



**LUND**  
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**“We must not settle for less [when  
incorporating Children’s Rights into law]”**  
A socio-legal analysis of Children’s Rights Organizations’  
role in the Swedish legislative process

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## **Abstract**

This thesis seeks to understand the role that Swedish civil society (in the form of children's rights organizations) play in the creation of legislation, through the writing of consultation responses and role in the discussions of the law following its incorporation. The aim is to understand the interplay between the political system and civil society through the eyes of the civil society's employees concerning consultation responses, using Habermas' theories of communicative action between the lifeworld and system. This essay has been conducted through text analysis of consultation responses and text posts of the children's organizations in combination with interviews of employees of the children's rights organizations. The thesis finds that the children's rights organizations were positive towards the incorporation of the Convention on the Rights of the Child into Swedish law, but that they however continually have emphasized the need for the legislation to be used generally but also to protect vulnerable groups of children within new legislation and old legislation that needs to be overlooked. The children's rights organizations differ in how they produce consultation responses, but they all believe that they have some impact. However, the interplay between the political system that stands behind the legislative process and the children's rights organizations is perceived as heavily reliant on the underlying political motives of a law proposal. The communicative action between the political system and the lifeworld of the public sphere seems to be obstructed by differences in interpretation and priorities, leading to the political system sometimes incorporating the wishes of the public sphere without perceiving the context that these wishes are a fraction of, within the bigger picture of the public sphere's lifeworld.

**Keywords:** Children's rights organizations, civil society, consultation responses, legislation, Habermas, Convention on the Rights of the Child, Sweden

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## 1. Introduction

The Convention on the Rights of the Child consists of 54 articles concerning the rights of children. The convention became ratified and judicially binding in Sweden in 1990 and became Swedish law in January 2020. The process towards this legislation was not linear, it was a very debated matter throughout many years (Ponnert & Sonander, 2019). Many civil society organizations celebrated the new law while some judicial instances were skeptical towards the new legislation (Bondeson, et al., 2018; Rädde Barnen, 2018; Ponnert & Sonander, 2019). The Swedish Law Council (*Lagrådet*) stated that the articles of the convention already were incorporated in law, that an incorporation was unnecessary since the articles were generally followed and not fit for direct application in court cases. Despite this criticism, the law was developed and adapted, and has been in force for more than two years (Ponnert & Sonander, 2019).

Civil society organizations have advocated an incorporation for many years and wrote supportive consultation responses to the legislative proposal, arguing that incorporating the Convention on the Rights of the Child (abbreviated as CRC) into law could lead to a strengthening of children's rights judicial status (Prop. 2017/18:186). This change was expected to improve the conditions for implementing children's rights, through raising the demands to consider children's rights in official decision-making processes (Fallgren & Hibell, 2019). This thesis seeks to understand the children's rights organizations' perspective on the law within the legislative proposal as well as after its implementation, the role consultation responses play within our democracy, and by extension, the interplay between the political system and civil society.

This thesis derives from a socio-legal perspective. This field studies the relationship between societal norms and between law and society. Socio-legal studies are founded in a conception of different factors co-existing and affecting whether a law is abided or not. The perspective does not by default assume that new legislation will lead to the exact behavioral change that the law aims to subdue (Olsson & Sonander, 2019). This approach on law has existed for more than one hundred years. One of earliest and most well-known socio-legal theories comes from the American legal scholar Roscoe Pound (1910) who introduced the concept of law in books and law in action. Law in books refers to the rules that are formally enacted, while law in action refers to the conceptions of law that involve variability in the application, disparity in enforcement, pluralism in authority and ambiguity in meaning. Socio-legal studies often view

law as a combination of both law in books and law in action through a belief that only acknowledging one of these parts makes it difficult to grasp the full reality of law (Deflem, 2008). Pound believed that a too wide gap between law in books and law in action meant risking having an ineffective or ill-regarded legal system (Nelken, 1984). The quintessence of this thesis derives from Pound's socio-legal ideas, through seeking to understand the interplay between the legislative process and the social world, in the form of civil society organizations, while conceiving a risk if these two actors differ too far in their conceptions of Swedish law.

### **1.1. Research problem**

Children's rights legislation is meant to protect of children, who are by default dependent on the protection of adults. What prospects do everyday citizens have to impact their rights, democracy, and legislation, beyond simply participating in elections or engaging politically? One way for citizens to impact the political system and legislation is through civil society organizations, at least according to Habermas' theory of communicative action between lifeworld and system (Habermas, 1989).

Civil society organizations have been an active part of Swedish society since the 19<sup>th</sup> century (Wijkström, 2004). Since then, the civil society's role in creating an inclusive and democratic system has increasingly grown (Micheletti, 1995). The organizations can be seen as voices of democratic opposition in the Swedish political system. Matters of legislation can be directly affected by non-governmental organizations through consultation responses on legislative proposals. The passing of the law of the CRC is a clear example of civil society's ability to impact Swedish legislation. The CRC is a development of a scripture called the Declaration, that was written by the civil society organization Save the Children's creator Eglantyne Jebb (Save the Children, n.d.). The incorporation of the CRC into Swedish law was clearly encouraged by children's rights organizations in their consultation responses, while the Law Council advised the Swedish government to not move forward with the legislation (Ponnert & Sonander, 2019).

### **1.2. Aim and relevance**

This thesis seeks to understand the role that Swedish civil society (in the form of children's rights organizations) play in the creation of legislation through consultation responses, using Habermas' theories of the public sphere and communicative action between the lifeworld and

system. The data analysis examines the consultation responses of civil society children's rights organizations on the Swedish law of the CRC in the context of the proposition, as well as the organizations' view on the consultation response process and the law in hindsight, through reading text posts on the organizations' official webpages and interviewing employees that work with creating consultation responses for the selected children's rights organizations.

From a socio-legal perspective, the creation of new legislation rarely is straightforward. The question of what rules create obligation is complex, since several factors, not just legal norms, are seen as relevant when attempting to understand human behavior in relation to law (Banakar, 2015). This is the reason why this thesis focuses on the perspectives before and after the legislation, as well as the conceptions of the process in hindsight.

My research questions are:

- What problematizations did the Children's Rights Organizations prioritize when commenting the law of the Convention on the Rights of the Child, what perspectives were overlooked and how can this be understood with Habermas' communicative action of the lifeworld and system?
- How have the problematizations of the Children's Rights Organizations on the law of the Convention on the Rights of the Child developed during the two years since the implementation and how do these relate to the communicative action of the lifeworld and system?
- How do Children's Rights Organizations view the process of producing consultation responses and by extension, the interplay of the political system and civil society?

While this essay has a foundation within critical theories of Habermas, the aim is not to criticize the work of civil society, but to analyze and get a deeper understanding of the important part and interplay of democracy that the organizations are part of. Hopefully, this study can contribute with knowledge useful to the work for children's rights as well as lead to a better and clearer communication between the civil society and political system within the legislative process.



### **1.3. Delimitation**

This study examines the consultation responses on the law of the CRC written by Swedish civil society organizations. Since many organizations have written consultation responses on this legislative proposal, the study needed to be further delimited. A delimitation has been made concerning the focus areas of the civil society organizations. I chose to limit myself to studying children's rights organizations since these are specifically preoccupied with children's rights. Furthermore, I have excluded all children's rights organizations with a narrow aim, i.e., those preoccupied with specific matters concerning children.

### **1.4. Outline**

This thesis has an outline consisting of eight different sections. The first section, Introduction, describes the thesis' aim and research questions. The second section, Background, focuses on the context of civil society and societal and legal norms surrounding children's rights and the Swedish legislative process. The third section, Literature Review, provides an analysis of the relevant previous academic research surrounding civil society, advocacy work, democracy and contemporary Habermasian analyses of civil society. The fourth section, Theoretical Framework, defines and explains the theories that will be used as a framework in the analysis. The fifth section, Methods, provides a description of the choice of data collection, sampling strategy and data analysis method, as well as a discussion of the limitations. The sixth section, Results, consists of a presentation of the results found during the data analysis of the empirical material. The seventh section, Analysis, holds an interpretation of the results through using Habermas' theories. The eighth section, Conclusion, consists of a summary of the findings of the analysis and a critical discussion with connections to the chosen method, material, and theory as well as some recommendations for future research.

## **2. Background**

This chapter includes a description of concepts with the aim to make it possible to understand the background and current state of civil society, children's rights and how the process of creating laws in Sweden looks, since this knowledge is important as a context and foundation in order to understand the problem area of this thesis.

## **2.1. Civil society**

The term civil society is broad, but in this thesis the term refers to human organizations within society that do not primarily focus on monetary gain or conformance to legal mandate (Wijkström, 2004). Civil society organizations play a role in the balancing of tensions between individuals and government. They are independent from government and consist of spaces where individuals can gather in groups to collectively act on matters of their choosing. Within democratic states, civil societies often thrive, while they do not always have a chance to exist within totalitarian states. While it cannot be taken for granted that civil society organizations always promote freedom and democracy, the sphere has historically safeguarded and aimed towards justice, democracy, and equality in Sweden (Micheletti, 1995). Civil society organizations have historically also played roles in the development of legislation, such as in the case of The United Nations' Convention on the Rights of the Child (Save the Children, n.d.).

The organizations carry change and development as well as stability and tradition in society. They are on one hand often seen as arenas that provide voices by coordinating groups and individual's interests, through for example trade unions or advocacy work. They are on the other hand also often seen as service providers that provide different sorts of welfare services. Civil society can be seen as spheres for utopias, i.e., safe spaces in society where alternative solutions, methods, and models are created, tested, and developed. Those who adhere to this view see the organizations as places where people can organize according to alternative visions and safeguard identities and practices that are not in complete alignment with the current dominating or politically correct apprehensions in society. Therefore, an accessible space is created for activities and ideas that might be difficult to establish anywhere else within society. (Wijkström, 2004)

The world of civil society is widespread and substantial in its number of members. It consists of organizations that have different aims and areas of interest. Many of these organizations are built upon and dependent on voluntary and economically unremunerated work of the members. About one third, 36 percent, of all Swedes above the age of 16 had devoted time to volunteering during the last twelve months (at the occasion of the survey in 2018) (SCB Statistikmyndigheten, 2018). The economic value of the voluntary work in Sweden was estimated up to 131 billion Swedish Crowns in 2014. This amounts to 3,32 percent of GDP, which is a larger amount than the one of all Swedish retail trade (SCB Statistikmyndigheten,

2018). However, these numbers only indicate some of the people engaged in civil society, namely those that perform the non-profit work. The magnitude of civil society is even more large-scale; since many more are affected by the work of civil society, for example the salary workers within the organizations, but also (and maybe more importantly) the huge number of children that are engaged in recreational activities at the behalf of voluntary work.

## **2.2. The Convention on the Rights of the Child**

The Convention on the Rights of the Child (abbreviated as CRC) was ratified by the General Assembly of the United Nations the 20<sup>th</sup> of November 1989 and came into force the 2<sup>nd</sup> of September 1990 (United Nations, n.d.). Sweden followed along and ratified the convention in 1990. Furthermore, the CRC was included through the adjustment and changing of existing laws, so that these were in alignment with the convention. While a ratification makes something judicially binding, it does not amount to the same status as national laws, and it is not invoked by courts or governmental authorities. A ratification gives the government and parliament the primary responsibility for an implementation. However, the CRC was made into Swedish law in January 2020. A consequence of this is that the CRC has the same judicial status as other national laws and that it can be the single foundation for decision-making of courts and authorities (UNICEF Sverige, n.d.-c).

The CRC originally derived from another international document, called the Declaration of the Rights of the Child. The declaration was a scripture drafted by Eglantyne Jebb, the founder of the Children's Rights Organization *Save the Children*. The declaration was an international document that promoted children's rights and consisted of a list of children's rights that all adults should bear a responsibility for (Save the Children, n.d.).

The CRC consists of 54 articles and has four main principles (Skolverket, 2020):

- All children have equal rights and worth. No one is allowed to be discriminated against.
- In all actions concerning children, the best interests of the child shall be a primary consideration.
- Every child has a right to survive, live and develop physically, mentally, spiritually, morally, and socially.

- Children have a right to express their opinions and have them considered in all matters that concern them. These opinions shall be given weight in accordance with the age and maturity of the child. (Skolverket, 2020)

When presented as an upcoming Swedish law, the opinions of social institutions were divided (Ponnert & Sonander, 2019). Civil society have insistently and persistently fought for the CRC to become law in Sweden. An expectation was that the new law could bring better conditions for children's rights to be implemented, through raising the demands that the CRC and children's rights are used in the decision-making of municipalities that overlook the conversion of law into practice (Fallgren & Hibell, 2019). While civil society were positive towards the proposal, other judicial instances such as the Law Council were not as optimistic (Ponnert & Sonander, 2019; Rädda Barnen, 2018; Bondeson, et al., 2018; Svenska Dagbladet, 2017) The criticism consisted of arguments saying that the articles of the CRC already were incorporated in Swedish law, as well as generally followed, and that the convention was not suitable for direct application in specific court cases because of its form (Svenska Dagbladet, 2017; Ponnert & Sonander, 2019).

