Kuwait

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QUICK FACTS

Legal forms of philanthropic organizations included in the law: Association, Nonprofit Companies, Foundations (private), Other: Mabra, similar to a trust but gives and takes donations

Five main social issues addressed by these organizations: Health and Medical Research, Religion, Energy, Human Rights, International Causes

Average time established by law to register a philanthropic organization: 0-30 days

Average cost for registering a philanthropic organization: US $0

The Associations Law does not impose registration fees.

Government levels primarily regulating the incorporation of philanthropic organizations: Central/Federal Government

Philanthropic Environment Scores:

<table>
<thead>
<tr>
<th>Year</th>
<th>Ease of Operating</th>
<th>Tax Incentives</th>
<th>Cross-Border Flows</th>
<th>Political Environment</th>
<th>Socio-Cultural Environment</th>
<th>OVERALL SCORE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>3.3</td>
<td>3.0</td>
<td>3.2</td>
<td>3.0</td>
<td>4.0</td>
<td>3.31</td>
</tr>
</tbody>
</table>
I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.

Question 1: To what extent can individuals form and incorporate the organizations defined?

Score: 3.0

The main law governing the formation of charitable organizations and institutions in Kuwait is the Public Benefit Associations Law. In accordance to Article 4 of the Public Benefit Associations Law, any group of no less than 50 persons may apply for the formation of a public benefit association to provide services or carry out social, cultural, religious, or sports activities on a voluntary basis without profit, and to manage charitable societies established in 2002. The founding member of the association is required to be a Kuwaiti citizen not less than 21 years of age and not have committed a breach of honor or any crime.

Incorporating associations and foundations requires the approval of the Ministry of Social Affairs. In accordance with Article 8 of the Public Benefit Associations Law, the application for registration of an association shall be submitted to the Ministry of Social Affairs and Labor pursuant to Ministerial Decree No. 61 of 2005.

The application shall be accompanied by:

A) Two copies of the articles of the association, approved by the founders;

B) A copy of the minutes of the meeting of the Constituent Assembly, in which the members of the Board of Directors were appointed;

C) Disclosure of the names of the members of the Board of Directors; and

D) A certificate of no objection to any of the founders from the Ministry of Interior.

The Public Benefit Associations Law does not require minimum capital requirements to register associations, nor does it impose registration fees. The registration of an association shall be considered at the request of the Ministry of Social Affairs and Labor within 30 days of its establishment.

The Ministry of Social Affairs and Labor may refuse to register an association within one month from the date of submission of the required documents, indicating the reasons for refusal. An association can file an appeal against a rejection or amendment with the Minister of Social Affairs and Labor or the committees it appoints; the rejection decision of these authorities is final and can only be appealed in court.
Question 2: To what extent are POs free to operate without excessive government interference?

The Ministry of Social Affairs and Labor has the right to send its representative to the General Assembly. This meeting is not legal unless the Ministry of Social Affairs and Labor is notified of the date and place of the Assembly at least fifteen days in advance.

Article 14 of the Public Benefit Associations Law specifies what the association must submit to the competent ministry with the invitation to the General Assembly:

A) Report of the Board of Directors;

B) The budget and most recent accountability report audited by an auditing office appointed by the association and legally recognized by the Ministry of Social Affairs and Labor;

C) Proposals of members submitted at the time specified by the Bylaws;

D) Minutes of the Election of the members of the Board of Directors; and

E) Draft budget for the following year, to be submitted to the Ministry of Social Affairs and Labor no later than one month after the end of the financial year of the association.

In accordance to Article 30 of the Public Benefit Associations Law, the association may not join or participate in any association based outside Kuwait before obtaining a license from the Ministry of Social Affairs and Labor. Organizations registered as public charities and non-charitable public benefit associations are considered to have public benefit status, and therefore allowed to raise public funds only if they have the approval of the Ministry of Social Affairs and Labor (Article 14 of the Ministerial Resolution 48/2015 on Regulation of Public Charities).

Question 3: To what extent is there government discretion in shutting down POs?

The Public Benefit Associations Law specifies cases in which the Assembly may be dissolved either by the General Assembly or by the Ministry of Social Affairs and Labor. Article 16, paragraph (e) establishes that the Extraordinary General Assembly can dissolve the association Article 28.

