

Kuwait Paves the Road to Fighting Corruption

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Corruption is generally deemed one of the most eminent enemies of international trade. Where corruption runs unbridled, fair players are often prevented from accessing the market, leading to a diminished business climate, risking public trust and in expelling performance and quality. The international community has prioritised the focus on corruption in attempts to tackle this problem since the mid-1990s. Numerous policies have proliferated from the movement since, establishing 'anti-corruption' as a new, independent branch of law. At the summit of this composite regime are numerous international conventions that have been ratified by many of the world's leading industrial nations in a bid to 'combatting corruption'.

The World Economic Forum (WEF) released an annual corruption index as part of its Global Competitiveness Report . The findings are based on a WEF survey that interviewed nearly 15,000 business leaders from 141 economies from February to June. With an overall average of 4.6), Kuwait falls noticeably short in its financial market development, scoring 3.8; with low scores in both efficiency and market confidence. Corruption together with inefficient government bureaucracy were identified as the more problematic factors for doing business in Kuwait. Corruption has been a perpetual hindrance for businesses investing in the region, reducing market credibility and subsequently posing as a deterrent for investors. Informal monopolies and oligopolies exist; connections between the administration and private companies have often resulted in uneven market competition, not mentioning increasing inflation as a result of 'cover ups' and weakening economic development. It has been a lingering hope; particularly so, since the emergence of The Kuwait Direct Investment Promotion Authority (KDIPA) established in accordance with Law No. 116 of 2013, amongst the ever increasing foreign investment objectives dawning in the region, a more contemporary anti-corruption system has been almost imminent in Kuwait.

Public sector corruption in Kuwait has relapsed in the last year; according to Transparency International (the Berlin-based 'corruption watchdog'), Kuwait ranked 55 out of 167 countries in 2016, dropping it six places from last year's position at 49. A significant decline, in view of the fact that neighbouring Qatar and UAE saw remarkable improvements in this category.

Kuwaiti law has effectively criminalized identifiable corruption offences, but bribery, facilitation payments and giving and receiving gifts continue to be widespread in Kuwait despite being illegal.

Criminal sanctions have often been the chief weapon of choice employed in combating corruption, with the majority of international regulations containing central obligations for member states to punish payment of bribes and related crimes. The framework for anti-corruption law in Kuwait subsists mainly in the Penal Law 31/1970. This criminalizes passive and active bribery, attempted corruption, extortion, money laundering and abuse of office. The Law does not criminalize bribing a foreign official. The Anti-corruption and Wealth Disclosure Decree criminalizes the manipulation of public tenders and auctions, bribery, counterfeiting, forgery and graft. This decree incorporates articles on financial disclosure and money laundering, resulting in criminal penalties of up to seven years imprisonment for such dishonest practices. Under the Anti-Money Laundering and Combating the Financing of Terrorism Law, organized criminal groups and non-governmental organizations convicted of money-laundering can be imprisoned for up to 20 years.

However criminal law is not in itself enough. Last year saw the introduction of Kuwait Law No. 2/2016 concerning the establishment of a public authority for combating corruption, namely, The

Kuwait Anti-Corruption Authority. The primary function of this Authority is in establishing the principles of 'transparency' and 'integrity' in the application of the UN Convention for combating Corruption, approved by Law No. 47/2006. The Authority seeks to regulate and more efficiently manage domestic strategy in this field, and the Authority is empowered to enforce financial and asset disclosures. This is a positive step toward fighting corruption.

Supplementary to the developments in administering financial disclosures, the 2016 law also aims to create a protection programme for whistleblowers, and to raise awareness and knowledge of corruption and its effects. This is challenging given that certain customs adopted within the region are not considered as overtly 'corrupt', but part of traditional practice (such as elaborate gift giving).

The Authority aims to implement principles of transparency in two phases. Both short-term and long-term mechanisms elaborated by means of compliance criteria specifically aimed at providing programmed training and support, devising effective systems for internal review, by recommending the establishment of appropriate purchase systems and developing disciplinary procedures against violations.

The release of the implementing regulations of the Authority under Decree No. 77/ 2015 will serve as a starting point for the Authority to begin carrying out its mandated tasks. A key part of its task will be issuing guidelines for businesses, civil society organisations, educational institutions, the media and places of worship. The government is optimistic that by allowing the Authority to tackle acts of public corruption, it will effectively decrease the growing prevalence of bribery and corruption at government ministries and institutions, and work in conjunction with public organizations to enhance Kuwait's ranking on the Global Corruption Perception Index (CPI). In the critical stage of its macro-economic evolution, anti-corruption reforms may be considered somewhat peripheral to the more larger concerns in Kuwait; however, one must take an objective step back in an bid to grasp the widespread benefits of the anti-corruption movement- paving the road to transformation in all sectors within the region.