

# Kuwait's National Anti-Corruption Strategy

## Introduction

Regardless of which society we are dealing with, corruption undermines moral values, weakens the rule of law and undermines equality between citizens, which leads to social instability and poor and inadequate institutions. It has also an impact on the political life, in general, and democratic practices, in particular. Additionally, it disrupts the economic development process and seriously damages the credibility of economic reform calls.

The enhancement and promotion of transparency, integrity, good governance and anti-corruption policies, both in the public and private sectors and also in civil society organizations, is an essential pillar and a key criterion of good governance and an important indicator to measure capabilities and effectiveness in social, economic and political development and progress.

There is a consensus in Kuwait that corruption is widespread in society and this consensus includes the political leadership, governmental departments and agencies, the legislature, the private sector, civil society organizations and the public in general. If unchecked, this phenomenon will lead to ramifications and consequences that will damage the political, economic and social fabric of the Kuwaiti society. Therefore, concerted efforts are needed at all levels of the Kuwaiti society to fight this phenomenon and protect society from its devastating effects.

The first part of this paper deals with the issue of corruption and its various forms as well as the various causes behind the spread of corruption and its adverse effects on society. The second part briefly describes international anti-corruption efforts and compares the situation of corruption in Kuwait with other parts of the world. The last part of this paper outlines in detail Kuwait's national anti-corruption strategy.

## Corruption: its various forms, causes and effects

Corruption takes various shapes and forms, some of which involve the violation of laws, abuse of power and taking advantages of legal loopholes. Examples of corruption include favouritism, bribery - financial or in kind - nepotism, wasting and embezzling public monies, extortion, securing privileges and perks illegitimately and maintaining monopoly over basic commodities or services. There are many manifestations of corruption:

1. The government bidding system is based on obscure criteria and standards that do not encourage real competition and ensure the equality of opportunities.
2. Government appointments are made based on favouritism, nepotism or political loyalty at the expense of qualifications and the equality of opportunities.
3. Government officials unfairly distribute grants and benefits and assign spending priorities to certain groups based on tribal or regional considerations for political gain. They also waste public funds by unfairly awarding permits and licenses, land, exploitation rights and monopoly privileges to individuals or firms without real competition in order to please certain prominent figures in society or to make deals and exchange benefits or to take

commissions and kickbacks. This situation has an adverse effect on public funds allocated to development projects.

4. The abuse of public office for private political gain, such as buying off votes, using illegal election campaign funds, exercising undue influence on court decisions, buying the loyalty of individuals and groups or establishing coalitions with the rich and the powerful to achieve the goals of this small group at the expense of society at large.
5. Government-owned corporations and institutions and some civil society organizations are controlled by the relatives or the followers and supporters of power brokers who are politically and financially powerful people. The influence of this group dramatically increases at the expense of the rest of society.
6. The lack of transparency and the culture of secrecy in government operations and institutions as well as in many private and civil society organizations.
7. Media coverage focuses on certain issues and stories and lacks objectivity since media outlets or some journalists are in bed with corrupt individuals and entities in the government, the National Assembly (Majlis al-Umma), private sector or civil society organizations.
8. Some cooperatives and civil society organizations have abandoned their goals and missions.
9. Corruption is also apparent in some aspects of electoral processes and the corrupt practice of buying off votes is carried out both openly and secretly.
10. Coalitions are created between those who have political power and those who are financially powerful for private gain at the expense of the government and the public.
11. Appropriating public funds for projects intended to benefit a special lobby or for funding useless activities.

## **Why is corruption so widespread?**

Corruption can be attributed to many social, political, legal, administrative and economic factors.

