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A Critical Study of The Child Protection Law in Kuwait

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Abstract and Keywords

The aim of this study is to critically explore the effects of pre-existing norms on the establishment of child protection policies in Kuwait, as well as to deliver an analysis of the timeline of the formation of the Child Rights Law (CRL), taking into account the role of institutional and administrative capacities in the country. The subject is analyzed using the concepts of policy diffusion theory as well as family structure theory. Child abuse occurs in all societies in both developed and developing nations. Although the inevitability of child protection is commonly acknowledged, the pathways to recognize the problem vary from one country to the other. This study is based on a research review that highlights aspects of childhood, family, and violence in Kuwait. A parliament debate about child abuse and the lack of national regulations led to the suggestion for a child law establishment in 2013. Finally in March 2015 the CRL was approved, and it was passed in January 2016. The purpose of this thesis is to investigate how the law was established and what will lead to its implementation. Investigation of documents has been embraced to comprehend the problem. Various countries have different understandings of child abuse; therefore nations react differently to this subject. Even though Kuwait is ranked in the top 10 richest countries according to its GDP per capita, there are multiple other factors that play a meaningful role in the way child abuse is looked upon, such as: the welfare system, socioeconomic situations, culture, and religion.

Keywords: Child Protection, Social Policy, Child Abuse, Childhood, Family Structure, Religion.

List of Abbreviations

UN – United Nations

NGO – Non-governmental Organization

UNCRC – The United Nations Convention on the Rights of the Child

CRC – Committee on the Rights of the Child

KCRS – The Kuwait Children's Rights Society

KMA – Kuwaiti Medical Association

CRL – Child Rights Law

UNICEF – The United Nations International Children's Emergency Fund

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1 Introduction

1.1 Background to the Research Area

The State of Kuwait is a constitutional monarchy located in the Arabian Peninsula, bordering the Persian Gulf between Iraq and Saudi Arabia. It is a hereditary emirate ruled by the Al-Sabah family, which governs in consultation with the elected National Assembly. The country has a population of 4.2 million in which more than 69% are of immigrant background (Central Intelligence Agency [CIA], 2016). Child abuse in the Arabian Peninsula is not a new issue, and Kuwait was one of the first countries in the region to sign and ratify The United Nations Convention on the Rights of the Child (UNCRC) in June 1990. The signing of the convention did not generate any establishment for the rights of the child until 2008 when the Kuwait Children's Rights Society (KCRS) was formed under the umbrella of the Kuwaiti Medical Association (KMA). The KCRS spent three months in 2009 spreading awareness about the signs of child abuse to all workers in the medical field through weekly seminars. In the same year the KCRS suggested that a child law should be established, which steered the parliament into approving of the formation of a permanent committee in every medical center that should explicitly look after signs of child abuse or neglect. Yet, it was not until 2010 that the issue of child abuse received exceptional attention. This attention was a result of a study by the department of psychology at Kuwait University on the prevalence of child abuse in the Kuwaiti society. The results of the study triggered immense attention and led to a parliament debate about child protection. The study generated a series of awareness campaigns by the KCRS that targeted parents, teachers, as well as children to spread knowledge about the issue. The parliament debate continued for three years, and in 2013 a final suggestion for a child law establishment was made and the working of the formulation of the law began. Finally, in March 2015 the Child Rights Law (CRL) was approved, and it was passed in January 2016 (The Kuwait Children's Rights Society [KCRS], 2016).

1.2 Aim of the study

Child abuse is a matter that occurs in all societies in both developed and developing countries. The international society has recognized the necessity for child protection throughout the years. Moreover, all nations within the United Nations (UN) have signed and ratified the UNCRC except for the United States, Somalia, and South Sudan. The convention is founded to specify standards that protect civil, economic, political, cultural, social, and health rights of children (Convention on the Rights of the Child [UNCRC], 1989).

The precise purpose of this research is to shed light on the politics surrounding the creation of the new child law, as well as attempt to fill the gap in the previous studies, especially since Kuwait is an under-researched nation in regards to child protection policy. The literature review is set to analyze the experience of Kuwait in establishing the CRL, as well as identifying common challenges the country faces. The study is based on critical analysis of pre-existing norms in relation to the formation of the CRL, and how these norms effect the activation and implementation of the law, as well as the analysis of UN reports, medical journals, and other academic articles. Furthermore, the objective is to examine the normalization and generalization of child abuse especially in the form of disciplinary punishment. By taking into account the Kuwaiti welfare system, socioeconomic situation, culture, and religion, this study aims to contribute to the debate on the significance of the activation of the CRL.

1.3 Research Questions

Providing children with a 'voice' by forming social policies that protect their rights has been a worldwide goal in the past couple of decades. Since the adoption of the UNCRC in 1989, article 12 that recommends for children to have the right to express their opinions in accordance with their age and maturity has shown to be one of the utmost demanding to implement. While the concept of childhood and mindsets regarding children varies extensively across cultures, the Committee on the Rights of the Child [CRC] has concluded that the causes for excluding children from participation in matters that has an affect on them are extraordinarily coherent across the world; parents believe they know what is best for their children, and that letting

children make decisions will not only be too heavy of a burden on them but it will also be demanding and might lead to bad behavior. However, for the last couple of decades children have illustrated that if they are given the time and opportunity they can express opinions that could have a positive input on decisions that affect their rights and wellbeing (UNICEF, 2011). The significance of stating these questions is not merely to describe the situation of child abuse in Kuwait. It is a way to examine the process of law formation and eventually normalization in which this law is integrated into the existing culture.

Research Questions:

What internal and external factors led to the establishment of the child protection law in Kuwait?

What was the political process that led to the passing of the new Child law and who initiated it?

Which groups advocated the adoption of the law?

What institutions are in place to ensure the enforcement of the law?