Sociology of Law aims to understand all components that can affect whether law results in change in practice or not. While laws and rules are important in the process of protecting children and strengthening their rights, they are not always enough to make the requested change. For a law to be successful, there is a need for all related actors to understand what the legislation is meant to amount to in reality. (Fallgren & Hibell, 2019) In a consultation response on the law proposal of the CRC, the Department of Sociology of Law at Lund University emphasized that there sometimes exists an over-reliance on the power that new laws bring, that can lead to a decreased ambition in taking additional important measures (Ponnert et al., 2016).

## **2.3. The Swedish legislative process**

### **2.3.1. The government**

The process of creating or changing laws in Sweden is mostly initiated by the government (Zetterström, 2017). Laws are sometimes created out of political reasons, i.e., do not always have a foundation within the wants of the citizens. However, sometimes laws are created, demanded, and advocated by the people of society because of changing attitudes. No matter the reasons behind a piece of legislation, laws needs to have mechanisms and systems that will

enable the law to be abided and become a part of the societal structure. Civil society organizations often constitute the functions in society that binds together this structure with the actual people that live within society, to effectively strengthen the legal system as well as the individual's rights. (Fallgren & Hibell, 2019)

### **2.3.2. The departments and committees**

The Swedish government has several departments whose main tasks are to create the preparations of governmental decisions. A department initiates legislative processes through appointing a review or assigning a committee the task to compile a proposal, of a new law or of a change within current legislation. The review is often made of experts or politicians, within the field that is affected by the legislative proposal, leading to a report that is delivered to the department and published within the series of the State's official investigations (SOU) (Zetterström, 2017). Then, the department sends the proposal on consultation to authorities, organizations and other actors that might be affected by the new or changed law. This is a chance for these to provide their standpoints or statements and by extension, potentially impact the legislation. After the collection of consultation responses, the department traditionally sends the committee report, consultation responses and the proposal to the Law Council. (Zetterström, 2017)

### **2.3.3. The Law Council**

The Law Council holds the task to review legislative proposals and to produce a statement surrounding these. The Swedish government and parliamentary committees are the only institutions that can request statements from the Law Council. It is not necessary for the government to gather a statement from the Law Council, i.e., they can choose not to if they deem it superfluous or obstructive in the process (Lagrådet, n.d.). The existence of a Law Council is demanded by Swedish law (SFS 2003:333). The Law Council consists of judges from the Supreme Court and the Supreme Administrative Court (Zetterström, 2017). In addition to this, other legally qualified people can be appointed to the council (Lagrådet, n.d.). The Law Council's review shall aim to examine: how the legislative proposal relates to the constitutional laws and general legal framework, how the proposal's precepts relate to each other, how the proposal relates to the demands of the legal security, if the proposal is formulated in a way that the law can be presumed to accommodate the framed needs and lastly, what problems could occur during the application of the law (Zetterström, 2017; Lagrådet, n.d.).

#### **2.3.4. The final steps in the legislative process**

After the Law Council's review, the department completes the proposition. This proposition or law proposal is delivered to the parliament, who must decide whether the proposal should be incorporated. If the proposal is adapted, the government is given responsibility over executing the content of the law.

#### **2.3.5. The legal materials**

The judicial methods rely on interpretations of the relevant legal rules in specific cases. To interpret legal rules, one needs to understand the general content of the rule and must also be able to translate the rule into appropriate consequences for the case. The legal rules exhibit how problems should be solved or how a legal scholar is expected to act in a certain situation. (Hydén & Hydén, 2016)

Politics are transformed into jurisprudence through law and preparatory work. According to Håkan and Therese Hydén (2016), these two are the most important legal sources in our time. The sources of law determine the interpretation of the judicial content, and there are more legal sources than just law and preparatory work. The legal sources and their respective roles in jurisprudence can be described as the following: The substance of the law is clarified through the preparatory work surrounding the legal proposal and is further specified by using court precedents. When interpreting a law, it is also possible to use legal doctrine as a source of law, which consists of judicial expertise. Lastly, customs can also be used as sources of law, especially in cases where the previously mentioned legal sources are missing. (Hydén & Hydén, 2016)

Where are the consultation responses' relevance in this? Consultation responses are a form of preparatory work on laws. These can provide guidance in the interpretation and application of the law. If the legal text and the preparatory work are in conflict in some way, the actual legal text is to be seen as of greater importance. While this is the case, it is punishable and viewed as misconduct to ignore the substance of the preparatory work purposely or recklessly. In summary, laws and preparatory work form the written law, but there are other sources of law that constitute the unwritten law that also needs to be considered when handling judicial cases. (Hydén & Hydén, 2016)

### **3. Literature review**

This literature review aims to find previous research that can be used as a resource in the understanding of, evaluation of and analysis of civil society's role in the creation of societal and legal norms. It provides an overview of relevant previous research and can provide a knowledge gap. The finding of a research gap creates a reliable basis for the construction of research questions. While this knowledge gap is not crucial for a study to be of scientific value, it is helpful to use to avoid focusing on something that is already deeply analyzed. Without the literature review, the study would risk being out of context and scientifically unmotivated (Banakar, 2019). The literature review is, inspired by the socio-legal scholar Reza Banakar (2019), used as an analysis of previous research that aims to grasp central concern, agreements and disagreements among the scholars that are interested in civil society and norm usage. This analysis enables the finding of useful theories and methods that have previously been used in this scientific area and it simplifies the creation of key concepts and the theoretical framework (Banakar, 2019). When performing research, it is important to consider the research paradigm that one's study is a part of. My literature review consists of the most relevant studies from different disciplinary origins. The decision is motivated by the socio-legal field's openness and capacity to include other disciplines and as a result gain foreign knowledge and insights that can be appreciated and incorporated in the socio-legal repertoire (Banakar, 2019). Since the purpose of my thesis is to apply a socio-legal perspective on the interplay between civil society and the legislative process, and the field seeks to find the different aspects that might affect the laws' observances (Olsson & Sonander, 2019), I would risk missing out on important perspectives by excluding other fields.

My study has a foundation within a paradigm of interpretivism, which means that the social world is understood as a nuanced, complex, and multidimensional phenomena that is best understood through a process of interpretation. This paradigm derives from an approach where the researcher is skeptical towards the possibility to reach full objectivity, since the person performing the research has thoughts that to some extent will color their experience and identity as a member of the social world where the research takes place. To consider previous research can provide guidance when developing the theoretical, methodological, and analytical foundation of an examination as well as when performing the study, since the development and interpretation otherwise would be completely left to the sole researcher (Denscombe, 2017).

The gathering of relevant previous research has been performed using a Boolean search method with a consequential strategic selection of texts. The Boolean search method refers to using operators such as the words “and”, “not” and “or” to make the search process more precise through ensuring that certain keywords are combined and not simply unconnectedly co-existing in the same document (Webley, 2019). The following keywords were used in the search method: “civil society”, “civil society organization”, “Sweden”, “Habermas”, “lifeworld”, “law”, “democracy”, “advocacy”. The texts were gathered from the academic databases LUBsearch, Jstor and EBSCOhost. The search only included peer-reviewed texts, since this is an academically acknowledged way of improving the quality of a study (Webley, 2019). In order to get an up-to-date literature overview, the gathering of research was delimited to texts that were written between the years 2000 and 2022. After using the Boolean search method to find relevant texts, the method of snowball sampling was used. First, I looked through the search results and downloaded those that seemed relevant to the topic. This selection was made by me reading the initial text of the search result and provided me with 44 texts. After this initial readthrough, I downloaded the sources and organized them in three folders according to the amount that they seemed relevant to this thesis’ interest area. I created one folder consisting of the texts that seemed to be relevant to the research questions, a second folder with those that may be useful in answering a part of the research questions and a third folder with those that seemed to be irrelevant (Webley, 2019). I focused solely on presenting the first folder in this literature review with the texts of most relevance, resulting in 7 sources being discussed below. However, the method of gathering gave me access to a broad amount of literature that was useful throughout the implementation of the study but not of direct relevance to the topic. Three themes will be presented, with each theme representing a significant aspect of the findings of the literature search.

### **3.1. Civil society and systems advocacy**

Several previous studies of civil society have focused specifically on the organizations’ roles in advocacy work towards law-making processes. For example, Arvidson et al. (2018) examine how the Swedish civil society’s culture of advocacy is formed. They argue that civil society’s advocacy work has been shaped through perennial traditions of close relations between civil society organizations, popular movements and state and governmental officials. Furthermore, they argue that the organizations not only have a role within Swedish society where they are allowed to voice critique against public actors and policies, but also one where they are expected to. In other words, the civil society is argued to have a clear critical voice function within the



Swedish society (Arvidson, et al., 2018). While the study by Arvidson et al. (2018) focuses on the actual role civil society plays in the official arenas of lawmaking, it indirectly implies the need for studies that look ahead and examine how the Swedish civil society, that is inherently permeated with legally intertwined values and opinions, create moral norms and what the directions these discourses imply for Swedish legislation. In other words, a knowledge gap exists surrounding the more civil society organizations' attitudes towards the process and results of the systems advocacy.

Sanchez Saldago (2018) examined how and why EU-based civil society organizations use emotions in their advocacy strategies, arguing that the organizations use rhetorical appeals to both emotions and reason in their communication. More specifically, she claims that the organizations sometimes use emotion-inspired advocacy strategies such as blaming, shaming and even fear-mongering. In order to influence the governments, the organizations chose a less emotional path, but when aiming to appeal to news media and their members the emphasis on emotion was bigger. The dilemma of how much emotion to use in the advocacy work makes the situation for civil society organizations difficult. On one hand, emotional appeals make problems seem to be important, but on the other hand emotional expressions can be detrimental for rational and objective decision-making processes (Sanchez Saldago, 2018). The findings of Sanchez Saldago are interesting to this thesis since they potentially can help me analyze the formulations of the organizations, in both informal and formal contexts.

### **3.2. Civil society and democracy**

Civil society's impact on democracy has been studied and discussed by scholars for an extensive period. Many of these studies focus on the role of civil society and democratization through a focus on critical junctures like revolutions or regime changes. Grahn and Lührmann (2021) wrote an article about civil society and post-independence democracy levels in 202 different countries (that have existed throughout history). They found that the presence of democratic civil society organizations prior to a state's gain of independence was positively related to the democracy levels after the gain of independence. Meanwhile, civil society organizations that were classified as non-democratic were negatively related to the levels of democracy post-independence. Several other studies also claim that the nature of civil society is vital for the outcomes of democracy (Grahn & Lührmann, 2021). These findings legitimize

the aim of my study through their implication of civil society's importance in relation to democracy.

While many scholars attest that civil society is impactful and vital for democracy, it is not without challenges. In another article, Arvidson et al. (2017) discussed how privatization challenge the honest criticism from civil society, through the dependence that civil society organizations have of funding. The findings of the study argue that the dependency of funding makes civil society organizations more likely to restrict their criticism. If this interpretation is representative, then it means that an honest and strong advocacy is challenged. The findings that the advocacy work might be challenged makes it even more interesting to investigate the publications of the organizations as well as the norms that are created within that they might not publicize in official channels because of the conflict of interests (Arvidson, et al., 2017).

Kalm, et al. (2019) explored the ways that civil society organizations internationally could act as a counter-democratic force, through organizing distrust against powerholders and pressuring these to strengthen their accountability. Counter-democracy actors oversee ruling institutions, express mistrust, and challenge dissent. The counter-democracy forces are important contributing factors in democracy. Kalm, et al. (2019) found that transnationally organized civil society organizations can play a particularly important role in the international sphere, where they take on important monitoring functions in situations where other actors are unable. This is made possible by the organizations' unique access to connections, expertise, and dedication. They express that this is something that the organizations of civil society already do, to an important extent. The authors argue that there is a clear lack of academic research surrounding the crucial democratic functions of civil society. (Kalm, et al., 2019). This thesis aims to account for this gap by diving into the somewhat underexplored field of civil society and democratic processes.

### **3.3. Habermasian analyses of civil society**

Since this thesis has a foundation in Habermas' theory and civil society, it felt necessary to gather an understanding of previous research analyzing Habermas and civil society. The theories of Habermas are about 30 years old, and a lot has happened in society during these years that might affect how current researchers choose to adapt and interpret Habermas' theories, which is crucial for me to have knowledge of when writing this thesis. The concept

“public sphere” is mentioned below without an extensive explanation. An explanation of the theoretical concept of the public sphere can be found in *4.1 The Public Sphere and Civil Society*.