1. **Political factors:** Obscure criteria and standards on which government officials are selected and the direct intervention of the state to support or oppose nominees. As a result, those who are appointed to high-level decision-making positions in the legislature and the executive branch tend to block any political and economic reform policies.
2. **Organizational, administrative and legal factors:**
  - i. Lack of implementing standards and requirements – such as integrity, qualifications, performance - for the selection of government officials, which affects the behaviour and approach of officials towards employees and the working environment.
  - ii. Inadequate government oversight bodies which are clearly not independent and the abuse of power by government officials.
  - iii. Lack of standards and written procedures for government operations and job descriptions for public servants in addition to the public and auditors' unfamiliarity with the laws, regulations and employment standards.
  - iv. Inadequate legal framework and lack of anti-corruption legislation and regulations that punish those involved in corruption, such as corruption criminalization laws, and the contradictions and discrepancies between the laws and the Constitution regarding civil liberties.

v. Inadequate equal and fair enforcement of laws or lack of serious preventive or punitive measures against those involved in corruption.

vi. Slow judicial procedures, inadequate enforcement of judicial decisions and ineffective legal framework that supports the work of courts and judges.

vii. Frequent use of overriding and discretionary powers by officials in their official duties, which makes the decision-making process erratic and whimsical.

viii. Low salaries of employees in certain institutions and some employees in the public service or equal financial benefits and occupational privileges regardless of the performance of employees.

ix. Inadequate, complex and overlapping management systems in the public service and the slow pace of public transactions and services, which opens a window of opportunity for corrupt employees.

x. Lack of training for public servants, particularly in the area of integrity and the prevention of abuse of power.

### **3. Economic factors:**

i. The monopoly of vital economic activities licenses by a small but politically influential group regardless of job performance and at the expense of fair competition.

ii. The weak commitment of the board of directors of some private firms to the principles of transparency and good governance regarding their shareholders, in particular, and society, in general.

iii. Lack of anti-corruption resources and programs.

iv. The entire reliance of citizens on the governments to meet all their needs leads to the assumption that there are rights without responsibilities.

v. Inaccurate economic indicators used to measure economic activities and performance.

vi. The government undertakes projects that can be delegated to the semi-private or private sectors with better results, taking into account the protection of workers' rights, protection against monopoly and securing a better taxation system, all with complete transparency.

### **4. Moral, ethical and social factors:**

i. Lack of religious and moral deterrence and inhibition among people involved in corruption.

ii. Inadequate family role and inadequate education curriculums and training to fight corruption.

- iii. Inadequate and biased civil society organizations and government performance auditing institutions.
- iv. Lack of transparency in the media and providing the public and stakeholders with inaccurate information.
- v. Combining a public service position with MP duties and private businesses, either directly or with the help of relatives or partners, which creates conflict of interests.
- vi. Weak commitment to reform principles, values and trends among group members, organizations and political coalitions.
- vii. Lax attitude of people towards corruption and their unwillingness to take it seriously.
- viii. The rise of consumerism and imitation among individuals creates an urgent need among people to increase their income by all means to satisfy this need.
- ix. Lack of credibility among journalists or their sources regarding their reports on financial markets and cases of inside trading.
- x. Lack of legislation that protects whistle-blowers.

## **Adverse effects of corruption**

Corruption has adverse effects on society at the social, economic and political levels.

### **1. Social and behavioural effects**

- i. Individuals feel frustrated and unconcerned. The lack of integrity and role models undermines moral values and affects the general behaviour of individuals, their attitudes towards life and their behaviour inside the family and society.
- ii. Lack of professionalism and work ethics, carelessness in job performance and recklessness in spending public monies.
- iii. The feeling of injustice among the majority of the population, which fuels hatred between social classes and creates a breeding ground for intellectual extremism and social violence.
- iv. Promoting family, tribal and religious intolerance to protect the interests of a few, due to divisions and inequality between citizens.

### **2. Political effects**

- i. Corruption in the electoral process directly affects the fairness of election results, which helps corrupt individuals not keen on serving public interest hold influential

positions (in parliament, municipal council, cooperatives, professional associations, sport clubs, etc.). The responsibility of parliament (National Assembly – Majlis al-Umma) and the Municipal Council and their members is to make decisive political, economic and social decisions; however, these members make crucial and decisive decisions that favour their immediate private and class interests without giving any consideration to public interest. The situation is worse when these decisions and laws are in effect for a long period of time. Their impact will continue until they are rescinded.

- ii. The unfairness of the electoral process, in part or in whole, undermines the trust of the electorate in the electoral system and discourages them from participating in the political life since their faith in fair representation and parliamentary duties has been lost.
- iii. Political corruption robs citizens of their rights and equal opportunities, undermines the democratic process and damages the reputation of the state abroad.

### **3. Economic effects**

Corruption has many economic impacts.

