists. The wining of general elections, obtaining party majorities in Parliament, and then changing society through the process of law is seen as a better way for the socialist process. In this style of socialist process, the Western European Socialist has transformed the idea of class struggle into a democratic struggle between political parties to reach power, and violent revolution has altered to become social revolution and change through the provisions of the law. This process of socialism has been termed Democratic Socialism.¹⁹

Liberals have accepted that freedom practices mean that individuals will need certain standards of living and education. This is why ideas of social and economic rights have developed, even in capitalist societies, and have influenced the doctrine of the individual from which the modern school of “neo-liberalism” appeared. This school sees democracy as a political and individual doctrine based upon the principle of freedom and equality before the law. This idea is also seen as philosophical in the way it deals with all facets of activity in life, and considers the political field to be like the social and economic fields. This doctrine



has been developed in recent years in most capitalist countries, who have in practice formulated social and economic rights in their constitutions, as well as individual political freedoms and traditional rights, which are assured by the State through its positive intervention.²⁰ Liberal societies accept that the State assures individual social and economic rights such as education dissemination, employment regulation, and so on, and needs within these societies have also necessitated State intervention in planning and directing the State economy. Such State intervention in the economic sector has in a way made the State embark upon huge and important projects that have resulted in expansion of this general sector. Here, the mixed economy appears,²¹ in which features of both capitalist and social economies exist, although the principle of State intervention contradicted the principles of traditional individual doctrine.

Meanwhile, Third World countries hesitated over whether to take up the individual doctrine or the Marxist doctrine, some though tried to take up a doctrine particular to their own environment and social reality. Among them were some Arab countries, such as Egypt, Iraq, Algeria, Yemen and Syria, which tried to formulate socialism with characteristics and attributes compatible to their values and their social environments.²² For example they spoke in their Constitutions of their belief in God and His heavenly messages, and explained that their socialism had in its roots in Islam. They also considered their socialism as an extension of Arab nationalism, recognized private ownership, and sought peaceful solutions to class segregation.

In seeking to achieve their social societies, these countries applied several methods, such as expanding private ownership in agriculture through agricultural reform systems, attempting to create a large general public sector, and bringing a large part of the means of production under collective ownership. They also tried to nationalize capital investments and re-distribute income and employment through the cooperative system.

Those who formulated the Kuwaiti Constitution tried to select from all these economic doctrines what fitted and what was compatible with the Kuwaiti political, economic, and social environment, as is discussed in the following section.

SECTION THREE

The Economical Doctrine adopted by the Kuwaiti Constitution

Kuwaiti Constitution stated, that the “Property, capital and work are fundamental constituents of the social structure of the State and of the national wealth. They are all individual rights with a social function as regulated by law.”²³ The explanatory note for this article illustrated that its text defined Kuwaiti society through the social and economic trends that the contemporary world is still confronting. This text defined three fundamental bases for the society; each complementary to the others.²⁴ The first pillar was “ownership”, i.e. the right of the individual to own. This is a legal permission which in practice might not be realized in



any real ownership for all people, or which may be realized in practical terms in owning anything, whether big or small, and regardless of type or source. The second pillar was “Capital Investment” which means the right of the individual to save whatever he/she owns or to collect it and invest it for growth. Thus, all this property could be collected in the shape of “capital investment”. This is what defines and distinguishes western democracies from the earlier “people’s democracies” known in the Eastern bloc states. It was also complementary to the first aspect in preventing Kuwaiti society from deviating towards extreme socialist ideology.

However, the term “capital investment” does not mean a bad picture of an extreme capitalist or monopolist situation. Such a definition was no more than a deviation of a capitalist notion from its social message and this deviation was rebuffed by the Article, which made “work” the third pillar of society (for limiting the inflation of capitalism and its hegemony). In spite of these being individual rights it made each of these three pillars a social function regulated by law. This meant State protection of capital enterprise in a social framework without indulgence or hegemony or monopoly, all of which were rebuffed by the doctrine of social justice.²⁵

Article 16 states that such rights have a “social function”; it did not intend to limit ownership but it meant to regulate its function to the extent of serving the whole society together with the rights of owners. Social regulations for ownership have many features aimed at preventing harm to the interest of the whole, or the misuse of rights. Example of this are the imposition of costs or duties on investment for the benefit of

the State or the whole (the people), or the expropriation of property in the public interest, though only in circumstances specified by law and conditional on fair compensation. Article 18 of the Constitution states,

Private property is inviolable. No one shall be prevented from disposing of his property except within the limit of law. No property shall be expropriated except for the public benefit in the circumstances and manner specified by law, and on condition that just compensation is paid. Inheritance is a right governed by the Islamic Sharia.²⁶

When some states wish to limit private ownership, they usually stipulate special articles in their constitutions to confirm this limitation. This usually pertains to limiting private ownership of agricultural land in the State, which is considered to be the basis of the national economy. However, this is not the case in Kuwait,²⁷ since most Kuwaiti land is desert and agriculture land is restricted.