1.4 Disposition of Thesis

After introducing the context of the State of Kuwait, as well as the aim of the study and the research questions, the following section will present the methodological framework that will be applied in the thesis. The research design as a content analysis is going to be justified, the form of material will be presented and the methodological limitation will be discussed. The third chapter will present the CRL in Kuwait in the purpose of familiarizing the reader with the law. The first section will describe the variation of child abuse in compliance with the CRL, and afterwards the penalties specified in the law will be discussed.

Chapter four will present the previous studies, their input on this thesis and the gap that this study aims to fill. Afterwards, the theoretical framework that will be applied is going to be reviewed. Policy diffusion theory, and family structure theory are

chosen to fit the objective of this study to look into the cultural norms and structures in relation to child abuse in Kuwait, and to assist the analysis of the research. Chapter six consists of the literature overview; this chapter contains themes representing the specific aspects of the study. The first part in the overview addresses the issue of child abuse in the Arabian Peninsula, and gives a general account of the attitudes towards child abuse in the region, as well as the norms associated to the issue. The second section focuses on the way Islam is incorporated in the Kuwaiti society, and what that means for the implementation of the CRL.

The seventh chapter is the analysis, which will connect the research overview with the theoretical framework and analyze the presented data. The analysis is divided into three sections. Firstly, the internal and external factors that led to the formation of the CRL will be examined. Secondly, the political process will be looked upon. And thirdly, an analysis of the Kuwaiti culture and the significance of institutions will be discussed. Lastly, a conclusion section will compose the observed data and the analysis, and attempt to place this study for further research.

2. Methodology

2.1 Research Design

This thesis is conducted in a form of a desk study based on qualitative methods of a literature review of existing data in regards to Kuwait's child protection policies. The study aims to deliver a thorough interpretation of what went on in the process of establishing the child law. Critical analysis is used to examine the existing patterns in Kuwait. In order to report the finding from the study, description with an emphasis on context, especially on social structures, is made through the qualitative study. After establishing a general research topic, a selection of documents have been read and analyzed, afterwards the data has been interpreted, and finally the findings are applied to a specific theory (Bryman, 2012: 384-386). This study is most seemingly a critical research of child protection policy in Kuwait. Child abuse is a crucial subject to research, and describing the situation in Kuwait is not mere description, it is necessary to shed light to this horrifying social phenomena. It is important to understand why things happen the way they do, and why social structures are made, and what keeps them going. In order to solve an issue it is important to know why it occurs.

Descriptive yet critical analysis provides an accurate description for a specific situation (De Vaus, 2011: 192-194). Analyzing the data on child abuse and social policies in Kuwait is the way to understand why child abuse exists and how it is dealt with.

The study might be full of seemingly trifling details; yet, these details are significant for the completion of a qualitative study. The research question is mainly explanatory and therefore keen to describe the context of the case to ensure prevention of generalized outcomes. It seeks to investigate underneath the exterior of the primarily positive surface illustrated, and therefore intends on investigating the depths of its formation. (Bryman, 2012:400-406) (De Vaus, 2001:234) A case study has the asset to analyze precise aspects while keeping the originality of the question for the study in hand. The main problem put forward with case studies is the usage of one case, which can cause the researcher to be too general as all aspects cannot be studied and therefore threatens the legitimacy of the entire study. The best way to avoid this issue is to stay focused on answering the research question along the way (De Vaus, 2001:234-235).

2.2 Material

The material is attained through a desk study by reviewing existing data. The study is mainly relying on documentary sources such: The child protection law of Kuwait, UN reports, welfare policies, government reports, reports by different non-governmental organizations (NGOs), CRC, scholarly articles, books and documents from other applicable organizations will be examined. The documents in turn have been retrieved by the selection of key words used through different combinations in relation to child protection such as family, child abuse, religion, and social policy. Additionally, the material has been snowballed through various researchers and reporters on the topic. This technique is applied in order for the material to fall into place and form a comprehensive picture of the case in hand (De Vaus, 2001:220-221).

This desk study is conducted through application of secondary data as the empirical foundation. The existing research is collected and examined using tools provided by the sociological institutional theory framework. The research process has been that of a hermeneutic one, in which interpretation, clarification and contextual meaning have been in focus (Bryman, 2012: 28). This has required the research questions and the

theoretical approach to be revised throughout the process. The use of secondary data makes it possible to devote more time to comprehending the case in hand and therefore allows an in-depth analysis. Different interpretations and theoretical approaches may be used in the analysis in order to clarify the conception in hand.

However, this does not mean that research on child abuse in other places is not taken into account, and some general concepts and theories used in relation to studies covering child abuse in other contexts will at times be used in this study, in which case this will be stated.

2.2.1 Content Analysis

Content analysis is a flexible method that can be applied to a variety of different studies. It is not a mere research method in the sense that it is an approach to the analysis of documents and texts; it is rather a mean of generating data. Nonetheless, it is usually treated as a research method because of its unique approach to analysis. A content analysis appears to be the most fitting methodology to apply in order to answer the research question, as it aids the comprehensive description of the child law. It is suitable since the thesis is conducted as a desk study with an aim to shed light on the issue of child protection policies in Kuwait, and study a relatively unexplored topic. The content analysis is conducted through a thorough examination of the significant texts mentioned earlier (Bryman, 2012: 289-292). Concerning publications provided by the Kuwaiti government on the child law, they are seemingly polished with a positive brush to ensure the audience of their trustworthiness and affectivity. On the other hand, UN reports, journal articles, and other studies question the policy formation, and those are worth investigating in the analysis.

2.3 Methodological Strengths and Limitations

The main challenge that was faced through conducting this study is the lack of research on child protection policies in Kuwait. Yet, there are UN reports that show disparities and lack of implementation of universal guidelines in the country. Since this is a desk study based predominantly on secondary data it has a limited probability of ethical issues. Yet, it is significant to keep in mind that someone else collected the data that will be used therefore it is essential to check the internal and external

validity of the information. Finally, even though most documents are available online, it is important to acknowledge to the original author in the while writing the research (Bryman, 2012: 47-48).

