

Three Key characteristics in Kuwait legal system

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Legal systems does in deed, defer from each another due to the key elements that constitute the source of its roots and or surrounding circumstances during its growth, including but not limited to, political systems, culture , religion, and social norms.

Despite the above fact, the common feature of all legal systems is there existence are to maintain the rule of law on each single state or country, and for that reason each legal system find its own way to promulgate the regulation that reflects the needs of a said society according to its domestic requirement and conditions.

Focusing in the Kuwaiti legal system, one can observe the following Key characteristics, which may distinguish this legal system from other systems:

1- Adherence to constitutional document, with parliament supremacy :

Since 1921 Kuwait witnesses a strong movement towards a constitutional system, as a consequence Kuwait had introduced the first constitutional document, which calls for government rolled by the people. Soon after many elections took place between 1930- 1938, all of which electing institutions to govern beside the Amir of Kuwait.

In 1938 Kuwaiti people had elected the first parliament in their political life, which drafted the second modern constitution for the state, the source of power are entrusted in the hands of the people. This year also witness in few months later a full draft constitution that adopted a constitutional monarchy and aiming to the supremacy of the parliament, this draft never exist, but always counted as the third constitution for the country.

After gaining its full independence from Great Britain, Kuwait promptly in five months adopted its fourth constitution, which was only for a transitional period of one year, and in less than twelve months an elected Constituent Assembly drafted an adopted the current constitution which was ratified and issued by the Amir of Kuwait on November 1961, that introduced the existing legal and political system in Kuwait.

Since that date, Kuwait become a strongly known as an Adherent state to constitutional system, that lead to the supremacy of parliament, and people voice play an essential role in the legal system via the majority in the parliament.

2- Kuwaiti Laws are of demotic ingredients and international flavor.

As an open minded country, that has established an early relation with foreign countries, in different levels, commercially, culturally, and politically. Kuwait has enacted through it

parliament it laws without adhering to one single legal system.

Therefore, the Kuwaiti laws are driven from Islamic Shariah, civil law countries, as well as common law system. Consequently, it is true to say that it does indeed, combined between echoing the demotic needs and requirements, and responding to its international presence.

Kuwait has promulgated many unique laws that reflecting crucial Islamic Law principles, which does not exist in any other Arab states, such as Zakat house law, Zakat law, Institutionalizing the Awqaf (endowment) property management, Islamic tax law, and Islamic banking and Financial law. It also enacted law that benefited directly from USA, U.K., France and some Arab states in civil, commercial, criminal, and insurance laws.

3- Modern commercial and civil codes.

Due to the fact that Kuwait has substantial international trade relation, and as an important petroleum state, that played an advance role in oil industry, including its initiative to establish AOPIC.

The legislature, complying to the liberal economy state as stipulated by the constitution, continued to enact the most modern commercial and civil legislation, to maintain a legal system that would be attractive to international investor to do business in Kuwait.

In recent years, many arbitration laws and centers introduced to the legal systems as a further step to substantiate the above fact, some Arab countries, in turn adopted similar changes following the Kuwaiti example.