The Kuwaiti Constitution also stated in Article 19 that “General confiscation of the property of any person shall be prohibited. Confiscation of particular property as a penalty may not be inflicted except by a court judgment in the circumstances specified by law”.²⁸ In a way this has provided security for private ownership by prohibiting public



expropriation of property. The Constitution also permitted the establishment of capital and allowed its accumulation.²⁹

At the same time, some of the constitutional provisions indicate an attempt to limit the extremes of an individual doctrine through the addition of certain social principles and by including the idea of social justice within its principles. For example, despite making ownership and capitalism as private individual rights, the Constitution has made it a social function regulated by law (Article 16). This means that State patronage for ownership and capital frames them in a social context without the monopoly or exploitation that social justice rejects.³⁰ The Constitution also paid particular care to the value of work (employment) and made it one of the fundamental bases of the social fabric, limiting the hegemony of capitalism and its powers.³¹

The Constitution prohibited the private ownership of natural resources, as Article 21 states: “Natural resources and all revenues therefrom are the property of the State. It shall ensure their preservation and proper exploitation, due regard being given to the requirements of State security and the national economy.”³² Article 20 also adopted the principle of just cooperation between public and private activities, stating that, “the national economy shall be based on social justice. It is founded on fair co-operation between public and private activities...”³³ The explanatory note illustrated the meaning of ‘fair’ as meaning that public and private activities should not overrule each other; here justice is approximate and not an arithmetical balance or equal shares. The problem is left to the legislator within this

flexible and general definition. The State would intervene in every aspect in accordance with State requirements and with compatibility between general public and private interests...³⁴

In this way the Constitution adopted the idea of social justice and made it the foundation of the national economy.³⁵ To this extent, it also took up the notion of social democracy and admitted the social and economic rights of citizens alongside their political rights.

However, in addition of the right of ownership, the constitution pointed out the Rights with social and economic agenda; therefore, the Kuwaiti Constitution also contains in its texts the freedom to choose employment and form unions; however, the constitution states that “every Kuwaiti has the right to work and to choose the type of his work”³⁶; and it also states that there is “freedom to form associations and unions ... in accordance with the conditions and manner specified by law. No one may be compelled to join any association or union.”³⁷ The constitution in its provisions indicates that the right to work means that the individual should be able to choose employment without the authorities’ interference. Forced work is not acceptable in all its types. However, the wages and the working conditions must reach to an acceptable standard in order to comply with the proper contains of the right to work. Also, the free choice of employment cannot exist if the unemployed are not protected. However, the right to work can be considered as a

requirement for the safeguard against discrimination, the freedom of association and other economic and social rights of the employees. The Kuwaiti constitution also indicates that the right to constitute and join labour unions. The freedom to form association, are more important in some extent than the right to work principle. The right to constitute unions without the authorities' interference is fundamental principle of the international conventions such as the constitution of international labour organisation which was form 1919 and it was revive after World War II. However, the freedom of association is a civil and political right as well as a social and cultural right.

The Kuwaiti constitution also indicates the elements of social and economic democracy, which in some cases complied with the exception of the collective right of peoples to self-determination stated in the provisions of the covenants, and some references to the rights of trades unions in the covenant on economic, social and cultural rights,³⁸ all these rights lay_down in Bill are pronounced as individual rights. However, the rights of 'persons' belonging_to ethnic, religious and linguistic minorities,³⁹ and the rights of the economic, social and_cultural, all are pronounced as the rights of 'everyone'. Some time the collective rights have priority over the rights of individuals. Frequently, collective rights become to be state rights which may or may not reveal the interests of the majority.⁴⁰ However, collective rights are occasionally confounded with economic, social and cultural rights, but the concepts are relatively different because these rights are considered as rights of individuals. The Universal



Declaration of Human Rights states that ‘Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and protection against unemployment’.⁴¹ Nevertheless, these rights are not to trade unions or any other collectively; it is belong to individuals. Their inclusion in the declaration and later in the covenant on Economic, social and cultural Rights was another fundamental departure from conventional approaches. Therefore, the claims, that collective right have priority over the rights of the individual and the economic, social and cultural rights have priority over the rights of individuals, must be rejected.⁴² These rights frequently come into disagreement with the traditional civil and political rights but both types have the same values. Moreover, the democracy has to deal with these challenges in order to resolve such disagreements without affecting individual freedom.