It is important to acknowledge the limitation of a content analysis, which is that it is tied to the availability of material, in which not all material is correct or unbiased. Keeping this in mind it is important to be careful when it comes to deciding whether or not the source is reliable, trustworthy, and solid (Bryman, 2012:544-550).

Prominently, it is essential to keep in mind who has written the text and for what purpose, as everyone probably have some sort of agenda or opinions in their studies.

Nevertheless, it can be difficult to comprehend data that has been composed by another researcher, and which might have been intended for a different purpose. This can effect the study and cause methodological or interpretational limitations (Bryman, 2012: 107-109). Since this study is using secondary data collected by other researchers, the interpretation of the material is based on my personal understanding. Moreover, when applying secondary material it is vital to confirm the quality of the data by applying source criticism and thoroughly assessing the material.

Last but not least, it has been tremendously problematic to get in contact with NGOs, or public officials. The governmental websites are extremely underdeveloped that only the home page would open but nothing else. I have been answered on e-mail by one of the journalists that I have written to, and she has published a few journal articles about the implementation of the CRL. After presenting my study and receiving her approval to answer some questions, I sent her the questions and was promised answers as soon as she had meet with the KCRS, but did not receive anything yet. This is very problematic since I had to rely solely on documents while conducting this research. A very limited amount of governmental documentation is published, and it is only published in Arabic, which required an even keener analysis from my part in order for me to bring about the true content of the material being translated.

3. The Child Rights Law in Kuwait

In order to answer the questions stated above, it seems important to present the CRL. Law number 21 of the year 2015 in regards to child rights was finally passed on the 24th of January 2016. The law is divided into nine chapters and has a total of 97 articles that covers childhood from pregnancy until the child turns 18 years old. It is significant to have an overview of the content of the law. Therefore, the nine chapters will be briefly introduced here; afterwards some concepts will be explained in a more specified manner (The Kuwait Children's Rights Society [KCRS], 2016). It is worth mentioning that the law is only published in Arabic and the content used throughout this thesis is of my translation.

Chapter one of the CRL is named introductory provisions and contains a brief definition of the child as anyone who has not yet turned 18 years of age. Chapter two is called general provisions; it determines the various age groups of childhood, states that a child should be taken care of from birth until the age of 18, clarifies the process of child birth, registering the child in the governmental system, details about vaccination and nutrition, gaining a health card, and the rights of pregnant women. Chapter three is explicit for social care of children, it specifies the inevitability of childcare centers in case both parents work, and the significance of the care provided in early childhood. Chapter four focuses on children's right to education and the necessity to offer solid schooling establishments. Furthermore, chapter five concentrates on the rights of working mothers, as well as the right and regulations for working children between the ages of 15 to 18. Chapter six states the distinct services for children with disabilities. Additionally, chapter seven emphasizes the importance of intellectual development outside of mere schooling in order for children to be enlightened and reach their full individual potential. Chapter eight specifies ways to prevent child traffic mishaps and other kinds of danger that might occur. Finally, chapter nine states the forms of punishment for those who injure children in any way (The Kuwait Children's Rights Society [KCRS], 2016).

As stated in the CRL, a child is considered to be anyone under the age of 18. Children are classified according to the following categories: the first age group is from birth until the age of four. Secondly, from four years of age until the age of seven, this

group has the right for their complaints to be heard and investigated. Thirdly, is the age group seven to fifteen years old, which have the legal right to be heard and for their opinions to be taken into consideration. Lastly, is the age group from fifteen years to eighteen years old, which are allowed to work according to the legal regulations of working hours and environment (The Kuwait Children's Rights Society [KCRS], 2016).

3.1 Variation of Child Abuse in compliance with the Child Rights Law

There are diverse sorts of child abuse, some not as visible as others. Abuse is often seen in relation to violence that can be evident in form of bruises or scars, but that is not always the case. Disregarding the needs of a child, or placing them in a hazardous environment can also entail child abuse. It can be physical, sexual, emotional and in the form of child neglect. The most visible type is physical abuse; physical abuse is the use of physical force against the child such as hitting, shaking, kicking, biting, burning, choking, or poisoning, that leads to the harm of the child's health, development and dignity. According to the CRL, the abuser does not necessary always intend to harm the child, as the physical damage might be a result of disciplinary punishment. Sexual abuse does not essentially need to include physical contact; sexual assault is a child's participation in any form of sexual activity with an adult and that includes physical touching, verbal harassment, or using children in naked photography or films. Psychological abuse is a result of verbally degrading, silent treating, blaming, threatening, bullying or giving children more responsibility than they can handle which can reinforce patterns of failure in a child's life. Lastly, there is child neglect; negligence occur when parents or guardians fail to provide necessities for the child, such as health, education, nutrition and safe living (The Kuwait Children's Rights Society [KCRS], 2016).

3.2 Penalties

The CRL has clear penalties for those who break any of the articles of the law. According to chapter nine of the law there are various categories of punishments for those who break the child law. Those who fail to provide the child with basic necessities to develop, or discriminate against a child based on their race, religion or nationality could face up to one year in jail and/or up to 2000 Kuwaiti dinars (approx.

6600 USD) in fines. Anyone who is involved in any sort of production of sexual material that includes children or that promotes child sexual harassment can face between two and three years of jail and a fine between 10,000 and 50,000 Kuwaiti dinars (approx. 33,000-165,000 USD). If a person harms a child in any manner whether it is physical, emotional, or in the form of neglect can face up to one year of jail and a fee of maximum 1000 Kuwaiti dinars (approx. 3300 USD). Lastly, if any of the above stated crimes are committed by a parent or a guardian, they will receive double the punishment (The Kuwait Children's Rights Society [KCRS], 2016). The implementation of the law and the establishment of essential institutions will be further discussed in the analysis chapter of this thesis.