Regilme (2018) wrote that, because of a growing globalization and global public policy issues, another thing also grows, namely, to further analyze concepts such as civil society, public sphere and legitimacy of the legal systems. He wrote an essay that derived from Habermas’ admittance of an existing barrier within the civil society and the public sphere. The article explores methods of overcoming the barriers that stand in the way of full vitalization of the civil society’s ability to liberate. Regilme (2018) argues that Habermas’ perceived barrier often needs to be viewed from a transnational perspective of democratic politics, instead of being confined within the national political processes. This is at least argued to be the case when analyzing the decisions that are made at a transnational level (such as those by the EU, UN, or World Bank). Regilme (2018) imply a need to reinterpret Habermas’ emphasis on the civil society and the public sphere’s important influence on politics. This is encouraged to be done through using an understanding of the increasing global political and economic interdependence, where both the civil society and the public sphere are part of a transnational context, through for example global social movements, the general worldwide development of information and communications technology (Regilme, 2018). Regilme’s findings imply a need to keep the global context in mind when searching for an understanding of the workings of democracy and civil society. This is vital knowledge to use in my interpretation of results.

Emina (2021) examined the role of Habermas’ public sphere as a preamble to the perceived importance of public deliberations within democracies, as well as how civil society organizations became a necessary actor in this process. Emina (2021) writes about “political consciousness” in people, by which she refers to the conception of individual’s fundamental rights against state authority and market. She argues that the creation of a political consciousness within civil society articulated the need for general and abstract laws, but also translocated the legitimate source of law to the public opinion. The creation of a political consciousness within the people of society pushed the public sphere towards a realm of political involvement (Emina, 2021). This article relates to the role of civil society in a global society, just like Regilme (2018) does. The importance of civil society worldwide is argued to have been built as a consequence of globalism’s erasure of the boundaries of state and nation. She, on the other hand, also argues that civil society made the state’s role lessen in issues like

alienation, gender inequality, human and children's rights, which further implies the importance of civil society organizations consultation responses that offer expert knowledge.

## **4. Theoretical framework**

The theories used to understand and analyze the research problem in this essay are created by the German sociologist Jürgen Habermas. This section includes an introduction of Habermas' theories of civil society, of communicative action and of lifeworld and system. These theories are used in this study to understand the democratic process and content of civil society's consultation responses on legislative proposals. The decision to use Habermas' theories is motivated by his experience of examining specifically civil society and its relationship to the creation of law. While Habermas' theories can be argued to be old, I have tried to incorporate current perspectives of his theories through my literature review, where contemporary studies using Habermas are presented. The theories presented below will be used in their entirety in 7. *Analysis*, to understand the findings of the data analysis, with the literature review used as a complementary tool.

Jürgen Habermas was born in 1922 in Germany and is often seen as one of the most influential thinkers of the second half of the 20<sup>th</sup> century (Deflem, 2013). Habermas' work primarily derived from a Marxist social theory of historical materialism and economy, but mainly surrounded sociological critical theory of the existing problems of society in the late-modern age (Deflem, 2013).

In this section, I will first explain Habermas' theory on civil society and the public sphere. After that, I will describe Habermas' theory of communicative action between lifeworld and systems, which is a theory focusing on the space that enables cooperation and coordinated action (to for example create democracy). This theory aims to create an understanding of the gap between lifeworld and system and how civil society, through being a part of the lifeworld, creates a sort of bridge between these. These theories will be used to analyze the results from the WPR-analyses and thematic analysis (which is explained in 5.3. *Data analysis*).

### **4.1. The Public Sphere and Civil Society**

In his book *The Structural Transformation of the Public Sphere*, Habermas (1989) introduced the world to his concept of "The Public Sphere". Habermas views the public sphere as a space of social life where public opinion can be formed (Emina, 2021). The public sphere, according

to Habermas (1996) is a social creation that takes on different forms depending on its density of communication, organizational structure and spread. The public sphere can appear in basically any contexts, ranging from spontaneous gatherings at cafés to rigorously planned events. Habermas (1989) described the public sphere as a realm where the public got a possibility to discuss and impact the political decisions concerning public issues. Habermas used the concept of the public sphere to describe what the public meant within a bourgeois society. The public sphere is a free space that makes open discussions of politics possible. In the public sphere, the discussions and debates come from critical reasoning and are not as affected by traditional dogmas and authorities, unlike many other political realms (Emina, 2021).

The public sphere is a communication structure that has its foundation within the internal norms of the people of civil society, within a space that Habermas refers to as lifeworlds (which will be explained in 4.2. The communicative action of the lifeworld and systems). In other words, the civil society lies within the core of the public sphere (Habermas, 1996). Habermas (1989, p. 12) described civil society as: “the genuine domain of private autonomy [that] stood opposed to the state”. Civil society, according to Habermas, is a force that delimits the state’s power and acts as a social power that enables civic autonomy (Habermas, 1996:175).

The public sphere is a concept of Habermas that is closely intertwined with the theory of communicative action of the lifeworld and systems, since the lifeworlds exist in the public sphere. The public sphere therefore provides a context that is crucial for this Habermasian analysis.

#### **4.2. The communicative action of the lifeworld and systems**

Habermas’ theory of communicative action derives from a social constructivist perspective. Communicative action is a theory based in an idea that when participants interact using speech and action, they partly aim to create interpersonal relations between themselves but also go through a process of interpretation. The subjects try to gain an understanding of the previous actions of the situation as well as of the future actions, to coordinate their actions through a unified interpretation of the situation (Habermas, 1984). The aim of the interactions within the communicative rationality is to gain a mutual understanding (Wacks, 2021). According to Habermas (1984) people somehow manage to communicate some sort of propositional content,

an offered interpersonal relationship, and an intention of the speaker, simply through using language and bodily movements. A communicative action could pretty much be any form of behavior of a person that another person perceives, i.e., anything they say or show with bodily gestures, such as a greeting in the form of a wave or asking a stranger for the directions when being lost.

One of the factors that enables the interpretation of communicative action is the lifeworlds. Habermas (1987) describes the lifeworld as a concept that is complementary to the communicative action. The lifeworld has the capacity to provide contexts of relevance to situations that arise (Habermas, 1987). Habermas (1987, p. 124) describes the lifeworld as a “reservoir of taken-for-granted, of unshaken convictions that participants in communication draw upon in cooperative processes of interpretation”. The lifeworld is full of presuppositions that color our interpretations and help us filter out meaningless or incorrect utterances, as well as helps us understand when something is valid. In contrast to this more active part of the lifeworld, many parts of the lifeworld are simply intuitively present (Habermas, 1987). The communicative action and lifeworld create the foundation that enables our ability to comprehend other people through shared meanings and understandings. In other words, Habermas theory derives from a belief that communication is reliant on what the different actors can understand, that their understanding is what frames their actions but also the interpretation (Habermas, 1987). Through using the concept of communicative action, I analyze the contents of the documents, looking for the internalized lifeworld within the contents from my empirical material.

The public sphere has its roots in the lifeworlds of subjects in civil society, which results in civil society being a center piece of the public sphere. As previously mentioned, the lifeworld gives us meaning, comprehension, social life, and shares values. Civil society organizations are one example of providers of spaces where we perform our communicative actions that are made possible by our lifeworlds. Lifeworlds are complex and people live with many lifeworlds. For example, playing football with a team against opponents might require the presence of a completely different lifeworld than the one required when writing an exam at university (Habermas, 1996).

Habermas views law as a dualistic phenomenon, by differentiating law as medium and law as institution. He defines law as medium as a body of general rules that guide and steer the state

and the economy. Law as institution, however, inhabits the lifeworld and seeks to spread values and norms in institutional form. One example of law as institution is criminal law that is dependent on morality. Law as institution relies on a legitimation and justification, while law as medium is independent from that a need of moral social justification. Habermas argues that the institutions are strong creators of normative integration. Since law is a part of the political system, it can create a connection between lifeworld and system. Law can take the role as a transformer that transfigures communicative power from the lifeworld into something that can fit within the administrative power of the state (Wacks, 2021).

According to Habermas (1996), the systems and lifeworld often interact through a “colonization of the lifeworld”. While this cannot be said to always be the case, the concepts should not be understood independently from each other. A colonization of the lifeworld leads to an intrusion of the lifeworld by the system, because of the system’s aim to handle technical social issues. While the intrusion of a system can disturb the creation of meaning-making between individuals and groups, the interplay is not always destructive. For example, the correspondence between law (based in a system) and morality (based in the lifeworld) can be useful in the development of legislation that is socially supported (Habermas, 1987). Habermas’ conceptualizations of the interactions of the lifeworld and system are used to understand the democratic process of consultation responses on legislative proposals and interplay between the political system and civil society, in this thesis. Furthermore, in this thesis, the system studied is the political system that are responsible for the legislative process in Sweden.

## **5. Methods**

In this section, I describe all methodological considerations connected to the thesis. I also present the method of data collection. The first part describes the approach of the thesis project, the chosen methods for data collection and the access to the field. The second part describes the participants and the sampling of these. The third part explains the analysis methods, while the fourth part describes the data analysis step by step. The fifth part holds an explanation of matters surrounding the reliability and validity of the study as well as biases. The sixth part consists of the ethical considerations, dilemmas and limitations that have been relevant to the implementation of the data collection process.

## **5.1. Qualitative approach**

This thesis project uses a qualitative approach, which derives from my aim and aspiration to examine and understand the emphasized statements of specific small groups that might impact a specific piece of legislation of a country through the process of democracy, i.e., not something that is quantitative (Bryman, 2018). This approach is fitting since qualitative researchers often seek to gain detailed knowledge of a rather small phenomenon (Denscombe, 2017). The qualitative approach guides my collection of data and helps me reach the aim of the essay as well as the answers to the research questions. This study has a foundation within a paradigm of interpretivism, which means that the social world is understood as a nuanced, complex, and multidimensional phenomena that is best understood through a process of interpretation. This paradigm derives from an approach of skepticism towards the idea that a researcher can reach full objectivity, since the person performing the research has thoughts that to some extent will color their experience and identity as a member of the social world where the research takes place (Denscombe, 2017). The interpretations of the findings are guided using previous research, which is presented in 3. *Literature review*.

### **5.1.1. Text analysis**

The main objects of interest of this study are the consultation responses. These were written several years ago and only exist in text form. They are a concrete form of communication that the civil society children's rights organizations have had surrounding the legislative proposal in the lawmaking process with the political system. There is a strength in studying the written word since it involves more forethought and careful formulation from a participant than in an interview or an observation. With a text analysis, one can choose to analyze different forms of documents to get a deeper understanding of the area (Hammersley, 2013).

The text analysis primarily focuses on the consultation responses written by the selected organizations, the legislative proposition that these consultation responses relate to (Prop. 2017/18:186) and the issued law of the CRC(2018:1197). The text analysis also includes text posts that the selected organizations have written about the law on their official webpages after the law entered into force. These have been found through searches on the websites of BRIS, Save the Children Sweden and UNICEF Sweden. The keywords used in these searches have been "*Barnkonventionen*" (which translates to "The Convention on the Rights of the Child") and "*lag*" (which translates to "law"). Out of these, I have skimmed through the results that



were published after January 2020 (which was when the law was commenced) to find the texts that included ideas or opinions surrounding the law. This resulted in 19 text posts collected, saved, and analyzed.

Documents can be seen as the speech performances when they are part of the communicative process. In fact, the consultation responses can be seen as the primary communicative process of civil society's impact on legislation. The analysis of documents also makes it possible to examine past processes that cannot be directly observed (Lindlof, 1995). Since this description fits the aim of the study, it is appropriate to use a document analysis. The document analysis is also a preferable method because of the documents' availability, high quality, and substantial information (Lindlof & Taylor, 2011). Another advantage of document analysis is that the documents are nonreactive and truthful. They make it possible to analyze previous happenings without risking impact from posterior discourses (Lindlof & Taylor, 2011). More specifically, the empirical text material is analyzed through WPR-analysis that is explained in 5.3.1 *WPR-analysis* and is used to answer the first and second research questions.

### **5.1.2. Qualitative interviews**

In order to grasp the children's rights organizations' perspectives on the process of producing consultation responses and the law in hindsight, I use interviews in addition to the text analyses. My intention has been to interview one employee from each studied organization (whom will be presented in 5.2. *Participants*). The interviewees need to work with the organization's writing of consultation responses to be relevant to the study.