- i. It adversely affects the GDP per capita. Studies conducted on about 90% of countries in the world have shown that the losses resulting from corruption represent between 20% and 60% of GDP per capita in the developing countries.
- ii. Poor distribution of resources. Government resources are diverted to less important and productive economic sectors, which results in the waste of these resources, their ineffective use and eventually the drop in economic development rates.
- iii. Low productivity of employees due to their lack of commitment and their frustration amid an environment that encourages corruption, which leads to the deterioration of public services, an increase in the cost of service delivery and wasteful management of government resources.
- iv. Corruption creates a high-risk environment, forcing local capital to flee to other safer and less corrupt markets, which negatively affects economic development.
- v. The inability of the economy to attract foreign capital and investments due to the absence of a free competitive environment, which robs the economy of value-added productive projects. Foreign companies are reluctant or refuse to participate in major government bids due to the lack of fair and transparent competition rules and the fear of hidden costs.
- vi. Low economic performance due to unequal opportunities in economic activities, which are concentrated in the hands of a small but politically influential group regardless of their job performance.

## International anti-corruption efforts

Corruption is not a local issue. There is a consensus around the world that fighting corruption cannot be done at the national level alone. It requires international and regional efforts to contain this phenomenon and reduce its devastating effects on individuals and society. Sustained efforts were made to develop several anti-corruption agreements. Between 1995 and 2005, about 25 conventions, agreements and decisions were concluded at the international and regional levels concerning corruption, transparency and good governance, including:

- 1- United Nations Convention Against Corruption (UNCAC)
- 2- Inter-American Convention Against Corruption, adopted by the Organization of the American States on March 29, 1996
- 3- Convention on the Fight against Corruption involving officials of the European Communities or officials of Member States of the European Union, adopted by the European Union Commission on May 26, 1997
- 4- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted on November 21, 1997
- 5- Criminal Law Convention on Corruption, adopted by the Council of Europe's Committee of Ministers on January 27, 1999
- 6- Civil Law Convention on Corruption, adopted by the Council of Europe's Committee of Minister on November 4, 1999
- 7- African Union Convention of July 12, 2003.

These international and regional conventions seem to agree on the devastating effects of corruption and recognize, to varying degrees, the need to work together to implement the key principles and standards of fighting corruption to protect societies and individuals.

## Corruption in Kuwait

According to Transparency International's Global Corruption Report 2005, Kuwait's corruption index has deteriorated. In 2003, Kuwait was ranked 35<sup>th</sup> out of 133 countries with a score of 5.3. In 2004, Kuwait dropped to the 44<sup>th</sup> position out of 146 countries. In 2005, Kuwait slipped further and was ranked 45 out of 154 countries covered by the report, with a score of 4.7.

Transparency International's annual report noted the drop in Kuwait's global ranking from 46 to 60 in 2007 and 2008 respectively.

### 2007 and 2008 Corruption Perception Index, Middle East

Country	CPI Score 2008	International Rank 2008	Regional Rank 2008	CPI Score 2007	International Rank 2007
<b>Qatar</b>	6.5	28	1	2.0	32
<b>UAE</b>	5.9	35	2	5.7	34
<b>Oman</b>	5.5	41	3	4.7	53
<b>Bahrain</b>	5.4	43	4	5.0	46
<b>Jordan</b>	5.1	47	5	4.7	53
<b>Tunisia</b>	4.4	62	6	4.2	61
<b>Kuwait</b>	4.3	65	7	4.3	60
<b>Morocco</b>	3.5	80	8	3.5	72
<b>Saudi Arabia</b>	3.5	80	8	3.4	79

<b>Algeria</b>	3.2	92	10	3.0	99
<b>Djibouti</b>	3.0	102	11	2.9	105
<b>Lebanon</b>	3.0	102	11	3.0	99
<b>Egypt</b>	2.8	115	13	2.9	105
<b>Mauritania</b>	2.8	115	13	2.6	123
<b>Libya</b>	2.6	126	15	2.5	131
<b>Yemen</b>	2.3	141	16	2.5	131
<b>Syria</b>	2.1	147	17	2.4	138
<b>Sudan</b>	1.6	173	18	1.8	172
<b>Iraq</b>	1.3	178	19	1.5	178
<b>Somalia</b>	1.0	180	20	1.4	179

According to the World Bank Report May 2005, Kuwait's anti-corruption performance declined. It scored 76.4 out of 100 in 2004 compared to 83.3 in 2002. Kuwait scored 82.8 in the anti-corruption indicator in 1998, which means an 8.8 point drop between 1998 and 2004.