4. Previous Studies

Now that the CRL has been briefly presented, this chapter will address the previous studies that have been examined while conducting this thesis. There is an immense lack of academic research in relation to child abuse in Kuwait, and the medical study that triggered the national debate about child protection is not publicly available, yet some of the findings are accessible on the KCRS website. And since the child law has only been recently established, no studies have been conducted on it yet. Nonetheless, there are few articles that are extremely significant to this study even though they seem to have differing emphasis than the one of this thesis. These articles are composed as medical journals, and therefore take a more medical route of analysis. The data provided in these articles serve as a fine completion ground to support the purpose of this thesis. Yet, the main documents that this study reflects on are the UNCRC and the CRL.

A medical article called *Child Abuse in Kuwait: Problems in Management* investigates the magnitude of child abuse in Kuwait and examines the complications associated with its management through studying more than sixty thousand medical records of children admitted to two of the largest hospitals in Kuwait. The article focuses on sixteen children between the ages of 3 months to 9 years that have been severely injured through diverse ways ranging from burning to cut wounds to sexual transmitted diseases. In the case of the 2.5 years old girl who was admitted for sexual transmitted disease, the abuser was a family friend that helped care for her, yet once

the parents got the doctor's report they refused any form of intervention to avoid scandal. As a result the offender was never identified. The article states that there is no formal law to permit gaining a court order for the elimination of these children from the abusive situation, and child protection agency is not existent, therefore the medical staff could only report to the police and that is investigated if the policy considers it a criminal case (Al-Ateeqi et al., 2001).

Another medical journal named *Child Abuse and Neglect in the Arab Peninsula* examines the state of child protection in the seven Gulf countries in order to highlight the significance of this issue. The article has been conducted by reviewing medical literature published between 1987 and 2005, and concludes that children in the Arabian Peninsula are exposed to all types of child abuse. It further elaborates that child abuse is disregarded or even accepted as a form of discipline, and the only way to solve this phenomenon is by accepting the reality and legislating firm laws to prevent the abuse of children (Al-Mahroos, 2006).

Attitudes of Kuwaiti Parents Toward Physical Punishment of Children is yet another medical article that aims to describe parental attitudes to physical punishment through a cross-sectional survey. The survey was answered by 337 Kuwaiti parents, and resulted with 86% of parents agreeing with physical punishment as a means of child disciplining. The article also described that the result showed that parents with lower level of education were more likely to agree with physical punishment (Qasem et al., 1998). And the last medical article that has been analyzed is named *Pediatricians' Knowledge, Attitudes, and Experience Regarding Child Maltreatment in Kuwait*. This study was also established based on a cross-sectional survey to estimate the professional experience of pediatricians in Kuwait. Data was gained from all pediatricians in public hospitals and resulted in the knowledge that child neglect is an issue that seems to be more common than actual physical abuse of children. Yet, more than 80% of the pediatricians reported that they did not know of any legal procedures to report these suspected cases (Al-Moosa et al., 2003). All the previous studies stated above are medical studies, and the data from them will be used further in this thesis in order to analyze the current situation of child abuse in Kuwait.

A report by the CRC on state party examination of Kuwait was published in 2013. The Committee expressed multiple concerns on child abuse in Kuwait. Firstly, the

report states that there is an excessive lack of data on child abuse in Kuwait, and it emphasizes the importance of establishing an official database that would keep track of the frequency of violence against children. Secondly, the report refers to the notable absence of an inclusive system for reporting child abuse and a deficiency of proper procedures for reporting physical signs of sexual abuse. The CRC questioned whether the police disregarded violence against children by family members, and since there was no law in place in 2013 the report stressed the need to establish measures would be taken to explicitly prohibit corporal punishment in law and raise awareness about its negative impact, in practice (Committee on the Rights of the Child [CRC], 2013).

Multiple sources on parliament debate that triggered the establishment of the CRL were reviewed. In 2013 there was a two hours television debate on AL-Adala channel on child rights in Kuwait, The debaters included the journalist Saleh Jerman, Nasser Al Amar who is the family care affairs director and researcher of social issues, and Khaled Jawasri a lawyer specializing in family affairs. The debate took in consideration the legal aspect, as well as the social aspect of child abuse. Mr. Jawasri stated that there has been an immense confusion in defining a child since the age of marriage is 15 for girls, 17 for boys and both can work from the age of 15 yet they are still considered somewhat children in the eyes of the law. He considered this as “legal idiocy” and urged the government to make up their mind on the specific age of childhood since the lack of definition can cause confusion in many cases. Another issue that was raised in the debate is the lack of knowledge on how to raise a child, especially when some parents are children themselves. The participants stated that in their years of experience with children they have discussed the issue of child abuse and spread awareness but there is a lack of constitutional solutions to this phenomenon (Al-Adala KalamCom, 2013). This debate will be used further in the thesis and the issues brought up will be significant to the analysis.

5. Theoretical Framework

This part will present and discuss the theoretical framework and key theoretical concepts used in the study. The theoretical framework is inspired by sociological institutional theory with an emphasis on the concept of policy diffusion in order to examine what led to the formation of the child law; consideration of the linkage

between social policy and practice; and cognitive procedures like a child protection institution versus normative procedures such as family solutions. There are also interesting discussions pertaining to some of the problems reviewed here in the book *Globalization and families* by Bahira Sherif. These discussions will be taken into account when analyzing the role of the family in child protection and normalization of child protection, as well as the notion of de-familiarization and the state involvement in what might be considered family affairs.