The main aim of the interviews is to investigate experience and perspectives, which derives from an assumption that people's experiences and perspectives are more diverse, complex, and interesting than often perceived. As a country that defines itself as democratic, it is important to study the experiences and perspectives of the objects that participate in the democratic process. The decision to use interviews is an attempt to give a voice to a somewhat overlooked aspect of democracy. Hammersley (2013) writes that researchers who adhere to an attempt to investigate experience often use in-depth interviews as a means. The interviews are often somewhat unstructured and performed in a context where interviewees feel comfortable. An aim with the interviews is to allow the interviewees to speak at length at their own terms. The method calls for a need of the interviewer to be engaged in the conversation, while still not influencing. This means that the interviewer might have to intervene to encourage participants

to speak about specific topics that might have been shortly mentioned. The interviewers often do this through going with the flow of the conversation with the informant, instead of creating a disruption of the conversation to get the coveted information (Hammersley, 2013). The interviews have been performed in Swedish to avoid language confusion, since Swedish is my native language and the language that the employees use in their work. When statements of the interview participants are referred to or quoted in the thesis, these have been translated by me after the transcription of the interview. In addition to this, I have personal experience from being a part of the Swedish civil society and therefore have some prior knowledge that might help me intercept statements of the participants that others might have overlooked. My personal experience from civil society will be further discussed in *5.5.1. Biases*.

I have developed an interview guide to use as support in the interviewing, so that I have some written down questions to rely on if the conversation is declining. This interview guide can be found in *Appendix I*. The interviews are analyzed using a thematic analysis, which is described in *5.3.2 Thematic analysis* and are used to answer the second and third research questions.

### **5.1.3. Access to the field**

My access to the field was in some ways simple and direct, since all legislative proposals, consultation responses and text posts are available to the public. In order to find relevant interviewees, i.e., employees/volunteers that are in some way connected to the creation of consultation responses within the organizations, I have reached out to the organizations via email.

This approach has consisted of me sending out an email where I introduced my project, explained the importance of their unique perspectives and motivated relevance that the thesis holds for the academic community, the civil society and the democratic process surrounding legislation (Adams, 2015). This email was an attempt to add legitimacy to the project and possibly result in interest in participating in an interview. In the email, the participants were also informed about the approximate time of the interview. An approximation of the needed time was calculated out of the interview guide that was used to provide a foundation for the conversation (Adams, 2015).

## 5.2. Participants

Some of the empirical material of this study is the consultation responses made on the Swedish government's official investigations of a law of the CRC. As explained in 1.2. *Delimitation*, I am only interested in the consultation responses that are written by civil society organizations that are preoccupied with children's rights. I use a goal-oriented sampling method to select my participants out of all children's rights organizations that have written consultation responses on the Swedish official investigations of the law of the CRC. A goal-oriented selection refers to a selection where the participants are not chosen by chance. The participants are strategically sampled in relation to the research questions (Bryman, 2018).

To be consistent in my sampling I have formulated some criteria. The first is that the studied organizations must have a continuous work surrounding consultation responses on legislative proposals, since I intend to study not only the consultation responses on the CRC but also the process of writing consultation responses and the organizations' current conceptions of the law. If the organization's consultation response on the CRC was a one-time effort in the world of consultation responses on legislative proposals, they do not fit the criteria or aim of the study. I have also decided to select organizations that express that they use the CRC as a foundation in their work, since this implies that they have an ongoing interest in the CRC after it has been incorporated into Swedish law. In addition to this, I have decided to select the organizations that have the most members, since these represent a larger part of the Swedish population and therefore have the biggest possibility to mirror society to the fullest. By using these criteria in my sampling, I have found three organizations to analyze: BRIS, Save the Children Sweden (*Rädda Barnen*) and UNICEF Sweden (*UNICEF Sverige*).

### 5.2.1. BRIS

BRIS describe themselves as one of Sweden's leading children's rights organizations that strive for a better society for children every day (BRIS, n.d.-a). The organization was founded in 1971 by Gunnel Linde and Berit Hedeby after losing their daughter due to the physical abuse of the child's stepfather. BRIS is an abbreviation of the organizations' name and stands for *Barnens rätt i samhället* which translates to "The Children's Rights in Society" (BRIS, 2016; BRIS, n.d.-a). BRIS is a non-profit organization that is ruled through internal democratic processes by its members. All of BRIS' work today derives from the United Nations' CRC. The organization defines itself as politically and religiously independent. The funding of the organization is

enabled through fundraising, corporate sponsorships, support from municipalities and different foundations and membership fees. (BRIS, n.d.-b; BRIS, n.d.-c)

### **5.2.2. Save the Children Sweden**

Save the Children Sweden describe themselves as the world's biggest independent children's rights organizations. Save the Children is an international organization that exists in 120 countries. Save the Children in Sweden has 58 000 members that are gathered in 130 local associations throughout the country (Rädda Barnen, n.d.-b). Save the Children was founded on the 19<sup>th</sup> of May 1919 in the United Kingdom and a Swedish affiliation was created the 19<sup>th</sup> of November 1919. The organization played a role in the creation of the CRC and use the convention as a foundation for their work (Rädda Barnen, n.d.-a). Save the Children Sweden is an organization that is democratically steered by its members. They define themselves as politically and religiously independent (Rädda Barnen, n.d.-b). The funding of the organization is mainly enabled through gifts of individuals, but also through gifts from corporations and institutions and funding from Sida, the UN and the EU (Rädda Barnen, n.d.-c)

### **5.2.3. UNICEF Sweden**

UNICEF Sweden is a non-profit organization that was founded in 1954. The name UNICEF is an abbreviation that stands for United Nations Children's Fund. UNICEF Sweden is one of UNICEF's 32 national committees that are spread over the world (UNICEF Sverige, n.d.-a). UNICEF Sweden consists of 18 member organizations that democratically control the organization (UNICEF Sverige, n.d.-d). The international organization was originally founded on the 11<sup>th</sup> of December in 1946 in New York. UNICEF is an agency of the United Nations that is guided by the CRC. The task that UNICEF has been given by the UN is to aim for an obeying of the CRC in all countries that have signed it. Their aim is described as fighting for all children's given right to have their basic needs and rights met (UNICEF Sverige, n.d.-b).

## **5.3. Analysis method**

Two methods of analysis are used in this thesis: WPR-analysis and thematic analysis and these are presented in this section.

### 5.3.1. WPR-analysis

The method of WPR-analysis has been used to analyze the findings of all the empirical text material, i.e., the children's rights organizations' consultation responses made on the official investigations of the CRC as a law, the legislative proposition (2017/18:186) and the text posts written about the CRC as law by the organizations (on their official webpages) after the incorporation into Swedish law.

“WPR” stands for “What’s the Problem Represented to be?” and is an approach that is supposed to be used in critical examinations of public policies (Bacchi, 2012). Public policy is a broad term that can be conceptualized in more ways than one (Bacchi, 2012). In this thesis, I view all text material as attempts to change or define public policy. The method aims to analyze proposals of change, looking for the implicit representations of the thing that the creator problematizes (Bacchi, 2012). With a WPR approach, one seeks to understand how a problem is represented within policies and by extension to critically scrutinize the representation of the problem. The purpose of the method is to get a deep understanding of the policy through looking for unexamined assumptions and deep-seated conceptual logics within the implicit problem representations. According to WPR, the governing of the public does not actually come from policies, but from the problematizations within (Bacchi, 2012). Since the policies are creations of people, they cannot stand separate from the discursive constructions. This means that values lay the foundation of the discourse of what is problematized through policy. For example, many policies, or problematizations derive from moral and ethical values, such as the rules that protect children from harm. WPR is a social constructionist method that excludes the possibility that the world can be free of values (Bacchi, 1999). I will use the WPR-analysis from a socio-legal perspective, using my theories to interpret the findings.

A WPR-analysis is performed through asking six questions when reading the material, as well as when viewing the internal problem representation of the thesis. The six questions are the following (Bacchi, 2012:21):

1. “What’s the ‘problem’ (for example, of ‘problem gamblers’, ‘drug use/abuse’, ‘gender inequality’, ‘domestic violence’, ‘global warming’, ‘sexual harassment’, etc.) represented to be in a specific policy or policy proposal?”
2. What presuppositions or assumptions underpin this representation of the ‘problem’?”
3. How has this representation of the ‘problem’ come about?”

4. What is left unproblematic in this problem representation? Where are the silences? Can the ‘problem’ be thought about differently?
5. What effects are produced by this representation of the ‘problem’?
6. How/where has this representation of the ‘problem’ been produced, disseminated and defended? How has it been (or could it be) questioned, disrupted and replaced? (Bacchi, 2012:21)”

The WPR-method is fitting for this thesis since the aim is to get an understanding of the problematizations within the statements surrounding legislative proposals made by the children’s rights organizations and how these differ from other related perspectives. Through analyzing the different dimensions of the problematizations using WPR, new perspectives of the communicative action of the lifeworld and system can be discovered that might have remained hidden when using another method that was not specifically designed for analyzing policy documents and problematizations. The findings of the WPR-analysis have been sorted into categories to make the data accessible for the reader and are presented in 6. *Results*.

### **5.3.2. Thematic analysis**

The method of thematic analysis has been used to analyze the empirical material of the three interviews of the employees working with the children’s rights organizations’ consultation responses. The decision to use thematic analysis to analyze the interviews while analyzing all other data using WPR-analyses has been deemed necessary since the WPR-method’s creator Carol Bacchi (2021) describe WPR as unfit for analyzing interviews.

Thematic analysis is fitting because of the method’s flexibility that makes the data analysis possible to perform alongside the data collection. Thematic analysis can be used to discover meaning within data through locating shared meanings and experiences (Braun & Clarke, 2012). To be systematic and enable replicability, I have used Braun & Clarke’s six-step-analysis. First, I have familiarized myself with the data, during and after the process of listening to, transcribing and reading through the interviews. Secondly, I have read through the transcriptions and highlighted different conceived topics. The third and fourth steps consisted of me reviewing the topics found and constructing these into themes that are of distinct from each other. In the fifth step, the themes were given names which according to Braun & Clarke (2012) can be used to make information clear. The sixth step of the thematic analysis of Braun & Clarke (2012) was to conclude the findings in a report are presented in 6. *Results*.

#### **5.4. The phases of data analysis of the empirical material**

The first phase was to handle the empirical material of the legal proposition of the incorporation of the CRC into Swedish law (2017/18:186) and the consultation responses of BRIS, Save the Children Sweden and UNICEF Sweden. After reading through these several times, a coding process of the documents was initiated. This process started with the identification of content that was connected to the research questions, whilst keeping the questions of the WPR-method in mind. The findings were summarized in shorter notes and consequently coded and categorized by their commonalities. A categorization makes it possible to identify patterns that might represent something, in chunks of data (Lindlof & Taylor, 2011). Following the categorization, a WPR analysis was performed of the data, related to the first research question.

The second phase was to handle the text posts gathered from the organizations' official webpages (at any time after the installment of the law), by reading through these and either forming new categories or including the findings within previously noted categories. The categories were analyzed through using a WPR analysis related to the second research question that compares the findings of the first and second phase of this data analysis.

In the third phase, I performed the three interviews and transcribed these. Subsequently, a thematic analysis of the data ensued, related mainly to the third research question, but also to the second one: in how the employees view the law in hindsight.

The fourth phase of the study was to understand and interpret all the results by using the selected theory and previous research. All content from the empirical material was translated from Swedish to English when referred to in text, something that was done directly by me since Swedish is my native language.

#### **5.5. Reliability and validity**

Reliability concerns whether the study could be reproduced using the same research methods and yield the same results. The matter of reliability in qualitative studies is sometimes rather complicated to consider. For example, reliability can be a faulty concept when it aims to study a sole nonrepeatable operation. One example of this is interviews, where results may vary for several reasons such as the fact that the interviewees are asked the questions only once and that

the questions might differ a bit in the performed interviews (Lindlof & Taylor, 2011). However, some aspects strengthen the reliability of the interviews. For example, the reliability of the interviews is strengthened by the fact that I am not examining the interviewees' own opinions, but rather the official stance of the organizations through their work roles. Since the aim of the study is to compare the past stance and to the current stance, the findings of the interviews only represent the stance of the organizations at the time of the interviews. I only intend to compare the past problematization with the current one, not the one problematization that might exist surrounding the CRC in two years when crucial elements might have changed. This study could be reproduced, but this is an aspect that needs to be considered if a replication was to be performed in the future.

The thesis examines the text materials that were created surrounding a law that came into force in 2020. This essay is written during the spring of 2022, which means that the text material cannot fluctuate and are reliable in that way, since they are a product of the past (Lindlof & Taylor, 2011). Most of the text material consists of public records from the state, which is accessible for all people to demand (Sveriges riksdag, n.d.). The text posts on the children's rights organizations' official webpages that were analyzed have been found online and free for all to access. The text materials are therefore viewed as reliable since they are unchanging and could be used using the same research methods (Lindlof & Taylor, 2011).