<b>International Country Rank</b>	<b>Regional Rank</b>	<b>Country</b>	<b>CPI Score 2008</b>	<b>Surveys Used</b>
28	1	<b>Qatar</b>	6.5	4
35	2	<b>UAE</b>	5.9	5
41	3	<b>Oman</b>	5.5	5
43	4	<b>Bahrain</b>	5.4	5
47	5	<b>Jordan</b>	5.1	7
62	6	<b>Tunisia</b>	4.4	6
65	7	<b>Kuwait</b>	4.3	5
80	8	<b>Morocco</b>	3.5	6
80	9	<b>Saudi Arabia</b>	3.5	5
92	10	<b>Algeria</b>	3.2	6
102	11	<b>Djibouti</b>	3.0	4
102	11	<b>Lebanon</b>	3.0	4
115	13	<b>Egypt</b>	2.8	6
115	13	<b>Mauritania</b>	2.8	7
126	15	<b>Libya</b>	2.6	5
141	16	<b>Yemen</b>	2.3	5
147	17	<b>Syria</b>	2.1	5
173	18	<b>Sudan</b>	1.6	6
178	19	<b>Iraq</b>	1.3	4
180	20	<b>Somalia</b>	1.0	4

According to the World Economic Forum's Global Competitiveness Report 2005, Kuwait ranked 55 out of 117 in the business cost of corruption index, with a score of 4.3 out of 7.0, which is below international average. As for the public service financial profiling, Kuwait was ranked 54 out of 117 countries, with a score of 5.3 out of 7, which is higher than international average. Kuwait Competitiveness Report indicated that out of 14 factors that hinder economic activities in Kuwait, the corruption factor came 4<sup>th</sup> in 2007-2008 and 3<sup>rd</sup> in 2008-2009.

After analysing the previous corruption reports, we can reach the following conclusions:

1. Kuwait's ranking in terms of corruption indicators, transparency and anti-corruption efforts is low compared to international rankings or compared to other Gulf countries or even some developing countries.
2. Corruption and anti-corruption efforts have deteriorated during the last few years. If we bear in mind that the above-mentioned indicators reflect direct (ostensible) corruption, the situation will be much worse if we take into consideration indirect and hidden corruption.
3. Extraordinary efforts are needed to address the current situation in Kuwait, including enhancing transparency. If things are left as they are now, the situation will get worse in the future (Kuwait's ranking dropped by almost 9% between 1998 and 2004 according to Transparency International). It certainly has an impact on political practices and adverse social effects on individuals and society at large, as well as the economic performance of the country as a result of the wasteful management of public monies.
4. The Kuwaiti constitution provides for the respect and safeguard of laws and public monies and the performance of public duties with integrity.
5. As a Muslim society, our sound religion prohibits us from wreaking havoc on earth and from stealing, abusing people's trust, taking advantage of others and lying, which are characteristics of corrupt practices.

Accordingly, Kuwait has to confront corruption with all its forms and uproot its causes and consequences. Given the complex nature of corruption and in order to achieve satisfactory results, it is imperative to develop an integral national anti-corruption strategy.

## **National anti-corruption strategy**

### **The vision, the message and the goals of the national anti-corruption strategy**

**The vision:** To create a society free of all forms of corruption

**The mission:** Fighting corruption to eradicate it from society and working place in Kuwait and eliminate its causes at the political, economic and social levels in the public and private sectors as well as in civil society and political groups in order to create, on a permanent basis, a prosperous Kuwaiti society, characterized by transparency, good governance and integrity, and where every individual and institution plays a role in society with responsibility.

### **Bases of the national anti-corruption strategy**

The national anti-corruption strategy is based on:

1. The principle of the rule of the law, promoting the equal and just enforcement of laws and regulations without any discrimination based on tribal affiliation, religion, origin, family or region.
2. An integral anti-corruption approach that addresses all forms of corruption, including economic, political, financial and administrative, while giving priority to fighting less



influential players and giving as much importance to direct (ostensible) corruption practices as to indirect (hidden) practices. Anti-corruption tools should be given priority in the government action plan.