5.1 Policy Diffusion

To begin with, it is noteworthy to state that diffusion theorists share an opinion that the policy choices of one country are formed by the choices of another. In this era of globalization, developing countries sign human right treaties to illustrate their commitment to global norms without having to enforce any of these norms on a national level. Diffusion theorists specify that social acceptance of a policy tactic can occur in three different ways: chief countries serve as models; specialists speculate the outcomes of a new policy, thus providing policy makers with grounds for embracing it; or experts making contingent arguments about a policy's suitability, stating it as right under certain conditions (Dobbin et al., 2007). There are multiple streams to the notion of policy diffusion, and it is necessary to take all of them into account when analyzing this subject. Even though Kuwait has signed and ratified the UNCRC since 1990, it has not acted upon it until recently. Does this mean that Kuwait's establishment of the CRL was a pure national decision? Maybe not, since there are seemingly both external and internal pressures that led to the formation of the law. The concept of conditionality might not be accurate for child protection policies in this case, yet the UN has criticized Kuwait's child policies on multiple occasions, especially in the last few years, which have seemingly put some amount of pressure on policy makers. It is true that Kuwait is in the top ten GDP countries, yet hegemonic actors might still influence it.

Policy diffusion can be caused through the changing of ideas or changing motives. There are different types of policy diffusion: constructivism, coercion, competition and learning. Constructivists refer to theory and rhetoric as the foundation of new concepts. Their core notion is that changes in ideas cause policy diffusion. Coercion is a mechanism of mainly physical force that is used by actors to manipulate economics,

or monopolize information. It is claimed that coercion is not necessary a mechanism of diffusion since policy diffusion does not occur voluntarily in this case. Conditionality occurs when a major foundation such as the European Union or World Bank demands specific requirements for aid or other services. In the case of conditionality there is a concept of hegemonic ideas in which powerful actors influence others and rationalize their ideas to make them more appealing for less dominant actors. Competition theorists suggest that policy diffusion can be a result of direct competition, especially economic competition to export markets. Lastly, there is the notion of policy diffusion through learning in which actors learn from their own experiences or from the experiences of others (Dobbin et al., 2007). These concepts will be further discussed in the analysis chapter of this paper.

Throughout the process of conducting this research, Amneta and Ramsey's chapter about the different types of institutional theory has served as a base for comprehending institutional theory. Going in depth on sociological institutionalism there are multiple concepts that will be used further in this research. Firstly, the notion of cognitive versus normative procedures will be used in comprehending how child abuse is dealt with in the Kuwaiti society, and whether people seek professional assistance in dealing with this issue or resort to a more normative manner. Secondly, the creation of policies based on policy goals and the availability of political instruments will be examined in regards to the implementation of the CRL. All of the mentioned are greatly relevant to the study in hand. Furthermore, the significance of cultural institutions could not be emphasized enough in this study (2010).

Another significant article that was examined is *Reflections on Institutional Theories of Organizations* by John Meyer. Meyer discusses the notion of human beings as individual actors that have rights and freedoms. He goes on to explain the actor-environment relation. What is interesting about Meyer's explanation is how he looks upon norms as rules that have some degree of authority over actors. This is significant in analyzing the normalization of child abuse and how the CRL needs to be adopted on a cultural level in order for the Kuwait society to obey it. Meyer also looks upon society as a network of relations that create some form of organizational institutionalization. He states that structures are evolved over time, and when a group of people gathers to change an organization they do not do so from scratch, instead

they use existing knowledge and build upon that. That is why societies are constantly evolving. Meyer also goes on about policy-making in a global sense, yet he says that sociological institutionalism emphasizes casual structures rooted in societies. This article has a huge impact on this thesis because it has such a clear yet rich amount of information (2007).

5.2 Family Structure Theory

While policy diffusion explains the cognitive part of this thesis, family structure theory serves as a theoretical base for analyzing the normative side of the study. Throughout the process of conducting this research I have been uncertain of which theories to include and which to exclude. Yet, after reading Bahira Trask's book *Globalization and Families* I was provided with various definitions and concepts of high relevance to my study. Trask widely discusses the notion of family and what a child is in different contexts. Her book provides a comparative image between what western and eastern perspectives consider as needs for a child to develop in a healthy manner. Trask also states that the transformations caused by globalization are visible in the restructuring of the social fabric of the world, in societies and in families. Furthermore, Trask means that both western and non-western societies view family as a basic part of their foundation. Since families provide the earliest types of nurturance, protection, and socialization for its members, their role as the primary site of the early socialization of children has a mass influence on the child's development. What was mainly interesting about this book is that the author discusses other scholar's view on the notion of family, such as Durkheim's explanation that families took many forms yet they are still a core social institution. Trask also states that in order for a society to survive it needs to reproduce and keep the children safe (Trask, 2010). That leads us to the discussion of child protection policies and the establishment of universal conventions for child protection as well as in this case the formation of the CRL. Trask's notion of family will be used to analyze the role of family in Kuwait and the different family types that might have an influence on the implementation of the CRL.

When discussing the conception of the family, it is significant to include the notion of de-familialism. Countries with a narrow approach to child protection policy, mostly social democratic welfare state regimes, apply a process described as de-familialism,

in which social benefits and services decrease the individual's reliance on kinship. The level of de-familialism varies in different welfare regimes. De-familialism is the highest in social democratic welfare regimes, in which the state's role is significant and child protection is on top of the agenda. Conservative regimes tend to spend less on family policies, and the idea of a traditional family where female labor is limited is encouraged. Finally, liberal regimes have a minimum focus on family policies and defamilialism. In a conservative regime such as Kuwait, family plays a central role, the market is marginal, and the state is subsidiary. In social democratic regimes such as those of the Nordic countries, the state has a central role, while family and the market have marginal roles. Yet, all three regimes have some degree of de-familialism (Javornik, 2014). The notion of de-familialism will be used as an assisting concept to further clarify state involvement in family matters. Yet, before getting to the analysis chapter of this study, the research overview will present a couple of themes that look deeper into child abuse.