The validity of the study concerns the truth value of the study's findings (Lindlof & Taylor, 2011). The internal validity has been attempted to strengthen through having a concrete delimitation and sampling. This was especially strengthened since the thesis aims to research a very specific topic where not many participants exist. There are only a few children's rights organizations in Sweden that are active in the making of consultation responses and even fewer people who work with this matter within the organizations. The maturation of the subjects has been deemed a small risk, since the study has been performed during a short time span and since the aim only is to compare the current fluctuant state of opinions with nonreactive texts. In addition, all the studied organizations have always had their foundations in the CRC which suggests that their stance in the matter is somewhat fixed. The conceptual and external validity is deemed as strong because of the use of triangulation, through gathering information through interviews, official documents and text posts of the organizations on their official webpages (Lindlof & Taylor, 2011).



### **5.5.1. Biases**

I have been involved within different civil society organizations as a volunteer in Sweden since the age of fourteen and still spend time on commissions of trust. I have been an intern at the regional office of Save the Children in Malmö, which is a part of the national organization that I intend to analyze. A researcher's solidarity with the studied objects can create methodological problems, especially when studying something that directly relates to the researcher (Dalen, 2015). I have tried to avoid this problem through analyzing processes that I have never been in contact with, i.e., the creation of consultation responses.

While I need to be aware of my information bias and subjectivity, I subdue this partiality through using a WPR-analysis, since this method involves an undertaking to analyze the thesis' proposal in the same way that the empirical material is analyzed. This discussion will take place in 8. *Conclusion*. This self-problematization is believed to lead to a reflexivity, by seeking to unravel the ways that the constitution of problems lead to a subjectivity that impacts the way that we view ourselves and others (Bacchi, 2012). I also try to avoid subjectivity through being systematic in the data analyses.

Dalen (2015) argues that a preconception of the studied field is important for the researcher's development of an understanding and interpretation. By being aware of one's preconceptions, the researcher becomes more sensitive as well as improved in seeing opportunities of theory development. This study has its foundation within a paradigm of interpretivism, which is a skepticism towards the possibility a researcher can reach full objectivity, since the person performing the research has thoughts that to some extent will color their experience and identity as a member of the social world where the research takes place. I use previous research to have a scientifically enacted foundation to derive from, so that it is not only a construct of my own interpretation (Denscombe, 2017).

### **5.6. Ethical considerations**

Most empirical material used in this study are official documents, except for the interviews. The documents are accessible to all because of the principle of public access to official records and can be requested from the state or municipal institutions (Hydén & Hydén, 2016).

Since I have performed interviews, I have taken some measures to ensure an ethical examination. In the first contact, through email, the participants have gotten information of the study, its cause, the methods that will be used and the form that the results will be presented and conveyed. The email also specifically stated that the participation will be recorded and handled with confidentiality through making the participants anonymous in the transcriptions and only handling the data by myself. Only I have had access to the recorded interview material and this material has been deleted straight after the transcription has been performed. After reading the information, the participants have had the opportunity to ask clarifying questions and lastly, written consent if they wanted to join. All information of this section has been repeated before the start of the interview, where the interviewees once again had the chance to abstain their participation, or simply to ask for any clarifications. It was here also stated that the retraction of their participation could be made later as well, through contacting me.

### **5.6.1. Limitations**

While Sweden no longer has restrictions in place surrounding the pandemic covid-19, I have still decided to perform my interviews digitally, using the online platform Zoom. This decision is motivated by not only the pandemic, but also out of the practicality and flexibility of the format and the time saved when avoiding travelling long distances to conduct interviews. Another advantage of digital interviews is that the process of recording is simplified since there already exists a function that does this on the online platform.

However, digital interviews have some disadvantages since important forms of body language are made impossible to analyze, such as eye contact. The disadvantages might influence how freely the interview subject speaks (Dalen, 2015). While this would be unfortunate, it has been deemed appropriate to meet online since the performing of the interviews would be less guaranteed because of the distance and busy schedules of the subjects. One measure taken to avoid silence, awkwardness and discomfort for the interviewee has been to start the interview with casual questions and only subsequently to direct the discussion towards the topic of the thesis.

## **6. Results**

In this section, I present the findings from my data collection and analysis. Most of the data found during the coding process are analyzed using WPR-analysis, except for the interviews that are analyzed using thematic analysis.

**6.1. The Children’s Rights Organizations’ consultation responses on the legislative proposal of the Convention on the Rights of the Child**

This section revolves around the themes found related to the first research question, located within the empirical material of the children’s rights organizations’ consultation responses made on the official investigations and the proposition (2017/18:186) of the CRC as a law.

During the coding process, I found one main problematizing theme within the children’s rights organizations’ consultation responses and one contrasting theme within the proposition. These are illustrated in the table below. The children’s rights organizations main problematization revolved around an interest in incorporating the CRC as Swedish law to strengthen the judicial status of children’s rights. The main contrasting theme within the proposition was found in the review of the Law Council whose problematization surrounded concerns of the applicability of the law in practice.

Main theme	Contrasting theme
The judicial status of Children’s Rights	The applicability of the law

(Table 1: Themes of problematization by the Children’s Rights Organizations)

**6.1.1. The judicial status of Children’s Rights**

The main problematization and theme represented in the children’s rights organizations’ consultation responses was that the judicial status of children’s rights in Sweden was problematically low and that this needed to be amended (Rädda Barnen, 2016; UNICEF Sverige, 2016; BRIS, 2016). This assumption presupposes that the areas where children’s rights were not accommodated when the law was suggested could be pushed in the right direction through the implementation of the new legislation. It also presupposes that the legislation would lead to predominantly positive results in the strive for children’s rights. In other words, if the legal status of children was strengthened, the need for institutions to take the CRC into account in their decision-making would increase. This strengthening of children’s rights’ status is crucial since there exists a misunderstanding amongst courts and judicial practitioners that the CRC is not binding (Rädda Barnen, 2016). There is an expressed need for an increase of the competence of the CRC within all authorities whose workings in any way relate to children and their rights (UNICEF Sverige, 2016). BRIS additionally argues that the incorporation of the new law needs to clarify that the CRC is complete and undividable, they write:

“The legal text should thus take into consideration that no article in the Convention on the Rights of the Child is more important than any other, but rather that they should be read as the entirety that they are intended to constitute”

(BRIS, 2016, p. 6)

Another example of the children’s rights organization’ consistent problematization of the too low status of children’s rights within the consultation responses, is the demand for the CRC to be prioritized above other law in cases of norm conflict (UNICEF Sverige, 2016; Råderna, 2016; BRIS, 2016). This presumption relies on a moral idea that children are always to be considered first in conflicts. In some ways, this perspective is in alignment with the CRC where children are framed as always more vulnerable than adults. While this might seem harmless, the prioritization could happen at the expense of other important factors that might be overlooked when generalizing in this way, such as mental illness in victims, power dynamics or other forms of vulnerability. This motivation lessens the court’s mobility in interpretation and presumes that the aspects of the CRC are always to be seen as the most important form of legislation out of those valued at the same level. In the proposition (2017/18:186), the Law Council raise concerns surrounding possible norm conflict, but not surrounding the status of the CRC, instead they problematize the responsibility put on legal practitioners to interpret and apply the law. This is be discussed as the contrasting theme in next section, 6.1.2.

Within their review of the proposal, the Law Council’s emphasized on the problematic feasibility to create superfluous and unusable legislation. They argue that the prescribed law needs to be practicable and straightforward for legal practitioners to implement, and that this is not an apparent outcome of the legislative proposal (Prop., 2017/18:186). This problematization presupposes that an incorporation of the CRC in Swedish law would not rectify the preexisting deficits in children’s rights legislation. This claim derives from a history and tradition of Sweden dismissing the suggestion of incorporating the CRC in the law. The representation of the problem comes from a notion that the CRC is already reflected in Swedish law and that there is nothing to gain from an incorporation. This apprehension is further enhanced through the several measures of transformation that have been taken throughout the years to better align the CRC with Swedish law. The Law Council argue that nothing seems to have changed that legitimate the evaluation that states that the CRC should become legislation. (Prop., 2017/18:186) The children’s rights organizations do not agree with this argument, they believe that the measures taken to conform to the CRC has neither been satisfactory or influential

enough on a structural level to make the CRC taken seriously (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016).

A potentially negative effect of the children's rights organizations argumentation is that the dysfunctionality of the ratified CRC might be somewhat exaggerated. Several reviews of Sweden's children's rights legislation and its accordance with the CRC have shown that these were in alignment. However, children's rights seemed to not be considered enough in important decision-making-processes concerning children (Prop., 2017/18:186). This is exactly the midpoint in the discussion where the children's rights organization' and the Law Council meet, since their respective problematizations are directly contrarious to each other. The children's rights organizations seek to change the law in practice through changing the legislative text. In opposition, the Law Council believe that the state of legislative text might not be a problem despite the existing issues with the law in practice. Because of this problematization, the legal proposal is not believed to be the correct measure in reforming the law in practice.

The children's rights organizations all raise the argument that the idea that Swedish law is in alignment with the CRC is incorrect, despite the claims from the previous reviews (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). For example:

“UNICEF Sweden also wants to enlighten the current conflict of laws between the Law of Mandatory Care of Minors (LVU) and the Aliens Act that today do not coincide with the principle of the best interest of the child according to the Convention on the Rights of the Child”  
(UNICEF Sverige, 2016:3)

In other words, not all existing laws are viewed as in accordance with the CRC. By raising these arguments, the children's rights organizations demand a legislation that takes accountability for protecting all children without simplifying the diversity of problems facing the homogeneous group, as spoken by the interviewee from BRIS: “we must not settle for less [when incorporating Children's Rights into law]”. The problematization also shows the groups of children have historically been disregarded and marginalized when deeming the Swedish legislation as in alignment enough, namely the children that already are particularly vulnerable in society. While this problematization is not contradictory to the one of the Law Council, it enlightens the dangers of an argumentation built upon a belief that something is “good enough”.

The discrepancy in the different problematizations also raises the question of what the purpose of founding a new law is. The children's rights organization view of the CRC as law as a step in the right direction, not as something that will solve all existing problems within children's rights legislation. For example, in their consultation response, Save the Children Sweden write:

“An incorporation can lead to the enforcement of children's rights as well as an improved treatment of and view of children and youths. We do not believe that this necessarily will happen solely because of an incorporation, but rather believe that considerably more measures are needed”

(Rädda Barnen, 2016:1)

This stance can be problematized for prioritizing the symbolic value of a law over the applicability. If the children's rights organization' perceive one of the problems with children's rights legislation to be the too low status, then it is logical that what they seek is a step towards a change of norms. In some ways, legislation can be seen as a way for the state to acknowledge an important societal need. The difference in the problematizations can therefore partly be a result of how they differ in their view of a law's purpose.

### **6.1.2. The applicability of the law**

The discussions within the consultation responses of the children's rights organization do not consider or problematize the potential difficulties that legal practitioners could face during practical applications. Instead, the children's rights organizations view the problematizations raised, namely, that many of the CRC's articles are difficult to interpret, that traditional preparatory work is nonexistent and that no court creates praxis or guidance, as superfluous arguments of something that in reality is manageable (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). In contrast to this, The Law Council write:

“Most of the convention's articles are generally followed and formulated in a way that makes them unfit for direct application in specific cases”

(Prop: 2017/18:186, p. 188)

When the law proposal of the CRC was introduced, it was stated that if voted through, it would not be the first convention surrounding human rights that has been incorporated into Swedish law. The European Convention on Human Rights was incorporated into the Swedish law in 1995. However, this is not an adequate comparison according to the Law Council, who problematize this comparison since the previously incorporated conventions have been more concrete and in addition there exists a court that has the responsibility to specifically interpret

the content of that convention. Since the CRC is both more unspecific and the responsibility of interpretation is left to the legal practitioners, the Law Council view this as a completely different case. When having an official court that is responsible for the interpretation, the process of going from legislative text to law in practice is guided from one single instance, not several. The court that exists in the previously legislated convention could secure a more consistent interpretation, while the CRC would still potentially be used to different extents, by different actors. The Law Council view the incorporation of the CRC as especially problematic since the law proposal does not provide the support that is needed for the appliers of the law to make a successful interpretation. The Law Council believe it to be problematic that the appliers of the law are given the responsibility to estimate what parts of the convention are directly applicable. They also argue that it should be submitted to courts and other institutions that apply the law and the supreme courts as creators of prejudice, to judge within judicial frames what parts are directly applicable or not. (Prop., 2017/18:186)

The children's rights organizations' claim that there exists material that can be used for guidance, for example the works of the UN's Committee on the Rights of the Child as well as the optional protocols surrounding the CRC (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). However, this fact does not change the Law Council's perception of the problem. They ask what authority the guidance will be attributed and emphasize that the guidance is not allowed to be viewed as legal preparatory work in hindsight. The comments made by the Committee are not of equal status as international law as legal source and it is not judicially binding for the states committed to the CRC (Prop., 2017/18:186).