However, the notion of traditional public freedoms was to a certain extent attached to the doctrine of free enterprise. Here the individual was considered to be the conserver of his rights and freedoms and the State was required to refrain from intervening in the rights of individuals or regulating their activities. Its duty was merely to defend the country from outside attacks and to safeguard security and order.⁴³

The idea of public rights was connected to the notion of the individual doctrine of equality, which did not extend beyond equality before the law. However, the adoption by the Kuwaiti Constitution of a reasonable individual doctrine



encouraged it to add other social and economic rights besides (traditional) political rights for individuals, i.e., the modern right to achieve social justice. The right are formulating the Constitution attempted to achieve this modern outlook on social justice in order to safeguard the citizen against economic power.

Here, the Constitution attempted to strike a balance between the public and private economies in order to achieve the social aims of tranquillity and prosperity for the people in accordance with its article which stated, that the national economy shall be based on social justice. It is founded on fair co-operation between public and private activities. Its aim shall be economic development, increase in productivity, improvement in the standard of living and achievement of prosperity for the citizen, all within the limits of the law.⁴⁴

In addition, as noted before, Article 16 stated that individual property has a social function and that the right of ownership was not absolute. The Constitution also stipulated that granting permission or a monopoly is allowed only through the law, as stated in Article 152, that no concession for exploitation of either a natural resource or a public service may be granted except by a law and for a limited period...,⁴⁵ while Article 153 stated, that no monopoly shall be granted except by law and for a limited period.⁴⁶ And as previously mentioned, Article 21 of the Constitution prohibits the private ownership of, and income from, natural resources; these are a property of the State, which will look after them and preserve their use in a proper manner.



The Constitution also regulated the position of the weak before the strong, by protecting tenants renting from proprietors and workers from business owners. This was achieved by regulating such relations in a social justice manner rather than according to offer and demand or through the principle of management power as called for by free enterprise doctrines. Article 22 states that relations between employers and employees and between landlords and tenants shall be regulated by law on economic principles, due regard being given to the rules of social justice.⁴⁷ The Constitution also stated that social justice was the basis of the national economy in production and in the raising of citizens' living standards.

In this regard, the Constitution contained texts prohibiting members of the National Assembly and Ministers from exploiting their positions to accumulate wealth. Article 121 prohibited National Assembly members from appointment to any company directorships or from participating in any contracts signed by the government and those companies; nor could they hire or purchase any public property, or to sell any of their property to government establishments, or bid for anything of this sort.⁴⁸ As Article 131 stated, that while the minister in office, should not hold any other public office or practise any profession or undertake any industrial, commercial or financial business, even indirectly. He also should not participate in any concession granted by the government or by public bodies or hold the ministerial post with membership of the board of directors of any company.

In addition to that, the minister should not buy or take on hire any property of the state even by public auction, nor shall he let, sell or barter any of his property to the government, during his ministerial period.⁴⁹

The Constitution also urged the State to encourage cooperation, savings and life assurances in order to regulate the positions of the economically weak. In Article 48 the Constitution stated the exemption of small incomes from duties, which would entail the exclusion of minimum income.⁵⁰ It also stated in Article 41 that work is a duty of every citizen necessitated by personal dignity and public good. The state shall endeavour to make it available to citizens and make its terms equitable.⁵¹ Article 42 said, "There shall be no forced labour except in the cases specified by law for national emergency and with just remuneration."⁵²

Articles in the Constitution pointed to the protection of citizens from social dangers, such as Article 11 states that the State ensures aid for citizens in old age, sickness or inability to work. It also provides them with services of social security, social aid and medical care.⁵³

Conclusion:

However, from the previous discussions one can arrive at the following conclusions:

1. Our identification and analysis of the provisions of the constitution and studying the economic doctrines, has outlined the position of the Kuwaiti Constitution with regard to contemporary economic doctrines and has also demonstrated its economic ideologies, which

indicate that it had adopted the individual doctrine, qualified by some socialist principles.

2. The adoption by the Kuwaiti Constitution of a reasonable individual doctrine encouraged it to add other social and economic rights besides (traditional) political rights for individuals, i.e., the modern right to achieve social justice. Those formulating the Constitution attempted to achieve this modern outlook on social justice in order to safeguard the citizen against economic power. Here, the Constitution attempted to strike a balance between the public and private economies in order to achieve the social aims of tranquillity and prosperity for the people in accordance with the content of the constitutional articles.
3. Also, the Kuwaiti constitution states that the right to form and join trade unions is included in the freedom of association (article 43). This right has been dealt with in article 22-1 of the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights (article 23-4), and the International Covenant on Economic, Social and Cultural Right (article 8).
4. The Kuwaiti constitution states in article 11 that social and economic rights have been conceptually associated with the practically dealt with social security policies since the declaration of the constitution in 1962.