6. Research Overview

6.1 Child Abuse in the Arabian Peninsula

The medical study by the department of psychology at Kuwait University on the prevalence of child abuse in the Kuwaiti society shows the following results of abuse in Kuwait: one out of every six children is neglected, one out of every three children is exposed to humiliation, one out of every five children is subjected to severe beatings and one out of every eight children is exposed to sexual harassment. Children in the Arabian Peninsula are subjected to all forms of child abuse and neglect. The notion that child abuse is rare in the Arabian Peninsula is incorrect. In fact, it is a statement that might be considered as societal denial (Kuwait Children's Rights Society [KCRS], 2016).

Qasem et al. conducted a cross-sectional survey to study the attitudes of Kuwaiti parents towards physical punishment of children. 337 Kuwaiti parents with at least one living child were covered in this study and the results showed a shocking 86% of parents that agreed with physical punishment as a mean of child discipline. Misbehaving in any manner is considered a valid reason for a child to be physically punished. This punishment usually takes place at the hand of the parents or other older relatives. This illustrated the notion of a broader family structure. Family is

regarded as a private and sacred institution of the Kuwaiti society. Therefore, there is little to no interference with what is considered in this case a family matter (1998).

According to the CRC report from 2013, spousal rape is not regarded as a crime in Kuwait. The Committee was apprehensive that this does not provide the necessary protection to many girls, especially since the legal age of marriage is 15 years old for girls in Kuwait. Furthermore, girls who had been raped were often convinced not to report the rape in order to prevent causing shame to the family. The Committee also questioned the support these girls are given in case they become pregnant, and whether or not they were authorized to have an abortion. The Kuwaiti delegation affirmed that abortion was forbidden by law and was only allowed when the life of the mother was at risk. This was seen as an issue since many girls would seek illegal abortion that could cause tremendous health risks (Committee on the Rights of the Child [CRC], 2013).

The notion of being a man is often linked to aggression in the Arabian Peninsula. This is illustrated in the way people react when a boy is hit or when someone has offended him. Boys are encouraged from an early age to take revenge, to hit the ones who hit them, to yell at the ones who stares at them, and to jump into a fights if their friends are involved. If a boy does not take revenge, or fight back he might be considered less of a man. This behavior is commonly taught at home, by the father and other male relatives. This reinforcement of aggression only produces more aggression in the child, and this child might need more discipline, which is normally in the form of physical punishment (Al-Adala, 2013). The effect this has on the implementation of the CRL will be further discussed in the analysis chapter.

6.2 Child Rights and Religion

Understanding and applying the UNCRC is complicated, especially in countries that follow a certain religious law. The CRC meets with delegation from different countries, publish reports on the processes, and attempts to keep track of the implementation of the UNCRC on national level. Nonetheless, national government officials, civil society activists and intellectuals also debate the norms and standards set by international bodies. Religious leaders frequently play a fundamental role in this procedure. They often have an immense authority in multiple societies and

influence the views and acts of numerous believers. These religious leaders have the power to inspire social ideas and behaviors particularly in the cases of marriage, family life and education (Volkman, 2012).

Upon ratification of the UNCRC, Kuwait expressed its general reservations on all provisions of the Convention that are incompatible with the laws of Islamic *Shari'a* and the local laws in force. Upon review of the Report of the CRC, the Committee had stated their concern on the matter that the requirements and principles of the UNCRC were not fully reflected in the Kuwaiti law. The report also voiced its concern that the principle of non-discrimination is not entirely integrated in national regulation, and that there remains some laws, regulations and practices which are discriminatory towards girls, in particular with right to inheritance. The CRC also voiced their concern that the legal age of criminal responsibility at seven is extremely low, and that the legal minimum age for marriage for girls is set at 15 while that for boys is set at 17. The above listed concerns are based on the Islamic Sharia' law, and therefore deeply integrated in the Kuwaiti society and law (Save the children, 2008). Furthermore, in the Islamic law disciplinary physical punishment is tolerable on specific occasions, such as light disciplining when necessary without causing injury to the child (Tarazi, 1995). This concept is therefore profoundly implemented in the Kuwaiti society, in which most norms are seemingly manufactured by the Islamic law.

7. Analysis

7.1 Factors leading to the formation of the Child Law

This chapter will attempt to connect the research overview with the theoretical framework and analyze the presented data. To understand the process of establishing the child law, it is important to take into account the role of external and internal factors on policy formation. Dobbin et al. (2007) argues that it is significant to consider the effect political actors have on each other. Diffusion theorists of all lines agree on the concept that policy choices of one country are formed by the choices of others. The article suggests that change through learning occurs when “*new evidence changes ones beliefs. One can learn directly from one’s own experiences or vicariously from experiences of others*” (Dobbin et al., 2007). In this case, the study by the department of psychology at Kuwait University on the prevalence of child

abuse in the Kuwaiti society could have inspired policy learning. Although this seems to be the case, it is important to acknowledge that social learning does not simply take place when policy shifts, it occurs when people believe in the cause and effect of change. The notion of policy diffusion in result of hegemonic ideas does also seem relevant to this study. Kuwait has been criticized by the CRC on multiple occasions and that might have triggered the establishment of the CRL.

The four stripes of diffusion were presented earlier in the paper, and all types could in one-way or another be applied to this study. Yet the data suggests that the concept of policy diffusion through learning seems to be suitable for this case. Initially, the results of the medical study by the department of psychology at Kuwait University on the prevalence of child abuse in the Kuwaiti society seems to have triggered the parliament debate on this matter. After the publication of the results, the issue of child abuse received an immense attention from the media. The debate was then further discussed on national television, the radio and on multiple newspapers. Along side the parliament debate and the media exposure, national activists especially the KSRC began arranging seminars, information booths in malls, social awareness videos, as well as an active twitter account to spread knowledge on the harms and possible preventions of child abuse (Kuwait Children's Rights Society [KSRC], 2016).