According to the children's rights organization, the problematization of the difficulties in applying the law should not be a decisive factor in the discussion. They instead problematize the lack of legislation protecting children, since the group is especially vulnerable and need stronger legal protection to be able to use their rights (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). I.e., the CROs' show a stronger belief in the power and impact that automatically comes from legislation. Since the need for the legislation is so grand, it is underprioritized to problematize the concrete challenges in the application of the law.

As mentioned in 6.1.1., the three children's rights organizations write that the CRC should be prioritized above other legislation, while the Law Council argue that it is problematic to put the responsibility to handle norm conflicts on the legal practitioners. This is especially problematic

since the decisions of the CRC are to be applied in specific cases and not just by courts and other judicial instances, while authoritative decisions of how the law shall be used in practice will take time and not provide answers for all occurring questions. (Prop., 2017/18:186)

The presuppositions that underpin the children’s rights organizations’ idea that the important aspect in the discussion is that more children’s rights legislation is incorporated in Swedish law, is that matters of how the law works is secondary. By doing this prioritization, they fail to problematize the risks of having legislation that exists but is not used in the way that was intended. In some ways, the problematization might have the effects of producing a law that is not well-considered enough, while the Law Council’s problematization risks having the effects of delaying a process of producing a useful law.

**6.2. The development of the Children’s Rights Organizations’ problematizations**

This section revolves around the themes found related to the second research question, located within the empirical material of the children’s rights organizations’ consultation responses made on the official investigations of the CRC as a law, the text posts written about the CRC as law by the organizations (on their official webpages) after the incorporation into Swedish law as well as the interviews with the employees working with the children’s rights organizations’ consultation responses. This result section has a combined analysis since the text data has been analyzed using WPR and the interview data has been analyzed using thematic analysis.

In this section, I discuss how themes of how the children’s rights organizations’ problematizations have developed after the incorporation of the CRC into law, in comparison to the problematizations found in the consultation responses.

	<b>Before the CRC legislation</b>	<b>After the CRC legislation</b>
<b>Theme</b>	The judicial status of children’s rights	The protection of vulnerable groups of children
<b>Theme</b>	The importance of incorporating the law	The importance of applying the law

(Table 2: Themes of problematization written by the children’s rights organizations in the consultation responses before the implementation of the law and in the text posts after the implementation.)



### **6.2.1. The protection of vulnerable groups of children**

As described in 6.1.1., the results from the data analysis of the consultation responses show that the children's rights organizations view the incorporation of the CRC into Swedish law as a mean to strengthen the status of children's rights. They argue that the old problematization claiming that there is no need for the CRC to become incorporated into Swedish law, is faulty and that Swedish legislation specifically fails to protect children that are particularly vulnerable, such as those connected to laws concerning migration and mandatory care (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). Following the incorporation of the CRC into law, the children's rights organizations consequently continue to problematize the ways that Sweden fails in its responsibility to protect children due to faulty legislation and political decisions where children are overlooked (UNICEF Sverige, 2021; BRIS, 2020a; Rädda Barnen, 2021b). The children's rights organizations once again emphasize that it is the children that live in especially vulnerable situations that are profoundly betrayed by Swedish children's rights legislation. The interviewee from UNICEF Sweden argues that while the new law of the CRC does not bring along new rights for children, it can lead to an improved protection of the children that live in specifically vulnerable situations, such as children that are in child custody cases, that are apprehended by the social services or that are part of the migrations processes. They do not believe that all needed changes will happen overnight, but that a long-term work is needed where concrete actions are made, through education efforts and political prioritizations. The problematization and recognition of current legislation as faulty in terms of child protection is a conception that the two other children's rights organizations share with UNICEF Sweden. For example, in response to an official investigation surrounding Swedish migration legislation, BRIS writes:

“Unfortunately, we see that the proposals in several ways restrict the ways that children on the run can get support safely and legally. /.../ The Convention on the Rights of the Child should signify a migration policy that regards and really utilizes children's rights”  
(BRIS, 2020a)

However, it is not only the children of refugee status that are overlooked within Swedish legislation. Save the Children Sweden writes that Sweden still is far from living up to the content of the CRC, because of the major deficiencies in the protection of children living under honour-related violence and oppression (Rädda Barnen, 2022). The argumentation is built upon an assumption that new and updated legislation is needed to protect overlooked groups of children and that the current is inadequate.

The presupposition that underpins the demand for more developed children's rights legislation is the belief that the CRC was never a complete solution of all judicial problems of children's rights. The children's rights organizations instead view the CRC as a law as a step towards improved children's rights (UNICEF Sverige, 2021; Rädda Barnen, 2021a). This conception existed during the writing of the consultation responses but takes a bigger position in the discussion since the incorporation of the law. This is quite logical since the children's rights organizations saw that as a first important step in the right direction towards facing the other challenges.

The narratives of the children's rights organizations cannot be said to have changed drastically, instead they have developed stepwise. However, they differ in their formulation, in the consultation responses they need for change in legislation is expressed in a non-emotional and concrete manner, while the text posts made by the organizations consist of more personal experiences and with descriptions of the difficult consequences that the faulty legislation has in actual children's lives. The problematization of how vulnerable children are still not protected within Swedish legislation existed continuously within the consultation responses, but since the consultation responses' focus was the CRC, so was the focus of the related problematization. The current problematization of how more development in children's rights legislation must take place to protect vulnerable children raises the questions: Is there a danger that the children's rights organizations do not having a bigger say in what children's rights legislation the government prioritizes? Was it really a legit prioritization to focus on formally strengthening the status of children instead of demanding that the vulnerable children that are overlooked by Swedish legislation deserve an acute change first? Whose interest do the CRC as a law serve and what groups of children does it protect in actuality? When the argument is raised that the most vulnerable children have historically been overlooked even though the CRC was supposed to be binding, what says that the legislation would be a solution? However, the children's rights organizations do not view the law as a solution, but as a win leading children's rights the right direction by strengthening the status of it. On this matter, the interviewee of UNICEF Sweden says:

“It is important that the Convention on the Rights of the Child has become law, but sometimes one exaggerates the importance of this and do not really understand what it means. Sweden has been bound to the Convention for a long time because of the ratification.”

However, if the dangers framed by the Law Council, that the legislation is in fact superfluous and practically difficult to use, then that step in the right direction might be threatened. The consultation response writers are aware that the act of solely focusing on legislative text is not perfect. For example, the interviewee from Save the Children Sweden states:

“From our perspective, if I am going to be a bit self-critical, we are sometimes a bit quick in saying ‘the law is in conflict with the Convention on the Rights of the Child’ when it is more the application that does not work, but that we see that to overcome the problems within the application, we have to change the legislation, because praxis might not be enough.”

In other words, while the children’s rights organizations acknowledge that there might be faults in aiming too much attention on the scriptures and not the application, they also believe legislative changes to be a method that might be needed to change a faulty application. In some ways, if focusing on the bettering of legislation that protects vulnerable children, focusing on the CRC and celebrating of it as a law can in some ways be viewed as letting the political discussion continue to focus on children’s rights issues that have historically been deemed somewhat mild, instead of the acute problems that vulnerable groups of children face. The children’s rights organizations do not decide which laws the government wants to consider, as framed by the interviewee from BRIS in this quote: “we cannot push forwards laws, that is up to politicians”. Despite the control that politicians hold on what law proposals are presented, the organizations consequently raise the need for changed legislation protecting vulnerable children throughout the consultation responses (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). However, their criticism that the most vulnerable children remain vulnerable just like they have historically, raises the question of: then why was the CRC prioritized if being so complicated and not that profitable for children in reality? Regardless, the need for the exact problematizations that the children’s rights organizations now focus on concerning the CRC as a law is clear: the demand for protection of vulnerable groups of children.

### **6.2.2. The importance of applying the law**

Another aspect that the children’s rights organizations have problematized during the two years after the incorporation is the actual applying of the law. These discussions often revolve around a claimed difficulty to consider the best interest of the child (Rädda Barnen, 2021b; BRIS, 2020b; UNICEF Sverige, 2020a). This problematization might in parts be a consequence of the children’s rights organizations’ view of themselves as important actors in society when it comes to monitoring that the states take their responsibility seriously and follow the CRC.

In some ways, the children's rights organizations are optimistic towards the changes that the CRC has brought along (and therefore hopefully will continue to bring). For example, UNICEF Sweden write:

“Adjudications show that even courts resonate around the Convention and the Rights of the Child to a bigger extent and that the best interest of the child has been prioritized in some cases. There are also adjudications where the best interest of the child has not weighted the heaviest, but where a reasoning and weighing of interests around the child's best has been done”  
(UNICEF Sverige, 2021)

While the interviewee from UNICEF Sweden is positive towards some of the uses of the law of the CRC, she still acknowledges that some steps are taken in the wrong direction. The interviewee from Save the Children Sweden attests this belief through describing how, in the beginning of 2021, a law proposal was presented of how the best interest of the child can be enforced through the deleting of the law of mandatory care of minors. This law proposal claimed to strengthen the perspective of children's rights, but was believed to do the opposite in practice, she says. The principle of the best interest of the child was described as impossible to use in practice within the proposal, which was problematized by the children's rights organizations in their consultation responses, since they do not share the view of the best interest of the child as impossible to determine objectively or legally uncertain. When reflecting on this matter, the interviewee from Save the Children Sweden says:

“In almost all consultation responses that I write at the moment I have to refer to the proposition of the incorporation and that one has not followed what is written in it, that what the government has written is not followed by the State's official investigations (SOU) of how children's rights-based perspectives are supposed to trickle down and evaluations of the best of the child is supposed to be produced.”

All interviewees from the three children's rights organizations claim that the CRC is not used enough or to satisfaction. They claim that a clear description of how the principle of the best interest of the child was to be used was offered by the government when the CRC was to become law, but that this resource is overlooked. While some of the faulty interpretations can sometimes be attributed to a too low knowledge within instances, the children's rights organizations' three interviewees seem to view the lack of appliance as an unwillingness to understand what the CRC means and how the best interest of the child is to be administered due to the continual low status of children's rights within judicial and legislative processes. This unwillingness is by the interviewee from Save the Children Sweden attributed to be a consequence of children not being

seen as valid right holders, i.e., a continued too low status and that children's rights (and everything that relates to these) are seen as difficult, non-serious and political. She argues that children's rights are treated like the judicial practitioners believe it is "a completely different form of jurisprudence". The interviewee from UNICEF Sweden additionally claims that the children's rights legislation is no different than other legislation, which also is dependent on an interpretation of each particular case. This mindset implies that the problematization of the children's rights organizations, that the CRC is overlooked for no reason, is underpinned by an assumption that the judicial instances are unwilling to prioritize the protection of children. The problematization does not acknowledge the possibility that the practitioners would like to adapt the CRC and evaluate the best interest of the child but are unable to transform the text into action.

When the law proposal was discussed, the contrasting theme arguing against the passing of the law was that the implementation in practice might be difficult and that the CRC was not the solution to the problems within legislative children's rights protection since the content of the CRC was deemed to already be accounted for within existing legislation (Prop., 2017/18:186). The children's rights organizations consequently argued that the implementation of the law should not be a significant problem (UNICEF Sverige, 2016; Rädda Barnen, 2016; BRIS, 2016). This unwavering problematization of the unsatisfactory application of children's rights legislation suggests that the concerns raised by the Law Council, that the articles of the CRC are difficult to interpret, are seen as completely irrelevant and false. The children's rights organizations continuously view the argument as superfluous, since the difficulties in interpreting the articles are not acknowledged as a problem and therefore cannot be a plausible obstacle. For example, the interviewee from Save the Children states that there are guidelines for the application within the proposition, but that these are ongoingly overlooked.

All interviewees claim that the legislation of the CRC in some ways was a success in terms of raising the judicial status of children's rights, even though more measures need to be taken to change old and to create new legislation. However, the continuously expressed difficulties of concerned actors raise the question: is there an actual problem that needs to be handled surrounding the application of the CRC as a law or is it valid to dismiss these experiences? If the concerns of the implementation were considered valid by the children's rights organizations, the discussion of how to improve the implementation might be made more constructive. However, if the organizations are right in their view of the CRC not being different from other

legislation in its application, then there seems to exist an unwillingness to incorporate children’s rights. A problem with not acknowledging the claimed arduousness is that it might create a frustration amongst the practitioners, an unwillingness to attempt applications of the law and by extension, a sense within the public that the legislation did not make any real difference and solely was a political toothless strategy used to look benevolent. In the published texts of the children’s rights organizations, no such acknowledgement is shown. However, the children’s rights organizations are more understanding of the difficulties in the interviews where the participants view some of the failures in applying the law as a result of a faulty attempt to raise the level of knowledge of concerned actors. While the knowledge of the CRC has generally been lifted since the incorporation, it has not yet arrived at the smaller instances such as lower courts and municipalities, says two of the interviewees. However, all interviewees specifically comments that only two years have passed so far, since the incorporation and that more time might be needed for the concerned actors to get used to applying the CRC and by extension, for the law to reach its full potential. Concerning this, the interviewee from BRIS says, “it takes time, but it is also time that we do not have”, implying an understanding of the difficulties but also the need for change.