Article 27 of the Public Benefit Associations Law stipulates that the Ministry of Social Affairs and Labor may dissolve the society when:

A) Its membership has decreased to less than fifty members;

B) It deviates from its objectives or commits a serious violation of its Statutes;

C) It becomes unable to meet its financial obligations; or
D) It violates the provisions of the law.

The Public Benefit Associations Law, in the case of its dissolution, adjudicates the disposition of funds and documents only by a decision of the Ministry of Social Affairs and Labor.

II. Domestic Tax and Fiscal Issues

The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.

Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 3.0

The State of Kuwait does not have a tax system on income and therefore neither individuals nor corporations receive tax exemptions. However, Muslim owners and or shareholders of companies have to pay 1 percent zakat either to the government or to a nonprofit organization. The Ministry of Finance commits the shareholding companies to extract 1 percent of its annual net profits for charitable works. The money is submitted to the Ministry or directly to official governmental charities (Law No. 46 Concerning Zakat and contribution of Public and Closed Shareholding Companies in the State’s budget). According to the ICNL report on Kuwait (2016), the tax code does offer some tax deductions primarily available to foreign corporations for “philanthropic activities that the tax authority deems charitable, including donations made to the government” (p.15).

Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?

Score: 3.0

Since Kuwait does not have a tax system, donations received by an association, from either the Ministry of Social Affairs and Labor or persons, entities, wills, donations, donations or subsidies, are not subject to pay taxes. Not any other fees or payments substitute taxes on philanthropic organizations.
III. Cross-Border Philanthropic Flows

The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.

Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?

Score: 3.4

The Council of Ministers decision No. 867 of 2001 authorized the Central Bank of Kuwait to establish the mechanisms and necessary methods in order to monitor external financial transfers carried out by public benefit associations and public institutions for charitable activities. However, the Ministerial Resolution 48/2015 on Regulation of Public Charities establishes that “charitable societies may not receive or send any donations from or outside the State of Kuwait unless the prior written approval of the Ministry is obtained in coordination with the relevant governmental bodies” (Article 19). The decision Council of Ministers decision No. 867 also requires that associations obtain the approval of the Ministry of Foreign Affairs on any plans or programs proposed by the Assemblies to be implemented outside the country, according to an appropriate working mechanism to be agreed on by the Ministry and the associations.

Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?

Score: 3.0

Article 18 of the Public Benefit Associations Law specifies the income sources for donations and subsidies to associations. Article 19 obliges associations to deposit the money in its name in a Kuwaiti bank. Article 22 of the law allows associations to fundraise once a year to achieve their goals, complying with the conditions stipulated in the law.

The law does not prohibit associations from directly or indirectly receiving or collecting money or benefits in the form of contributions or subsidies of any kind from a person, association, or body based outside the State of Kuwait. However, the Ministry of Social Affairs and Labor must grant the permission.

The decision of the Council of Ministers, in resolution No. (867) of 2001, requires all associations to include in their general budgets all revenues and expenses of their affiliates.
IV. Political and Governance Environment

The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.

Question 8: To what extent is the political and governance environment favorable for philanthropy?

Score: 3.0

The political system recognizes the role and importance of charitable associations and encourages them promoting public benefit associations to provide services or carry out social, cultural, religious, or sports activities on a voluntary basis without profit, and to manage charitable societies. The Ministerial Resolution No. 867 of 2001 forces the provision of unconditional charitable donations through the adoption of committees for several service projects, such as building mosques, schools, hospitals marginalizing the public benefit associations dealing with recreation or spiritual matters. Additionally, there is an initiative to prepare special media programs to sensitize donors to the importance of moving toward the adoption of charitable projects within the country.

Changes in economic or political conditions do not appear to pose a threat to the sustainability of the charitable sector, as citizens of the State of Kuwait are used to engaging in charitable work.

Question 9: To what extent are public policies and practices favorable for philanthropy?

Score: 3.0

The government supports charities and, to that purpose, established the Higher Committee for Charitable Work. The Committee coordinates the relationships between governmental offices and popular bodies in order to activate charitable work and to direct it to achieve its purposes and desired goals. It has also established a registry of voluntary teams. In addition to this, the government does not exert any kind of pressure on how donations must be channeled.

However, charities face some administrative obstacles when dealing with governmental institutions, especially with regard to obtaining permission to raise funds within the State of Kuwait, or when implementing projects outside the State of Kuwait, resulting in delays in the implementation of such projects.