According to this article, the state ensures aid for citizens in old age, sickness, or inability to work. It also provides them with services of social security, social aid, and medical care. The content of this article is similar to article 22 of the Universal Declaration of Human Rights, which has shown that the framers of the article deliberately avoided defining a minimum core of the social and economic rights indispensable for the dignity and personal development of any individual. Thus, the definition of minimum entitlements to social and economic goods and services, and the corresponding obligations of the state and society to provide and secure these minimum entitlements, remain as major challenges to the human rights research and action-taking community.

5. The Kuwaiti constitution indicates in article 7 that justice, liberty, equality are the pillars of society; co-operation and mutual help are the firmest bonds between citizens. It also states the right to equal work (article 41), and the right to form and join labour unions, freedom of associations (43) and the right to work and to choose the type of his work (41). However, there is a similarity between these articles and article 23 of the Universal Declaration of Human Rights, which stated that the right to equal pay for equal work and the right to form and join labour unions, freedom of association, are to an even greater extent than the right to work principle products of modern thoughts. The right to form unions without

interference from the state is a basic principle of the Constitution of International Labour Organisation (ILO), which was formed in 1919.

Finally, this study a reasonable attempt to specify the economic system in the Kuwaiti constitution and I hope it dealt with most of the aspects which have connection with the topic

Notes

¹ Duverger, Maurice, *Institutos Politiques et Droit Constitutionnel*, Paris, T. 1-2, 1971, p.74 et seq.; Al-Jurif, T'ama, *Nadhariyat al-Dawlat*, Cairo: Maktabat al-Qahira al-Hadithat, 1973, pp.269 et seq.; Badawi, Tharwat, *Al-Qanoon al-Dustori wa Tatawir al-Indimat al-Siyassiyat fi Masir*, Cairo: Dar al-Nahdat al-Arabiyat, 1971, pp.310 et seq. and Layla, Muhammad Kamil, *Al-Nuzim al-Siyasiyat, al-Duwlal wal-Hukomat*, Beirut: Dar al-Nahdat al-Arabiyat, 1969, p.240.

²Duverger, *op cit*, pp.55 et seq.

³Duverger, M, *Constitutions et Documents Politiques*, Paris, 1960, pp. 3-4.

⁴ Al-Salih, 'Uthman, *Al-Nizam al-Dastury wal Mu`assat al-Siyassiyah fi al-kuwait* [Constitutional System and Political institutions in Kuwait], Kuwait: University of Kuwait Press, 1989, pp.251-252.

⁵ *Ibid*, p. 251 and Duverger, *op cit*, pp. 3-6.

⁶ Al-Salih, *ibid*.



⁷ For more details see: Hauriou, Andre, *Droit Constitutionnel et Institutions Politiques*, Paris, 1972, p.439 et seq.; Duverger, *Institutions Politiques et Droit Constitutionnel*, pp. 354 et seq.; Irsalan, Inwar Ahmed, *Al-Dimuqratiyat bian al-Fiker al-Fardi wal Fiker al-Ishtiraki*, Cairo: Dar al-Nahdha al-Arabiyyat, 1971, pp. 259 et seq.; Badawi, *op cit*, pp. 368 et seq. and Layla, *op cit*, p.581.

⁸ Al-Salih, *op cit*, pp. 254-260.

⁹ Hauriou, André, *op cit*, p.461.

¹⁰ For more details see: Graham, Keith, *Karl Marx, our contemporary: Social theory for a post-Leninist World*, Toronto: University of Toronto Press, 1992.

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¹² Quoted from Al-Salih, *op cit*, p. 258.

¹³ *Ibid.*

¹⁴ *Ibid*, p. 260.

¹⁵ Ponomarev, B. N. et al., *A short history of the communist party of the Soviet Union*, (trans. David Shvirsky), Moscow, Progress Publishers, 1970, pp. 235-307.

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²¹ *Ibid*, pp.58 et seq.

²² Ginat, Rami, *Egypt's Incomplete Revolution*, London: Frank Cass, 1997, pp.7-35 and Said, Abdel-Moghny, *Arab Socialism*, London: Blandford Press, 1972, pp.15-68.

²³ Kuwaiti Constitution: Article 16.

²⁴ Explanatory Note for the Constitution: explanation of Article 16.

²⁵ Explanatory Note for the Constitution: explanation of Article 16.

²⁶ Kuwaiti Constitution: Article 18.

²⁷ Explanatory Note for the Constitution: explanation of Articles 16 and 18.

²⁸ Kuwaiti Constitution: Article 19.

²⁹ Explanatory Note for the Constitution: explanation of Article 16.

³⁰ *Ibid*.

³¹ *Ibid*.



- ³² Kuwaiti Constitution: Article 21.
- ³³ Kuwaiti Constitution: Article 20.
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- ⁴² Ricoeur, Paul, op cit., p.63.
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