**6.3. The contact between the children’s rights organizations and the political system**

This section revolves around the themes found related to the third research question, located within the interviews with the employees working with the children’s rights organizations’ consultation responses. I discuss the themes of how the consultation response processes are constructed, how these differ and how they view their role in the creation of Swedish legislation and interplay with different actors.

<b>Themes</b>
The process behind the consultation responses
The interplay between civil society and the political process

(Table 3: Themes collected out of the interviews with the children’s rights organizations’ employees that work with the creation of consultation responses.)

**6.3.1. The process behind the consultation responses**

The interviews imply that the process behind creating consultation responses differs between the children’s rights organizations. The interviewee from UNICEF Sweden claims that since

they have fewer employees within the organization than Save the Children Sweden has, the capacity for the organization to get involved differs as well. Two of the interviewees describe that the legislative proposals involving children's rights that are open for consultation responses are evaluated by the senior managers within the respective organization, while one of the interviewees describe that it is mainly those who work with consultation responses that decide whether to go ahead. In all the organizations, groups of specialists are often asked for input as well, surrounding whether a consultation response should be written or not as well as the content within. The evaluation considers the relevance that the matter has for the organization as well as if the organization has the competency and knowledge that is needed regarding the specific topic. The relevance is considered by using the organization's current operational plan, which has been decided through a democratic meeting with the organization's members.

What participants are involved in the process also differs between the children's rights organizations. The interviewees from BRIS and UNICEF Sweden describe that the consultation responses are created by the employees assigned to work with the judicial assignments within the organization. However, the interviewee from Save the Children Sweden express that they sometimes involve the members movement. Their members are involved if they express interest in participating or if the National Board deems that they should have the possibility to participate since it is a question that the members movement is involved within. If the members are responsive, a hearing with interested members is organized.

The interviewees all express that they value collaborations in the making of the texts. The interviewee from Save the Children Sweden describes requesting input from colleagues if members are not part of the consultation response process, or in addition to that participation. UNICEF Sweden's interviewee express the importance of collaboration between the different civil society organizations and phrase that they contact other children's rights organizations when initiating the process of writing consultation responses, since an unified voice has greater effect. The interviewee from BRIS' combines these perspectives and both describes how collaboration within civil society is of importance, but that it is also valuable to use the knowledge of the other employees of the organization.

The three children's rights organizations all have a foundation within the CRC, in all their work (Rädda Barnen n.d.-a; UNICEF, n.d.-b; BRIS, n.d.-b). This means that the content of the consultation responses has a foundation within the CRC as well. The origin of the content is,

however, very varied in other ways. Save the Children Sweden's interviewee express that their statements often are founded on three things: what the organization has thought previously, what the member movement thinks, and what the organization has learned from the children and youths partaking in their activities. The interviewee claims that they do not consider their international movement especially much, since Sweden often is one of the forerunners for children's rights in comparison to the rest of the world. For example, when discussing the matter of considering Save the Children International's stance on the CRC, the interviewee from Save the Children Sweden says:

“When we interpret the Convention on the Rights of the Child, we analyze it out of a Swedish context where we believe that we can prompt it much further than is possible with a strict reading of the Convention on the Rights of the Child.”

Meanwhile, the interviewee from UNICEF Sweden claims that they base their consultation responses partly using the knowledge within the international organization and partly using the knowledge of the employees and managers within the national organization. BRIS is a Swedish national organization that lacks an international equivalent. They use their internal experiences and knowledges as a foundation in their work, which could for example be learnings coming from the employees' education and experience, but also in the form of stories that the organization has gathered directly from children.

### **6.3.2. The interplay between civil society and the political system**

The interviewees of the children's rights organizations view their position of performing advocacy work as strong within Sweden. Save the Children Sweden's interviewee states that they notice that their criticism is often taken into notice since their consultation responses' statements are frequently addressed by the government within the published legal propositions. The interviewee from BRIS says that they bring important input and that this is collected, but that it is difficult to know if this process stems from genuine interest from the politicians or if it is just something that is done by routine, since it is expected. While the children's rights organizations perceive themselves to have some impact on the legislative process, all interviewees claim to notice that the strength of the impact differs. For example, the interviewee from UNICEF Sweden says:

“I absolutely think that there are possibilities to impact, but one should not overestimate these opportunities.”



The interviewees believe their impact to sometimes be strong, at least when it is supported politically. However, the interviewees from Save the Children Sweden and UNICEF Sweden experience that their impact is nonexistent when there lies a clear political motive behind a law proposal. This conception is motivated by both interviewees through using the example of the Aliens Acts, through describing how all civil society organizations (not just the children's rights organizations) were negative in their consultation responses and the law was still incorporated. When political motives make up the motivation behind a legislative proposal, "then the human rights arguments do not work", the interviewee from Save the Children Sweden says, and continues to say that "it does not matter how strong or well formulated their arguments are, when politics are the ulterior rationale." The interviewee from UNICEF Sweden points out that they understand that the government and parliament must weigh things against each other and that if the Law Council discourages a legislative proposal, then that must weigh heavily. The legislative process is understood as a balancing of interest where political interests often weigh the heaviest.

However, the three interviewees express that the organizations do not give up on matters where they have a stance. One way that they continue to fight for legislative changes that are not currently in the works is through including comments within their consultation responses of other related legislative changes that they think should be performed, even if they are not part of the current proposal, claims the interviewees from UNICEF Sweden and Save the Children Sweden. They believe that this might affect the Swedish legislation in the long run, that pointing out other needs in the improvement of children's rights might lead to a valuable change in the future. Save the Children Sweden's interviewee expresses that the act of not solely commenting on the specific law proposal, but also related legislation that needs changes, is a unique tradition that only civil society take part in.

The inability for children and youths to be part of the legislative process concerning their lives is criticized by all interviewees. They perceive a major gap between the government and children and youths. The interviewees consistently raise two aspects of this throughout the interviews: First, that there should be bigger demands to speak with children and youths during the development of legislative proposals concerning these groups. Secondly, that the right of appeal for children and youth needs to be strengthened, so that children can demand their rights when these have been discriminated, since this right is now perceived as inaccessible, unknown to children and dependent on the approval of the caregiver of the minor.

## **7. Analysis**

In this section, I will analyze the findings from the data analysis that are presented in the results section, with the assistance of my theoretical framework, literature review and background. The empirical text material analyzed using WPR will be used to answer the first and second research questions. The empirical interview material analyzed using thematic analysis will be used to answer the second and third research question.

### **7.1. What problematizations did the Children's Rights Organizations prioritize when commenting the law of the Convention on the Rights of the Child, what perspectives were overlooked and how can this be understood with Habermas' communicative action of the lifeworld and system?**

The problematizations of the Children's Rights Organizations within the consultation responses focused on the need to strengthen the judicial status of children's rights and to protect the vulnerable groups of children that are currently overlooked by Swedish legislation. The Law Council's problematization of what the incorporation of the CRC in Swedish law would mean clearly differs from the one of the children's rights organizations. In some ways, this is not that strange, considering that the Law Council has a specific statutory task to examine certain specific aspects of the legislative proposal in their reviews, while the children's rights organizations aim to provide a critical discussion with perspectives from the public sphere that are independent from the political systems' dogma.

The problematization of the Law Council does not dismiss the need for a heightened judicial status of children's rights, but it does not have its foundation in this belief. Instead, their problematization surrounds the practical difficulties in implementing the law, which they deem as unnecessary and extensive. The children's rights organizations and the Law Council differ in their conceptions of how the status of the children's rights should be strengthened. In Habermasian terms, this can be understood as the children's rights organizations having a problematization that derives from the moral of the lifeworld, using their values as a foundation for the consultation responses. Meanwhile, the Law Council embodies the political system's interests, through focusing on the legal system's efficiency and the practical aspects that could complicate the machinery that keeps it going.

In some ways, the children's rights organizations and the Law Council fail to take their respective problematizations into account. While the children's rights organizations do not really problematize the dangers with creating unusable symbolic legislation, the Law Council do not acknowledge the aspect that there might be a societal demand for more general children's rights legislation through an incorporation of the CRC. The Law Council focuses on the shortcomings that the law might bring, but not the benefits that might come along. There is a clear discrepancy between the internal problematizations of the public sphere and the legislative system here, where communication is quite unsuccessful because of their separate interests. The values of the public sphere are created within the citizens, while the legislative system's values are dependent on a need to create something effective and useful.

This discrepancy in the problematization can be related further to Habermas' discussion of communicative action of how different actors understand the world in different ways because of their specific perspective. I.e., the children's rights organizations are member movements of civil society whose problematizations, according to Habermas, derive from the lifeworlds within the public sphere which frames their understanding and interpretation of a problem. They perceive a problem, which is in this case that children are not protected satisfactorily and that this problem needs to be adjusted. In Habermasian terms, the Law Council, however, cannot perceive the abstract lifeworld within the public sphere. The Law Council solely understands the legislative systems' functions and seeks to make these well-operated and adjusted. A Habermasian interpretation of the discrepancy of problematizations between the two actors is that each actor can only understand and interpret something from their own horizon of understanding and that the children's rights organizations and judicial actors such as the Law Council perhaps have a broad difference in the conception that frames their understanding. This gap in the understanding makes a well-functioning communication impossible within this specific matter unless something changes.

This Habermasian understanding of the discrepancies in understanding brings the discussion close to one of socio-legal character, namely that the Law Council's emphasizing on the problematic feasibility to create superfluous and unusable legislation in socio-legal terms refers to the act of potentially developing a gap between law in books and law in action. The Law Council argue that the prescribed law (in books) needs to be practicable and straightforward for legal practitioners to implement (law in action), and that this is not an apparent outcome of the legislative proposal. This problematization presupposes that an incorporation of the CRC in

Swedish law would not rectify the preexisting deficits in children's rights legislation. Meanwhile, the children's rights organizations argue that for the law in action to change, the law in books needs to be adjusted. This is exactly the midpoint in the discussion where the children's rights organizations and the Law Council meet, since their respective problematizations are directly contrarious to each other. The children's rights organizations seek to change the law in action through law in books. In opposition, the Law Council believe that the state of law in books might not be a problem despite the existing issues with the law in action. Because of this problematization, the legal proposal is not believed to be the correct measure in reforming the law in action by the Law Council, while the children's rights organizations believe that the change would make a significant difference.

The presuppositions that underpin the children's rights organizations' idea is that the important aspect in the discussion of incorporating the CRC is that more children's rights legislation is incorporated into Swedish law and that matters of how the law works in action is secondary. Since the children's rights organizations' arguments derive from a moral within the public sphere, a lifeworld, and not a systematic judicial or political interpretation, they fail to problematize the risks of having legislation that exists but is not used in the way that was intended. In some ways, the problematization might have the effects of producing a law that is not well-considered enough, while the Law Council's problematization risks having the effects of delaying or dismissing a process of producing a useful law.

The discrepancy discussed above implies the importance of having a working communicative action of the lifeworld and system. The findings imply that a well-working communicative action between the lifeworld and system might be difficult to maintain when a form of law that is closely intertwined with moral and human rights is built as law as a medium, instead of as law as an institution (where traces of the lifeworld of the public sphere are acknowledged). While this might sound very abstract in its consequences, the children's rights organizations express the risks that come along with only considering the politically systematic quantitative values, that show the size of a problem and not the resulting injuries that might derive of these problems within the public sphere. When deciding that a legislation is good enough, one risks overlooking the needs of more marginalized groups. Without the advocacy work of the children's rights organizations, the process of developing important legislation might be delayed or even dismissed, since many perspectives can be perceived as minor due to a lack of anchoring in the lifeworld (i.e., the experiences and conceptions) of the public sphere. When

the political system prioritizes the needs of the many and does not have any foundation within the lifeworld of the public sphere, it risks missing the minorities completely since their problems might not be that quantitatively reoccurring or well documented.

Even though the legislative system in the form of the Law Council and the public sphere in the form of the children's rights organizations' discussions differ in decisive ways, the actual legislative system (i.e., the political system) and the public sphere share a more similar problematization, or at least understands the solution to the problem to be the same measure as one another. The law was voted through, and the concerns of the Law Council were mostly ignored. This implies that the lifeworld within the public sphere was colonized by the political system in the passing of new law, despite the faulty communicative action and understanding that seems to exist between the Children's Rights Organizations and judicial actors such as the Law Council. This implies that the Swedish Government chose to prioritize the aspect of creating a socially supported law that aimed to strengthen the status of children's rights over the aspect of creating a law that was fully developed in terms of its practical application.