Although the government provides financial support to some charities through the Ministry of Social Affairs and Labor, it does not show interest in the development of capacity building programs for employees of charitable organizations to improve organizational performance. There are no encouraging signs toward the efficient recruitment of technical and administrative Kuwaiti staff for charities.

Nevertheless, the decisions of the Ministry of Social Affairs and Labor have had a tangible effect in preventing embezzlement and the impersonation of charity staff individuals to illegally collect cash donations.
V. Socio-Cultural Environment

Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?

Kuwaiti society has been accustomed to charitable work. Charitable work is considered a religious duty throughout the year, such as the distribution of Zakat, helping the poor, and the orphans. Charity increases in religious occasions, especially in the holy month of Ramadan, and during disasters, such as the refugee crisis, famine, and civil wars, where charities raise funds for the relief of the afflicted. For example, the Direct Aid Society – one of the most powerful associations – has collected donations online. In 12 hours, the organization collected more than US $8 million for the Somali famine, and in 14 hours collected nearly US $4 million for Kenyan orphans.

In 1959, the Law Regulating the Licensing of Money Collection for General Purposes was issued to regulate the collection of money for public purposes or to help refugees.

Charitable activities in Kuwait are regulated and have a law governing these activities. Due to the institutionalization of charitable work, the impact of personal or cultural charitable work decreased.

VI. Future of Philanthropy

These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.

Current state of the philanthropic sector

The official figures for 2016 indicate that there are 27 charitable associations and 88 charitable organizations supervised by the Ministry of Social Affairs and Labor. This indicates that there is a good demand for charitable work within the Kuwaiti society, but it remains below the desirable level. Despite this good turnout in philanthropy, the development of the sector requires a database of the voluntary social sector in Kuwait in order to have access to reliable information so that POs can plan and develop a much-needed infrastructure for the sector. Voluntary work in Kuwait also requires the establishment of a specialized institute for training on management of philanthropic organizations; this will help associations manage their businesses efficiently through a sophisticated financial and administrative system.

There is also the need for collaboration between charity associations and governmental agencies to prevent the duplication of programs and efforts. Currently, such a collaboration only exits between charities with the Zakat House.

As the events of the Arab Spring spread over Tunisia, Libya, Egypt, Yemen, Syria and Iraq after 2010, and as a result of the following displacement, killings, and tragic humanitarian crisis in the Arab region, Kuwait developed philanthropic initiatives, such as donations and sponsorship projects outside the border. These initiatives will continue to be prominent in areas that are increasingly
affected by crisis, such as Syria, Iraq and Yemen, as well as in populations under distress, such as Syrian refugees and Iraqis on the Turkish, Jordanian, and Lebanese borders.

Three major recent events affecting the philanthropic landscape between January 2014 and December 2016

- Implementation of the decision to prevent the collection of cash donations;
- Closure of branches of some POs by the ministry of Social Affairs due to lack of compliance with the ministry’s regulations (from the ministry’s perspective) and motivated by political reasons (from the perspective of members of the opposition);
- Organization of volunteer work through the project “Bader” by registering all volunteer groups with the Ministry;
- Greater use of Social Media for philanthropic marketing and online donations; and
- Honor received by His Highness the Amir of Kuwait Sheikh “Sabah Al-Sabah” for his efforts as a "Humanitarian Leader", and his support of the UN's humanitarian works. The honor was made by Secretary General of the United Nations, Ban Ki-moon.

Future development trends in the philanthropic landscape

- Increase on online fundraising and donations;
- More organization and accountability efforts in the philanthropic sector due to internal and external demands;
- Lack of revenue due to oil prices so there will be less donations;
- Spread of the culture of charitable work in the media, and the use of social media in a fruitful manner not only for increasing donations but also to spread the news and humanitarian and relief work among potential donors; and
- The Minster of Social and Labor Affairs has announced a new charity law which is waiting to be approved by the parliament.

Three key recommendations to improve the environment for philanthropy

- Allow cash donations in public places, which charities can organize in cooperation with local or international philanthropic organizations;
- Apply quality management and transparency policies to philanthropic organizations;
- Facilitate establishing philanthropic organizations;
- Stop politicization of charitable work, as some charitable organizations belong to political parties; and

- Establish umbrella organizations that support philanthropic organizations.