3. The principle of good governance and sound management, clear and effective government decisions that focus on concrete objectives but should be flexible enough to meet the needs of society. Good governance is paramount in the public and private sectors as well in civil society organizations and political groups.
4. The principle of compatibility. The national anti-corruption strategy should be compatible with the nature, culture and environment of the local society without prejudice to the basic international anti-corruption principles described in the United Nations Conventions Against Corruption, signed by Kuwait on December 4, 2006 and other related international agreements.
5. The principle of effectiveness in fighting corruption, i.e. the strategy should rely on initiatives and measures capable of preventing corruption, monitoring corruption cases after they have occurred and constant assessment of the implementation results of the national anti-corruption strategy in accordance with specific benchmarks.
6. The principle of cooperation and cohesion and the highlighting of the moral factor in fighting corruption by working together with all concerned parties.
7. The strategy should be accepted by all society classes and their political representatives.

## **The components and the implementation tools of the national anti-corruption strategy**

### **1. Constant communication with the high-level political leadership in the state**

This could be done by creating a standing committee or group, made up of parliamentarians, public figures, unions and professional associations, including civil society organizations, whose aim is to maintain constant and organized dialogue and communication with the political leadership while highlighting the importance of integrity in all government activities and political economic and social spheres and explaining the dangerous effects of corruption on society, individuals, moral values and the reputation of Kuwait among the nations of the world.

### **2. Creating an independent oversight and inspection body**

It is of paramount importance to create an independent oversight and inspection body that has the appropriate legal mandate to investigate corruption cases by developing an effective, clear and fair system. The mandate of this body should include investigating cases, making decisions by referral to the judiciary and by having easy access to it. The role of such body should also include educating the public about corruption and its devastating effects and how to prevent corruption so that the public may support anti-corruption efforts. It is needless to say that such body should be independent and should be provided with:

a- Qualified personnel and experts and professional investigators, information technology technicians and computer, legal and management experts who meet the following requirements:

- High qualifications
- Fairness and excellent reputation
- Specialized training.

b- The body should have a just and fair investigation system and an efficient grievances system that would encourage the public to file complaints and would respond to these complaints within an effective judicial prosecution system.

c- The body should not hesitate to investigate any case of corruption, be it major or minor in accordance with an effective judicial prosecution system.

### **3. Creation of a judicial department or a specialized judicial body**

Since corruption cases are different from other civil, criminal or commercial cases and since they have serious and far-reaching consequences and effects on all individuals in society and involve the loss or waste of public funds, they require a specialized and trained judicial body so that these cases can be decided on in a fair and prompt manner that will help recover the lost public funds and assets, instil confidence and trust in the public and win their support for anti-corruption efforts.

### **4. Enacting and amending corruption-related laws and regulations**

#### **a. Enacting new laws and regulations**

i. enacting a law and regulations that enhance integrity and transparency and punish violators. The law and regulations should include:

- strict provisions for fighting bribery and favouritism among public sector players, private sector players and public servants and the abuse of power and the wasteful management of public funds
- The commitment of decision-makers to report conflicts of interest
- Preventing an official from making a decision if he/she is involved in a conflict of interest
- Declaring any gifts or benefits received from foreign sources
- Developing and implementing effective systems for punishment and reward
- Protecting whistle-blowers.

ii. Public servants financial accountability law

iii. Freedom of information law

iv. Anti-hacking and information protection laws

v. Competition protection and anti-monopoly law

vi. Privatization control law and the laws regarding the transfer of economic activities and institutions to the public sector or semi-public while taking into consideration the protection of employees, prevention of monopoly and the taxation system in a very transparent manner

- vii. Working together with the Chamber of Commerce and Industry and other professional trade organizations to develop a code of ethics
- viii. Development of codes of ethics by civil society organizations to conduct its activities
- ix. Kuwait's joining international and regional anti-corruption conventions and agreements on the exchange of information and corruption criminals
- x. Judiciary and prosecution litigation law.