However, the available medical studies researching child abuse in Kuwait date back to 1998. Qasem et al. researched parental attitudes towards physical punishment through a survey and 86% of the 337 parents agreed with physical punishment as a mean of disciplining the child (1998). Later on, Al-Ateeqi et al. (2002) published a medical study based on the analysis of 60,604 medical records. 16 cases were thoroughly examined, and the predator in 75% of the cases was a parent. The report argued that child abuse is under reported in Kuwait, and the lack of legal procedures makes it hard for the staff to follow up the cases. These studies along with other medical papers served as a ground database for the national debate from 2010 to 2016. The above-mentioned study that seemingly triggered the national debate is suggested to have caused diffusion by learning from one's own experience. The Kuwaiti parliament received not only knowledge about the magnitude of child abuse, but also internal pressure to act upon this knowledge. In this case internal factors partly led to the establishment of the CRL.

On the other hand, Kuwait has been criticized on multiple occasions by the CRC. The last periodic report from 2013 voiced numerous concerns, and put an immense pressure on the Kuwaiti delegation by requiring explanations on the lack of child protection policies. The committee asked for Kuwait's legal definition of the child and underlined several contradictions such as the age of criminal responsibility being set at seven; the marriage age being 15 for girls and 17 for boys; and the common age being 21. It stressed that an ample legal definition of a child should be put into practice. The committee also voiced their concern on the lack of procedures to ensure the best interests of the child were provided in matters affecting them, as well as for the State's respect for the views of the child. An ultimately valid concern stressed in the report regarded child abuse in Kuwait. It was noted that there is a deficiency of statistics on child abuse, and the committee underlined the critical need of a governmental database that tracks the frequency of occurrences. It also elaborated on the lack of a comprehensive system for reporting the incidents, and the deficiency of proper procedures for reporting physical signs of sexual abuse. The report even noted the shortage of police involvement when children are physically punished by their family. It emphasized that the Kuwaiti legal system did not criminalize parents or guardians for preforming corporal punishment and informed the delegation of the importance to establish a law that covers this matter and also to spread awareness about its negative impact (Committee on the Rights of the Child [CRC], 2013). This report along with other UN reports have seemingly put a lot of pressure on the Kuwaiti delegation, since the delegation frequently answered that the establishment of policies are ongoing instead of openly dismissing the critiques. This can assumingly look like diffusion through hegemonic ideas, in which dominant actors, in this case the UN have their influence expressed. The UN is powerful and Kuwait has signed and ratified the UNCRC to join a more globalized unity, and therefore Kuwait is responsible to follow the guidelines of the convention. Placing the CRL in a content of globalization enables the comprehension of the aspects underlining forces driving its establishment. The lack of attention to the issue of child abuse prior to the formation of the CRL seems to result from the normalization of the phenomenon in the Kuwaiti society.

7.2 The Political Process and Advocacy

Although some of the factors that led to the establishment of the CRL have been discussed, it is significant to examine the political process that led to the passing of the law. A number of medical studies were written from the year 1998 to 2007, and the results presented in these studies assisted child rights advocates to express the need of an association that deals with child rights. In 2008 the KCRS was formed under the umbrella of the KMA. The establishment of the KCRS was a milestone in the process of acknowledging the need of a child law. The KCRS were directly involved in the process of forming the CRL, and were responsible for spreading awareness about signs, harms, and preventions of child abuse. Yet, spreading awareness did not seem enough, therefore, the KCRS suggested that a child law should be established, which steered the parliament into approving of the formation of a permanent committee in every medical center that should explicitly look after signs of child abuse or neglect (Kuwait Children's Rights society [KCRS], 2016).

Further more, it was not until 2010 that the issue of child abuse received remarkable attention. This attention was, as mentioned previously in this thesis, a result of a study by the department of psychology at Kuwait University on the prevalence of child abuse in the Kuwaiti society. The results of the study seem to have triggered attention and led to a parliament debate about child protection. This also generated multiple series of awareness campaigns by the KCRS that targeted parents, teachers, as well as children to spread knowledge about the issue. The parliament debate continued, since the establishment of a law that can simultaneously be inline with the UNCRC as well as the Sharia' law and fit in to the existing norms proved to be a tougher matter than expected. While the debate was ongoing, the KCRS continued educating the society by targeting parents and providing alternative disciplinary methods. After three years of national debate, a final suggestion for a child law was proposed in 2013 and the working on the construction of the law began. The version of the law proposed in December 2014 was declined for being unclear, and lacking, which stretched the process even further. Lastly, in March 2015 the Child Rights Law (CRL) was approved, and it was passed in January 2016 (Kuwait Children's Rights society [KCRS], 2016).

7.3 Institutions and the Kuwaiti Culture

Al-Mahroos expresses the difficulty to draw conclusions based on the little research that is done on child abuse in the Arabian Peninsula. The study suggests that the scarcity of material on sexual abuse is probably due to cultural and social taboos. Additionally, the report presents several detailed examples of child abuse by parents and guardians. Shockingly, none of the surviving children were removed from their families despite continues abuse. Some cases were lost for follow up, and no legal action was acquired even though there was one death case. The author expresses a concern on the absence of procedures to deal with child abuse in Kuwait. The report suggests that the medically reported cases are the most severe ones where the families are forced, due to the severity of the situation, to seek medical help and these cases probably represent a minimal percentage of the actual occurrences that goes unreported. Throughout the Arabian Peninsula, medical records noted that children tend to receive the needed medical care but in most cases the abusers goes unidentified (2006). Al-Moosa et al. conducted a cross-sectional survey to evaluate the awareness of pediatricians on legal procedures in relation to child abuse. The report stated that 80% of the pediatricians did not know what procedures to undertake or which authorities to contact in the suspicion of child abuse. Therefore, the lack of child protection policies, and procedures led to the return of the abused children to their families without distinguishing the abusers (2003).