## **7.2. How have the problematizations of the Children's Rights Organizations on the law of the Convention on the Rights of the Child developed during the two years since the implementation and how do these relate to the communicative action of the lifeworld and system?**

The problematizations of the Children's Rights Organizations two years after the implementation are not newfound after the incorporation, they existed previously within the consultation responses on the legislative proposal of the CRC as well. Most of the criticism framed by the children's rights organizations surrounding the law, in hindsight, revolves around the importance of actually applying the law to provide protection of vulnerable groups of children that are still overlooked by old legislation and new legislative proposals. While these concerns were raised in the children's rights organizations' consultation responses already, they were never officially acknowledged by the government since they did not concern the proposition of the CRC. As previously discussed, the Law Council did neither conceive an incorporation of the CRC as a need, since the articles were basically followed, or a solution, since the application might be difficult in practice.

However, the children's rights organizations believed that an incorporation of the CRC into Swedish law could lead to a strengthened status of children's rights and the Swedish government and parliament went ahead with the incorporation. This incorporation can be seen, through a Habermasian analysis, as that the political system having colonized the lifeworld in this instance. However, the children's rights organizations' continuous criticism of how new legislation fails to take the CRC into account implies that the lack of understanding and difficulties for the political system and the public sphere to speak the same language and reach common interpretations through using the communicative action. If the political system never truly understands the reason why the public sphere requires specific changes, then it risks missing the structure of needs that the requirement is part of. For example, the incorporation of the CRC into law has been requested by the children's rights organizations for a long time, but this incorporation was never seen as a solution to the problems that Sweden faces with its legal protection of children. The children's rights organizations viewed the CRC as a step in the right direction, one requirement out of many more. The inability for the public sphere and the legislative creators to reach a common understanding creates a need for the children's rights organizations to continuously remain a part of the discussions surrounding legislation. Through remaining active in the debates, the children's rights organizations can try to push the jurisprudence towards the right direction and to seek to reach a greater understanding as well as communicative action between the lifeworlds and political system.

Another aspect of the development of the problematization of the children's rights organizations relates to the findings of Sanchez Saldago's (2018) analysis of civil society organizations' use of emotions in advocacy strategies. Her findings implied that advocacy work attempting to affect governments were less emotional in their rhetoric, while the appeals made towards media and the members movements consisted of more emotionally loaded strategies such as blaming, shaming and fear-mongering. This can be seen within the results of this study as well, where there is a clear difference in how the texts are framed. The text posts of the organizations on their official webpages refer to concrete examples of suffering children, while the consultation responses are factual and without descriptions of emotions. Sanchez Saldago (2018) explains the different ways to formulate statements as methods that lead to different conceptions of a problem. The emotional expressions create an engagement through emphasizing the importance of the problem, while these emotional displays can be damaging in rational and objective decision-making processes such as judicial litigations. In other words, through using emotions, the children's rights organizations attempt to strengthen the

engagement of the members, but they do not use the same method in the official advocacy work towards the political system, since they want to be taken seriously and therefore adapt to their role as the public sphere in the communicative action of the lifeworld and system. In some ways, this shows an adaptability of the public sphere when it comes to communication. When the public sphere attempts to communicate internally with the lifeworlds of the members movement, the moral values are highly present, but when attempting to communicate with the political system in the legislative process, the communication follows the traditional game rules of how consultation responses are framed.

Civil society's role in democracy is not uncomplicated, since a dependency of funding could lead to the organizations having to restrict their criticism in some cases, as discussed by Arvidson et al. (2017). While the children's rights organizations remain critical, they are in some ways dependent on the agreeableness and compliance of the political system. While the incorporation of the CRC was supported by the children's rights organizations, they wanted this to lead to a strengthened status of children's rights, a continual transformation of faulty legislation that harm children in vulnerable situations and an overall improved protection of children by courts. In their consultation responses, the children's rights organizations comment on and on how vulnerable groups of children are still overlooked by Swedish legislation. They attempt to affect this through playing by the rules and continuing to remind the government of these aspects throughout all consultation responses where this is somewhat relevant. They are very restricted in their ability to raise sharp criticism, since they do not have any real impact on what law proposals the government wants to examine an incorporation of and are reliant on the government's care to listen as well. While the children's rights organizations are member organizations, they need to stay credible and remain actors that are taken seriously in the discussions concerning children's rights legislation.

The lack of emotions in the communication with the political system implies that the children's rights organizations have chosen to use a language that is adjusted to that of the legislative process. This could lead to the children's rights organizations having a bigger impact on the legislative process than they would have had if using more emotional expressions, at least according to Habermas' theory of communicative action that presumes that all actors are limited to only understanding things through using their particular horizon of interpretation.

### **7.3. How do Children's Rights Organizations view the process of producing consultation responses and by extension, the interplay of the political system and civil society?**

Grahn and Lührmann (2021) write that many studies imply that the nature of civil society is vital for the outcomes of democracy. How can the consultation responses be understood in relation to this? Well, we can see that the children's rights organizations differ in how democratically these are produced. All children's rights organizations decide whether to write a consultation response through considering the law proposal's relevance to their democratically chosen operational plan. Save the Children Sweden offer their members a chance to contribute to the consultation response process through arranging hearings with the members, if interest has been presented. However, the two other organizations do not include their members in the actual production of consultation responses, which means that both the decisions surrounding whether to take on the task and what to write in it is controlled by the employees and managers. In addition to this, UNICEF Sweden also take the stance and knowledge of the international organization into account. Whether it is crucial for civil society organizations to include their members in all steps can be discussed using the concepts of the public sphere and its lifeworld. Civil society delimits the state's power and is also a social power that enables civic autonomy (Habermas, 1996:175). It has a foundation within the lifeworld that, according to Habermas (1987, p. 124), makes up people's taken-for-granted convictions created in cooperative processes of interpretation. Since the lifeworld is internal and shared throughout the public sphere, the organizations have a specific form of conviction that steers their interpretation, that is independent from the individual members. Because the lifeworld is internalized and shared within the participants of the public sphere, it might not make a difference how many participate, since the number of members can be seen as just an implication of how many that acknowledge their adhering to the same lifeworld.

Kalm et al. (2019) explored how civil society organizations internationally can act as counter-democratic forces, through organizing distrust against powerholders and pressuring them to strengthen their accountability. Counter-democracy actors oversee ruling institutions, express mistrust, and challenge dissent and they are important contributing factors in democracy. Both UNICEF Sweden and Save the Children Sweden are part of transnational organizations which makes their work in Sweden a part of a bigger context. UNICEF Sweden claim that they use the knowledge of their international organization as a base in many of their consultation



responses within Sweden, while Save the Children Sweden do not use their international organization in the same way since they believe that Sweden is already a forerunner in the strive towards fair children's rights and therefore believe that they can push the interpretation of the CRC even further than other countries currently can. No matter what stance these organizations take towards their international context, they are part of an international counter-democratic force that gathers knowledge of international and transnational advocacy and policy work, as well as dictums of experiences of children all over the world. The organizations try to make use of this unique access to connections, expertise, and dedication and their strong role in the international arena of political and judicial discussions which according to Kalm et al. (2019) makes their role as counter-democratic forces in Sweden even stronger.

Regilme (2018) argues for the need to consider the transnational perspective of democratic politics and the public sphere when interpreting the interplay using the theories of Habermas. The children's rights movement is international and not confined within the boundaries of Sweden, which means that the international context cannot be removed from the consultation responses even though they revolve around Swedish legislation. It, however, raises the question of whose lifeworlds the consultation responses represent. The children's rights organizations are non-profit organizations that are dependent on the existence of their members movements. The members have actively decided to join the organizations, which makes it possible to presume that their lifeworlds share the values of the organizations. The members allow and encourage the official representatives and employees of the children's rights organizations to spread messages and attempt to advocate change in order to improve children's rights. All consultation responses are public records, and the children's rights organizations' text posts on their official webpages concerning the political and legal discussions of the CRC are also available to the public. If the members choose to be uninvolved, the employees related to the consultation responses bear the full responsibility to formulate the criticism. This responsibility can be considered even bigger, when considering the study of Emina (2021) who wrote how political consciousness within the public sphere articulated a need for general and abstract law and translocated the legitimate source of law to the public opinion. A political consciousness created a public sphere closely intertwined with political involvement. With the involvement of civil society in political discussions, Emina (2021) writes, the state's role in issues like children's rights has lessened.

The findings of Arvidson et al. (2018) imply that Swedish civil society organizations are not only offered the chance to express criticism, but that they often have a role where they are in fact expected to. The children's rights organizations interviewees share this belief, since they view civil society's role in the advocacy work of Sweden as strong. While they might be expected to offer criticism, they perceive their arguments as completely overlooked when it comes to legislative proposals that derive out of a political motivation. This indicates that the communicative action of the lifeworld and political system is only coveted when politicians are interested in the lifeworlds of the public sphere. This means that the political system has an unequal and sole power to initiate communication within the interplay with civil society, which is made especially clear since they have the sole power to propose laws. Law as medium can become law as institution through the political system's colonization of the lifeworld, but law as medium can also decide to remain uninterested in moral aspects.

## **8. Conclusion**

This thesis finds that the children's rights organizations primarily prioritized the need for the judicial status of children's rights to be strengthened within their consultation responses on the law proposal of the CRC. By having this focus, they overlooked the raised fears surrounding the CRC's applicability, which resulted in an overt reliance on law in books leading to social change. The studied problematizations emphasize how children's rights organizations take on the role of the public sphere that internalizes moral values within their lifeworld, in contrast to the role of the system that the Law Council takes on, that seeks to keep the gears of the legal system turning effectively. Their various focus can be explained by the aspect of communicative action that says that one can only communicate matters that are within one's own horizon of understanding.

The problematizations of the CRC by the children's rights organizations have developed during the two years after the implementation, into revolving around the need for improved protection of vulnerable groups of children and the importance of applying the law in practice. These problematizations raise the question of whether it was a valid prioritization to incorporate the CRC, if the legal protection of vulnerable children should not have been prioritized instead and if the criticism raised of the applicability of the CRC should not have been considered more. The need for children's rights organizations to demand improved children's rights within legislation, even after the incorporation of the CRC implies that the law represents a colonization of the lifeworld of the public sphere, made by the political system. It also implies

that there is a danger in having a dysfunctional communicative action of the lifeworld and system, since colonization without understanding leads to recurring disjunctive interpretations of the purpose and aim of specific legislation, i.e., consultation responses with demands considered but not understood within the big picture and worldview that frames the organizations' statements.

The children's rights organizations view their role in the process of producing consultation responses as important, but they also acknowledge that their consultation responses vary in significance depending on the political motives behind the law proposal. The interviewees view the organizations' roles as critical voices of opposition as coveted by the political system. However, there lies a clear inequality between the actors where civil society must adhere to the rules framed by the political system who have the sole power to propose laws and assess the relevance of the content within the consultation responses.

The WPR-analysis has enabled a critical analysis of the material, but a crucial part of the method is also reflexivity of the study itself which I intend to present here. The problematization in this study is represented to be that there might be a danger in having a too wide gap between law in action and law in books when it comes to children's rights, and that this problem is related to the communication between the political system and civil society. This representation of the problem is underpinned by a socio-legal belief of laws not being the only factor that steers human behavior, which is a representation that has been around since the birth of the field of Sociology of Law. The aspect of relying on the workings of law in books and law in action to change social behavior is left unproblematized in this study, since the focus has been on the interplay between the legislative process of the political system and civil society.

### **8.1. Recommendations for future research**

This essay revolves around the consultation responses through the eyes of civil society, in the form of children's rights organizations. However, it is only scratching on the surface of a much wider world. As a continuation of this study, one could research how the governmental departments handle consultation responses within the legislative process. What steers how much impact a consultation response has? Is there a systematic process of how the consultation responses are handled and does the process differ between departments? This seems to be another valuable and unexplored dimension of the rule of law.

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## **Appendix I: Interview guide**

### **Administered information before the interview**

- a. Introduction of the research and researcher
- b. Gratitude for participation
- c. Explanation of the study's aim
- d. Explanation of the interview process (ethical information, recording of video, note taking and possibility to stop)
- e. Possibility to ask questions about the interview or the process

### **Questions**

- a) Background and current work – organization and employment
- b) What does an ordinary workday look like for you?
- c) How does the organization work with consultation responses? Who are participating in the process?
- d) How does the organization view its impact on the legislative process and interplay with the legislative process?
- e) How does the organization view the final product of the law of the Convention on the Rights of the Child? Do you think that the law has been successful in its aim? Has the status of children's rights been strengthened?
- f) Do you see any problems with the implementation of the law now that it has been in effect for more than two years?