**b. Enhancing some existing laws and regulations**

- i. Auditing Institution Law
- ii. Anti-laundry Law
- iii. Accounting Profession Law
- iv. Cooperatives Law
- v. Bidding Law
- vi. Taxation Law
- vii. Public Service Law
- viii. Reviewing government systems to control discretionary powers and inconsistent decisions.

**c. Strengthening and enhancing work in the bodies of the National Assembly (Majlis al-Umma) through:**

- i. Information systems
- ii. Experts and researchers
- ii. Using consultation and research firms.

**d. Enhancing and strengthening performance in governmental departments**

- i. Creation of service centres in ministries and government agencies that do not have them
- ii. Enhancement of service centres so that they may become the primary mechanism for service delivery
- iii. Developing a clear guideline between the requirements of each provided transaction and the time needed to complete it (standard procedures and rules)
- iv. Equal quality service for all clients
- v. Expanding electronic systems in the transactions and services provided to the public.

**5. Developing integral systems for complete transparency (standard procedures)**

To achieve equality and access to equal opportunities and to avoid abuse of power, it is imperative to develop transparent systems and standard procedures for the following services:

- Issuing permits in all government agencies
- Awarding PPP projects
- Awarding BOT projects and initiatives
- All forms of construction systems
- Distributing land, farms and industrial coupons
- Recruitment, promotion, transfer and secondment of employees in governmental departments
- Government procurement systems
- Systems to impose transparency in disclosure and governance on companies and board of directors

- Developing more liberal and less restrictive economic policies under existing or new laws
- Systems to impose transparency and disclosure in civil society organizations
- Financial and investment market trading systems.

## **6. Creation of a people's unit to monitor and follow-up the issue of corruption**

- i. A people's (non-governmental) unit should be created to monitor, collect and analyse data related to corruption cases in a professional, accurate and fair manner. The unit's activities should be credible.
- ii. Civil society organizations should participate in the creation of this unit, which should serve as a coordination, follow-up and secretarial unit for the national anti-corruption campaign.
- iii. The Unit should include a number of individuals dedicated to this cause, assisted by a group of volunteers who believe in the anti-corruption cause and who are fair and of good reputation.
- iv. The Unit should monitor the implementation program of the national anti-corruption strategy, namely the enactment of laws, the creation of specialized agencies, the effectiveness of advertising campaigns and the development of fair and effective regulations to implement the laws.
- v. The Unit should monitor the positions of the members of the National Assembly and the municipal council and officials elected for public and civil institutions towards corruption issues.
- vi. The Unit should regularly support information campaigns by publishing information in the media and organizing seminars and symposia and providing accurate information and updates to officials and concerned parties.
- vii. The Unit should have a support employee and a Secretary who works under the President of the national anti-corruption committee and who coordinates work among volunteer working groups:
  - a. Information and research group
  - b. Legal group
  - c. Communication and follow-up group
  - d. Media group

## **7. Implementing the program to educate and encourage the public to participate in anti-corruption activities and enhancing transparency**

- i. Implementing, on a continuous basis, an integral program to educate the public and employees in particular to explain the danger of corruption and its adverse effects on individuals and society
- ii. Conducting well-organized and professional education campaigns, including publications in the media, booklets, audio-visual material and the participation in seminars at schools, public interest associations and related conferences and inviting prominent and credible figures to participate in educational campaigns.
- iii. Educating the public through school curricula

iv. Enhancing political parliamentary accountability in parliamentary committees as a means to disclose facts and educate the public

v. Developing codes of ethics for journalists and media professionals.

### **Requirements for implementing the national anti-corruption strategy**

To implement its principles, policies and components, the national anti-corruption strategy requires:

1. The participation of individuals who believe in and are committed to the strategy and who can lead by example. They should include individuals from all walks of life, in particular:
  - i. Current and former elected members of legislative councils (Majlis al-Umma and the municipal council)
  - ii. Individuals and organizations from civil society
  - iii. Government leaders
  - iv. Media outlets and media professionals
  - v. Political groups and their members
  - vi. Unions and their members
  - vii. Students associations and their members.
2. Sufficient financial resources to fund the implementation of the strategy and its campaign. Funds can be obtained from grants openly provided by the state and the contributions of individuals, institutions and associations. A clear and transparent mechanism should be developed to regulate the collection, use and spending of these funds.