The CRC report that was discussed earlier in this study expressed specific concerns on the lack of legal procedures, and governmental institutions to enforce the follow up on the cases of child abuses. Even though chapter nine of the CRL states the multiple penalties that could face an abuser, it does not clearly set forth the availability of institutions to carry on these penalties. In order for the jail penalty to take place, the police needs to get involved. For that to take place, a serious injury must occur so the case could be seen as a criminal case. Yet, article 77 of the CRL discusses the potential of establishing institutes in each province of the country that will eventually receive complains regarding cases of child abuse. It also states that there will be an establishment that rehabilitates parents that have abused their children in order for them to have a better parent-child relationship. The potential institutions discussed in

article 77 seem promising, yet it is not mentioned when or how these institutions will be set in place (The Child Rights Law [CRL], 2016). Comprehending this from Meyer's actor-environment relation, and understanding the degree of authority norms have over actors, it is significant to adopt the CRL on a cultural level in order for the Kuwait society to obey it. Meyer implies that in order for structures to evolve people need to gather together and make the change happen because sociological institutionalism emphasizes structures rooted in societies (2007). Therefore, the law itself cannot guarantee the safety of children without addressing the causes, and striving to shift the norms.

However, in order for the CRL to be adopted on a normative level it has to be accepted by society. The CRL states that family is the core institution of the society, build on religion, morals and obedience to the law, and that the state is responsible to insure the sacredness of family and maintain its strength. Trask (2010) agrees that family is a part of the foundation of both western and non-western societies, and it serves as the primary source of nurturance, protection, and socialization for its members. Yet, from a modern view families are not only seen as a group, but as individuals that are independent agents within this group (p. 22-23). Nevertheless, the Kuwaiti culture still views family as unified group whose unity should be protected by the law, and this notion could come to conflict with the implementation of laws that gives a child a voice and a distinct identity. Trask also discusses the affect globalization has on states and the political pressure to be integrated in a global community. States such as Kuwait sign and ratify conventions that might contradict their cultural norms and therefore makes it difficult to be implemented.

Amenta and Ramsey (2010) discuss the association between policymaking and practice. In order for the CRL to be successfully integrated there should be a clear bridge that connects policy and practice. The Kuwaiti society has always relied on normative measures to solve family matters, including child abuse in all forms. The CRL is suggesting the establishment of cognitive procedures, and that is seemingly a major change that needs cultural adoption. Cognitive institutions need to be embedded in the society by making them morally acceptable. There might be cultural factors such as the sacredness of the family that might cause resistance again child abuse within a family, especially sexual abuse since it is taboo and bring shame to the

family. These issues should be dealt with in a matter of spreading awareness and educating society about the importance of preventing abuse and rehabilitating the abused.

Nevertheless, it is important to note that even though Kuwait is a fairly small country with only 4.2 million people, this does not necessarily indicate that it has a homogeneous society. Taking into account the doctors, journalists and lawyers who pushed the legislation of the CRL, and are still actively spreading awareness about child abuse. It could be suggested that these activists have a more western views on childhood than the rests of the society. This could be a result of Medical schools for instant having a global moral code, and somewhat universal methods. Resulting in these professionals having a more western view on the issue of child abuse. These activists seem to be a minority since the survey by Qasem et al. (1998) shows that 86% of Kuwait parents agree on physical punishment. What is interesting is that these activists managed to influence policy legislation. The legal process is in reality is probably more complicated than this thesis can grasp. Yet, one may wonder why and how these activists were allowed to gain such influence. Where there other interests among politicians who saw that this legislation is good for Kuwait in the international arena? It seems like discussed earlier in this chapter, to be a combination of factors. Unfortunately, the lack of data makes it difficult to to determine what actually happened but this thesis is my individual understanding of the process that I hope will assist further research on the topic.

8. Concluding Discussion

Child abuse is a concern that occurs in all societies in both developed and developing countries. The aim of this study was to critically explore the effects of pre-existing norms on the establishment of child protection policies in Kuwait, as well as to deliver an analysis of the timeline of the formation of the CRL. The process that led to the establishment of the CRL, and how it took place and what affected it was examined using policy diffusion theory as well as family structure theory. The issue problematized in this study is how pre-existing and fundamental norms has an affect on the implementation of the CRL in Kuwait. Abuse within the family, such as for disciplining manners was argued to have roots in the way parents are looked upon in the Kuwaiti culture and the Islamic law as the fundamental disciplinarians. Exploring

norms and the family structures in Kuwait suggests that family is considered the core institution of the society, and state interference is kept to the minimum in regards to family matters, which includes child abuse. Further, it was implied that the notion of childhood is still unclear in the Kuwait law.

When exploring the normalization of child abuse, utilizing the concept of violence enables a discussion that looks beyond the situation of policy making in order to recognize the extent of underlying cultural structures. According to the previous studies, the issue of child abuse is seemingly more common than is cared to be admitted. The normalization of corporal punishment is deeply rooted in the Kuwait culture, and is considered a valid disciplinary method when children misbehave. Yet, the data suggested that this punishment does not necessarily only happen on the hands of the parents. In the matter of fact, older relatives are also considered to have the right to discipline the youngsters in the family. Family is regarded as a sacred institution in the Kuwaiti society, and therefore there has been limited interference in what is considered family matters. Masculinity is also linked to aggression in the Arabian Peninsula, and young boys are encouraged to fight and take revenge in order to be seen as men. This reinforcement of aggression only produces more aggression in the child, and this child might need more discipline, which is normally in the form of physical punishment.

What can be derived from this research is that an approach to end child abuse in Kuwait needs to be multidimensional. The issue of child abuse is a global issue that needs to be battled on multiple fronts. It is not enough to sign and ratify global conventions. In a matter of fact, countries need to take responsibly and build national laws such as the CRL. The establishment of the CRL is a milestone on the battle against child abuse; however, international and national awareness is needed in order to challenge this problem. Attempts to prevent violence against children should further incorporate family dynamics, and the ways in which these dynamics have an affect in this matter, but also challenge the underlying norms that allow guardians to be superior over children. By doing this, children will be entailed to have a voice and could be given the opportunity to express their opinions in matters that concern their wellbeing.

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